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Appellate Court of Maryland
2/17/2023 10:49 AM

IN THE APPELLATE COURT OF MARYLAND

Donna Carter, et al.	*	
Appellant	*	No. 2025, September Term 2021
v.	*	CSA-REG-2025-2021
	*	Circuit Court No. C-03-CV-20-003922
Nepali American Cultural Center of Baltimore,	*	
Appellee	*	
	*	
	*	

* * * * * * * * * * * * * *

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BALTIMORE COUNTY
BOARD OF APPEALS

MANDATE

On the 17th day of January, 2023, it was ordered and adjudged by the Court of Special Appeals:

Judgment of the Circuit Court for Baltimore County affirmed; costs to be paid by appellants.

STATE OF MARYLAND, Sct.:
I do hereby certify that the foregoing is truly taken from the records and proceedings of the said Appellate Court of Maryland. In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Appellate Court of Maryland, this 17th day of February, 2023.

Rachel Dombrowski

Rachel Dombrowski, Clerk
Appellate Court of Maryland

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Circuit Court for Baltimore County
Case No. C-03-CV-20-003922

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 2025

September Term, 2021

DONNA CARTER, ET AL.

v.

NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE

Kehoe,
Zic,
Wright, Alexander, Jr.,
(Senior Judge, Specially Assigned),
JJ.

Opinion by Wright, J.

Filed: January 17, 2023

*At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

This appeal arises out of a decision by the Circuit Court for Baltimore County affirming a decision of the Baltimore County Board of Appeals that granted a special exception use petition with conditions. The case began when Nepali American Cultural Center ("NACC"), appellee, filed a petition for a special exception pursuant to the Baltimore County Zoning Regulations for the purpose of allowing a church or other building for religious worship on property located at 12331 Harford Road in Baltimore County ("the Property"). Morgan Miner, David Poehler, DeWitt Clark, Patricia Garner, Bruce Morgan, Doug Behr, David Hartman, Joyce Mason, Donna Carter, the Greater Kingsville Civic Association, and the Gunpowder Falls Watershed Preservation Association, opposed the grant of the special exception. All of those individuals and entities, with the exception of DeWitt Clark, are appellants herein.[1]

After a multi-day public hearing on the petition for a special exception, an Administrative Law Judge ("ALJ") in the Baltimore County Office of Administrative Hearings granted the special exception subject to seven conditions. That decision was appealed to the Baltimore County Board of Appeals ("the Board").[2] A hearing was held over the course of 11 days between July 2018 and February 2019. On January 9, 2020, the

[1] DeWitt Clark was included as a party in the petition for judicial review in the circuit court but was not identified as an appellant on the notice of appeal to this Court.

[2] The Board joined the special exception appeal with another case that involved communications with the ALJ wherein the petitioner sought to clarify whether it could hold a fundraiser on the Property. The Board dismissed that case as moot. Appellants do not present any argument here challenging that decision.

Board issued a 62-page Opinion and Order by which it granted the petition for special exception to allow a temple for religious worship on the Property subject to 13 conditions.[3]

[3] The Board granted the petition for special exception subject to the following conditions:

> 1. Petitioner shall confine its hours of operation for non-religious events from 8:00 a.m. to 9:00 p.m.
> 2. The exit from the Property shall be right-turn only. Petitioner shall post and maintain proper signage indicating the exit is right-turn only at all times.
> 3. Prior to the issuance of any permits, Petitioner shall obtain from State Highway Administration (SHA) an access permit authorizing ingress and egress from the Property. Petitioner shall comply with SHA's access permit for the proposed entrance and exit. Petitioner also shall comply with the SHA requirements and recommendations. Petitioner shall also maintain the vegetation around the entrance and exit in strict conformity with required sight and stopping distances.
> 4. Petitioner shall submit all landscaping plans and all lighting plans to Baltimore County for approval.
> 5. Any tree(s) required to be removed for any improvement or construction of an improvement, Petitioner shall replace the removed tree with per-diameter equivalent replacement native species tree and each such replacement tree shall also provide similar or better shade and screening coverage. The replacement trees shall be planted in an area onsite that will increase the buffer density along the Property's border with the Poehler property in order to help screen the Property from the Poehler house and its curtilage.
> 6. Petitioner shall add landscaping to serve as an additional light and sound buffer between Petitioner's property and the Poehler property to increase the buffer density along the Property's border with the Poehler property in order to help screen the Property from the Poehler house and its curtilage. Petitioner shall add additional landscaping particularly at the Harford Road side (western side) of the multipurpose court to serve as an additional light and sound buffer between Petitioner's property and the Clark property and/or others in that area. All landscaping for these purposes is required to be approved by Baltimore County.
> 7. Any and all plantings, whether part of Condition No. 5, No. 6, or otherwise, shall consist of native species only, subject to approval by Baltimore County's landscape architect, with the sole exception for any plantings required for onsite for [sic] religious use.

(continued…)

Appellants filed a timely motion for reconsideration, which the Board denied. Thereafter, appellants filed a timely petition for judicial review in the Circuit Court for Baltimore County. In a written Memorandum Opinion dated January 28, 2022, the circuit court found that there was substantial evidence in the record as a whole to support the agency's findings and conclusions and that the Board did not commit error in granting the petition for special exception use. This timely appeal followed.

ISSUES PRESENTED

Appellants present the following eight issues for our consideration:

> I. Whether the Board erred when it determined that the proposed use will not be detrimental to the health, safety or general welfare of the locality involved;
>
> II. Whether the Board erred when it determined that the proposed use will not tend to create congestion in roads, streets or alleys therein;

8. Prior to the issuance of occupancy permits, Petitioner must demonstrate to DEPS that the well and septic systems will be sufficient to serve the proposed use. Prior to the issuance of permits, Petitioner shall also comply with any and all ZAC comments.
9. The outdoor amplification of sound shall not be permitted.
10. Petitioner shall obtain any and all necessary permits to have the pool and pool house demolished and removed prior to any demolition or removal. Any and all demolition or activity related to the removal of the pool and pool house shall only take place between 8:00 am and dusk.
11. Petitioner shall not organize, host, invite, conduct, or participate in any athletic program, league, or tournament on site. This condition does not preclude Petitioner from using the multipurpose court for athletic games or contests, only athletic programs, leagues, and/or tournaments.
12. Petitioner shall not use the Property as a community center, unless such community center-type activity is in furtherance of the exercise of religion and/or operation of the temple. Cultural activities and/or other activities with a non-religious purpose shall take place offsite.
13. Petitioner otherwise shall comply with the Baltimore County Code and Zoning Regulations at all times.

III. Whether the Board erred when it determined that the proposed use will not create a potential hazard from fire, panic or other danger;

IV. Whether the Board erred when it determined that the proposed use will not tend to overcrowd land and cause undue concentration of population;

V. Whether the Board erred when it determined that the proposed use will not be inconsistent with the purposes of the property's zoning classification nor in any way inconsistent with the spirt [sic] and intent of these Zoning Regulations;

VI. Whether the Board erred when it determined that the proposed use will not be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in R.C.2, R.C.4, R.C.5 or R.C.7 Zone;

VII. Whether the Board erred when it failed to find that appellee did not prove that the proposed use will not be detrimental to the primary agricultural use in its vicinity; and,

VIII. Whether the Board erred when it failed to examine the veracity of the testimony of the appellee with comparison to the evidence provided by appellants.

For the reasons set forth below, we shall affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Kris Ghimire, a founder and member of the Board of Trustees of NACC, testified that NACC's mission was to establish a Hindu temple in Baltimore County. NACC acquired the Property with the intent of using it for that purpose. The Property consists of approximately 30.8 acres in a Resource Conservation-2 zone ("RC-2) located outside Baltimore County's Urban Rural Demarcation Line. It includes a large abandoned dwelling, sometimes referred to in the record as a mansion, and other structures including a caretaker's house, a pool, a pool house, a barn, and a tennis court. NACC planned to renovate the large dwelling building to be a worship space and the caretaker's house to be

used by a priest who would be the only person who might live on the Property. The second floor of the large dwelling building would be used for office space. NACC planned to add a parking lot to provide 38 parking spaces and to retain the existing tennis court to be used as a multi-purpose court for recreational purposes. At the time of the hearing before the Board, the pool was not in usable condition. Mr. Ghimire testified both that NACC would do what was necessary to make the pool safe and that "[t]he pool will not be there." The barn, which was listed as a historical structure, would be preserved. No new buildings were proposed. There were no public water or sewer utilities at the property, but the existing well and septic system would be replaced or upgraded as needed pursuant to Baltimore County's development review and permitting process. NACC sought a special exception pursuant to § 1A01.2C.6 of the Baltimore County Zoning Regulations ("BCZR")[4] to use the Property for the purpose of religious worship.

Mr. Ghimire explained that there was no specified day of the week when individuals would gather to worship at the property. Rather, congregants would utilize the temple to pray on their own schedule. He anticipated that on a typical day, ten to twenty people would worship at the temple, but not all at the same time. The temple would not include permanent pews or seating, but only temporary seating such as folding chairs to be used when needed. Religious celebrations would be held at the Property throughout the year

[4] BCZR § 1A01.2C.6 provided that "[c]hurches or other buildings for religious worship" "may be permitted by special exception in any R.C.2 Zone, provided that in each case the hearing authority empowered to hear the petition finds that the use would not be detrimental to the primary agricultural uses in its vicinity[.]" Certain portions of BCZR § 1A01.2C have been renumbered. The subject provision is currently codified at BCZR § 1A01.2C.7.

including three to four annual festivals. Due to religious prohibitions, neither alcohol nor meat would be permitted on the Property. Mr. Ghimire explained that receptions or celebrations following a religious ceremony would occur off-site. No commercial kitchen, day school, or childcare would be provided on the Property and the temple would not be rented out to third-parties for non-temple activities.

In support of its case, NACC presented testimony from three expert witnesses: John Motsco, a professional engineer with Little and Associates, who prepared a site plan and testified as an expert in Baltimore County zoning regulations; Joseph Caloggero, a traffic engineer and vice president of The Traffic Group, who testified as an expert in traffic issues relating to the project; and, James Powell, a consultant and licensed environmental health specialist who testified as an expert on the feasibility of a septic system to serve the Property.

NACC presented testimony from several lay witnesses in addition to Mr. Ghimire, including: Ida Twining, a resident who lived about a mile and a half south of the Property; Daniel Montague, the pastor at Fork United Methodist and Waugh United Methodist churches, which were each located approximately two miles from the Property; Binod Upreti, a member of NACC; and, Marcia Barton, who lived about eight to ten miles from the Property. All of those witnesses testified in favor of the proposed use of the Property as a temple.

Appellants presented testimony from one expert witness, Christopher Jakubiak, who was accepted as an expert in land planning and zoning. They also called Mr. Ghimire as an adverse witness. In addition, appellants offered testimony from several area residents.

Mary and DeWitt Clark, who lived across the street from the Property, testified in opposition to the proposed special exception. DeWitt Clark also appeared on behalf of another protestant, the Gunpowder Falls Watershed Preservation Association. Joyce Mason, who lived about a mile away from the property, David Poehler, who lived next to the Property, and Bruce Morgan, who lived in Kingsville, testified about the negative impacts of the proposed use of the Property. Because the testimony offered over the 11 days of the hearing in this case was extensive, and as explained, *infra*, our review is limited, we shall not set forth in detail the evidence presented at the hearing before the Board. Instead, we shall discuss specific testimony and other evidence as necessary in addressing the questions presented and determining whether there was substantial evidence to support the Board's findings and conclusions.

STANDARD OF REVIEW

The factors to be considered with respect to a request for a special exception are set forth in BCZR § 502.1.[5] In *Schultz v. Pritts*, 291 Md. 1 (1981), the Court of Appeals[6] established the appropriate standard for approval of a special exception use in the absence of a different legislative standard. The Court explained that a special exception is "a part of [a] comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid." *Id.* at 11. The job of a local zoning board is,

[5] BCZR § 502.1 provides:

> Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:
>
> A. Be detrimental to the health, safety or general welfare of the locality involved;
>
> B. Tend to create congestion in roads, streets or alleys therein;
>
> C. Create a potential hazard from fire, panic or other danger;
>
> D. Tend to overcrowd land and cause undue concentration of population;
>
> E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
>
> F. Interfere with adequate light and air;
>
> G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;
>
> H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor
>
> I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone, and for consideration of a solar facility use under Article 4F, the inclusion of the R.C.3, R.C.6, and R.C.8 Zones.

[6] On December 14, 2022, the name of the Court of Appeals was changed to the Supreme Court of Maryland.

therefore, "to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan." *Id.* (emphasis omitted). Acknowledging the presumption that a special exception use is compatible with the general welfare in the zone at issue, the Court held that the appropriate standard for reviewing an application for such an exception is "whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." *Id.* at 22-23.

When reviewing an agency decision, including a decision to approve a special exception use of land, we look through the circuit court's decision and evaluate the agency's decision. *Clarksville Residents Against Mortuary Def. Fund, Inc. v. Donaldson Props.*, 453 Md. 516, 532 (2017); *Bayly Crossing, LLC v. Consumer Prot. Div.*, 417 Md. 128, 136 (2010); *Brandywine Senior Living at Potomac LLC v. Paul*, 237 Md. App. 195, 210 (2018). Our role "is narrow; it is limited [usually] to determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determin[ing] if the administrative decision is premised upon an erroneous conclusion of law." *Montgomery Cnty. v. Butler*, 417 Md. 271, 283 (2010) (quotation marks and citation omitted) (alterations in original); *see also Montgomery v. E. Corr. Inst.*, 377 Md. 615, 625 (2003); *United Parcel Serv., Inc. v. People's Couns. for Baltimore Cnty.*, 336 Md. 569, 577 (1994). Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Maryland State Police v. Warwick Supply &*

Equipment Co., Inc., 330 Md. 474, 494 (1993) (quotation marks and citation omitted). The substantial evidence test "requires us to affirm an agency decision, if, after reviewing the evidence in a light most favorable to the agency, we find 'a reasoning mind reasonably could have reached the factual conclusion the agency reached.'" *Montgomery Cnty., v. Rotwein*, 169 Md. App. 716, 727 (2006) (citations omitted). In other words, the relevant inquiry is whether the issue decided by the administrative body is "fairly debatable." *Mills v. Godlove*, 200 Md. App. 213, 223 (2011) (quotation marks and citation omitted). When applying this test, we do "not engage in an independent analysis of the evidence." *Butler*, 417 Md. at 284 (quotation marks and citations omitted). We "proceed from the premise that the agency's decision is *prima facie* correct and presumed valid . . . if reached in accordance with the applicable and valid regulatory scheme." *Id.* We also accord "a degree of deference" to an "administrative agency's interpretation of a statute that the agency administers[.]" *Brandywine Senior Living*, 237 Md. App. at 211 (quotation marks and citation omitted).

DISCUSSION

Appellants maintain that the evidence they presented established that the proposed special exception would "violate a number of conditions set forth in BCZR § 502.1[,]" that NACC's case "was deficient and flawed[,]" and that NACC failed to "demonstrate that the impact of the operation of the proposed temple is no different at the present location than it would be experienced in other parts of the zone." Appellants point to conflicting testimony on the part of NACC's lay witnesses and argue that NACC's "site planner ultimately admitted the plan presented was at best a concept and their traffic expert could

not even accept he was wrong in his knowledge about the speed limit on Harford Road." In addition, appellants take issue with the testimony of NACC's expert witnesses, stating:

> Not one of [NACC's] expert witnesses visited the subject property to observe how it was actually used. Mr. Motsco admitted he knew of large events but refrained from visiting. Yet he asserted he knew enough to testify that his parking plan was sufficient and that the "vegetative buffer" provided adequate sound mitigation. For both Mr. Motsco and Mr. Caloggero, who are Professional Engineers, to not determine how the property was actually used in preparation of their testimony rises to nothing short of "willful ignorance." Both used the defense that they relied on the representations of [NACC] without an effort at independent verification.

It is worth repeating that our role is limited to determining whether there was substantial evidence in the record as a whole to support the agency's findings and conclusions. We do not engage in an independent analysis of the evidence and our job is not to conduct a rehearing or to re-weigh the evidence and determine the credibility of the various witnesses who testified before the Board. *Butler*, 417 Md. at 284 (quoting *Armstrong v. Mayor of Baltimore*, 410 Md. 426, 444 (2009)). With the appropriate standard of review in mind, we turn to the specific issues presented by appellants.

I. BCZR § 502.1A – Detriment to Health, Safety or General Welfare of Locality

Appellants' first argument is that "[t]he Board of Appeals erred in failing to find that [NACC] did not prove 'NO IMPACT' to BCZR § 502.1A: Be detrimental to the health, safety or general welfare of the locality involved." Specifically, appellants challenge the evidence pertaining to noise and sound emanating from the use of the Property as a temple, light intrusion from headlights into a home directly across from the entrance to the

Property, road and parking conditions,[7] the location of the entrance to the Property, water runoff, the lack of "adequate sanitary facilities[,]" and fire hazards. In support of their contentions, appellants take issue with the testimony of NACC's expert witnesses including, but not limited to, the methodology used by Mr. Caloggero and the weight given to Mr. Motsco's testimony, much of which they assert was uncorroborated. Again, the issue for us to resolve is whether there was substantial evidence in the record as a whole to support the agency's conclusion that the use of the Property as a temple would not be detrimental to the health, safety or general welfare of the locality involved. As set forth below, we find that there was substantial evidence to support the Board's conclusion.

1. Noise

The Board interpreted "noise as being included within the 'health, safety or general welfare,' factor." Appellants' evidence with respect to noise, or the preservation of "solitude" as they sometimes referred to it, was presented primarily through the testimony of DeWitt and Mary Clark, Mr. Poehler, Ms. Mason, and affidavits from other individuals in the neighboring area. That evidence included audio and video recordings made by DeWitt Clark. The testimony and evidence referenced specific events that had been held at the Property that involved amplified music, other atypical noises, and recreational noise from volleyball games.

[7] We shall discuss arguments pertaining to road and parking conditions and the entrance to the Property when we discuss Issue II, which involves issues of the tendency to create congestion in roads, streets or alleys. Potential fire hazards will be addressed in our discussion of Issue III and sanitary/septic facilities will be addressed in our discussion of Issue IV.

The Board determined that the noise associated with the operation of the proposed temple "is no different at the present location than it would be experienced in other parts of the zone." In reaching that conclusion, the Board noted that there was a substantial tree and vegetative buffer on the Property, although it was "somewhat less" for the Poehlers than for the Clarks, that activities at the Property were "largely confined to the main building area," which was a distance from neighboring residences, and that there was no evidence to establish "any exacerbation or amplification caused by the Property's elevation compared to the surrounding properties." The Board did not credit audio evidence presented by appellants because it failed to show "overly invasive noise emanating from the Property, which sits higher than the Clarks' property." The Board also noted that the potential for noise to emanate from the Property "exists today without the granting of the" petition for special exception.

The Board's determination was supported by the testimony of Mr. Ghimire, who described the anticipated use of the Property, and NACC's expert, Mr. Motsco, who opined that the proposed use of the Property would not be detrimental to the health, safety, and general welfare of the locale. Mr. Motsco's opinion was based on the size of the Property, the minimal scope of work to be done at the Property, and the low intensity use of the Property as a Hindu temple. With respect to noise, Mr. Motsco noted the general area in which the Property is located and its rural nature. He testified that the Property had a substantial buffer of trees and vegetation. There were woods along Harford Road that, at its narrowest point, were approximately "60 or 50 feet," and on the "westerly side of the property," there was a "patch of thick trees . . . approximately 100-feet wide." The site

plan also showed other wooded areas on portions of the Property. Mr. Motsco stated that although the dwelling that would be converted to a temple is visible at some spots along Harford Road, it is generally screened by trees and "extreme topography" along Harford Road. According to Mr. Motsco, NACC did not anticipate clearing any of the wooded areas on the Property.

The Board recognized "that larger events could generally be more intrusive" with respect to noise. To address that issue, the Board imposed several conditions including "that additional landscaping be planted at the border with the Poehler house and its curtilage, as well as on the west side of the multi-purpose court to increase the buffer density in those areas." In granting the petition for a special exception, the Board also imposed conditions 5 and 6, *supra*, which specifically addressed screening and sound buffers. In addition, the Board ordered that there "be no outdoor amplification of sound" and limited the hours for non-religious events to between 8 a.m. and 9 p.m. Conditions 11 and 12 prohibited NACC from using the Property for athletic programs, leagues, tournaments, and/or as a community center for activities with a non-religious purpose. Lastly, condition 13 required compliance with the Baltimore County Code and Zoning Regulations.

We do not engage in an independent analysis of the evidence. *Butler*, 417 Md. at 284. Our review of the record reveals that the Board's decision with respect to noise was supported by substantial evidence, specifically the testimony of Mr. Ghimire and Mr. Motsco. Moreover, the Board addressed its finding "that larger events could generally be more intrusive" by imposing several conditions on the grant of the special exception.

2. Light Intrusion

Appellants assert that the use of the Property as a Hindu temple will have a direct impact upon the well-being of Ms. Foxworthy, the owner of the property directly across from the entrance to the Property, "due to light intrusion from headlights and noise." They also complain that Mr. Caloggero, NACC's traffic expert, "[f]ailed to analyze the impact of headlight intrusion onto the Poehler . . . and Foxworthy . . . properties." The Board acknowledged that headlights from vehicles turning left when exiting the Property would sweep across Bonaparte Avenue. The Board also acknowledged that Mr. Calogerro did not conduct a study to analyze that issue. The Board recognized, however, that the exact locations for the entrance and exit to the Property had not been determined and that the State Highway Administration would "be providing additional input at the time of the access permit." For those reasons, the Board imposed condition 2, which required all traffic exiting the Property to turn right. The Board explained that imposition of that condition addressed several issues:

> (1) avoiding headlight intrusion upon the Bonaparte Avenue properties; (2) prevent blinding or distracting drivers driving north on Harford Road when coming around the blind curve; and (3) as discussed in greater detail below, improving safety and helping to prevent traffic congestion on Harford Road at or near the Property. Doing so will not cause an undue hardship on the visitors to the Property as the Mount Vista/Glen Arm/Harford Road roundabout is close to the Property.

Appellants do not present any challenge to the conditions imposed by the Board. As the Board agreed that there was an issue with headlights sweeping across Bonaparte Avenue and imposed a condition to address that issue, reversal is not warranted.

3. Water Runoff

In its statement of facts, appellants asserted that their witness, DeWitt Clark, testified that the current Harford Road runoff floods onto the yard of Ms. Foxworthy, who lives across Harford Road from the Property. Appellants contend that Mr. Motsco "[f]ailed to address increased sheet flow with evidence or data onto the Foxworthy Property (E820, *Appellants Exhibit 65)* upon which the SHA has installed a reverse osmosis treatment system to mitigate water quality problems arising from the flow of contaminated water from ACROSS Harford Road." To the extent that this adequately sets forth an issue for our consideration, our review of the record reveals that appellants failed to establish that conditions on the Property were causing runoff to drain onto Ms. Foxworthy's property. Nor did they establish that the proposed use of the Property would exacerbate any existing drainage issue or cause additional runoff.

Nevertheless, Mr. Motsco testified that runoff from the house would flow towards Harford Road, that Harford Road "actually sloped away from Ms. Foxworthy's property and back toward" the Property, and that there was a culvert and storm drain inlet on the Property-side of Harford Road. From that evidence, the Board inferred that runoff from the Property to Harford Road would be "more likely to drain to and run along the culvert on the south side of Harford Road (the Property side) rather than travel over Harford Road to the Foxworthy property." It is also worth noting that the Board recognized that NACC would be required to submit a storm water management plan and would "be required to comply with the applicable regulations and requirements at all times like any other property located in the County." Thus, if there was "a subsequent determination that some

improvement from the Property may cause or exacerbate the runoff issue, mitigating measures will be required by the County." The Board's conclusion was based on substantial evidence.

II. BCZR § 502.1B - Tend to Create Congestion in Roads, Streets or Alleys Therein

Appellants did not present any expert testimony with respect to traffic issues. On appeal, they challenge the factual correctness of the testimony of NACC's traffic expert, Mr. Caloggero, and argue that the traffic study he prepared was inadequate, stating:

> The fact the report did not include weather conditions, vehicle types, (such as farm equipment or 18 wheelers, which lower the range of speeds measured) make it impossible to arrive at a meaningful interpretation of the results reported. The traffic study was conducted in a time of year (October) when this road is not used by bicyclists, motorcycles or "Sunday drivers" out for a ride. The study failed to account for numerous hazards along this rural stretch of road, which may have in fact impacted the data collected during the traffic count study (no observers or cameras were used).

The Board properly stated the relevant questions before it: "(1) will the proposed use cause traffic congestion, and if so (2) how at this location is that congestion worse than other locations in the RC-2 Zone[?]" Ultimately, the Board determined that NACC met its burden of establishing that the special exception requested would not tend to create congestion in roads, streets, or alleys that would be worse than in other locations in the zone. The Board noted that it was "undisputed that there will be an increase in traffic volume caused by the typical use" and that it was "undisputed that the capacity of Harford Road in and around the Property can easily handle the expected increase" in traffic. In reaching those conclusions, the Board acknowledged appellants' concerns about additional traffic volume and congestion on Harford Road and safety due to increased traffic volume,

but also recognized that appellants did not present sufficient evidence to contradict Mr. Caloggero's expert testimony. The Board noted that appellants "relied upon undermining Mr. C[a]l[o]ggero's testimony and supplementing the record via lay witness testimony rather than through the use of an expert to address the studies and opinions by Mr. C[a]l[o]ggero." As a result, Mr. Caloggero's "calculations and opinions are the only evidence in the record on this issue." Mr. Caloggero testified that during the weekdays, the additional trips added to the roadway network would be "di minimus" and that there would be "little-to-no impacts" on the ability of the road system to handle the additional traffic. The Board found Mr. Caloggero's testimony on traffic congestion to be "credible, convincing, and unrebutted."

Again, we point out the limited issue before us, which is whether there was substantial evidence in the record as a whole to support the agency's findings and conclusions. We do not engage in an independent analysis of the evidence. The Board was free to credit Mr. Caloggero's testimony, as it did, and to give little or no weight to the evidence presented by appellants. As the issue was fairly debatable and a reasonable mind reasonably could have reached the factual conclusions reached by the Board, reversal is not warranted.

III. BCZR 502.1(C) - Create Potential Hazard from Fire, Panic or Other Danger

Appellants contend that the Board failed to recognize the potential hazard from the unsafe use of open fire in a tent. They point to testimony by DeWitt Clark that "Appellee" was "swirling fire on 4 plates around in a tent filled with what appears to be 100's of people in flowing gown type clothing[.]" Appellants note that the Property is wooded and "the

neighbor's garage is only approximately 60' from property line." Contrary to appellants' contention, the Board made specific reference to the evidence presented through "video clips of events at the Property of certain fire code violations and the use of fire at an event." The Board determined that none of the video clips or other evidence presented by appellants posed a "sufficient challenge to the presumption afforded to [NACC], let alone causes the Board to conclude the proposed use creates a hazard of fire, panic, or danger." In addition, the Board found that there was "no evidence at all that suggests any risk of fire, panic, or danger is greater with the proposed use at this location."

The Board's findings were supported by the testimony of Mr. Motsco who stated that NACC would be "reusing an existing structure[,]" that the structure was made of concrete, and that it was "located a significant distance from any other structures that could be consumed, if there were to be a fire." Mr. Motsco noted that interior improvements such as new electrical and plumbing systems would have to be built to meet the requirements of the Baltimore County Code and that permits, inspections, and an occupancy permit would be required. For those reasons, we reject appellants' contention that the Board failed to recognize the prior use of fire and we conclude that the Board's finding that there was no greater risk of fire, panic, or danger at the Property as compared to any other location in the zone, was supported by substantial evidence.

IV. BCZR § 502.1(D) - Tend to Overcrowd Land and Cause Undue Concentration of Populations

BCZR § 502.1(D) addresses the tendency to overcrowd land and cause undue concentration of population. In their brief, appellants assert that NACC "held 5 large

attendance events in 2017 and 10 large attendance events in 2018 resulting in cars parked all over the grassy fields and 100's of people at the events and in many cases, multiple days." The Board found that appellants did not present any meaningful evidence with respect to § 502.1(D) to sufficiently challenge the presumption in favor of NACC. The Board recognized, however, that appellants had complained that there was not a functioning septic system to handle large festivals. The Board addressed that complaint, stating that "the use complained of by Protestants has been represented, and accepted, as atypical." Specifically, the Board recognized that overflow parking was associated with special events and was not required on a continuous basis.

In addition, the Board referenced the testimony of Mr. Powell, NACC's licensed environmental specialist, whose "testimony was unrebutted." Mr. Powell testified that there was plenty of room on the property for a septic system and that the septic system would not affect adjacent property. In addition, he testified that depending on the type of septic system installed, cars would be able to park on the grassy area over the septic reserve area. He stated that when NACC applies for a building permit, it will be required to identify where the overflow parking will be located. The Baltimore County Department of the Environment would likely include a comment that parking should be kept out of the septic area if possible. If that could not be done, the septic system could be engineered to accommodate parking over it.

In addition to Mr. Powell's testimony, Mr. Motsco opined that due to the large size of the Property, "the small [size of the] congregation, the relatively small structure[,]" there would be no undue crowding of the land. He also noted that no regular events would

involve large numbers of cars leaving the parking lot at the same time. Thus, the Board's determination that there was no greater tendency to overcrowd land and cause undue concentration of populations as compared to another location in the zone, was supported by substantial evidence.

V. BCZR § 502.1(G) - Inconsistency with Purposes of Property's Zoning Classification or Spirit and Intent of Zoning Regulations

The Board determined that NACC met its burden of showing, under BCZR § 502.1(G), that their proposed use of the Property was not inconsistent with the purposes of the property's zoning classification or the spirit and intent of the zoning regulations. Appellants challenge that determination by directing our attention to the testimony of Mr. Caloggero and Mr. Motsco. Specifically, appellants argue that NACC's traffic engineer, Mr. Caloggero, "provided testimony that was marred by falsified assumptions and failures to adequately address the needs of this Board with accurate data." They maintain that Mr. Caloggero:

> Failed to inform this Board of the historic nature of the roadbed or the presence of a historic monument (E746-747, *Appellants Exhibits 40 and 41*), which will impact Appellee's ability to meet SHA Highway Access Permit requirements.

Appellants also argue that Mr. Motsco, NACC's site engineer, "provided testimony that was flawed by his overreach in testifying on issues outside his credentials" and that "much of his testimony was uncorroborated by data even though [NACC] had ample opportunity to obtain and provide those data." Appellants suggest that the "testimony and opinions he did provide must therefore be viewed with skepticism." They note that they objected to Mr. Motsco's qualification as an expert witness based on his "lack of

experience/training." With respect to Mr. Motsco's testimony, appellants assert that he failed to inform the Board "of the historic significance and presence of historic monuments" and "[a]ttempted to minimize the impact on the National Historic District by testifying [that] the 'mansion' was only visible sparingly from the south on Harford Road[.]" Appellants assert that photographic and video evidence they presented contradicted that testimony and "raise[d] additional questions about [Mr. Motsco's] ability to provide accurate testimony and defensible professional opinions."

Appellants were free to, and did, challenge the testimony of Mr. Caloggero and Mr. Motsco at the hearing. As we have repeatedly noted, our review is limited to determining whether the Board's decision with respect to the BCZR § 502.1(G) factor was based on substantial evidence. The record makes clear that it was. In reaching its determination that the BCZR § 502.1(G) factor had been satisfied, the Board recognized that buildings for religious worship are permitted in the RC-2 Zone as a special exception use and that at least one other religious institution already existed near the Property.[8] Those findings were not in dispute. In addition, the Board found that agricultural land would not be removed or changed as a result of the proposed use of the Property. That finding was supported by the testimony of Ms. Twining, who testified that the Property was "not an appropriate piece

[8] The Board found that "one religious institution is adjacent to the Property." That finding was not supported by the evidence. The evidence established that the Church of the Redeemer and its school were not adjacent to the Property. As discussed *infra* in our analysis of Issue VII, that erroneous finding was harmless. It did not have any effect on the Board's determination with respect to BCZR § 502.1(G) because although the Church of the Redeemer and its school were not adjacent to the Property, there was no dispute that they were located near it.

of land for farming[,]" and that she did not "believe the house and the land has ever been farmed."

We take note that the Board considered appellants' arguments that the proposed use was inconsistent with the Baltimore County Master Plan 2020 because the Property was located in a Scenic Corridor. The Board recognized that the Master Plan 2020 provided, "as a policy action for protecting scenic corridors[,]" that "(9) For properties along scenic routes or within scenic view sheds, variances, amendments, and special exceptions should be granted *sparingly*. (emphasis added)." The Board determined that the "Master Plan 2020 cannot be reasonably interpreted as precluding all special exception uses, and specifically, the proposed use, even if in a RC-2 zone and along a Scenic Corridor." Appellants did not assert that the Master Plan 2020 precluded all special exception uses. Further, Mr. Motsco opined that the proposed use was consistent with the Property's zoning classification and the spirit and intent of the zoning regulations because places of religious worship are permitted by special exception.

We also take note of the Board's determination that the "only proposed change that will be observable along the scenic corridor will occur at the entrance and exit, which is a minimal disruption, and the appearance will be consistent with other driveways or private roads in the nearby area." The Board went on to observe that, "[n]otably, there is already a driveway present, but with this approval and the conditions imposed, the entranceway will be split to address safety concerns, which, of course, is of paramount importance." That determination was supported, in part, by Mr. Caloggero's testimony. He stated that the driveway entrance to the Property was sufficient and safe, but the State Highway

Administration asked him to look at relocating the exit point where the driveway would meet Harford Road. Various photographs, maps, and other exhibits were admitted to show the proposed new exit point. According to Mr. Caloggero, both the original driveway and the proposed relocation would be safe although the relocated exit point would have an increased sight distance. If the sight distance was deemed safe, it would be safe regardless of the number of vehicles exiting the Property. Mr. Caloggero also explained that in terms of access to the Property, NACC would have to work with the Access Management Division of the State Highway Administration to obtain permits and approvals.

Lastly, the Board recognized that the Property was within the borders of the Greater Kingsville Area Community Plan, which was adopted by the Baltimore County Council in 1996 and included in the Master Plan. There was no dispute that the Community Plan provided for special kinds of development including churches and stated that they "should be located in close proximity to major roadways such as Harford and Bel Air Roads, and provide a suitable buffer commensurate with size and usage from neighboring properties." The Board's determination with regard to BCZR § 502.1(G) was based on its review of the zoning classification and regulations, the Master Plan 2020, and the Greater Kingsville Area Community Plan, and was supported by substantial evidence concerning the nature of the land, the existence of other religious institutions in the area, and the proposed change to the existing driveway.

VI. BCZR § 502.1 I - Detriment to the environment and natural resources

Appellants assert that the Board erred in failing to find that NACC "did not prove 'NO IMPACT' to BCZR § 502.1I[,]" which addresses detriment to the environmental and

natural resources of the site and vicinity. In support of that assertion, appellants argue that: (1) Mr. Motsco's testimony must be viewed with skepticism; (2) appellants objected to the "use of Mr. Motsco as an expert due to lack of experience/training[;]" and (3) Mr. Motsco testified that there was not any agricultural uses immediately adjacent to the Property but failed to "do his due diligence to know" that the Property bordered "Leonard Hutschenreuter Farm of 97.07 acres of Agricultural Land on the Southeast side property border for approximately 1770 ft."

Again, we point out that an appellate court does not re-weigh the testimony of expert witnesses. *Moseman v. Cnty. Council*, 99 Md. App. 258, 267 (1994). At the hearing before the Board, appellants objected to Mr. Motsco's qualification as an expert witness. Counsel explained that he wanted to avoid having Mr. Motsco's testimony "exceed his ability as an expert to testify" and "to avoid extension of his testimony into areas that he personally is not qualified for." The Board accepted Mr. Motsco as an expert witness and stated that "the issues raised by [counsel for appellants] go to the weight of the testimony, which is a matter for the merits of the testimony to come."

The Board properly concluded that the objections raised to Mr. Motsco's qualification as an expert witness went to the weight of his testimony. There was ample evidence presented to support the Board's decision to admit Mr. Motsco as an expert witness. As to Mr. Motsco's failure to take note of the Hutschenreuter Farm, we point out that appellants failed to direct us to the page(s) in the transcripts where that particular property was raised during the hearing. Even assuming that issue was raised below, issues regarding the depth of Mr. Motsco's knowledge went to the weight of his testimony, not

the admissibility of his testimony. *In re Adoption of Tatianna B.*, 417 Md. 259, 268 (2010) (citing *Terumo Med. Corp. v. Greenway*, 171 Md. App. 617, 623-24 (2006)). Appellants were free to present testimony from their own expert witnesses and to present other evidence to refute Mr. Motsco's testimony. We shall not reassess the credibility of the expert witness nor the weight given to his testimony by the Board. *Leavy v. Am. Fed. Sav. Bank*, 136 Md. App. 181, 199-200 (2000).

VII. BCZR § 1A01.2(C) - Detriment to the Primary Agricultural Use in Vicinity

Appellants again assert that Mr. Motsco "did not do his due diligence to know that subject property borders the Leonard Hutschenreuter Farm (Property ID: 1119073450) of 97.07 acres of Agricultural Land on the Southeast side property border for approximately 1770 ft. resulting in the Board's error." They further contend that the Board erred in stating that the Property was adjacent to a religious institution.

With respect to Mr. Motsco's testimony, we have already stated that the depth of his knowledge went to the weight of his testimony, not the admissibility of his testimony. *In re Adoption of Tatianna B.*, 417 Md. at 268 (citing *Terumo Med. Corp.*, 171 Md. App. at 623-24). Appellants were free to present testimony from their own expert witnesses and to present other evidence to refute his testimony. We shall not reassess the credibility of this expert witness nor the weight given to his testimony by the Board. *Leavy*, 136 Md. App. at 199-200.

In its written opinion, the Board stated that "[o]ther religious institutions exist in the RC-2 Zone" and that "[i]n fact, one religious institution is adjacent to the Property." The Board's statement that the Property was adjacent to a religious institution, was factually

erroneous, but that error was harmless. Ordinarily in a civil case, an appellant must prove not only that the trial court erred but also that the error was prejudicial. *See Zook v. Pesce*, 438 Md. 232, 252 (2014) ("[I]n a civil case, a petitioner must not only show error but must demonstrate that the error was prejudicial."); *Sumpter v. Sumpter*, 436 Md. 74, 82 (2013) ("'[A]ppellate courts of this State will not reverse a lower court judgment for harmless error: the complaining party must show *prejudice* as well as *error.*'" (quoting *Harris v. David S. Harris, P.A.*, 310 Md. 310, 319 (1987))). It is absolutely clear that whether a religious institution was adjacent to the Property or nearby would have no impact on the Board's ultimate determination. Neither party disputed the fact that there were other religious institutions, such as the Christian Redeemer church and school, located not far from the Property. Further, churches and other buildings for religious worship are permitted by special exception within an RC-2 Zone. BCZR § 1A01.2(C)(6).[9]

Without any citation to the Joint Record Extract, appellants also maintain that "Appellee repeatedly referred to a fictional 'Beachmont/Redeemer Complex'" and "attempted to create an image that these separate entities were acting in concert while in fact one organization is incorporated and permitted to operate as a recreation center and the other is permitted as a school." Appellants point out other differences between the various properties. Even assuming that any of NACC's witnesses repeatedly referred to Beachmont or the Church of the Redeemer in an erroneous or misleading way, appellants were free to raise that issue below and challenge the weight to be given to the witnesses'

[9] The applicable section is currently codified, without amendment, at BCZR § 1A01.2(C)(7).

testimony. We shall not engage in an independent analysis of the evidence. *Butler*, 417 Md. at 284 (quoting *Armstrong v. Mayor of Baltimore*, 410 Md. 426, 444 (2009)). Our job is not to conduct a rehearing or to re-weigh the evidence and determine the credibility of the various witnesses who testified before the Board.

VIII. Examination of Veracity of Certain Testimony

Appellants contend that the Board erred in relying on the testimony of Mr. Ghimire because "in a number of instances" his testimony did not match the documentary and video evidence presented. They argue that the inconsistencies in Mr. Ghimire's testimony point "to a pattern of misrepresentation by" NACC "to the community and to Baltimore County, and to their own Counsel and expert witnesses." In addition, appellants assert that the testimony of NACC's witnesses was "not internally consistent[,]" was "rife with logical fallacy[,]" and that the comparisons to other "religious institutions" was "invalid." They assert that "[p]ast, proposed and future activities" at the Property show that NACC intends to use the Property for "non-religious uses." Appellants also reference the "Kotroco/Beverungen letter of July 2, 2018" which they maintain "clearly shows [NACC] intends to expand their use of the property."

The Board, in its role as factfinder, was responsible for assessing and weighing the evidence presented by the parties. Determining credibility was "exclusively the function of the agency" and we may not substitute our judgment for that of the agency when, as in the instant case, there was substantial evidence supporting the Board's decision. *E. Outdoor Advert. Co. v. Mayor and City Council of Baltimore*, 146 Md. App. 283, 301-02

(2002) ("[T]he tasks of drawing inferences from the evidence and resolving conflicts in the evidence are exclusively the function of the agency.").

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANTS.

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF:
Donna Carter, et al.

FOR JUDICIAL REVIEW OF THE
OPINION OF The Board of Appeals of
Baltimore County

IN THE MATTER OF:
Nepali American Cultural
Center of Baltimore

BOARD OF APPEALS
CASE NO. 18-122-X and CBA 19-004

* Case No.: C-03-CV-20-003922

* * * * * * * * * * * * *

MEMORANDUM OPINION

This matter is before the court on a Petition for Judicial Review pursuant to MD. RULE 7-202 of a decision of the Board of Appeals of Baltimore County (the "Board"). On January 9, 2020 the Board affirmed the January 22, 2018 decision of the Baltimore County Administrative Law Judge John Beverungen (the "ALJ") approving a building for religious worship in an RC-2 zone with conditions. The court has reviewed and considered the voluminous record generated in connection with this appeal, including the transcripts of testimony before the ALJ and the briefs of the parties as well as the argument of counsel.

BACKGROUND

Respondent, Nepali American Cultural Center of Baltimore ("Nepali") filed a special exception use petition to permit a Hindu Temple at 12231 Harford Road (the "Property"), which is in an area zoned RC-2. BCZR § 1A01.2.C.6 provides that churches and other buildings used for religious worship are permitted in RC-2 zones by special exception. For purposes of simplicity, the court will refer to the petition for which approval is sought as the "Temple." Petitioners, Donna Carter, Morgan Miner, Dave Poehler, DeWitt Clark, Greater Kingsville Civic Association, Patricia Garner, Bruce Morgan, Doug Behr, Gunpowder Falls Watershed Preservation Association, David Hartman, and Joyce Mason (collectively as "Petitioners") opposed the request for approval of the Temple.

The ALJ conducted a hearing on January 17, 2018 on Nepali's request for Baltimore County approval of the Temple in the RC-2 zone. On January 22, 2018, the ALJ issued an Opinion and Order approving the Temple with conditions. Petitioners appealed the ALJ's decision to the

Board of Appeals of Baltimore County. The hearings occurred over the course of 11 days between July 2018 and February 2019. On January 9, 2020, the Board affirmed the ALJ's decision approving the Temple with conditions. On February 6, 2020, Petitioners filed a Motion for Reconsideration. The Board denied the Motion for Reconsideration on October 6, 2020 and issued a written Order and Opinion. Petitioners filed a Petition for Judicial Review of the Board's decision on October 29, 2020.

ISSUES PRESENTED

Pursuant to MD. RULE 7-207, Petitioners were required to "file a memorandum setting forth a concise statement of the questions presented for review." Petitioners' Memorandum does not state questions presented for review. As such, the Court will address the questions that were rephrased and presented in Nepali's Memorandum:

1. Whether the Board erred when it determined that the proposed use will not be detrimental to the health, safety or general welfare of the locality involved (BCZR § 502.1.A)?
2. Whether the Board erred when it determined that the proposed use will not tend to create congestion in roads, streets or alleys therein (BCZR § 502.1.B)?
3. Whether the Board erred when it determined that the proposed use will not create a potential hazard from fire, panic or other danger (BCZR § 502.1.C)?
4. Whether the Board erred when it determined that the proposed use will not tend to overcrowd land and cause undue concentration of population (BCZR § 502.1.D)
5. Whether the Board erred when it determined that the proposed use will not be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations (BCZR § 502.1.G.)?
6. Whether the Board erred when it determined that the proposed use will not be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone (BCZR § 502.1.I)?

See Nepali's Response in Opposition at 3-4.

STANDARD OF REVIEW

It is well established that a court's role in reviewing an administrative agency decision is narrow and "limited to determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determine if the administrative decision is

premised upon an erroneous conclusion of law." *Maryland Aviation Administration v. Noland,* 386 Md. 556, 571 (2005) (quoting *Board of Physician Quality Assurance v. Banks,* 354 Md. 59, 67–69, (1999)). However, agency decisions receive no special deference on questions of law, which we review de novo. *Employees' Ret. Sys. of Baltimore Cty. v. Bradford*, 227 Md. App. 75, 82 (2016) (citing *Talbot County v. Miles Point Property, LLC,* 415 Md. 372, 384 (2010)).

An agency decision based on regulatory and statutory interpretation is a conclusion of law. *Carven v. State Ret. & Pension Sys. of Maryland*, 416 Md. 389, 406 (2010). Keeping in mind the deference owed to administrative decisions, the Court shall conduct an independent review of the regulations and statutory provisions upon which the Board rests its decision to determine whether the Board's decision is "plainly erroneous or inconsistent with the regulation." *Id.* (citing *Crofton Convalescent Ctr. v. Dep't of Health & Mental Hygiene,* 413 Md. 201, 215 (2010)).

A decision of an administrative agency must be upheld on judicial review if it is not based upon an erroneous determination of law and if the agency's conclusions reasonably may be based upon the facts proven. *Montgomery County v. Buckman*, 333 Md. 516 (1994). A reviewing court may, and should, examine facts found by the agency, to see if there was substantial evidence to support each fact found. *Commissioner, Baltimore City Police Dep't v. Cason*, 34 Md. App. 487, cert. denied, 280 Md. 728 (1977).

DISCUSSION

For the reasons that follow, the court finds that there is substantial evidence in the record as a whole to support the agency's findings and conclusions in accordance with the special exemption factors outlined in BCZR § 502.1 and that the Board did not commit error in granting Nepali's Petition for its proposed special exception use.

Special exception cases are governed by *Schultz v. Pritts*, 291 Md. 1, 22-23 (1981), where the Court of Appeals established that:

> We now hold that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.

Thus, if an applicant shows that the proposed use at the proposed location would be conducted without detriment to the neighborhood, beyond that inherent in the use itself, the special exception should be approved. In evaluating Nepali's application, the Board considered the testimony of a number of witnesses offered in support of the special exception. They include:

- Kris Ghimire, Founding Member of Nepali American Cultural Center
- Binod Upreti, Life Member of Nepali
- John Motsco, Professional Engineer at D.S. Thaler and Associates
- James Powell, Licensed Environmental Specialist
- Joseph Colaggero, Professional Engineer at the Traffic Group Inc.
- Ida Twinning, Daniel Montague, and Marcia Barton, as local neighbors

Following a public hearing, the Board issued a detailed 62-page opinion meticulously analyzing the evidence presented. The Board identified its reasoning on pgs. 37-52 of its Opinion and cited to the testimony supporting each special exception factor that Petitioners contested.

The Board addressed noise concerns under the "health, safety or general welfare" factor § 502.1(A). After hearing testimony from local neighbors, the Board concluded that the noise associated with the proposed Temple would be no different at the present location than at other parts in the RC-2 zone. However, recognizing that larger events could result in sound amplification, the Board issued a condition for Nepali to plant additional landscaping in certain areas to increase the buffer density and for there to be no outdoor amplification of sound. (Board Opinion, pgs. 39-40). The Board also considered Mr. Mostco's expert testimony concerning drainage and runoff issues as part of the proposed use's "health, safety or general welfare." The Board found that Nepali met its burden under § 502.1(A) because Petitioners did not present sufficient evidence to establish the proposed use would exacerbate any existing drainage issue or cause additional runoff. (Board Opinion, pg. 40).

The Board considered the testimony of individual residents and Nepali's traffic expert, Joseph Colagerro, to determine whether the proposed use would create traffic congestion (§ 502.1(B)). The Court notes that Petitioners were free to introduce expert traffic testimony of their own but declined to do so. The Board concluded that Mr. Colagerro's testimony was credible, convincing, and unrebutted and found that the proposed use did not create the potential for traffic congestion on the site. To address concerns about possible headlight intrusion on

Bonaparte Avenue and blinding drivers driving north on Harford Road, the Board imposed a condition that all traffic exiting the Property must turn right. (Board Opinion pgs. 40-43).

Petitioners presented evidence through video clips of events at the Property depicting certain fire code violations and the use of fire at an event to support their contention that the proposed use would create a potential hazard from fire, panic, or other danger (§ 502.1(C)). None of those clips or the testimony from Petitioners caused the Board to conclude the *proposed use* would create a hazard of fire, panic, or danger. (Board Opinion, pg. 49). The Board concluded that Nepali satisfied factor § 502.1.C and reiterated that Nepali would be required to comply with all fire and building codes.

Petitioners' sole argument that the proposed use would tend to overcrowd land or cause undue concentration of population was that, at present, there is not a functioning septic system that can handle large festivals. First, the Board noted that large festivals would be atypical from the proposed use. Second, Mr. Powell, Nepali's licensed environmental specialist, provided testimony concerning the septic needs based on the proposed use and testified that the site was sufficient for the intended use. He also noted that for special events, port-o-potties would be used. This testimony was unrebutted. As such, the Board concluded that Nepali met its burden under factor § 502.1(D).

In determining whether the proposed use was consistent with the spirit and intent of the zoning regulations, the Board noted that other religious institutions exist in the RC-2 zone. In fact, one religious institution is adjacent to the Property. Further, the Board restated that the Community Plan recognizes that for development of religious institutions in the area, the development 'should be located in close proximity to major roadways such as Harford and Belair Roads...' The Board concluded that Nepali met its burden under factor § 502.1(G). (Board Opinion, pgs. 49-50) (emphasis added).

The Board considered testimony from both parties' witnesses as to whether the proposed use would be detrimental to the environmental and natural resources of the site and vicinity (§ 502.1(I)). Petitioners offered testimony from Dr. Dewey Clark, a resident in the neighborhood, who completed training and volunteer work as a master naturalist. Dr. Clark was not offered or received as an expert witness on environmental and natural resource matters. (Board Opinion, pg. 47). Nepali offered expert testimony from James Powell, an expert environmental health specialist. The Board was able to evaluate the testimony of the witnesses and found there was substantial evidence to conclude that Nepali met its burden under factor § 502.1(I). (Board Opinion, pg. 51).

The Board relied on the testimony of record, both expert and lay opinion, in reaching their decision. The Board properly considered the test for special exception use pursuant to BCZR § 502.1, and under Schultz. Petitioners failed to demonstrate that the proposed use would have an adverse effect at the subject location beyond any effects inherent in a religious use. The record amply supports the Board's decision to grant the special exception.

CONCLUSION

For the reasons stated, the decision of the Board comports with the applicable law and is supported by substantial evidence. Therefore, the decision of the Board of Appeals of Baltimore County granting Nepali's Special Exception Use Petition, with conditions, is AFFIRMED.

January 28, 2022
Date

Judge Keith R. Truffer
Circuit Court for Baltimore County

Copies to:

Entered: Clerk, Circuit Court for Baltimore County, MD
January 31, 2022

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF:
Donna Carter, et al.

*

FOR JUDICIAL REVIEW OF THE
OPINION OF The Board of Appeals of
Baltimore County

* Case No.: C-03-CV-20-003922

IN THE MATTER OF:
Nepali American Cultural
Center of Baltimore

*

BOARD OF APPEALS
CASE NO. 18-122-X and CBA 19-004

* * * * * * * * * * * * *

ORDER

For the reasons stated in the Memorandum Opinion accompanying this Order, it is this 28th day of January, 2022,

ORDERED, that the January 9, 2020 decision of the Board of Appeals of Baltimore County in this matter is **AFFIRMED**.

Judge Keith R. Truffer
Circuit Court for Baltimore County

Entered: Clerk, Circuit Court for
Baltimore County, MD
January 31, 2022

IN THE MATTER OF:	*	BEFORE THE
NEPALI AMERICAN CULTRUAL CENTER OF BALTIMORE 12231 Harford Road 11th Election District 5th Councilmanic District	*	BOARD OF APPEALS OF BALTIMORE COUNTY
	*	Case No.: 18-122-X and CBA-19-004

* * * * * * * * * * * * *

RULING ON MOTION FOR RECONSIDERATION

This case comes to the County Board of Appeals ("CBA") on a Motion for Reconsideration ("Motion") which was timely filed by DeWitt and Mary Clark, David Hartman, Dave Poehler, Morgan Miner, Carol Shaw, Greater Kingsville Civic Association, Inc. and the Gunpowder Falls Watershed Preservation Association (collectively "Protestants") by their attorney J. Carroll Holzer, Esquire, proposing that the CBA re-open and reconvene a hearing on the merits of newly submitted plans and evidence. The original Petitioner and property owner, Nepali American Cultural Center of Baltimore ("Nepali"), by it attorneys, Timothy M. Kotroco, Lawrence E. Schmidt and Smith, Gildea & Schmidt, LLC, submitted a Response to the Protestants' Motion for Reconsideration.

This matter initially came before the CBA on a Petition for Special Exception to permit a temple for religious worship at the above captioned property. The hearing on this case occurred over the course of 11 days between July 2018 and February 2019. On January 9, 2020, the CBA issued an Opinion and Order granting the requested relief.

The Board held its deliberation on the Motion to Reconsider on June 24, 2020. The Board, for the reasons that follow, concluded that no hearing was warranted and denied the Motion.

The Motion for Case No. 18-122-X raised a number of concerns about (i) the contradictory and confusing language within the conditions of the Order, (ii) the failure to define "Religious Use," (iii) the failure to provide precise specifications of the conditions and, (iv) requested additional conditions be added to the Order. The Protestants' Motion for Case No. 19-004 raised concerns about the "*ex parte*" letter signed by the Administrative Law Judge Beverungen.

The Board members agreed with the legal points raised by Petitioner's counsel in its Response to Protestants' Motion for Reconsideration including, but not limited to, that there was no new or different facts introduced by the Protestant' memo and that there was no new law, ordinance or other regulation since the CBA's decision that would provide the Protestants with the relief it seeks. Moreover, the CBA noted that some of the objections to the conditions were conditions that that Protestants requested during the underlying case.

Similarly, the CBA noted that the CBA's revisory power is limited by its Rule 11, which states "the board shall have revisory power and control over the order in the event of fraud, mistake or irregularity". The Motion for Reconsideration did not allege any fraud, mistake or irregularity.

Conclusion

After reviewing the Motion and the case record, the Board unanimously finds none of the issues raised warrant a hearing on the Motion or relief on part of Protestants and agrees the Motion should be denied.

ORDER

THEREFORE, IT IS THIS 6th day of October, 2020, by the Board of Appeals of Baltimore County,

ORDERED, that the Motion to Reconsider is hereby **DENIED** for the reasons set forth herein.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

BOARD OF APPEALS
OF BALTIMORE COUNTY

William A. McComas, Chair

see following page
Deborah C. Dopkin

Adam T. Sampson /Hay
Adam T. Sampson

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

BOARD OF APPEALS
OF BALTIMORE COUNTY

See previous page
William A. McComas, Chair

Deborah C. Dopkin

See previous page
Adam T. Sampson

Board of Appeals of Baltimore County

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October 6, 2020

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J. Carroll Holzer, P.A.
508 Fairmount Avenue
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Timothy M. Kotroco, Esquire
305 Washington Avenue, Suite 502
Towson, Maryland 21204

RE: In the Matter of: *Nepali American Cultural Center of Baltimore*
Case Nos.: 18-122-X and CBA-19-004

Dear Counsel:

Enclosed please find a copy of the Ruling on Motion for Reconsideration issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Sunny Cannington Hay

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Multiple Original Cover Letters

c: Kris Ghimire/Nepali American Cultural Center of Baltimore
Greater Kingsville Civic Association, Inc.
Gunpowder Falls Watershed Preservation Association
Paul M. Mayhew, Managing Administrative Law Judge
C. Pete Gutwald, Director/Department of Planning
Michael D. Mallinoff, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law
Office of People's Counsel
DeWitt and Mary Clark
David and Bernadette Poehler
Joanne Foxworthy
Carol Shaw
Tom and Morgan Miner
David Hartman

IN THE MATTER OF:	*	BEFORE THE
NEPALI AMERICAN CULTRUAL CENTER OF BALTIMORE 12231 Harford Road 11th Election District 5th Councilmanic District	*	BOARD OF APPEALS OF BALTIMORE COUNTY
	*	Case No.: 18-122-X and CBA-19-004

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OPINION AND ORDER

This matter comes before the Board of Appeals, on appeal from the Administrative Law Judge Opinion and Order, dated January 22, 2018, granting a Petition for Special Exception to allow a building for religious worship on the subject property ("Property"), which is within a Resource Conservation-2 (RC-2) zone, pursuant to Baltimore County Zoning Regulations §1A01.2(C)(6). Lawrence E. Schmidt, Esquire and Timothy M. Kotroco, Esquire represent Petitioner, Nepali American Cultural Center of Baltimore, Inc. J. Carroll Holzer, Esquire, represents Protestants, Dewitt and Mary Clark, David Hartman, David Poehler, Morgan Miner, Carol Shaw, Greater Kingsville Civic Association, Inc., and the Gunpowder Falls Watershed Preservation Association.

Case No. CBA-19-004 was joined with the special exception appeal. In that case, Protestants appeal the effect of a letter and response between Mr. Kotroco, on behalf of Petitioner, and Administrative Law Judge Beverungen, wherein Petitioner was seeking to clarify whether Petitioner could hold a fundraiser on the Property from July 29, 2018 to August 3, 2018. Judge Beverungen, in his response dated July 3, 2018, stated, *inter alia*, "the owners are free to gather on their Property so long as no religious activities within the subject building and all other permit requirements, if any, are satisfied...."

The hearing on this case occurred over the course of 11 days between July 2018 and February 2019. On November 1, 2018, Protestants identified four CDs of video and audio files, as well as related photographs, it sought to introduce into evidence. Given the volume of files, counsel for Petitioner was not in a position to review all audio and video files in court and therefore, the Board gave counsel for Petitioner the opportunity to review and file written objections, which counsel did. The Board then permitted counsel for Protestants to file a written response in advance of the next scheduled date, November 29, 2018. That hearing day was used as an evidentiary hearing to resolve the objections and determine the admissibility of photographs and video and audio files Protestants had compiled and wished to introduce into evidence.

Over the course of hearing dates, Petitioners presented testimony from: (1) Kris Ghimire, as a trustee for Petitioner; (2) Binod Upreti, a life member of Petitioner; (3) John Motsco, P.E., as an engineering expert and as the engineer of record for the proposed project; (4) Joseph Colaggero, a traffic engineer expert; and (5) James Powell, a Licensed Environmental Specialist. Individuals Ida Twining, Pastor Daniel Montague, and Marcia Barton, also testified in favor of the petition.

Protestants presented testimony from the following witnesses: (1) adjacent neighbors, Dr. Mary Clark and Dr. Dewitt Clark, who live across the street from the Property; (2) Dr. Dewitt Clark also appeared on behalf of the Gunpowder Falls Watershed Preservation Association; (3) Dave Poehler, who lives next door to the subject Property; (4) Joyce Mason, who lives just over a mile from the Property; (5) the aforementioned Mr. Ghimire (trustee for Petitioner) as an adverse witness; (6) Bruce Morgan, a Kingsville resident; and (7) Protestants' land planning and zoning expert, Christopher Jakubiak. The Greater Kingsville Civic Association, Inc. also joined the opposition to the proposal.

The Board conducted its public deliberation on March 13, 2019.

I. Summary of Testimony

A. Petitioner's Witnesses

As noted above, Petitioner had two witnesses from its organization testify on its behalf, Kris Ghimire and Binod Upreti.

* Kris Ghimire --- Mr. Ghimire testified that he was born in Nepal, came to this country in 1998, and became an American citizen. Mr. Ghimire is a real estate broker in the area. Mr. Ghimire is a founding member of Petitioner's organization and serves on its Board of Trustees, with all of his work for the organization being voluntary. Mr. Ghimire testified that the organization's "single mission" is to establish a Hindu Temple in Baltimore County. Mr. Ghimire estimated that there are 5,000-10,000 people of Nepali heritage in the Greater Baltimore Area.

Mr. Ghimire provided evidence regarding how the Property is to be used. Mr. Ghimire also provided the details regarding some of the religious practices to be observed at the Property, including holidays and special events. Much of Mr. Ghimire's testimony on these points is specifically identified and reviewed in Section IV, Petition and Use Evidence, *infra*, and need not be addressed here. Mr. Ghimire was also called as an adverse witness by Protestants. The issues brought up during that testimony merit separate discussion at the end.

* Binod Upreti --- Mr. Upreti is a life member of Petitioner. Like Mr. Ghimire, Mr. Upreti is originally from Nepal and came here in 1998. Mr. Upreti testified that to go to temple now he must travel to Westminster and Finksburg, Maryland, and on occasion to Queens, New York. Mr. Upreti agreed with Mr. Ghimire's description of the proposed operations of the temple at the Property. Mr. Upreti's motivation for testifying was to communicate to those who oppose the Petition that Petitioner is there for peace and harmony, and is willing to address concerns.

Neighbors from the general area also appeared to provide vocal support for the Petition:

* Ida Twining --- Ms. Twining lives one and a half miles from the Property at 11511 Harford Road, in Glen Arm. Ms. Twining has lived at her present address for 35 years and her husband's family had been there for over 200 years. When Ms. Twining learned of and attended the post-sale open house at the Property. She described the Property as having long been in disrepair, defaced by graffiti. She saw "mountains of plastic bags filled with beer cans and all sorts of trash." She does not believe the Property is appropriate for farming and does not believe it has ever been farmed in the time she lived in the area. She feels the Property is "uniquely suited" to serve as a worship center. Ms. Twining expressed her happiness to welcome Petitioner to the community. Ms. Twining also provided testimony about the growth of the area and traffic, as outlined in more detail in Section III, Residential/Commuter Growth and Area Traffic Conditions, below.

* Daniel Montague --- Mr. Montague is a pastor with the United Methodist Church, leading the Fork United Methodist Church and the Waugh United Methodist Church. The Property is in between the two churches, about two miles from each. Like Ms. Twining, Mr. Montague visited the site after the sale. Mr. Montague supports the Petition.

* Marcia Barton --- Ms. Barton grew up in Kingsville and presently lives approximately 8-10 miles from the Property at 11909 Woodberry Place in Kingsville. Ms. Barton decided to attend and testify as she felt some of the objections and concerns raised by others at one or more meetings were unfair to Petitioner. She felt some were misinformed and some failed to take into account existing uses already accepted by the community. In particular, she identified St. Stephen's Church on Bradshaw Road. The church hosts festivals and carnivals and has a school. She believes that the temple will cause less traffic and noise than St. Stephen's Church even if the proposed temple has larger events. In sum, Ms. Barton supports the Petition.

Petitioner also called three expert witnesses, Mr. John Motsco, an engineering expert, James Powell, a Licensed Environmental Specialist and Mr. Joseph Colaggero, a traffic engineering expert.

* John Motsco, P.E. --- Mr. Motsco, of Little & Associates, was accepted as an expert in civil engineering. Mr. Motsco worked on the plans for the Property and is the engineer that sealed them. Mr. Motsco visited the Property on two occasions and relied on Baltimore County GIS for other information. He provided the physical description of the Property, identifying it as 30.8 acres, zoned RC-2, and identified the structures and other site improvements.

Mr. Motsco described the plan, which, as he testified, had limited building improvements, all currently existing. Petitioner will use the existing driveway leading to the house (to be converted to a temple). A fire department turnaround will be installed, as will the required parking spaces. After acknowledging "cosmetic improvements", Mr. Motsco testified that there would be no new structures. Mr. Motsco understands that the pool and the structures that serve the pool are to be removed. He described the Property as being surrounded by woods, with the narrowest swath along Harford Road (close to the entranceway) 50-60 feet in width, and the area along the western edge being approximately 100 feet in width. There is a stream at the southeastern and southern property lines, weaving on and off the Property. No proposed construction is near the stream. The proposed parking area will be 500-700 feet away from the stream. Mr. Motsco testified that Petitioner does not anticipate any clearing of the wooded area.

Mr. Motsco also provided testimony about the general area, noting wooded vegetation and trees to the east and south, with some farmland and scattered houses beyond the wooded areas. Also to the east are Christian Redeemer church and school and the Beachmont Camp, by Beachmont Christian Ministries. Both include recreational and athletic facilities. On the northern

and western borders along Harford Road, there are single-family houses. There are no farms or agricultural uses near the Property, let alone adjacent. Mr. Motsco testified that the present-day house (proposed temple) can be visible at certain points while traveling on Harford Road, but otherwise is generally screened by the trees and "extreme topography" along Harford Road.

Mr. Motsco presented numerous photographs of the Property and the surrounding area. Mr. Motsco testified that the Maryland Historic Trust designates the Property grounds and the existing barn as historic. As is noted below, the Property ("Bella Vista") was originally developed by Charles Bonaparte, a nephew of Napoleon Bonaparte, who was also the former Attorney General of the United States and Secretary of the Navy in President Theodore Roosevelt's administration. The original house burned down in the 1930s. The Property is served by well and septic systems, though the existing systems are considered non-functional at this time. Mr. Motsco is aware of efforts to locate new well and septic facilities and believes the Property is large enough for those systems to accommodate the proposed use. Mr. Motsco's plan calls for 38 parking spaces in a lot, with some additional spaces closer to the proposed temple. If overflow parking is needed, vehicles could use the nearby grass areas.

Mr. Motsco was asked about certain special exception factors. First, he gave his opinion on the boundaries of the neighborhood, defining it as the Harford County border to the north, Bel Air Road to the East, Long Green Pike Road to the west, and "a river" to the south. He noted that the general area is rural and the best way to define the neighborhood are the physical boundaries. He testified that the proposed use would not be detrimental to the health, safety and general welfare of the locale, contending the minimal scope of work, the size of the Property, and low intensity of use support that opinion. Mr. Motsco did not believe the proposed use posed any potential hazard of fire, panic, or danger greater than at any other location in the zone. He also believed the

permitting process and conversion from residence to a temple would address issues arising from the building being in disrepair.

Mr. Motsco did not believe that the proposed use would cause any undue concentration of population given the size of the Property, the anticipated small congregation, and relatively small structure. Public water or sewer does not serve the Property. The distance of the building from other properties prevents it from interfering with adequate light and air. Mr. Motsco was not aware of any clearing necessary for any part of the proposal and for that reason, he believed the use would be consistent with the County's provisions regarding impermeable surfaces and vegetation. As for any environmental impacts, he testified that any concern could only arise from the parking, but again, no clearing was required. As such, Mr. Motsco's opined that there are no detrimental impacts beyond the inherent effects that will be caused by the proposed use. No variances are needed for this Petition.

On cross-examination, Mr. Motsco testified that runoff from the main building would drain to the south (toward the barn). Runoff from the proposed parking area would flow to the north (toward Harford Road). The number of parking spaces was generally determined by the County based on the representation of the number of expected regular attendees. The zoning regulations require one space per four seats, but this proposed temple does not have pews or seats. Mr. Motsco recalled telling the County that they would have a maximum normal attendance of 150 attendees. Mr. Motsco did not estimate or analyze the number of vehicles the adjacent grassy area could accommodate. Mr. Motsco acknowledged that his testimony on direct is based on the anticipated day-to-day use of the facility and not on special events. When asked, Mr. Motsco also estimated the distance from the tennis court to the Clark residence (12150 Harford Road) to the west of the Property as between 300-350 feet.

Protestants' counsel asked Mr. Motsco about plans to mitigate sheet flow from the Property, across Harford Road, toward the Foxworthy property at the northwest corner of the Harford Road/Bonaparte Avenue intersection (at the northern border of the Property). Mr. Motsco testified that no analysis had been done by the time of his testimony, but added that, at present, there is a roadside ditch and a storm drain inlet on the Property side of Harford Road. Looking at photographs, Mr. Motsco noted that Harford Road is sloped away from the Foxworthy property and toward the Property. On redirect examination, Mr. Motsco testified the County will require a grading plan and will determine if any additional measures are required. In addition, Mr. Motsco testified that the existing woods aid the current drainage and the expectation is they will aid the anticipated drainage from the parking area.

* James Powell --- Mr. Powell worked for the Baltimore County Department of the Environment, now the Department of Environmental Protection and Sustainability (DEPS), for 37 years and four months, rising to the level of Field Supervisor for the Soil Evaluation Section. During his time with the County, Mr. Powell conducted soil tests and supervised others doing the same for new construction or repair of failing septic systems. He also reviewed septic plans, estimating the number of plans as "thousands." Mr. Powell has been a Licensed Environmental Specialist for 33-35 years. Mr. Powell was offered, and received, as an expert to opine on the feasibility of a septic system for the proposed use.

Mr. Powell visited the Property two times. He did not conduct a soil evaluation test. Rather, he used the USDA Soil Survey Manual. Mr. Powell identified the soils in the cleared area as manor soils, which are derived from weathered schist. The soils are not alluvial or colluvial. Though the Property sits on a knoll and ridgeline (heading south/southwest), he did not consider the Property unique because of its height relative to other properties in the area.

Mr. Powell prepared a Water Usage Summary based on numerous factors, including anticipated number of visitors, whether food is served, whether food is prepared on or off site, and whether portable facilities are available for outside functions. He was provided information by the Petitioner for these factors. He understood that the temple would not have a commercial kitchen. To do so would require all-new appliances and a hood with a fire suppression system. Mr. Powell testified that he received County approval for his water usage report.

He testified that the next step to gain approval for the septic system is to file for a soil percolation test application. The tests to be conducted are done by personnel from the DEPS. Either the location would be approved or DEPS would require additional tests at an additional area. Mr. Powell testified that, given the size of the Property, he felt confident that there will be sufficient septic area to meet the intended usage and the septic system would not affect any adjacent properties.

On cross-examination, Mr. Powell was asked about whether vehicles could park on top of the septic field. Mr. Powell stated that it depended on the physical construction characteristics and system components. The County now uses deep trench systems, which he described. However, another system design is a shallow pressure dosing system. He testified if there was to be parking on top of the septic field, a system can be engineered to accommodate the parking, but it needs to be known ahead of time. Nevertheless, Mr. Powell opined, with "99% probability," a pre-engineered system will not be required here because he expects a deep trench system. Even still, when Petitioner files for a building permit, they will have to identify the overflow parking area and DEPS will issue its "standard...comments" to keep parking out of the septic area. If that cannot be avoided, the system will need to be engineered accordingly.

With respect to the anticipated well, Mr. Powell testified about that process, noting that DEPS requires a minimum yield and minimum storage capacity. For festivals, Mr. Powell did not see a concern as no food will be prepared on site, the kitchen would not be available for use, and there will be portable facilities outside. Mr. Powell understood that the well would serve the main building only. Mr. Powell anticipates that the new well location, which he marked, was between 355-400 feet from any well on an adjoining property.

Mr. Powell testified that first, the well site location is selected, and then a completion report is prepared. Once the County receives the completion report, the County assesses the well capacity to serve the intended use as identified. The determination of what storage capacity and what size storage tank is needed, and ultimately approval, occurs after the well is built. The County will require the older well and septic system to be disconnected and backfilled.

* Joseph Colaggero --- The testimony of Mr. Colaggero is discussed in substantial detail in the traffic discussions below and need not be addressed to the same level of detail as the other witnesses here. Nevertheless, Mr. Colaggero, Vice President of The Traffic Group, Inc., provided testimony regarding the proposed redesign of the Property entranceway, improving sight distances, the existing road conditions, traffic accident history, and the need for an access permit from State Highway Administration (SHA), as Harford Road is a state road (Md. Rt. 147). Mr. Colaggero also conducted several analyses of the particular stretch of Harford Road around the Property, and in particular, near Bonaparte Avenue. More specifically, Mr. Colaggero examined the road capacity and operations, performed a sight distance analysis (and a revised analysis), and a speed study between September 26, 2018-October 9, 2018.

Because of his analyses and examinations, Mr. Colaggero concluded that the stretch of Harford Road relevant to this case had sufficient capacity and the proposed use of the Property,

based on the representations made as to the use, will not cause traffic congestion beyond what exists today. Mr. Colaggero also opined that, with the requirements from SHA for the entranceway and exit from the Property, the proposed use will not detrimentally impact safety and may, in fact, improve it over existing conditions. Again, Mr. Colaggero's testimony is discussed in much greater detail below in Section III, Residential/Commuter Growth and Area Traffic Conditions and Section VI(C) Application of the BCZR §502.1 Special Exception Factors, (2) Congestion in Roads, Streets and Alleys.

B. Protestants' Witnesses

* Dr. Mary Clark --- Dr. Mary Clark lives with Dr. Dewitt ("Dewey") Clark, her husband, at 12150 Harford Road. She has lived there for 33 years. The Clark property sits across Harford Road from the Property, though it is behind trees and other vegetation and sits at a lower elevation than the Property. The combination of these features obscures the Clark property from Harford Road. She estimates her house is about 100 feet from Harford Road.

Dr. Mary Clark also identified her community as the "Long Green-Haystack Valley Community," further defining it as those living within a mile and half of the Property. However, she provided clarification on cross-examination as to her criteria as to what properties are within her neighborhood (discussed below). She contends that where she lives is "one of the last rural valleys in Baltimore County." Dr. Mary Clark raised concerns regarding her "right to solitude and quiet enjoyment of [her] property in a rural RC-2 zone," as well as "personal safety and the increased traffic on Harford Road."

Dr. Mary Clark identified several multi-day events that produced, what she considered to be, "very loud, amplified sound and music." She added that even with her windows closed, the noise was "highly disturbing." So much so that midway through a fundraising event held at the

subject Property from July 28th to August 3rd, the Clarks decided to go out of town for the tail-end of the event. Dr. Mary Clark also takes issue with the noise emanating from the multi-purpose court, identifying "constant percussive screaming and yelling," which was "destroying [her] peace and solitude." She has heard noise from the court starting as early as 8:15 am on Sunday mornings and going until dark. She likened the experience to living next door to a "recreation field, ball field, or a playground."

With respect to traffic, she described Harford Road as a "narrow, two-lane road with blind curves and no shoulder." She referred to the Property as being located "right in the middle of one of the most treacherous sections of road in Baltimore County." She and her husband have heard, witnessed, and assisted with traffic accidents occurring along the curves. In fact, she and her daughter had an accident at a blind curve close to the Property when a vehicle crossed the centerline. She felt that large, multi-day events at the Property would endanger the area residents and imperil attendees of those events. Dr. Clark stated that a range of vehicles use Harford Road, including commuter traffic, tractor-trailers, bicycles, and farm equipment. She also noted the regular presence of deer, which poses an additional hazard.

Much of Dr. Mary Clark's testimony concerned her experiences observing and witnessing the larger events already held at the Property. It is fair to say that Dr. Mary Clark does not trust the representations made by Petitioner with respect to operations at the Property, the number of regular attendees, the number of attendees for larger events, sound amplification, and other relevant issues. Dr. Mary Clark believes that the proposed use will cause detrimental impacts to the surrounding area. She provided her opinion as to whether the proposed use can satisfy the Baltimore County Zoning Regulations §502.1 criteria, identifying certain factors for which she contends there is sufficient evidence to show the detrimental impacts.

On cross-examination, Dr. Mary Clark found Mr. Colaggero's testimony as to the number of vehicle trips (over 2 million) on the relevant section of Harford Road per year not surprising. Dr. Mary Clark testified the existing traffic "very seldomly" has an impact on her tranquility and solitude, describing the noise as "a gentle swish," like "hear[ing] the ocean at night." Dr. Mary Clark clarified the noise from additional vehicles was not her concern; rather, it was that increased traffic may lead to more accidents. To that end, she alluded to witnessing "dangerous behavior" at the entrance and exit of the Property that nearly resulted in accidents. Dr. Mary Clark testified that she does not hear from her house the activities at the Christian Redeemer and Beachmont Camp properties.

When asked about the properties in her neighborhood, Dr. Mary Clark testified she does not consider the adjacent Christian Redeemer church and school or the Beachmont Camp to be part of the neighborhood because it has different zoning (though recognizing, she is not a land use expert). Dr. Mary Clark also stated that she was part of a group of local residents recently who opposed a request to support what she described as an expansion for either the Christian Redeemer property or the Beachmont Camp property.[1]

* Dr. Dewitt ("Dewey") Clark --- Dr. Dewey Clark appeared individually and as the authorized representative for the Gunpowder Falls Watershed Preservation Association. Dr. Dewey Clark presented testimony over several days, including November 1, 2018, January 29, 2019 and January 30, 2019. What was made clear from Dr. Dewey Clark's testimony is that Dr. Dewey Clark has spent substantial amount of his time tracking the comings and goings at and from the Property, whether by audio and video recordings, drone footage, social media postings

[1] The testimony concerned the "corn maze" but the location referenced conflated Beachmont Camp with Christian Redeemer ("Beachmont Christian camp"). Printouts from the Beachmont Camp website appear to establish that it has the corn maze, not the Christian Redeemer property.

from the Petitioner's members, attendees, and/or supporters, and other similar research. In addition, Dr. Dewey Clark has undertaken substantial effort to contact County officials to alert them to potential Code violations and site difficulties for development of the proposed use. During the course of the hearing, Protestants' frustration generally, and Dr. Dewey Clark's frustration specifically, with the County's failure to address the matters brought to their attention by Dr. Dewey Clark in a manner satisfactory to Protestants was readily apparent.

Dr. Dewey Clark testified that he believed the locale to be confined to Gunpowder Park to the Mount Vista/Glen Arm and Harford Road circle. He testified that that there were a lot of farms in the area, which results in farm vehicle traffic on Harford Road. He noted pedestrians and people on bicycles also use the relevant stretch of Harford Road.

Dr. Dewey Clark presented a library of audio and video clips of sounds, events at the Property, as well as photographs of vehicles on Harford Road and other nearby roads. The photographs of the vehicles leaving the Property taken by Dr. Dewey Clark (or others) showed vehicles on the wrong side of the road, the darkness of the surrounding area, and other issues intended to underscore the testimony on the dangers presented by visitors presumably unfamiliar with the particular section of Harford Road. Dr. Dewey Clark also presented dash cam videos of traffic generally on Harford Road near the Property to show vehicles crossing lines and other issues, again, to speak to the existing dangerous nature of the roadway system even without the introduction of increased traffic from the proposed use. He also provided his critique of Mr. Colaggero's testimony, though Dr. Dewey Clark is not a traffic engineer.

Like his wife, Dr. Dewey Clark identified numerous concerns, including: excessive noise; the loss of solitude; traffic congestion; traffic dangers; environmental impacts on area forests and streams; invasion of non-native species; drainage from the site; unsafe use of fire; fire code issues;

inconsistency with the zoning classification; and others. Dr. Dewey Clark also proposed numerous conditions in the event the Board granted the Petition.

By way of example, Dr. Dewey Clark testified that the noise emanating from the Property, whether due to special events or to volleyball games, disrupts the solitude and tranquility he has enjoyed while the Property was used only as a single-family residence (or was vacant). He cited to the 1964 Wilderness Act to identify prior recognition of the value of solitude. The audio and video clips he provided were intended to serve as a snapshot in time of the disruption being caused at the Property to illustrate what may occur if the Petition was granted overlooking in his testimony that the same could occur if the Petition is not granted. Even recognizing the Clarks' sensitivity to a change, Dr. Dewey Clark played a clip intended to show excessive noise from the volleyball court, but instead the predominant noise heard by the Board was from birds chirping.

With respect to the fire code issues, Dr. Dewey Clark identified foreseeable problems with an occupancy permit unless the main building became Code-compliant. In particular, he identified the lack of panic bars on the doors. He also identified video clips taken from social media posts or otherwise uploaded to the internet where there was an open fire at a festival, noting the lack of fire extinguishers and no water source to draw water. Similarly, he expressed concerns over the use of extension cords from the main building to an accessory tent and the lack of emergency lighting inside the main building.

It is abundantly clear that Dr. Dewey Clark opposes a change from the Property's historic use as a residence. However, based on his testimony and evidence focusing on alleged Code issues and the County's failure to adequately respond to complaints regarding the same, as well as Petitioner's use of the site prior to the conclusion of the special exception case, Dr. Dewey Clark's staunch opposition largely arises from his belief that the Property will be used in a manner far

more intense than what has been represented, magnifying the impacts he, his wife, and his neighbors believe they will experience, compounded by his skepticism that the County will remedy any issues arising from the Property once the Petition is approved.

* Joyce Mason --- Ms. Mason lives at 11813 Harford Road and has done so for 30 years. Her property lies south of Hutschenreuter Road, approximately 1.3 miles from the Property. Ms. Mason also used to live closer to the Property, at 11939 Harford Road, three houses north of her present house.

Ms. Mason presented testimony regarding her concerns, identified as the increased traffic burden and her personal, as well as her neighbors, safety on Harford Road. Ms. Mason described Harford Road as a "rural two-lane road with no shoulder and many blind curves." The Property is located within that section, which she considered a "hazardous area." She too provided anecdotal evidence of traffic accidents on Harford Road, naming the intersection of Harford Road and Hartley Mill Road, as a location with multiple accidents, some of which were fatal. She also identified an accident she was involved in that occurred one month prior to her testimony.

Ms. Mason testified that "[o]ver the years, the traffic on Harford Road has increased dramatically." Like Dr. Mary Clark, Ms. Mason identified farm equipment, including tractors, combines, bailers, and hay wagons, as using Harford Road. Ms. Mason, again like Dr. Mary Clark, testified that, in the middle of the summer in 2017, she could hear "very loud talking over the amplification system" that spooked one of her horses. She stated she could hear the loud talking also in the summer of 2018, again, unsettling her horses. She also believes that the proposed use has a greater impact on the community due to the "unique terrain of the area," with "many peaks and valleys, blind curves, and agricultural activities."

* Dave Poehler --- Mr. Poehler lives with his family at 12241 Harford Road, situated to the north, east, and next door to the Property. Mr. Poehler testified he could see the main building and driveway from various points on his property. Mr. Poehler said after the sale of the Property, he reached out to his new neighbors, by going over to the Nepali property to introduce himself and offered to help take down a tree. He testified he did not hear anything from his neighbors since that visit.

Like Protestants' other witnesses before him, Mr. Poehler identified traffic and noise as his concerns. Mr. Poehler associates the traffic and noise issues with a likelihood that his property value will be reduced.

Mr. Poehler, echoing the others, believes Harford Road along the subject Property boundary through the circle at Mount Vista and Glen Arm Roads is "a dangerous stretch." Mr. Poehler estimated his driveway to be approximately 200 feet from the existing entrance to the Nepali property. He understands that Petitioner is proposing to move it closer by about 70 feet. Mr. Poehler shared that, even without the move, he has already had some of Petitioner's attendees accidentally enter his driveway and/or use it to turn around.

He identified an occasion in 2017 where amplified music emanating from the Property was being played as late as 1:00 a.m. He also identified large gatherings where he and his family were subjected to noise he considered extreme. On cross-examination, Mr. Poehler was questioned about a different property to the south of the Nepali property located on Hutschenreuter Road that hosts an outdoor rock concert. He did not have any familiarity with it, but agreed it was possible that the music was coming from that location, though noting the music he heard did not sound like a rock and roll band. Mr. Poehler also testified he lives about 1000 feet, as the crow flies, from

the Beachmont and Redeemer properties. On occasion, he hears soccer games, with the accompanying cheering and yelling.

Unlike the other witnesses presented by Protestants, Mr. Poehler also identified the potential impact to his well and septic systems as an issue. Mr. Poehler testified, at present, he considers his well as "not a very strong well at all," and referenced a gathering of about 40 people at his house where he ran out of water. His well is about 200-250 feet from the Property. As such, he was concerned that the potential large gatherings of hundreds of people at the Property will exacerbate the limited volume of his well. Moreover, he has concerns over pollution that may result from runoff from the grassy areas used for overflow parking.

* Bruce Morgan --- Mr. Morgan lives at 3 Longknoll Way in Kingsville, about 3 miles away, as the crow flies, from the Property. Mr. Morgan expressed his concerns over traffic and noise. He stated his concern was that if "that type of activity" was permitted on rural, agricultural property, it could happen anywhere in Baltimore County. He testified that the relevant stretch of roadway is one of the most dangerous sections he has encountered.

* Christopher Jakubiak --- Mr. Jakubiak, of Jakubiak & Associates, was offered and received as an expert in land planning and zoning. Whereas Petitioner's experts opined that special events like festivals evidence atypical use, and therefore, were not the focus of their opinions, Mr. Jakubiak testified festivals are "particularly relevant to his testimony."

Mr. Jakubiak described the relevant section of Harford Road as "very rural," also noting the hills and winding nature of the road on the way to the circle at Mount Vista and Glen Arm Roads. He expressed his opinion that the relevant neighborhood for the special exception analysis ran from Hartley Mill Road to Mount Vista Road.

Mr. Jakubiak opined that the cultural landscape of the area was unique. He relied on the Master Plan 2020 in concluding that the County seeks to preserve cultural landscapes, and in particular here, the agricultural history of the area. The Master Plan also expressed a preference of low-density development in rural areas, further contending the Master Plan serves as guidance and cannot be dismissed in the consideration of the special exception petition. He noted that Harford Road in the relevant area is a Baltimore County Scenic Route, which the Master Plan states is to be protected and that development by way of special exception petitions should be granted "sparingly."

In describing the Property, Mr. Jakubiak testified that the site is constrained by sloping terrain, particularly steep to the west. Outside of the multi-purpose court, the land drops significantly. The main building sits at the highest point, about 400 feet above sea level, which is about 200 feet above the valley floor. He believed the landscaping presently is an ineffective buffer for sound, though it was noted that Mr. Jakubiak is not an expert in sound. He also opined that the impact from noise would be worse than other locations in the zone.

Mr. Jakubiak believes 38 parking spaces are insufficient due to the need to use the grassy areas for overflow parking. While the limited number of spaces helps with permeability, the number does not match the needs. As such, when vehicles park on the grassy areas, they will cause ground compaction. The compaction and steep slopes may cause runoff to have a detrimental impact to the site and neighboring properties.

While Mr. Jakubiak is not an expert on traffic engineering and related issues, as a planner, he had concerns about the road system, identifying an increased risk in accidents caused by greater usage arising from the proposed use of the Property. He also believes that the proposed use detrimentally impacts the health and general welfare of neighboring properties, particularly the

loss of tranquility and increase in noise. He also opined that the proposed use is inconsistent with the zoning classification and spirit and intent of the zoning regulations in light of the preference expressed in the zoning regulations and Master Plan to preserve rural areas from intense development. Mr. Jakubiak also felt it important to note the site's proximity to the Long Green Rural Legacy Area, though the subject Property does not fall within its borders.

On cross-examination, Mr. Jakubiak admitted he does not know when the Property was last used in an agricultural manner. He also did not know the location of the closest property presently used for an agricultural purpose. Harkening back to his testimony regarding the Master Plan, Mr. Jakubiak acknowledged community plans are adopted as part of the Master Plan and, as relevant here, the Greater Kingsville Area Community Plan was adopted by the County Council in 1996 into the Master Plan.

Mr. Jakubiak testified that visual impact and noise are important considerations under BCZR §502.1. Mr. Jakubiak, however, did not know if the main building was visible from surrounding properties, including the Clark property. Similarly, he did not know if the grassy area that may be used for overflow parking was visible from other properties. With respect to noise, Mr. Jakubiak suggested that to reduce noise, a buffer be as close as possible to the source of the noise to limit the impact upon nearby properties.

II. Subject Property and Surrounding Area

The Property consists of 30.8 acres, with 12231 Harford Road, in Glen Arm, as its address. It is located, generally, in between Hutschenreuter Road (to the south) and Glen Arm/Mount Vista Road (to the north). The Property is outside the Urban-Rural Demarcation Line. The Property, called "Bella Vista," was originally developed by Charles J. Bonaparte (for this reason, the Property is also referred to as the "Bonaparte property"). The site and the barn are historic and

listed on the Maryland Inventory of Historic Properties. In addition, a historic mile marker visible from Harford Road is located on the Property. The Property is zoned RC-2 and is surrounded by other properties zoned RC-2, with the exception of the northeast corner of the Property, starting at Bonaparte Avenue, which is zoned RC-5.

The concrete house that exists today replaced the original house that was burned down in 1933. The house sits prominently up on a hill and is visible at certain points along Harford Road. In addition to the historic barn and main house, the Property has a caretaker's house, a barn, a swimming pool, a bathhouse, and a tennis/multi-purpose court. There is an existing, active driveway on Harford Road across, but offset, from Bonaparte Avenue, and an abandoned driveway to Harford Road further to the south.

More recently, the Property had been owned by an area attorney, but fell into disrepair. The house had been abandoned in excess of ten years and the Property was subject to foreclosure or a tax sale. Mr. Ghimire stated that he first visited the site when it was for sale. During that visit, he saw graffiti inside and outside the main house, as well as beer bottles and needles littered throughout the Property. He also noted the trees and grass were overgrown and considered the Property to be "in really, really bad shape." Various photographs show graffiti, overgrown bushes and weeds, broken or missing windows, and other damage or disrepair. (See, e.g., Pet.'s Ex. 12(a)-(e)). Mr. Ghimire testified that some of the structures and features are in poor condition and need to be removed or repaired.

Ms. Twining, when visiting the Property after its sale, described the Property at that time as "torn up" and "ramshackle looking." Mr. Poehler, who lives next door to the Property, echoed her testimony about the general state of disrepair referenced in the section above. He described the house as a "little distressed," with vandalism and graffiti. Mr. Ghimire identified the efforts to

clean up the Property and restore it, though by the last day of the hearing, there still was no running water or functioning sewer facilities or septic system.

The Property has historically been used as a residence. Ms. Twining testified that she and her extended family have lived on their collective adjacent properties for over two hundred years. She believes that the Property has never been used for farming. The presence of the barn and its historic designation of "Bella Vista Farm" suggests the Property had an agricultural use in the past, but the record is silent as to what agricultural activity may have occurred or when so used. Based on Ms. Twining's testimony, the Property has not been used as a farm or used for agricultural purposes for at least 35+ years.

The general area has a significant farming history and has been considered rural. For example, Dr. Mary Clark, who resides across the street from the Property, testified about her concerns, including the identification of the area as "one of the last rural valleys in Baltimore County." Dr. Mary Clark noted the presence of not only farm equipment on Harford Road, but also commuter traffic, tractor-trailers, and bicycles. Ms. Mason, who resides on Harford Road approximately 1.3 miles south of the Property, used the same language as Dr. Mary Clark when describing the general area ("one of the last rural valleys in Baltimore County"), adding "the residents have worked hard to maintain the RC-2 rural nature of [the] valley."

Petitioner's expert, Mr. Motsco, also considered the general surrounding area as a "rural area." Mr. Motsco described the surrounding area as consisting of "some farmland with some scattered houses." Though there are farm operations in the general area, Mr. Motsco testified that there are no farms immediately adjacent to the Property. He identified single-family houses on the western and northern sides of Harford Road, across from the Property. To the east of the

Property are a church and a school (Christian Redeemer). In addition, the Beachmont Camp is also located to the east and is adjacent to the Christian Redeemer property.

III. Residential/Commuter Growth and Area Traffic Conditions

Testimony on both sides revealed that the general area is growing in residential and commuter use. For example, Ms. Twining testified that there "are a lot more people living out [in the area] than just the farmers we have always had." Dr. Mary Clark, in expressing her concerns about the possible impact upon traffic from the proposed used, noted an increase of commuter traffic on Harford Road independent of the proposed use, noting "the traffic situation is getting worse every day." Ms. Mason observed that "[o]ver the years, the traffic on Harford Road has increased dramatically." When asked on cross-examination about the volume of traffic, she testified, "all I know is a lot."

Mr. Colaggero, in connection with his traffic count analysis (Pet. Ex. 29), determined that the highest volume of traffic on Harford Road between Glen Arm Road/Mount Vista Road and Hartley Mill Road (*i.e.* inclusive of the Property) occurred on weekdays between 7:00 am-8:00 am for the southbound traffic. He testified national statistics reveal that Harford Road can carry a capacity of 1,700 vehicles an hour. (Id. p. 1). According to Mr. Colaggero, the national statistics from which that number was derived take into account the size of the road, the terrain, the lack of shoulders, the number of lanes, a speed of 45 MPH, and other criteria. Mr. Colaggero testified and showed that the peak times on Saturday and Sunday resulted in a peak usage rate of 16% and 21% respectively.

Mr. Colaggero also studied the specific intersection of Bonaparte Avenue and the entranceway of the Property with Harford Road. Using the critical lane volume methodology utilized by the Maryland State Highway Administration ("SHA") for its intersection studies, Mr.

Colaggero determined that there was "plenty of available capacity at this turning location during the evening peak hour to accommodate more turning maneuvers and more through volume." The calculations that prompt his opinions were based on assumptions as to the number of vehicles that may turn into the Property. Mr. Colaggero took the peak hour on Saturday (12:00 pm-1:00 pm) to identify actual volume on the road and applied the number of turns (based on assumptions). He testified that even if 400 additional vehicles (that is beyond what he had assumed) were added at the peak hour, there would still be more than ample capacity to accommodate the influx of vehicles.[2]

Mr. Colaggero also applied the Unsignalized Intersection Methodology used by SHA to look at operations, that is, how long may it take a vehicle to enter the roadway from Bonaparte Avenue or the Property. He determined that during the weekday evening peak hour, it would take approximately 14 seconds for a vehicle to make its turn northbound and 8 seconds to turn southbound.[3] As such, he considered the northbound site access approach to have a "B" level of service, but the southbound side to have an "A" level of service, concluding it to be a "very good intersection," operationally as well as by capacity.

Mr. Colaggero next examined traffic accident data from 2015-2018 (2018 was partial), with Hutschenreuter Road and Vista View Court as, respectively, the southern and northern boundaries for the data analysis. That stretch comprises 1.1 miles of Harford Road and is inclusive

[2] The representation of the usage was first identified by Mr. Colaggero in his testimony on Sept. 6, 2018, as, on weekdays, "approximately 20 people coming to the temple on a weekday...20 trips in, 20 trips out..." and on weekends as "less than 100 people would visit during [...] the entire day." SHA required a trip generation analysis based on the Institute of Transportation Engineer's (ITE) Trip Generation Manual methodology, which yielded a lower volume of trips to and from the site if and once used as a temple. Mr. Colaggero used different methodology that resulted in a greater volume than the ITE methodology. Notably, Mr. Colaggero's doing so also inures to the benefit of Protestants.

[3] Mr. Colaggero incorrectly, but understandably so, identified the southbound turn as "Westbound" in Petitioner's Exhibit 29 based on the map appearance of Harford Road at the Property, which appears east-west, though still designated north-south.

of the Property. Mr. Colaggero highlighted the number of crashes 500 feet in both directions of Bonaparte Avenue (and therefore, more or less, the Property's entranceway). So, for example, of the 12 accidents that occurred within that 1.1 miles, only two occurred within 500 feet of either direction of Bonaparte Avenue in 2015, with two more occurring in 2016, four in 2017, and two in the first quarter of 2018.

As such, he testified he did not consider the Bonaparte Avenue intersection to be "an accident-prone intersection." Rather, he noted that the accidents appeared to be ones where vehicles were traveling too fast for conditions. Police reports would likely reveal more details as to how and why the accidents occurred, but few were made part of the record.

On cross-examination, Mr. Colaggero admitted all his analyses rely upon conditions in the past and at present, but he factored in presumed growth from the proposed use. The information he relied upon for the presumed growth came from his understanding as to the operations based on representations made to him of the expected regular use --- less than 20 people during each weekday and less than 100 people on weekends. He admitted he did not account for conditions that may exist during festivals or other larger events, but testified that typically a traffic engineer would not focus on the aberrational usage.

Mr. Colaggero also contrasted the accident data identified in Protestant's Exhibit No. 10 with Petitioner's Exhibit No. 30. In short, the exhibits use different data sets and the data was obtained from different sources.

Protestants' Exhibit No. 10, identified reported traffic crashes on Harford Road between Hartley Mill and Glen Arm Roads occurring between January 1, 2016 and April 1, 2018. Protestants' Exhibit No. 10 reveals a significant number of motor vehicle accidents within that stretch, including ones with personal injury. Petitioner's Exhibit 30 reported the traffic crashes on

Harford Road between Hutschenreuter Road and Vista View Court (identified as a 1.1-mile stretch of road) between January 1, 2015 and April 1, 2015. Petitioner's Exhibit 30 also has a further breakdown of crashes "in Bonaparte Ave. area, 1000 feet," which Mr. Colaggero testified meant 500 feet north and south of Bonaparte Avenue. Looking at the data supporting that conclusion, it is apparent that the crashes highlighted as being within 500 feet in both directions of Bonaparte Avenue are actually crashes within 250 feet of each direction from Bonaparte Avenue.

Rather than use an expert to address the studies by Mr. Colaggero or otherwise present evidence regarding traffic congestion, Protestants relied upon the testimony of Mr. Poehler, Ms. Mason, the Clarks, and others to identify the potential hazards caused by the existing road conditions, which they believe will be exacerbated by the additional volume of traffic to and from the Property. Protestants' land use expert, Mr. Jakubiak, though not a traffic engineer, provided his opinions from a planning perspective about the hazards presented within the relevant stretch of Harford Road. He opined planners account for the road system and conditions (*e.g.* speed) as part of project consideration. As such, he took the road features and conditions (echoing the testimony of others, *e.g.* testifying "The road is winding, with sharp, hairpin turns…") into account and concluded that leaving and entering the Property presents a significant risk for accidents due to the greater "scale use" in comparison to the prior use as a single-family residence.

Indisputably, Harford Road around the Property presents additional challenges and requires greater attention and care in that area. Harford Road, designated as Maryland Route 147, in the general area of the Property runs north-south, leaning northeast-southwest. However, Harford Road, proceeding northbound along the Property, takes a sudden almost 90 degree turn east just before Bonaparte Avenue.

The witnesses who reside in the area expressed opinions that Harford Road in and around the Property is dangerous. By way of example, Ms. Twining has "always felt" that "Harford Road is not a very safe road." Dr. Mary Clark described Harford Road around her and Petitioner's properties as "a narrow, two-lane road, with blind curves and no shoulder...one of the most treacherous sections of road in Baltimore County." Ms. Mason testified that the area of Harford Road along the Property has blind curves, which she believes makes it a "hazardous area." Mr. Poehler, the next-door neighbor to the Property, believes that, irrespective of the location of the entranceway to the Property, the area at issue is "a dangerous stretch of Harford Road period."

The neighboring residents also provided anecdotal testimony of familiarity of accidents on Harford Road that they have seen, were aware of, and/or even in which they were involved. Some of the accidents identified occurred several miles away from the Property. Some were closer. Though none of the ones identified occurred in the immediate vicinity of the entranceway of the Property, the anecdotal evidence provided by these residents suggests that there have been problems north and south of the Property. Mr. Poehler, in fact, summarized it as "just living at the property and living along Harford Road, you're going to experience accidents and high traffic...it's almost a way of life there." The anecdotal evidence does not rise to the level of that from an expert or rebut the studies performed, but is illustrative and offers some measure of support of the witnesses' beliefs that the road conditions in the area of the Property presents certain challenges that, generally, are not experienced elsewhere.

IV. Petition and Use Evidence

Petitioner requests special exception relief to allow a temple for religious worship on property zoned RC-2. To that end, Petitioner called Mr. Ghimire to identify how Petitioner intends to use the Property. Mr. Ghimire testified that the existing main house will be used as the temple.

The temple is intended to attract Nepalese Hindu practitioners, but can also serve those that observe Buddhism, as there are commonalities between the religions that make a temple accessible to both.

In addition to the main house, Mr. Ghimire identified other buildings and features, as well as conditions, on site, including a caretaker's house which requires renovations, a historic barn in "kind of bad shape," a swimming pool "that needs to be removed" as it is not in a usable condition, a former tennis court that can serve as a multi-purpose court for children, and a bathhouse that is "also in bad shape and that will be removed as well." There is an entranceway, depicted across from Bonaparte Avenue. Mr. Ghimire identified another driveway off Harford Road toward the south of the Property that has not been used in years and "is not in good condition."

The main building has a main hall with high ceilings and can hold 80-100 people for services. There are two big rooms on the ground floor that can serve as office space. The caretaker house may be used as the residence of a "guru," who will lead prayers. Petitioner intends to preserve and maintain the historic barn. Mr. Ghimire later clarified that the main level of the house would be used for actual religious ceremony and services, but "[t]he upstairs would be more like a back office."

The Hindu religion is a contemplative religion and is unlike western religions with a dedicated day for prayer. Hindus may come to engage in individual prayer at any time or on special days that are personal, for example, to commemorate death of loved ones, celebrate anniversaries and birthdays. Hindus may come to participate in religious rice-feeding ceremonies, which celebrates when babies first take a bite of rice, analogizing the ceremony (*Bratabanda*) to a baptism. Receptions for these rice-feeding ceremonies would follow at a restaurant or other off-site venue.

This temple will install statues of major deities. The temple will be open throughout the week to those that choose to worship particular deities. There are three-to-five major festivals, including *Dashain,* which runs for 15 days and has two major days within that festival.

As for expected daily use, Mr. Ghimire first testified that on a typical, non-festival day practitioners will visit the site at various times throughout the day, amounting to 10-20 people in total. Subsequent to that testimony, he said there could be up to 15-20 at one time, maybe less, on non-festival days. Petitioner's expert witnesses testified that Petitioner represented the typical use as 10-20 people at the site on any given day. To reconcile, the testimony reveals that, on average, the expectation as to usage is up to 10-20 visitors per day, and perhaps even up to 15-20 at one time. In contrast, the testimony about attendance on festival days was clear --- festivals could bring in 150-200 people at one time. For the two major days, Mr. Ghimire expects even more people may come to the site beyond the number that attends on other festival days. On festival days, prayer would take place inside the temple, but festivities can be outside.

Mr. Ghimire stated that attendees on festival days and attendees for routine visits or on a weekly basis would be present on average between 15 minutes and an hour per visit. Mr. Ghimire testified that while there is no set time for prayer or worship, people will not appear at "5:00 in the morning," just between "9:00 and 8:00 pm, or whatever time they prefer, so during the daytime they will, at their convenience, they come and go." He subsequently testified that the hours of worship would be from "8:00 am onward to like 8:00 or 9:00 pm," seven days a week. When asked whether the hours would run from 8:00 am until 10:00 pm, Mr. Ghimire stated "Practically, I think 8:00 am to 8:00 pm," noting he would look at the hours of operation.

As and when a *bhajan* [hymn] is requested as part of services or as part of a special ceremony, at those times, the music will be in indoors. In any event, no amplification equipment is required.

Mr. Ghimire testified that they will not be building any new buildings on the Property. They will not operate a day care or school. Mr. Ghimire testified that Petitioner will not have any camps. Petitioner does not plan to use the old road and driveway at the south of the Property.

Petitioner intends to keep the existing tennis court, and as noted above, make it a multi-sport court, but will not significantly enlarge it. Mr. Ghimire clarified that the court is "not really part of essential…temple operation." There are no athletic fields being proposed. Mr. Ghimire testified "[t]he pool will not be there…the pool will be removed," and the bathhouse as well. Mr. Ghimire stated that the religious activity would take place in the main building, and therefore, the religious activity "has nothing to do with the swimming pool and bathhouse." As for the barn, they "have no use for it right now…[they] don't have any plans for it." They will restore, but not enlarge, the caretaker's house.

Petitioner proposes to have 38 parking spaces, though this number is not based on seats, as there are no actual seats. There will be temporary chairs for special events. Mr. Motsco testified that the number of spaces was derived from the estimated maximum number of people expected to attend a regular event and County input regarding that estimate. When an event calls for more visitors, such as a festival, adjacent grassy areas can handle overflow parking.

The cultural activities and/or other activities with a non-religious purpose, such as those that may be found at a community center, will not take place on the Property. Rather, Mr. Ghimire testified Petitioner intends to have such non-religious, community center-type activities occur

offsite at another building on Taylor Avenue in Parkville, leaving the temple as a place of religious services.

Protestants, however, spent much of their time addressing the alleged Code violations arising from special events held, and to be held on the Property, as well speculating about the future possibility of the Property serving as a community center or a much larger facility for uses beyond religious services.

The judicial powers and functions bestowed upon this Board by the Express Powers Act via the County Charter, County Code and Zoning Regulations are not the same as the judicial powers and functions embodied in the courts created by the Maryland Constitution. Dep't of Natural Resources v. Linchester Sand & Gravel Corp., 274 Md. 211, 222; 334 A.2d 514, 522 (1975). This Board is not empowered to *sua sponte* find Petitioner in violation of a code provision in the absence of the issue arising through the regular code enforcement process and being properly appealed to and in front of the Board. No code enforcement case was part of this hearing. Nevertheless, Protestants did not alter the presentation of their evidence or testimony.

Some of Protestants' evidence identified certain conditions that presently exist without the proposed use (traffic issues, noise runoff issues, etc.), supplemented by a belief the proposed use could, or in more of a conclusory manner, will, make these existing conditions worse. Protestants elected to not present expert testimony to support their arguments that certain issues will be exacerbated by the proposed use or otherwise to directly rebut Petitioner's experts in their specific fields of expertise, relying instead upon Mr. Jakubiak and at times, Dr. Dewey Clark's critiques of Petitioner's experts.

The Board does not trivialize or minimize the importance of the issues to the Protestants. To the contrary, it was more than evident to this Board that Dr. Dewey Clark in particular

undertook exhaustive efforts, underscoring their importance to him and Dr. Mary Clark. Mr. Poehler shared his wife's struggle with dealing with the issues presented by this case, testifying that she could not attend the hearing due to the stress it causes her.

However, the Express Powers Act, County Charter, County Code, and County Zoning Regulations specify the powers and authority of this Board and, as relevant here, the evidence and factors for the Board to evaluate and decide in connection with a special exception petition. Much of the evidence presented did not aid the Board in its analysis of the special exception factors. Similarly, much of the relief Protestants sought was simply beyond the power of the Board for this hearing. The Board cannot order the County to undertake a code enforcement investigation or to issue citations; nor can the Board render advisory opinions on alleged or potential code enforcement issues. The Board similarly cannot deny a special exception petition on the basis of a future code violation that may or may not ever occur.

V. Applicable Baltimore County Zoning Regulations

As noted above, the subject Property is zoned RC-2. The County Council, in creating resource conservation zones, made several findings and identified several purposes for the designation:

§ 1A00.1. - Findings.

It is found:

A. That development in the rural areas of Baltimore County has in recent years been taking place at an increasing rate;

B. That this development has occurred without the framework of a land use plan or other planning components;

C. That due to this and other factors, this development has formed very undesirable land use patterns;

D. That in general, these patterns are, or can be described as, urban sprawl;

E. That a significant amount of urban sprawl development is occurring as linear development along the various highways of the rural areas of the county as tracts of land immediately fronting along highways are "lotted off"; the utility of the road system is being impaired and future improvements will be frustrated if this process continues;

F. That it has been established that this development carries with it an extremely high cost to the county in a number of respects including:

1. The cost of servicing this pattern of development;
2. The cost with respect to its consumption and use of prime agricultural land, critical watershed areas, mineral extractive sites, as well as of other important natural resource areas;
3. The cost of future development opportunities due to the fact that viable, rational alternatives will be lost totally or compromised significantly by the present form of development;

G. That the aspect of the comprehensive plan that is applicable and which is being considered for rural Baltimore County embodies solutions to the various problems;

H. That the effective implementation of this plan requires additional zoning classifications; and

I. That effective implementation of the resource conservation area requirements in the Chesapeake Bay Critical Area criteria requires additional resource conservation zoning classifications to accommodate strictly controlled growth while conserving habitat and water quality within the Critical Area.

§ 1A00.2. - Purposes.

Pursuant to the above findings, it is the purpose of the Resource Conservation Zones to:

A. Discourage present land use patterns of development and to create a framework for planned or orderly development;

B. Provide sufficient and adequate areas for rural-suburban and related development in selected and suitable areas;

C. Protect both natural and man-made resources from compromising effects of specific forms and densities of development;

D. Protect areas desirable for more intensive future development by regulating undesirable forms of development within these areas until such time as intensive development commences.

E. Help achieve the goals of the Chesapeake Bay Critical Area Protection Law by enacting land use policies to control development within the Critical Area by

conserving the land and water resource base for agriculture, forestry and other natural resource uses; minimizing adverse effects on water quality; and conserving fish, wildlife and plant habitat.

The use sought by Petitioner is that of a religious institution and BCZR §1A01.2(C)(6) permits by special exception churches or other buildings for religious worship within a RC-2 zone. Baltimore County Zoning Regulation §502.1 establishes that before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

A. Be detrimental to the health, safety or general welfare of the locality involved;
B. Tend to create congestion in roads, streets or alleys therein;
C. Create a potential hazard from fire, panic or other danger;
D. Tend to overcrowd land and cause undue concentration of population;
E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
F. Interfere with adequate light and air;
G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;
H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor
I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone, and for consideration of a solar facility use under Article 4F, the inclusion of the R.C. 3, R.C. 6, and R.C. 8 Zones

In addition to the special exception factors in §502.1, BCZR requires the Board to find, in RC-2 cases, that the use would not be detrimental to the primary agricultural uses in its vicinity. BCZR §1A01.2(C).

VI. Special Exception Law and Discussion

A. Burden of Proof and Presumptions

Maryland courts historically have considered special exception uses as ones conditionally compatible with uses permitted as of right in the same zone. See, *e.g.,* Creswell v. Baltimore Aviation Serv., Inc., 257 Md. 712, 719; 264 A.2d 838, 842 (1970). The Court of Appeals revisited the law on special exception in 1979 with the seminal case of Schultz v. Pritts, 291 Md. 1; 432

A.2d 1319 (1979). In Schultz, the Court of Appeals held that a special exception is presumed to be in the interest of the general welfare, and therefore a special exception enjoys a presumption of validity. 291 Md. at 11; 432 A.2d at 1325.

In 2016, the Court of Appeals in Attar v. DMS Tollgate provided additional guidance on the presumption that accompanies a proposed special exception use. 451 Md. 272; 152 A.3d 765 (2016). First, the Court reiterated that the special exception petitioner has both, the burden of production and the burden of persuasion. Attar, 451 Md. at 287; 152 A.3d at 773, *quoting* People's Counsel for Balt. Cty. V. Loyola Coll. In Md., 406 Md. 54, 109; 956 A.2d 166, 199 (2008); *see also*, Board of Appeals Rule 7(d), "the proponent of an action to be taken by the Board has the burden of proof." Second, the Court clarified that the concurrent presumption in favor of the special exception petitioner is not a mutually exclusive evidentiary burden. Attar, 451 Md. at 286; 152 A.3d at 773.

Referencing Maryland Rule 5-301(a),[4] the presumption identified by Schultz v. Pritts satisfies the burden of going forward on a fact presumed (in this case, the special exception is in the interest of the general welfare, and therefore has a presumption of validity) and "*may* satisfy the burden of persuasion if no rebuttal evidence is introduced by the other side." Attar, 451 Md. at 286-287; 152 A.3d at 773; *quoting* Anderson v. Litzenberg, 115 Md. App. 549, 564; 694 A.2d 150, 157 (1997) (emphasis in original).

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[4] Md. Rule 5-301 sets forth:
(a) Effect. Unless otherwise provided by statute or by these rules, in all civil actions a presumption imposes on the party against whom it is directed the burden of producing evidence to rebut the presumption. If that party introduces evidence tending to disprove the presumed fact, the presumption will retain the effect of creating a question to be decided by the trier of fact unless the court concludes that such evidence is legally insufficient or is so conclusive that it rebuts the presumption as a matter of law.
(b) Inconsistent presumptions. If two presumptions arise which conflict with each other, the court shall apply the one that is founded upon weightier considerations of policy and logic. If the underlying considerations are of equal weight, the presumptions shall be disregarded.

The presumption is that a special exception use is valid, that is, one that *can* conform to the zoning plan depending on the location, zoning classification, and impacts on the surrounding area. The presumption that inures to a special exception petitioner's benefit requires a special exception protestant to present probative evidence of any harms or other detrimental impacts, as identified in BCZR §502.1, to the surrounding neighborhood that are above and beyond the impacts that may be experienced elsewhere in the zone from this proposed use (Schultz, 291 Md. at 22-23; 432 A.2d at 1331) and/or other noncompliance with applicable zoning regulations to warrant a denial. In other words, a special exception protestant must show "non-inherent adverse effects," or "unique adverse effects" to overcome the presumption that the proposed use is in the interest of the general welfare and compatibility. *See*, Clarksville Residents Against Mortuary Defense Fund, Inc. v. Donaldson Properties, 453 Md. 516, 543; 162 A.3d 929 (2017); Attar, 451 Md. at 287; 152 A.3d at 774.

If a special exception protestant presents sufficient evidence to create a genuine dispute of material fact as to a particular special exception factor or other zoning requirement, the evidentiary record must be sufficient to persuade the Board of Appeals that the proposed use will conform to the applicable zoning plan and satisfy the specified factors. Attar, 451 Md. at 286-287; 152 A.3d at 773; *quoting* Anderson, 115 Md. App. at 564; 694 A.2d at 157. Even still, the Board can grant the special exception petition along with certain conditions or restrictions to better protect the surrounding and neighboring properties. BCZR §502.2. If the burden of persuasion is not met, the Board will deny the petition.

B. Defining the Neighborhood/Surrounding Properties

At the start, the Board must determine what the locality or neighborhood is in order to determine what if any impact the proposed use has above and beyond effects inherently associated

with a special exception use. Attar, 451 Md. at 278-284, 289; 152 A.3d at 769-772, 775. As stated by the Court of Appeals: "the Board's task is to determine if there is or likely will be a detriment to the surrounding properties" (Id., 451 Md. at 280; 152 A.3d at 769-770); the Board must assess "whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." Schultz v. Pritts, 291 Md. 1, 22-23; 432 A.2d 1319, 1331 (1979). Therefore, the question is whether the expected effects from the proposed use are somehow exacerbated by the location at issue, to the detriment of those to experience such effects. For a special exception, the description of the neighborhood to be impacted by the proposed use "must be precise enough to enable a party or appellate court to comprehend the area that the Board considered." Attar, 451 Md. at 282; 152 A.3d at 771.

For this case, the Board finds the neighborhood at issue includes that area bordered by Hutschenreuter Road to the south, Glen Arm Road/Mount Vista Road to the north, the properties along Harford Road, including the Poehler and Clark residences specifically, the other residences on the former Marc Lane at Harford Road, those properties on Bonaparte Avenue, and all other bordering properties. As will be discussed in more detail below, the relatively nearby agricultural uses are excluded from this definition. There is nothing in the record that suggests an expansion beyond the corridor and surrounding properties adjacent to the Property is warranted. As such, the neighborhood at issue is the residential corridor along Harford Road between Hutschenreuter Road and Glen Arm/Mount Vista Roads to the north and the other properties that share a border with the Property.

C. Application of the BCZR §502.1 Special Exception Factors

Protestants focused their opposition on certain factors under BCZR §502.1 and did not address, and therefore, did not attempt to rebut, other factors. The Board finds that Protestants have not presented any meaningful evidence on certain factors to sufficiently challenge the presumption in favor of Petitioner, namely, §§502.1(D), (E), (F), and (H).[5] Moreover, Petitioner has presented sufficient evidence to satisfy those factors.

The factors contested by Protestants include: (A) the health, safety or general welfare of the locality; (B) congestion in roads, streets or alleys; (C) the potential hazard from fire, panic or danger; (G) inconsistency with zoning classification and spirit and intent of the zoning regulations; and (I) the detrimental effect to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an RC-2, RC-4, RC-5 or RC-7 Zone. As noted above, because this Property is within the RC-2 Zone, the Board must also find that the proposed use is not detrimental to the primary agricultural uses in its vicinity. BCZR §1A01.2(C).

1. §502.1(A) Health, Safety, or General Welfare of the Locality

Noise is not expressly identified in the BCZR §502.1 factors. However, given the purpose for the factors, namely addressing harms and detrimental impacts to be experienced by the surrounding community, the Board interprets noise as being included within the "health, safety or general welfare," factor and, as such, ripe for consideration.

[5] By way of explanation, Protestants' closing memorandum does not address §§502.1(E), (F), or (H). As for §502.1(D), Protestants argue that, at present, there is not a functioning septic system that can handle large festivals. First, the use complained of by Protestants has been represented, and accepted, as atypical. Nevertheless, Mr. Powell, Petitioner's Licensed Environmental Specialist who provided testimony concerning the septic needs based on the proposed use, testified he believed that the site was sufficient for the intended use. This testimony was unrebutted. He also identified that, for the special events, port-o-potties would be used, which, for this special exception hearing, is not a sufficient basis for the Board to conclude that there will be an undue concentration or overcrowding.

Protestants, primarily through the Clarks and Mr. Poehler, identified noise as a significant concern. Dr. Dewey Clark specified two aspects, a general noise concern, but also what he referred to (and others impliedly so) as preservation of "solitude." To that point, Dr. Dewey Clark provided audio and video recordings with audio of the ambient noise he experiences at his property. The Clarks analogized the cars passing on Harford Road to the sound of breaking waves. To be sure, the evidence establishes a more serene, peaceful environment than other parts of the County. That is easily observed in the audio and video clips, as well as photographs. The Clarks and Mr. Poehler identified specific events with amplified music and atypical noise, whether by time or volume, as well as volleyball games.

The noise associated with operation of the proposed temple is no different at the present location than it would be experienced in other parts of the zone. Moreover, without trivializing the importance of this to the Clarks and Poehlers, they can neither expect, nor can this Board order, a particularized, subjective limitation on the level of noise that is permitted to come from the Property in furtherance of their individualized interests, especially where that subjective level of noise has the potential to intrude upon Petitioner's ability to use the Property in a lawfully valid manner and such noise potential from the Property exists today without the granting of a Petition.

Aiding in reducing the Protestants' concern, the Property has a substantial tree and vegetative buffer between the Property and the Clark house, though somewhat less so for the Poehlers. The activities to take place on the Property are largely confined to the main building area, a significant, even if imperfect, distance from the Poehler and Clark residences. The evidentiary record does not establish any exacerbation or amplification caused by the Property's elevation compared to the surrounding properties. To the contrary, as noted above, Protestants played several clips of audio from the Clarks' property ostensibly to illustrate overly invasive noise

emanating from the Property, which sits higher than the Clarks' property. Those clips, however, failed to do so. The Board does recognize that larger events could generally be more intrusive in this manner. As such, the Board will order as a condition that additional landscaping be planted at the border with the Poehler house and its curtilage, as well as on the west side of the multi-purpose court to increase the buffer density in those areas. In addition, the Board will also order that there is to be no outdoor amplification of sound.

It has been argued that the Foxworthy house located on the corner of Bonaparte Avenue at Harford Road will suffer adverse impacts, particularly as to headlight intrusion and runoff, as a result of the proposed use. First, as to runoff, Protestants failed to present sufficient evidence to determine whether the existing conditions on the Property are causing runoff to drain onto the Foxworthy property, let alone evidence to establish the proposed use will exacerbate any existing drainage issue or cause additional runoff.

Mr. Motsco's testimony established that runoff from Harford Road generally falls toward the Property, which has a culvert and a storm drain inlet. As such, the evidence presented shows that whatever runoff from the Property that makes it out to Harford Road (which is assumed for this discussion) is more likely to drain to and run along the culvert on the south side of Harford Road (the Property side) rather than travel over Harford Road to the Foxworthy property. Even still, Petitioner will be required to submit for approval a storm water management plan and will be required to comply with the applicable regulations and requirements at all times like any other property located in the County. Therefore, if there is a subsequent determination that some improvement from the Property may cause or exacerbate the runoff issue, mitigating measures will be required by the County.

As to headlight intrusion, based on Petitioner's Exhibit No. 26, headlights from vehicles turning left while exiting the Property will sweep across Bonaparte Avenue. Mr. Colaggero testified he did not conduct a study to analyze this aspect, but also did not know where the exact exit location would be. SHA will be providing additional input at the time of the access permit.

The final locations of the entrance and exit obviously are significant factors, as there could be a detrimental impact upon residents on Bonaparte Avenue, and in particular, the Foxworthy property. Due to the uncertainty caused by not having an exact exit location at this time, the Board is ordering as a condition of this approval that all traffic exiting the Property must turn right. Imposing this condition addresses several issues: (1) avoiding headlight intrusion upon the Bonaparte Avenue properties; (2) prevent blinding or distracting drivers driving north on Harford Road when coming around the blind curve; and (3) as discussed in greater detail below, improving safety and helping to prevent traffic congestion on Harford Road at or near the Property. Doing so will not cause an undue hardship on the visitors to the Property as the Mount Vista/Glen Arm/Harford Road roundabout is close to the Property.

While traffic issues identified contemplate the health, safety and general welfare of the locality, all traffic issues will be addressed within the discussion of §502.1(B).

2. §502.1(B) Congestion in Roads, Streets, or Alleys

Protestants have raised concerns regarding additional volume, *i.e.* congestion, on Harford Road as well as safety along Harford Road due to the increased volume. With respect to the congestion argument, nearly every witness acknowledged that they have observed a noticeable increase in traffic volume throughout Harford Road, including in the vicinity of the Property, in recent years. Protestants' witnesses expressed a concern that the additional volume will detrimentally impact travel along Harford Road (in the vicinity of the Property) by increasing the

probability of accidents, which presents a danger to nearby residents who use that stretch of road more frequently. Clearly, use of the Property as proposed will cause more drivers to use Harford Road for access to the Property. The relevant questions are: (1) will the proposed use cause traffic congestion, and if so (2) how at this location is that congestion worse than other locations in the RC-2 Zone. Those questions will be addressed separately.

a) Congestion

As noted above, Mr. Colaggero, Petitioner's traffic engineer, conducted several examinations, particularly, traffic counts as to capacity and as to operations, sight distance analysis and a speed study between September 26, 2018-October 9, 2018. That evidence is summarized above. Protestants relied upon undermining Mr. Colaggero's testimony and supplementing the record via lay witness testimony rather than through the use of an expert to address the studies and opinions by Mr. Colaggero.[6] The lay witness testimony relevant to traffic congestion was similarly summarized above.

Mr. Colaggero's testimony on the traffic congestion issue was credible, convincing, and unrebutted. Mr. Colaggero's opinions and supporting calculations rely upon the representations of typical operations made by Petitioner to Mr. Colaggero. While Protestants question those representations, the typical usage data provided is information required for his expert evaluation and information necessary for Mr. Colaggero's calculations and it was the only data provided to him.

It is undisputed that there will be an increase in traffic volume caused by the typical use. However, it is similarly undisputed that the capacity of Harford Road in and around the Property

[6] Dr. Dewitt Clark testified he thought they were better off by relying on cross-examination of Mr. Colaggero instead of retaining a traffic expert with whom Protestants consulted for this hearing.

can easily handle the expected increase. Protestants did not offer evidence of possible specific effects upon traffic flow, congestion, and/or turning delays if the representations/assumptions as to typical usage are underestimated or otherwise incorrect. As Protestants did not have a traffic engineer to provide evidence to contradict Mr. Colaggero or Petitioner otherwise, Mr. Colaggero's calculations and opinions are the only evidence in the record on this issue.

In fact, Mr. Colaggero testified that if another, *e.g.,* 400 vehicles at the Saturday peak hour were added to his assumptions, the intersection would still be considered within the level of service for an "A" rating (*i.e.,* the highest rating) under the CLV methodology. There is more than sufficient capacity, whether based on the assumed/represented usage or a significantly greater volume, and it cannot be concluded that the projected increase in operational delay creates any significant congestion. Petitioner has met its burden on this aspect of this factor.

b) Safety Issues Presented By Increase Traffic Volume (§502.1(A),(B),(C))

As referenced above, it seems to be the one point in this case on which there appears to be consensus among the parties --- Harford Road along the Property's northwestern, northern, and northeastern edges presents certain challenges, and that stretch may be considered hazardous with existing conditions. To be more specific, the particular stretch of Harford Road at issue is that which, heading north, sweeps around a bend, described as a "blind curve" by several witnesses, proceeding in easterly, then southeastern direction, before entering another curve just prior to Bonaparte Avenue and the Property's entranceway, proceeding east, before sweeping out of the curve and headed northeast just past the Poehler house (approximately 1,000 feet in roadway length). (*See*, e.g., Pet. Ex. 26).

From the start of that stretch until the house on the northwest corner of Bonaparte Avenue and at the Property entrance, Harford Road is surrounded by a substantial number of tall deciduous

trees and other vegetative growth that may obscure sight lines around the curves as well as light. (*See, e.g.,* Pet. Ex. 19 (No. 2-4) and 26 (No. 4-5)). The embankment boxing in Harford Road sits at a significantly higher elevation on the eastern, and therefore, Property side, of Harford Road. From Bonaparte Avenue and the Property entrance heading north, there are, again, a significant number of tall deciduous trees and also vegetative growth that may obscure sight lines around the curves. There are no shoulders along Harford Road in this stretch. At various points, there are guardrails (*See, e.g.,* Pet. Ex. 26, photo 4), road signage warning of sharp curves/turns (*e.g.* Pet. Ex. 26, photos No. 3 and 5; Pet. Ex. 19, photos No. 2-3), and a recommended reduced speed limit sign. (Id.)

Mr. Colaggero provided testimony about the signage, explaining their use by SHA and what the signs are communicating to drivers. He identified several traffic signs along Harford Road, and understood from the signs, SHA considers the course of the road as "reverse turn area," which reflects "a more severe turn, not a curve." He understood the speed sign of 30 mph as a "SHA recommend[ation]" that applies to that stretch of Harford Road at issue, for both the northbound and southbound traffic. The chevron signs act as "additional warning signs on the turns themselves." Otherwise, Harford Road northbound has a speed limit of 50 mph, while southbound is 45 mph.

Based on the presence of the guardrails, road signage, and recommended reduced speed limit sign, it is reasonable to conclude that this stretch of Harford Road has had a higher volume of accidents and/or near-accidents and SHA determined remedial measures were required. Yet, it appears that the relevant stretch of Harford Road still may present a greater risk of accidents than other nearby stretches of Harford Road. Video clips presented by Dr. Dewey Clark and the

testimony of witnesses on both sides support such a finding. This finding, however, is not dispositive of this factor.

Mr. Colaggero's sight distance analysis helps with the safety aspect for this factor. To start, he superimposed the contour lines provided to him by Mr. Motsco on the roadway network. (*See*, Pet. Ex. 26). Petitioner, however, seeks to split the entranceway into an entrance lane and a separate exit lane, which requires shifting the location of the entrance and exit. Following SHA granting conditional approval of the concept plan depicting a split entrance and exit (as reflected in Pet. Ex. 27) during the pendency of this hearing, Mr. Colaggero conducted his sight distance analysis anew (*See*, Pet. Ex. 26).

As reflected in Petitioner's Exhibit 26, at the proposed new exit at the Property, SHA requested Mr. Colaggero provide a minimum of 390 feet looking south (*i.e.* left), based on northbound traffic proceeding at 35 mph coming out of the first curve/turn. Looking north (to the right) from the proposed exit lane, SHA requested an intersection sight distance of 500 feet based on a speed of 45 mph for those southbound vehicles on approach to the Property. SHA also wanted a minimum intersection sight distance for the southbound traffic left-hand turn into the Property of 285 feet, based again on a speed of 35 mph of northbound traffic coming out of the first curve/turn. Lastly, SHA requested a stopping sight distance of 360 feet based on southbound traffic at 45 mph.

For this 500 feet intersection sight distance and 360 feet of stopping distance to be achieved, vegetation growth on the north side of Harford Road, starting at Bonaparte Avenue and around the curve at the Poehler driveway, must be cleared and maintained. SHA acquired a right-of-way at this location to clear and maintain the vegetation growth on the north side (southbound traffic side) of Harford Road. As for the south side (the northbound side of traffic), SHA will

make a determination of what is required and if clearing and maintenance on the Property is necessary. SHA, as part of the access permit process, may either acquire a right-of-way from Petitioner or condition its approval and require Petitioner to clear and maintain this area.

As noted above, accident data was also presented by both sides. (Prot. Ex. 10, Pet. Ex. 30). Protestants' Exhibit 10 concerns accidents that occurred from 2016-first quarter of 2018, on Harford Road, between Hartley Mill Road (south of the Property) and Glen Arm Road (to the north), but there are no further details about the accidents, the specific locations, or causative or contributing factors. Petitioner's Exhibit 30, assembled by Mr. Colaggero and/or his office after cross-examination on Protestants' accident data, identifies accidents that occurred from 2015 through first quarter 2018, on Harford Road, in between Hutschenreuter Road (to the south of the Property) and Vista View Court (to the north). The data identifies a report number, date, surface conditions, time, mile marker location, road name, distance, direction, and a code briefly describing mechanism for the occurrence of an accident (*e.g.* "Making Left Turn"). Petitioner's exhibit has much more information than Protestants, but because the exhibits use different data by time as well as location, and also sourcing, there is little value in attempting to compare or reconcile the two.

The area of particular relevance for evaluation would be that section between Hutschenreuter Road, to the south, and Glen Arm/Mount Vista to the north. Even still, some of the information may not be applicable or otherwise be relevant to this case as, in 2016-2017, SHA reconstructed the previously non-aligned intersection at Glen Arm Road, Mount Vista Rd. and Harford Road as a roundabout. As identified by the lay witnesses, there had been numerous accidents at that intersection prior to reconstruction. Mr. Colaggero testified that he understood SHA began studying the Glen Arm/Mount Vista/ Harford Road intersection in 2009. Accident

data inclusive of pre-roundabout accidents at that location lessen the importance of the data unless those accidents (as well as other outside of area considered relevant) can be identified. Whatever intersection and road conditions caused or contributed to the occurrence of the accidents at the Glen Arm/Mount Vista location no longer exist and, obviously, will not exist going forward.

Excluding data of accidents that occurred at or near the intersection of Glen Arm, Mount Vista, and Harford Roads, Petitioner's Exhibit 30 provides some evidence that a higher number of accidents occurs within the relevant stretch of road at a higher rate than the remainder of the studied area (primarily, the area along the western edge of the Property to Hutschenreuter Road, and Harford Road north of the roundabout to Vista View Court). Out of the 20 accidents, 10 occurred within the surrounding neighborhood defined above. Notably, the accidents that occurred within 250 feet of the intersection of Bonaparte Avenue and Harford Road, and therefore the proposed entrance and exit to the Property, are also within the improved intersection sight distance and improved stopping distance required by SHA.

SHA has provided its preliminary input to Petitioner as to how to make the Property entranceway safer, which requires relocating and splitting it (as well as maintaining vegetation that may obscure sight lines). The only information in the record regarding an assessment as to the safety risk presented by the proposed use comes from Mr. Colaggero. Mr. Colaggero has opined that his understanding of the proposed use of the Property in combination with the SHA-requested sight distances makes the relevant stretch of Harford Road safe. SHA, as part of the access permit process, may have more input as to further improvements.

Given the inherent heightened level of danger this stretch of road presents, the representations identified by Mr. Colaggero and confirmed by Mr. Ghimire as to expected typical use take on greater importance. In other words, because the Board's decision is premised upon

the unrebutted representations as to the expected typical use, any use that leads to more vehicles than those used in Mr. Colaggero's studies may create a greater risk, especially considering that this stretch of roadway is particularly complicated and more dangerous than found elsewhere. Greater usage will foreseeably lead to more stacking and/or queuing outside of the Property's entranceway, potentially causing a greater risk for accidents given the visual obstructions and sight distance issues, particularly for traffic going northbound around the "blind curve."

SHA has proposed changes to help alleviate these concerns based on the representations. The Board notes that if vehicle usage well exceeds the models, SHA's remedies may not adequately abate or alleviate the dangers presented by this stretch of road. The Board, however, can only base its decision upon the evidence presented, which reveals that, as proposed, certain measures have been or will be required by SHA to address safety issues. The only evidence in the record is that the entranceway and exit can be made safer than existing conditions, even with the increased vehicle traffic accessing the Property.

Based on this evidentiary record, the Board finds that Petitioner has met its burden on this issue and factors. There is no competing evidence regarding sight distances or other evidence upon which the Board can rely to conclude otherwise. Nevertheless, as set forth above, the Board's imposition of a right-turn only for any vehicles exiting the Property will provide additional relief to minimize traffic from queuing on Harford Road outside of the Property's entrance, helping to address the safety concern. The Board will also impose as a condition on Petitioner that Petitioner complies with SHA's requirements and recommendations, and also that Petitioner maintain the vegetation on its Property in order to maintain sight lines along Harford Road at all times.

3. §502.1(C) Potential Hazard from Fire, Panic, or Danger

Protestants presented evidence through video clips of events at the Property of certain fire code violations and the use of fire at an event. None of those clips or the testimony from Protestants poses any sufficient challenge to the presumption afforded to Petitioner, let alone causes the Board to conclude the proposed use creates a hazard of fire, panic, or danger. In any event, there is no evidence at all that suggests any risk of fire, panic, or danger is greater with the proposed use at this location. Moreover, Petitioner will not be exempt from compliance with the fire and building codes. Petitioner has satisfied this factor.

4. §502.1(G) Consistency with Zoning Classification/Spirit and Intent of Zoning Regulations

While this factor has been contested, the Board finds Petitioner has met its burden on this factor. The RC-2 Zone permits buildings for religious worship as special exception use. Other religious institutions exist in the RC-2 Zone. In fact, one religious institution is adjacent to the Property. Agricultural land is not being removed or changed as a result of this Petition. Ms. Twining testified she did not think the Property had ever been used as a farm while she has been in the area. Moreover, the evidentiary record established that, though there may have been a significant history of agricultural use in the general, broader area, the immediate subject area is now primarily residential, with other non-agricultural uses in the vicinity.

There is nothing in the record that establishes the residential and other non-agricultural uses within the immediate area affect the agricultural uses outside of it and therefore, there is no basis to conclude that the proposed use will have such an effect simply by its location. Similarly, there is nothing in the record to support a finding that the proposed use somehow detrimentally impacts the surrounding area to a greater extent than if located elsewhere to render the proposed use inconsistent with the spirit and intent of the zoning regulations. As such, the Board finds that

the proposed use is consistent with the RC-2 Zone general provisions under §1A01.1 or otherwise consistent with the spirit and intent of other applicable RC-2 regulations of the BCZR.

Protestants further argue that the propose use is inconsistent with the Baltimore County Master Plan 2020, particularly because the Property is zoned RC-2 and is located on a designated Scenic Corridor. The Board, having already found no inconsistency with the RC-2 aspect of this argument, also finds no inconsistency with the Property being located in a designated Scenic Corridor. The Master Plan 2020 states as a policy action for protecting scenic corridors: "(9) For properties along scenic routes or within scenic view sheds, variances, amendments, and special exceptions should be granted *sparingly*." (emphasis added).

The only proposed change that will be observable along the scenic corridor will occur at the entrance and exit, which is a minimal disruption, and the appearance will be consistent with other driveways or private roads in the nearby area. Notably, there is already a driveway present, but with this approval and the conditions imposed, the entranceway will be split to address safety concerns, which, of course, is of paramount importance.

The Master Plan 2020 expressly contemplates granting of special exceptions for properties along scenic routes, just that granting such petitions should be done carefully. The Master Plan 2020 cannot be reasonably interpreted as precluding all special exception uses, and specifically, the proposed use, even if in a RC-2 zone and along a Scenic Corridor.

The Greater Kingsville Area Community Plan, adopted by the County Council in 1996 into the Master Plan, includes the Property within its borders. The Community Plan recognizes that for development of religious institutions in the area, the development "should be located in close proximity to major roadways such as Harford and Belair Roads, and provide a suitable buffer commensurate with size and usage from neighboring properties." (Pet. Ex. 46, at p. 27).

As such, the Board finds that the proposed use is consistent with the zoning classification, zoning regulations, or the Master Plan 2020, including the Greater Kingsville Area Community Plan.

5. Detrimental Effect to the Environmental and Natural Resources of the Site and Vicinity

The Board finds that Petitioner has met its burden on this factor as well.[7]

It is noted Dr. Dewey Clark has some experience in environmental matters (training and volunteer work as a master naturalist) and his testimony on these points has been taken into consideration; however, Dr. Dewey Clark was not offered or received as an expert witness on environmental and natural resource matters.

While Dr. Dewey Clark expressed concerns about site drainage having impacts on the Gunpowder River and trout in nearby streams, no evidence was presented that identified the particular impacts, causation, proximity of sensitive areas to activities on the Property, or other such evidence required to find that Protestants successfully rebutted this factor.

Another issue raised by Dr. Dewey Clark concerned the possible use of non-native and invasive plantings. More accurately, he wishes for, if approved, a requirement that native plantings be used as part of any landscaping. The Board understands how requiring native plantings will help the site and vicinity and help prevent detrimental impacts from non-native species, and finds the suggested condition reasonable. Therefore, a condition requiring the same shall be imposed,

[7] It is noted that Petitioner addressed the septic and well issues under this factor in its post-hearing memorandum, while Protestants discussed it under §502.1(D). Protestants identified the issues of soil compaction and permeability caused by overflow parking. As stated above, the overflow parking is associated with the special events, not typical use. If the overflow parking was required on a continuous basis with a greater volume of regular attendees, the Board may have reached a different conclusion on this factor (but Petitioner would also have presented different evidence). The Board confines its decision to the proposed use, which does not require regular use of overflow parking on to the surrounding grass. Moreover, the evidence presented by Protestants can only be considered speculative and as such, insufficient as evidence.

to the extent that such a condition does not infringe upon the free exercise of religion, as is expressed in more detail below.

6. Detrimental to the primary agricultural uses in its vicinity. BCZR §1A01.2(C)

The Board finds that the proposed use will not be detrimental to the primary agricultural uses in its vicinity. In fact, as the Board has described the surrounding area and defined the neighborhood, there are no, agricultural uses along the relevant stretch of Harford Road or that are immediately adjacent to the subject Property. More specifically, the general area has properties with agricultural uses, but there are no farms immediately adjacent to the Property. While there may be farm equipment using Harford Road at various points, those points are not within the vicinity of the Property. The immediate vicinity is primarily residential in nature, along with the presence of the adjacent Christian Redeemer property and Beachmont Camp. There are no primary agricultural uses near the Property, therefore, the proposed use cannot be a detriment.

VII. Case No. CBA-19-004

On July 2, 2018, Mr. Kotroco, on behalf of Petitioner, wrote a letter to Judge Beverungen seeking clarification of his January 22, 2018 Opinion and Order regarding whether Petitioner could hold a fundraiser on the Property. (Pet. Ex. 34). Judge Beverungen responded the following day by writing on the letter, that the January 22, 2018 decision related solely to the operations of a building for religious worship, and that the owners are free to gather on their property so long as no religious activities are occurring within the subject building and all other permit requirements, if any, are satisfied. (Id).

Protestants filed a "Motion to Strike Tim Kotroco Letter Dated July 2, 2018 As Ex Parte And Not In The ALJ Jurisdiction To Opine." (Prot. Ex. 1, CBA-19-004). Protestants have argued that the letter was read into the record in an effort to "influence the judgment of this Board." (Prot.

Response to Case No. CBA-19-004). Protestants also contend that the letter was never served upon them, whether before or after Judge Beverungen's response.

Protestants subsequently clarified their position to note that they do not request that the letter be stricken, "only that the effect of the letter be ruled inappropriate and unduly presented and relied upon." (Id). It should be noted that Protestants did not object at the time that the Petitioner sought to move it for admission into evidence, but did note they would have a motion regarding it for the next hearing date after it was moved into evidence. In fact, counsel for Protestants, at one point, consented to its admission.

Simply, the Board finds that Judge Beverungen had no jurisdiction over the matter, irrespective of whether it constituted impermissible *ex parte* contact and without the need to untangle the lack of an objection followed by a motion and the request to strike, but only the effect, not the letter itself. The July 3, 2018 response had no effect upon the January 22, 2018 Opinion and Order, or the proceedings in front of the Board. Case No. 18-122-X had been properly appealed, divesting the court below with jurisdiction. The clarification had no effect on the Opinion and Order issued by the ALJ in Case No. 18-122-X or these proceedings. While it should not have occurred in the manner it did, no one should interpret the July 3, 2018 response has having any legal effect. As such, the Board dismisses the appeal of Case No. CBA-19-004 as there is nothing to remand, grant, or deny.

VIII. Exhaustion of Administrative Remedies

As noted above, Protestants sought to introduce documents and testimony regarding alleged code enforcement violations and what they have represented as a lack of adequate response and/or inaction in enforcement on part of the County. As noted above, no code enforcement matter was pending in front of the Board. Therefore, the Board did not admit the evidence relating to the

alleged code enforcement matters or the attempts at contacting County officials about them. Rather, Protestants requested that the Board find that Protestants have exhausted all administrative remedies on this issue.

Typically, administrative remedies must be exhausted prior to seeking judicial remedies, depending on whether the administrative remedies, relative to judicial remedies, is categorized as exclusive, primary and concurrent. Falls Rd. Cmty Ass'n v. Balt. County, Md., 437 Md. 115, 136; 85 A.3d 185, 197 (2014). For an appeal to this Board by a party "aggrieved by a decision of a local zoning official," the remedy at issue is at least primary, and may be exclusive. Id *quoting*, Maryland Reclamation Associates, Inc. v. Harford County, 382 Md. 348, 364-65; 855 A.2d 351 & n.6 (2004).

The Board finds that the remedies sought by Protestants on the alleged code enforcement issues are beyond the jurisdiction of the Board and/or those issues are otherwise not properly in front of the Board, precluding Protestants from any administrative remedies on the alleged code violation and enforcement issues and/or the County's actions or inactions concerning the same. Simply, the relief sought by Protestants on this issue, as understood by the Board, is beyond the authority and jurisdiction of this Board and Protestants will have to seek those remedies in another court.

IX. Evidentiary Issues Concerning Protestants' Exhibits 22 and 23

As stated above, Protestants called Mr. Ghimire as an adverse witness in their case. During the course of that examination, Protestants attempted to question Mr. Ghimire about two fights (to be clear, neither fight involved or concerned Mr. Ghimire in any way) that occurred on January 28-29, 2018, one at an event held at St. Joseph's Catholic Church called "Nepal Idol" modeled after "American Idol" and one at a restaurant after the first incident. The police were called to

respond to both fights. Protestants intended to introduce police reports (Protestants Exhibits 22 and 23) in support.

When first raised, it was unclear what the evidence was, what its purpose was, and the connection to Mr. Ghimire. Early on in that testimony, Mr. Ghimire was asked whether he sponsored or hosted an event at St. Joseph's Catholic Church. As that question caused some confusion to Mr. Ghimire, counsel for Protestants was asked to clarify. Subsequent questioning revealed neither Mr. Ghimire individually, nor the Petitioner, was the host or sponsor for that event. As the questioning developed, it became clear that Protestants wanted to establish that Petitioner was a sponsor for the Nepal Idol event to illustrate that Petitioner was, somehow, responsible for the fights. Objections raised by Petitioner to the police reports and questions to Mr. Ghimire were sustained as there was no connection between the incidents and Petitioner.[8]

Following Mr. Ghimire's examination on October 23, 2018, Protestants' engaged in subsequent, multiple efforts to have the police reports be part of the evidentiary and/or case record. The purpose for the questions and intent to introduce the police report, as well as the complete disregard for the Board's rulings, prompts the Board's atypical discussion in this Opinion of its evidentiary rulings.

On November 27, 2018, Protestants filed its "Motion to Admit Protestants Exhibits 23 and 24" which included additional documents beyond the police reports identified on October 23, 2018.[9] Within the Motion, Protestants stated that the additional documents evidence a link between the Nepal Idol event (and therefore, fights) to Petitioner. Protestants describe the two

[8] It needs to be noted that when the Board sustains objections to documents and items offered into evidence, the evidence is classified as "identification only." The Board is required to keep the rejected evidence as part of the case file in the event a party appeals a decision by the Board, but the "identification-only" evidence is not considered as part of the evidentiary record for the Board's deliberations.
[9] The Motion erroneously identified the exhibits as "Protestants Exhibits 23 and 24" instead of Exhibits 22 and 23.

fights, noting the first one occurred in the parking lot of St. Joseph's Church, and the second occurred around 1:00 a.m. at the Mount Everest Restaurant, identified as the after-party location hosted by the restaurant. One of the sponsors was identified as Ghimire Homes and one of the event organizers was identified as an attendee of several hearing dates in this case. Protestants looked at the names on the hearing sign-in sheets and, in conclusory form, referred to them as being "directly involved" with the Nepal Idol event because these individuals were thanked by the event organizers on a Facebook post.

In arguing its relevance as to why it should be admitted, Protestants' Motion raised the following question:

> If this type of behavior demonstrated in the police reports is indicative of the [Petitioner] behavior on a property they ***rented*** (St. Joseph's Catholic Church Hall), what can the local community expect regarding their behavior on a property they ***own*** (12231 Harford Road)? (emphasis in original).

The Motion goes on to state:

> Given that between 10,000 and 20,000 individuals of Nepalese descent reside in the greater Baltimore area, neighbors of 12231 Harford Road located in a rural agricultural R.C. 2 Zone are entirely justified in their concerns regarding health, safety, and **danger from the behavior of those attending NAACB events**, as evidenced by the January 28 and 29 police reports. (emphasis added).

On January 29, 2019, the Board denied the Motion for multiple reasons, which will be identified and addressed below as, due to the multiple attempts, the reasons to reject the evidence are applicable throughout the multiple attempts to use it.

On February 4, 2019, Protestants next filed their "Motion to Reconsider the Board's Decision to Readmit Protestants Exhibits # 22 and # 23" on the basis that the police reports were not admitted because Protestants had not adequately linked Ghimire Homes to Kris Ghimire. The Board asked counsel for Protestants at one point directly, "Are you offering this evidence for any

other purpose?" to which counsel for Protestants indicated there was no other purpose. The Board, once again, denied the Motion and rejected the evidence.

Despite the three prior rulings, Protestants, in their closing Memorandum, once again included the thrice-rejected police reports. Protestants did so under the guise of needing to, preemptively, address an argument they assumed Petitioner would make. The Board finds the proffered excuse wanting. Nevertheless, for clarity's sake, because the disputed exhibits are not part of the evidentiary record, the Board did not consider them.

The multiple attempts at getting the disputed exhibits into evidence or for the Board's consideration compels the Board to explain the reasons why the Board denied Protestants' use of these documents.

First, the purported evidence had no relevance or materiality to the issues in front of the Board. In particular, the Board was far from persuaded that Petitioner could be considered the sponsor of the Nepal Idol event and the Board was certain that Petitioner was not responsible for the actions identified in the police reports. The most elemental concept of corporate law is that a corporation is regarded as a separate legal entity. In other words, acts taken by an individual on behalf of a corporation are corporate acts; whereas, acts taken in a personal capacity do not bind the corporation. Turner v. Turner, 147 Md. App. 350, 425; 809 A.2d 18, 61 (2002). Petitioner is a corporation. Mr. Ghimire is a trustee for Petitioner. Mr. Ghimire, as identified in Protestants' Motion, is President of Ghimire Homes, LLC. Ghimire Homes, LLC was a sponsor of the Nepal Idol event. Mr. Ghimire may be authorized to act on behalf of each, but an act by Mr. Ghimire for one is not tantamount to an act by the other. Even if it is assumed Mr. Ghimire, individually,

played some role in putting on the event, actions by Mr. Ghimire individually are not attributable to Petitioner, nor are individual acts at events sponsored by corporations.[10]

Second, if probative value is assumed, and to be clear, the Board found and continues to find a complete absence of probative value, that any minimal probative value is substantially outweighed by the danger of unfair prejudice. Clark v. State, 774 A.2d 1136; 364 Md. 611 (2001); Maryland Rule of Evidence 5-403. Even if any probative value is assumed, the manifest, substantial weight of the unfair prejudice wholly eclipses the (assumed) probative value.

Third, for this hearing, as noted above, the Board must assess "whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." Schultz v. Pritts, 291 Md. 1, 22-23; 432 A.2d 1319, 1331 (1979). Evidence is only "material" if it tends to establish a proposition that has legal significance to the litigation. Bryant v. State, 881 A.2d 669; 163 Md. App. 451 (2005). For this purported evidence to be material to these issues, Protestants would be required to show how the particular use at this particular location would have adverse impacts above and beyond impacts experienced elsewhere. However, Protestants do not attempt to do so.

The mere fact that evidence rules are relaxed in administrative proceedings provides no relief to Protestants. Under the Board's Rules on evidence, any evidence which would be admissible under the general rules of evidence applicable in judicial proceedings in the State of

[10] In Protestants' Closing Memorandum, much like their Motion to Admit, Protestants argue Mr. Ghimire "misrepresented the facts regarding his involvement" in the Nepal Idol event. The Board did not and does not conclude Mr. Ghimire "misrepresented the facts regarding his involvement." First, the questions presented to Mr. Ghimire appeared to cause confusion, failing to distinguish between Mr. Ghimire's acts as an individual, on behalf of his corporation and/or Petitioner. The Board initially left room open for Protestants to show the evidence's relevance to Mr. Ghimire individually, but after receipt of Protestants' Motion, it became clear Protestants were conflating Mr. Ghimire's roles, which, as noted above, contravenes Maryland law, in addition to its other evidentiary frailties.

Maryland shall be admissible in hearings before the county board of appeals. Rule 7(a). The questions concerning the January 28-29, 2018 incidents and the documents regarding them present numerous evidentiary problems that would render them inadmissible in any courtroom and it requires their rejection here. Moreover, the Board's Rules require the evidence to be needful and proper and this evidence was neither needed, nor proper.

By attempting to use these exhibits, Protestants urge this Board to find that the fight is representative of what is likely to occur once the Property starts operations as a temple. In the best light to Protestants, this evidence is untethered to the facts, the special exception factors, and common sense. As noted above, there was never any reasonable or legitimate basis to argue Petitioner sponsored the Nepal Idol event, or controlled the premises of either incident location, or otherwise had any responsibility for the incidents that one night in January 2018. The Board, in fact, rejects any such assertion out of hand. Assuming *arguendo* Petitioner had some role in the event or location(s), the logical leap still fails to reach the other side of the evidentiary gorge, as it does not and cannot make it more likely fights will occur at the temple and/or that surrounding area is endangered as a result.

The Board sustained the objections regarding these exhibits and the questions asked and denied the motions as the case progressed. Though the exhibits were not part of the evidentiary record, Protestants nevertheless attached them to their Closing Memorandum.

The use of this evidence and the manner in which it was communicated during the hearing and in Protestants' closing memoranda reasonably may be interpreted in a far more egregious and odious manner. There are several examples in the record individually, but the cumulative effect casts its own shadow as well. Any suggestion, whether intended or not, that common heritage or ancestry may serve as a material factor to tie the two incidents to the temple use and operations

requires this Board to make it abundantly clear that evidence for that purpose, or anything within the orbit of its event horizon, cannot and will not be accepted or considered.

The Board, in fact, excluded that evidence from consideration as part of this decision. Instead, the Board focused only upon the testimony and evidence admitted into the evidentiary record.

X. CONCLUSION

For the foregoing reasons, the Petition is granted by the Board. Baltimore County Zoning Regulations § 502.2 empowers the ALJ and the Board of Appeals, in connection with granting any special exception petition, to impose conditions, restrictions or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties. As noted to varying degree above, the Board, pursuant to BCZR §502.2, will impose conditions as outlined in more detail below.

ORDER

THEREFORE, IT IS THIS 9th day of January, 2020, by the Board of Appeals of Baltimore County,

ORDERED that the Petition for Special Exception to allow a temple for religious worship on property zoned RC-2 is hereby **GRANTED**, subject to the following conditions under the Board's authority in §502.2:

1. Petitioner shall confine its hours of operation for non-religious events from 8:00 a.m. to 9:00 p.m.
2. The exit from the Property shall be right-turn only. Petitioner shall post and maintain proper signage indicating the exit is right-turn only at all times.

3. Prior to the issuance of any permits, Petitioner shall obtain from State Highway Administration (SHA) an access permit authorizing ingress and egress from the Property. Petitioner shall comply with SHA's access permit for the proposed entrance and exit. Petitioner also shall comply with the SHA requirements and recommendations. Petitioner shall also maintain the vegetation around the entrance and exit in strict conformity with required sight and stopping distances.
4. Petitioner shall submit all landscaping plans and all lighting plans to Baltimore County for approval.
5. Any tree(s) required to be removed for any improvement or construction of an improvement, Petitioner shall replace the removed tree with per-diameter equivalent replacement native species tree and each such replacement tree shall also provide similar or better shade and screening coverage. The replacement trees shall be planted in an area onsite that will increase the buffer density along the Property's border with the Poehler property in order to help screen the Property from the Poehler house and its curtilage.
6. Petitioner shall add landscaping to serve as an additional light and sound buffer between Petitioner's property and the Poehler property to increase the buffer density along the Property's border with the Poehler property in order to help screen the Property from the Poehler house and its curtilage. Petitioner shall add additional landscaping particularly at the Harford Road side (western side) of the multipurpose court to serve as an additional light and sound buffer between Petitioner's property and the Clark property and/or others in that area. All landscaping for these purposes is required to be approved by Baltimore County.
7. Any and all plantings, whether part of Condition No. 5, No. 6, or otherwise, shall consist of native species only, subject to approval by Baltimore County's landscape architect, with the sole exception for any plantings required for onsite for religious use.
8. Prior to the issuance of occupancy permits, Petitioner must demonstrate to DEPS that the well and septic systems will be sufficient to serve the proposed use. Prior to the issuance of permits, Petitioner shall also comply with any and all ZAC comments.
9. The outdoor amplification of sound shall not be permitted.
10. Petitioner shall obtain any and all necessary permits to have the pool and pool house demolished and removed prior to any demolition or removal. Any and all demolition or activity related to the removal of the pool and pool house shall only take place between 8:00 am and dusk.
11. Petitioner shall not organize, host, invite, conduct, or participate in any athletic program, league, or tournament on site. This condition does not preclude Petitioner from using the multipurpose court for athletic games or contests, only athletic programs, leagues, and/or tournaments.

12. Petitioner shall not use the Property as a community center, unless such community center-type activity is in furtherance of the exercise of religion and/or operation of the temple. Cultural activities and/or other activities with a non-religious purpose shall take place offsite.
13. Petitioner otherwise shall comply with the Baltimore County Code and Zoning Regulations at all times.

It is further,

ORDERED that the appeal in Case No. CBA-19-004 is dismissed as moot, as the court below had no jurisdiction over the matter at the time the letter was signed and sent, and the Order in Case No. 18-122-X otherwise resolves the subject matter of Case No. CBA-19-004.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

BOARD OF APPEALS
OF BALTIMORE COUNTY

Jason S. Garber, Chair

Deborah C. Dopkin

William A. McComas

Board of Appeals of Baltimore County

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January 9, 2020

Lawrence E. Schmidt, Esquire
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J. Carroll Holzer, Esquire
J. Carroll Holzer, P.A.
508 Fairmount Avenue
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Timothy M. Kotroco, Esquire
305 Washington Avenue, Suite 502
Towson, Maryland 21204

RE: In the Matter of: *Nepali American Cultural Center of Baltimore*
Case Nos.: 18-122-X and CBA-19-004

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Sunny Cannington Hag

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Multiple Original Cover Letters

c: Kris Ghimire/Nepali American Cultural Center of Baltimore
Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
C. Pete Gutwald, Director/Department of Planning
Michael D. Mallinoff, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law
DeWitt and Mary Clark
David and Bernadette Poehler
Joanne Foxworthy
Carol Shaw
Tom and Morgan Miner
David Hartman

Board of Appeals of Baltimore County

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January 4, 2021

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Timothy M. Kotroco, Esquire
305 Washington Avenue, Suite 502
Towson, Maryland 21204

RE: Petition for Judicial Review
Circuit Court Civil Action No.: C-03-CV-20-003922
In the Matter of: Nepali American Cultural Center of Baltimore
Board of Appeals Case Nos.: 18-122-X and CBA-19-004

Dear Counsel:

Kindly note that the Proceedings before the Administrative Law Judge and the Board of Appeals of Baltimore County have been filed with the Circuit Court for Baltimore County via the Maryland Electronic Courts and E-filing system. A Notice of Filing of Tangible Items was also filed and contains items which cannot be filed electronically. Enclosed are copies for your records.

If you have any questions, please do not hesitate to contact us.

Sincerely,

Tammy A. Zahner

Tammy A. Zahner
Legal Secretary

Multiple Original Cover Letters
Enclosures

c: See Attached Distribution List

In the Matter of: Nepali American Cultural Center of Baltimore
Board of Appeals Case Nos.: 18-122-X and CBA-19-004
Circuit Court Civil Action No.: C-03-CV-20-003922
Distribution List

Kris Ghimire, Trustee/Nepali American Cultural Center of Baltimore
Morgan Miner
Tom Miner
Dave Poehler
DeWitt Clark
Mary Clark
Greater Kingsville Civic Association, Inc.
Patricia Garner, President/Greater Kingsville Civic Association, Inc.
Bruce Morgan, Vice President/Greater Kingsville Civic Association, Inc.
Doug Behr, Secretary/Greater Kingsville Civic Association, Inc.
Greater Kingsville Civic Association, Inc.
David Hartman, Acting President/Greater Kingsville Civic Association, Inc.
Joyce Mason, Acting Vice President/Greater Kingsville Civic Association, Inc.
Donna Carter, Acting Secretary/Archivist Greater Kingsville Civic Association, Inc.
Joanne Foxworthy
Office of People's Counsel

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY	*	
PETITION OF: DONNA CARTER, *et al.*	*	
FOR JUDICIAL REVIEW OF THE DECISION OF THE BOARD OF APPEALS FOR BALTIMORE COUNTY Jefferson Building, Suite 203 105 W. Chesapeake Avenue Towson, MD 21204	*	CIVIL ACTION NO.: C-03-CV-20-003922
IN THE MATTER OF: NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE 12231 Harford Road	*	
11th Election District 5th Councilmanic District	*	
BOARD OF APPEALS CASE NOS.: 18-122-X AND CBA-19-004	*	

* * * * * * * * * * * * *

PROCEEDINGS BEFORE THE ADMINISTRATIVE LAW JUDGE AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now comes the Board of Appeals of Baltimore County and, in answer to the Petition for Judicial Review directed against it in this case, herewith transmits the record of proceedings had in the above-entitled matter, consisting of the original papers on file in the Department of Permits, Approvals and Inspections and the Board of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS OF BALTIMORE COUNTY

Case No.: 18-122-X

October 31, 2017	Petition for Special Exception filed by Timothy M. Kotroco, Esquire on behalf of Nepali American Cultural Center pursuant to Section 1A01.2.C.6 of the Baltimore County Zoning Regulations to allow a Church or other building for religious worship on property zoned RC2.
November 7, 2017	Entry of Appearance filed by People's Counsel for Baltimore County.
November 22, 2017	Notice of Zoning Hearing
December 18, 2017	Certificate of Posting
December 28, 2017	Certificate of Publication in newspaper
January 11, 2018	ZAC Comments
January 17, 2018	Administrative Law Judge convened for a hearing. Hearing Sign-in sheets
January 22, 2018	Opinion and Order issued by the Administrative Law Judge wherein the Petition for Special Exception to allow a church or other building for religious worship on property zoned RC-2 was GRANTED, with conditions.
February 16, 2018	Notice of Appeal filed by J. Carroll Holzer, Esquire on behalf of DeWitt and Mary Clark, David Hartman, Dave Poehler, Morgan Miner, and Carol Shaw, Protestants.
February 22, 2018	Appeal received by the Board.
March 6, 2018	Notice of Assignment issued by the Board.
April 17, 2018	Letter to Board from Lawrence E. Schmidt, Esquire advising he has been hired to serve as co-counsel with Mr. Kotroco, requesting a postponement, and asking for a larger hearing room, perhaps the County Council.
April 26, 2018	Board convened for a Hearing on Preliminary Matters
April 2018 – June 2018	Miscellaneous scheduling e-mails
June 11, 2018	Notice of Assignment issued by the Board.
June 29, 2018	Stipulation by Parties for Record of Hearing.

July 19, 2018	Board convened for a Hearing, Day 1. Hearing sign-in sheets
July 30, 2018	E-mail to Board from Lawrence E. Schmidt, Esquire regarding number of people anticipated at next Board hearing.
July 31, 2018	E-mail to counsel and Baltimore County staff from Gunpowder Falls Watershed Preservation Association responding to Mr. Kotroco's e-mail to Mr. Holzer, as Mr. Holzer is out of town.

Case No.: CBA-19-004

July 2, 2018	Letter to ALJ Beverungen from Timothy M. Kotroco, Esquire requesting an interpretation of his Order, specifically the restrictions contained and whether or not a gathering on the grounds of the property will violate the restrictions.
July 3, 2018	Clarification statement signed by ALJ Beverungen.
July 30, 2018	Notice of Appeal to the County Board of Appeals from the Administrative Law Judge's *Ex Parte* Opinion dated July 3, 2018 filed by J. Carroll Holzer, Esquire on behalf of DeWitt and Mary Clark, David Hartman, Dave Poehler, Morgan Miner and Carol Shaw, Appellant/Protestants.
July 30, 2018	Appeal received by the Board.
August 8, 2018	Letter to J. Carroll Holzer, Esquire from Lawrence E. Schmidt, Esquire regarding appeal.
March 5, 2019	Response to Case No.: CBA-19-004 filed by J. Carroll Holzer, Esquire on behalf of Protestants.
March 5, 2019	Written Memorandum in Lieu of Closing Argument filed by Lawrence E. Schmidt, Esquire on behalf of Nepali American Cultural Center of Baltimore, Petitioner.

Case Nos.: 18-122-X and CBA-19-004

August 8, 2018	Letter to J. Carroll Holzer, Esquire from Lawrence E. Schmidt, Esquire regarding appeal of letter drafted by Mr. Kotroco.
August 10, 2018	Amended Notice of Assignment (Amended as to time only) issued by the Board.

September 5, 2018	Subpoena issued by the Board to Douglas Burgess, Esquire, and John Motsco, P.E., at the request of J. Carroll Holzer, Esquire
September 6, 2018	Board convened for a Hearing, Day 2. Hearing sign-in sheets
September 10, 2018	Letter to Board from Lawrence E. Schmidt, Esquire confirming future hearings will be held in the Board's hearing room.
September 10, 2018	Amended Notice of Assignment (Amended as to location only) issued by the Board.
September 12, 2018	Board convened for a Hearing, Day 3. Hearing sign-in sheets
September 12, 2018	Subpoena issued by the Board to Dewitt Clark at the request of Lawrence E. Schmidt, Esquire
October 3, 2018	Subpoena issued by the Board to Joseph Colaggero, P.E., and John Motsco, P.E., at the request of J. Carroll Holzer, Esquire
October 9, 2018	Objection to and Motion to Quash Subpoena filed by Douglas W. Biser, Esquire on behalf of Dewitt Clark.
October 11, 2018	Board convened for a Hearing, Day 4. Hearing sign-in sheets
October 23, 2018	Board convened for a Hearing, Day 5. Hearing sign-in sheets
November 1, 2018	Board convened for a Hearing, Day 6. Hearing sign-in sheets
November 16-19, 2018	Miscellaneous scheduling e-mails
November 19, 2018	Letter to Board from Lawrence E. Schmidt, Esquire regarding video discs offered into evidence by Mr. Holzer.
November 26, 2018	Letter to Board from J. Carroll Holzer, Esquire in response to Mr. Schmidt's letter regarding admissibility of video evidence.
November 26, 2018	E-mail to counsel from Board regarding November 29, 2018 hearing.
November 27, 2018	Motion to Admit Protestants Exhibits 23 and 24 filed by J. Carroll Holzer, Esquire
November 29, 2018	Board convened for a Hearing, Day 7.

December 13, 2018	Notice of Assignment, Additional Days, issued by the Board.
December 14, 2018	Petitioner's Response to Motion to Admit Protestants' Exhibits 23 and 24 filed by J. Carroll Holzer, Esquire
December 21, 2018	Protestants Reply Memo to Petitioners Response to Motion to Admit Protestants Exhibits #22 and #23 filed by J. Carroll Holzer, Esquire
January 17, 2019	Protestants Motion to Strike Petitioners Exhibit #34 as *Ex Parte* filed by J. Carroll Holzer, Esquire
January 29, 2019	Board convened for a Hearing, Day 8.
January 30, 2019	Board convened for a Hearing, Day 9.
January 30, 2019	Amended Notice of Assignment As to Time Only issued by the Board.
February 1, 2019	E-mail to Board from J. Carroll Holzer, Esquire providing a Proposed List of conditions
February 1, 2019	Petitioner's Response to Protestants' Motion to Strike Petitioner's Exhibit #34 as *Ex Parte* filed by Lawrence E. Schmidt, Esquire.
February 4, 2019	Proffer of Materials for Exhaustion of Administrative Remedies filed by J. Carroll Holzer, Esquire.
February 4, 2019	Motion to Reconsider the Board's Decision and Readmit Protestants Exhibits #22 and #23 filed by J. Carroll Holzer, Esquire.
February 4, 2019	Protestants Reply to Petitioner's Response to Exhibit #34 as *Ex Parte* filed by J. Carroll Holzer, Esquire.
February 5, 2019	Board convened for a Hearing, Day 10.
February 6, 2019	Amended Notice of Assignment issued by the Board.
February 12, 2019	E-mail to Board from Smith, Gildea & Schmidt requesting hearing begin at 11:00 a.m. instead of 9:00 a.m.
February 12, 2019	E-mail to counsel from Board granting time change for hearing.
February 13, 2019	Board convened for a Hearing, Day 11.

Exhibits submitted at Hearings before the Board of Appeals:

Petitioner's Exhibit No.

1 – Site Plan
1A – Duplicate Site Plan
2 – Aerial Photo
3 – Google Map of Surrounding Religious Uses
4 – Protestant Fundraising Card Request
5 – Articles of Incorporation for Nepali American Cultural Center of Baltimore
6 – Daniel Radebaugh, Esquire letter
7 – Deed of Trust (Liber 38898, Folio 72)
8 – John Motsco, P.E. Curriculum Vitae
9A-9MM – Photos
10 – Maryland Historical Trust Inventory for Property
11 – Locality Outlined
12A-E – Photos of Before Work on Building
13 – Joseph J. Caloggero, P.E., Curriculum Vitae
14 – First Floor Plan
15A – Site Distance Chart
15B – Site Distance Chart with Aerial
16A – Site Distance Chart with Proposed New Exit
16B – Site Distance Chart with 3 Alternatives
17A-D – Photos of 7/16/18 replace Petitioner's 16A Photo
18 – Baltimore County GIS
19 – Baltimore County My Neighborhood Map and Photos
20 – Baltimore County My Neighborhood Map and Photos
21 – EPS Water Usage Summary
22 – Plan 10/20/17 Little Associates Topography Plan
23 – Deed dated 8/11/15
24 – SDAT print-out for State Highway Administration
25 – Baltimore County EPS letter of 10/3/18 with Perc Results
26 – Final Access Design Sight Distance Plat
27 – SHA Letter dated 10/9/18 to Joseph Caloggero
28 – E-mail from Caloggero dated 10/9/18 to SHA regarding Speed Study
29 – Caloggero Results of HCM Highway Segment Capacity Analysis
30 – Caloggero Crash Summary MD 147
31 – Aerial Photo of Site and Poehler House
32A – Photo of Poehler House Variance Barn Case
32B – Photo of Poehler Proposed Barn – Variance Case
32C – Photo of Poehler Front Yard – Variance Case
33 – Affidavit in Variance Case

34 – Letter from Timothy Kotroco, Esquire to ALJ dated 7/2/18
35 – SDAT Report for Historic Timekeepers, Inc.
36 – Historic Timekeepers Restoration Services & Supplies print-out from website
37 – Historic Timekeepers Restoration Services & Supplies print-out from website
38 – Website Pages – Explore Beachmont Corn Maze
39 – Website Page – Corn Maze at Beachmont
40 – Easter Sunrise Service – Google e-mail with link to website
41 – Redeemer Classical Christian School website print-out
42 – Redeemer Classical Christian Student Life print-out
43 – Redeemer Classical Christian School – Athletics website
44 – National Register of Historic Places – Inventory Nomination Form
45 – Zoom View of the Maps from Exhibit 44
46 – Greater Kingsville Area Community Plan dated 7/1/96

Protestants Exhibit No.

1 – Protestants Sign-In Sheet
2 – Protestants Preliminary Motion
Appendix 3 TANGIBLE ITEM
3 – Little & Associates Plan in draft
4 – Aerial Photo of site
5 – Preliminary Conceptual Landscape Plan dated 7/25/18
6 – Greater Kingsville Civic Association letter dated 9/3/18
7A-C – Google Image Photos of Harford Road
8 – Letter from Caloggero to Kotroco dated 1/10/18
9 – E-mail to SHA from Caloggero dated 3/23/18 and 3/28/18
10 – Traffic Crashes from Baltimore County Police 1/1/16-4/1/18
11 – Aerial Photo of St. Joseph Church on Bel Air Road
12 – SHA Access Management Submission Checklist
IDENTIFICATION ONLY
13 – Video dated 7/28/18
TANGIBLE ITEM
14 – Aerial Photo dated 7/28/18
15 – Aerial Photo of the Neighborhood
16 – Photo of Joyce Mason car from 9/14/18
17 – Photo from 10/18/18 dashcam of Dr. Mary Clark
18 – Small Photo of Protestants' 15 Aerial Photo
19 – Photo of Bonaparte Home
20 – Photo from Dave Poehler Property
21 – Photo from Drone of Site
22 – Baltimore County Police Report from 1/28/18
IDENTIFICATION ONLY

23 – Baltimore County Police Report from 1/29/18
IDENTIFICATION ONLY
24 – Fundraiser Flyer from 7/2017
25 – Facebook from Shyam Karki from 12/21/17
26 – Withdrawn
27 – Facebook Entry from 8/1/18
28 – Gunpowder Falls Watershed Rule 8 Papers
29 – Short video clips – CDs
TANGIBLE ITEM
30 – Library of Videos – CDs
TANGIBLE ITEM
31 – List of URLs and Movie Segment files
32 – Video File Contents – Library
33 – Screen Shot List of Short Video Clips
34 – USB Drive
TANGIBLE ITEM
35A – Photo of Car leaving site
35B – Photo of Car leaving site
35C – Photo of Car at Entrance
36A – Photo same as Protestants 7A
36B – Photo of Harford Road
36C – Photo same as Protestants 7B
37 –Code Enforcement Correction Notice dated 8/27/18
38 – Close-up of Petitioner's Site Plan in Exhibit 37
39 – MD National Register of Properties
40 – Photo of Mile Marker – Harford Road
41 – Photo of Mile Marker
42 – Photo of Maryland State Road Commission Marker
43 – E-mails from 7/2/18 – 7/5/18 from Clark to SHA
44 – Shyam Karki Facebook from May 19
45 – Sanosansar Hamrosansar Facebook from 7/10/18
46A – Photo of 2906 Taylor Avenue
46B & C – Information on 2906 Taylor Avenue
IDENTIFICATION ONLY
47 – Website print-out NACCBaltimore.org
IDENTIFICATION ONLY
48 – Greater Kingsville Civic Association, Inc. vote from 10/18/18
49 – Letter from Doctor Clark
50 – 3 Pages of Excerpts from Nextdoor
51 – Video Control Sheet
52 – URL Listing of Evidence Sources provided by Petitioners
53 – E-mails from Richard Zeller to Historic Timekeepers 7/2018
54 – Letter from Clark to Jablon dated 7/11/18

55 – E-mail to Kevin Weis dated 7/8/18
56 – Sign-in Sheets
57 – Area Covered by Greater Kingsville Area (2 pages)
58 – Two Pictures of Road
59 – Two Pictures of Cyclists
60 – Two Pictures of Tractor Trailers
61 – Two Pictures of Pick-up Truck
62 – Nighttime Picture of Road and Truck
63A-G – Pictures of Lens and Text
IDENTIFICATION ONLY
64 – A Copy of Site Plan for Sign Permit
65 – Picture with Wood Fence and White Railing
66 – Summary of Sign-in Sheets by Location
IDENTIFICATION ONLY
67 – Affidavit of Joanne Foxworthy
IDENTIFICATION ONLY
68A-C – Affidavits that were attached to organization
IDENTIFICATION ONLY
69 – Affidavit of Morgan Miller
IDENTIFICATION ONLY
70 – Wilderness Act
71 – Affidavits from multiple people (Kneeshaw, Poehler, Miner, Beard, Standiford)
IDENTIFICATION ONLY
72 – Affidavit from Carol Shaw and Mark Clark
73 – DVD – Appendix "New" from Ex. 57
TANGIBLE ITEM
74 – Two pictures of fire under the Tent
75 – Police Report State of MD Motor Vehicle Crash Report dated 9/25/17
76 – Police Report State of MD Motor Vehicle Incident Report dated 11/6/17
77A-D – Facebook Postings – 6-19 on First Page
IDENTIFICATION ONLY
78 – Baltimore County Zoning Commission Office of Planning, Grace Church 7-20-98
79 – Petition for Special Hearing – Beachmont, Inc. 16433 Mt. Vista Road
80A-K – Photographs from Facebook, October 6 at 10:18
81 – Facebook Posting – Belmont Park Volleyball Group 11-4
82 – Facebook Page – 7-27-17
83 – Volleyball Dates (20)
84A-D – Facebook Pages of Volleyball Group 7-23
85A-C – Volleyball Tournament 7-23-17

86A-D – Facebook – Enapalese 4th of July Celebration 7-4
87A-C – Facebook – Enepalese Facebook Pictures of Open House Ceremony
88 – Facebook – Enepalese 7-11 Pictures of Cars
89 – Facebook Post – Baltimore Hindu Buddha-Mandir 4/19/18 – 4/22/18
90 – Picture of Women and Pottery
91 – Letter of Appreciation dated 10/14 – Baltimore Nepalese Community Center (BNCC)
IDENTIFICATION ONLY
92 – E-mail from Jason W. Goorevitz dated 7/6/18
93 – 2906 Taylor Avenue Listing of Property from Zillow
IDENTIFICATION ONLY
94 – Letter dated 11/15/17 from van Dommelen to Hindu Boddha Temple
95 – 5 Pages of Return Receipts 6/27/18
96 – ALJ Transcript 1/17/18
97A-B – Affidavit of Carol Shaw, Page 1 / Mary Clark, Page 2
98A-B – Same as Exhibit 72 Affidavit of Carol Shaw and Mary Clark
99 – Christopher N. Jakubiak, AICP Curriculum Vitae
100 – Baltimore County My Neighborhood Map
101 – Baltimore County My Neighborhood Map - closer scale
102 – Google Earth – Aerial View of Site
103 – Google Earth – Zoomed in Harford Road Driveway of Site
104 – Google Earth Distance to Nearby Houses (as amended)
105A-K – Baltimore County My Neighborhood Maps
106 – Mr. Bonaparte's Farm – History Trails Article
107 – Picture of The Country House "Bella Vista"
108 – Affidavit of Ila Christenbury
109 – DVD "New Disc 1/29/19" (may be the same as Ex. 73)
TANGIBLE ITEM
110 – Proffer of Materials for Exhaustion of Administrative Remedies
IDENTIFICATION ONLY
111 – Proposed List of Conditions for the Operation of a House of Worship at 12231 Harford Road
112A-D – Affidavits for Authenticity of Ex. 4, 14, 21
113 – Affidavits for Authenticity of Ex. 19
114 – Search Results for Nextdoor Neighbor – Ex. 50 Part 1
115 – Bonaparte Property Meet and Great – Ex. 50 Part 2
116 – Corrected Carol Shaw Affidavit – Ex. 72 & 98

Protestants Exhibit No. – CBA-19-004

1 – Protestants Motion to Strike Tim Kotroco Letter dated July 2, 2018 as *Ex Parte* and Not in the ALJ Jurisdiction to Opine
IDENTIFICATION ONLY

2 – Protestants Reply to Motion to Strike Tim Kotroco Letter dated July 2, 2018 as *Ex Parte* and Not in the ALJ Jurisdiction to Opine
IDENTIFICATION ONLY

March 5, 2019	Written Memorandum in Lieu of Closing Argument filed by Lawrence E. Schmidt, Esquire on behalf of Nepali American Cultural Center of Baltimore, Petitioner.
March 5, 2019	Memorandum filed by J. Carroll Holzer, Esquire on behalf of Protestants.
March 13, 2019	Board convened for Public Deliberation.
August 7, 2019	Letter from Gunpowder Falls Watershed Preservation Association to Board.
August 15, 2019	Letter from Board to J. Carroll Holzer, Esquire advising the Board is in receipt of his client's letter, and that the record is closed.
September 30, 2019	Letter from Councilman Marks to Board inquiring about the status of the Opinion.
October 10, 2019	Letter from Board to Councilman Marks advising the Board is working on the opinion.
January 9, 2020	Opinion and Order issued by the Board wherein the Petition for Special Exception to allow a temple for religious worship on property zoned RC-2 was GRANTED, with conditions; and the appeal in Case No. CBA-19-004 was dismissed as moot.
February 6, 2020	Motion to Reconsider and Request for Hearing filed by J. Carroll Holzer, Esquire on behalf of Protestants.
February 20, 2020	Letter from Carol N. Shaw to Board withdrawing as an appellant.
February 29, 2020	Letter from David Poehler to Board withdrawing as an appellant.
March 17, 2020	Letter from Board to counsel and parties advising all hearings and public deliberations cancelled due to Covid-19.

March 18, 2020	Petitioner's Response to Motion for Reconsideration filed by Timothy M. Kotroco, Esquire and Lawrence E. Schmidt, Esquire.
June 24, 2020	Board convened for Public Deliberation on the Motion for Reconsideration and Response thereto.
October 6, 2020	Ruling on Motion for Reconsideration issued by the Board wherein the Motion to Reconsider was DENIED.
October 29, 2020	Petition for Judicial Review filed in the Circuit Court for Baltimore County by J. Carroll Holzer, Esquire on behalf of Donna Carter, *et al.*, Petitioner.
November 9, 2020	Copy of Petition for Judicial Review received from the Circuit Court for Baltimore County by the Board of Appeals.
November 12, 2020	Certificate of Compliance and notification letter sent to all parties.
January 4, 2021	Transcript of testimony filed.
January 4, 2021	Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

Tammy A. Zahner

Tammy A. Zahner, Legal Secretary
Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3180
appealsboard@baltimorecountymd.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of January, 2021 a copy of the foregoing was mailed first class mail, postage prepaid, or inter-office mail to the following:

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

Timothy M. Kotroco, Esquire
305 Washington Avenue, Suite 502
Towson, MD 21204

Kris Ghimire, Trustee
Nepali American Cultural Center
of Baltimore
8030 Bel Air Road
Nottingham, MD 21237

Morgan Miner
11946 Harford Road
Glen Arm, MD 21057

Tom Miner
11946 Harford Road
Glen Arm, MD 21057

Dave Poehler
12241 Harford Road
Glen Arm, MD 21057

DeWitt Clark
23 Grove Street
Peterborough, NH 03458-1487

Mary Clark
23 Grove Street
Peterborough, NH 03458-1487

Greater Kingsville Civic Association, Inc.
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Kingsville, MD 21087

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J. Carroll Holzer, P.A.
508 Fairmount Avenue
Towson, MD 21286

Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire
Office of People's Counsel
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Patricia Garner, President
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12535 Merritt Avenue
Fork, MD 21051

Bruce Morgan, Vice President
Greater Kingsville Civic Association, Inc.
3 Longknoll Way
Kingsville, MD 21087

Doug Behr, Secretary
Greater Kingsville Civic Association, Inc.
7451 Bradshaw Road
Kingsville, MD 21087

Gunpowder Falls Watershed
Prevention Association
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Fork, MD 21051

David Hartman, Acting President
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Prevention Association
12513 Regwood Road
Hydes, MD 21082

Joyce Mason, Acting Vice President
Gunpowder Falls Watershed
Prevention Association
11813 Harford Road
Glen Arm, MD 21057

Donna Carter, Acting Secretary/Archivist
Gunpowder Falls Watershed
Prevention Association
5515 Williams Road
Hydes, MD 21082

Joanne Foxworthy
6229 Bonaparte Avenue
Glen Arm, MD 21057

Tammy A. Zahner

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY	*	
PETITION OF: DONNA CARTER, *et al.*	*	
FOR JUDICIAL REVIEW OF THE DECISION OF THE BOARD OF APPEALS FOR BALTIMORE COUNTY Jefferson Building, Suite 203 105 W. Chesapeake Avenue Towson, MD 21204	*	CIVIL ACTION NO.: C-03-CV-20-003922
IN THE MATTER OF: NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE 12231 Harford Road	*	
11th Election District 5th Councilmanic District	*	
BOARD OF APPEALS CASE NOS.: 18-122-X AND CBA-19-004	*	

* * * * * * * * * * * * *

NOTICE OF FILING TANGIBLE ITEMS

TO THE HONORABLE, THE JUDGE OF SAID COURT:

Now comes the Board of Appeals of Baltimore County, having filed the Transcript and Record via MDEC. The following documents were not scanned because they are: oversized documents, such as blueprints, maps, plats, USB drives, and CDs; documents offered as evidence in open court at a trial or other judicial proceeding; or an item that is impracticable to be filed electronically because of the item's physical characteristics, pursuant to Maryland Rule 20-106(c)(2).

Pursuant to Maryland Rule 20-204, we are filing the following tangible items:

- Protestants' Exhibit 2 – Protestants' Preliminary Motion Appendix 3 – USB Drive
- Protestants' Exhibit 13 – Video of 7/28/18
- Protestants' Exhibit 29 – Short Video Clips – CDs
- Protestants' Exhibit 30 – Library of Videos – CDs
- Protestants' Exhibit 34 – USB Drive
- Protestants' Exhibit 73 – DVD – Appendix "New" Ex. 57
- Protestants' Exhibit 109 – "new Disc 1/29/19" (May be the same as Ex. 73)

Tammy A. Zahner

Tammy A. Zahner, Legal Secretary
Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3180
appealsboard@baltimorecountymd.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of January, 2021 a copy of the foregoing was mailed first class mail, postage prepaid, or inter-office mail to the following:

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

J. Carroll Holzer, Esquire
J. Carroll Holzer, P.A.
508 Fairmount Avenue
Towson, MD 21286

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Towson, MD 21204

Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire
Office of People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, MD 21204

Kris Ghimire, Trustee
Nepali American Cultural Center
of Baltimore
8030 Bel Air Road
Nottingham, MD 21237

Morgan Miner
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11813 Harford Road
Glen Arm, MD 21057

Donna Carter, Acting Secretary/Archivist
Gunpowder Falls Watershed
Prevention Association
5515 Williams Road
Hydes, MD 21082

Tammy A. Zahner
Tammy A. Zahner

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY

*

PETITION OF:
DONNA CARTER, *et al.* *

FOR JUDICIAL REVIEW OF THE DECISION * CIVIL ACTION
OF THE BOARD OF APPEALS NO.: C-03-CV-20-003922
FOR BALTIMORE COUNTY *
Jefferson Building, Suite 203
105 W. Chesapeake Avenue *
Towson, MD 21204

*

IN THE MATTER OF:
NEPALI AMERICAN CULTURAL CENTER *
OF BALTIMORE
12231 Harford Road *

11th Election District *
5th Councilmanic District

*

BOARD OF APPEALS
CASE NOS.: 18-122-X AND CBA-19-004 *

* * * * * * * * * * * * *

CERTIFICATE OF COMPLIANCE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

J. Carroll Holzer, Esquire
J. Carroll Holzer, P.A.
508 Fairmount Avenue
Towson, MD 21286

Timothy M. Kotroco, Esquire
305 Washington Avenue, Suite 502
Towson, MD 21204

Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire
Office of People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, MD 21204

Kris Ghimire, Trustee
Nepali American Cultural Center
of Baltimore
8030 Bel Air Road
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Morgan Miner
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11813 Harford Road
Glen Arm, MD 21057

Donna Carter, Acting Secretary/Archivist
Gunpowder Falls Watershed
Prevention Association
5515 Williams Road
Hydes, MD 21082

Joanne Foxworthy
6229 Bonaparte Avenue
Glen Arm, MD 21057

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.

I HEREBY CERTIFY that on this 12th day of November 2020, a copy of the foregoing was mailed first class mail, postage prepaid, to the individuals listed above.

Tammy A. Zahner

Tammy A. Zahner, Legal Secretary
Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
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(410) 887-3180
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Board of Appeals of Baltimore County

JEFFERSON BUILDING
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TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

November 12, 2020

Lawrence E. Schmidt, Esquire
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600 Washington Avenue, Suite 200
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J. Carroll Holzer, P.A.
508 Fairmount Avenue
Towson, Maryland 21286

Timothy M. Kotroco, Esquire
305 Washington Avenue, Suite 502
Towson, Maryland 21204

RE: Petition for Judicial Review
Circuit Court Civil Action No.: C-03-CV-20-003922
In the Matter of: Nepali American Cultural Center of Baltimore
Board of Appeals Case Nos.: 18-122-X and CBA-19-004

Dear Counsel:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed by J. Carroll Holzer, Esquire on behalf of Donna Carter, *et al.*, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. The County Board of Appeals received written notification of acceptance from the Circuit Court for Baltimore County on November 9, 2020. Any party wishing to oppose the petition must file a response with the Circuit Court for Baltimore County within 30 days after the date of this letter, pursuant to the Maryland Rules.

In accordance with the Maryland Rules, the Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review within 60 days. Mr. Holzer, having taken the appeal on behalf of his clients, is responsible for the cost of the transcript of the record and the transcript must be paid for in time to transmit the same to the Circuit Court within the 60 day timeframe as stated in the Maryland Rules.

Courtsmart was the official record of the hearings before the Board. The disk(s) will be copied by this office and provided to you for transcription. The transcriptionist must meet the requirements set forth in Maryland Rules which states: "*a stenographer, court reporter, or transcription service designated by the court for the purpose of preparing an official transcript from the recording.*" The Board of Appeals can assist in obtaining a qualified transcriptionist upon request.

Please be advised that the ORIGINAL transcript must be provided to the Board of Appeals no later than DECEMBER 31, 2020 so that it may be transmitted to the Circuit Court with the record of proceedings, pursuant to the Maryland Rules.

A copy of the Certificate of Compliance has been enclosed for your convenience.

Very truly yours,

Tammy A. Zahner
Legal Secretary

KLC/taz
Enclosure
Multiple Original Cover Letters

c: Kris Ghimire, Trustee/Nepali American Cultural Center of Baltimore
Morgan Miner
Tom Miner
Dave Poehler
DeWitt Clark
Mary Clark
Greater Kingsville Civic Association, Inc.
Patricia Garner, President/Greater Kingsville Civic Association, Inc.
Bruce Morgan, Vice President/Greater Kingsville Civic Association, Inc.
Doug Behr, Secretary/Greater Kingsville Civic Association, Inc.
Greater Kingsville Civic Association, Inc.
David Hartman, Acting President/Greater Kingsville Civic Association, Inc.
Joyce Mason, Acting Vice President/Greater Kingsville Civic Association, Inc.
Donna Carter, Acting Secretary/Archivist Greater Kingsville Civic Association, Inc.
Joanne Foxworthy
Office of People's Counsel

E-FILED; Baltimore County Circuit Court
Docket:10/29/2020 11:21 AM; Submission: 11/3/2020 11:21 AM

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF:

Morgan Miner
11946 Harford Road
Glen Arm, MD 21057

Dave Poehler
12241 Harford Road
Glen Arm, MD 21057

DeWitt Clark
12150 Harford Road
Glen Arm, MD 21057

Greater Kingsville Civic Association
P.O. Box 221
Kingsvile, MD 21087

Patricia Garner, President
12535 Merritt Ave.
Fork, MD 21051

Bruce Morgan, Vice President
3 Longknoll Way
Kingsville, MD 21087

Doug Behr, Secretary
7451 Bradshaw Road
Kingsville, MD 21087

Gunpowder Falls Watershed Preservation Association
P.O. Box 2
Fork, MD 21051

David Hartman, Acting President
12513 Regwood Rd.
Hydes, MD 21082

Joyce Mason, Acting Vice President
11813 Harford Rd.
Glen Arm, MD 21057

RECEIVED
NOV – 9 2020
BALTIMORE COUNTY
BOARD OF APPEALS

Donna Carter, Acting Secretary/Archivist *
5515 Williams Road
Hydes, MD 21082 *

FOR JUDICIAL REVIEW OF THE *
DECISION OF:
BOARD OF APPEALS *
OF BALTIMORE COUNTY
105 West Chesapeake Avenue *
Suite 203
Towson, Maryland 21204 *

*

IN THE MATTER OF:
NEPALI AMERICAN CULTURAL CENTER *
OF BALTIMORE
12231 Harford Rd. *

11th Election District *
5th Councilmanic District

C-03-CV-20-003922

* Civil Action No.: _____

Case No.: 18-122-X and
CBA-19-004 *

*

* * * * * * * * * * * * *

PETITION FOR JUDICIAL REVIEW

Morgan Miner, Dave Poehler & DeWitt Clark, individuals; and Greater Kingsville Civic Association, Inc, Patricia Garner, President; Bruce Morgan, Vice President; Doug Behr, Secretary; and Gunpowder Falls Watershed Preservation Association, David Hartman, Acting President; Joyce Mason, Acting Vice President; and Donna Carter, Acting Secretary/Archivist, by and through their attorney, **J. Carroll Holzer, Esquire,** feeling

aggrieved by the Opinion and Order as well as CBA's Ruling on Motion for Reconsideration, attached hereto and incorporated herein dated January 9, 2020 and October 6, 2020 respectively file herewith their Petition for Judicial Review with the Circuit Court for Baltimore County. Petitioners were parties below.

Filed concurrently with this Petition is an electronic payment to the Clerk of the Circuit Court to cover filing costs.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6861
jcholzer38@gmail.com
CPF No.: 6310010037
Attorney for Appellants/Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29th day of October, 2020 a copy of the foregoing Petition for Judicial Review was mailed first class, postage pre-paid or filed electronically to:

County Board of Appeals
Jefferson Building
105 West Chesapeake Avenue
Suite 203
Towson, Maryland 21204

People's Counsel for
Baltimore County
Jefferson Building
105 West Chesapeake Avenue
Room 204
Towson, Maryland 21204

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, Maryland 21204

Timothy M. Kotroco, Esquire
305 Washington Ave., Suite 502
Towson, MD 21204

J. CARROLL HOLZER, Esquire
jcholzer38@gmail.com
CPF No.: 6310010037

CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND
401 Bosley Avenue, P.O. Box 6754
Towson, MD 21285-6754

Main: 410-887-2601
Fax: 410-887-3062

RECEIVED
NOV - 9 2020
BALTIMORE COUNTY
BOARD OF APPEALS

To: BOARD OF APPEALS OF BALTIMORE COUNTY
105 W. CHESAPEAKE AVE.
SUITE 203
TOWSON, MD 21204

Case Number: **C-03-CV-20-003922**
Other Reference Number(s):

IN THE MATTER OF DONNA CARTER ET AL.

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

October 6, 2020

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

J. Carroll Holzer, Esquire
J. Carroll Holzer, P.A.
508 Fairmount Avenue
Towson, Maryland 21286

Timothy M. Kotroco, Esquire
305 Washington Avenue, Suite 502
Towson, Maryland 21204

RE: In the Matter of: *Nepali American Cultural Center of Baltimore*
Case Nos.: 18-122-X and CBA-19-004

Dear Counsel:

Enclosed please find a copy of the Ruling on Motion for Reconsideration issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Sunny Cannington Hag

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Multiple Original Cover Letters

c: Kris Ghimire/Nepali American Cultural Center of Baltimore
Greater Kingsville Civic Association, Inc.
Gunpowder Falls Watershed Preservation Association
Paul M. Mayhew, Managing Administrative Law Judge
C. Pete Gutwald, Director/Department of Planning
Michael D. Mallinoff, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law
Office of People's Counsel
DeWitt and Mary Clark
David and Bernadette Poehler
Joanne Foxworthy
Carol Shaw
Tom and Morgan Miner
David Hartman

IN THE MATTER OF:	*	BEFORE THE
NEPALI AMERICAN CULTRUAL CENTER OF BALTIMORE 12231 Harford Road 11th Election District 5th Councilmanic District	*	BOARD OF APPEALS OF BALTIMORE COUNTY
	*	Case No.: 18-122-X and CBA-19-004

* * * * * * * * * * * * *

RULING ON MOTION FOR RECONSIDERATION

This case comes to the County Board of Appeals ("CBA") on a Motion for Reconsideration ("Motion") which was timely filed by DeWitt and Mary Clark, David Hartman, Dave Poehler, Morgan Miner, Carol Shaw, Greater Kingsville Civic Association, Inc. and the Gunpowder Falls Watershed Preservation Association (collectively "Protestants") by their attorney J. Carroll Holzer, Esquire, proposing that the CBA re-open and reconvene a hearing on the merits of newly submitted plans and evidence. The original Petitioner and property owner, Nepali American Cultural Center of Baltimore ("Nepali"), by it attorneys, Timothy M. Kotroco, Lawrence E. Schmidt and Smith, Gildea & Schmidt, LLC, submitted a Response to the Protestants' Motion for Reconsideration.

This matter initially came before the CBA on a Petition for Special Exception to permit a temple for religious worship at the above captioned property. The hearing on this case occurred over the course of 11 days between July 2018 and February 2019. On January 9, 2020, the CBA issued an Opinion and Order granting the requested relief.

The Board held its deliberation on the Motion to Reconsider on June 24, 2020. The Board, for the reasons that follow, concluded that no hearing was warranted and denied the Motion.

The Motion for Case No. 18-122-X raised a number of concerns about (i) the contradictory and confusing language within the conditions of the Order, (ii) the failure to define "Religious Use," (iii) the failure to provide precise specifications of the conditions and, (iv) requested additional conditions be added to the Order. The Protestants' Motion for Case No. 19-004 raised concerns about the "*ex parte*" letter signed by the Administrative Law Judge Beverungen.

The Board members agreed with the legal points raised by Petitioner's counsel in its Response to Protestants' Motion for Reconsideration including, but not limited to, that there was no new or different facts introduced by the Protestant' memo and that there was no new law, ordinance or other regulation since the CBA's decision that would provide the Protestants with the relief it seeks. Moreover, the CBA noted that some of the objections to the conditions were conditions that that Protestants requested during the underlying case.

Similarly, the CBA noted that the CBA's revisory power is limited by its Rule 11, which states "the board shall have revisory power and control over the order in the event of fraud, mistake or irregularity". The Motion for Reconsideration did not allege any fraud, mistake or irregularity.

Conclusion

After reviewing the Motion and the case record, the Board unanimously finds none of the issues raised warrant a hearing on the Motion or relief on part of Protestants and agrees the Motion should be denied.

ORDER

THEREFORE, IT IS THIS 16th day of October, 2020, by the Board of Appeals of Baltimore County,

ORDERED, that the Motion to Reconsider is hereby **DENIED** for the reasons set forth herein.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

BOARD OF APPEALS
OF BALTIMORE COUNTY

William A. McComas, Chair

see following page
Deborah C. Dopkin

Adam T. Sampson Hey
Adam T. Sampson

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

BOARD OF APPEALS
OF BALTIMORE COUNTY

See previous page
William A. McComas, Chair

Deborah C. Dopkin

See previous page
Adam T. Sampson

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Nepali American Cultural Center 18-122-X and CBA-19-004

DATE: June 24, 2020

BOARD/PANEL: William A. McComas, Chair
Deborah C. Dopkin
Adam T. Sampson

RECORDED BY: Tammy A. Zahner, Legal Secretary

PURPOSE: To deliberate the following:

Motion to Reconsider and Request for Hearing, and Response thereto.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

DISCUSSION

- The Board noted that the standard to grant a Motion to Reconsider must show new developments, situations, facts, or change in law.
- The Board discussed the Motion to Reconsider which requests the Board to clarify the alleged ambiguity of certain conditions contained in the Board's Opinion and Order. The Board noted that the Motion does not contain any new facts, situations or changes in law but is a request to clarify certain conditions.
- The Board found no substantial material changes or facts or new law to cause the Board to reopen the case. The Board noted that when they issued the Opinion and Order much thought was given to the conditions, some of which were at the Protestants' suggestion.
- The Board found that the movants have failed to meet the burden for the granting of a Motion to Reconsider.

CONCLUSION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to DENY the Motion to Reconsider.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,

Tammy A. Zahner
Tammy A. Zahner

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

May 29, 2020

NOTICE OF DELIBERATION ON MOTION FOR RECONSIDERATION

IN THE MATTER OF: Nepali American Cultural Center
12231 Harford Road
18-122-X 11th Election District; 5th Councilmanic District
And CBA-19-004

Re: Motion to Reconsider and Request for Hearing filed by J. Carroll Holzer, Esquire on behalf of Protestants, on February 6, 2020.

Pursuant to Rule 10 of the Board of Appeals' Rules of Practice and Procedure, a public deliberation on the Motion for Reconsideration and any response thereto is

ASSIGNED FOR: JUNE 24, 2020 AT 9:00 A.M.

The above scheduled public deliberation will be held remotely using WebEx for audio and video participation. **Call-in information and a link to the public deliberation will be posted on our web calendar the night before at** www.baltimorecountymd.gov/Agencies/appeals/index.html.

NOTE: PUBLIC DELIBERATIONS ARE OPEN WORK SESSIONS WHICH ALLOW THE PUBLIC TO WITNESS THE DECISION-MAKING PROCESS. A WRITTEN OPINION AND ORDER WILL BE ISSUED BY THE BOARD WITHIN A REASONABLE TIMEFRAME AFTER DELIBERATION AND A COPY SENT TO ALL PARTIES.

If you do not have access to a computing device, please contact our office for the call-in information the day before the scheduled deliberation.

Krysundra Cannington, Administrator

c: Counsel for Petitioner : Timothy Kotroco, Esquire
Co-Counsel for Petitioner : Lawrence E. Schmidt, Esquire
Petitioner : Nepali American Cultural Center c/o Kris Ghimire

Counsel for Protestants : J. Carroll Holzer, Esquire
Protestants : DeWitt and Mary Clark, David Hartman, Dave Poehler, Morgan Miner, and Carol Shaw

John A. Motsco/Little & Associates, Inc.

C. Pete Gutwald, Director/Department of Planning
James R. Benjamin, Jr., County Attorney, Office of Law
Michael D. Mallinoff, Director/PAI
Nancy West, Assistant County Attorney
Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge

IN THE MATTER OF: Nepali American Cultural Center of Baltimore 12231 Harford Road	* BEFORE THE * BOARD OF APPEALS
11th Election District 5th Councilmanic Districts	* OF
RE: PETITION FOR SPECIAL EXCEPTION	* BALTIMORE COUNTY * **Case No.: 2018-0122-X and CBA-19-004**

* *

PETITIONER'S RESPONSE TO MOTION FOR RECONSIDERATION

The property owner/petitioner, Nepali American Cultural Center of Baltimore (hereinafter "Petitioner" or "Nepali"), by and through their attorneys, Timothy M. Kotroco, Lawrence E. Schmidt and Smith, Gildea & Schmidt, LLC, files this response to the Motion for Reconsider and Request for Hearing filed herein by Dewitt and Mary Clark, David Hartman, Dave Poehler, Morgan Miner, Carol Shaw, Greater Kingsville Civic Association, Inc. and the Gunpowder Falls Watershed Preservation Association (hereinafter referred to collectively as the "Protestants") and states as follows[1]:

THE PROTESTANTS' MOTION IS IMPROPER AS A MATTER OF LAW

Protestants' Motion for Reconsider and Request for Hearing ("Protestants' Motion") must be denied for multiple reasons. First (and fundamentally), as has been previously articulated by this Board in considering like motions, a motion for reconsideration is properly considered only when "some new or different factual

[1] David Poehler, the immediate next door neighbor to the property and arguably most impacted person by the proposed temple use has since withdrawn as a Protestant.

situation exists that justifies a different conclusion." *Calvert County v. Howlin Realty, Inc.*, 364 Md. 301, 325 (2001). In this case, the Protestants have not identified "some new or different factual situation." The Protestants were present at the hearing, fully participated thereat and offered substantial testimony, evidence and argument. The Protestants have not met the standard necessary and have failed to allege any new or different facts that justify a reconsideration. Indeed, Protestants' Motion simply restates their objections and repackages the same arguments previously advanced at the hearing before this Board. Likewise, there has been no intervening change in the law that would justify a different result. (*See e.g.* Brown v. Hovatter, 525 F. Supp. 2d 754 (D. Md. Dec. 11, 2007) If the Protestants take exception to the January 9, 2020 Opinion and Order issued by this Board ("Opinion"), they are not without recourse. Protestants can always pursue judicial review of the Opinion. Motions for Reconsideration should be granted sparingly and this one is not justified in this case. (*Pacific Ins. Co. v. Am. Nat'l Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998)

As to the specific requests made in the Motion, Petitioner responds as follows:

I. Case No.: 18-122-X

The request for reconsideration under this section of the Protestants' Motion seems to ask that the Board's decision to grant the special exception be reversed and that the petition be denied. This request for denial is disguised as a request that this Board define what constitutes "religious use" of the property and also that the Board limit the size of the special exception area. However, these issues were raised by the Protestants at the hearing, and thus, they have been considered and addressed by the Board. Having failed

to convince the Board at the hearing, Protestants ask for another chance, but have provided no viable reason why the Board should alter its decision.

BCZR § 1A01.2.C(6) identifies "churches or other buildings used for religious worship on property zoned RC 2" as a special exception. The underlying zoning petition filed in this case asked for relief/approval as stated verbatim in that section. Protestants suggest that requesting relief based upon the precise language in the regulation is confusing. It is not. During the hearing on this matter, there was substantial evidence offered about Petitioner's proposed use and how it will be conducted There is no reason to revisit this issue and explain it again. Like most every religious denomination, Nepali will routinely utilize the building for religious purposes/services and will periodically conduct religious services/activities (i.e. festivals) outside of the four walls of the building and on the grounds. Just as a Christian church might have a sunrise Easter service or a Christmas tree lighting out of doors, Nepali will conduct activities outside of the building. The Board has restricted these activities by, for example, prohibiting the amplification of sound (Restriction 9). It would be both inappropriate and illegal for the Board to unduly limit the Church's religious services and activities.[2] The Board cannot limit or chill the exercise of their religion by Nepali's congregants and dictate how Nepali can worship.. The Church's religious activities and practices are simply what they are and the Board cannot dictate the type/scope of activity that Nepali determines

[2] Such a limitation would undoubtedly constitute a violation of the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. 2000cc et seq. ("RLUIPA").

constitutes the exercise of their religion. The Board received substantial evidence about Nepali's festivals and has made its decision to approve the special exception and impose certain restrictions. No further restriction or explanation is justified or proper. No new evidence is offered.

Insofar as the area of the special exception, the Opinion approved the accompanying site plan to allow the use of the Property for a church or other building used for religious worship. The site plan included the entirely of the Property, which is approximately 30.8 acres in area, meaning the pertinent area of the special exception was approved for the entire Property. As noted above and discussed at the hearing, the outdoor use of the Property is an important aspect of the Petitioner's faith.

Further, Protestants' Motion is inappropriate as it asks this Board to inquiry into specifics regarding "what constitutes a religious function...how are the deceased interred...cemetery, cremation, or other method...what plants are required for onsite religious use..." Protestants' Motion asks the Board to "list all the community center-type activity that is used in furtherance in the exercise of religion and/or operation of the temple. Each activity needs to be listed... All religious purposes and uses need to be clearly defined in detail." Such inquiry by the Board would be illegal and this request is reprehensible. There are no plans to use the property as a cemetery. Any activity which constitutes the exercise of religion is permitted. If it does not relate to the exercise of religion, then the Board has restricted its hours of operation (i.e. Restriction 1). Respectfully, what constitutes the exercise of their religion by Nepali's congregants is a decision by Nepali and not a County inspector, neighbor or other third party who knows

nothing of the faith. What constitutes non-religious activities are clearly plain enough and do not need to be "defined" by the Board. Through their Motion, the Protestants continue to prove one thing, that they are motivated in their opposition by prejudice towards individuals of Nepali heritage and their faith.

II. Condition No.1

The Protestants complain of an inconsistency between Conditions 1 and 12. However, they do not read those conditions in context. Condition No. 1 limits non-religious activities to certain hours. Condition number 12, to the contrary, prohibits a different use on the Property (i.e. a community building). Obviously, a church or other building used for religious worship is permitted on the property by special exception. A community building (other than one used by a non-profit civic or improvement association) is not permitted in the RC 2 zone. A community building is permitted in the DR zone and is defined to mean a building used for civic, social recreational or educational purposes. (See BCZR § 1B01.1.C.4) The Board's restriction states the obvious, non-religious activities are restricted to certain hours, a community building cannot exist on the property. There is no inconsistency.

III. Condition No. 6

The Protestants' Motion requests that the Board revise Condition 6 and "specify a professional standard to be met or arbitrarily define the measurements of this buffer." The Protestants argue that the intent of the buffer and standard is unclear and should be specifically defined by the Board. However, Protestants fail to quote the entirety of Condition 6 in the Opinion. The last sentence of Condition 6 provides "All landscaping

for these purposes is required to be approved by Baltimore County." Condition 7 then provides "Any and all plantings, whether part of Condition No. 5, *No. 6*, or otherwise, shall consist of native species only, subject to approval by ***Baltimore County's landscape architect...***"(emphasis added). The Board has unambiguously imposed a condition that requires a landscaping plan to be approved by Baltimore County's Landscape Architect. Such condition is not without precedent. The Board has previously imposed similar landscaping requirements in other special exception cases. For example, the Board has conditioned the approval of solar facilities by requiring any proposed landscaping be approved by Baltimore County (See e.g., Cases No. 18-194-X, Atkinson/owner; 18-030-X, HHK Farms/owner; and 17-108-X, Matthews/owner). The Petitioner will work with the County Landscape Architect in formulating an appropriate landscape buffer, consistent with County standards. In such previous cases, the Board does not specify a professional standard to be met nor does it define the measurements of the buffer. Any such standard/measurements are determined by the requirements of the Comprehensive Manual of Development Policies (CMDP) and the County's Landscape Manual. Ultimately, the plan is approved by the Baltimore County Landscape Architect. The Baltimore County Landscape Architect is the professional tasked with specifying the proper standard/landscaping detail and defining appropriate measurements of a landscape buffer.

IV. Condition No. 9

The Protestant's Motion requests that the Board amend Condition 9 and add specific sound decibel (50/60 dba) limitations along with hours of limitation relating to

such sound controls. The Petitioner finds it difficult to respond to such an arbitrary and absurd request. The request is impractical and unenforceable. Perhaps sounds and voices generated from Protestants' properties should also be measured and restricted. As previously articulated by Petitioner during the hearing, the special exception relief relates to religious worship on the Property. Such religious worship may include individual prayer or group worship. Nepali's religious worship may include also musical instruments. Finally, such religious worship may include holiday celebrations (festivals). The relationship between Nepali's spiritual tenants and worship practices is essential to Nepali's exercise of religion. As the Supreme Court has repeatedly counseled, the plain text of the First Amendment guarantees the freedom to "exercise" religion, not just the freedom to "believe" in religion. See *Employment Div., Dept. of Human Resources of Oregon v. Smith*, 494 U.S. 872, 877 (1990); see also *Thomas v. Review Bd. Of Indiana Employment Sec. Division*, 450 U.S. 707, 716 (1981). As such, the Board's condition prohibiting outdoor amplification of sound is appropriate and was in response to testimonies provided by both Petitioner and Protestants. But any further limitations relating to sound would run afoul of religious protections. Should Nepali's congregants not be allowed to pray aloud together? May they not sing hymns of joy and praise to their gods? Protestants have failed to demonstrate some new or different factual situation exists that justifies further restriction which would chill the reasonable exercise of religious worship.

V. Condition No. 11

The Protestants' Motion requests that the Board relitigate the purported issues regarding the tennis/volleyball court. As had previously been discussed, the Property is

zoned R.C. 2. Pursuant to Baltimore County Zoning Regulations (BCZR) § 1A01.2.B.9.h., "Swimming pools, tennis courts, garages, utility sheds, satellite receiving dishes or other accessory structures or uses..." are permitted as of right in the R.C. 2 zone as an "accessory use or structure." There is no dispute that the Petitioner is permitted to have a tennis/volleyball court on the Property. Children (and adult) members of the congregation may use this amenity. Moreover, athletic activity may be part of this congregation's mission and outreach. The well-known "Fellowship of Christian Athletes" is a national organization that teaches the Christian gospel through an athletic program. Nepali may likewise utilize its small athletic facility (the volleyball/tennis court) in a like manner. As provided in Condition 11, Petitioner is agreeable to "not organize, host, invite, conduct, or participate in any athletic program, league, or tournament on site." Nepali is not going to sponsor or conduct independent sports leagues on the property or permit public use of its tennis/volleyball court. Any use will be by congregants and invited guests and will be in furtherance of Nepali's ministry. Any further limitations regarding a permitted accessory use would be in violation of BCZR § 1A01.2.B.9.h. and an infringement upon religious exercise. Further, Protestants have failed to demonstrate some new or different factual situation exists that justifies a different conclusion.

VI. Building Code issues

The Protestants' Motion requests that the Board include an additional condition that requires Petitioner to obtain a Change of Use Permit. Petitioner continues to reiterate that the present subject matter involves a zoning issue rather than a development issue.

If Protestants are alleging a code violation, then a code enforcement complaint must be filed. As of today and during the pendency of the special exception case before the Board, no code enforcement matter was pending in front of the Board. As is well settled, administrative remedies must be exhausted prior to seeking judicial remedies. *Falls Rd. Cmty Ass'n v. Balt. County, Md.*, 437 Md. 115, 136; 85 A.3d 185, 197 (2014). As such, the condition sought by the Protestants on the alleged code enforcement issues are beyond the jurisdiction of the Board and/or those issues are otherwise not properly before the Board, precluding Protestants from any remedies on the alleged building permit code violation and/or the Board's actions or inactions concerning the same. Simply, the condition sought by Protestants is beyond the authority and jurisdiction of this Board and is not rightfully an issue in this case.

VII. Case No. 19-004

The Protestants' Motion yet again asks the Board to revisit and revise its previously rulings regarding the July 2, 2018 Mr. Kotroco letter and the July 3, 2018 Beverungen letter. Protestants have failed to demonstrate some new or different factual situation exists that justifies a different conclusion. As the Board correctly held, "Judge Beverungen had no jurisdiction over the matter...and there is nothing to remand, grant, or deny." The issue presented by Protestants regarding Case No. 19-004 is moot and there is no justiciable controversy between the parties to which this Board could grant an effective remedy. Petitioner respectfully maintains that the question presented is moot because even if this Board were to decide for the Protestants, the rights and positions of the parties would remain unchanged. As well settled by the Maryland Court of Appeals, "a question

is moot if, at the time it is before the court, there is no longer an existing controversy between the parties, so that there is no longer any effective remedy which the court can provide." *Attorney Gen. v. Anne Arundel County Sch. Bus Contractors Ass'n.*, 286 Md. 324, 407 A. 2d. 749 (1979). There is no controversy for this Board to decide and the issue presented is moot.

CONCLUSION

In summary, a Motion for Reconsideration serves a limited function in quasi-judicial hearings. While the Motion certainly elaborates upon the argument Protestants made at the hearing, it does not present any new or additional facts. In *Calvert County v. Howlin Realty, Inc.*, the court held that an agency (like the Board) "may reconsider an action previously taken and come to a different conclusion upon a showing that ... some new or different factual situation exists that justifies the different conclusion." In this case, the Protestants have not identified "some new or different factual situation."

The Protestants' Motion requests that this Board inquire into specific functions and activities of Nepali's faith beyond those which had already been discussed at the hearing. In addition, the Protestants also ask for the opposite, requesting the Board define what constitutes a non-religious event or purpose. Any such further inquiry is not proper nor appropriate and provides no basis for a reconsideration of the decision made. Religious liberty is a foundational principle of enduring importance in America, enshrined in our Constitution and other sources of federal law. To avoid the very sort of religious persecution and intolerance that led to the founding of the United States, the Free Exercise Clause of the Constitution protects and ensures the principle of denominational

neutrality. Any further inquiry by this Board would run afoul of statutory protections provided under law. The Board's Opinion need not be further clarified or explained.

For these reasons, the Board should deny Protestants' Motion to Reconsider and Request for Hearing.

Respectfully Submitted,

Lawrence E. Schmidt
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070
lschmidt@sgs-law.com

Respectfully Submitted,

Timothy M. Kotroco
305 Washington Avenue, Suite 502
Towson, MD 21204
(410) 299-2943
TKotroco@gmail.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 18TH day of March, 2020, a copy of the foregoing Response to Motion to Reconsider and Request for Hearing was mailed, postage pre-paid, to:

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21204

LAWRENCE E. SCHMIDT

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

March 17, 2020

To whom it may concern:

Due to concerns about COVID-19, all Board of Appeals hearings and deliberations are being cancelled beginning March 18, 2020 through April 3, 2020. Including but not limited to the matters of:

Shafi Javid, MD (Hanover Pike Solar, LLC), Case No.: CBA-20-022;
Prime Storage North Point Boulevard, Case No.: CBA-20-017;
Philip Tirabassi, Case No.: CBA-20-011;
Joseph Corasaniti, Case No.: 19-419-A;
Nepali American Cultural Center, Case No.: 18-122-X and CBA-19-004; and
Stillway Associates Partnership (Enclave at Lyons Mill), Case No.: CBA-20-018

We will continue to evaluate and adjust as the situation progresses. All hearings and deliberations will be reassigned as soon as possible. Notices will be sent upon rescheduling and our website, www.baltimorecountymd.gov/Agencies/appeals/index.html, will be updated with any changes.

We kindly request that your forward this letter to the parties, or anyone else you know involved in this matter.

Please contact our office with any questions.

Very truly yours,

Sunny Cannington

Krysundra Cannington
Administrator

Krysundra Cannington

From: Dave Poehler <poehler.e@gmail.com>
Sent: Saturday, February 29, 2020 10:43 AM
To: Krysundra Cannington; jcholzer38@gmail.com
Cc: Carol N Shaw
Subject: Re: Nepali cases 18-122-X and CBA-19-004
Attachments: nepali case dave poehle_20200229_0001.pdf

CAUTION: This message from poehler.e@gmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Resending email with an updated email address for Mr. Holzer

Dear Mr. Holzer and Ms. Cannington:

Please find attached a letter requesting my removal from the above referenced cases.

Please reply to this email and confirm your receipt of this email, attachment and my removal from the cases.

Please let me know if you have any questions or concerns.

Thank you,

Dave Poehler

On Sat, Feb 29, 2020 at 10:30 AM Dave Poehler <poehler.e@gmail.com> wrote:

> Dear Mr. Holzer and Ms. Cannington:
>
> Please find attached a letter requesting my removal from the above referenced cases.
>
> Please reply to this email and confirm your receipt of this email, attachment and my removal from the cases.
>
> Please let me know if you have any questions or concerns.
>
> Thank you,
>
> Dave Poehler

Dave Poehler
12241 Harford Road
Glen Arm, MD 21057

February 29, 2020

Krysundra Cannington
Administrator
Board of Appeals of Baltimore County
Jefferson Building
Second Floor, Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204

J. Carroll Holzer Esquire
508 Fairmount Avenue
Towson, Maryland 21286

Ms. Cannington and Mr. Holzer:

Please take this as your authority to delete me as an appellant in cases 18-122-X and CBA-19-004 in the matter of the Nepali American Cultural Center and which are still active before the County Board of Appeals.

I am withdrawing as an appellant in these matters.

Thank you for your cooperation.

Sincerely,

Dave Poehler

Krysundra Cannington

From: Dave Poehler <poehler.e@gmail.com>
Sent: Saturday, February 29, 2020 10:31 AM
To: jcholzer@bcpl.net; Krysundra Cannington
Cc: Carol N Shaw
Subject: Nepali cases 18-122-X and CBA-19-004
Attachments: nepali case dave poehle_20200229_0001.pdf

CAUTION: This message from poehler.e@gmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Dear Mr. Holzer and Ms. Cannington:

Please find attached a letter requesting my removal from the above referenced cases.

Please reply to this email and confirm your receipt of this email, attachment and my removal from the cases.

Please let me know if you have any questions or concerns.

Thank you,

Dave Poehler

Dave Poehler
12241 Harford Road
Glen Arm, MD 21057

February 29, 2020

Krysundra Cannington
Administrator
Board of Appeals of Baltimore County
Jefferson Building
Second Floor, Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204

J. Carroll Holzer Esquire
508 Fairmount Avenue
Towson, Maryland 21286

Ms. Cannington and Mr. Holzer:

Please take this as your authority to delete me as an appellant in cases 18-122-X and CBA-19-004 in the matter of the Nepali American Cultural Center and which are still active before the County Board of Appeals.

I am withdrawing as an appellant in these matters.

Thank you for your cooperation.

Sincerely,

Dave Poehler

February 20, 2020

Krysundra Cannington
Administrator
Board of Appeals of Baltimore County
Jefferson Building
Second Floor, Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204

RECEIVED
FEB 24 2020
BALTIMORE COUNTY
BOARD OF APPEALS

J. Carroll Holzer Esquire
508 Fairmount Avenue
Towson, Maryland 21286

Ms. Cannington and Mr. Holzer:

Please take this as your authority to delete me as an appellant in cases 18-122-X and CBA-19-004 in the matter of the Nepali American Cultural Center and which are still active before the County Board of Appeals.

I am withdrawing as an appellant in these matters.

Thank you for your cooperation.

Sincerely,

Carol N. Shaw
7 Country Hill Court
Kingsville, Maryland 21087

PO Box 36
Fork, Maryland 21051

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
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February 13, 2020

NOTICE OF DELIBERATION ON MOTION FOR RECONSIDERATION

IN THE MATTER OF: Nepali American Cultural Center
12231 Harford Road
18-122-X 11th Election District; 5th Councilmanic District
And CBA-19-004

Re: Motion to Reconsider and Request for Hearing filed by J. Carroll Holzer, Esquire on behalf of Protestants, on February 6, 2020.

Pursuant to Rule 10 of the Board of Appeals' Rules of Practice and Procedure, a public deliberation is

ASSIGNED FOR: APRIL 2, 2020 AT 9:00 A.M.

LOCATION: Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

Any response to the Motion to Reconsider and Request for Hearing is due no later than
March 20, 2020 by 3:00 p.m.
(One original and three copies)

NOTE: PUBLIC DELIBERATIONS ARE OPEN WORK SESSIONS WHICH ALLOW THE PUBLIC TO WITNESS THE DECISION-MAKING PROCESS. ATTENDANCE IS NOT REQUIRED AND PARTICIPATION IS NOT ALLOWED. A WRITTEN OPINION AND ORDER WILL BE ISSUED BY THE BOARD WITHIN A REASONABLE TIMEFRAME AFTER THE CONCLUSION OF THE DELIBERATION. A COPY OF THAT OPINION AND ORDER WILL BE SENT TO ALL PARTIES.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

c: Counsel for Petitioner : Timothy Kotroco, Esquire
Co-Counsel for Petitioner : Lawrence E. Schmidt, Esquire
Petitioner : Nepali American Cultural Center c/o Kris Ghimire

Counsel for Protestants : J. Carroll Holzer, Esquire
Protestants : DeWitt and Mary Clark, David Hartman, Dave Poehler, Morgan Miner, and Carol Shaw

John A. Motsco/Little & Associates, Inc.

C. Pete Gutwald, Director/Department of Planning
James R. Benjamin, Jr., County Attorney, Office of Law
Michael D. Mallinoff, Director/PAI
Nancy West, Assistant County Attorney
Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge

IN THE MATTER OF: NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE 12231 Harford Road	*	BEFORE THE
	*	BOARD OF APPEALS
	*	FOR
11th Election District 5th Councilmanic District	*	BALTIMORE COUNTY
	*	
Case No.: CBA 18-122-X	*	Case No.: 18-122-X and
	*	Case No.: 19-004

* * * * * * * * * * * * *

MOTION TO RECONSIDER
AND REQUEST FOR HEARING

J. Carroll Holzer, Esquire on behalf of the Protestants, DeWitt and Mary Clark, David Hartman, Dave Poehler, Morgan Miner, Carol Shaw, Greater Kingsville Civic Association, Inc. and the Gunpowder Falls Watershed Preservation Association, hereby files this Motion for Reconsideration and Request for Hearing pursuant to Rule 10 of the Board of Appeals Practices and Procedures for Baltimore County and says:

I. Case No.: 18-122-X.

This order is contradictory and confusing. It includes contradictory conditions and even contradictions **within** conditions. Further confusion arises from the Board's Decision that focuses on the "Temple" when in fact the Applicant specifically applied for

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
FAX: (410) 825-4923

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FEB - 6 2020
BALTIMORE COUNTY
BOARD OF APPEALS

a Special Exception that encompassed the entire 30.8 acre property. These contradictions and confusion must be clarified for the benefit of the Applicant, Protestant and County officials who must enforce this decision. As written, this Decision is a recipe for conflict. Protestants ask this Board to define the general term "Religious Use" of property. Protestants are unfamiliar with the religious practices and sacraments of the Applicant. Since this decision becomes an approval with conditions, the terms of those conditions should be well specified. For example, what are the defined dates and periods of observance of the religious holidays that will require gatherings greater than the 150 congregants? What constitutes a religious function? How are the deceased interred? Cemetery, cremation, or other method?

Protestants are asking for this Reconsideration and Hearing to clarify and define what activities are acceptable under this Order to assure no misunderstandings in the compliance with this Board's Order.

This Order is granting a petition for Special Exception that is confusing as to its application to the subject site. The first paragraph states in part that it is "to allow a **building** for religious worship on the subject property, which is within an R.C. 2 zone." Other areas of this order reference the subject property as containing 30.8 acres as requested by the Applicant but does not specifically state whether the Special Exception applies to 30.8 acres or a portion thereof and other facilities/buildings located on the property. Protestants ask that the board clearly state in the Order exactly what part of the property is included within the Special Exception.

This Motion addresses the ambiguity and/or conflicts of several of the conditions contained in the order dated the 9th of January, 2020 issued by the Board of Appeals. Those are as follows:

1. **Condition #1** states, "Petitioner shall confine its hours of operation for non-religious events from 8:00 am to 9:00 pm." While Condition #12 states in part, "Cultural activities and/or other activities with a non-religious purpose shall take place offsite." These two (2) conditions conflict with each other. Protestants ask the Board to clarify these 2 conditions and resolve the conflict. Protestants request that the board address specifically what constitutes a non-religious event or purpose, what non-religious events or purpose are permitted, where they are to take place and when they are to take place.

2. **Condition #6** states, "Petitioner shall add landscaping to serve as an additional light and sound buffer between Petitioner's border with the Poehler property to increase the buffer density along the Property's border with the Poehler property in order to help screen the Property from the Poehler house and its curtilage. Petitioner shall add additional landscaping particularly at the Harford Road side (western side) of the multi-purpose court to serve as an additional light and sound buffer between Petitioner's property and the Clark property and/or others in that area."

The Board must specify a professional standard to be met or arbitrarily define the measurements of this buffer. The intent of the buffer is unclear and standard should be defined with respect to the objective sound and visual mitigation in tended by this Board.

3. **Condition #7** states in part, "with sole exception for any plantings required for onsite for religious use." Protestants ask the Board to provide a complete list of what plants are required for onsite religious use. Invasive species can be detrimental to the ecology of this area of our County. The spread of invasive species is difficult, if not impossible, to contain. Also address what "***non-native plants***" are required for use for religious purposes on the property. What is the Applicant's responsibility for acquiring the federal permits needed to import nonnative plants and animals into the United States?

4. **Condition #9** states, "The outdoor amplification of sound shall not be permitted." Protestants ask the Board to address all sound since voices and percussion and other musical instruments can generate excessive noise (sound waves) without being amplified. We suggest including the following: No sound greater than 60 dba during daytime hours between 7:00 a.m. and 10:00 p.m., or 50 dba during nighttime hours between 10:00 p.m. and 7:00 a.m. shall emanate from the property except that associated with grounds maintenance.

5. **Condition #11** states, "Petitioner shall not organize, host, invite, conduct, or participate in any athletic program, league, or tournament on site. This condition does not preclude Petitioner from using the multipurpose court for athletic games or contests, only athletic programs, leagues, and or tournaments." Protestants ask the Board to provide a clear and complete definition of:

1. What is meant by athletic games and/or athletic contests, and
2. What is the difference between a contest and tournament?

6. **Condition #12** states, "Petitioner shall not use the Property as a community center, unless such community center-type activity is in furtherance of the exercise of religious and/or operation of the temple. Cultural activities and/or other activities with a non-religious purpose shall take place offsite." Protestants ask the Board to address the following:

1. List all the community center-type activity that is used in furtherance in the exercise of religion and/or operation of the temple. Each activity needs to be listed.

2. All religious purposes and uses need to be clearly defined in detail.

It is to the advantage of the Applicant as well as the Protestants to clearly understand what constitutes "***religious use***" of the property. These understandings should be clearly spelled out in this Board's Decision to avoid future conflict.

7. Protestants are ***requesting that this Motion to Reconsider include an additional condition*** to address Baltimore County building code requirement "Change of Use". Baltimore County Chief Building Inspector in Permits, Approvals and Inspections identified that the subject property dwelling is currently identified as a "Single Family Dwelling (SFD)" as a Change of Use Permit has not been obtained. Petitioner shall obtain from Baltimore County Permits, Approvals and Inspections a Change of Use Permit.

II. Case No.: 19-004.

First, the Protestants ask this Board to *reconsider its decision considering the "ex parte" letter* signed by Administrative Law Judge Beverungen on July 2, 2018. (See Appendix A) and introduced as evidence by the Applicant on July 19, 2018. The Applicant verbally introduced this letter as a reason to overrule Protestants' very first motion. Despite a promise to provide a copy of this order, the Applicant never entered it as evidence.

Subsequent rulings of the Board regarding the legal merits of this order contradict this first finding.

Contrary to the Board's extensive discussion, this *"ex parte"* agreement between ALJ Beverungen and the Applicant (which was withheld from the Protestant until a request was made to the senior ALJ Stahl) had an extensive impact on the case, (which was prejudicial to the case of the Applicant).

The attempt to withhold the July 2, 2018 letter is documented in the letter to ALJ Beverungen memorializing a conversation with his office on July 24, 2018. (See Appendix B). There was no response to this certified letter.

As noted, it was used by the Applicant to convince the Board to overrule valid motions entered by the Protestants. This was despite the fact that the Board later recognized this Order was improper and had no legal effect as ALJ Beverungen lost jurisdiction upon the appeal of his decision. This should have been obvious to all involved.

The distribution of this *"ex parte"* order (which was withheld from Protestants, including no notification to Protestants' Counsel of record) which had no legal effect, was a ruse to enable County Zoning officials to ignore violations of current County and State regulations.

As an example, the July 25, 2018 gathering at which over 500 attended in violation of the original (and only valid) ALJ Decision and requirement of Maryland State Highway Administration. This is documented in the letter to County Executive Mohler from Kotroco on July 25, 2018. (See Appendix C).

Second, (Appendix D) contains an email copy of the prior Cease And Desist from Van Dommelen dated July 10, 2018 which the above *"ex parte"* and illegal order of ALJ Beverungen was used to override.

Upon Protestants' reports of this violation, the Protestants were told this *"ex parte"* order forbade the County from action. In fact, Mr. Ghimire himself testified how an elected official confronted a County Inspector who made the mistake of responding to the reports of the Protestant.

Central to this Board's Decision was the discussion that the Protestants had little trust for the Applicant but could provide no history of code violations. As documented by Appendix C and Appendix D, **Mr. Beverungen's *"ex parte"* order is the reason there is no record of code violations.**

Thirdly, the Board found there is no intent to use the property for purposes other than a place of worship.

Yet when Applicant applied to ALJ Beverungen for the *"ex parte"* Order of July 2018, they requested the order be amended to restrict the Special Exception request to the main building and for the remaining 28 or so acres to be excluded from the Special Exception.

Yet, this Board heard Mr. Ghimire testify that that Applicant **NEEDED** the Special Exception to apply to the entire property. This contradiction between testimony and the act of asking for the contents of the *"ex parte"* letter in itself makes this *"ex parte"* letter relevant to the Protestants' case.

In light of these facts, the Protestants request this Board to reexamine the record and reconsider:

a. The Board's ruling on Protestants' Motion Number 1.
b. The prejudicial impact of this *"ex parte"* order on the enforcement history of this case.
c. The veracity of Applicant representations and the weight to be given to testimony provided by the Applicant.

CONCLUSION

Despite the effort and the length of time the Board spent in deciding this case, this final Order and Decision fails to clarify how the Applicant may use the property. In fact, it virtually ensures conflict between the Applicant and Protestants and confusion of those

in the County required to enforce this Decision and Order. The inclusion of conflicting requirements within a Condition for Use (Condition 11), failure to define Religious Use (Conditions 12 and 7) and the overarching contradiction between the Applicant's use of the property for religious purposes (Condition 1 versus Condition 12), will clearly cause additional litigation between the parties and the County. The Protestants request the Board to resolve these contradictions and conflicts.

The Protestants respectfully request a Hearing to clarify and resolve these issues before the need to file a Petition for Judicial Review.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
J. CARROLL HOLZER, P.A.
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
jcholzer38@gmail.com
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of February, 2020, a copy of the foregoing Protestants Motion to Reconsider and Request for Hearing was mailed first class, postage pre-paid to the following:

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, Maryland 21204

J. CARROLL HOLZER, Esquire

APPENDIX

TIMOTHY M. KOTROCO, Esq.
305 Washington Avenue, Suite 502
Towson, Maryland 21204
410-299-2943
Tkotroco@gmail.com

RECEIVED
JUL 26 2018
DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

July 2, 2018

The Honorable John E. Beverungen
Administrative Law Judge for Baltimore County
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204

Re: Case No. 2018-0122-X, Petition for Special Exception
Request for Clarification of Your Order Dated January 22, 2018

Dear Judge Beverungen:

I write to you on behalf of my clients, the Nepali American Cultural Center and the zoning Order that you wrote approving the use of a building on their property for religious worship. The decision you wrote was dated the 22nd day of January, 2018 and a copy of that decision is attached hereto.

As you may know, some of the protestants who appeared at the hearing before you filed an appeal to the Board of Appeals and the case is currently pending before that agency. In the meantime, my clients have continued to repair the damage that has been done to the property by the local residents and continue to maintain the grounds, as they should.

At issue at this time is the language contained within your Order, specifically the seven restrictions located at the end of your approval. My clients have scheduled a fundraising event which is proposed to occur on the grounds of the subject property. These fundraising events are very important to the owners of the property as the repairs to fix the damage done to the property over the years has been extensive. This fundraising event is scheduled for July 29th to August 3rd, 2018.

I have attached to this letter a post that was taken from Facebook which advertises this event. As you are aware, social media, such as Facebook is an effective way to inform people of an event such as this fundraiser. Baltimore County Code Enforcement was provided a copy of that Facebook post by one of the protestants. Code Enforcement is attempting to assert that we cannot gather on our property because of the language of your restrictions contained within your Order. The fundraiser will be held outside on the property and not within the building. In fact, the building is not occupiable at this time as it still is not connected to water or sewer. It is however, anticipated that my clients will provide walking tours of the building to show the extensive improvements they have made to the property, of which they are very proud.

APP. "A"

Based upon this letter and the attachments hereto, I respectfully request your interpretation of your Order, specifically the restrictions contained therein as to whether it is appropriate for my clients to host this gathering event on the grounds of their property or whether such actions would violate the restriction you imposed upon them.

I have included a simple statement at the bottom of this letter for you to sign, should you deem it appropriate. Thank you for your time and consideration of this matter.

Very truly yours,

Timothy M. Kotroco

Timothy M. Kotroco

I understand the owners are proposing to host a gathering on the property July 29th through August 3rd, 2018. I also understand the Code Enforcement Bureau contends that the gathering would violate the terms and conditions of my January 22, 2018 Order granting special exception relief. I respectfully disagree and would note those conditions (as envisioned by BCZR section 502.2) related solely to the operations of a building for religious worship, which was the relief granted in the special exception case.

The owners are free to gather on their property so long as no religious activities are occurring within the subject building and all other permit requirements, if any, are satisfied. If this is the case, there is no violation of my Order. This owner should be treated no differently than any other citizen who wishes to host a party, a picnic or any other social event on their property.

7/3/2018
Date

John E. Beverungen, ALJ

TMK/mtk
Attachments

12150 Harford Road
Glen Arm, MD 21057
July 24, 2018

Honorable John E. Beverungen
Administrative Law Judge for
Baltimore County
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, MD 21204

Judge Beverungen,

I just finished a conversation with Sherry of your Office. Earlier today I dropped off a complete copy of the preliminary motion Carroll Holzer, Esq. entered into the record during the proceedings on 19 July 2018.

As I explained in the note I left with her earlier, Larry read what is purported to be a letter from you into the record sans evidentiary copies. This meant we could not test the veracity of his interpretation. However, he interpreted it to mean you approved of the 1,000 person fundraiser scheduled for 28 July to 3 August at the property located at 12231 Harford Rd. This is in spite of the record of NACCB Inc.'s open defiance of the seven conditions set forth in your 22 Jan. 2018 decision granting a Special Exception to NACCB, Inc. (see copy of Protestant's Exhibit No. 1 left with Sherry).

I was informed by Sherry that you kept no file copy and that we will have to wait on Mr. Kotroco's leisure to get our copy and even that will not be provided to me, the primary protestant of standing or as President of the Association represented by Mr. Carroll Holzer, Esq.

I was further informed that Mr. Kotroco in fact prepared that letter for your signature and that upon review you signed it as some kind of letter of intent. I am very unclear about what that means or in fact how you intended for your letter to be used.

If I any of my understandings are imperfect, please correct them. Thank you for your time.

Respectfully,

DeWitt S. Clark, Ph.D.
President
Gunpowder Falls Watershed Preservation Association

APP. "B"

Protestant Exhibit 10

TIMOTHY M. KOTROCO, Esq.

305 Washington Avenue, Suite 502
Towson, Maryland 21204
410-299-2943
Tkotroco@gmail.com

July 25, 2018

The Honorable Donald I. Mohler, III
County Executive for Baltimore County
400 Washington Avenue, Mezzanine Level
Towson, Maryland 21204

Re: Nepali American Cultural Center
Request for Police Protection

Dear County Executive Mohler,

I write to you out of great concern for the safety and welfare of a group of Baltimore County citizens. I have been working with the Nepali American community for over the past year. These families have become an integral part of Baltimore County having established themselves as successful business owners, doctors, engineers and otherwise productive members of our Baltimore County community.

Not long ago, these families gathered together and purchased an abandoned 30 acre estate formerly owned by Towson attorney, Robert DiCicco. The property is located at 12231 Harford Road in Glen Arm, Maryland. This estate property was abandoned and was severely vandalized by local residents. It was foreclosed upon by the bank who held the mortgage and was heading to auction. The Nepali community pooled together their resources and purchased the subject property.

Over the past year, these Baltimore County families have been investing their money, time and energy repairing the damage that the neighbors did to this property and today, the property is once again a showpiece. I have witnessed this transformation myself and this property now stands as one of the nicest estates in Baltimore County.

The goal of our Nepalese community is to utilize the subject property as a Temple for the purpose of exercising their religious freedoms. I represented the Nepali community at a hearing before the Honorable John E. Beverungen who approved the use of the property for that purpose. This will be the very first Buddhist Temple in Baltimore County. At the present time, these Baltimore County residents must travel to Finksburg, Carroll County to practice their religion.

The case is now on appeal before the Board of Appeals and I am confident that we will prevail at that level. We have not yet begun to occupy the building for religious worship as our building is not yet served by well and septic. The new owners have decided to abandon the old

Protestant Exhibit 10

well and septic systems and install brand new state of the art systems, which will be designed and approved by Baltimore County. That effort should be completed in the very near future.

A great deal of misinformation has been spread and I wanted to share some factual information with you before I got to the purpose of this letter. The reason for writing to you is to request police protection for an event that we have scheduled to occur this Saturday, July 28 at 10 am. (Set-up will begin at 9 am) The event is an open house picnic-fundraiser which will occur on the grounds of our 30 acre estate. Our gathering will occur within a tent that is being provided by Loane Brothers and portable toilets will be used for the convenience of our guests and families. Tours will be given of our newly renovated building. Our picnic will continue throughout the day on Saturday until 8pm and will continue each day until concluding on Friday, August 3rd. We hope to have as many as 200 people visit over the course of a 10 hour day. My wife Laura and I will be attending. The amount of visitors will dwindle over the ensuing days.

It is of paramount importance that our Nepali residents have police protection at this event on Saturday and Sunday and maybe over the week depending on how the picnic progresses. I make this request because of statements that were made at our hearing before Judge Beverungen and recent social media posts that cause me great concern. There are examples of events that have occurred across our country where tragedies have occurred that could have been avoided, had local government taken proper precautions. On behalf of the Nepalese community in Baltimore County, I ask that of your administration.

State Senator James Brochin and Councilman David Marks have been actively involved with our Baltimore County Nepalese community. Senator Brochin has spoken with Captain Lamont Martin of our Police Department, Precinct 8. Captain Martin indicated that he would have police protection available for our picnic.

Lastly, there have been allegations that our scheduled picnic violates the conditions of Judge Beverungen's decision. Judge Beverungen recently issued a written statement indicating that the picnic-fundraiser scheduled for this upcoming week in no way violates the terms and conditions of his Order and that the Nepali community is free to have a picnic gathering on their property just like any other Baltimore County citizen could do. I am sure Judge Beverungen would share that opinion with you were you to give him a call.

I am available and would welcome an opportunity to meet with you to discuss this matter in more detail. Thank you for your consideration of this request.

Very truly yours,

Timothy M. Kotroco

cc: The Honorable James Brochin
The Honorable David Marks

FW: 12231 Harford Road

Here is the latest letter sent. Disregard the previous one which was a old draft.

Vincent J. Gardina, LEED AP

Director

Baltimore County Department of Environmental Protection and Sustainability

111 W. Chesapeake Avenue

Towson, MD 21204

410-887-3776

From: Lionel Van Dommelen
Sent: Tuesday, July 10, 2018 10:24 AM
To: Vincent Gardina <vgardina@baltimorecountymd.gov>; Arnold Jablon <ajablon@baltimorecountymd.gov>
Subject: RE: 12231 Harford Road

This is the correct letter.

Mr, Kris Ghimire, Resident Agent

Nepali American Cultural Center of Baltimore, Inc.

8030 Belair Rd., Nottingham, MD 21236

July 1, 2018

Re: 12231 Harford Road

Mr. Ghimire,

APP. D Protestant Exhibit #10

It has come to our attention that there have been advertisements for an event at your property

located at 12231 Harford Rd. to be held from July 29 to August 3. There have also been allegations of health code violations, including photos, submitted to us by concerned neighbors.

I am aware of the hearing before the Administrative Law Judge, and notwithstanding the approval Judge Beverungen granted, there has been no compliance with the terms and conditions as set out in that decision. Because these terms have not been met, any event such as that which is being advertised will constitute a violation of that order and a violation of the zoning regulations, as well as possible violations of the health code. If your organization holds this scheduled event, an immediate citation will be issued.

Sincerely,

Lionel van Dommelen, Chief

Bureau of Code Inspections and Enforcement

CC;

Mr. Timothy Kotroco, Esquire

Towson Commons, Suite 300

One West Pennsylvania Avenue

Towson, MD 21204

IN THE MATTER OF:	*	BEFORE THE
NEPALI AMERICAN CULTRUAL CENTER OF BALTIMORE 12231 Harford Road 11th Election District 5th Councilmanic District	*	BOARD OF APPEALS OF BALTIMORE COUNTY
	*	Case No.: 18-122-X and CBA-19-004

* * * * * * * * * * * * *

OPINION AND ORDER

This matter comes before the Board of Appeals, on appeal from the Administrative Law Judge Opinion and Order, dated January 22, 2018, granting a Petition for Special Exception to allow a building for religious worship on the subject property ("Property"), which is within a Resource Conservation-2 (RC-2) zone, pursuant to Baltimore County Zoning Regulations §1A01.2(C)(6). Lawrence E. Schmidt, Esquire and Timothy M. Kotroco, Esquire represent Petitioner, Nepali American Cultural Center of Baltimore, Inc. J. Carroll Holzer, Esquire, represents Protestants, Dewitt and Mary Clark, David Hartman, David Poehler, Morgan Miner, Carol Shaw, Greater Kingsville Civic Association, Inc., and the Gunpowder Falls Watershed Preservation Association.

Case No. CBA-19-004 was joined with the special exception appeal. In that case, Protestants appeal the effect of a letter and response between Mr. Kotroco, on behalf of Petitioner, and Administrative Law Judge Beverungen, wherein Petitioner was seeking to clarify whether Petitioner could hold a fundraiser on the Property from July 29, 2018 to August 3, 2018. Judge Beverungen, in his response dated July 3, 2018, stated, *inter alia*, "the owners are free to gather on their Property so long as no religious activities within the subject building and all other permit requirements, if any, are satisfied...."

The hearing on this case occurred over the course of 11 days between July 2018 and February 2019. On November 1, 2018, Protestants identified four CDs of video and audio files, as well as related photographs, it sought to introduce into evidence. Given the volume of files, counsel for Petitioner was not in a position to review all audio and video files in court and therefore, the Board gave counsel for Petitioner the opportunity to review and file written objections, which counsel did. The Board then permitted counsel for Protestants to file a written response in advance of the next scheduled date, November 29, 2018. That hearing day was used as an evidentiary hearing to resolve the objections and determine the admissibility of photographs and video and audio files Protestants had compiled and wished to introduce into evidence.

Over the course of hearing dates, Petitioners presented testimony from: (1) Kris Ghimire, as a trustee for Petitioner; (2) Binod Upreti, a life member of Petitioner; (3) John Motsco, P.E., as an engineering expert and as the engineer of record for the proposed project; (4) Joseph Colaggero, a traffic engineer expert; and (5) James Powell, a Licensed Environmental Specialist. Individuals Ida Twining, Pastor Daniel Montague, and Marcia Barton, also testified in favor of the petition.

Protestants presented testimony from the following witnesses: (1) adjacent neighbors, Dr. Mary Clark and Dr. Dewitt Clark, who live across the street from the Property; (2) Dr. Dewitt Clark also appeared on behalf of the Gunpowder Falls Watershed Preservation Association; (3) Dave Poehler, who lives next door to the subject Property; (4) Joyce Mason, who lives just over a mile from the Property; (5) the aforementioned Mr. Ghimire (trustee for Petitioner) as an adverse witness; (6) Bruce Morgan, a Kingsville resident; and (7) Protestants' land planning and zoning expert, Christopher Jakubiak. The Greater Kingsville Civic Association, Inc. also joined the opposition to the proposal.

The Board conducted its public deliberation on March 13, 2019.

I. Summary of Testimony

A. Petitioner's Witnesses

As noted above, Petitioner had two witnesses from its organization testify on its behalf, Kris Ghimire and Binod Upreti.

* Kris Ghimire --- Mr. Ghimire testified that he was born in Nepal, came to this country in 1998, and became an American citizen. Mr. Ghimire is a real estate broker in the area. Mr. Ghimire is a founding member of Petitioner's organization and serves on its Board of Trustees, with all of his work for the organization being voluntary. Mr. Ghimire testified that the organization's "single mission" is to establish a Hindu Temple in Baltimore County. Mr. Ghimire estimated that there are 5,000-10,000 people of Nepali heritage in the Greater Baltimore Area.

Mr. Ghimire provided evidence regarding how the Property is to be used. Mr. Ghimire also provided the details regarding some of the religious practices to be observed at the Property, including holidays and special events. Much of Mr. Ghimire's testimony on these points is specifically identified and reviewed in Section IV, Petition and Use Evidence, *infra*, and need not be addressed here. Mr. Ghimire was also called as an adverse witness by Protestants. The issues brought up during that testimony merit separate discussion at the end.

* Binod Upreti --- Mr. Upreti is a life member of Petitioner. Like Mr. Ghimire, Mr. Upreti is originally from Nepal and came here in 1998. Mr. Upreti testified that to go to temple now he must travel to Westminster and Finksburg, Maryland, and on occasion to Queens, New York. Mr. Upreti agreed with Mr. Ghimire's description of the proposed operations of the temple at the Property. Mr. Upreti's motivation for testifying was to communicate to those who oppose the Petition that Petitioner is there for peace and harmony, and is willing to address concerns.

Neighbors from the general area also appeared to provide vocal support for the Petition:

* Ida Twining --- Ms. Twining lives one and a half miles from the Property at 11511 Harford Road, in Glen Arm. Ms. Twining has lived at her present address for 35 years and her husband's family had been there for over 200 years. When Ms. Twining learned of and attended the post-sale open house at the Property. She described the Property as having long been in disrepair, defaced by graffiti. She saw "mountains of plastic bags filled with beer cans and all sorts of trash." She does not believe the Property is appropriate for farming and does not believe it has ever been farmed in the time she lived in the area. She feels the Property is "uniquely suited" to serve as a worship center. Ms. Twining expressed her happiness to welcome Petitioner to the community. Ms. Twining also provided testimony about the growth of the area and traffic, as outlined in more detail in Section III, Residential/Commuter Growth and Area Traffic Conditions, below.

* Daniel Montague --- Mr. Montague is a pastor with the United Methodist Church, leading the Fork United Methodist Church and the Waugh United Methodist Church. The Property is in between the two churches, about two miles from each. Like Ms. Twining, Mr. Montague visited the site after the sale. Mr. Montague supports the Petition.

* Marcia Barton --- Ms. Barton grew up in Kingsville and presently lives approximately 8-10 miles from the Property at 11909 Woodberry Place in Kingsville. Ms. Barton decided to attend and testify as she felt some of the objections and concerns raised by others at one or more meetings were unfair to Petitioner. She felt some were misinformed and some failed to take into account existing uses already accepted by the community. In particular, she identified St. Stephen's Church on Bradshaw Road. The church hosts festivals and carnivals and has a school. She believes that the temple will cause less traffic and noise than St. Stephen's Church even if the proposed temple has larger events. In sum, Ms. Barton supports the Petition.

Petitioner also called three expert witnesses, Mr. John Motsco, an engineering expert, James Powell, a Licensed Environmental Specialist and Mr. Joseph Colaggero, a traffic engineering expert.

* John Motsco, P.E. --- Mr. Motsco, of Little & Associates, was accepted as an expert in civil engineering. Mr. Motsco worked on the plans for the Property and is the engineer that sealed them. Mr. Motsco visited the Property on two occasions and relied on Baltimore County GIS for other information. He provided the physical description of the Property, identifying it as 30.8 acres, zoned RC-2, and identified the structures and other site improvements.

Mr. Motsco described the plan, which, as he testified, had limited building improvements, all currently existing. Petitioner will use the existing driveway leading to the house (to be converted to a temple). A fire department turnaround will be installed, as will the required parking spaces. After acknowledging "cosmetic improvements", Mr. Motsco testified that there would be no new structures. Mr. Motsco understands that the pool and the structures that serve the pool are to be removed. He described the Property as being surrounded by woods, with the narrowest swath along Harford Road (close to the entranceway) 50-60 feet in width, and the area along the western edge being approximately 100 feet in width. There is a stream at the southeastern and southern property lines, weaving on and off the Property. No proposed construction is near the stream. The proposed parking area will be 500-700 feet away from the stream. Mr. Motsco testified that Petitioner does not anticipate any clearing of the wooded area.

Mr. Motsco also provided testimony about the general area, noting wooded vegetation and trees to the east and south, with some farmland and scattered houses beyond the wooded areas. Also to the east are Christian Redeemer church and school and the Beachmont Camp, by Beachmont Christian Ministries. Both include recreational and athletic facilities. On the northern

and western borders along Harford Road, there are single-family houses. There are no farms or agricultural uses near the Property, let alone adjacent. Mr. Motsco testified that the present-day house (proposed temple) can be visible at certain points while traveling on Harford Road, but otherwise is generally screened by the trees and "extreme topography" along Harford Road.

Mr. Motsco presented numerous photographs of the Property and the surrounding area. Mr. Motsco testified that the Maryland Historic Trust designates the Property grounds and the existing barn as historic. As is noted below, the Property ("Bella Vista") was originally developed by Charles Bonaparte, a nephew of Napoleon Bonaparte, who was also the former Attorney General of the United States and Secretary of the Navy in President Theodore Roosevelt's administration. The original house burned down in the 1930s. The Property is served by well and septic systems, though the existing systems are considered non-functional at this time. Mr. Motsco is aware of efforts to locate new well and septic facilities and believes the Property is large enough for those systems to accommodate the proposed use. Mr. Motsco's plan calls for 38 parking spaces in a lot, with some additional spaces closer to the proposed temple. If overflow parking is needed, vehicles could use the nearby grass areas.

Mr. Motsco was asked about certain special exception factors. First, he gave his opinion on the boundaries of the neighborhood, defining it as the Harford County border to the north, Bel Air Road to the East, Long Green Pike Road to the west, and "a river" to the south. He noted that the general area is rural and the best way to define the neighborhood are the physical boundaries. He testified that the proposed use would not be detrimental to the health, safety and general welfare of the locale, contending the minimal scope of work, the size of the Property, and low intensity of use support that opinion. Mr. Motsco did not believe the proposed use posed any potential hazard of fire, panic, or danger greater than at any other location in the zone. He also believed the

permitting process and conversion from residence to a temple would address issues arising from the building being in disrepair.

Mr. Motsco did not believe that the proposed use would cause any undue concentration of population given the size of the Property, the anticipated small congregation, and relatively small structure. Public water or sewer does not serve the Property. The distance of the building from other properties prevents it from interfering with adequate light and air. Mr. Motsco was not aware of any clearing necessary for any part of the proposal and for that reason, he believed the use would be consistent with the County's provisions regarding impermeable surfaces and vegetation. As for any environmental impacts, he testified that any concern could only arise from the parking, but again, no clearing was required. As such, Mr. Motsco's opined that there are no detrimental impacts beyond the inherent effects that will be caused by the proposed use. No variances are needed for this Petition.

On cross-examination, Mr. Motsco testified that runoff from the main building would drain to the south (toward the barn). Runoff from the proposed parking area would flow to the north (toward Harford Road). The number of parking spaces was generally determined by the County based on the representation of the number of expected regular attendees. The zoning regulations require one space per four seats, but this proposed temple does not have pews or seats. Mr. Motsco recalled telling the County that they would have a maximum normal attendance of 150 attendees. Mr. Motsco did not estimate or analyze the number of vehicles the adjacent grassy area could accommodate. Mr. Motsco acknowledged that his testimony on direct is based on the anticipated day-to-day use of the facility and not on special events. When asked, Mr. Motsco also estimated the distance from the tennis court to the Clark residence (12150 Harford Road) to the west of the Property as between 300-350 feet.

Protestants' counsel asked Mr. Motsco about plans to mitigate sheet flow from the Property, across Harford Road, toward the Foxworthy property at the northwest corner of the Harford Road/Bonaparte Avenue intersection (at the northern border of the Property). Mr. Motsco testified that no analysis had been done by the time of his testimony, but added that, at present, there is a roadside ditch and a storm drain inlet on the Property side of Harford Road. Looking at photographs, Mr. Motsco noted that Harford Road is sloped away from the Foxworthy property and toward the Property. On redirect examination, Mr. Motsco testified the County will require a grading plan and will determine if any additional measures are required. In addition, Mr. Motsco testified that the existing woods aid the current drainage and the expectation is they will aid the anticipated drainage from the parking area.

* James Powell --- Mr. Powell worked for the Baltimore County Department of the Environment, now the Department of Environmental Protection and Sustainability (DEPS), for 37 years and four months, rising to the level of Field Supervisor for the Soil Evaluation Section. During his time with the County, Mr. Powell conducted soil tests and supervised others doing the same for new construction or repair of failing septic systems. He also reviewed septic plans, estimating the number of plans as "thousands." Mr. Powell has been a Licensed Environmental Specialist for 33-35 years. Mr. Powell was offered, and received, as an expert to opine on the feasibility of a septic system for the proposed use.

Mr. Powell visited the Property two times. He did not conduct a soil evaluation test. Rather, he used the USDA Soil Survey Manual. Mr. Powell identified the soils in the cleared area as manor soils, which are derived from weathered schist. The soils are not alluvial or colluvial. Though the Property sits on a knoll and ridgeline (heading south/southwest), he did not consider the Property unique because of its height relative to other properties in the area.

Mr. Powell prepared a Water Usage Summary based on numerous factors, including anticipated number of visitors, whether food is served, whether food is prepared on or off site, and whether portable facilities are available for outside functions. He was provided information by the Petitioner for these factors. He understood that the temple would not have a commercial kitchen. To do so would require all-new appliances and a hood with a fire suppression system. Mr. Powell testified that he received County approval for his water usage report.

He testified that the next step to gain approval for the septic system is to file for a soil percolation test application. The tests to be conducted are done by personnel from the DEPS. Either the location would be approved or DEPS would require additional tests at an additional area. Mr. Powell testified that, given the size of the Property, he felt confident that there will be sufficient septic area to meet the intended usage and the septic system would not affect any adjacent properties.

On cross-examination, Mr. Powell was asked about whether vehicles could park on top of the septic field. Mr. Powell stated that it depended on the physical construction characteristics and system components. The County now uses deep trench systems, which he described. However, another system design is a shallow pressure dosing system. He testified if there was to be parking on top of the septic field, a system can be engineered to accommodate the parking, but it needs to be known ahead of time. Nevertheless, Mr. Powell opined, with "99% probability," a pre-engineered system will not be required here because he expects a deep trench system. Even still, when Petitioner files for a building permit, they will have to identify the overflow parking area and DEPS will issue its "standard...comments" to keep parking out of the septic area. If that cannot be avoided, the system will need to be engineered accordingly.

With respect to the anticipated well, Mr. Powell testified about that process, noting that DEPS requires a minimum yield and minimum storage capacity. For festivals, Mr. Powell did not see a concern as no food will be prepared on site, the kitchen would not be available for use, and there will be portable facilities outside. Mr. Powell understood that the well would serve the main building only. Mr. Powell anticipates that the new well location, which he marked, was between 355-400 feet from any well on an adjoining property.

Mr. Powell testified that first, the well site location is selected, and then a completion report is prepared. Once the County receives the completion report, the County assesses the well capacity to serve the intended use as identified. The determination of what storage capacity and what size storage tank is needed, and ultimately approval, occurs after the well is built. The County will require the older well and septic system to be disconnected and backfilled.

* Joseph Colaggero --- The testimony of Mr. Colaggero is discussed in substantial detail in the traffic discussions below and need not be addressed to the same level of detail as the other witnesses here. Nevertheless, Mr. Colaggero, Vice President of The Traffic Group, Inc., provided testimony regarding the proposed redesign of the Property entranceway, improving sight distances, the existing road conditions, traffic accident history, and the need for an access permit from State Highway Administration (SHA), as Harford Road is a state road (Md. Rt. 147). Mr. Colaggero also conducted several analyses of the particular stretch of Harford Road around the Property, and in particular, near Bonaparte Avenue. More specifically, Mr. Colaggero examined the road capacity and operations, performed a sight distance analysis (and a revised analysis), and a speed study between September 26, 2018-October 9, 2018.

Because of his analyses and examinations, Mr. Colaggero concluded that the stretch of Harford Road relevant to this case had sufficient capacity and the proposed use of the Property,

based on the representations made as to the use, will not cause traffic congestion beyond what exists today. Mr. Colaggero also opined that, with the requirements from SHA for the entranceway and exit from the Property, the proposed use will not detrimentally impact safety and may, in fact, improve it over existing conditions. Again, Mr. Colaggero's testimony is discussed in much greater detail below in Section III, Residential/Commuter Growth and Area Traffic Conditions and Section VI(C) Application of the BCZR §502.1 Special Exception Factors, (2) Congestion in Roads, Streets and Alleys.

B. Protestants' Witnesses

* Dr. Mary Clark --- Dr. Mary Clark lives with Dr. Dewitt ("Dewey") Clark, her husband, at 12150 Harford Road. She has lived there for 33 years. The Clark property sits across Harford Road from the Property, though it is behind trees and other vegetation and sits at a lower elevation than the Property. The combination of these features obscures the Clark property from Harford Road. She estimates her house is about 100 feet from Harford Road.

Dr. Mary Clark also identified her community as the "Long Green-Haystack Valley Community," further defining it as those living within a mile and half of the Property. However, she provided clarification on cross-examination as to her criteria as to what properties are within her neighborhood (discussed below). She contends that where she lives is "one of the last rural valleys in Baltimore County." Dr. Mary Clark raised concerns regarding her "right to solitude and quiet enjoyment of [her] property in a rural RC-2 zone," as well as "personal safety and the increased traffic on Harford Road."

Dr. Mary Clark identified several multi-day events that produced, what she considered to be, "very loud, amplified sound and music." She added that even with her windows closed, the noise was "highly disturbing." So much so that midway through a fundraising event held at the

subject Property from July 28th to August 3rd, the Clarks decided to go out of town for the tail-end of the event. Dr. Mary Clark also takes issue with the noise emanating from the multi-purpose court, identifying "constant percussive screaming and yelling," which was "destroying [her] peace and solitude." She has heard noise from the court starting as early as 8:15 am on Sunday mornings and going until dark. She likened the experience to living next door to a "recreation field, ball field, or a playground."

With respect to traffic, she described Harford Road as a "narrow, two-lane road with blind curves and no shoulder." She referred to the Property as being located "right in the middle of one of the most treacherous sections of road in Baltimore County." She and her husband have heard, witnessed, and assisted with traffic accidents occurring along the curves. In fact, she and her daughter had an accident at a blind curve close to the Property when a vehicle crossed the centerline. She felt that large, multi-day events at the Property would endanger the area residents and imperil attendees of those events. Dr. Clark stated that a range of vehicles use Harford Road, including commuter traffic, tractor-trailers, bicycles, and farm equipment. She also noted the regular presence of deer, which poses an additional hazard.

Much of Dr. Mary Clark's testimony concerned her experiences observing and witnessing the larger events already held at the Property. It is fair to say that Dr. Mary Clark does not trust the representations made by Petitioner with respect to operations at the Property, the number of regular attendees, the number of attendees for larger events, sound amplification, and other relevant issues. Dr. Mary Clark believes that the proposed use will cause detrimental impacts to the surrounding area. She provided her opinion as to whether the proposed use can satisfy the Baltimore County Zoning Regulations §502.1 criteria, identifying certain factors for which she contends there is sufficient evidence to show the detrimental impacts.

On cross-examination, Dr. Mary Clark found Mr. Colaggero's testimony as to the number of vehicle trips (over 2 million) on the relevant section of Harford Road per year not surprising. Dr. Mary Clark testified the existing traffic "very seldomly" has an impact on her tranquility and solitude, describing the noise as "a gentle swish," like "hear[ing] the ocean at night." Dr. Mary Clark clarified the noise from additional vehicles was not her concern; rather, it was that increased traffic may lead to more accidents. To that end, she alluded to witnessing "dangerous behavior" at the entrance and exit of the Property that nearly resulted in accidents. Dr. Mary Clark testified that she does not hear from her house the activities at the Christian Redeemer and Beachmont Camp properties.

When asked about the properties in her neighborhood, Dr. Mary Clark testified she does not consider the adjacent Christian Redeemer church and school or the Beachmont Camp to be part of the neighborhood because it has different zoning (though recognizing, she is not a land use expert). Dr. Mary Clark also stated that she was part of a group of local residents recently who opposed a request to support what she described as an expansion for either the Christian Redeemer property or the Beachmont Camp property.[1]

* Dr. Dewitt ("Dewey") Clark --- Dr. Dewey Clark appeared individually and as the authorized representative for the Gunpowder Falls Watershed Preservation Association. Dr. Dewey Clark presented testimony over several days, including November 1, 2018, January 29, 2019 and January 30, 2019. What was made clear from Dr. Dewey Clark's testimony is that Dr. Dewey Clark has spent substantial amount of his time tracking the comings and goings at and from the Property, whether by audio and video recordings, drone footage, social media postings

[1] The testimony concerned the "corn maze" but the location referenced conflated Beachmont Camp with Christian Redeemer ("Beachmont Christian camp"). Printouts from the Beachmont Camp website appear to establish that it has the corn maze, not the Christian Redeemer property.

from the Petitioner's members, attendees, and/or supporters, and other similar research. In addition, Dr. Dewey Clark has undertaken substantial effort to contact County officials to alert them to potential Code violations and site difficulties for development of the proposed use. During the course of the hearing, Protestants' frustration generally, and Dr. Dewey Clark's frustration specifically, with the County's failure to address the matters brought to their attention by Dr. Dewey Clark in a manner satisfactory to Protestants was readily apparent.

Dr. Dewey Clark testified that he believed the locale to be confined to Gunpowder Park to the Mount Vista/Glen Arm and Harford Road circle. He testified that that there were a lot of farms in the area, which results in farm vehicle traffic on Harford Road. He noted pedestrians and people on bicycles also use the relevant stretch of Harford Road.

Dr. Dewey Clark presented a library of audio and video clips of sounds, events at the Property, as well as photographs of vehicles on Harford Road and other nearby roads. The photographs of the vehicles leaving the Property taken by Dr. Dewey Clark (or others) showed vehicles on the wrong side of the road, the darkness of the surrounding area, and other issues intended to underscore the testimony on the dangers presented by visitors presumably unfamiliar with the particular section of Harford Road. Dr. Dewey Clark also presented dash cam videos of traffic generally on Harford Road near the Property to show vehicles crossing lines and other issues, again, to speak to the existing dangerous nature of the roadway system even without the introduction of increased traffic from the proposed use. He also provided his critique of Mr. Colaggero's testimony, though Dr. Dewey Clark is not a traffic engineer.

Like his wife, Dr. Dewey Clark identified numerous concerns, including: excessive noise; the loss of solitude; traffic congestion; traffic dangers; environmental impacts on area forests and streams; invasion of non-native species; drainage from the site; unsafe use of fire; fire code issues;

inconsistency with the zoning classification; and others. Dr. Dewey Clark also proposed numerous conditions in the event the Board granted the Petition.

By way of example, Dr. Dewey Clark testified that the noise emanating from the Property, whether due to special events or to volleyball games, disrupts the solitude and tranquility he has enjoyed while the Property was used only as a single-family residence (or was vacant). He cited to the 1964 Wilderness Act to identify prior recognition of the value of solitude. The audio and video clips he provided were intended to serve as a snapshot in time of the disruption being caused at the Property to illustrate what may occur if the Petition was granted overlooking in his testimony that the same could occur if the Petition is not granted. Even recognizing the Clarks' sensitivity to a change, Dr. Dewey Clark played a clip intended to show excessive noise from the volleyball court, but instead the predominant noise heard by the Board was from birds chirping.

With respect to the fire code issues, Dr. Dewey Clark identified foreseeable problems with an occupancy permit unless the main building became Code-compliant. In particular, he identified the lack of panic bars on the doors. He also identified video clips taken from social media posts or otherwise uploaded to the internet where there was an open fire at a festival, noting the lack of fire extinguishers and no water source to draw water. Similarly, he expressed concerns over the use of extension cords from the main building to an accessory tent and the lack of emergency lighting inside the main building.

It is abundantly clear that Dr. Dewey Clark opposes a change from the Property's historic use as a residence. However, based on his testimony and evidence focusing on alleged Code issues and the County's failure to adequately respond to complaints regarding the same, as well as Petitioner's use of the site prior to the conclusion of the special exception case, Dr. Dewey Clark's staunch opposition largely arises from his belief that the Property will be used in a manner far

more intense than what has been represented, magnifying the impacts he, his wife, and his neighbors believe they will experience, compounded by his skepticism that the County will remedy any issues arising from the Property once the Petition is approved.

* Joyce Mason --- Ms. Mason lives at 11813 Harford Road and has done so for 30 years. Her property lies south of Hutschenreuter Road, approximately 1.3 miles from the Property. Ms. Mason also used to live closer to the Property, at 11939 Harford Road, three houses north of her present house.

Ms. Mason presented testimony regarding her concerns, identified as the increased traffic burden and her personal, as well as her neighbors, safety on Harford Road. Ms. Mason described Harford Road as a "rural two-lane road with no shoulder and many blind curves." The Property is located within that section, which she considered a "hazardous area." She too provided anecdotal evidence of traffic accidents on Harford Road, naming the intersection of Harford Road and Hartley Mill Road, as a location with multiple accidents, some of which were fatal. She also identified an accident she was involved in that occurred one month prior to her testimony.

Ms. Mason testified that "[o]ver the years, the traffic on Harford Road has increased dramatically." Like Dr. Mary Clark, Ms. Mason identified farm equipment, including tractors, combines, bailers, and hay wagons, as using Harford Road. Ms. Mason, again like Dr. Mary Clark, testified that, in the middle of the summer in 2017, she could hear "very loud talking over the amplification system" that spooked one of her horses. She stated she could hear the loud talking also in the summer of 2018, again, unsettling her horses. She also believes that the proposed use has a greater impact on the community due to the "unique terrain of the area," with "many peaks and valleys, blind curves, and agricultural activities."

* Dave Poehler --- Mr. Poehler lives with his family at 12241 Harford Road, situated to the north, east, and next door to the Property. Mr. Poehler testified he could see the main building and driveway from various points on his property. Mr. Poehler said after the sale of the Property, he reached out to his new neighbors, by going over to the Nepali property to introduce himself and offered to help take down a tree. He testified he did not hear anything from his neighbors since that visit.

Like Protestants' other witnesses before him, Mr. Poehler identified traffic and noise as his concerns. Mr. Poehler associates the traffic and noise issues with a likelihood that his property value will be reduced.

Mr. Poehler, echoing the others, believes Harford Road along the subject Property boundary through the circle at Mount Vista and Glen Arm Roads is "a dangerous stretch." Mr. Poehler estimated his driveway to be approximately 200 feet from the existing entrance to the Nepali property. He understands that Petitioner is proposing to move it closer by about 70 feet. Mr. Poehler shared that, even without the move, he has already had some of Petitioner's attendees accidentally enter his driveway and/or use it to turn around.

He identified an occasion in 2017 where amplified music emanating from the Property was being played as late as 1:00 a.m. He also identified large gatherings where he and his family were subjected to noise he considered extreme. On cross-examination, Mr. Poehler was questioned about a different property to the south of the Nepali property located on Hutschenreuter Road that hosts an outdoor rock concert. He did not have any familiarity with it, but agreed it was possible that the music was coming from that location, though noting the music he heard did not sound like a rock and roll band. Mr. Poehler also testified he lives about 1000 feet, as the crow flies, from

the Beachmont and Redeemer properties. On occasion, he hears soccer games, with the accompanying cheering and yelling.

Unlike the other witnesses presented by Protestants, Mr. Poehler also identified the potential impact to his well and septic systems as an issue. Mr. Poehler testified, at present, he considers his well as "not a very strong well at all," and referenced a gathering of about 40 people at his house where he ran out of water. His well is about 200-250 feet from the Property. As such, he was concerned that the potential large gatherings of hundreds of people at the Property will exacerbate the limited volume of his well. Moreover, he has concerns over pollution that may result from runoff from the grassy areas used for overflow parking.

* Bruce Morgan --- Mr. Morgan lives at 3 Longknoll Way in Kingsville, about 3 miles away, as the crow flies, from the Property. Mr. Morgan expressed his concerns over traffic and noise. He stated his concern was that if "that type of activity" was permitted on rural, agricultural property, it could happen anywhere in Baltimore County. He testified that the relevant stretch of roadway is one of the most dangerous sections he has encountered.

* Christopher Jakubiak --- Mr. Jakubiak, of Jakubiak & Associates, was offered and received as an expert in land planning and zoning. Whereas Petitioner's experts opined that special events like festivals evidence atypical use, and therefore, were not the focus of their opinions, Mr. Jakubiak testified festivals are "particularly relevant to his testimony."

Mr. Jakubiak described the relevant section of Harford Road as "very rural," also noting the hills and winding nature of the road on the way to the circle at Mount Vista and Glen Arm Roads. He expressed his opinion that the relevant neighborhood for the special exception analysis ran from Hartley Mill Road to Mount Vista Road.

Mr. Jakubiak opined that the cultural landscape of the area was unique. He relied on the Master Plan 2020 in concluding that the County seeks to preserve cultural landscapes, and in particular here, the agricultural history of the area. The Master Plan also expressed a preference of low-density development in rural areas, further contending the Master Plan serves as guidance and cannot be dismissed in the consideration of the special exception petition. He noted that Harford Road in the relevant area is a Baltimore County Scenic Route, which the Master Plan states is to be protected and that development by way of special exception petitions should be granted "sparingly."

In describing the Property, Mr. Jakubiak testified that the site is constrained by sloping terrain, particularly steep to the west. Outside of the multi-purpose court, the land drops significantly. The main building sits at the highest point, about 400 feet above sea level, which is about 200 feet above the valley floor. He believed the landscaping presently is an ineffective buffer for sound, though it was noted that Mr. Jakubiak is not an expert in sound. He also opined that the impact from noise would be worse than other locations in the zone.

Mr. Jakubiak believes 38 parking spaces are insufficient due to the need to use the grassy areas for overflow parking. While the limited number of spaces helps with permeability, the number does not match the needs. As such, when vehicles park on the grassy areas, they will cause ground compaction. The compaction and steep slopes may cause runoff to have a detrimental impact to the site and neighboring properties.

While Mr. Jakubiak is not an expert on traffic engineering and related issues, as a planner, he had concerns about the road system, identifying an increased risk in accidents caused by greater usage arising from the proposed use of the Property. He also believes that the proposed use detrimentally impacts the health and general welfare of neighboring properties, particularly the

loss of tranquility and increase in noise. He also opined that the proposed use is inconsistent with the zoning classification and spirit and intent of the zoning regulations in light of the preference expressed in the zoning regulations and Master Plan to preserve rural areas from intense development. Mr. Jakubiak also felt it important to note the site's proximity to the Long Green Rural Legacy Area, though the subject Property does not fall within its borders.

On cross-examination, Mr. Jakubiak admitted he does not know when the Property was last used in an agricultural manner. He also did not know the location of the closest property presently used for an agricultural purpose. Harkening back to his testimony regarding the Master Plan, Mr. Jakubiak acknowledged community plans are adopted as part of the Master Plan and, as relevant here, the Greater Kingsville Area Community Plan was adopted by the County Council in 1996 into the Master Plan.

Mr. Jakubiak testified that visual impact and noise are important considerations under BCZR §502.1. Mr. Jakubiak, however, did not know if the main building was visible from surrounding properties, including the Clark property. Similarly, he did not know if the grassy area that may be used for overflow parking was visible from other properties. With respect to noise, Mr. Jakubiak suggested that to reduce noise, a buffer be as close as possible to the source of the noise to limit the impact upon nearby properties.

II. Subject Property and Surrounding Area

The Property consists of 30.8 acres, with 12231 Harford Road, in Glen Arm, as its address. It is located, generally, in between Hutschenreuter Road (to the south) and Glen Arm/Mount Vista Road (to the north). The Property is outside the Urban-Rural Demarcation Line. The Property, called "Bella Vista," was originally developed by Charles J. Bonaparte (for this reason, the Property is also referred to as the "Bonaparte property"). The site and the barn are historic and

listed on the Maryland Inventory of Historic Properties. In addition, a historic mile marker visible from Harford Road is located on the Property. The Property is zoned RC-2 and is surrounded by other properties zoned RC-2, with the exception of the northeast corner of the Property, starting at Bonaparte Avenue, which is zoned RC-5.

The concrete house that exists today replaced the original house that was burned down in 1933. The house sits prominently up on a hill and is visible at certain points along Harford Road. In addition to the historic barn and main house, the Property has a caretaker's house, a barn, a swimming pool, a bathhouse, and a tennis/multi-purpose court. There is an existing, active driveway on Harford Road across, but offset, from Bonaparte Avenue, and an abandoned driveway to Harford Road further to the south.

More recently, the Property had been owned by an area attorney, but fell into disrepair. The house had been abandoned in excess of ten years and the Property was subject to foreclosure or a tax sale. Mr. Ghimire stated that he first visited the site when it was for sale. During that visit, he saw graffiti inside and outside the main house, as well as beer bottles and needles littered throughout the Property. He also noted the trees and grass were overgrown and considered the Property to be "in really, really bad shape." Various photographs show graffiti, overgrown bushes and weeds, broken or missing windows, and other damage or disrepair. (See, e.g., Pet.'s Ex. 12(a)-(e)). Mr. Ghimire testified that some of the structures and features are in poor condition and need to be removed or repaired.

Ms. Twining, when visiting the Property after its sale, described the Property at that time as "torn up" and "ramshackle looking." Mr. Poehler, who lives next door to the Property, echoed her testimony about the general state of disrepair referenced in the section above. He described the house as a "little distressed," with vandalism and graffiti. Mr. Ghimire identified the efforts to

clean up the Property and restore it, though by the last day of the hearing, there still was no running water or functioning sewer facilities or septic system.

The Property has historically been used as a residence. Ms. Twining testified that she and her extended family have lived on their collective adjacent properties for over two hundred years. She believes that the Property has never been used for farming. The presence of the barn and its historic designation of "Bella Vista Farm" suggests the Property had an agricultural use in the past, but the record is silent as to what agricultural activity may have occurred or when so used. Based on Ms. Twining's testimony, the Property has not been used as a farm or used for agricultural purposes for at least 35+ years.

The general area has a significant farming history and has been considered rural. For example, Dr. Mary Clark, who resides across the street from the Property, testified about her concerns, including the identification of the area as "one of the last rural valleys in Baltimore County." Dr. Mary Clark noted the presence of not only farm equipment on Harford Road, but also commuter traffic, tractor-trailers, and bicycles. Ms. Mason, who resides on Harford Road approximately 1.3 miles south of the Property, used the same language as Dr. Mary Clark when describing the general area ("one of the last rural valleys in Baltimore County"), adding "the residents have worked hard to maintain the RC-2 rural nature of [the] valley."

Petitioner's expert, Mr. Motsco, also considered the general surrounding area as a "rural area." Mr. Motsco described the surrounding area as consisting of "some farmland with some scattered houses." Though there are farm operations in the general area, Mr. Motsco testified that there are no farms immediately adjacent to the Property. He identified single-family houses on the western and northern sides of Harford Road, across from the Property. To the east of the

Property are a church and a school (Christian Redeemer). In addition, the Beachmont Camp is also located to the east and is adjacent to the Christian Redeemer property.

III. Residential/Commuter Growth and Area Traffic Conditions

Testimony on both sides revealed that the general area is growing in residential and commuter use. For example, Ms. Twining testified that there "are a lot more people living out [in the area] than just the farmers we have always had." Dr. Mary Clark, in expressing her concerns about the possible impact upon traffic from the proposed used, noted an increase of commuter traffic on Harford Road independent of the proposed use, noting "the traffic situation is getting worse every day." Ms. Mason observed that "[o]ver the years, the traffic on Harford Road has increased dramatically." When asked on cross-examination about the volume of traffic, she testified, "all I know is a lot."

Mr. Colaggero, in connection with his traffic count analysis (Pet. Ex. 29), determined that the highest volume of traffic on Harford Road between Glen Arm Road/Mount Vista Road and Hartley Mill Road (*i.e.* inclusive of the Property) occurred on weekdays between 7:00 am-8:00 am for the southbound traffic. He testified national statistics reveal that Harford Road can carry a capacity of 1,700 vehicles an hour. (Id. p. 1). According to Mr. Colaggero, the national statistics from which that number was derived take into account the size of the road, the terrain, the lack of shoulders, the number of lanes, a speed of 45 MPH, and other criteria. Mr. Colaggero testified and showed that the peak times on Saturday and Sunday resulted in a peak usage rate of 16% and 21% respectively.

Mr. Colaggero also studied the specific intersection of Bonaparte Avenue and the entranceway of the Property with Harford Road. Using the critical lane volume methodology utilized by the Maryland State Highway Administration ("SHA") for its intersection studies, Mr.

Colaggero determined that there was "plenty of available capacity at this turning location during the evening peak hour to accommodate more turning maneuvers and more through volume." The calculations that prompt his opinions were based on assumptions as to the number of vehicles that may turn into the Property. Mr. Colaggero took the peak hour on Saturday (12:00 pm-1:00 pm) to identify actual volume on the road and applied the number of turns (based on assumptions). He testified that even if 400 additional vehicles (that is beyond what he had assumed) were added at the peak hour, there would still be more than ample capacity to accommodate the influx of vehicles.[2]

Mr. Colaggero also applied the Unsignalized Intersection Methodology used by SHA to look at operations, that is, how long may it take a vehicle to enter the roadway from Bonaparte Avenue or the Property. He determined that during the weekday evening peak hour, it would take approximately 14 seconds for a vehicle to make its turn northbound and 8 seconds to turn southbound.[3] As such, he considered the northbound site access approach to have a "B" level of service, but the southbound side to have an "A" level of service, concluding it to be a "very good intersection," operationally as well as by capacity.

Mr. Colaggero next examined traffic accident data from 2015-2018 (2018 was partial), with Hutschenreuter Road and Vista View Court as, respectively, the southern and northern boundaries for the data analysis. That stretch comprises 1.1 miles of Harford Road and is inclusive

[2] The representation of the usage was first identified by Mr. Colaggero in his testimony on Sept. 6, 2018, as, on weekdays, "approximately 20 people coming to the temple on a weekday...20 trips in, 20 trips out..." and on weekends as "less than 100 people would visit during [...] the entire day." SHA required a trip generation analysis based on the Institute of Transportation Engineer's (ITE) Trip Generation Manual methodology, which yielded a lower volume of trips to and from the site if and once used as a temple. Mr. Colaggero used different methodology that resulted in a greater volume than the ITE methodology. Notably, Mr. Colaggero's doing so also inures to the benefit of Protestants.

[3] Mr. Colaggero incorrectly, but understandably so, identified the southbound turn as "Westbound" in Petitioner's Exhibit 29 based on the map appearance of Harford Road at the Property, which appears east-west, though still designated north-south.

of the Property. Mr. Colaggero highlighted the number of crashes 500 feet in both directions of Bonaparte Avenue (and therefore, more or less, the Property's entranceway). So, for example, of the 12 accidents that occurred within that 1.1 miles, only two occurred within 500 feet of either direction of Bonaparte Avenue in 2015, with two more occurring in 2016, four in 2017, and two in the first quarter of 2018.

As such, he testified he did not consider the Bonaparte Avenue intersection to be "an accident-prone intersection." Rather, he noted that the accidents appeared to be ones where vehicles were traveling too fast for conditions. Police reports would likely reveal more details as to how and why the accidents occurred, but few were made part of the record.

On cross-examination, Mr. Colaggero admitted all his analyses rely upon conditions in the past and at present, but he factored in presumed growth from the proposed use. The information he relied upon for the presumed growth came from his understanding as to the operations based on representations made to him of the expected regular use --- less than 20 people during each weekday and less than 100 people on weekends. He admitted he did not account for conditions that may exist during festivals or other larger events, but testified that typically a traffic engineer would not focus on the aberrational usage.

Mr. Colaggero also contrasted the accident data identified in Protestant's Exhibit No. 10 with Petitioner's Exhibit No. 30. In short, the exhibits use different data sets and the data was obtained from different sources.

Protestants' Exhibit No. 10, identified reported traffic crashes on Harford Road between Hartley Mill and Glen Arm Roads occurring between January 1, 2016 and April 1, 2018. Protestants' Exhibit No. 10 reveals a significant number of motor vehicle accidents within that stretch, including ones with personal injury. Petitioner's Exhibit 30 reported the traffic crashes on

Harford Road between Hutschenreuter Road and Vista View Court (identified as a 1.1-mile stretch of road) between January 1, 2015 and April 1, 2015. Petitioner's Exhibit 30 also has a further breakdown of crashes "in Bonaparte Ave. area, 1000 feet," which Mr. Colaggero testified meant 500 feet north and south of Bonaparte Avenue. Looking at the data supporting that conclusion, it is apparent that the crashes highlighted as being within 500 feet in both directions of Bonaparte Avenue are actually crashes within 250 feet of each direction from Bonaparte Avenue.

Rather than use an expert to address the studies by Mr. Colaggero or otherwise present evidence regarding traffic congestion, Protestants relied upon the testimony of Mr. Poehler, Ms. Mason, the Clarks, and others to identify the potential hazards caused by the existing road conditions, which they believe will be exacerbated by the additional volume of traffic to and from the Property. Protestants' land use expert, Mr. Jakubiak, though not a traffic engineer, provided his opinions from a planning perspective about the hazards presented within the relevant stretch of Harford Road. He opined planners account for the road system and conditions (*e.g.* speed) as part of project consideration. As such, he took the road features and conditions (echoing the testimony of others, *e.g.* testifying "The road is winding, with sharp, hairpin turns…") into account and concluded that leaving and entering the Property presents a significant risk for accidents due to the greater "scale use" in comparison to the prior use as a single-family residence.

Indisputably, Harford Road around the Property presents additional challenges and requires greater attention and care in that area. Harford Road, designated as Maryland Route 147, in the general area of the Property runs north-south, leaning northeast-southwest. However, Harford Road, proceeding northbound along the Property, takes a sudden almost 90 degree turn east just before Bonaparte Avenue.

The witnesses who reside in the area expressed opinions that Harford Road in and around the Property is dangerous. By way of example, Ms. Twining has "always felt" that "Harford Road is not a very safe road." Dr. Mary Clark described Harford Road around her and Petitioner's properties as "a narrow, two-lane road, with blind curves and no shoulder...one of the most treacherous sections of road in Baltimore County." Ms. Mason testified that the area of Harford Road along the Property has blind curves, which she believes makes it a "hazardous area." Mr. Poehler, the next-door neighbor to the Property, believes that, irrespective of the location of the entranceway to the Property, the area at issue is "a dangerous stretch of Harford Road period."

The neighboring residents also provided anecdotal testimony of familiarity of accidents on Harford Road that they have seen, were aware of, and/or even in which they were involved. Some of the accidents identified occurred several miles away from the Property. Some were closer. Though none of the ones identified occurred in the immediate vicinity of the entranceway of the Property, the anecdotal evidence provided by these residents suggests that there have been problems north and south of the Property. Mr. Poehler, in fact, summarized it as "just living at the property and living along Harford Road, you're going to experience accidents and high traffic...it's almost a way of life there." The anecdotal evidence does not rise to the level of that from an expert or rebut the studies performed, but is illustrative and offers some measure of support of the witnesses' beliefs that the road conditions in the area of the Property presents certain challenges that, generally, are not experienced elsewhere.

IV. Petition and Use Evidence

Petitioner requests special exception relief to allow a temple for religious worship on property zoned RC-2. To that end, Petitioner called Mr. Ghimire to identify how Petitioner intends to use the Property. Mr. Ghimire testified that the existing main house will be used as the temple.

The temple is intended to attract Nepalese Hindu practitioners, but can also serve those that observe Buddhism, as there are commonalities between the religions that make a temple accessible to both.

In addition to the main house, Mr. Ghimire identified other buildings and features, as well as conditions, on site, including a caretaker's house which requires renovations, a historic barn in "kind of bad shape," a swimming pool "that needs to be removed" as it is not in a usable condition, a former tennis court that can serve as a multi-purpose court for children, and a bathhouse that is "also in bad shape and that will be removed as well." There is an entranceway, depicted across from Bonaparte Avenue. Mr. Ghimire identified another driveway off Harford Road toward the south of the Property that has not been used in years and "is not in good condition."

The main building has a main hall with high ceilings and can hold 80-100 people for services. There are two big rooms on the ground floor that can serve as office space. The caretaker house may be used as the residence of a "guru," who will lead prayers. Petitioner intends to preserve and maintain the historic barn. Mr. Ghimire later clarified that the main level of the house would be used for actual religious ceremony and services, but "[t]he upstairs would be more like a back office."

The Hindu religion is a contemplative religion and is unlike western religions with a dedicated day for prayer. Hindus may come to engage in individual prayer at any time or on special days that are personal, for example, to commemorate death of loved ones, celebrate anniversaries and birthdays. Hindus may come to participate in religious rice-feeding ceremonies, which celebrates when babies first take a bite of rice, analogizing the ceremony (*Bratabanda*) to a baptism. Receptions for these rice-feeding ceremonies would follow at a restaurant or other off-site venue.

This temple will install statues of major deities. The temple will be open throughout the week to those that choose to worship particular deities. There are three-to-five major festivals, including *Dashain,* which runs for 15 days and has two major days within that festival.

As for expected daily use, Mr. Ghimire first testified that on a typical, non-festival day practitioners will visit the site at various times throughout the day, amounting to 10-20 people in total. Subsequent to that testimony, he said there could be up to 15-20 at one time, maybe less, on non-festival days. Petitioner's expert witnesses testified that Petitioner represented the typical use as 10-20 people at the site on any given day. To reconcile, the testimony reveals that, on average, the expectation as to usage is up to 10-20 visitors per day, and perhaps even up to 15-20 at one time. In contrast, the testimony about attendance on festival days was clear --- festivals could bring in 150-200 people at one time. For the two major days, Mr. Ghimire expects even more people may come to the site beyond the number that attends on other festival days. On festival days, prayer would take place inside the temple, but festivities can be outside.

Mr. Ghimire stated that attendees on festival days and attendees for routine visits or on a weekly basis would be present on average between 15 minutes and an hour per visit. Mr. Ghimire testified that while there is no set time for prayer or worship, people will not appear at "5:00 in the morning," just between "9:00 and 8:00 pm, or whatever time they prefer, so during the daytime they will, at their convenience, they come and go." He subsequently testified that the hours of worship would be from "8:00 am onward to like 8:00 or 9:00 pm," seven days a week. When asked whether the hours would run from 8:00 am until 10:00 pm, Mr. Ghimire stated "Practically, I think 8:00 am to 8:00 pm," noting he would look at the hours of operation.

As and when a *bhajan* [hymn] is requested as part of services or as part of a special ceremony, at those times, the music will be in indoors. In any event, no amplification equipment is required.

Mr. Ghimire testified that they will not be building any new buildings on the Property. They will not operate a day care or school. Mr. Ghimire testified that Petitioner will not have any camps. Petitioner does not plan to use the old road and driveway at the south of the Property.

Petitioner intends to keep the existing tennis court, and as noted above, make it a multi-sport court, but will not significantly enlarge it. Mr. Ghimire clarified that the court is "not really part of essential…temple operation." There are no athletic fields being proposed. Mr. Ghimire testified "[t]he pool will not be there…the pool will be removed," and the bathhouse as well. Mr. Ghimire stated that the religious activity would take place in the main building, and therefore, the religious activity "has nothing to do with the swimming pool and bathhouse." As for the barn, they "have no use for it right now…[they] don't have any plans for it." They will restore, but not enlarge, the caretaker's house.

Petitioner proposes to have 38 parking spaces, though this number is not based on seats, as there are no actual seats. There will be temporary chairs for special events. Mr. Motsco testified that the number of spaces was derived from the estimated maximum number of people expected to attend a regular event and County input regarding that estimate. When an event calls for more visitors, such as a festival, adjacent grassy areas can handle overflow parking.

The cultural activities and/or other activities with a non-religious purpose, such as those that may be found at a community center, will not take place on the Property. Rather, Mr. Ghimire testified Petitioner intends to have such non-religious, community center-type activities occur

offsite at another building on Taylor Avenue in Parkville, leaving the temple as a place of religious services.

Protestants, however, spent much of their time addressing the alleged Code violations arising from special events held, and to be held on the Property, as well speculating about the future possibility of the Property serving as a community center or a much larger facility for uses beyond religious services.

The judicial powers and functions bestowed upon this Board by the Express Powers Act via the County Charter, County Code and Zoning Regulations are not the same as the judicial powers and functions embodied in the courts created by the Maryland Constitution. Dep't of Natural Resources v. Linchester Sand & Gravel Corp., 274 Md. 211, 222; 334 A.2d 514, 522 (1975). This Board is not empowered to *sua sponte* find Petitioner in violation of a code provision in the absence of the issue arising through the regular code enforcement process and being properly appealed to and in front of the Board. No code enforcement case was part of this hearing. Nevertheless, Protestants did not alter the presentation of their evidence or testimony.

Some of Protestants' evidence identified certain conditions that presently exist without the proposed use (traffic issues, noise runoff issues, etc.), supplemented by a belief the proposed use could, or in more of a conclusory manner, will, make these existing conditions worse. Protestants elected to not present expert testimony to support their arguments that certain issues will be exacerbated by the proposed use or otherwise to directly rebut Petitioner's experts in their specific fields of expertise, relying instead upon Mr. Jakubiak and at times, Dr. Dewey Clark's critiques of Petitioner's experts.

The Board does not trivialize or minimize the importance of the issues to the Protestants. To the contrary, it was more than evident to this Board that Dr. Dewey Clark in particular

undertook exhaustive efforts, underscoring their importance to him and Dr. Mary Clark. Mr. Poehler shared his wife's struggle with dealing with the issues presented by this case, testifying that she could not attend the hearing due to the stress it causes her.

However, the Express Powers Act, County Charter, County Code, and County Zoning Regulations specify the powers and authority of this Board and, as relevant here, the evidence and factors for the Board to evaluate and decide in connection with a special exception petition. Much of the evidence presented did not aid the Board in its analysis of the special exception factors. Similarly, much of the relief Protestants sought was simply beyond the power of the Board for this hearing. The Board cannot order the County to undertake a code enforcement investigation or to issue citations; nor can the Board render advisory opinions on alleged or potential code enforcement issues. The Board similarly cannot deny a special exception petition on the basis of a future code violation that may or may not ever occur.

V. Applicable Baltimore County Zoning Regulations

As noted above, the subject Property is zoned RC-2. The County Council, in creating resource conservation zones, made several findings and identified several purposes for the designation:

§ 1A00.1. - Findings.

It is found:

A. That development in the rural areas of Baltimore County has in recent years been taking place at an increasing rate;

B. That this development has occurred without the framework of a land use plan or other planning components;

C. That due to this and other factors, this development has formed very undesirable land use patterns;

D. That in general, these patterns are, or can be described as, urban sprawl;

E. That a significant amount of urban sprawl development is occurring as linear development along the various highways of the rural areas of the county as tracts of land immediately fronting along highways are "lotted off"; the utility of the road system is being impaired and future improvements will be frustrated if this process continues;

F. That it has been established that this development carries with it an extremely high cost to the county in a number of respects including:

1. The cost of servicing this pattern of development;
2. The cost with respect to its consumption and use of prime agricultural land, critical watershed areas, mineral extractive sites, as well as of other important natural resource areas;
3. The cost of future development opportunities due to the fact that viable, rational alternatives will be lost totally or compromised significantly by the present form of development;

G. That the aspect of the comprehensive plan that is applicable and which is being considered for rural Baltimore County embodies solutions to the various problems;

H. That the effective implementation of this plan requires additional zoning classifications; and

I. That effective implementation of the resource conservation area requirements in the Chesapeake Bay Critical Area criteria requires additional resource conservation zoning classifications to accommodate strictly controlled growth while conserving habitat and water quality within the Critical Area.

§ 1A00.2. - Purposes.

Pursuant to the above findings, it is the purpose of the Resource Conservation Zones to:

A. Discourage present land use patterns of development and to create a framework for planned or orderly development;

B. Provide sufficient and adequate areas for rural-suburban and related development in selected and suitable areas;

C. Protect both natural and man-made resources from compromising effects of specific forms and densities of development;

D. Protect areas desirable for more intensive future development by regulating undesirable forms of development within these areas until such time as intensive development commences.

E. Help achieve the goals of the Chesapeake Bay Critical Area Protection Law by enacting land use policies to control development within the Critical Area by

conserving the land and water resource base for agriculture, forestry and other natural resource uses; minimizing adverse effects on water quality; and conserving fish, wildlife and plant habitat.

The use sought by Petitioner is that of a religious institution and BCZR §1A01.2(C)(6) permits by special exception churches or other buildings for religious worship within a RC-2 zone. Baltimore County Zoning Regulation §502.1 establishes that before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

A. Be detrimental to the health, safety or general welfare of the locality involved;
B. Tend to create congestion in roads, streets or alleys therein;
C. Create a potential hazard from fire, panic or other danger;
D. Tend to overcrowd land and cause undue concentration of population;
E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
F. Interfere with adequate light and air;
G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;
H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor
I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone, and for consideration of a solar facility use under Article 4F, the inclusion of the R.C. 3, R.C. 6, and R.C. 8 Zones

In addition to the special exception factors in §502.1, BCZR requires the Board to find, in RC-2 cases, that the use would not be detrimental to the primary agricultural uses in its vicinity. BCZR §1A01.2(C).

VI. Special Exception Law and Discussion

A. Burden of Proof and Presumptions

Maryland courts historically have considered special exception uses as ones conditionally compatible with uses permitted as of right in the same zone. See, *e.g.,* Creswell v. Baltimore Aviation Serv., Inc., 257 Md. 712, 719; 264 A.2d 838, 842 (1970). The Court of Appeals revisited the law on special exception in 1979 with the seminal case of Schultz v. Pritts, 291 Md. 1; 432

A.2d 1319 (1979). In Schultz, the Court of Appeals held that a special exception is presumed to be in the interest of the general welfare, and therefore a special exception enjoys a presumption of validity. 291 Md. at 11; 432 A.2d at 1325.

In 2016, the Court of Appeals in Attar v. DMS Tollgate provided additional guidance on the presumption that accompanies a proposed special exception use. 451 Md. 272; 152 A.3d 765 (2016). First, the Court reiterated that the special exception petitioner has both, the burden of production and the burden of persuasion. Attar, 451 Md. at 287; 152 A.3d at 773, *quoting* People's Counsel for Balt. Cty. V. Loyola Coll. In Md., 406 Md. 54, 109; 956 A.2d 166, 199 (2008); *see also*, Board of Appeals Rule 7(d), "the proponent of an action to be taken by the Board has the burden of proof." Second, the Court clarified that the concurrent presumption in favor of the special exception petitioner is not a mutually exclusive evidentiary burden. Attar, 451 Md. at 286; 152 A.3d at 773.

Referencing Maryland Rule 5-301(a),[4] the presumption identified by Schultz v. Pritts satisfies the burden of going forward on a fact presumed (in this case, the special exception is in the interest of the general welfare, and therefore has a presumption of validity) and "*may* satisfy the burden of persuasion if no rebuttal evidence is introduced by the other side." Attar, 451 Md. at 286-287; 152 A.3d at 773; *quoting* Anderson v. Litzenberg, 115 Md. App. 549, 564; 694 A.2d 150, 157 (1997) (emphasis in original).

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[4] Md. Rule 5-301 sets forth:
(a) Effect. Unless otherwise provided by statute or by these rules, in all civil actions a presumption imposes on the party against whom it is directed the burden of producing evidence to rebut the presumption. If that party introduces evidence tending to disprove the presumed fact, the presumption will retain the effect of creating a question to be decided by the trier of fact unless the court concludes that such evidence is legally insufficient or is so conclusive that it rebuts the presumption as a matter of law.
(b) Inconsistent presumptions. If two presumptions arise which conflict with each other, the court shall apply the one that is founded upon weightier considerations of policy and logic. If the underlying considerations are of equal weight, the presumptions shall be disregarded.

The presumption is that a special exception use is valid, that is, one that *can* conform to the zoning plan depending on the location, zoning classification, and impacts on the surrounding area. The presumption that inures to a special exception petitioner's benefit requires a special exception protestant to present probative evidence of any harms or other detrimental impacts, as identified in BCZR §502.1, to the surrounding neighborhood that are above and beyond the impacts that may be experienced elsewhere in the zone from this proposed use (Schultz, 291 Md. at 22-23; 432 A.2d at 1331) and/or other noncompliance with applicable zoning regulations to warrant a denial. In other words, a special exception protestant must show "non-inherent adverse effects," or "unique adverse effects" to overcome the presumption that the proposed use is in the interest of the general welfare and compatibility. *See*, Clarksville Residents Against Mortuary Defense Fund, Inc. v. Donaldson Properties, 453 Md. 516, 543; 162 A.3d 929 (2017); Attar, 451 Md. at 287; 152 A.3d at 774.

If a special exception protestant presents sufficient evidence to create a genuine dispute of material fact as to a particular special exception factor or other zoning requirement, the evidentiary record must be sufficient to persuade the Board of Appeals that the proposed use will conform to the applicable zoning plan and satisfy the specified factors. Attar, 451 Md. at 286-287; 152 A.3d at 773; *quoting* Anderson, 115 Md. App. at 564; 694 A.2d at 157. Even still, the Board can grant the special exception petition along with certain conditions or restrictions to better protect the surrounding and neighboring properties. BCZR §502.2. If the burden of persuasion is not met, the Board will deny the petition.

B. Defining the Neighborhood/Surrounding Properties

At the start, the Board must determine what the locality or neighborhood is in order to determine what if any impact the proposed use has above and beyond effects inherently associated

with a special exception use. Attar, 451 Md. at 278-284, 289; 152 A.3d at 769-772, 775. As stated by the Court of Appeals: "the Board's task is to determine if there is or likely will be a detriment to the surrounding properties" (Id., 451 Md. at 280; 152 A.3d at 769-770); the Board must assess "whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." Schultz v. Pritts, 291 Md. 1, 22-23; 432 A.2d 1319, 1331 (1979). Therefore, the question is whether the expected effects from the proposed use are somehow exacerbated by the location at issue, to the detriment of those to experience such effects. For a special exception, the description of the neighborhood to be impacted by the proposed use "must be precise enough to enable a party or appellate court to comprehend the area that the Board considered." Attar, 451 Md. at 282; 152 A.3d at 771.

For this case, the Board finds the neighborhood at issue includes that area bordered by Hutschenreuter Road to the south, Glen Arm Road/Mount Vista Road to the north, the properties along Harford Road, including the Poehler and Clark residences specifically, the other residences on the former Marc Lane at Harford Road, those properties on Bonaparte Avenue, and all other bordering properties. As will be discussed in more detail below, the relatively nearby agricultural uses are excluded from this definition. There is nothing in the record that suggests an expansion beyond the corridor and surrounding properties adjacent to the Property is warranted. As such, the neighborhood at issue is the residential corridor along Harford Road between Hutschenreuter Road and Glen Arm/Mount Vista Roads to the north and the other properties that share a border with the Property.

C. Application of the BCZR §502.1 Special Exception Factors

Protestants focused their opposition on certain factors under BCZR §502.1 and did not address, and therefore, did not attempt to rebut, other factors. The Board finds that Protestants have not presented any meaningful evidence on certain factors to sufficiently challenge the presumption in favor of Petitioner, namely, §§502.1(D), (E), (F), and (H).[5] Moreover, Petitioner has presented sufficient evidence to satisfy those factors.

The factors contested by Protestants include: (A) the health, safety or general welfare of the locality; (B) congestion in roads, streets or alleys; (C) the potential hazard from fire, panic or danger; (G) inconsistency with zoning classification and spirit and intent of the zoning regulations; and (I) the detrimental effect to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an RC-2, RC-4, RC-5 or RC-7 Zone. As noted above, because this Property is within the RC-2 Zone, the Board must also find that the proposed use is not detrimental to the primary agricultural uses in its vicinity. BCZR §1A01.2(C).

1. §502.1(A) Health, Safety, or General Welfare of the Locality

Noise is not expressly identified in the BCZR §502.1 factors. However, given the purpose for the factors, namely addressing harms and detrimental impacts to be experienced by the surrounding community, the Board interprets noise as being included within the "health, safety or general welfare," factor and, as such, ripe for consideration.

[5] By way of explanation, Protestants' closing memorandum does not address §§502.1(E), (F), or (H). As for §502.1(D), Protestants argue that, at present, there is not a functioning septic system that can handle large festivals. First, the use complained of by Protestants has been represented, and accepted, as atypical. Nevertheless, Mr. Powell, Petitioner's Licensed Environmental Specialist who provided testimony concerning the septic needs based on the proposed use, testified he believed that the site was sufficient for the intended use. This testimony was unrebutted. He also identified that, for the special events, port-o-potties would be used, which, for this special exception hearing, is not a sufficient basis for the Board to conclude that there will be an undue concentration or overcrowding.

Protestants, primarily through the Clarks and Mr. Poehler, identified noise as a significant concern. Dr. Dewey Clark specified two aspects, a general noise concern, but also what he referred to (and others impliedly so) as preservation of "solitude." To that point, Dr. Dewey Clark provided audio and video recordings with audio of the ambient noise he experiences at his property. The Clarks analogized the cars passing on Harford Road to the sound of breaking waves. To be sure, the evidence establishes a more serene, peaceful environment than other parts of the County. That is easily observed in the audio and video clips, as well as photographs. The Clarks and Mr. Poehler identified specific events with amplified music and atypical noise, whether by time or volume, as well as volleyball games.

The noise associated with operation of the proposed temple is no different at the present location than it would be experienced in other parts of the zone. Moreover, without trivializing the importance of this to the Clarks and Poehlers, they can neither expect, nor can this Board order, a particularized, subjective limitation on the level of noise that is permitted to come from the Property in furtherance of their individualized interests, especially where that subjective level of noise has the potential to intrude upon Petitioner's ability to use the Property in a lawfully valid manner and such noise potential from the Property exists today without the granting of a Petition.

Aiding in reducing the Protestants' concern, the Property has a substantial tree and vegetative buffer between the Property and the Clark house, though somewhat less so for the Poehlers. The activities to take place on the Property are largely confined to the main building area, a significant, even if imperfect, distance from the Poehler and Clark residences. The evidentiary record does not establish any exacerbation or amplification caused by the Property's elevation compared to the surrounding properties. To the contrary, as noted above, Protestants played several clips of audio from the Clarks' property ostensibly to illustrate overly invasive noise

emanating from the Property, which sits higher than the Clarks' property. Those clips, however, failed to do so. The Board does recognize that larger events could generally be more intrusive in this manner. As such, the Board will order as a condition that additional landscaping be planted at the border with the Poehler house and its curtilage, as well as on the west side of the multi-purpose court to increase the buffer density in those areas. In addition, the Board will also order that there is to be no outdoor amplification of sound.

It has been argued that the Foxworthy house located on the corner of Bonaparte Avenue at Harford Road will suffer adverse impacts, particularly as to headlight intrusion and runoff, as a result of the proposed use. First, as to runoff, Protestants failed to present sufficient evidence to determine whether the existing conditions on the Property are causing runoff to drain onto the Foxworthy property, let alone evidence to establish the proposed use will exacerbate any existing drainage issue or cause additional runoff.

Mr. Motsco's testimony established that runoff from Harford Road generally falls toward the Property, which has a culvert and a storm drain inlet. As such, the evidence presented shows that whatever runoff from the Property that makes it out to Harford Road (which is assumed for this discussion) is more likely to drain to and run along the culvert on the south side of Harford Road (the Property side) rather than travel over Harford Road to the Foxworthy property. Even still, Petitioner will be required to submit for approval a storm water management plan and will be required to comply with the applicable regulations and requirements at all times like any other property located in the County. Therefore, if there is a subsequent determination that some improvement from the Property may cause or exacerbate the runoff issue, mitigating measures will be required by the County.

As to headlight intrusion, based on Petitioner's Exhibit No. 26, headlights from vehicles turning left while exiting the Property will sweep across Bonaparte Avenue. Mr. Colaggero testified he did not conduct a study to analyze this aspect, but also did not know where the exact exit location would be. SHA will be providing additional input at the time of the access permit.

The final locations of the entrance and exit obviously are significant factors, as there could be a detrimental impact upon residents on Bonaparte Avenue, and in particular, the Foxworthy property. Due to the uncertainty caused by not having an exact exit location at this time, the Board is ordering as a condition of this approval that all traffic exiting the Property must turn right. Imposing this condition addresses several issues: (1) avoiding headlight intrusion upon the Bonaparte Avenue properties; (2) prevent blinding or distracting drivers driving north on Harford Road when coming around the blind curve; and (3) as discussed in greater detail below, improving safety and helping to prevent traffic congestion on Harford Road at or near the Property. Doing so will not cause an undue hardship on the visitors to the Property as the Mount Vista/Glen Arm/Harford Road roundabout is close to the Property.

While traffic issues identified contemplate the health, safety and general welfare of the locality, all traffic issues will be addressed within the discussion of §502.1(B).

2. §502.1(B) Congestion in Roads, Streets, or Alleys

Protestants have raised concerns regarding additional volume, *i.e.* congestion, on Harford Road as well as safety along Harford Road due to the increased volume. With respect to the congestion argument, nearly every witness acknowledged that they have observed a noticeable increase in traffic volume throughout Harford Road, including in the vicinity of the Property, in recent years. Protestants' witnesses expressed a concern that the additional volume will detrimentally impact travel along Harford Road (in the vicinity of the Property) by increasing the

probability of accidents, which presents a danger to nearby residents who use that stretch of road more frequently. Clearly, use of the Property as proposed will cause more drivers to use Harford Road for access to the Property. The relevant questions are: (1) will the proposed use cause traffic congestion, and if so (2) how at this location is that congestion worse than other locations in the RC-2 Zone. Those questions will be addressed separately.

a) Congestion

As noted above, Mr. Colaggero, Petitioner's traffic engineer, conducted several examinations, particularly, traffic counts as to capacity and as to operations, sight distance analysis and a speed study between September 26, 2018-October 9, 2018. That evidence is summarized above. Protestants relied upon undermining Mr. Colaggero's testimony and supplementing the record via lay witness testimony rather than through the use of an expert to address the studies and opinions by Mr. Colaggero.[6] The lay witness testimony relevant to traffic congestion was similarly summarized above.

Mr. Colaggero's testimony on the traffic congestion issue was credible, convincing, and unrebutted. Mr. Colaggero's opinions and supporting calculations rely upon the representations of typical operations made by Petitioner to Mr. Colaggero. While Protestants question those representations, the typical usage data provided is information required for his expert evaluation and information necessary for Mr. Colaggero's calculations and it was the only data provided to him.

It is undisputed that there will be an increase in traffic volume caused by the typical use. However, it is similarly undisputed that the capacity of Harford Road in and around the Property

[6] Dr. Dewitt Clark testified he thought they were better off by relying on cross-examination of Mr. Colaggero instead of retaining a traffic expert with whom Protestants consulted for this hearing.

can easily handle the expected increase. Protestants did not offer evidence of possible specific effects upon traffic flow, congestion, and/or turning delays if the representations/assumptions as to typical usage are underestimated or otherwise incorrect. As Protestants did not have a traffic engineer to provide evidence to contradict Mr. Colaggero or Petitioner otherwise, Mr. Colaggero's calculations and opinions are the only evidence in the record on this issue.

In fact, Mr. Colaggero testified that if another, *e.g.,* 400 vehicles at the Saturday peak hour were added to his assumptions, the intersection would still be considered within the level of service for an "A" rating (*i.e.,* the highest rating) under the CLV methodology. There is more than sufficient capacity, whether based on the assumed/represented usage or a significantly greater volume, and it cannot be concluded that the projected increase in operational delay creates any significant congestion. Petitioner has met its burden on this aspect of this factor.

b) Safety Issues Presented By Increase Traffic Volume (§502.1(A),(B),(C))

As referenced above, it seems to be the one point in this case on which there appears to be consensus among the parties --- Harford Road along the Property's northwestern, northern, and northeastern edges presents certain challenges, and that stretch may be considered hazardous with existing conditions. To be more specific, the particular stretch of Harford Road at issue is that which, heading north, sweeps around a bend, described as a "blind curve" by several witnesses, proceeding in easterly, then southeastern direction, before entering another curve just prior to Bonaparte Avenue and the Property's entranceway, proceeding east, before sweeping out of the curve and headed northeast just past the Poehler house (approximately 1,000 feet in roadway length). (*See*, e.g., Pet. Ex. 26).

From the start of that stretch until the house on the northwest corner of Bonaparte Avenue and at the Property entrance, Harford Road is surrounded by a substantial number of tall deciduous

trees and other vegetative growth that may obscure sight lines around the curves as well as light. (*See, e.g.,* Pet. Ex. 19 (No. 2-4) and 26 (No. 4-5)). The embankment boxing in Harford Road sits at a significantly higher elevation on the eastern, and therefore, Property side, of Harford Road. From Bonaparte Avenue and the Property entrance heading north, there are, again, a significant number of tall deciduous trees and also vegetative growth that may obscure sight lines around the curves. There are no shoulders along Harford Road in this stretch. At various points, there are guardrails (*See, e.g.,* Pet. Ex. 26, photo 4), road signage warning of sharp curves/turns (*e.g.* Pet. Ex. 26, photos No. 3 and 5; Pet. Ex. 19, photos No. 2-3), and a recommended reduced speed limit sign. (Id.)

Mr. Colaggero provided testimony about the signage, explaining their use by SHA and what the signs are communicating to drivers. He identified several traffic signs along Harford Road, and understood from the signs, SHA considers the course of the road as "reverse turn area," which reflects "a more severe turn, not a curve." He understood the speed sign of 30 mph as a "SHA recommend[ation]" that applies to that stretch of Harford Road at issue, for both the northbound and southbound traffic. The chevron signs act as "additional warning signs on the turns themselves." Otherwise, Harford Road northbound has a speed limit of 50 mph, while southbound is 45 mph.

Based on the presence of the guardrails, road signage, and recommended reduced speed limit sign, it is reasonable to conclude that this stretch of Harford Road has had a higher volume of accidents and/or near-accidents and SHA determined remedial measures were required. Yet, it appears that the relevant stretch of Harford Road still may present a greater risk of accidents than other nearby stretches of Harford Road. Video clips presented by Dr. Dewey Clark and the

testimony of witnesses on both sides support such a finding. This finding, however, is not dispositive of this factor.

Mr. Colaggero's sight distance analysis helps with the safety aspect for this factor. To start, he superimposed the contour lines provided to him by Mr. Motsco on the roadway network. (*See*, Pet. Ex. 26). Petitioner, however, seeks to split the entranceway into an entrance lane and a separate exit lane, which requires shifting the location of the entrance and exit. Following SHA granting conditional approval of the concept plan depicting a split entrance and exit (as reflected in Pet. Ex. 27) during the pendency of this hearing, Mr. Colaggero conducted his sight distance analysis anew (*See*, Pet. Ex. 26).

As reflected in Petitioner's Exhibit 26, at the proposed new exit at the Property, SHA requested Mr. Colaggero provide a minimum of 390 feet looking south (*i.e.* left), based on northbound traffic proceeding at 35 mph coming out of the first curve/turn. Looking north (to the right) from the proposed exit lane, SHA requested an intersection sight distance of 500 feet based on a speed of 45 mph for those southbound vehicles on approach to the Property. SHA also wanted a minimum intersection sight distance for the southbound traffic left-hand turn into the Property of 285 feet, based again on a speed of 35 mph of northbound traffic coming out of the first curve/turn. Lastly, SHA requested a stopping sight distance of 360 feet based on southbound traffic at 45 mph.

For this 500 feet intersection sight distance and 360 feet of stopping distance to be achieved, vegetation growth on the north side of Harford Road, starting at Bonaparte Avenue and around the curve at the Poehler driveway, must be cleared and maintained. SHA acquired a right-of-way at this location to clear and maintain the vegetation growth on the north side (southbound traffic side) of Harford Road. As for the south side (the northbound side of traffic), SHA will

make a determination of what is required and if clearing and maintenance on the Property is necessary. SHA, as part of the access permit process, may either acquire a right-of-way from Petitioner or condition its approval and require Petitioner to clear and maintain this area.

As noted above, accident data was also presented by both sides. (Prot. Ex. 10, Pet. Ex. 30). Protestants' Exhibit 10 concerns accidents that occurred from 2016-first quarter of 2018, on Harford Road, between Hartley Mill Road (south of the Property) and Glen Arm Road (to the north), but there are no further details about the accidents, the specific locations, or causative or contributing factors. Petitioner's Exhibit 30, assembled by Mr. Colaggero and/or his office after cross-examination on Protestants' accident data, identifies accidents that occurred from 2015 through first quarter 2018, on Harford Road, in between Hutschenreuter Road (to the south of the Property) and Vista View Court (to the north). The data identifies a report number, date, surface conditions, time, mile marker location, road name, distance, direction, and a code briefly describing mechanism for the occurrence of an accident (*e.g.* "Making Left Turn"). Petitioner's exhibit has much more information than Protestants, but because the exhibits use different data by time as well as location, and also sourcing, there is little value in attempting to compare or reconcile the two.

The area of particular relevance for evaluation would be that section between Hutschenreuter Road, to the south, and Glen Arm/Mount Vista to the north. Even still, some of the information may not be applicable or otherwise be relevant to this case as, in 2016-2017, SHA reconstructed the previously non-aligned intersection at Glen Arm Road, Mount Vista Rd. and Harford Road as a roundabout. As identified by the lay witnesses, there had been numerous accidents at that intersection prior to reconstruction. Mr. Colaggero testified that he understood SHA began studying the Glen Arm/Mount Vista/ Harford Road intersection in 2009. Accident

data inclusive of pre-roundabout accidents at that location lessen the importance of the data unless those accidents (as well as other outside of area considered relevant) can be identified. Whatever intersection and road conditions caused or contributed to the occurrence of the accidents at the Glen Arm/Mount Vista location no longer exist and, obviously, will not exist going forward.

Excluding data of accidents that occurred at or near the intersection of Glen Arm, Mount Vista, and Harford Roads, Petitioner's Exhibit 30 provides some evidence that a higher number of accidents occurs within the relevant stretch of road at a higher rate than the remainder of the studied area (primarily, the area along the western edge of the Property to Hutschenreuter Road, and Harford Road north of the roundabout to Vista View Court). Out of the 20 accidents, 10 occurred within the surrounding neighborhood defined above. Notably, the accidents that occurred within 250 feet of the intersection of Bonaparte Avenue and Harford Road, and therefore the proposed entrance and exit to the Property, are also within the improved intersection sight distance and improved stopping distance required by SHA.

SHA has provided its preliminary input to Petitioner as to how to make the Property entranceway safer, which requires relocating and splitting it (as well as maintaining vegetation that may obscure sight lines). The only information in the record regarding an assessment as to the safety risk presented by the proposed use comes from Mr. Colaggero. Mr. Colaggero has opined that his understanding of the proposed use of the Property in combination with the SHA-requested sight distances makes the relevant stretch of Harford Road safe. SHA, as part of the access permit process, may have more input as to further improvements.

Given the inherent heightened level of danger this stretch of road presents, the representations identified by Mr. Colaggero and confirmed by Mr. Ghimire as to expected typical use take on greater importance. In other words, because the Board's decision is premised upon

the unrebutted representations as to the expected typical use, any use that leads to more vehicles than those used in Mr. Colaggero's studies may create a greater risk, especially considering that this stretch of roadway is particularly complicated and more dangerous than found elsewhere. Greater usage will foreseeably lead to more stacking and/or queuing outside of the Property's entranceway, potentially causing a greater risk for accidents given the visual obstructions and sight distance issues, particularly for traffic going northbound around the "blind curve."

SHA has proposed changes to help alleviate these concerns based on the representations. The Board notes that if vehicle usage well exceeds the models, SHA's remedies may not adequately abate or alleviate the dangers presented by this stretch of road. The Board, however, can only base its decision upon the evidence presented, which reveals that, as proposed, certain measures have been or will be required by SHA to address safety issues. The only evidence in the record is that the entranceway and exit can be made safer than existing conditions, even with the increased vehicle traffic accessing the Property.

Based on this evidentiary record, the Board finds that Petitioner has met its burden on this issue and factors. There is no competing evidence regarding sight distances or other evidence upon which the Board can rely to conclude otherwise. Nevertheless, as set forth above, the Board's imposition of a right-turn only for any vehicles exiting the Property will provide additional relief to minimize traffic from queuing on Harford Road outside of the Property's entrance, helping to address the safety concern. The Board will also impose as a condition on Petitioner that Petitioner complies with SHA's requirements and recommendations, and also that Petitioner maintain the vegetation on its Property in order to maintain sight lines along Harford Road at all times.

3. §502.1(C) Potential Hazard from Fire, Panic, or Danger

Protestants presented evidence through video clips of events at the Property of certain fire code violations and the use of fire at an event. None of those clips or the testimony from Protestants poses any sufficient challenge to the presumption afforded to Petitioner, let alone causes the Board to conclude the proposed use creates a hazard of fire, panic, or danger. In any event, there is no evidence at all that suggests any risk of fire, panic, or danger is greater with the proposed use at this location. Moreover, Petitioner will not be exempt from compliance with the fire and building codes. Petitioner has satisfied this factor.

4. §502.1(G) Consistency with Zoning Classification/Spirit and Intent of Zoning Regulations

While this factor has been contested, the Board finds Petitioner has met its burden on this factor. The RC-2 Zone permits buildings for religious worship as special exception use. Other religious institutions exist in the RC-2 Zone. In fact, one religious institution is adjacent to the Property. Agricultural land is not being removed or changed as a result of this Petition. Ms. Twining testified she did not think the Property had ever been used as a farm while she has been in the area. Moreover, the evidentiary record established that, though there may have been a significant history of agricultural use in the general, broader area, the immediate subject area is now primarily residential, with other non-agricultural uses in the vicinity.

There is nothing in the record that establishes the residential and other non-agricultural uses within the immediate area affect the agricultural uses outside of it and therefore, there is no basis to conclude that the proposed use will have such an effect simply by its location. Similarly, there is nothing in the record to support a finding that the proposed use somehow detrimentally impacts the surrounding area to a greater extent than if located elsewhere to render the proposed use inconsistent with the spirit and intent of the zoning regulations. As such, the Board finds that

the proposed use is consistent with the RC-2 Zone general provisions under §1A01.1 or otherwise consistent with the spirit and intent of other applicable RC-2 regulations of the BCZR.

Protestants further argue that the propose use is inconsistent with the Baltimore County Master Plan 2020, particularly because the Property is zoned RC-2 and is located on a designated Scenic Corridor. The Board, having already found no inconsistency with the RC-2 aspect of this argument, also finds no inconsistency with the Property being located in a designated Scenic Corridor. The Master Plan 2020 states as a policy action for protecting scenic corridors: "(9) For properties along scenic routes or within scenic view sheds, variances, amendments, and special exceptions should be granted *sparingly*." (emphasis added).

The only proposed change that will be observable along the scenic corridor will occur at the entrance and exit, which is a minimal disruption, and the appearance will be consistent with other driveways or private roads in the nearby area. Notably, there is already a driveway present, but with this approval and the conditions imposed, the entranceway will be split to address safety concerns, which, of course, is of paramount importance.

The Master Plan 2020 expressly contemplates granting of special exceptions for properties along scenic routes, just that granting such petitions should be done carefully. The Master Plan 2020 cannot be reasonably interpreted as precluding all special exception uses, and specifically, the proposed use, even if in a RC-2 zone and along a Scenic Corridor.

The Greater Kingsville Area Community Plan, adopted by the County Council in 1996 into the Master Plan, includes the Property within its borders. The Community Plan recognizes that for development of religious institutions in the area, the development "should be located in close proximity to major roadways such as Harford and Belair Roads, and provide a suitable buffer commensurate with size and usage from neighboring properties." (Pet. Ex. 46, at p. 27).

As such, the Board finds that the proposed use is consistent with the zoning classification, zoning regulations, or the Master Plan 2020, including the Greater Kingsville Area Community Plan.

5. Detrimental Effect to the Environmental and Natural Resources of the Site and Vicinity

The Board finds that Petitioner has met its burden on this factor as well.[7]

It is noted Dr. Dewey Clark has some experience in environmental matters (training and volunteer work as a master naturalist) and his testimony on these points has been taken into consideration; however, Dr. Dewey Clark was not offered or received as an expert witness on environmental and natural resource matters.

While Dr. Dewey Clark expressed concerns about site drainage having impacts on the Gunpowder River and trout in nearby streams, no evidence was presented that identified the particular impacts, causation, proximity of sensitive areas to activities on the Property, or other such evidence required to find that Protestants successfully rebutted this factor.

Another issue raised by Dr. Dewey Clark concerned the possible use of non-native and invasive plantings. More accurately, he wishes for, if approved, a requirement that native plantings be used as part of any landscaping. The Board understands how requiring native plantings will help the site and vicinity and help prevent detrimental impacts from non-native species, and finds the suggested condition reasonable. Therefore, a condition requiring the same shall be imposed,

[7] It is noted that Petitioner addressed the septic and well issues under this factor in its post-hearing memorandum, while Protestants discussed it under §502.1(D). Protestants identified the issues of soil compaction and permeability caused by overflow parking. As stated above, the overflow parking is associated with the special events, not typical use. If the overflow parking was required on a continuous basis with a greater volume of regular attendees, the Board may have reached a different conclusion on this factor (but Petitioner would also have presented different evidence). The Board confines its decision to the proposed use, which does not require regular use of overflow parking on to the surrounding grass. Moreover, the evidence presented by Protestants can only be considered speculative and as such, insufficient as evidence.

to the extent that such a condition does not infringe upon the free exercise of religion, as is expressed in more detail below.

6. Detrimental to the primary agricultural uses in its vicinity. BCZR §1A01.2(C)

The Board finds that the proposed use will not be detrimental to the primary agricultural uses in its vicinity. In fact, as the Board has described the surrounding area and defined the neighborhood, there are no, agricultural uses along the relevant stretch of Harford Road or that are immediately adjacent to the subject Property. More specifically, the general area has properties with agricultural uses, but there are no farms immediately adjacent to the Property. While there may be farm equipment using Harford Road at various points, those points are not within the vicinity of the Property. The immediate vicinity is primarily residential in nature, along with the presence of the adjacent Christian Redeemer property and Beachmont Camp. There are no primary agricultural uses near the Property, therefore, the proposed use cannot be a detriment.

VII. Case No. CBA-19-004

On July 2, 2018, Mr. Kotroco, on behalf of Petitioner, wrote a letter to Judge Beverungen seeking clarification of his January 22, 2018 Opinion and Order regarding whether Petitioner could hold a fundraiser on the Property. (Pet. Ex. 34). Judge Beverungen responded the following day by writing on the letter, that the January 22, 2018 decision related solely to the operations of a building for religious worship, and that the owners are free to gather on their property so long as no religious activities are occurring within the subject building and all other permit requirements, if any, are satisfied. (Id).

Protestants filed a "Motion to Strike Tim Kotroco Letter Dated July 2, 2018 As Ex Parte And Not In The ALJ Jurisdiction To Opine." (Prot. Ex. 1, CBA-19-004). Protestants have argued that the letter was read into the record in an effort to "influence the judgment of this Board." (Prot.

Response to Case No. CBA-19-004). Protestants also contend that the letter was never served upon them, whether before or after Judge Beverungen's response.

Protestants subsequently clarified their position to note that they do not request that the letter be stricken, "only that the effect of the letter be ruled inappropriate and unduly presented and relied upon." (Id). It should be noted that Protestants did not object at the time that the Petitioner sought to move it for admission into evidence, but did note they would have a motion regarding it for the next hearing date after it was moved into evidence. In fact, counsel for Protestants, at one point, consented to its admission.

Simply, the Board finds that Judge Beverungen had no jurisdiction over the matter, irrespective of whether it constituted impermissible *ex parte* contact and without the need to untangle the lack of an objection followed by a motion and the request to strike, but only the effect, not the letter itself. The July 3, 2018 response had no effect upon the January 22, 2018 Opinion and Order, or the proceedings in front of the Board. Case No. 18-122-X had been properly appealed, divesting the court below with jurisdiction. The clarification had no effect on the Opinion and Order issued by the ALJ in Case No. 18-122-X or these proceedings. While it should not have occurred in the manner it did, no one should interpret the July 3, 2018 response has having any legal effect. As such, the Board dismisses the appeal of Case No. CBA-19-004 as there is nothing to remand, grant, or deny.

VIII. Exhaustion of Administrative Remedies

As noted above, Protestants sought to introduce documents and testimony regarding alleged code enforcement violations and what they have represented as a lack of adequate response and/or inaction in enforcement on part of the County. As noted above, no code enforcement matter was pending in front of the Board. Therefore, the Board did not admit the evidence relating to the

alleged code enforcement matters or the attempts at contacting County officials about them. Rather, Protestants requested that the Board find that Protestants have exhausted all administrative remedies on this issue.

Typically, administrative remedies must be exhausted prior to seeking judicial remedies, depending on whether the administrative remedies, relative to judicial remedies, is categorized as exclusive, primary and concurrent. Falls Rd. Cmty Ass'n v. Balt. County, Md., 437 Md. 115, 136; 85 A.3d 185, 197 (2014). For an appeal to this Board by a party "aggrieved by a decision of a local zoning official," the remedy at issue is at least primary, and may be exclusive. Id *quoting*, Maryland Reclamation Associates, Inc. v. Harford County, 382 Md. 348, 364-65; 855 A.2d 351 & n.6 (2004).

The Board finds that the remedies sought by Protestants on the alleged code enforcement issues are beyond the jurisdiction of the Board and/or those issues are otherwise not properly in front of the Board, precluding Protestants from any administrative remedies on the alleged code violation and enforcement issues and/or the County's actions or inactions concerning the same. Simply, the relief sought by Protestants on this issue, as understood by the Board, is beyond the authority and jurisdiction of this Board and Protestants will have to seek those remedies in another court.

IX. Evidentiary Issues Concerning Protestants' Exhibits 22 and 23

As stated above, Protestants called Mr. Ghimire as an adverse witness in their case. During the course of that examination, Protestants attempted to question Mr. Ghimire about two fights (to be clear, neither fight involved or concerned Mr. Ghimire in any way) that occurred on January 28-29, 2018, one at an event held at St. Joseph's Catholic Church called "Nepal Idol" modeled after "American Idol" and one at a restaurant after the first incident. The police were called to

respond to both fights. Protestants intended to introduce police reports (Protestants Exhibits 22 and 23) in support.

When first raised, it was unclear what the evidence was, what its purpose was, and the connection to Mr. Ghimire. Early on in that testimony, Mr. Ghimire was asked whether he sponsored or hosted an event at St. Joseph's Catholic Church. As that question caused some confusion to Mr. Ghimire, counsel for Protestants was asked to clarify. Subsequent questioning revealed neither Mr. Ghimire individually, nor the Petitioner, was the host or sponsor for that event. As the questioning developed, it became clear that Protestants wanted to establish that Petitioner was a sponsor for the Nepal Idol event to illustrate that Petitioner was, somehow, responsible for the fights. Objections raised by Petitioner to the police reports and questions to Mr. Ghimire were sustained as there was no connection between the incidents and Petitioner.[8]

Following Mr. Ghimire's examination on October 23, 2018, Protestants' engaged in subsequent, multiple efforts to have the police reports be part of the evidentiary and/or case record. The purpose for the questions and intent to introduce the police report, as well as the complete disregard for the Board's rulings, prompts the Board's atypical discussion in this Opinion of its evidentiary rulings.

On November 27, 2018, Protestants filed its "Motion to Admit Protestants Exhibits 23 and 24" which included additional documents beyond the police reports identified on October 23, 2018.[9] Within the Motion, Protestants stated that the additional documents evidence a link between the Nepal Idol event (and therefore, fights) to Petitioner. Protestants describe the two

[8] It needs to be noted that when the Board sustains objections to documents and items offered into evidence, the evidence is classified as "identification only." The Board is required to keep the rejected evidence as part of the case file in the event a party appeals a decision by the Board, but the "identification-only" evidence is not considered as part of the evidentiary record for the Board's deliberations.
[9] The Motion erroneously identified the exhibits as "Protestants Exhibits 23 and 24" instead of Exhibits 22 and 23.

fights, noting the first one occurred in the parking lot of St. Joseph's Church, and the second occurred around 1:00 a.m. at the Mount Everest Restaurant, identified as the after-party location hosted by the restaurant. One of the sponsors was identified as Ghimire Homes and one of the event organizers was identified as an attendee of several hearing dates in this case. Protestants looked at the names on the hearing sign-in sheets and, in conclusory form, referred to them as being "directly involved" with the Nepal Idol event because these individuals were thanked by the event organizers on a Facebook post.

In arguing its relevance as to why it should be admitted, Protestants' Motion raised the following question:

> If this type of behavior demonstrated in the police reports is indicative of the [Petitioner] behavior on a property they ***rented*** (St. Joseph's Catholic Church Hall), what can the local community expect regarding their behavior on a property they ***own*** (12231 Harford Road)? (emphasis in original).

The Motion goes on to state:

> Given that between 10,000 and 20,000 individuals of Nepalese descent reside in the greater Baltimore area, neighbors of 12231 Harford Road located in a rural agricultural R.C. 2 Zone are entirely justified in their concerns regarding health, safety, and **danger from the behavior of those attending NAACB events**, as evidenced by the January 28 and 29 police reports. (emphasis added).

On January 29, 2019, the Board denied the Motion for multiple reasons, which will be identified and addressed below as, due to the multiple attempts, the reasons to reject the evidence are applicable throughout the multiple attempts to use it.

On February 4, 2019, Protestants next filed their "Motion to Reconsider the Board's Decision to Readmit Protestants Exhibits # 22 and # 23" on the basis that the police reports were not admitted because Protestants had not adequately linked Ghimire Homes to Kris Ghimire. The Board asked counsel for Protestants at one point directly, "Are you offering this evidence for any

other purpose?" to which counsel for Protestants indicated there was no other purpose. The Board, once again, denied the Motion and rejected the evidence.

Despite the three prior rulings, Protestants, in their closing Memorandum, once again included the thrice-rejected police reports. Protestants did so under the guise of needing to, preemptively, address an argument they assumed Petitioner would make. The Board finds the proffered excuse wanting. Nevertheless, for clarity's sake, because the disputed exhibits are not part of the evidentiary record, the Board did not consider them.

The multiple attempts at getting the disputed exhibits into evidence or for the Board's consideration compels the Board to explain the reasons why the Board denied Protestants' use of these documents.

First, the purported evidence had no relevance or materiality to the issues in front of the Board. In particular, the Board was far from persuaded that Petitioner could be considered the sponsor of the Nepal Idol event and the Board was certain that Petitioner was not responsible for the actions identified in the police reports. The most elemental concept of corporate law is that a corporation is regarded as a separate legal entity. In other words, acts taken by an individual on behalf of a corporation are corporate acts; whereas, acts taken in a personal capacity do not bind the corporation. Turner v. Turner, 147 Md. App. 350, 425; 809 A.2d 18, 61 (2002). Petitioner is a corporation. Mr. Ghimire is a trustee for Petitioner. Mr. Ghimire, as identified in Protestants' Motion, is President of Ghimire Homes, LLC. Ghimire Homes, LLC was a sponsor of the Nepal Idol event. Mr. Ghimire may be authorized to act on behalf of each, but an act by Mr. Ghimire for one is not tantamount to an act by the other. Even if it is assumed Mr. Ghimire, individually,

played some role in putting on the event, actions by Mr. Ghimire individually are not attributable to Petitioner, nor are individual acts at events sponsored by corporations.[10]

Second, if probative value is assumed, and to be clear, the Board found and continues to find a complete absence of probative value, that any minimal probative value is substantially outweighed by the danger of unfair prejudice. Clark v. State, 774 A.2d 1136; 364 Md. 611 (2001); Maryland Rule of Evidence 5-403. Even if any probative value is assumed, the manifest, substantial weight of the unfair prejudice wholly eclipses the (assumed) probative value.

Third, for this hearing, as noted above, the Board must assess "whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." Schultz v. Pritts, 291 Md. 1, 22-23; 432 A.2d 1319, 1331 (1979). Evidence is only "material" if it tends to establish a proposition that has legal significance to the litigation. Bryant v. State, 881 A.2d 669; 163 Md. App. 451 (2005). For this purported evidence to be material to these issues, Protestants would be required to show how the particular use at this particular location would have adverse impacts above and beyond impacts experienced elsewhere. However, Protestants do not attempt to do so.

The mere fact that evidence rules are relaxed in administrative proceedings provides no relief to Protestants. Under the Board's Rules on evidence, any evidence which would be admissible under the general rules of evidence applicable in judicial proceedings in the State of

[10] In Protestants' Closing Memorandum, much like their Motion to Admit, Protestants argue Mr. Ghimire "misrepresented the facts regarding his involvement" in the Nepal Idol event. The Board did not and does not conclude Mr. Ghimire "misrepresented the facts regarding his involvement." First, the questions presented to Mr. Ghimire appeared to cause confusion, failing to distinguish between Mr. Ghimire's acts as an individual, on behalf of his corporation and/or Petitioner. The Board initially left room open for Protestants to show the evidence's relevance to Mr. Ghimire individually, but after receipt of Protestants' Motion, it became clear Protestants were conflating Mr. Ghimire's roles, which, as noted above, contravenes Maryland law, in addition to its other evidentiary frailties.

Maryland shall be admissible in hearings before the county board of appeals. Rule 7(a). The questions concerning the January 28-29, 2018 incidents and the documents regarding them present numerous evidentiary problems that would render them inadmissible in any courtroom and it requires their rejection here. Moreover, the Board's Rules require the evidence to be needful and proper and this evidence was neither needed, nor proper.

By attempting to use these exhibits, Protestants urge this Board to find that the fight is representative of what is likely to occur once the Property starts operations as a temple. In the best light to Protestants, this evidence is untethered to the facts, the special exception factors, and common sense. As noted above, there was never any reasonable or legitimate basis to argue Petitioner sponsored the Nepal Idol event, or controlled the premises of either incident location, or otherwise had any responsibility for the incidents that one night in January 2018. The Board, in fact, rejects any such assertion out of hand. Assuming *arguendo* Petitioner had some role in the event or location(s), the logical leap still fails to reach the other side of the evidentiary gorge, as it does not and cannot make it more likely fights will occur at the temple and/or that surrounding area is endangered as a result.

The Board sustained the objections regarding these exhibits and the questions asked and denied the motions as the case progressed. Though the exhibits were not part of the evidentiary record, Protestants nevertheless attached them to their Closing Memorandum.

The use of this evidence and the manner in which it was communicated during the hearing and in Protestants' closing memoranda reasonably may be interpreted in a far more egregious and odious manner. There are several examples in the record individually, but the cumulative effect casts its own shadow as well. Any suggestion, whether intended or not, that common heritage or ancestry may serve as a material factor to tie the two incidents to the temple use and operations

requires this Board to make it abundantly clear that evidence for that purpose, or anything within the orbit of its event horizon, cannot and will not be accepted or considered.

The Board, in fact, excluded that evidence from consideration as part of this decision. Instead, the Board focused only upon the testimony and evidence admitted into the evidentiary record.

X. CONCLUSION

For the foregoing reasons, the Petition is granted by the Board. Baltimore County Zoning Regulations § 502.2 empowers the ALJ and the Board of Appeals, in connection with granting any special exception petition, to impose conditions, restrictions or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties. As noted to varying degree above, the Board, pursuant to BCZR §502.2, will impose conditions as outlined in more detail below.

ORDER

THEREFORE, IT IS THIS 9th day of January, 2020, by the Board of Appeals of Baltimore County,

ORDERED that the Petition for Special Exception to allow a temple for religious worship on property zoned RC-2 is hereby **GRANTED**, subject to the following conditions under the Board's authority in §502.2:

1. Petitioner shall confine its hours of operation for non-religious events from 8:00 a.m. to 9:00 p.m.
2. The exit from the Property shall be right-turn only. Petitioner shall post and maintain proper signage indicating the exit is right-turn only at all times.

3. Prior to the issuance of any permits, Petitioner shall obtain from State Highway Administration (SHA) an access permit authorizing ingress and egress from the Property. Petitioner shall comply with SHA's access permit for the proposed entrance and exit. Petitioner also shall comply with the SHA requirements and recommendations. Petitioner shall also maintain the vegetation around the entrance and exit in strict conformity with required sight and stopping distances.
4. Petitioner shall submit all landscaping plans and all lighting plans to Baltimore County for approval.
5. Any tree(s) required to be removed for any improvement or construction of an improvement, Petitioner shall replace the removed tree with per-diameter equivalent replacement native species tree and each such replacement tree shall also provide similar or better shade and screening coverage. The replacement trees shall be planted in an area onsite that will increase the buffer density along the Property's border with the Poehler property in order to help screen the Property from the Poehler house and its curtilage.
6. Petitioner shall add landscaping to serve as an additional light and sound buffer between Petitioner's property and the Poehler property to increase the buffer density along the Property's border with the Poehler property in order to help screen the Property from the Poehler house and its curtilage. Petitioner shall add additional landscaping particularly at the Harford Road side (western side) of the multipurpose court to serve as an additional light and sound buffer between Petitioner's property and the Clark property and/or others in that area. All landscaping for these purposes is required to be approved by Baltimore County.
7. Any and all plantings, whether part of Condition No. 5, No. 6, or otherwise, shall consist of native species only, subject to approval by Baltimore County's landscape architect, with the sole exception for any plantings required for onsite for religious use.
8. Prior to the issuance of occupancy permits, Petitioner must demonstrate to DEPS that the well and septic systems will be sufficient to serve the proposed use. Prior to the issuance of permits, Petitioner shall also comply with any and all ZAC comments.
9. The outdoor amplification of sound shall not be permitted.
10. Petitioner shall obtain any and all necessary permits to have the pool and pool house demolished and removed prior to any demolition or removal. Any and all demolition or activity related to the removal of the pool and pool house shall only take place between 8:00 am and dusk.
11. Petitioner shall not organize, host, invite, conduct, or participate in any athletic program, league, or tournament on site. This condition does not preclude Petitioner from using the multipurpose court for athletic games or contests, only athletic programs, leagues, and/or tournaments.

12. Petitioner shall not use the Property as a community center, unless such community center-type activity is in furtherance of the exercise of religion and/or operation of the temple. Cultural activities and/or other activities with a non-religious purpose shall take place offsite.
13. Petitioner otherwise shall comply with the Baltimore County Code and Zoning Regulations at all times.

It is further,

ORDERED that the appeal in Case No. CBA-19-004 is dismissed as moot, as the court below had no jurisdiction over the matter at the time the letter was signed and sent, and the Order in Case No. 18-122-X otherwise resolves the subject matter of Case No. CBA-19-004.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

BOARD OF APPEALS
OF BALTIMORE COUNTY

Jason S. Garber, Chair

Deborah C. Dopkin

William A. McComas

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

January 9, 2020

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

J. Carroll Holzer, Esquire
J. Carroll Holzer, P.A.
508 Fairmount Avenue
Towson, Maryland 21286

Timothy M. Kotroco, Esquire
305 Washington Avenue, Suite 502
Towson, Maryland 21204

RE: In the Matter of: *Nepali American Cultural Center of Baltimore*
Case Nos.: 18-122-X and CBA-19-004

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Sunny Cannington Hop

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Multiple Original Cover Letters

c: Kris Ghimire/Nepali American Cultural Center of Baltimore
Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
C. Pete Gutwald, Director/Department of Planning
Michael D. Mallinoff, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law
DeWitt and Mary Clark
David and Bernadette Poehler
Joanne Foxworthy
Carol Shaw
Tom and Morgan Miner
David Hartman

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

October 10, 2019

The Honorable David Marks
Baltimore County Councilman
For the Fifth Councilmanic District
400 Washington Avenue
Towson, Maryland 21204

Re: In the matter of: Nepali American Cultural Center
Case No: 18-122-X

Dear Councilman Marks:

We are in receipt of your letter dated September 30, 2019 inquiring as to the status of the Board's Opinion in the above referenced matter. As you may know, the Board held the public deliberation on March 13, 2019 after eleven days of hearing.

At this time, I do not know when the written opinion will issued. The Board is working on the written decision, which will be issued upon completion and signature of the panel.

Thank you for your inquiry.

Very truly yours,

Sunny Cannington

Krysundra Cannington
Administrator

cc: Lawrence E. Schmidt, Esquire
Timothy M. Kotroco, Esquire
J. Carroll Holzer, Esquire

COUNTY COUNCIL OF BALTIMORE COUNTY
COURT HOUSE, TOWSON, MARYLAND 21204

DAVID MARKS
COUNCILMAN, FIFTH DISTRICT
COUNCIL5@BALTIMORECOUNTYMD.GOV

COUNCIL OFFICE: 410-887-3384
FAX: 410-887-5791

September 30, 2019

RECEIVED
SEP 30 2019
BALTIMORE COUNTY
BOARD OF APPEALS

Chairman Jason Garber, Board of Appeals
The Jefferson Building, Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204

Dear Chairman Garber:

At the most recent meeting of the Greater Kingsville Civic Association, I was asked to write to the Board of Appeals to inquire about the status of the Bonaparte Mansion decision.

While the county charter precludes me from involvement in issues before the Board of Appeals, with the deliberations over it is appropriate to make this inquiry and convey the community's desire for an expedious opinion on this issue.

Thank you very much for your service.

Respectfully:

David Marks
Baltimore County Councilman

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

August 15, 2019

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

Re: The Nepali American Cultural Center
Case No: 18-122-X

Dear Mr. Holzer:

Please be advised that we are in receipt of your client's letter dated August 7, 2019.

As you are aware, the Board concluded eleven days of hearings on February 13, 2019. Closing Memoranda were received from Counsel on March 5, 2019, at which time the record was closed. The Board publically deliberated this matter on March 13, 2019. An order has not been issued by the Board of Appeals to date.

As you know, because the record is closed and because the Board has conducted its public deliberation in this case, the Board cannot consider any matter raised within your client's letter. Moreover, the letter fails to identify counsel for Petitioner as an addressee or one to whom a copy of the letter was provided. Recognizing that you did not send this letter, obviously any attempt at communicating with the Board concerning a matter in front of the Board requires inclusion of the parties and/or their counsel on the communications. Lastly, the Board cannot provide advice on the subject matter raised within your client's letter or otherwise respond to the subject matter identified.

A copy of this correspondence and the underlying letter will be kept within the Board's file in order to avoid any confusion and to provide a record of the same; but, to summarize the issues identified above, the letter is not being used for any other purpose or consideration.

Please do not hesitate to contact me with any questions.

Very truly yours,

Sunny Cannington

Krysundra Cannington
Administrator

c: Lawrence E. Schmidt, Esquire
Timothy Kotroco, Esquire
DeWitt Clark, PhD, President of the GFWPA

GFWPA
P.O. Box 2
FORK, MD 21051

RETURN RECEIPT REQUESTED

UNITED STATES POSTAL SERVICE®

1000

21204

U.S. POSTAGE PAID
FCM LETTER
FORK, MD
21051
AUG 08, 19
AMOUNT
$7.00
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PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL®

7016 0910 0001 2634 5410

Mr. Jason S. Garber
Baltimore County Board of Appeals
105 W. Chesapeake Ave #203
Towson, MD 21204

RECEIVED
AUG 09 2019
BALTIMORE COUNTY
BOARD OF APPEALS

Gunpowder Falls Watershed Preservation Association (GFWPA)

P.O. Box 2
Fork, Maryland 21051

RECEIVED
AUG 09 2019
BALTIMORE COUNTY
BOARD OF APPEALS

August 7, 2019

Jason S. Garber
Baltimore County Board of Appeals
105 W. Chesapeake Avenue
Suite 203
Towson, MD 21204

Re: Case No: 18-122-X

Dear Mr. Garber:

It has come to our attention, through the Facebook posting of the NACCB, Inc. (Enclosures A and B), that they have every intention of holding a large event on September 2, 2019 in direct violation of Mr. Jablon's Cease and Desist order of July 2018. As you will recall, this Cease and Desist action was the subject of the "secret" Beverungen/Kotroco letter used to overrule that order. Further, you had ruled from the bench that letter to be improper, irrelevant, and to have no legal effect.

We presume that the applicant is not relying on yet another private agreement with Baltimore County of which Mr. Holzer or the Gunpowder Falls Watershed Preservation Association is unaware.

As you know, and as the applicant's own traffic expert testified and this Board concluded, the entrance to that property is located on an extremely dangerous stretch of Harford Road (MD 147) and its use by this corporation requires a State Highway Access permit. This permit has not been approved and in fact, the applicant has taken NO action to apply for that permit. Nothing has changed since the first letter to the applicant from SHA in November 2017.

It is particularly disturbing that the applicant would engage in this behavior WHILE your body deliberates its decision on the request for a Special Exception. This behavior is precisely what we described in our testimony before you. That this corporation has no regard for the rule of law.

It has fallen to me to inform you, County Executive Olszewski, Mr. Mallinoff, Captain Trivett, and Mr. Zeller of this behavior. Our Attorney, Mr. Carroll Holzer, is out of town and cannot be reached.

During the case presentation, you accepted evidence presented by GFWPA that County elected and unelected officials violated the community's right to due process by failing to respond to our written complaints. You observed from the bench that the lack of an enforcement action record was in fact a

problem for our case. When I presented the 20 plus unanswered certified letters, you suggested that we may have a separate action against the County for failing to respond to our concerns.

The Gunpowder Falls Watershed Preservation Association has done a remarkable job of helping the community remain patient while we let the judicial process play out. This has occurred in the face of continuous provocation, legal and personal, from representatives of the NACCB, Inc.

These latest actions represent an escalation of that provocation. It is imperative that you act to require the County to enforce the laws and regulations regarding permitted uses of an RC-2 zoned property (agricultural, **NOT** event venue) and to protect the rights of the community.

The use of the entrance to the property for a large event without the benefit of a Maryland State Highway Access Permit (and the safety elements it would require) presents a clear and present danger to all who will be using MD 147. We request that you instruct the County to enforce that requirement as Mr. Zeller stated in his email of 7/5/2018 (Enclosure C).

I will close by adding that the community, being citizens who respect the rule of law and the property rights of others, have not interfered with NACCB, Inc.'s use of the property in any way. In fact, despite their initial claims of vandalism targeted at them because of race/religion, as far as I know there have been no such incidents despite the greatly reduced occupancy of the property this summer.

If this behavior goes unchecked, the NACCB, Inc. and Baltimore County will be solely responsible for the consequences. The GFWPA has done all it can do.

Respectfully,

DeWitt S. Clark, PhD
President
Gunpowder Falls Watershed Preservation Association

cc:
Johnny Olszewski, Jr.
Michael D. Mallinoff
Captain Dave Trivett
Richard Zeller, SHA Highway Access Permits
Carroll Holzer, Esq.

Enclosures:
A - NACCB, Inc. Facebook announcement, Translated Version
B - NACCB, Inc. Facebook announcement, Original Version
C - Clark/Zeller email of July 2018

ENCLOSURE A

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Google TRANSlate VERSION

Srijan Tamrakar
tijakolaharaayobaRilal .."
haritalikatijavaWorship_workHmmm II
Venue: Hindu Buddhist Temple, 12231 Harford Rd
Glen Arm, MD 21057
Date: September7thOn the

— DATE IN IMAGE ABOVE IS Sept 2, 2019

eve of the great feast of Hindu women, onMonday, September7, a special initiative of spontaneous volunteer women and sisters associated with the Hindu Buddha Temple is like this year. mportant notice is also being prepared for organizing a "Teej-fast Pooja" program in the temple premises. Uma sradalu like to inform devotees happy.

On this holy day of the next September, this holy day of Monday, on the premises of the "Hindu Buddha Temple", it will be the second time to join this "Teej Vrat Pooja". We will be coming soo with time, needed materials and other detailed information about the program Promise to all fallen into the fast issue now required to prepare their own / to again request you once.

Some spontaneous volunteers are also needed to manage this fast worship and facilitate the worship of the devotees. To the following volunteers:We also request to be contacted as soon as possible.
Sharmila KC - 443-722-5324
Jasmine Dawadi - 443-520-2688
Salina Sharma - 484-225-0926
Rajni Sharma - 410-585-7766
Maya Chauhan - 410-302-9757
Bishnu Sharma - 484-860-2808
Man Kumar Shrestha - 443-797-9251
Ramesh Shrestha - 510-717-8197
Shreekrishna ReGmi - 443-322-4989
Deepak Rijal - 443-310-3163
Srijan Tamrakar - 443-675-8889
Including all Hindu Buddhist temple families

tee_pancha : -
Yes sharp? Why celebrate?
It is an important festival celebrated by Hindu women. This festival is celebrated for 7 days from Bhadra Shukla Dudhia to Panchami. Lord Shiva is worshiped in the Tejas as well as dancing and entertaining.

Celebrated freely and joyfully by Nepali Hindu women, Nepalese women of other faiths and castes are celebrating with cheer. The festival is mainly celebrated all over Nepal and is also celebrated in some countries including India.

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rijan Tamrakar - [redacted]

ıcluding all Hindu Buddhist temple families

tee_pancha : -
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arvati, the daughter of Himalayan daughter of Lord Shiva, made the first vow that no obstruction should be made in the health and body of Lord Shiva.

is customary to call Mati (father and mother) brothers and sisters at home once a year, to feed their sweet and sweet delicacies and to share their feelings and pleasures in one place.

Religious_ backgroundMin : -
ccording to Hindu religious texts, King Himalaya did not like Parvati's promise to give her daughter Parvati to Lord Vishnu, and after going to the forest, she started doing penance for Shiva. ne hundred years after Parvati's penance was completed, she did not get the fruits of her penance. One day she set up a Shiva linga and stayed on a fast without drinking water.

hus, Shiva Parvati's marriage took place after Shivaji appeared on the basis of Parvati's harsh vows and blessed him with 'blessings so that he could get something done.' That day was the f Bhadra Shukla Tritiya. From that date, Hindu women started celebrating this day as a celebration, and it is believed that the tradition of Tej has been going on since ancient times.

samajikaprsthabhumaQ : - In
ıodern society, the significance of Tej is explained in any way, it is a fundamental tradition that has existed since ancient times. For the sake of creation and society, women have to live with usbands for the rest of their lives after marriage, according to Eastern belief. Thus, the Feast of Teej is of great importance as an opportunity to reduce the memory of the family, mothers, ıthers, siblings, friends and friends who are born in their immediate family while living in the family. Women are fed fresh sweet treats, new clothes are given to them.

he festival plays a major role in reducing women's burdens of responsibility, stress, and the memory gap. In those days, married women want to enjoy the long life of their husbands while erforming strict nourishment fast and dance and entertain each other while the unmarried people fast with hope of a suitable bride. During fasting, women listen to the tiktat and perform puj rahman Brahma.It is customary to give donations to them. The vow of Tej is taken differently than other vowels. The first day is to be sacrificed with special significance.

" We are Nepali from Maryland" "Maryland Ka Hami Nepali" , 2019
ee Translation
over Photos · Jul 22 ·
iew Full Size · More Options

Share

s

Srijan Tamrakar
https: //www.hamropatro.com / date /2076-5-16

ENCLOSURE B

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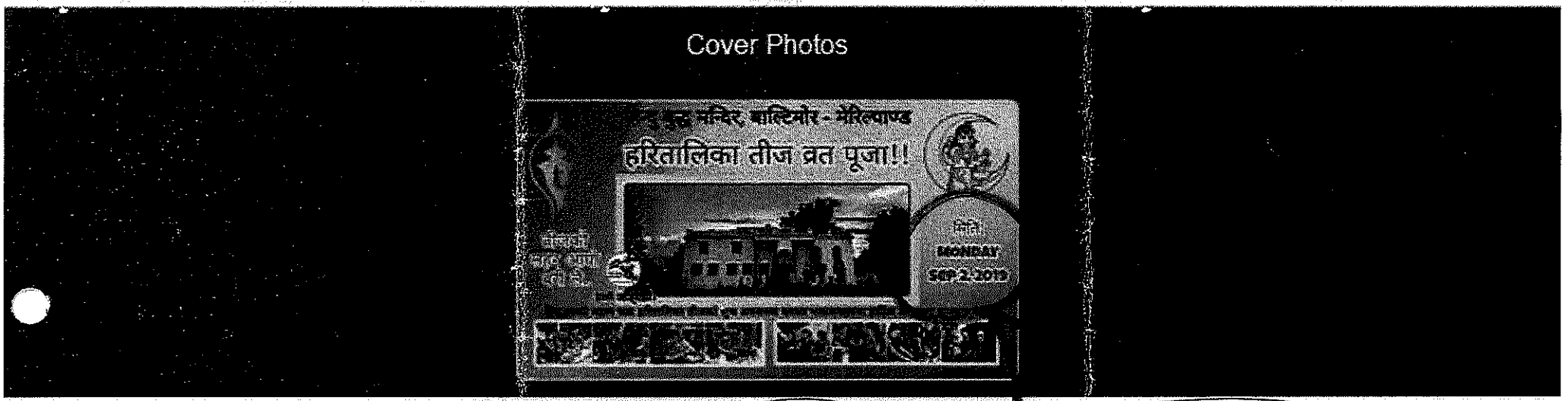

As Posted

Sept. 2, 2019

ार
ायो_बरी_लै.."
ा व्रत_पूजा_कार्यक्रम!!
ान्दिर, 12231 Harford Rd
21057
ारीख सोमबार

न्दु नारीहरुको महान पर्व "हरितालिका तीज" को शुभ- अवसर पारेर हिन्दु बुद्ध मन्दिरमा आबद्ध स्वतस्फूर्त स्वयंसेवक महिला दिदिबहिनीहरुको विशेष पहलमा बिगतका बर्षमा झैं य
ीज व्रत पूजा" कार्यक्रम भब्य रुपमा आयोजना गर्ने तयारी भइरहेको महत्त्वपूर्ण सुचना सम्पुर्ण श्रदालु भक्तजनहरुमा सहर्ष जानकारी गराउन चाहन्छौं।

र महिनाको २ तारिख सोमबारको पबित्र दिनमा "हिन्दु बुद्ध मन्दिर" को आफ्नै परिसरमा, दोस्रो पटक हुनलागेको यस पबित्र "तीज व्रत पुजा" मा सहभागी हुन आजै देखि आफ्नो समय
न दिदिबहिनीहरुमा हार्दिक अनुरोध गर्दै यस व्रत पुजा हुने समय, ल्याउनुपर्ने आवश्यक सामग्रीहरु र कार्यक्रम सम्बन्धि अन्य थप बिस्तृत जानकारीहरु लिएर हामी चाँडै आउने बाचा
आफ्नो आवश्यक तयारी गर्न/ गराउन पुनः एकपटक अनुरोध गर्दछौं।

ब्यबस्थापन गर्न र सहभागी भक्तजनहरुको पुजाआजामा सहजीकरण गर्नका लागि आवश्यक केही स्वतस्फूर्त स्वयंसेवकहरुको समेत खाँचो रहेको हुँदा स्वयंसेवक भैइ सेवाकर्म गर्न
निम्न लिखित स्वयंसेवकहरुलाई यथासिघ्र सम्पर्क गर्नहुन समेत अनुरोध गर्दछौं।
443-722-5324
ji - 443-520-2688
- 484-225-0926
410-585-7766
- 410-302-9757
- 484-860-2808

ENCLOSURE C

Subject: RE: Follow up
From: Richard Zeller <RZeller@sha.state.md.us>
Date: 7/5/2018 8:54 AM
To: "'HTI Gmail'" <historictimekeepers@gmail.com>

Mr. Clark,

It is my understanding that the county has not approved this site for the proposed use (Temple). The SHA has not approved the existing entrance for this use. From the SHA perspective this site should not be operating at all. Will the county be shutting them down?

Rich Zeller

From: HTI Gmail [mailto:historictimekeepers@gmail.com]
Sent: Monday, July 02, 2018 9:12 AM
To: Richard Zeller <RZeller@sha.state.md.us>
Subject: Follow up
M . Zeller

This is in reference to the matter about which I wrote on June 21 2018. This concerns the use of a single property residence at 12231 Harford Rd. Glen Arm, MD as a commercial without a State Highway Access Permit and their internet advertising for a major fund raiser July 29-Aug 30, 2018.
It is important to note that our concerns are about community health (disposal of human waste), degradation of the watershed and major traffic problems they **testified** they created at last year's even.
In order to relieve alleviate any doubt about the situation regarding 12231 Harford Rd, Glen Arm MD, 21057, I have include the direct testimony of the NACCB,Inc. at the hearing January 17, 2018.
Included are the statements about traffic and infrastructure made under oath by the property owners and their expert witnesses. As you will see, the owners testified there is no water onsite (fire sprinklers for commercial venue) and they testify about the problems they caused on Harford Road at the fund raiser last year. **The one to be held on July 29-Aug 3 2018 is advertised as even larger.**
I included the pages that identify the hearing, date and the speakers. Mr. Kotroco represented the owners of 12231 Harford Rd, I am the representative for those opposed to this use of the property, Mr. Ghimire (misspelled Gimory) is the resident agent for the owner and Mr. Motsco is the Civil Engineer acting as the expert witness for the owner.
Pages 31-33 are the testimony about projected use
Pages 35-55 are the testimony of existing infrastructure
Pages 68 -70 are Mr. Ghimire's description of the fundraiser of July 2017 which resulted in the Cease and Desist order
Pages 71-73 are Mr. Ghimire's direct testimony about the lack of any sanitation facilities; no well and unusable septic.
For your convenience, I highlighted the relevant portions of testimony.
Please feel free to call me at 410.592.9998 if there is anything else you need.
This will be followed by a letter with a paper copy of the attached transcript.
--
Regards,

Dewey Clark,
http://www.historictimekeepers.com
Omega Recognized Service Provider
WOSTEP (Neuchatel) Certified After Sales Service of Current Watches
WOSTEP (Neuchatel) Certified Micromechanics
Restoration of Vintage Timepieces
Precision Timing Specialist
Micromachining

EM 43

Protestant Exhibit 43

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Nepali American Cultural Center, Inc. 18-122-X and CBA-19-004

DATE: March 13, 2019

BOARD/PANEL: Jason S. Garber, Chairman
Deborah C. Dopkin
William A. McComas

RECORDED BY: Sunny Cannington/Administrator

PURPOSE: To deliberate the following:

1. Petition for Special Exception to allow a church or other building for religious worship on property zoned RC2.

2. The letter dated July 8, 2018 signed by ALJ Beverungen regarding a clarification of a condition in the Order.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board deliberated the matter of CBA-19-004 first.
  - The Board reviewed that the appeal had already been filed in the matter of 18-122-X when the letter request was sent to the ALJ.
  - The letter request for clarification was not procedurally appropriate because the Protestants to this matter were not copied or made aware of the request.
  - The Board finds that the ALJ did not have jurisdiction to make any decisions after the appeal in 18-122-X was filed.
  - The Board unanimously decided to dismiss this matter based on lack of jurisdiction.
- The Board deliberated the matter of 18-122-X.
  - The Board reviewed that this is a Petition for Special Exception to allow a church or other building for religious worship on property zoned RC2.
  - The Board discussed the evidence and testimony heard over 12 days.
    - The Board discussed that the evidence and testimony heard from the Petitioners caused some questions from the Protestants regarding whether the subject property would be used as a temple or a community center or a hybrid of those.
    - The Board discussed that the evidence and testimony was sufficient to determine that the intended use is indeed religious in nature.
    - The Board discussed that the evidence and testimony submitted by the Petitioner indicated there are accessories existing on the property that are not necessary to the religious use, such as the pool, pool house and multi-sport court.
- The Board reviewed the Special Exception standards located in BCZR 502.1.
  - The Board discussed and determined the "neighborhood" boundaries first.
  - The Board discussed that case law on special exceptions indicates there is a presumption of validity to special exceptions.
  - With regard to 502.1.A., the Board discussed that the primary impact to health, safety or general welfare of the locality would be with regard to traffic, to be discussed with item B.

The Board also discussed the Protestants concerns about noise. While noise is not expressly addressed in 502.1, the Board determined that noise can be included in 502.1.A. The Board discussed the videos and audio recordings presented by the Protestants. The members noted that in at least one recording, the sound of the crickets was louder than the noise from the subject property. The Board also noted that the sounds from the subject property are not exceeding a typical noisy neighbor. The Board also discussed that there are noise ordinances at the state and county levels and enforcement procedures which can be pursued if necessary. There was no evidence that Protestants pursued any of these. Lastly, the Board noted that no experts were provided that could present a quantitative measurement of the noise from the site.

- With regard to 502.1.B., the Board determined that there are existing concerns about the conditions and capacities of the roads in this locality. The Board broke traffic concerns into two parts: Capacity and Safety.
    - Capacity
        - The Board discussed the various studies conducted by the traffic expert(s). Generally, the increase in traffic generated by the religious use of this property will not be overly burdensome on the roads or community.
    - Safety
        - The Board discussed the Protestants concerns regarding headlight intrusion into the Foxworthy's or Poehler's property. The Protestants provided evidence that left turns from the property could cause the headlights to sweep across the neighboring properties. The Board noted that there was no headlight study. The Board also noted that it is difficult to conduct a study when there has not been a final determination as to the location of the driveway. While a headlight study may address the issue, it would be additional cost to the Petitioners and there was uncertainty as to the final location of the driveway, which may or may not be across from the Foxworthy property. The Board determined that it was more reasonable to require right turns only when exiting the property, which eliminates the possible need for the headlight study.
        - The Board discussed the roads themselves. Specifically, the stretch of Harford Road adjacent to the subject property, which at the north end of the property, has blind curves and other conditions that create potential for hazard.
        - The Board discussed the accident data presented by both parties.
        - The Board discussed that these have been farm roads but the area is no longer agricultural in nature. There are no sidewalks or shoulders on these roads. There is no room for driver error. However, these conditions are existing and would not change whether the property were being used residentially or religiously.
        - The Board discussed the traffic expert's testimony and evidence that SHA has suggested moving the driveway but no determination has been made as to where the driveway will be located. In its currently location, the traffic circle at Harford and Mount Vista is less than a quarter of a mile away. The Board discussed that it would not be unduly burdensome to require anyone exiting the subject property to make a right turn only and if they needed to go south on Harford Road, they could go around the traffic circle.
        - The specifically found that the stretch of Harford Road at this location is dangerous, however, Petitioner provided sufficient evidence to show how it could be made safer for the represented increase in usage.

- With regard to 502.1.C., the Board determined that the religious use of the subject property will not overcrowd the land.
- With regard to 502.1.D., the Board determined that Petitioner met its burden.
- With regard to 502.1.E, the Board determined that the religious use of the subject property will not interfere with schools, parks, water, etc.
- With regard to 502.1.F., the Board determined that the Petitioner met its burden.
- With regard to 502.1.G., the Board determined that the religious use of the subject property will not be inconsistent with the R.C.2 zone or in the spirit and intent of the zoning regulations.
- With regard to 502.1.H., the Board discussed that during this process SHA recommended moving the driveway to make ingress and egress to the property more manageable but that should have very little impact on the impermeable surface. The Board is aware that a landscaping plan will be submitted for approval at a later date and determined that a landscape buffer should be maintained. Additionally, as there is no construction presently proposed, the impact to impermeable surface and vegetation should be minimal.
- With regard to 502.1.I., while the Board appreciates Dr. Clark's experience as a naturalist, the Board determined that the religious use of the subject property would not be detrimental to the environment or natural resources of the site and vicinity. The Board noted that there is a run off issue currently in existence on Harford Road but there was not sufficient evidence to attribute those problems to the subject property as used at present, let alone after improvements. The project will be reviewed by the County for environmental, stormwater management and other such issues. If any environmental issues are found, they may be resolved during the permitting and approvals process.

- The Board unanimously agreed to grant the Petition for Special Exception to allow the use of the subject property for religious worship with conditions.
- The Board discussed the conditions proposed by the Petitioners and Doctors Clark. The Board determined that some of the conditions proposed by Doctors Clark cannot be entertained by the Board in any way.
    - The Board determined that conditions will be placed on the approval to include (but not limited to) lighting, restrictions on amplification of sound, right turn only from exit, non-native plantings, and other conditions with specific details to follow in the opinion and order.

CONCLUSION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to GRANT the Petition for Special Exception to allow a church of other building for religious worship on property zoned RC2 with conditions. The Board also unanimously agreed to DISMISS the appeal in CBA-19-004.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,

Sunny Cannington

Sunny Cannington

IN RE: PETITIONS FOR SPECIAL EXCEPTION (12231 Harford Road)	*	BEFORE THE BOARD OF APPEALS
	*	FOR
11th Election District 5th Councilmanic District	*	BALTIMORE COUNTY
Nepali American Cultural Center Legal Owner	*	
	*	Case No.: 2018-0122-X
	*	

* * * * * * * * * * * * *

MEMORANDUM

Protestants, ***DeWitt and Mary Clark***, 12150 Harford Road, Glen Arm, Maryland 21057; ***David and Bernadette Poehler***, 12241 Harford Road, Glen Arm, Maryland 21057; ***Joanne Foxworthy***, 6229 Bonaparte Avenue, Glen Arm, Maryland 21057; ***Carol Shaw***, 7 Country Hill Court, Kingsville, Maryland 21087; ***Tom and Morgan Miner***, 11946 Harford Road, Glen Arm, Maryland 20157 and ***David Hartman***, 12513 Regwood Road, Hydes, Maryland 21082, by their attorney, ***J. Carroll Holzer, Esquire***, hereby submits this Memorandum in Lieu of Final Argument to the Board this 5th day of March 2019, as requested by the Board.

Respectfully submitted,

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TABLE OF CONTENTS

		Page
I.	**PREAMBLE**	1
II.	**SPECIAL EXCEPTION – PROTESTANT'S CASE**	2
A.	502.1 A	2-5
B.	502.1 B	6-7
C.	502.1 C	7
D.	502.1 D	7-8
E.	502.1 G	8-9
F.	502.1 I	10-11
III.	**LAWS AND DEFICIENCIES FOR PETITIONER'S CASE**	11-12
A.	Deficiency in Traffic Engineer Testimony	12-14
B.	Deficiency in Site Engineer Testimony	14-16
C.	Misrepresentation by Petitioner	16-18
D.	Confusion in Special Exception Application	19-20
E.	Invalid Comparisons to Religious Institutions	20-21
IV.	**CONCLUSIONS**	21-24
V.	**CONDITIONS**	24-25
VI.	**PROTESTANTS' RESPONSE TO ISSUES EXPECTED TO BE RAISED BY PETITIONER**	26-31
A.	*AASHTO Geometric Design of Highways and Streets*, Pages 653-657	
B.1	Misrepresentation of Facts by NACCB Key Witness	
B.2	Timeline of NACCB Large Events, 2017 – 2018	
C.	Police Reports and Protestants' Motions	

I.

PREAMBLE

The Petitioner, Nepali American Cultural Center of Baltimore, Inc., has failed to meet the requirements to be granted a Special Exception of a Baltimore County R.C. 2 zoned property located at 12231 Harford Road, Glen Arm, Maryland 21057. As written, Baltimore County code section 502.1 and case law requires the Petitioner to **prove** their use will **not** impinge upon any of the listed criteria. *Schultz v. Pritts*, 291 MD 1, 1325 (1981). This is a high burden to meet and the County Council had clear intent when this section was promulgated. The Protestants have proved this Special Exception will impinge upon the 502.1 conditions. Petitioner failed to provide any proof the Special Exception would NOT impact any of the stated criteria, while Protestants provided ample testimony and documentation to prove that Petitioner's proposed use **will** impinge on a number of those criteria.

The Petitioner's expert witnesses regarding traffic and site planning proved unreliable and by their own admissions produced inadequate plans that fail to address the criteria for a Special Exception in an R.C. 2 zone, leaving this Board with no plans upon which to pass judgment. Worse, the Petitioner's primary witness for the Corporation proved an unreliable witness whose testimony was at odds with documented facts and even his own testimony.

Protestants have provided an extraordinary amount of documentation that revealed Petitioner's (Nepali American Cultural Center of Baltimore, Inc.) intention for primary use of this property as a Community Building and Recreation Center with gatherings of hundreds up to a thousand people per day for weeks at a time. Protestants' evidence includes 70 hours of video, more than 100 documents, and testimony of both Protestants' and Petitioner's witnesses to show the overuse of the land, and violations of County and State laws and regulations. Most of the video and documentary evidence supporting a Cultural Center and not a house of worship was provided by the Petitioner.

In testing Petitioner's expert witnesses, Protestants revealed the inadequacy of the analyses performed by the site planner and the traffic engineer. Their opinions regarding 502.1 impacts are not supported by fact.

II.

SPECIAL EXCEPTION – PROTESTANTS' CASE

While it is not their burden to prove, Protestants have shown that Petitioner's proposed Special Exception would in fact violate a number of conditions set forth in 502.1. Protestants also have shown the sites offered for comparison by Petitioner are invalid both topographically and in terms of infrastructure support.

Protestants' interests in this case solely involve land use in a rural, agricultural R.C. 2 zone. Petitioner's attempts to portray the case otherwise are unfounded and inappropriate.

Many of the Protestants have resided in the community surrounding the subject property for more than 30 years. Testimony was presented that many residents remain here because they are "healed" by the peace, tranquility and predictable natural rhythms of this rural valley. The unpredictable disruptions to those rhythms that will (and have) accompany Petitioner's use of the property, as entered into evidence, unnecessarily and heedlessly interferes with the community's quiet enjoyment of their properties and the surrounding locale.

A. 502.1 A - Be detrimental to the health, safety or general welfare of the locality involved.

1. Sound and disturbance

    a. Protestants provided testimony through exert witness Chris Jakubiak that:

        1. An individual assessment of the volume and frequency of noise emanating from the use of a property for a house of worship is required.

2. The topography funnels the noise from the site down the narrow valley and that sound flows downhill across the Clark property, and adjacent properties, like any other wave. A simple understanding of high school physics is enough to discount Mr. Motsco's testimony that sound is directed toward the sky. This was corroborated by Protestants Video "Solitude."

3. The geological and topographical uniqueness of the locality is important in this case. The subject site at 12231 Harford Road sits atop the highest crest at the head of a narrow valley extending to the south, with land that rises steeply on each side of this narrow valley. These conditions make for a long site distance of an iconic view of the mansion of over a mile away seen clearly as one travels on Harford Road from Sharon Drive to the subject property. Hence, neighbors on surrounding hills can see clearly into 12231 Harford Road and the sloping grass areas on the property.

4. The "vegetative buffer" may offer visual screening, but it is not wide enough or dense enough to provide effective sound mitigation. This was corroborated by Protestants Video "Solitude" among other evidence. The "vegetative buffer" is non-existent for a substantial region of the locale.

5. Conversion of subject property from a single residential use to an institutional use will have direct impact upon the well-being of the owner of the property directly across from the entrance (Ms. Foxworthy) due to light intrusion from headlights and noise.

6. The rural state highway used for access to the subject property is inadequate for the use proposed.

7. As proposed, given the outdoor festivals, the use would be adverse to the general welfare of the locale due to road conditions, overflow parking issues, and grade differences of 122 feet.

b. Mr. David Poehler testified about the negative impacts on his family's well-being caused by the noise emanating from subject property and heedless disturbance to his quiet enjoyment of the locale.

c. Dr. Mary Clark testified of her distress resulting from the noise emanating from the site from use of the hard surface volleyball court 400 feet uphill from her property ("loud, percussive screaming and yelling") frequently in the late afternoon and early evening, and Sundays before 8:15 am, and the noise generated at gatherings on the subject property from amplified music and speeches.

d. Ms. Joyce Mason testified that she is over one mile away from the **unscreened** (no "vegetative buffer") southward facing slope of the property and that noise emanating from the subject property was loud enough to spook her horses, which required Ms. Mason's intervention.

e. Videos of numerous, almost monthly, and heedless non-religious gatherings on subject property (See Appendix B.2).

f. Ms. Joanne Foxworthy provided an affidavit describing the effects of the heedless disturbance created by Petitioner upon her personal health (Protestants Exhibit 67).

g. Ms. Joanne Foxworthy's affidavit regarding noise emanating from subject site (Protestants Exhibit 68a).

h. Mr. Robert Shifflett's affidavit regarding noise emanating from subject site (Protestants Exhibit 68b).

i. Mr. David Poehler's sound affidavit regarding noise emanating from subject site (Protestants Exhibit 68c).

j. Dr. Dewey Clark introduced the recognition of solitude as a human need through the introduction of the U.S. Wilderness Act of 1964. The Wilderness Act was created to set aside millions of acres specifically so people would have an opportunity to experience solitude. This Act set aside millions of acres of wilderness for the express purpose of providing individuals with the opportunity to experience **solitude** in an environment "**untrammeled** by human beings."

k. Petitioner's letter of January 2018 (Protestants Exhibit 49) states that the subject site is very similar to the Swyambhu Hills of Kathmandu, Nepal. Like that area in Nepal, the subject site is away from the crowd and noise. Petitioners have testified they want solitude for their use, but are willing to deny local residents that same solitude when amplified noise and screaming from volleyball games disrupts the neighbors' solitude as far as a mile from the subject site.

l. The current case is very similar to Howard County Board of Appeals Case #15-024 C&V decided in 2017 where the Board **DENIED** a (much smaller use) Hindu Temple because the "Petitioner has not met his burden of production and persuasion that the proposed ingress/egress driveway/intersection will provide safe access with adequate sight distance, based on *actual conditions*." (emphasis added). As with this case, the Howard County Board of Appeals talked about inadequate sight distance at the proposed driveway that would generate conflicts, undue delay and safety issues between the vehicles negotiating the intersection (the proposed driveway) and other vehicles.

2. Lack of concern for sanitary conditions
   a. In the case below, Petitioner testified that all plumbing had been removed from the building, they could not locate the septic system and there was no running water. These assertions were repeated before this Board. Yet they hosted numerous large (over 200 attendees) gatherings without adequate sanitary facilities.

   b. Affidavits regarding lack of sanitary facilities at gatherings were provided by:
      1. Mr. Tom Kneeshaw (Protestants Exhibit 71a).
      2. Mr. David Poehler (Protestants Exhibit 71b)
      3. Ms. Morgan Miner (Protestants Exhibit 71c).
      4. Ms. Judith Beard (Protestants Exhibit 71d).
      5. Mr. Ron Standiford and Ms. Darby Standiford (Protestants Exhibit 71e).

   c. Affidavits that only three port-a-pots were available during the July 28 - August 3, 2018 festival, as stated by Petitioner, despite an average daily crowd of more than 300 people (Protestants Exhibit 72).

   d. Petitioner's Sanitarian offered testimony that the existing septic system was inadequate and had failed. It is abandoned.

3. Protestants provided documentation of Petitioners' use of open fire during a non-religious event (a "picnic" as characterized by Petitioner in Letters of July 2 and July 25, 2018) in a crowded tent, handled by people with flowing, flammable clothing without the presence of any fire suppressant equipment (Protestants Video 7045 of fire in the tent from July 28 – August 3, 2018 festival and Protestants Exhibit 74). Petitioner's stated that flying embers from a burning tent on the subject site could not ignite nearby trees and homes. Any U.S. Certified Wildland Firefighter knows from training and experience that this statement is absurd.

4. Added hazard: Protestants provided documentation of the hazards introduced to the locale by large numbers of individuals unfamiliar with the area.

   a. Out-of-region drivers unfamiliar with local traffic patterns, including a Baltimore County Police Report (Protestants Exhibits 75 and Blue Iris Videos).

   b. Photo of car at night southbound exiting the property on the wrong side of the road (Protestants Exhibit 35a).

B. <u>502.1.B - Tend to create congestion in roads, streets or alleys therein.</u>

Petitioner attempted to obscure the impacts of the increased traffic created by the actual and proposed use of the subject property. They attempted to use a report based on annualized road use data rather than percentage increase of traffic that results on the DAY OF gatherings at the subject site.

Protestants provided real-time footage of the effects on traffic on the days of such gatherings (Protestants Exhibit Blue Iris Videos).

An increase of even 100 cars on a section of road that normally serves 400 cars is a 25% increase over the DAILY use. This is obscured by Petitioner's use of annualized traffic data.

1. Protestants provided testimony regarding negative impacts from drivers unfamiliar with the area, including a hairpin turn with limited sight distance, just south of the subject site:

   a. Mr. David Poehler
   b. Ms. Joyce Mason
   c. Mr. Bruce Morgan

2. Protestants provided testimony and documentation about the concerns of the community caused by a large number of drivers unfamiliar with hazards on rural roads:

   a. Urban drivers are not aware of the hazards created by livestock and wildlife on rural roads

   b. Rural uses

      1. Road walker (Protestants Exhibit 58).
      2. Cyclist (Protestants Exhibit 59).
      3. Farm vehicles (Ms. Joyce Mason's testimony)

   c. Protestants provided testimony and documentation about the inadequacy of this rural historic highway for an uncontrolled increase of traffic.

      1. Pulled over car with police and dump truck passing across the double yellow line (Protestants Exhibit 17).
      2. Double line crossing by trucks (Protestants Exhibits 60 and 61).

3. Protestants provided documentation from the SHA that **the entrance to the subject property is inadequate and the entrance should not be in use.** This was corroborated by Petitioner's own expert witness on traffic in his testimony regarding sight distances.

C. 502.1 C - Create a potential hazard from fire, panic or other danger.

1. No provisions for firefighting equipment
   a. No emergency equipment access/turnaround
   b. Lack of water access to aid fire fighters

2. Protestants provided documentation that Petitioner provides inadequate fire protection measures for those using the building for the proposed house of worship. It should be noted Petitioner has made public statements the building "is completed." In fact, Petitioner made precisely that claim in cross examining Dr. Dewey Clark.

   a. Exterior doors open inward instead of outward (Protestants Video 4992)
   b. No panic bar on front door (Protestants Video 4992)
   c. No emergency lighting (Protestants Video 4992)
   d. Use of extension cords (Protestants Video 7016)

      1. Multiple cords chained together
      2. Running out front windows to tent 50+ ft. away
      3. Running over driveway where cars drive

3. In addition to the example of use of fire during a non-religious event (picnic as characterized by Petitioner in Letters of July 2 and July 25, 2018), Protestants provided documentation of unattended fire during a gathering (Protestants Video 7040C).

D. 502.1 D – Tend to overcrowd land.

Protestants' expert witness Chris Jakubiak provided testimony regarding the cumulative effects of the Baltimore County Master Plan 2020, the Urban Rural Demarcation Line (URDL), R.C. 2 zoning, and the extensive use of R.C. 2 zoning in the area that includes the subject property. This degree of protection is intended to minimize the opportunity for regular, large

gatherings in the rural, agricultural areas of the County. Protestants provided voluminous documentation that Petitioner, in fact, engages in such overcrowding of the subject property on a regular basis (See Appendix B.2).

Petitioner's own expert witness Robert Powell testified that of the whole 30 acres, only 1.5 acres was suitable for a septic reserve area which was sized to meet the need of 300 persons. A problem will occur when more than 300 people will continue to come to the property for the seven festivals per year. Currently there is no working septic on the site, and the location of any system has not been discovered. **It is notable that Mr. Powell declined to express a professional opinion on this 502.1 factor.**

E. <u>502.1 G - Be inconsistent with the purposes of the property's zoning classification.</u>

While Petitioner claims the primary use for the Special Exception is to be for a house of worship, their actual use, (Kotroco/Beverungen letter of July 2, 2018) and public statements make it clear that the **primary** use is to be for a recreational/cultural center. This is corroborated through their Articles of Incorporation and the following:

a. Beachmont decision (Protestants Exhibit 79)
b. R.C. 5
c. Volleyball videos (Protestants Rec. Center Videos)
d. Event videos (See Appendix B.2)

The location of the subject site is on a unique topographical pinnacle. This is important in this case because:

a. Sound impact to neighbors and livestock a mile away from the subject site destroys the ability to quiet enjoyment of one's property. The area was admitted by both parties to attract residents because of that feature.

b. Scenic vista with this iconic view seen from over a mile away.

c. "Bella Vista" (historic name of the site) was recognized by the local civic association in the "Greater Kingsville Area Community Plan" adopted to the Master Plan in 1996, to be the most important site to preserve in their "Scenic Vistas and Significant Structures" (Petitioner Exhibit 46).

d. This site does not lend itself to institutional use with steep, cliff-like hills and multiple sharp curves on hills (Protestants Exhibits 100-102).

e. This site has historical archaeological significance with known Native American use and remaining artifacts in this locality according to Mr. Jakubiak's testimony.

f. The pinnacle with its steep slopes presents problems for any kind of buffering of sound impact from the subject site.

A switchback, hairpin curve on Harford Road at this site, is the worst curve in this locale and perhaps ANY road in this area. The property has a very limited sight distance, dangerous entrance and exit for the proposed higher usage as a commercial use rather than a private residential use. Changes to the entrance and curves would damage the historic, rural character of the road, the historic marker in this site's hill (Protestants Exhibits 40 and 41), and be inconsistent with the regulations, spirit and intent for this R.C. zone.

Additionally, the proposed use of the property is inconsistent with the purposes of the zoning classification because the subject site:

a. Is located on a Baltimore County Scenic Corridor, as designated in the Baltimore County Master Plan 2020.

b. Is located within the "Rural Legacy Area" as designated by the State of Maryland. The proposed use of the subject site is in direct conflict with that plan.

c. Is adjacent to the National Register of the Long Green Valley Historic District, which bounds on Harford Road.

F. <u>502.1 I - Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands</u>

Protestants introduced testimony through expert witness Jakubiak that ecological damage resulted from the intended use of the previously farmed land for "over flow" parking. The compaction from the weight of hundreds of cars and the damage done to the watershed from the runoff contaminated by automobile fluids can be predicted. **Petitioner provided no analyses** to refute the effects of compaction on root development and soil permeability. **Petitioner offered no analysis** on the effects of runoff from the past and proposed use of the meadow for "over flow" parking.

1. It is remarkable and significant that Petitioner's most credible witness refrained from offering an opinion on this 502.1 factor in particular, and offered no opinion on any 502.1 factor.

2. Protestants expressed concerns about the use of non-native plants on such an extensive property within the Gunpowder Falls Watershed. **Protestants provided documentation and evidence about the ongoing efforts to mitigate the impacts of such plants and animals by Federal, State and County governments.**

3. Protestants provided testimony about the impact upon the local habitat and neighboring properties that accompany the change of land management of subject property from an old field/meadow to lawn. There is less filtration and faster runoff as depicted in Ms. Foxworthy's photo of Petitioner's property runoff onto her septic field, despite Petitioner testimony that no such runoff can be possible (Protestants Exhibit 65).

4. This Board commented that a requirement for native landscaping may be appropriate in this case. (See resources at *https://www.fws.gov/chesapeakebay/pdf/NativePlantsforWildlifeHabitatandConservationLandscaping.pdf and https://www.invasive.org/alien/pubs/midatlantic/midatlantic.pdf)*

5. Petitioner did not challenge any of Dr. Dewey Clark's testimony. In fact, Petitioner offered for rebuttal a discussion about the use of a storm water management plan as a result of this testimony.

Protestants have shown the characteristics of the subject property are unique and the impacts of the proposed Special Exception would be disproportionately deleterious than would occur in any other locale.

For example, a 110dB point source of sound (emergency vehicle siren) in a rural environment is a dramatic disturbance, which often goes unnoticed in an urban setting. In the subject locale, these sirens attract attention over a distance of 1.5 miles. In an urban setting, emergency vehicle drivers are fortunate if their siren attracts the attention of drivers a block away.

Expert witness Jakubiak provided testimony about the extent of the region protected by R.C. 2 zoning, the presence of large tracts put into conservation easement, and the importance of the historical designations bestowed upon the property and locale. Mr. Jakubiak drew the Board's attention to the importance of the Baltimore County Master Plan 2020 in considering this request for a Special Exception.

These concerns were echoed in Mr. Morgan's testimony about his concerns how this would impact development in the region served by the Greater Kingsville Civic Association.

Expert witness Jakubiak informed this Board that Petitioner's assertions notwithstanding, the Baltimore County 2010 Master Plan is in fact a recognized and controlling instrument in decisions such as the Langenfelder case, *HNS Development LLC v. People's Counsel for Baltimore County*, 200 Md. App. 1 (2011).

III.

FLAWS AND DEFICIENCIES OF PETITIONER'S CASE

The case for a Special Exception presented by Petitioner was deficient and flawed. Their lay witnesses presented conflicting testimony, Petitioner's site planner ultimately admitted the plan presented was at best a concept and their traffic expert could not even accept he was wrong in his assumptions about speed limits.

Not one of Petitioner's expert witnesses visited the subject property to observe how it was actually used. Mr. Motsco admitted he knew of large events but refrained from visiting. Yet he asserted he knew enough to testify that his parking plan was sufficient and that the "vegetative buffer" provided adequate sound mitigation. For both Mr. Motsco and Mr. Caloggero, who are Professional Engineers, to not determine how the property was actually used in preparation of their testimony rises to nothing short of "willful ignorance." Both used the defense that they relied on the representations of the Petitioner without an effort at independent verification.

A. <u>Deficiency in Traffic Engineer Testimony</u>.

Petitioner's traffic engineer, Mr. Caloggero, provided testimony that was marred by falsified assumptions and failures to adequately address the needs of this Board for accurate data. Petitioner was even required to recall Mr. Caloggero to revise his testimony.

- Failed to witness traffic generated by any large event held at the subject property; no traffic counts done at large events or evidence on how vehicles enter/leave the property. **Testified without benefit of data that traffic generated by such events had no 502.1 impact.**

- Failed to report the increase in DAILY traffic load at the entrance of the subject property by the 100 to 300 cars that can be seen on Protestants Blue Iris Videos. Petitioner tried to obscure this important aspect by attempting to annualize the traffic and discuss traffic load increase on an annual basis. **The use of annualized data is not only irrelevant, but misleading.**

- Did not gather data from any comparison sites, yet testified there was no greater impact of 502.1 criteria on the subject site vs. elsewhere. **His statements are not supported by data.**

- Failed to analyze the impact of headlight intrusion onto the Poehler (12241 Harford Road) and Foxworthy (6229 Bonaparte Avenue) properties.

- Assumed a speed limit lower than the posted 50 mph northbound speed limit on Harford Road in initial analysis and plans; adamantly rejected that his assumption was incorrect even when presented with photographic evidence (Protestants Exhibit 7). He stated that "his investigation" showed 45 mph. **This brings into question the validity of any of his opinions as a professional or even lay witness.**

- Discounted the need for traffic counts at the entrance until this Board stated it was absolutely needed for their consideration.

- The traffic "study" Petitioner did offer was inadequate. The fact the report did not include weather conditions, vehicle types, (such as farm equipment or 18 wheelers, which lower the range of speeds measured) **make it impossible to arrive at a meaningful interpretation of the results reported.** The traffic study was conducted in a time of year (October) when this road is not used by bicyclists, motorcycles or "Sunday drivers" out for a ride. The study failed to account for numerous hazards along this rural stretch of road, which may have in fact impacted the data collected during the traffic count study (no observers or cameras were used).

- **Failed to conduct a traffic study during any of the large events held on subject property.** The only data regarding such impact are represented by Protestants Blue Iris Videos recorded on July 29-30, 2018.

- Failed to adequately address the issues of reported accidents raised by Protestants on the section of MD 147 within ½ mile of the subject property entrance. In his revised testimony, he used a secondary source of data (not the actual Baltimore County Police reports) and he failed to provide an analysis of those reports. Further, he attempted to bias his analysis by including a stretch of MD 147 that is irrelevant to this case. **This raises questions of the validity of his testimony.**

- Stated that the SHA "shark fin" (a triangular parcel of land owned by SHA on the west side of Harford Road at the intersection with Bonaparte Avenue) must be kept mowed to provide required increased sight distance for vehicles southbound on Harford Road entering the property. This is a tenuous "agreement" at best.

- Offered conflicting opinions on the safety of the existing entrance. The SHA letter of November 2017, signed by District Engineer Wolcott, clearly states that the sight distances are inadequate.

- The sight distance methodology used by Mr. Caloggero was flawed. According to the *AASHTO Geometric Design of Highways and Streets*, pages 653 and 657, sight distance calculations are taken from a height of 3.5 feet at a distance 14.5 feet from the edge of the major-road traveled way (see Appendix A). Yet Mr. Caloggero's sight distances were taken near the road edge. **The required methodology would have placed Mr. Caloggero behind the stone landscape planter. This severely restricts all sight distances and invalidates his entire testimony**.

- Did not address growth in NACCB, Inc. membership/congregation over time on traffic.

- Testified volume of traffic did not matter in safety of entrance.

- Admitted the revised property access does not meet minimum SHA requirements for intersection sight distance and decision stopping distance.

- During his revised testimony, Mr. Caloggero offered into evidence a letter putatively signed FOR the District 8 Engineer of the State Highway Administration. Mr. Caloggero characterized this as conceptual approval for a new entrance plan concept. Close reading of this letter reveals it is no different than the November 2017 letter sent to Petitioner by SHA over the District Engineer's signature. **This November 2017 letter required Petitioner to submit an actual plan for SHA approval. The November 2017 letter remains unanswered and as of March 1, 2019, no response has been received by SHA from Petitioner.**

- Failed to inform this Board of the historic nature of the roadbed or the presence of a historic monument (Protestants Exhibits 40 and 41), which will impact Petitioner's ability to meet SHA Highway Access Permit requirements.

B. <u>Deficiency in Site Engineer Testimony</u>.

Petitioner's site engineer, Mr. Motsco, provided testimony that was flawed by his over reach in testifying on issues outside his credentials. Additionally, much of his testimony was uncorroborated by data even though Petitioner had ample opportunity to obtain and provide those data. The testimony and opinions he did provide must therefore be viewed with skepticism.

- Failed to attend any large events to observe and assess 502.1 impacts. He testified he was invited to large events but refrained from attending; testified he was aware of other uses of the property. **His professional opinion on 502.1 impacts was offered without the benefit of data.**

- Failed to identify other sites for comparison of impacts as needed for 502.1 opinion. **His opinion of "no impact" was not supported by data.**

- Testified 502.1 impact on neighbors was low. **Again, his failure to observe any of the large events held on subject property renders such an opinion meaningless.**

- Offered testimony in areas in which he was not qualified either as an expert or through personal experience (sound propagation; effectiveness of vegetation on sound mitigation).

- Despite having no credentials in sound propagation, without the benefit of data, a professional sound study, or personal observation, Mr. Motsco testified the sound leaving the property would not generate undue impacts on the community, let alone the adjoining neighbors.

- Testified that the high elevation of the subject site was not a factor in sound propagation (again, without credentials). The views (Protestants Exhibit 19; Mr. Motsco offered a very similar photograph into evidence) introduced into evidence show the subject property from MD 147 and Sharon Drive. This exhibit clearly reveals the direct exposure of the valley to noise generated on the subject property. There is no "vegetative buffer" to protect a substantial region of the impacted locale.

- **Offered no evidence to counter the testimony or documentation provided by Protestants regarding sound impacts--just data free opinion.**

- Despite having no credentials in landscaping or forestry, Mr. Mostco testified extensively on the sound mitigation effects of the existing "vegetative buffer." **Petitioner offered no witness who could provide any guidance on such, and again, offered no sound study to support such testimony.**

- The storm water management plan discussion on Day 11 was ill informed; he admitted it was not a careful analysis, but was a plan in concept. Failed to address increased sheet flow onto the Foxworthy Property upon which the SHA has installed a reverse osmosis treatment system to mitigate water quality problems arising from the flow of contaminated water from ACROSS Harford Road. Failed to address the issues that will be raised as a result of the Baltimore County Small Watershed Plan for Gunpowder Falls Watershed which includes the Haystack Branch into which Mr. Motsco proposed dumping storm water (eastward) from the subject site.

- Failed to inform this Board of the historic significance and presence of historic monuments related to the subject property. **This raises additional questions about his ability to provide accurate testimony and defensible professional opinions.**

- Protestants' Counsel objected to use of Mr. Motsco as an expert due to lack of experience/training.

- Attempted to minimize the impact on the National Historic District by testifying the "mansion" was only visible sparingly from the south on Harford Road (MD 147). This is contradicted by Protestants' videos and photograph (Protestants Exhibit 19) that clearly reveal the "mansion" contributes significantly to the Historic District and is visible almost continuously from almost 2 miles away. This is especially true from October until May. **This raises additional questions about his ability to provide accurate testimony and defensible professional opinions.**

- Provided wrong information on when the subject site was last used for agriculture **This raises additional questions about his ability to provide accurate testimony and defensible professional opinions.**

- Failed to inform this Board that subject property is within the 2017 Baltimore County Small Watershed Management plan for the Gunpowder Falls Watershed.

- Failed to report there is no vegetative buffer to the south that would "mitigate" sound propagation.

- The submitted plans failed to address a storm water management plan. Petitioner was required to recall Mr. Motsco to address this plan only after it became clear to this Board that Petitioner's use of the subject property regularly exceeded the parking proposed in the submitted site plan. **This raises questions about Mr. Motsco's site planning skills and his ability to provide accurate testimony.**

C. **Misrepresentation by Petitioner.**

The key witness for NACCB, Inc., Kris Ghimire, testified at the Board of Appeals hearings on Day 1 and Day 5, as well as at the Administrative Law Judge hearing. An examination of the transcripts from Mr. Ghimire's testimony shows that his statements in a number of instances do not match the documentary and video evidence in this case. Much of that evidence was provided by Petitioners themselves.

Mr. Ghimire's testimony conflicts with the evidence regarding use of the building, events at the subject site, use of the property as a temple vs. a cultural center, recreational use of the property, the July 28 – August 3, 2018 event, use of the kitchen at the subject site, permits/improvements to the property, and future use of the building.

The extensive record of Mr. Ghimire's testimony that is at odds with the evidence is disturbing and calls into question the veracity of this key NACCB witness. In some cases, he even contradicted himself from one hearing to another. See Appendix B.1 for a detailed analysis of Mr. Ghimire's testimony compared to evidence and exhibits that indicate he misrepresented the facts.

Appendix B.1 includes more than 45 instances in which Mr. Ghimire's testimony conflicts with other testimony and documentation.

Several salient examples include:

- On Day 5 of the Board of Appeals hearing, Chairman Garber asked Mr. Ghimire, "Were you the sponsor of this event" (Nepal Idol Concert in Baltimore, 1/28/18) to which Mr. Ghimire replied "No." Chairman Garber then asked Mr. Ghimire, "Did you have any type of role in leadership, management whatever of this event?" to which Mr. Ghimire replied "No". Mr. Ghimire's replies to Chairman Garber are not aligned with the evidence from Protestants Videos 7010 and 7057 showing a large banner on the concert stage with Mr. Ghimire's name, photo, phone number, and business name. Appendices proffered as Protestants Exhibits 22 and 23 show Mr. Ghimire was a platinum sponsor of the Nepal Idol concert.

- In the affidavit supporting the application for Petitioner's Incorporation, the Resident Agent (Mr. Ghimire) signed a sworn statement that the congregation was previously meeting at the office of his business. This is in direct conflict with his testimony before this Board that the address was "only a mail drop". On the other hand, if Mr. Ghimire's statement to SDAT is correct, that his office met all spiritual needs of the congregation; then it follows that restrictions on the size of gatherings, time of use, noise and recreational facilities will cause no undue difficulty to Petitioner.

- When questioned by Petitioner's Counsel on whether NACCB has used the building for purposes of having religious services, Mr. Ghimire said no. However, multiple videos posted online by NACCB members show activities in the building that were in fact related to religious worship.

- When asked by Protestant's Counsel how many events they have hosted on site, Mr. Ghimire responded they had three or four fund raisers. Multiple Protestants Exhibits and Videos, along with the timeline of events in Appendix B.2 indicate more than a dozen large-scale events in 2017 and 2018.

- At the ALJ hearing, Mr. Ghimire said NACCB has a congregation of 150 members. But on Day 5 of the Board of Appeals hearing he stated they had no congregation.

- On Day 5 of the Board of Appeals hearing, Mr. Ghimire denied having drums on the property at the July 28 – August 3, 2018 event. He also stated there was one microphone for the speaker. In contrast, photo and video evidence posted online by NACCB members for that event shows two types of drums and at least six microphones.

- Mr. Ghimire testified that no new electrical work was being done, and that they were only fixing up what was already there at the main building. However Petitioner's photo evidence before NACCB began making improvements to the building shows no exterior lighting on the front columns. In contrast, there are numerous videos posted by NACCB members from events in the summer of 2018 showing exterior spotlights added to the building where there were none at the time NACCB purchased the property. This is significant because there are no electrical permits for the subject site on file with Baltimore County.

In addition to misrepresentation of facts by NACCB's key witness, there were frequent attempts by Petitioner to dismiss the testimony of Protestants' witnesses regarding amplified drumming and noise, volleyball frequency and noise, and water flow ("water doesn't run over the crown of Harford Road onto the Foxworthy property").

All of this evidence points to a pattern of misrepresentation by NACCB to the community and to Baltimore County, and to their own Counsel and expert witnesses. (e.g., the first installed sign did not match their sign permit; Petitioner told their expert witnesses they would have a maximum of 150 people per day, when they have had over 500 people per day at large events).

Finally, a number of Facebook posts and videos posted by NACCB members were taken down (deleted) after being used as evidence by Protestants. Documentation of these deletions was provided to the Board and Petitioner's Counsel so that the Protestants' exhibits could be admitted into the record.

D. Confusion in Special Exception Application.

Petitioner has misrepresented themselves, their intentions and actual use of the subject site to this Board, Baltimore County, and the community. Their testimony is not internally consistent and is rife with logical fallacy. It appears individual statements were made to assuage concerns with no consideration to how those statements "hang together."

The purposes stated on Petitioner's Site Plan dated September 15, 2017, which was submitted to Baltimore County in March 2018, is "to allow a community building owned by a nonprofit civic or improvement association, and use by its members and guests for recreational, social, educational, or cultural activities in a R.C. 2 zone; and for a church or other building for religious worship. And for such other further relief as the nature of this case may require." (Protestants Exhibit 38).

- **Petitioner's Articles of Incorporation clearly state the three purposes of the Corporation. These are cultural in nature and make no mention of forming a congregation as required to Incorporate as a religious institution.**

- In the affidavit supporting the application for Petitioner's Incorporation, the Resident Agent (Mr. Ghimire) signed a sworn statement that the **congregation** was previously meeting at the office of his business. **This is in direct conflict with his testimony before this Board that the address was "only a mail drop."**

- On the other hand, if Mr. Ghimire's statement to SDAT is correct, that his office met all spiritual needs of the congregation; then it follows that restrictions on the size of gatherings, time of use, noise and recreational facilities will cause no undue difficulty to Petitioner.

- September 2017 first site plan (used in support of the Acharya sign permit application to Baltimore County) lists the **primary** use as a cultural and recreation center; the house of worship is secondary.

- Past, proposed and future activities are non-religious uses. These activities establish the **PRIMARY** uses of the subject property. They are clearly not **accessory** to a house of worship.

- Mr. Ghimire testified that all cultural activities are being held at 2906 Taylor Avenue. The imagination is strained to grasp how a building with nine parking spaces and 2,200 square feet of interior space is going to accommodate 150 congregants for gatherings Petitioner asserts will be held off site.

- On Day 8 this Board asked for clarification of the **primary** use of the subject site. Petitioner responded that it would be religious. This is in direct conflict with their current use and public representation on social media, promotional materials, and letters to the community.

- Petitioner has proposed converting the existing, decrepit barn into a venue for 1,000 people.

- The Kotroco/Beverungen letter of July 2, 2018 clearly shows Petitioner intends to expand their use of the property. Their attempt to have the ALJ order amended to exclude the property outside the building from their own request for a Special Exception that applies to the entire 30 acres clearly shows their intent.

The conclusion that must be reached by the use of this letter is that Petitioner is confused about their own intentions for the Special Exception for which they applied. They themselves are uncertain whether the Special Exception should apply to the entire property or only to the building proposed for the house of worship.

E. **Invalid Comparisons to Religious Institutions.**

Petitioner repeatedly referred to a fictional "Beachmont/Redeemer Complex". They attempted to create an image that these separate entities were acting in concert while in fact one organization is incorporated and permitted to operate as a recreation center and the other is permitted as a school. This conflation of the facts would seem to be in furtherance of an effort to make a case that "if this entity (Beachmont/Redeemer) can get away with this, why object to our development?"

- **Petitioner's Counsel was the Deputy Zoning Commissioner who presided over the cases involving these two separate entities and was fully aware of how these properties came into use.** Petitioner's mischaracterization of these properties is disturbing.

- The sites Petitioner used for comparison purposes (Beachmont and Redeemer) are in an R.C. 5 zone and they are on a County road that has excellent sight distances. The subject property is R.C. 2, is on a State rural highway with no shoulders and as Petitioner proved, very challenging sight distances.

- Petitioner asserted **most** churches in the locality have recreational facilities and tried to get Protestants' witnesses to agree. Protestants were able to directly falsify this assumption when asked by Petitioner. We do not know the proportion of houses of worship that include recreational facilities. It may well be that those religious facilities with recreational facilities are incorporated as a recreational facility (e.g., Beachmont), or have an accredited private school of instruction (e.g., Redeemer).

- Protestants provided evidence of the significant topographical differences between the subject property and the properties offered for comparison by Petitioner. The recreational facilities on both comparison properties (Beachmont and Redeemer) are located to minimize (eliminate) interference with the community's quiet enjoyment of their property. The subject site is located on the pinnacle at the end of the narrow Haystack Valley, from which all noise propagates down the valley and along the hills that define the valley.

Petitioner's expert witnesses testified that 502.1 conditions were no more adverse at the subject site than at a similar site. However, Petitioner's expert witnesses stated their assertions on the 502.1 conditions in the absence of <u>any data</u> derived from comparing the subject site to similar sites. This is particularly concerning since Petitioner's expert witnesses failed to observe the many adverse 502.1 conditions during large-scale events held by Petitioner on the subject site during 2017 and 2018.

IV.

<u>CONCLUSIONS</u>

A. The Petitioner failed to fulfill the filing requirements for a Special Exception. They filed for a Special Exception as a house of worship as the primary use of the property. Their Articles of Incorporation (NACCB, Inc.) make no claim as a house of worship and in fact the

purposes of the Corporation clearly show that NACCB, Inc. is a cultural and community organization. The record reveals that the property has been used extensively as a cultural and community activity venue. The record also shows they have promoted the use of the property as such to their donors and to the world at large.

Further, Petitioner's attempt to have the decision below amended to apply ONLY to the building proposed for use as a house of worship (communication Kotroco/Beverungen July 2, 2018) reveals they themselves are confused about their needs and intentions for the proposed Special Exception.

The application is defective and should be denied.

B. The primary witness for Petitioner has been shown to be unreliable. Mr. Ghimire's testimony was not consistent across his testimony at this hearing or even with that testimony given at the hearing below. Further, his testimony did not comport with video documentation published by Petitioner and offered into evidence by Protestants. (See Appendix B.1).

The weight of Mr. Ghimire's testimony is compromised.

C. The testimony provided by Petitioner's expert witness and site engineer was inadequate. By his own testimony, Mr. Motsco admitted the site plan offered to this Board in support of Petitioner's application was not a real plan; it was in flux. Further, he admitted he had no basis for any of his testimony or opinion on the impacts of sound emanating from the site on the locale. He has no qualification as a sound engineer and admitted he refrained from visiting the subject property during any event in which noise would be produced. His lay opinion about the effectiveness of vegetative buffers on sound mitigation is therefore unsupported by any data or personal experience.

On the other hand, Protestants provided five witnesses from as far as a mile from the subject site, who testified about the impact of the noise produced by Petitioner's use of the property. Further, Protestants introduced documentary evidence of the noise that corroborates the testimony of those five witnesses. It should be noted this evidence was created by Petitioner as well as the Protestants.

Mr. Motsco's testimony and the plans failed to prove that the proposed use of this property would not impinge upon the 502.1 conditions. The application should be denied.

D. The testimony provided by Petitioner's expert witness on traffic was inadequate and incorrect. Mr. Caloggero denied the actual speed limit on MD. 147 at the entrance of the subject property. He failed to analyze the accidents that occurred on the relevant portion of MD 147. He offered a letter of "conceptual approval" for a State Highway Access Permit that on inspection states exactly what was stated in the SHA letter of November 2017 to which Petitioner has yet to respond.

Petitioner misled this Board by the use of annualized traffic data. Annualized data are irrelevant when the issue is traffic load on individual days. Petitioner appears to propose approximately 20 days of such loads. The relevant traffic data is the percentage increase over the daily traffic load generated by the traffic created by Petitioner's gatherings. A 100-car increase in traffic load on this section of Harford Road results in approximately a 25 percent increase in daily road use. This is a significant increase in traffic on **any days of** gatherings on the subject site. The effects are clearly shown in Protestants Blue Iris Videos taken at the subject property entrance during two consecutive days of a "picnic" held on subject property on July 28 – 29, 2018.

Petitioner offered no comment on the validity of the impacts portrayed in these videos.

Most critical is Mr. Caloggero's failure to follow the methodology for determining all sight distance data as reflected on pages 653-657 of *AASHTO Geometric Design of Highways and Streets* (See Appendix A).

This Board was provided no basis on which to judge the Petitioner's application for Special Exception.

Mr. Caloggero's testimony failed to prove that the proposed use of the subject property would not impinge upon the 502.1 conditions. The application should be denied.

E. The conditions for approval of a Special Exception in an R.C. 2 zone (502.1) are not met. Protestants have provided testimony and documentation that the use of the subject property **violates 502.1. conditions A, B, C, D, G, and I.**

The application must be denied.

F. RLUIPA Concerns. Despite assertions made by Petitioner, there is no basis in fact or evidence that religious intolerance has been a factor in this case. Petitioner offered a witness (Mr. Upretty) who testified he knew of no instance of any form of animus from the surrounding community. Further, since there has been no enforcement of County code violations or State Highway Administration policy, there can be no claim the county or state government acted with ill intent. Petitioner made the outlandish assertion that vandalism on the property was directed specifically at Petitioner. Such an assertion is absurd given said vandalism occurred before the property came for sale and before Petitioner's interest in the property was known to the community. Finally, despite such claims and assertions there have been no reports of vandalism or trespass on the unguarded property or even to the sign at the entrance. Two witnesses for the Protestants offered testimony that they in fact had protected the property against trespassers.

RLUIPA is NOT a factor in this hearing.

V.

CONDITIONS

Given:

Protestants have shown Petitioner has a pattern of blatant disregard for legally rendered decisions;

Petitioner has engaged an Administrative Law Judge (ALJ) to amend a decision with no regard to the due process rights of the Protestants, and that this Board itself noted that such an interference was improper;

Petitioner used the letter by the ALJ to confuse County Officials about the status of the subject site in order to "get their way" with no regard to the consequences to those officials or Baltimore County;

Petitioner has shown through their repeated behavior and writings that they have no intention to adhere to any restrictions imposed on the use of subject property;

Petitioner unabashedly engaged in attempts at character assassination of Protestants with no, and even with contrary evidence held by them, to support their claims;

Petitioner freely testified and provided documents to acts that put elected officials in jeopardy when it seemed expedient to do so.

Protestants conclude there is no sound basis for a "partnership." The good faith required to ensure adherence to any conditions or restrictions on the use of the subject property is absent. There can be no expectation Petitioner will comply with such Board imposed conditions, restrictions or orders without active, swift and meaningful enforcement.

Protestants are mindful that enforcement of any Board imposed orders, restrictions, and conditions imposed is beyond the reach of this Board. This Board MUST rely on the County Executive for enforcement, and the record on this is inconsistent.

THEREFORE, Protestants conclude this application for a Special Exception must fall into the unusual and strictly confined category of Special Exception applications that are denied.

VI.

PROTESTANTS' RESPONSE TO ISSUES EXPECTED TO BE RAISED BY PETITIONER

The following assertions are likely to be raised by the Petitioner. Protestants offer the following rebuttals below, based on the facts and evidence in the case.

Gunpowder Falls Watershed Preservation Association Has No Standing

Petitioner assertions: The Gunpowder Falls Watershed Preservation Association (GFWPA) has no standing as a community association. It is not incorporated and is comprised of only a few neighbors. The GFWPA was formed only to oppose the NACCB's proposed use of the property.

Facts: The GFWPA is a group of 115 area landowners formed to "preserve and protect the rural nature in Baltimore County of the area bounded by Belair Road, Long Green Pike, Little Gunpowder Falls and Big Gunpowder Falls." The organization filed Rule 8 paperwork with Baltimore County (Protestants Exhibit 28). The Greater Kingsville Civic Association (GKCA) joined Protestants in this case (Protestants Exhibits 6 and 48) and represents 216 households in this rural area.

Petitioner's Expert Witnesses and 502.1

Petitioner assertions: The Board should grant the Special Exception to NACCB because their three expert witnesses said there was no impact of 502.1 criteria on the locale. In addition, the expert witnesses said this site would not be more adversely impacted than another similar site.

Facts: None of the three Petitioner's expert witnesses collected data on the use of the property during large-scale events to determine adverse effects on the locale from traffic, noise, fire, health, safety, and environmental concerns. Despite more than 12 large events held by NACCB on the subject site in 2017 and 2018, not one expert witness was present for any large multi-day event, some of which had in excess of 500 people on site. The expert witnesses only took

Petitioner's word for how many people would be using the site at a given time. In the absence of data, the expert witnesses testified there would be no violation of 502.1 criteria. Moreover, Petitioner's expert witnesses did not collect any comparative data on other sites, yet each expert witness testified the impact at the subject site would not be more adverse than at a similar site.

Environmental Concerns are Exaggerated

***Petitioner assertions*:** Protestants' environmental concerns regarding NACCB's proposed use of the subject site are exaggerated. Environmental concerns will be addressed through the normal county permitting processes.

***Facts*:** Throughout 2017 and 2018, NACCB has held large, multi-day events on the subject site without proper sanitation, parking hundreds of cars on grass slopes, and adversely impacting the environment. Petitioner's land use expert provided hastily developed testimony regarding his ideas for a storm water management plan, which fail to acknowledge major impediments for eastward and westward routing of outflow from the property. These concerns are reflected in the Baltimore County, Department of Environmental Protection and Sustainability Gunpowder Falls Small Watershed Management Plan.

Only One Protestants' Expert Witness

***Petitioner assertions*:** Protestants had only one expert witness, and mostly lay neighborhood witnesses, which diminished the value of their case.

***Facts*:** NACCB expert witnesses Caloggero and Motsco provided deficient and poorly researched testimony and provided ample evidence, both in direct and cross, which actually supported Protestants' case, thereby obviating the need for additional Protestants' expert witnesses.

Protestants' Bias

Petitioner assertions: Protestants are biased against the NACCB members and their case is about denial of religious freedom. Protestants showed evidence of bias in attempting to have the Nepal Idol Police Reports entered into evidence twice.

Facts: This case is solely about land use in an R.C. 2 zone. Despite numerous attempts by Petitioner to portray Protestants as biased, Petitioner's witness Mr. Upprety testified on Day 1 that their group had not been subjected to any racial or cultural animus. No one has vandalized the NACCB sign in front of their property. The Nepal Idol police reports clearly indicate their witness, Mr. Ghimire, misrepresented the facts regarding his involvement with the concert. There are multiple social media postings by NACCB members that accuse neighbors of prejudice toward NACCB, but there is no evidence to support such statements. Finally, no members of the local community trespassed on NACCB property, despite NACCB members' social media posts to the contrary.

Comparison to Other Religious Institutions

Petitioner assertions: Beachmont camp and Redeemer school have large events, over 250 students at Redeemer school, and create traffic in the area. NACCB should be allowed to practice their religion and have large events on their property.

Facts: Beachmont Christian Camp and Redeemer School are separate entities, but both are located in an R.C. 5 zone, as opposed to the R.C. 2 zoning of the subject site. The topography difference is important to note. The subject site is located on a pinnacle at the head of a long, narrow valley and amplified sound travels from the site down the valley. Beachmont is located in a bowl, which mitigates the sound. In addition, the GFWPA filed a zoning complaint against Beachmont last year for their corn maze attendance, which violated guidelines signed by Deputy Zoning Commissioner Kotroco.

Use of the Subject Site

Petitioner assertions: NACCB can use their property for worship, recreation, fund raisers and other purposes. They have a right to enjoy their property.

Facts: Numerous large, multi-day events with hundreds of cars and over 500 people per day are not aligned with the rural zoning of the subject site. Such events create traffic hazards and amplified sound, and destroy the surrounding community's quiet enjoyment of their property. Many religious institutions operate under either voluntary or imposed restrictions that respect the rights of the community.

Noise is Not a Criterion in 502.1

Petitioner assertions: 502.1 does not include noise as a factor in determining whether a Special Exception should be granted.

Facts: There are several legal cases where noise was considered as part of 502.1. These cases include: *Lucas v. People's Counsel for Baltimore County*, 147 Md. App. 209 (2001) and *People's Counsel for Baltimore County v. Mangione*, 85 Md. App. 738 (1991).

Petitioner's Social Media and Video Postings are Not Relevant

Petitioner assertions: These postings do not reflect the official position of NACCB on property uses, number of people at events, etc.

Facts: These postings are from NACCB Trustees, a major NACCB donor, and the Resident Agent. The social media and video postings all include date and source authentication, either within the document itself or in the file properties embedded in every electronic file. Note that some postings were removed during the course of the hearings after Protestants used the postings as evidence of violations of 502.1 criteria.

Protestants' Lay Witnesses were Unreliable

Petitioner assertions: The lay witnesses did not hear loud, amplified drumming or volleyball players. Several witnesses live too far away to be affected by activity on the subject site.

Facts: Lay witnesses provided documentary evidence to support their testimony. This evidence was provided by Petitioner. Witnesses who are not adjacent neighbors are affected by excessive traffic and noise from the subject site.

There is No Solitude

Petitioner assertions: There is heavy traffic on Harford Road with over two million cars per year. The area around the subject site does not have solitude.

Facts: Protestants' audio/video recordings (Protestants Video "Solitude") provided evidence of solitude, which was frequently disrupted by loud screaming from the Petitioner's volleyball court (Protestants Rec. Center Videos). This screaming can be heard well above the sound of cars passing by. Annualizing the number of cars on Harford Road belies the fact of concentrated traffic and congestion on the day of large, multi-day festivals at the subject site. Petitioner's claim there is no solitude, yet their own expert witness testimony that "vegetative buffers" are effective at sound control contradicts their "no solitude" assertion.

Vegetative Buffers are Effective

Petitioner assertions: The subject site is a 30-acre property with vegetative buffers. There is no disturbance from noise for nearby property owners. Many of NACCB's large events are held during a time of year when there are leaves on the trees, to act as a vegetative buffer.

Facts: Petitioner's Land Planner expert witness, Chris Jakubiak, stated that the vegetative buffer was ineffective in preventing amplified noise from reaching adjacent properties, as well as properties located along the narrow valley. There is no vegetative buffer to the south. Property owners reporting hearing amplified noise as far away as a mile from the subject site

during the summer, when trees are leafed out. The most disturbing amplified noise was in July and August of 2018. This July-August event also produced amplified noise that spooked a neighbor's horses a mile away.

Respectfully submitted,

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410-825-6961
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on the 5th day of March 2019, a copy of the aforegoing Memorandum was mailed first class, postage prepaid, to:

Timothy M. Kotroco, Esquire
305 Washington Avenue
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LIST OF APPENDICES

A. *AASHTO Geometric Design of Highways and Streets*, pages 653-657

B.1 Misrepresentation of Facts by NACCB Key Witness

B.2 Timeline of NACCB Large Events, 2017 – 2018

C. Police Reports and Protestants' Motions

Appendix A

AASHTO Geometric Design of Highways and Streets, Pages 653-657

the traffic control devices and not by the presence or absence of vehicles on the intersecting approaches.

Departure Sight Triangles

A second type of clear sight triangle provides sight distance sufficient for a stopped driver on a minor-road approach to depart from the intersection and enter or cross the major road. Exhibit 9-50B shows typical departure sight triangles to the left and to the right of the location of a stopped vehicle on the minor road. Departure sight triangles should be provided in each quadrant of each intersection approach controlled by stop or yield signs. Departure sight triangles should also be provided for some signalized intersection approaches (see Case D in the section on "Intersection Control").

The recommended dimensions of the clear sight triangle for desirable traffic operations where stopped vehicles enter or cross a major road are based on assumptions derived from field observations of driver gap-acceptance behavior (10). The provision of clear sight triangles like those shown in Exhibit 9-50B also allows the drivers of vehicles on the major road to see any vehicles stopped on the minor-road approach and to be prepared to slow or stop, if necessary.

Identification of Sight Obstructions within Sight Triangles

The profiles of the intersecting roadways should be designed to provide the recommended sight distances for drivers on the intersection approaches. Within a sight triangle, any object at a height above the elevation of the adjacent roadways that would obstruct the driver's view should be removed or lowered, if practical. Such objects may include buildings, parked vehicles, highway structures, roadside hardware, hedges, trees, bushes, unmowed grass, tall crops, walls, fences, and the terrain itself. Particular attention should be given to the evaluation of clear sight triangles at interchange ramp/crossroad intersections where features such as bridge railings, piers, and abutments are potential sight obstructions.

The determination of whether an object constitutes a sight obstruction should consider both the horizontal and vertical alignment of both intersecting roadways, as well as the height and position of the object. In making this determination, it should be assumed that the driver's eye is 1 080 mm [3.5 ft] above the roadway surface and that the object to be seen is 1 080 mm [3.5 ft] above the surface of the intersecting road.

This object height is based on a vehicle height of 1 330 mm [4.35 ft], which represents the 15th percentile of vehicle heights in the current passenger car population less an allowance of 250 mm [10 in]. This allowance represents a near-maximum value for the portion of a passenger car height that needs to be visible for another driver to recognize it as the object. The use of an object height equal to the driver eye height makes intersection sight distances reciprocal (i.e., if one driver can see another vehicle, then the driver of that vehicle can also see the first vehicle).

Where the sight-distance value used in design is based on a single-unit or combination truck as the design vehicle, it is also appropriate to use the eye height of a truck driver in checking sight obstructions. The recommended value of a truck driver's eye height is 2 330 mm [7.6 ft] above the roadway surface.

Intersection Control

The recommended dimensions of the sight triangles vary with the type of traffic control used at an intersection because different types of control impose different legal constraints on drivers and, therefore, result in different driver behavior. Procedures to determine sight distances at intersections are presented below according to different types of traffic control, as follows:

Case A—Intersections with no control
Case B—Intersections with stop control on the minor road
  Case B1—Left turn from the minor road
  Case B2—Right turn from the minor road
  Case B3—Crossing maneuver from the minor road
Case C—Intersections with yield control on the minor road
  Case C1—Crossing maneuver from the minor road
  Case C2—Left or right turn from the minor road
Case D—Intersections with traffic signal control
Case E—Intersections with all-way stop control
Case F—Left turns from the major road

Case A—Intersections with No Control

For intersections not controlled by yield signs, stop signs, or traffic signals, the driver of a vehicle approaching an intersection should be able to see potentially conflicting vehicles in sufficient time to stop before reaching the intersection. The location of the decision point (driver's eye) of the sight triangles on each approach is determined from a model that is analogous to the stopping sight distance model, with slightly different assumptions.

While some perceptual tasks at intersections may need substantially less time, the detection and recognition of a vehicle that is a substantial distance away on an intersecting approach, and is near the limits of the driver's peripheral vision, may take up to 2.5 s. The distance to brake to a stop can be determined from the same braking coefficients used to determine stopping sight distance in Exhibit 3-1.

Field observations indicate that vehicles approaching uncontrolled intersections typically slow to approximately 50 percent of their midblock running speed. This occurs even when no potentially conflicting vehicles are present (10). This initial slowing typically occurs at deceleration rates up to 1.5 m/s^2 [5 ft/s^2]. Deceleration at this gradual rate has been observed to begin even before a potentially conflicting vehicle comes into view. Braking at greater deceleration rates, which can approach those assumed in stopping sight distance, can begin up to 2.5 s after a vehicle on the intersecting approach comes into view. Thus, approaching vehicles

may be traveling at less than their midblock running speed during all or part of the perception-reaction time and can, therefore, where necessary, brake to a stop from a speed less than the midblock running speed.

Exhibit 9-51 shows the distance traveled by an approaching vehicle during perception-reaction and braking time as a function of the design speed of the roadway on which the intersection approach is located. These distances should be used as the legs of the sight triangles shown in Exhibit 9-50A. Referring to Exhibit 9-50A, highway A with an assumed design speed of 80 km/h [50 mph] and highway B with an assumed design speed of 50 km/h [30 mph] require a clear sight triangle with legs extending at least 75 m and 45 m [245 and 140 ft] along highways A and B, respectively. Exhibit 9-52 indicates the length of the legs of the sight triangle from Exhibit 9-51.

Metric		US Customary	
Design speed (km/h)	Length of leg (m)	Design speed (mph)	Length of leg (ft)
20	20	15	70
30	25	20	90
40	35	25	115
50	45	30	140
60	55	35	165
70	65	40	195
80	75	45	220
90	90	50	245
100	105	55	285
110	120	60	325
120	135	65	365
130	150	70	405
		75	445
		80	485

Note: For approach grades greater than 3%, multiply the sight distance values in this exhibit by the appropriate adjustment factor from Exhibit 9-53.

Exhibit 9-51. Length of Sight Triangle Leg—Case A—No Traffic Control

This clear triangular area will permit the vehicles on either road to stop, if necessary, before reaching the intersection. If the design speed of any approach is not known, it can be estimated by using the 85th percentile of the midblock running speeds for that approach.

The distances shown in Exhibit 9-51 are generally less than the corresponding values of stopping sight distance for the same design speed. This relationship is illustrated in Exhibit 9-52. Where a clear sight triangle has legs that correspond to the stopping sight distances on their respective approaches, an even greater margin of efficient operation is provided. However, since field observations show that motorists slow down to some extent on approaches to uncontrolled intersections, the provision of a clear sight triangle with legs equal to the full stopping sight distance is not essential.

Where the grade along an intersection approach exceeds 3 percent, the leg of the clear sight triangle along that approach should be adjusted by multiplying the appropriate sight distance from Exhibit 9-51 by the appropriate adjustment factor from Exhibit 9-53.

If the sight distances given in Exhibit 9-51, as adjusted for grades, cannot be provided, consideration should be given to installing regulatory speed signing to reduce speeds or installing stop signs on one or more approaches.

No departure sight triangle like that shown in Exhibit 9-50B is needed at an uncontrolled intersection because such intersections typically have very low traffic volumes. If a motorist finds it necessary to stop at an uncontrolled intersection because of the presence of a conflicting vehicle on an intersecting approach, it is very unlikely another potentially conflicting vehicle will be encountered as the first vehicle departs the intersection.

Case B—Intersections with Stop Control on the Minor Road

Departure sight triangles for intersections with stop control on the minor road should be considered for three situations:

Case B1—Left turns from the minor road;
Case B2—Right turns from the minor road; and
Case B3—Crossing the major road from a minor-road approach.

Intersection sight distance criteria for stop-controlled intersections are longer than stopping sight distance to ensure that the intersection operates smoothly. Minor-road vehicle operators can wait until they can proceed safely without forcing a major-road vehicle to stop.

Case B1—Left Turn from the Minor Road

Departure sight triangles for traffic approaching from either the right or the left, like those shown in Exhibit 9-50B, should be provided for left turns from the minor road onto the major road for all stop-controlled approaches. The length of the leg of the departure sight triangle along the major road in both directions is the recommended intersection sight distance for Case B1.

The vertex (decision point) of the departure sight triangle on the minor road should be 4.4 m [14.5 ft] from the edge of the major-road traveled way. This represents the typical position of the minor-road driver's eye when a vehicle is stopped relatively close to the major road. Field observations of vehicle stopping positions found that, where necessary, drivers will stop with the front of their vehicle 2.0 m [6.5 ft] or less from the edge of the major-road traveled way. Measurements of passenger cars indicate that the distance from the front of the vehicle to the driver's eye for the current U.S. passenger car population is nearly always 2.4 m [8 ft] or less (10). Where practical, it is desirable to increase the distance from the edge of the major-road traveled way to the vertex of the clear sight triangle from 4.4 m to 5.4 m [14.5 to 18 ft]. This

Appendix B.1

Misrepresentation of Facts by NACCB Key Witness

Appendix B.1

Misrepresentation of Facts by NACCB Key Witness

Appendix A provides numerous quotes from the testimony of key NACCB witness, Kris Ghimire, at the Administrative Law Judge Hearing (1/17/18), Board of Appeals Hearing Day 1 (7/19/18) and Board of Appeals Hearing Day 5 (10/23/18) – see column 1. Evidence and exhibits that show misrepresentation of facts for specific testimony are listed in column 2. Most of the evidence and exhibits in column 2 was provided by the Petitioners themselves.

The source of Kris Ghimire's testimony in column 1 is shown for each hearing, with reference to specific pages in the following transcripts:

- Administrative Law Judge (ALJ) Hearing of January 17, 2018 [Protestants Exhibit 96 – Complete ALJ Transcript]
- Board of Appeals Hearing Day 1 on July 19, 2018 [Board of Appeals transcript]
- Board of Appeals Hearing Day 5 on October 23, 2018 [Board of Appeals transcript]

KEY
G: Kris Ghimire CH: Carroll Holzer LS: Larry Schmidt
Garber: Chairman Garber
Murphy: Board member Ms. Murphy

Testimony/Quotes	Evidence/Exhibits Showing Misrepresentation
Use of the Building CH: When you were at the ALJ Level and he said you were not supposed to use the building, is that correct? G: Not supposed to use the building as a place of worship (Day 5, p. 188) LS: And you have not operated a temple out there to this point in time, correct? G: No LS: The building has not been open since you've owned it for the purposes of having religious services there, is that correct? G: That's correct LS: So the property has not been used to this point as a building for religious worship, correct? G: That's correct (Day, 5, pp. 221)	Protestants Videos 5006 and 7061 of more than 100 people going inside the building and participating in a ceremony inside the building; see also Protestants Video 6990 from October 6, 2018 event; see also Protestants Videos 4992, 5005, 6986, 6989, 6978, 7016, 7040, 7040A, 7040B, 7040C, 7042 showing people using the building; see also photo of 7 women working in kitchen with over 100 urns on 7/28/18, Protestants Exhibit 90

Testimony/Quotes	Evidence/Exhibits Showing Misrepresentation
CH: So there was no religious activity taking place? G: Was more of a person of religious stature coming and asking for donations to build a temple (Day 5, p. 123) G: Not using the property for any religious purpose, except maintenance and working (ALJ, p. 61)	See evidence listed on page A-1
Events at the Subject Site G: 3 to 5 festivals depending on who you ask, major festivals that are religious (Day 1, p. 66) G: 3 or 4 major festivals; at any given time 150-200 people (Day 1, pp. 70-71) G: It is not the temple that you have 200 people come at the same time (Day 1, p. 59) CH: How many events have you hosted on site? G: Could be 3 or 4 fundraisers (Day 5, p. 123) G: We had one festival last year and we had at one given time...close to 200 [people] (Day 1, p. 99) G: We have a couple festivals. One mainly being September. And we have a few other minor festival, right around the summertime and the spring. Three major ones, yes. (ALJ, p. 53)	Ghimire Facebook 7/30/17: over 1,000 people in two days; first annual Family Fun Day, Protestant Exhibits 82 and 85 See above and Protestants Exhibits 14, 82, 85 Protestant Exhibits 24, 82 and 85 for large events held in 2017 and audio file "From Deck Sept. 10, 2018" Protestants Exhibits 27, 74, 80, 81, 84, 84, 86, 87, 88 for large events held in 2018 and Protestants videos on Discs A1, A2, A3, A4, New Disc (Exhibit 73), and Exhibit 34 (Videos in Preliminary Motion)

Testimony/Quotes	Evidence/Exhibits Showing Misrepresentation
G: Not having anybody in close proximity (ALJ, p. 46)	Testimony and affidavits of numerous Protestant witnesses about loud, disturbing amplified noise during the day and late evening hours, headlights at night shining into a neighbor's home, uplighting of the mansion at night, and traffic issues from adjacent property owners as well as from property owners up to a mile from the subject site.
Temple/Cultural Center G: There's a little debate in our community. We decided we wanted it to be temple. People who wanted to have a community center, they opened a community center right on Taylor Avenue. (Day 5, p. 163)	Real estate listing (Zillow) for Taylor Ave. building: 2,200 square feet of interior space and 9 parking spaces; How can Taylor Ave. property handle the multi-day, 200+ person per day events?
G: Temple would be place of prayer; receptions at cultural center. If you wanted to invite a county official or a politician or have some kind of talk, so would go to community center, not at the temple. (Day 5, p. 163)	Protestants Video 6990 – gathering of county officials, political figures on October 6, 2018
G: We don't have a temple yet, we don't have a functioning operational temple; that's what we are trying to build (Day 5, p. 121)	Protestants Videos 6978, 6986, 6990 – use as a community center and recreational center; see also Rec. Center videos 1-14
G: The single mission of our center is to establish a Hindu Temple in Baltimore (Day 1, p. 49)	Petitioners Exhibit 5, NACCB Corporate Charter with multiple purposes; also see multiple purposes stated in Sept. 2017 site plan submitted to Baltimore County, Protestants Exhibit 38
G: We have a congregation of about 150. On a special event we might have 100 or 150 people. (ALJ, p. 106)	G: We don't have a temple yet, so we don't have a congregation. (Day 5, p. 121)

Testimony/Quotes	Evidence/Exhibits Showing Misrepresentation
CH: You have been functioning as a temple at your business address at 8030 Belair Road? G: That is not correct; get mails over there; people come to visit me there and meet me there; sometimes when we have a meeting, there could be an occasion when we pray before we meet (Day 1, pp. 91-92)	Petitioners Exhibit 5: NACCB, Inc. Corporate Charter: "The principal place of worship is 8030 Belair Road, Suite 200, Nottingham, MD 21236"
Recreational Center G: There used to be a tennis court...kids go there to maintain the property and sometimes play volleyball and basketball (Day 1, p. 55)	Video/audio evidence of more than 20 days between 4/22/18 and 6/20/18 of volleyball; this represents only a small portion of all volleyball tournaments and games that occurred throughout 2017 and 2018 Volleyball tournament in July 2017 involved teams from multiple states, Protestants Exhibit 24; Ghimire 7/30/17 Facebook post stating 1,000 people over two days, teams from multiple states, Protestants Exhibit 85 Volleyball games took place frequently during the BOA hearing dates, as late as Sunday Nov. 18, 2018 before 9 am and Sunday Nov. 25, 2018 See also Protestants Rec. Center Videos 1-14 For ALL volleyball events: percussive screaming and yelling heard up to ½ mile away
CH: Would there be volleyball tournaments there? G: Not regular athletic sporting events, tournaments, none of those (Day 5, p. 169)	Photo of volleyball tournament, Protestants Exhibit 84; see also Protestants Video of Belmont Volleyball Group; see also Protestants Exhibit 24 volleyball flier; see also Ghimire 7/30/17 Facebook post stating 1,000 people at subject site over two days, teams from multiple states, Protestants Exhibit 85

Testimony/Quotes	Evidence/Exhibits Showing Misrepresentation
CH: There was no volleyball tournament held in 2018? G: Correct (Day 5, p. 159)	Photo of 2018 volleyball tournament with team members in matching shirts and trophy presentation, Protestants Exhibit 84
Ms. Murphy: Do you know whether you would agree to have it [volleyball court] removed? G: It wouldn't matter to me either way. It's not really part of essential, the temple operation. Murphy: Is it part of the religious service at all? G: It was there, we used it Garber: It's not any part, you're not going to use it for any religious purpose? G: That's correct (Day 5, p. 243)	At Board of Appeals hearings after Day 5, Petitioner denied the witness testified that the volleyball court could be removed and that it was not essential to the temple operation.
July 28 - August 3, 2018 Event G: A fund raiser (Day 1, p. 122)	Multiple Facebook posts on extensive, detailed agenda of religious activities and stating it was a "mass spiritual festival" during July 28-Aug. 3, 2018; see Protestants Exhibit 45
G: The ultimate goal was fundraising (Day 5, p. 123)	Protestants Exhibit 14 – photo of 77 cars parked on the grass 7/28/18 (over 300 people); by 8/3/18 the number of cars was over 150 (over 600 people)
CH: Did you have an amplification system? G: We had a little microphone for the speaker inside the tent (Day 5, p. 123)	Video of at least 6 microphones including amplification of drums and other instruments, Protestants Videos 7040, 7040A, 7040B, 7042, 7045, 7047

Testimony/Quotes	Evidence/Exhibits Showing Misrepresentation
LS: Have you ever had any drums on the property? G: No (Day 5, p. 233) Murphy: But they were playing this drum instrument and the flute? G: Yeah (Day 5, p. 239)	July-Aug. 2018 event videos of two types of drums, Protestants Videos 7040, 7040A, 7040B, 7045, 7047 Petitioner compares tabala to bongos – <u>which is a drum</u> (Day 5, p. 233) Petitioner's response to Protestants Video Motion mentions drums in the videos
G: Clearly they are talking about the gate and not the door [of the mansion being open]. Fundraiser was held outside. The temple didn't have to be open. (Day 5, p. 189-190) CH: Would any services or any outdoor events have speakers and loud speakers and microphones for amplification? G: The priest could speak with a small microphone LS: The witness said he believes they cannot have outdoor music (Day 1, pp. 133-135) G: We wanted to get this big tent that has cover all around it (Day 5, p. 239) G: If the building is ready to be used and we start using the main hall inside, then there's no reason to be outside. (Day 5, p. 175) G: And once it's all done...the microphone will be stationed inside the building. (ALJ, p. 54)	Protestants Videos 7016 and 7040C showing door to mansion open and people frequently going in and coming out during July 28-Aug. 3, 2018 event Photo of 7 women working in kitchen with over 100 urns on 7/28/18, Protestants Exhibit 90 Protestants Videos 7016, 7040, 7040A, 7040B, 7040C, 7042, 7045, 7047 of July28-Aug.3, 2018: loud, amplified music heard outside the tent; at least 6 microphones and many loud speakers in use, including dedicated microphones for the drums Protestants Videos 7016, 7040, 7040A, 7040B, 7040C, 7042, 7045, 7047 showing large openings in tent sides, all around the tent See Mr. Powell's testimony (sanitarian) on Day 3; Petitioners told him there would be a tent outside for four major festivals per year.

Testimony/Quotes	Evidence/Exhibits Showing Misrepresentation
Kitchen LS: Is this facility going to have any type of kitchen facility? G: It is not needed LS: There will not be a kitchen? G: No (Day 1, p. 63) G: We have no plan on using it [kitchen] (Day 5, p. 216) G: The kitchen is not even usable (ALJ, p. 104)	Karki Facebook post – planned use of property for soup kitchen, Protestants Exhibit 25 Photo of 7 women working in kitchen with over 100 urns on 7/28/18, Protestants Exhibit 90
Permits/Improvements to the Property G: I'm sure we can abide by every code and laws out there on the books (ALJ, p. 76) G: Not new electrical, but what's been fixed up was already there (Day 5, p. 215) G: We had a little spot light outside (Day 5, p. 217) LS: You don't really intend to add any outdoor lighting onto the property? You're not proposing to light up the property? G: No (Day 5, p. 230)	No permits filed with Baltimore County for electrical or plumbing as of February 12, 2019 Facebook photo of July 4th lighting with many large colored spotlights on mansion exterior, Protestants Exhibit 86; see also Protestants Video 6985 Protestants Video 5006 – February 25 Open House with many large colored spotlights on mansion exterior, see also Exhibit 87 Protestants Video 7016 of July 28 – Aug. 3, 2018 event: close-up of spotlight on column (one of many spotlights), compared to Petitioners Exhibit 12A photo of property showing no spotlights before NACCB started improvements to the property Youtube Feb. 17, 2017 NACC Property Virtual Tour shows no uplights on mansion exterior; those uplights are seen in Protestants Videos 5006 and 6985

Testimony/Quotes	Evidence/Exhibits Showing Misrepresentation
CH: As a result of their [SHA] reviewing the plan, they felt that it was not safe for the purpose that you intended to use the entrance and exit and that it should be relocated, correct? G: I don't think they said it is unsafe (Day 5, p. 199)	Zeller emails in Protestants Exhibits 43 and 53
CH: You ended up putting up two signs, a two-faced sign. They [County Code enforcement] ended up coming out and citing you for a code violation and required you to change that to one sign. Is that correct? G: That's not correct. What they said was the height from the ground to the sign has to be less than 6 foot. That was the issue with that, not having two signs (Day 5, p. 208-209)	County Code Enforcement Correction Notice of 8/27/18 and NACCB sign permit application, Protestants Exhibit 37. Inspector's Comments: "The sign has a permit but it is not built and installed according to the permit. You're only allowed to have one sign less than 25 feet square and it can be no taller than 6 feet from ground level."
Future Use of the Building G: If building is ready to be used, no reason to be outside CH: Will you still need tents on the site once building is fixed up? G: No (Day 5, p. 175-177)	Mr. Powell (sanitarian) testified on Day 3, based on information from Petitioners, that there would be 4 major festivals per year to be held outside in a tent
G: Once the building gets occupied all the activity will take place inside the building (ALJ, p. 101)	
G: Community and cultural activities at Taylor Ave. (Day 5, p. 163)	Only 2,200 square feet of interior space and 9 parking spaces at Taylor Ave.
Nepal Idol Concert Garber: Were you the sponsor of this event? G: No Garber: Did you have any type of role in leadership, management or whatever of this event? G: No (Day 5, p. 136)	Protestants Videos 7010 and 7057 (time stamp starting at 3:00 minutes) with large banner on Nepal Idol concert stage with Kris Ghimire's name, photo, phone number and business name; appendices to proffered Protestant Exhibits 22 and 23 show Ghimire was a platinum sponsor of the Nepal Idol concert

Appendix B.2

Timeline of NACCB Large Events, 2017 - 2018

Appendix B.2

Timeline of NACCB Large Events
2017 - 2018

The following large-scale events occurred on the subject site during 2017 and 2018. Much of this evidence is not consistent with testimony of the key NACCB witness, Kris Ghimire. See also testimony and evidence pertaining to events in Appendix B.1.

2017

April 9	Large event with loud, amplified music and sound
July 29-30	1st Summer Family Fun Festival. Large two-day event with over 1,000 people. Loud, amplified music and sound, large number of cars, sporting events, food. Volleyball tournament with teams from across the mid-Atlantic. See Protestants Exhibits 24, 82, 85
August 24	Large event with volleyball
September 10	Large event, loud amplified music and sound, 8:30 pm. See Protestants Audio, From Deck Sept. 10, 2017
November 12	Large event with many cars parked on grass slopes

2018

February 25	Large open house event, large number of cars, more than 200 people, no sanitary facilities. See Protestants Videos 5005, 5006, 7061
April 19 – 22	Large event advertised on social media, but later canceled. See Protestants Exhibit 89
June 19	Large group of people gathering outside and then going inside for a ceremony with statues on tables. More than 100 people inside the building. See Protestants Video 4992
June 21	Large event with amplified music and sound, many cars

2018 (continued)

July 4	July 4th large event, exterior lights on building lighting it up with colored lights. See Protestants Video 6985
July 11	Large event, many people outside and inside the building. Many cars parked on grass slopes. See Protestants Exhibit 88
July 23	Large volleyball tournament and trophy presentation. See Protestants Exhibit 84
July 28-August 3	Large, week-long event petitioner called a fund raiser. Multiple social media postings labeled the event as a "mass spiritual festival" with a detailed agenda of religious activities. Loud, amplified music and sound, especially amplified drumming. Hundreds of cars parked on grass slopes with traffic issues at the entrance. Many people in a tent and also inside the building. See Protestants Videos 6988, 6989, 7016, 7040, 7040A, 7040B, 7040C, 7042, 7045, 7047
October 6	Large event with panel of politicians and other officials. Video evidence shows event outside and many people going inside the building. See Protestants Video 6990
November 4	Belmont Volleyball Group at subject site with loud screaming and yelling. See Protestants Video "Nov. 4"

Appendix C

Police Reports and Protestants' Motions

- Protestants Exhibit 22: Police Report of January 28, 2018
  Pages C-1 to C-16 [Status: Proffered]

- Protestants Exhibit 23: Police Report of January 29, 2018
  Pages C-17 to C-32 [Status: Proffered]

- Motion to Admit Protestants Exhibits 23 and 24*, dated November 27, 2018
  Pages C-33 to C-62
  *Note: Protestants Exhibits should have been numbered 22 and 23

  [Status: Denied]

- Motion to Readmit Protestants Exhibits 22 and 23, dated February 4, 2019
  Pages C-63 to C-80 [Status: Denied]

https://cdn.evbuc.com/images/40117693/193922079427/1/original.jpg (JPEG Image, 800 × 4... https://img.evbuc.com/https://cdn.evbuc.com/images/40117693/193922079427/1/original.jp...

Protestant Exhibit # 22

C-1

BALTIMORE COUNTY POLICE DEPARTMENT

REQUEST FOR COPY OF POLICE REPORT

(Submit a separate application for each report requested.)

"Integrity...Fairness...Service"

INSTRUCTIONS:

1. Information must be typed or printed. Incomplete information **may** result in the return of your application.
2. Include a check or money order for **$15** payable to Baltimore County, Maryland. **(THIS FEE IS NOT REFUNDABLE. PLEASE DO NOT SEND CASH. EXCEPTION: CRIME VICTIMS DO NOT HAVE TO PAY FOR COPIES OF THEIR REPORTS.)**
3. Enclose a **stamped, self-addressed envelope.**
4. Mail to: Information & Records Management Unit – Records Requests 410 887 2544
   Baltimore County Police Department
   700 E. Joppa Road
   Towson, Maryland 21286-5501
5. Your cancelled check will be your receipt.
   (Any questions, please call Records Requests at 410-887-2390.)

TYPE OF RECORD DESIRED:

Incident Report ☑	
Date and time of report	1/28/18 ~~APPROX~~ 2200
Report number	180281800
Location occurred	8416 ~~OR~~ 8420 BELAIR RD 21236
Name(s) of subject(s) involved	
Name(s) of suspect(s)	
Other name(s) involved	

Motor Vehicle Accident Report ☐	
Date and time of report	
Report number	
Location occurred	
Name(s) of vehicle owner(s)	
Name(s) of other vehicle driver(s)	
Other passenger(s) involved	

RECEIVED
FEB 21 2018
BY.

Check item below that best describes your interest in this case.

- ☐ Victim of crime (NOTE: A copy of your incident report will be provided free of charge).
- ☐ Driver of vehicle or person involved in accident/incident.
- ☐ Executor or administrator of the estate or next of kin (in case of death).
- ☐ Parent or guardian of person injured in motor vehicle accident.
- ☐ Insurance company.
- ☐ Attorney for (name): _____
- ☒ Other (please specify): CONCERNED CITIZEN
- ☐ Refused.

I CERTIFY THAT MY INTEREST IN THIS INCIDENT IS AS INDICATED ABOVE:

(Signature)

Name: THOMAS A KNEESHAW Address: 11 KINGS GLEN CT, KINGSVILLE, MD 21087

NOTE: While an incident may have occurred and a police report written of the incident, these reports go through a recording process before they are available for distribution and will be made available to you as quickly as possible. Requests for reports from the Baltimore County Police Department are processed in accordance with the Maryland Public Information Act (MPIA), as defined in the Maryland Annotated Code, Md. Gen. Provis. §§ 4-101 through 4-601. Thank you.

NAME AND ADDRESS TO WHOM REPORT IS TO BE MAILED:

Name: THOMAS A KNEESHAW
Address: 11 KINGS GLEN CT
Address: KINGSVILLE, MD 21087

BALTIMORE COUNTY POLICE DEPARTMENT
Incident Report

"Integrity...Fairness...Service"

INCIDENT NUMBER	
180281800	
Report Type: Incident Report	Page 1 of 4
Date / Time Occurred: 1/28/2018 22:39 to 1/28/2018 22:39	Date / Time Reported: 1/28/2018 22:39

Arrested Suspects	Known Suspects	Unknown Suspects	Victims	Other Persons	Vehicles	Items	LEOKA Count	Related CC#
1	0		1				1	

☐ Arson Related | Arson Code | Damage Value

☐ Bias Related | Motivation | Cargo Theft: NO

☐ Confidential ☐ Firearm Related ☐ Workplace Violence Related ☐ Repeat Offender Related ☐ Domestic Related ☐ School Related
☐ Witness Intimidation Related ☐ Gang Related ☐ Homeland Security Related ☐ CDS Related ☐ Assets Seized ☐ Sick/Injured Report Completed (Form 273)
☑ Use of Force Completed (Form 253) ☑ Officer Video

Incident Details

UCR Disposition	Situation Found	Case Status
E - ADULT ARREST	J 4 - ASSAULT, 2ND DEGREE (NOT DOMSTIC A	EX-CLEAR

Location of Incident

Street Address	Unit Type	Unit Number
8420 BELAIR RD		

City	State	Zip	Precinct	Reporting Area
NOTTINGHAM	Maryland	21236	08 - PARKVILLE	080920

Administrative Info

Investigating Officer	ID	Assignment	Sub Assignment
KESTERSON, R	3341	OPERATIONS SUPPORT	PLATOON 2

Investigative Interview Conducted	Warrant/Summons/Protective Order Explained	MD Crime Victim/Witness Brochure Issued	Security Survey Information
☐ Yes ☑ No	☐ Yes ☑ No	☐ Yes ☑ No	

Approving Supervisor	Approving Supervisor ID	Reviewed Date / Time
MOROZ, S	4628	1/30/2018 23:21

Approving Shift/Unit Commander	Approving Shift/Unit Commander ID	Approval Date / Time
SCHERBA, S	3497	1/31/2018 10:04

Distribute To 1	Distribute To 2	Distribute To 3	Distribute To 4
CRIMINAL INTELLIGENCE	OPERATIONS SUPPORT		

Distribute To 5	Distribute To 6	Distribute To 7	Distribute To 8

Distribute To 9 | Distribute To 10 | ☐ Incident Summary Completed

OFFENSE

☑ Most Serious Offense | Offense Code: ASSAULT 2ND DEGREE SIMPLE ON POLICE

Offense Code Value	Attempted/Completed	Premise	Domestic Related Circumstances
12462	COMPLETED	PARKING LOT, CHURCH	

Drug Activity | Drug Type

MO Panel

Entry Type	Method of Attack	Point Of Attack

Exit Point	Target Area	Time of Day

Burglary MO Used 1	Burglary MO Used 2	Burglary MO Used 3

Robbery MO Used 1	Robbery MO Used 2	Robbery MO Used 3

Weapon	Firearm Description	Arson
PHYSICAL FORCE		

Instrument Used

Additional Offense MO Comments

OFFENSE

☐ Most Serious Offense | Offense Code: DISTURBANCE OF THE PEACE

Offense Code Value	Attempted/Completed	Premise	Domestic Related Circumstances
12938	COMPLETED	PARKING LOT, CHURCH	

Drug Activity | Drug Type

MO Panel

Entry Type	Method of Attack	Point Of Attack

Exit Point	Target Area	Time of Day

Burglary MO Used 1	Burglary MO Used 2	Burglary MO Used 3

Robbery MO Used 1	Robbery MO Used 2	Robbery MO Used 3

Weapon | Firearm Description | Arson

Instrument Used

Additional Offense MO Comments

OFFENSE ☐ Most Serious Offense

Offense Code: RESISTING ARREST
Offense Code Value: 12907
Attempted/Completed: COMPLETED
Premise: PARKING LOT, CHURCH
Domestic Related Circumstances
Drug Activity | Drug Type

MO Panel
Entry Type | Method of Attack | Point Of Attack
Exit Point | Target Area | Time of Day
Burglary MO Used 1 | Burglary MO Used 2 | Burglary MO Used 3
Robbery MO Used 1 | Robbery MO Used 2 | Robbery MO Used 3
Weapon | Firearm Description | Arson
Instrument Used
Additional Offense MO Comments

SUSPECT ☑ Known ☐ Unknown ☑ Arrested

Last Name: SARKI
First Name: SHREE
Middle Name: MAN
Suffix
Nickname
Race: ASIAN
Sex: MALE
SSN: [redacted]
Date of Birth: 01/18/1996
Age: 22
Age Range to
☐ Juvenile
Height: 5'05"
Weight: 135
Driver's License #: [redacted]
DL State: Virginia
UID #: [redacted]
Booking #: [redacted]
JID #
Contact #
FBI #
SID #: [redacted]
Ethnicity: ASIAN
Preferred: CELL PHONE
Home Phone
Cell Phone: [redacted]
Email Address

Suspect Home Address

Street Address: [redacted]
Unit Type
Unit Number
City: HENRICO
State: Virginia
Zip: [redacted]

Suspect Employment Information

☑ Student
Employer / School: NCI
Occupation: CONSTRUCTION WORKER
Work Phone
Hours of Employment

Details

Hair Color: BLACK
Hair Length: COLLAR LENGTH
Glasses
Eye Color: BROWN
Build: MEDIUM
Facial Hair: MUSTACHE
Facial Hair Color: BLACK
Teeth Descriptor
Speech: ACCENT (DESCRIBE IN NARRATIVE)
General Appearance
Complexion: MEDIUM
Shirt: GRAY
Jacket: BLACK
Pants: BLUE
Shoes: BROWN
Hat ☐
Hat/Cap Description
Mask
Gloves/Socks On Hands ☐
Clothing Description
Other Description
Miscellaneous at Time: NEPALI ACCENT
Injury: INJURED

MO Panel
Weapon | Firearm Description

BALTIMORE COUNTY POLICE DEPARTMENT
Incident Report

"Integrity...Fairness...Service"

INCIDENT NUMBER		
180281800		
Report Type: Incident Report		Page 3 of 4
Date / Time Occurred: 1/28/2018 22:39	to 1/28/2018 22:39	Date / Time Reported: 1/28/2018 22:39

Additional Suspect MO Comments

Associated Offenses

Offense	
ASSAULT 2ND DEGREE SIMPLE ON POLICE	☑ Associated With Suspect
DISTURBANCE OF THE PEACE	☑ Associated With Suspect
RESISTING ARREST	☑ Associated With Suspect

VICTIM

Victim Type: PERSON ☐ Shielding Requested

Last Name	First Name	Middle Name	Suffix
KESTERSON	R		

Nickname	Race	Sex	Date of Birth	Age	Age Range to	Juvenile
3341						☐

Infant Type	Driver's License #	DL State

Ethnicity	Preferred	Home Phone	Cell Phone	Email Address

Victim Home Address

Street Address	Unit Type	Unit Number
700 E JOPPA RD		

City	State	Zip
TOWSON	Maryland	21286

Employment Information

☐ Student	Employer / School	Occupation

College Name	Work Phone	Hours of Employment

Details

Injury	Injury Description	Victim Condition

Hospital Facility	Under Influence Alcohol?	Under Influence Drugs?	Cohabitant
☐ Victim Hospitalized	☐ Yes ☑ No ☐ Unknown	☐ Yes ☑ No ☐ Unknown	☐ Yes ☑ No

Associated Offenses

Offense	
ASSAULT 2ND DEGREE SIMPLE ON POLICE	☑ Associated With Victim
DISTURBANCE OF THE PEACE	☐ Associated With Victim
RESISTING ARREST	☑ Associated With Victim

LEOKA

Activity	Assignment	Assault Time
RESPONDING TO DISTURBANCE CALLS	ONE OFFICER VEHICLE ALONE	22:41

Weapon	Firearm Description	Injury	Cleared
HANDS, FISTS, FEET		NOT INJURED	☐

Officer	ORI
KESTERSON,R	MD0030100

Associated Offenses

Offense	
ASSAULT 2ND DEGREE SIMPLE ON POLICE	☐ Associated With Leoka
DISTURBANCE OF THE PEACE	☐ Associated With Leoka
RESISTING ARREST	☑ Associated With Leoka

Narrative Information

On 1/28/18 at 2239 hours, I responded to St. Joseph's Church at 8420 Belair Rd. for a call of a fight. The caller advised several persons were fighting at the location. Upon my arrival at 2240 hours (in a marked Baltimore County Police car with activated emergency lights and siren and wearing a Baltimore County Police uniform), several persons pointed me towards the north side of the parking lot. I made my way towards where they were pointing. I observed a male on top of another Asian male (who was lying on his back). The male on top was striking the grounded male with closed fists. The male on top was later identified by a VA driver's license as

Suspect Shree Man Sarki. I ran to the two fighting subjects. I yelled for them to stop. Suspect Sarki continued to strike the grounded male with closed fists. I attempted to pull Suspect Sarki off. This did not work, and I began to punch Suspect Sarki in his sides in an attempt to gain compliance. This was not working. I had my flashlight with me. I struck Suspect Sarki in his right side with the flashlight in an attempt to gain compliance. He continued to roll on top of the grounded male. I yelled several times for him to stop. I was able to pull him away from the grounded male after several strikes. As I pulled him away, Suspect Sarki swung elbows back towards me striking me at least twice in my torso. I did not sustain any injury. As we rolled to my left, I was briefly on my back with Suspect Sarki above me. Suspect Sarki cocked his right arm back as if to strike me, but I was able to strike his left side. I was able to stand myself and stand Suspect Sarki up in an attempt to arrest him for the witnessed assault on the grounded male. Prior to that scuffle, several persons' attention was directed to the fight and they gathered around at the yelling and fighting between the male and the grounded male. Some even began recording with cell phones. After standing up with the male I observed striking the grounded male (who had since fled the area), I was confronted by a crowd closing in on me. I ordered them back, and removed my OC spray container from my belt. No OC spray was deployed. As I was attempting to move the crowd back, Suspect Sarki began to pull away from me in an attempt to flee. I grabbed his collar and was able to hold him. He continued to pull away from my grasp. I pushed him to the ground. I ordered him several times to put his arms behind his back. After several commands, he did so. He was arrested. Again, members of a crowd surrounded me and I ordered them back. Several persons' attention was drawn to Suspect Sarki and me, and again were recording with cell phones. Backup officers from PC8 and PC9 arrived to my location on the parking lot. Suspect Sarki was then taken to a waiting Police car by Cpl. R. Pabon #4550 (BCOPD/PC8). While attempting to disperse the crowd which remained at the parking lot, several Corona beer bottles and liquor bottles were littered across the parking lot. Several persons there laughed when ordered by myself and several other officers to disperse.

Suspect Sarki was transported to PC8 for processing.

The male that I saw being assaulted by Suspect Sarki left the area. This male was not identified. I could only observe that he was an Asian male wearing dark clothing.

Form 253 completed.

BWC footage obtained.

OFC T. Benson #4245 (Forensic Services) responded to PC8 and photographed Suspect Sarki. While talking to Suspect Sarki, He stated that abrasions around his eyes and face were caused by a guy that he tried to get off of his friend. I never struck Suspect Sarki in the head with either a fist or my flashlight. Any blows landed were on his torso. Suspect Sarki was asked if he had pain anywhere in his sides. He said he did not.

Sgt. S. Moroz #4628 (Crash Team) responded to the scene.

BCoPD Event 180281800 - St Joseph Catholic Church, 8420 Belair Rd, Nottingham, MD 21236

Date	Time	Unit	Description	
01/28/18	22:39:36	812	Enroute	
01/28/18	22:40:59	1407	Arrived	
01/28/18	22:42:14	813	Arrived	
01/28/18	22:42:37	827	Arrived	
01/28/18	22:44:47	930	Arrived	
01/28/18	22:46:00	810	Arrived	
01/28/18	22:47:20	1406	Arrived	
01/28/18	22:47:56	825	Arrived	
01/28/18	22:49:14	1408	Arrived	
01/28/18	22:50:41	828	Arrived	
01/28/18	22:57:05	1533	Arrived	
01/28/18	23:40:28	3142	Arrived	Crime Scene Processing
		12 cars		

Baltimore County 911 Center
401 Bosley Avenue
MS 3007
Towson, Maryland 21204
Office: 410-307-2006 Fax: 410-307-2039
E-mail: 911records@baltimorecountymd.gov

CERTIFICATION

I do hereby certify and solemnly affirm under the penalties of perjury, that to the best of my knowledge, information, and belief, the enclosed compact disc recording of Incident # 180281800 and/or telephone call(s) made to the Baltimore County 9-1-1 Center on 1-28-19 (date) is a true copy from the Master Logging Recorder. I further certify that I am the Custodian of said records.

Ref. Case: 8420 Belair Rd

Tammy Price
Chief, 9-1-1 Center
Custodian of Records

The enclosed compact disc consists of 1 call(s) to the Baltimore County 911 Center.

Call # 1 was recorded over operator position 1E519

This call began at 10:35:37 pm

This call ended at 10:39:19 pm

Call # _____ was recorded over operator position _____

This call began at _____

This call ended at _____

Call # _____ was recorded over operator position _____

This call began at _____

This call ended at _____

Call # _____ was recorded over operator position _____

This call began at _____

This call ended at _____

Revised 06/22/2017

Date 07/02/18 Time 07:25:50 Universal Event 180281800

cc# 180281800.01 01/28/18 ES19 HRH80 ct 22:36:29 ea 22:37:37 ra 080920 fb 008-17
loc 8420 BELAIR RD # src 911
typ CARD113 ser P pri 1 h N nam CHAROLETTE see N pho (410)903-3541
rem ST JOSEPH CATHOLIC CHURCH, INSIDE CHURCH HALL, PEOPLE FIGHTING, THROWING BOTTLES ms
ali 8400 DUNFIELD RD DIRECTION: 13 ani 410-903-3541 sub WIRELESS-VERIZON
(
pc PAR fr FIR int 28-K9 : KLOSTERMAN AV*PLUMER AV d sf

au

dt 00:00:00

at 00:00:00
ru 828 812 813 811 827 d sf s
rc 911
cc# 180281800.01Cct 22:36:29 ea 22:37:37 HRH80 ES19 pc post 828 ra 080920
loc 8420 BELAIR RD # hz fb 008-1
7
nam CHAROLETTE see N pho (410)903-3541 typ CARD113 h N ser P p
ri 1
rem ST JOSEPH CATHOLIC CHURCH, INSIDE CHURCH HALL, PEOPLE FIGHTING, THROWING BOT
TLES ms
int 28-K9 : KLOSTERMAN AV*PLUMER AV title DISTURBANCE
ali 8400 DUNFIELD RD DIRECTION: 13 ani 410-903-3541 sub WIRELESS-VERIZON
(

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au 1529/C 810/C 1533/C 930/C 1407/ET 812/C 827/C 1408/C 1406/C 811/C 825/C 828/C
813/C

dt 22:39:01

at 22:40:59
ru 828 812 813 811 827 d 1 sf J4 s
rc 911
cc# 180281800.02Cct 22:36:29 ea 22:37:37 HRH80 ES19 pc post 828 ra 080920
loc 8420 BELAIR RD # hz fb 008-1
7
nam CHAROLETTE see N pho (410)903-3541 typ 113D1FIGHTLG h N ser P p
ri 1
rem ST JOSEPH CATHOLIC CHURCH, INSIDE CHURCH HALL, PEOPLE FIGHTING, THROWING BOT
TLES ms N
int 28-K9 : KLOSTERMAN AV*PLUMER AV title PHYSICAL DISTURB LG GRP
ali 8400 DUNFIELD RD DIRECTION: 13 ani 410-903-3541 sub WIRELESS-VERIZON
(

Date 07/02/18 Time 07:25:50 Added Remarks for Police Event 180281800 Page no 1

cc# 180281800.01 22:37 ES19 typ CARD113 ser P loc 8420 BELAIR RD

remarks ADDED REMARK SENT BY PROQA EMD# P602320
pg: 1 ST JOSEPH CATHOLIC CHURCH, INSIDE CHURCH HALL, PEOPLE FIGHTING, THROWI
of: 11 NG BOTTLES

cc# 180281800.02 22:38 ES19 typ 113D1FIGHTLG ser P loc 8420 BELAIR RD

remarks ADDED REMARK SENT BY PROQA EMD# P602320
pg: 2 PHYSICAL (LARGE GROUP)
of: 11
VICT CALLER ON SCENE.
UNK IF WPNS INVOLVED.
DISTURBANCE
IN PROGRESS.
LARGE GROUP INVL.
PHYSICAL DISTURBANCE.

cc# 180281800.02 22:38 ES19 typ 113D1FIGHTLG ser P loc 8420 BELAIR RD

remarks ADDED REMARK SENT BY PROQA EMD# P602320
pg: 3
of: 11
SUSP ON SCENE: HEADED OUTSIDE OVER 100 PEOPLE
*** PERSON (1) INFORMATON ***
TYPE-DESC:(SUSPECT) RACE:(INDIAN)

cc# 180281800.02 22:38 ES19 typ 113D1FIGHTLG ser P loc 8420 BELAIR RD

remarks ADDED REMARK SENT BY PROQA EMD# P602320
pg: 4
of: 11
SUSP DESC:
UNK IF SUSP ARRIVED IN VEH.
ALCOHOL/DRUGS INVL: ALL DRINKING
NO MEDICAL NEEDED.

cc# 180281800.02 22:39 ES19 typ 113D1FIGHTLG ser P loc 8420 BELAIR RD

remarks COMPLETE SENT BY PROQA EMD# P602320
pg: 5 **** SESSION FINISHED! *****
of: 11

cc# 180281800.02 22:42 PD08 typ 113D1FIGHTLG ser P loc 8420 BELAIR RD

remarks SIG 13 2242
pg: 6
of: 11

cc# 180281800.02 22:43 PD08 typ 113D1FIGHTLG ser P loc 8420 BELAIR RD

remarks NORTH END OF PARKING LOT
pg: 7
of: 11

cc# 180281800.02 22:46 PD08 typ 113D1FIGHTLG ser P loc 8420 BELAIR RD

remarks 1407 95 @ 2241
pg: 8
of: 11

cc# 180281800.02 22:57 PD08 typ 113D1FIGHTLG ser P loc 8420 BELAIR RD

remarks ALSO CC 1710 MANUAL CARD
pg: 9
of: 11

cc# 180281800.02 22:59 PD08 typ 113D1FIGHTLG ser P loc 8420 BELAIR RD

remarks USE OF FORCE USED
pg: 10
of: 11

cc# 180281800.02 23:02 PD08 typ 113D1FIGHTLG ser P loc 8420 BELAIR RD

remarks CL CC 1823
pg: 11
of: 11

DATE	TIME	POS	OP ID	TRANS	UNIT	DESCRIPTION
01/29/18	01:04:23	3407	3341	AVAILABL	1407	
01/29/18	01:04:23	3407	3341	CLEARED	1407	1407
01/29/18	01:04:23	PD08	PJE11	CLOSED		
01/28/18	23:11:37	4813	5399	AVAILABL	813	
01/28/18	23:11:37	4813	5399	CLEARED	813	813
01/28/18	23:11:27	4828	5023	AVAILABL	828	
01/28/18	23:11:27	4828	5023	CLEARED	828	828
01/28/18	23:09:37	PD08	PJE11	AVAILABL	825	
01/28/18	23:09:37	PD08	PJE11	CLEARED	825	825
01/28/18	23:09:26	4811	5185	AVAILABL	811	
01/28/18	23:09:26	4811	5185	CLEARED	811	811
01/28/18	23:08:53	PD08	PJE11	AVAILABL	1406	
01/28/18	23:08:53	PD08	PJE11	CLEARED	1406	1406
01/28/18	23:06:32	PD08	PJE11	AVAILABL	1408	
01/28/18	23:06:32	PD08	PJE11	CLEARED	1408	1408
01/28/18	23:06:23	4827	4090	AVAILABL	827	
01/28/18	23:06:23	4827	4090	CLEARED	827	827
01/28/18	23:05:41	4881	5495	AVAILABL	812	
01/28/18	23:05:41	4881	5495	CLEARED	812	812
01/28/18	23:05:32	PD08	PJE11	ET	1407	PERPETUAL TIME EXTENSION
01/28/18	23:03:46	PD08	PJE11	UL	1407	PC8 95
01/28/18	23:02:47	PD08	PJE11	ARA		ADDED REMARK TO EVENT 180281800
01/28/18	23:01:51	PD08	PJE11	ET	1407	PERPETUAL TIME EXTENSION
01/28/18	23:01:51	PD08	PJE11	ET	827	PERPETUAL TIME EXTENSION
01/28/18	23:01:43	PD08	PJE11	X	827	X UNIT 827 AND UNIT 1407
01/28/18	23:00:20	4930	5828	AVAILABL	930	
01/28/18	23:00:20	4930	5828	CLEARED	930	930
01/28/18	23:00:17	3533	4485	AVAILABL	1533	
01/28/18	23:00:17	3533	4485	CLEARED	1533	1533
01/28/18	23:00:05	PD08	PJE11	A->C	1533	TIMER LAPSED
01/28/18	23:00:03	PD08	PJE11	AVAILABL	810	
01/28/18	23:00:03	PD08	PJE11	CLEARED	810	810
01/28/18	22:59:29	PD08	PJE11	ARA		ADDED REMARK TO EVENT 180281800
01/28/18	22:59:15	PD08	PJE11	UL	1407	76 PC8
01/28/18	22:57:05	3533	4485	A	1533	ARRIVED,
01/28/18	22:57:02	PD08	PJE11	ARA		ADDED REMARK TO EVENT 180281800
01/28/18	22:56:14	PD08	PJE11	ET	828	EXTENDED BY 99 MINUTES
01/28/18	22:53:41	PD08	PJE11	A->C	828	TIMER LAPSED
01/28/18	22:52:57	PD08	PJE11	UL	1408	TRAFFIC LIGHT
01/28/18	22:52:50	PD08	PJE11	ET	813	PERPETUAL TIME EXTENSION
01/28/18	22:52:47	PD08	PJE11	ET	1406	PERPETUAL TIME EXTENSION
01/28/18	22:52:47	PD08	PJE11	ET	1407	PERPETUAL TIME EXTENSION
01/28/18	22:52:47	PD08	PJE11	ET	1408	PERPETUAL TIME EXTENSION
01/28/18	22:52:47	PD08	PJE11	ET	810	PERPETUAL TIME EXTENSION
01/28/18	22:52:47	PD08	PJE11	ET	825	PERPETUAL TIME EXTENSION
01/28/18	22:52:47	PD08	PJE11	ET	827	PERPETUAL TIME EXTENSION
01/28/18	22:52:47	PD08	PJE11	ET	930	PERPETUAL TIME EXTENSION
01/28/18	22:52:14	PD08	PJE11	A->C	1408	TIMER LAPSED
01/28/18	22:52:08	PD08	PJE11	UL	828	TRAFFIC LIGHT
01/28/18	22:51:08	3529	5691	AVAILABL	1529	
01/28/18	22:51:08	3529	5691	CLEARED	1529	1529
01/28/18	22:50:56	PD08	PJE11	A->C	825	TIMER LAPSED
01/28/18	22:50:41	PD08	PJE11	A	828	ARRIVED,
01/28/18	22:50:39	PD08	PJE11	AU.E	828	ENROUTE TO 8420 BELAIR RD

01/28/18 22:50:20	PD08	PJE11	A->C	1406	TIMER LAPSED
01/28/18 22:49:45	PD08	PJE11	AU.E	1533	ENROUTE TO 8420 BELAIR RD
01/28/18 22:49:17	PD08	PJE11	UL	1408	IN BACK
01/28/18 22:49:14	PD08	PJE11	AU.A	1408	ARRIVED AT 8420 BELAIR RD
01/28/18 22:49:00	PD08	PJE11	A->C	810	TIMER LAPSED
01/28/18 22:48:15	PD08	PJE11	E	1529	ENROUTE

01/28/18 22:48:00	PD08	PJE11	CLEARED	1533	1533
01/28/18 22:47:56	PD08	PJE11	AU.A	825	ARRIVED AT 8420 BELAIR RD
01/28/18 22:47:50	PD08	PJE11	UL	810	76 PC W/95
01/28/18 22:47:47	PD08	PJE11	A->C	930	TIMER LAPSED
01/28/18 22:47:20	PD08	PJE11	AU.A	1406	ARRIVED AT 8420 BELAIR RD
01/28/18 22:46:16	PD08	PJE11	ARA		ADDED REMARK TO EVENT 180281800
01/28/18 22:46:00	PD08	PJE11	A	810	ARRIVED,
01/28/18 22:45:37	PD08	PJE11	A->C	827	TIMER LAPSED
01/28/18 22:45:34	PD08	PJE11	D	1529	UNIT DISPATCH
01/28/18 22:45:31	PD08	PJE11	AU.E	1533	ENROUTE TO 8420 BELAIR RD
01/28/18 22:45:14	PD08	PJE11	A->C	813	TIMER LAPSED
01/28/18 22:44:47	PD08	PJE11	A	930	ARRIVED,
01/28/18 22:44:13	PD08	PJE11	A->C	1407	TIMER LAPSED
01/28/18 22:43:59	PD08	PJE11	AU.E	810	ENROUTE TO 8420 BELAIR RD
01/28/18 22:43:24	PD08	PJE11	ARA		ADDED REMARK TO EVENT 180281800
01/28/18 22:42:37	PD08	PJE11	A	827	ARRIVED,
01/28/18 22:42:24	PD08	PJE11	ARA		ADDED REMARK TO EVENT 180281800
01/28/18 22:42:14	PD08	PJE11	A	813	ARRIVED,
01/28/18 22:42:08	PD08	PJE11	E	930	ENROUTE
01/28/18 22:42:07	PD08	PJE11	D	930	UNIT DISPATCH
01/28/18 22:41:13	PD08	PJE11	A	1407	ARRIVED,
01/28/18 22:40:59	3407	3341	A	1407	ARRIVED,
01/28/18 22:39:36	PD08	PJE11	AU.E	1407	ENROUTE TO 8420 BELAIR RD
01/28/18 22:39:36	PD08	PJE11	AU.E	812	ENROUTE TO 8420 BELAIR RD
01/28/18 22:39:21	PD08	PJE11	E	811	ENROUTE
01/28/18 22:39:18	ES19	HRH80	ARA		ADDED REMARK TO EVENT 180281800
01/28/18 22:39:16	PD08	PJE11	D	811	UNIT DISPATCH
01/28/18 22:39:08	PD08	PJE11	E	813	ENROUTE
01/28/18 22:39:08	PD08	PJE11	E	827	ENROUTE
01/28/18 22:39:01	PD08	PJE11	D	813	UNIT DISPATCH
01/28/18 22:39:01	PD08	PJE11	D	827	UNIT DISPATCH
01/28/18 22:38:57	ES19	HRH80	ARA		ADDED REMARK TO EVENT 180281800
01/28/18 22:38:32	ES19	HRH80	ARA		ADDED REMARK TO EVENT 180281800
01/28/18 22:38:06	ES19	HRH80	ARA		ADDED REMARK TO EVENT 180281800
01/28/18 22:38:03	ES19	HRH80	EVU		EVENT 180281800.2 UPDATED
01/28/18 22:37:45	ES19	HRH80	ARA		ADDED REMARK TO EVENT 180281800
01/28/18 22:37:37	ES19	HRH80	EVA		CREATED

BALTIMORE COUNTY POLICE DEPARTMENT

REQUEST FOR COPY OF POLICE REPORT

(Submit a separate application for each report requested.)

"Integrity...Fairness...Service"

INSTRUCTIONS:

1. Information must be typed or printed. Incomplete information **may** result in the return of your application.
2. Include a check or money order for **$15** payable to Baltimore County, Maryland. **(THIS FEE IS NOT REFUNDABLE. PLEASE DO NOT SEND CASH. EXCEPTION: CRIME VICTIMS DO NOT HAVE TO PAY FOR COPIES OF THEIR REPORTS.)**
3. Enclose a **stamped, self-addressed envelope.**
4. Mail to: Information & Records Management Unit – Records Requests
   Baltimore County Police Department
   700 E. Joppa Road
   Towson, Maryland 21286-5501
5. Your cancelled check will be your receipt.
   (Any questions, please call Records Requests at 410-887-2390.)

TYPE OF RECORD DESIRED:

Incident Report ☒		Motor Vehicle Accident Report ☐	
Date and time of report	01/29/2018 0059 HOURS	Date and time of report	
Report number	180290075	Report number	
Location occurred	7900 BLOCK BELAIR RD	Location occurred	
Name(s) of subject(s) involved		Name(s) of vehicle owner(s)	
Name(s) of suspect(s)		Name(s) of other vehicle driver(s)	
Other name(s) involved		Other passenger(s) involved	

RECEIVED
FEB 21 2018
BY: .....

Check item below that best describes your interest in this case.

- ☐ Victim of crime (NOTE: A copy of your incident report will be provided free of charge).
- ☐ Driver of vehicle or person involved in accident/incident.
- ☐ Executor or administrator of the estate or next of kin (in case of death).
- ☐ Parent or guardian of person injured in motor vehicle accident.
- ☐ Insurance company.
- ☐ Attorney for (name): _____
- ☒ Other (please specify): CONCERNED CITIZEN
- ☐ Refused.

I CERTIFY THAT MY INTEREST IN THIS INCIDENT IS AS INDICATED ABOVE:

(Signature)

Name: THOMAS A KNEESHAW Address: 11 KINGS GLEN CT, KINGSVILLE, MD 21087

NOTE: While an incident may have occurred and a police report written of the incident, these reports go through a recording process before they are available for distribution and will be made available to you as quickly as possible. Requests for reports from the Baltimore County Police Department are processed in accordance with the Maryland Public Information Act (MPIA), as defined in the Maryland Annotated Code, Md. Gen. Provis. §§ 4-101 through 4-601. Thank you.

NAME AND ADDRESS TO WHOM REPORT IS TO BE MAILED:

Name: THOMAS A KNEESHAW
Address: 11 KINGS GLEN CT
Address: KINGSVILLE, MD 21087

Form 338 (Rev. 01/2018)

Protestant Exhibit # 23

BALTIMORE COUNTY POLICE DEPARTMENT
Incident Report

"Integrity...Fairness...Service"

INCIDENT NUMBER		
180290075		
Report Type: Incident Report		Page 1 of 3
Date / Time Occurred: 1/29/2018 00:50 to 1/29/2018 00:59		Date / Time Reported: 1/29/2018 00:59

Arrested Suspects	Known Suspects	Unknown Suspects	Victims	Other Persons	Vehicles	Items	LEOKA Count	Related CC#
		1	1					

☐ Arson Related — Arson Code — Damage Value

☐ Bias Related — Motivation — Cargo Theft: NO

☐ Confidential ☐ Firearm Related ☐ Workplace Violence Related ☐ Repeat Offender Related ☐ Domestic Related ☐ School Related
☐ Witness Intimidation Related ☐ Gang Related ☐ Homeland Security Related ☐ CDS Related ☐ Assets Seized ☐ Sick/Injured Report Completed (Form 273)
☐ Use of Force Completed (Form 253) ☑ Officer Video

Incident Details

UCR Disposition	Situation Found	Case Status
H - OPEN/SUSPENDED	J 4 - ASSAULT, 2ND DEGREE (NOT DOMSTIC A	SUSPENDED

Location of Incident

Street Address	Unit Type	Unit Number
7927 BELAIR RD		

City	State	Zip	Precinct	Reporting Area
NOTTINGHAM	Maryland	21237	09 - WHITE MARSH	090050

Administrative Info

Investigating Officer	ID	Assignment	Sub Assignment
BOUTHNER, K	4967	PRECINCT 09 WHITE MARSH	PLATOON 1

Investigative Interview Conducted	Warrant/Summons/Protective Order Explained	MD Crime Victim/Witness Brochure Issued	Security Survey Information
☑ Yes ☐ No	☐ Yes ☑ No	☑ Yes ☐ No	

Approving Supervisor	Approving Supervisor ID	Reviewed Date / Time
MOREHOUSE, T	4204	1/30/2018 02:43

Approving Shift/Unit Commander	Approving Shift/Unit Commander ID	Approval Date / Time
SNYDER, M	4635	1/31/2018 00:14

Distribute To 1	Distribute To 2	Distribute To 3	Distribute To 4
PC09 INVESTIGATIVE SERVICES			
Distribute To 5	**Distribute To 6**	**Distribute To 7**	**Distribute To 8**
Distribute To 9	**Distribute To 10**	☐ Incident Summary Completed	

OFFENSE

☑ Most Serious Offense — Offense Code: ASSAULT 2ND DEGREE AGGRAVATED

Offense Code Value	Attempted/Completed	Premise	Domestic Related Circumstances
12412	COMPLETED	PARKING LOT, SHOPPING CENTER	

Drug Activity — Drug Type

MO Panel

Entry Type	Method of Attack	Point Of Attack
Exit Point	**Target Area**	**Time of Day**
Burglary MO Used 1	**Burglary MO Used 2**	**Burglary MO Used 3**
Robbery MO Used 1	**Robbery MO Used 2**	**Robbery MO Used 3**
Weapon	**Firearm Description**	**Arson**
OTHER DANGEROUS WEAPON		

Instrument Used

Additional Offense MO Comments

SUSPECT

☐ Known ☑ Unknown ☐ Arrested

Last Name	First Name	Middle Name	Suffix

Nickname	Race	Sex	SSN	Date of Birth	Age	Age Range	Juvenile
	OTHER	MALE				20 to 30	☐

Height	Weight	Driver's License #	DL State	UID #	Booking #	JID #
5'07"	150					

Contact #	FBI #	SID #	Ethnicity
			UNKNOWN

Preferred	Home Phone	Cell Phone	Email Address

Suspect Home Address

Street Address	Unit Type	Unit Number

City | State | Zip

Suspect Employment Information

Student | Employer / School | Occupation | Work Phone | Hours of Employment

Details

Hair Color	Hair Length	Glasses	Eye Color	Build	Facial Hair
BLACK					

Facial Hair Color | Teeth Descriptor | Speech | General Appearance | Complexion

Shirt | Jacket | Pants | Shoes | Hat ☐ | Hat/Cap Description

Mask | Gloves/Socks On Hands ☐

Clothing Description

Other Description

Miscellaneous at Time

Injury

MO Panel

Weapon | Firearm Description

Additional Unknown Suspect MO Comments

Associated Offenses

Offense	Associated With Suspect
ASSAULT 2ND DEGREE AGGRAVATED	☑

VICTIM

Victim Type: PERSON | ☐ Shielding Requested

Last Name	First Name	Middle Name	Suffix
TAMANG	BUDHA	SINGH	

Nickname	Race	Sex	Date of Birth	Age	Age Range	Juvenile
	UNKNOWN	MALE	05/01/1996	21	to	☐

Infant Type | Driver's License # [redacted] | DL State: Pennsylvania

Ethnicity: UNKNOWN | Preferred | Home Phone | Cell Phone | Email Address

Victim Home Address

Street Address	Unit Type	Unit Number
[redacted]	FLOOR	[redacted]

City	State	Zip
PHILADELPHIA	Pennsylvania	[redacted]

Employment Information

Student | Employer / School | Occupation

College Name | Work Phone | Hours of Employment

Details

Injury	Injury Description	Victim Condition
INJURED	[redacted]	SERIOUS

Victim Hospitalized	Hospital Facility	Under Influence Alcohol?	Under Influence Drugs?	Cohabitant
☑	UNIV OF MD - SHOCK TRAUMA	☑ Yes ☐ No ☐ Unknown	☐ Yes ☐ No ☑ Unknown	☐ Yes ☑ No

Associated Offenses

Offense	Associated With Victim
ASSAULT 2ND DEGREE AGGRAVATED	☑

Narrative Information

On 1/29/18 at 0059 hours, I was dispatched to the area around 7927 Belair Rd in reference to a possible fight. Upon arrival, a large crowd was present, but no one was advising what had happened. It should be noted that this group of people were of Indian decent and there was a strong language barrier.

We were able to find victim, Budha Tamang, sitting in the parking lot. He was bleeding from his mouth and head. While trying to speak with victim Budha Tamang, he did not know who attacked him and did not want to provide us with any information. Medics arrived and after observing the injuries, they believed that the victim had a broken jaw. The victim and his friends did not want the Police help or the medics help and wanted to drive home to Philadelphia. The medics were able to convince the victim to go to the hospital for his injuries. Victim Budha Tamang still continued to not have any information for us about who attacked him and with what.

Some of the victim's friends advised that they saw the suspect but could not provide any further. They did not want to give us any information about themselves. They advised that they just wanted to go home to Philadelphia.

BCoPD Event 180290075 - Mt Everest Restaurant, 7927 Belair Rd, Nottingham, MD 21236

Date	Time	Unit	Description
01/29/18	01:02:04	1533	Arrived
01/29/18	01:02:08	1405	Arrived
01/29/18	01:02:17	1522	Arrived
01/29/18	01:04:28	910	Arrived
01/29/18	01:04:57	1406	Arrived
01/29/18	01:05:12	930	Arrived
01/29/18	01:05:36	928	Arrived
01/29/18	01:06:02	925	Arrived
01/29/18	01:06:15	825	Arrived
01/29/18	01:06:20	811	Arrived
01/29/18	01:07:24	1408	Arrived
		11 cars	
01/29/18	01:11:01	Engine 8	Arrived
01/29/18	01:11:03	Medic 8	Arrived
01/29/18	01:38:41	Medic 8	Enroute to Hospital

Baltimore County 911 Center
401 Bosley Avenue
MS 3007
Towson, Maryland 21204
Office: 410-307-2006 Fax: 410-307-2039
E-mail: 911records@baltimorecountymd.gov

CERTIFICATION

I do hereby certify and solemnly affirm under the penalties of perjury, that to the best of my knowledge, information, and belief, the enclosed compact disc recording of Incident # 180290075 and/or telephone call(s) made to the Baltimore County 9-1-1 Center on 1-29-18 (date) is a true copy from the Master Logging Recorder. I further certify that I am the Custodian of said records.

Ref. Case: 7947 Belair Rd

Tammy Price
Chief, 9-1-1 Center
Custodian of Records

The enclosed compact disc consists of 3 call(s) to the Baltimore County 911 Center.

Call # 1 was recorded over operator position ES03

This call began at 12:58:39AM

This call ended at 01:00:48AM

Call # 2 was recorded over operator position ES19

This call began at 01:00:26AM

This call ended at 01:04:48AM

Call # 3 was recorded over operator position ES19

This call began at 01:05:32AM

This call ended at 01:05:04AM

Call # _____ was recorded over operator position _____

This call began at _____

This call ended at _____

Date 07/02/18 Time 07:28:21 Universal Event 180290075

cc# 180290075.01 01/29/18 ES03 RRN46 ct 00:58:43 ea 00:59:49 ra 090061 fb 008-09
loc 7947 BELAIR RD # src 911
typ CARD113 ser P pri 1 h N nam ANON see N pho ( ) -

---

rem MT EVEREST: SUBSJ FIGHTING OUTSIDE, MORE THAN 20 PEOPLE

ms

ali 7621 FITCH LN DIRECTION: 0 ani 443-540-8672 sub WIRELESS-AT&T MO
B
pc WHI fr FIR int 28-H11: GRAPEHILL AV*KLEIN AV d sf

Date 07/02/18 Time 07:28:21 Police Event 180290075 Page no 1

au

dt 00:00:00

---

at 00:00:00
ru 914 911 930 928 926 927 d sf s
rc 911
cc# 180290075.01Cct 00:58:43 ea 00:59:49 RRN46 ES03 pc post 912 ra 090061
loc 7947 BELAIR RD # hz fb 008-0
9
nam ANON see N pho ( ) - typ CARD113 h N ser P p
ri 1
rem MT EVEREST: SUBSJ FIGHTING OUTSIDE, MORE THAN 20 PEOPLE ms
int 28-H11: GRAPEHILL AV*KLEIN AV title DISTURBANCE
ali 7621 FITCH LN DIRECTION: 0 ani 443-540-8672 sub WIRELESS-AT&T MO
B

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au

dt 01:00:28

at 01:02:04
ru 914 911 930 928 926 927 d sf s
rc 911
cc# 180290075.02Cct 00:58:43 ea 00:59:49 RRN46 ES03 pc post 912 ra 090061
loc 7947 BELAIR RD # hz fb 008-0
9
nam ANON see N pho ( ) - typ 113D1FIGHTLGK h N ser P p
ri 1
rem MT EVEREST: SUBSJ FIGHTING OUTSIDE, MORE THAN 20 PEOPLE ms N
int 28-H11: GRAPEHILL AV*KLEIN AV title PHYS FIGHT LRG GRP KNIFE
ali 7621 FITCH LN DIRECTION: 0 ani 443-540-8672 sub WIRELESS-AT&T MO
B

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au 928/C 811/C 910/C 1533/C 1522/C 1405/C 1406/C 1408/C 925/C 930/C 911/C 914/C

dt 01:00:28

at 01:02:04
ru 914 911 930 928 926 927 d 1 sf J4 s
rc 911
cc# 180290075.03Cct 00:58:43 ea 00:59:49 PJE11 PD08 pc post 912 ra 09005(
loc 7927 BELAIR RD # hz fb 008-(
9
nam ANON see N pho ( ) - typ 4A2ASLT h N ser PA
ri 4
rem MT EVEREST: SUBSJ FIGHTING OUTSIDE, MORE THAN 20 PEOPLE **** SUBJ HIT IN FA(
E *** ms
int 28-H11: LINCOLN AV*ROSSVILLE BL title ASSAULT W/INJURY
ali 7621 FITCH LN DIRECTION: 0 ani 443-540-8672 sub WIRELESS-AT&T M(
B

Date 07/02/18 Time 07:28:21 Added Remarks for Police Event 180290075 Page no 1

cc# 180290075.01 00:59 ES03 typ CARD113 ser P loc 7947 BELAIR RD

remarks ADDED REMARK SENT BY PROQA EMD# P602369
pg: 1 MT EVEREST: SUBSJ FIGHTING OUTSIDE, MORE THAN 20 PEOPLE
of: 11

cc# 180290075.02 01:00 ES03 typ 113D1FIGHTLGK ser P loc 7947 BELAIR RD

remarks ADDED REMARK SENT BY PROQA EMD# P602369
pg: 2 PHYSICAL (LARGE GROUP)
of: 11
2ND PTY CALLER ON SCENE.
KNIFE INVL: LARGE KNIFE
WPNS LOC UNK.
DISTURBANCE
IN PROGRESS.
LARGE GROUP INVL.
PHYSICAL DISTURBANCE.

cc# 180290075.02 01:01 ES03 typ 113D1FIGHTLGK ser P loc 7947 BELAIR RD

remarks POSS LANG BARRIER, CLR HAD HARD TIME UNDERSTANDING 911
pg: 3
of: 11 D/C. ATT CB

cc# 180290075.02 01:01 ES03 typ 113D1FIGHTLGK ser P loc 7947 BELAIR RD

remarks CLR SAID MORE THAN 25 SUBJS INVOLVED
pg: 4
of: 11

cc# 180290075.02 01:02 ES03 typ 113D1FIGHTLGK ser P loc 7947 BELAIR RD

remarks ADDED REMARK SENT BY PROQA EMD# P602369
pg: 5
of: 11
SUSP ON SCENE: IFO LOC

cc# 180290075.02 01:02 ES03 typ 113D1FIGHTLGK ser P loc 7947 BELAIR RD

remarks COMPLETE SENT BY PROQA EMD# P602369
pg: 6 **** SESSION FINISHED! *****
of: 11

cc# 180290075.02 01:02 ES03 typ 113D1FIGHTLGK ser P loc 7947 BELAIR RD

remarks NO CONTACT ON CB'S
pg: 7
of: 11

cc# 180290075.03 01:07 PD08 typ 4A2ASLT ser PA loc 7927 BELAIR RD

remarks CC 77
pg: 8
of: 11

cc# 180290075.03 01:08 FD03 typ 4A2ASLT ser PA loc 7927 BELAIR RD

remarks M8 STAGING AT STATION UNTIL PD ADV FURTHER
pg: 9
of: 11

cc# 180290075.03 01:08 ES19 typ 4A2ASLT ser PA loc 7927 BELAIR RD

remarks MALE SPEAKING NEPOLI ADV HE WAS HIT IN FACE D/C WITH 911, RECD VOICEMA
pg: 10 IL ON CB X2
of: 11

WIRELESS CALL
267-370-3216 01/29 01:00:52
WIRELESS-AT&T MOBILITY(COMT
7621 FITCH LN DIRECTION: 0

NOTTINGHAM MD

cc# 180290075.03 01:08 PD08 typ 4A2ASLT ser PA loc 7927 BELAIR RD

remarks M8 GO IN , CENTER ROAD BEHIND THE IHOP
pg: 11
of: 11

DATE	TIME	POS	OP ID	TRANS	UNIT	DESCRIPTION
01/29/18	02:35:18	FD03	MAM48	CLOSED		
01/29/18	01:43:56	4914	5288	AVAILABL	914	
01/29/18	01:43:56	4914	5288	CLEARED	914	914
01/29/18	01:43:20	4911	4967	AVAILABL	911	
01/29/18	01:43:20	4911	4967	CLEARED	911	911
01/29/18	01:42:30	4930	5828	AVAILABL	930	
01/29/18	01:42:30	4930	5828	CLEARED	930	930
01/29/18	01:36:31	PD08	PMM02	A->C	930	TIMER LAPSED
01/29/18	01:32:23	4825	4507	AVAILABL	825	
01/29/18	01:32:23	4825	4507	CLEARED	825	825
01/29/18	01:28:08	4925	5010	AVAILABL	925	
01/29/18	01:28:08	4925	5010	CLEARED	925	925
01/29/18	01:26:31	4930	5828	A	930	ARRIVED,
01/29/18	01:26:30	4930	5828	A	930	ARRIVED,
01/29/18	01:25:36	3408	4428	AVAILABL	1408	
01/29/18	01:25:36	3408	4428	CLEARED	1408	1408
01/29/18	01:24:50	3406	4320	AVAILABL	1406	
01/29/18	01:24:50	3406	4320	CLEARED	1406	1406
01/29/18	01:24:32	PD08	PJE11	AVAILABL	1405	
01/29/18	01:24:32	PD08	PJE11	CLEARED	1405	1405
01/29/18	01:23:06	3522	3653	AVAILABL	1522	
01/29/18	01:23:06	3522	3653	CLEARED	1522	1522
01/29/18	01:22:48	3533	4485	AVAILABL	1533	
01/29/18	01:22:48	3533	4485	CLEARED	1533	1533
01/29/18	01:22:07	4910	4204	AVAILABL	910	
01/29/18	01:22:07	4910	4204	CLEARED	910	910
01/29/18	01:21:23	4811	5185	AVAILABL	811	
01/29/18	01:21:23	4811	5185	CLEARED	811	811
01/29/18	01:18:59	PD08	PJE11	AVAILABL	928	
01/29/18	01:18:59	PD08	PJE11	CLEARED	928	928
01/29/18	01:18:01	PD08	PJE11	ET	811	EXTENDED BY 30 MINUTES
01/29/18	01:18:01	PD08	PJE11	ET	825	EXTENDED BY 30 MINUTES
01/29/18	01:17:46	PD08	PJE11	ET	925	PERPETUAL TIME EXTENSION
01/29/18	01:17:46	PD08	PJE11	ET	928	PERPETUAL TIME EXTENSION
01/29/18	01:17:40	PD08	PJE11	ET	1408	PERPETUAL TIME EXTENSION
01/29/18	01:17:24	PD08	PJE11	A->C	1408	TIMER LAPSED
01/29/18	01:16:20	PD08	PJE11	A->C	811	TIMER LAPSED
01/29/18	01:16:15	PD08	PJE11	A->C	825	TIMER LAPSED
01/29/18	01:16:02	PD08	PJE11	A->C	925	TIMER LAPSED
01/29/18	01:15:36	PD08	PJE11	A->C	928	TIMER LAPSED
01/29/18	01:14:33	PD08	PJE11	ET	911	PERPETUAL TIME EXTENSION
01/29/18	01:14:33	PD08	PJE11	ET	914	PERPETUAL TIME EXTENSION
01/29/18	01:14:26	PD08	PJE11	X	914	X UNIT 914 AND UNIT 911
01/29/18	01:09:21	PD08	PJE11	ET	1406	EXTENDED BY 30 MINUTES
01/29/18	01:09:21	PD08	PJE11	ET	930	EXTENDED BY 30 MINUTES
01/29/18	01:08:45	PD08	PJE11	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:08:35	ES19	HRH80	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:08:12	PD08	PJE11	A->C	930	TIMER LAPSED
01/29/18	01:08:06	FD03	MAM48	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:08:02	PD08	PJE11	A->C	1406	TIMER LAPSED
01/29/18	01:07:44	PD08	PJE11	ET	910	EXTENDED BY 99 MINUTES
01/29/18	01:07:30	PD08	PJE11	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:07:28	PD08	PJE11	A->C	910	TIMER LAPSED
01/29/18	01:07:24	PD08	PJE11	AU.A	1408	ARRIVED AT 7927 BELAIR RD

01/29/18	01:05:36	PD08	PJE11	AU.A	928	ARRIVED AT 7927 BELAIR RD
01/29/18	01:05:28	PD08	PJE11	EVU		EVENT 180290075.3 UPDATED
01/29/18	01:05:17	PD08	PJE11	A->C	1522	TIMER LAPSED
01/29/18	01:05:12	4930	5828	A	930	ARRIVED,
01/29/18	01:05:08	PD08	PJE11	A->C	1405	TIMER LAPSED
01/29/18	01:05:04	PD08	PJE11	A->C	1533	TIMER LAPSED
01/29/18	01:05:02	3406	4320	A	1406	ARRIVED,
01/29/18	01:04:57	3406	4320	A	1406	ARRIVED,
01/29/18	01:04:28	4910	4204	A	910	ARRIVED,
01/29/18	01:02:21	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:02:17	PD08	PJE11	A	1522	ARRIVED,
01/29/18	01:02:16	PD08	PJE11	E	1522	ENROUTE
01/29/18	01:02:15	PD08	PJE11	D	1522	UNIT DISPATCH
01/29/18	01:02:12	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:02:08	PD08	PJE11	AU.A	1405	ARRIVED AT 7947 BELAIR RD
01/29/18	01:02:08	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:02:04	PD08	PJE11	AU.A	1533	ARRIVED AT 7947 BELAIR RD
01/29/18	01:01:30	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:01:17	PD08	PJE11	AU.E	1406	ENROUTE TO 7947 BELAIR RD
01/29/18	01:01:17	PD08	PJE11	AU.E	910	ENROUTE TO 7947 BELAIR RD
01/29/18	01:01:11	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:01:01	PD08	PJE11	E	911	ENROUTE
01/29/18	01:01:01	PD08	PJE11	E	914	ENROUTE
01/29/18	01:01:01	PD08	PJE11	E	930	ENROUTE
01/29/18	01:00:56	PD08	PJE11	D	930	UNIT DISPATCH
01/29/18	01:00:54	PD08	PJE11	P	910	
01/29/18	01:00:52	PD08	PJE11	D	910	UNIT DISPATCH
01/29/18	01:00:52	PD08	PJE11	D	911	UNIT DISPATCH
01/29/18	01:00:28	PD08	PJE11	D	914	UNIT DISPATCH
01/29/18	01:00:26	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:00:23	ES03	RRN46	EVU		EVENT 180290075.2 UPDATED
01/29/18	00:59:57	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	00:59:49	ES03	RRN46	EVA		CREATED

Date 07/02/18 Time 07:28:21 Fire Event 180290075 Page no 1

fb 008-09 title DISTURBANCE pri 1 fr FIR pra 090061 pc WHI
loc 7947 BELAIR RD # ser P
int 28-H11: GRAPEHILL AV*KLEIN AV
rem MT EVEREST: SUBSJ FIGHTING OUTSIDE, MORE THAN 20 PEOPLE
ms
nam ANON pho ( ) - src 911 term ES03 op RRN46
ali 7621 FITCH LN DIRECTION: 0 ani 443-540-8672 sub WIRELESS-AT&T MO
B
cc# 180290075.01 date 01/29/18 ct 00:58:43 lv 00:58:50 ea 00:59:49 dt 00:00:00
pftg aftg typ CARD113 sf d
hc
au

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fb 008-09 title PHYS FIGHT LRG GRP KNIFE pri 1 fr FIR pra 090061 pc WHI
loc 7947 BELAIR RD # ser P
int 28-H11: GRAPEHILL AV*KLEIN AV
rem MT EVEREST: SUBSJ FIGHTING OUTSIDE, MORE THAN 20 PEOPLE
ms N
nam ANON pho ( ) - src 911 term ES03 op RRN46
ali 7621 FITCH LN DIRECTION: 0 ani 443-540-8672 sub WIRELESS-AT&T MO
B
cc# 180290075.02 date 01/29/18 ct 00:58:43 lv 00:58:50 ea 00:59:49 dt 00:00:00
pftg aftg typ 113D1FIGHTLGK sf d
hc
au

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fb 008-09 title ASSAULT W/INJURY pri 3 fr FDE pra 090050 pc WHI
loc 7927 BELAIR RD # ser PA
int 28-H11: LINCOLN AV*ROSSVILLE BL
rem MT EVEREST: SUBSJ FIGHTING OUTSIDE, MORE THAN 20 PEOPLE **** SUBJ HIT IN FAC
E ***
ms N
nam ANON pho ( ) - src 911 term PD08 op PJE11
ali 7621 FITCH LN DIRECTION: 0 ani 443-540-8672 sub WIRELESS-AT&T MO
B
cc# 180290075.03Cdate 01/29/18 ct 00:58:43 lv 00:58:50 ea 00:59:49 dt 01:06:00
pftg aftg typ 4A2ASLT sf J4 d 1
hc 634
au

Date 07/02/18 Time 07:28:21 Added Remarks for Fire Event 180290075 Page no 1

cc# 180290075.03 01:07 PD08 typ 4A2ASLT ser PA loc 7927 BELAIR RD

remarks CC 77
pg: 1
of: 4

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cc# 180290075.03 01:08 FD03 typ 4A2ASLT ser PA loc 7927 BELAIR RD

remarks M8 STAGING AT STATION UNTIL PD ADV FURTHER
pg: 2
of: 4

cc# 180290075.03 01:08 ES19 typ 4A2ASLT ser PA loc 7927 BELAIR RD

remarks MALE SPEAKING NEPOLI ADV HE WAS HIT IN FACE D/C WITH 911, RECD VOICEMA
pg: 3 IL ON CB X2
of: 4

WIRELESS CALL
267-370-3216 01/29 01:00:52
WIRELESS-AT&T MOBILITY(COMT
7621 FITCH LN DIRECTION: 0

NOTTINGHAM MD

cc# 180290075.03 01:08 PD08 typ 4A2ASLT ser PA loc 7927 BELAIR RD

remarks M8 GO IN , CENTER ROAD BEHIND THE IHOP
pg: 4
of: 4

Date 07/02/18 Time 07:28:21 Event History for Fire Event 180290075 Page no 1

DATE	TIME	POS	OP ID	TRANS	UNIT	DESCRIPTION
01/29/18	02:35:18	FD03	MAM48	AVAILABL	M8	
01/29/18	02:35:18	FD03	MAM48	CLEARED	M8	M8
01/29/18	02:35:18	FD03	MAM48	CLOSED		
01/29/18	01:54:46	1008		H	M8	ARRIVED AT HOSPITAL,
01/29/18	01:42:00	FD03	MAM48	AVAILABL	E8	
01/29/18	01:42:00	FD03	MAM48	CLEARED	E8	E8
01/29/18	01:38:41	FD03	MAM48	T	M8	ENROUTE TO HOSP 634.
01/29/18	01:37:32	1008		T	M8	ENROUTE TO HOSP 634.
01/29/18	01:11:03	FD03	MAM48	A	M8	ARRIVED,
01/29/18	01:11:01	FD03	MAM48	A	E8	ARRIVED,
01/29/18	01:08:45	PD08	PJE11	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:08:35	ES19	HRH80	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:08:10	FD03	MAM48	AU.E	E8	ENROUTE TO 7927 BELAIR RD
01/29/18	01:08:06	FD03	MAM48	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:07:30	PD08	PJE11	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:06:26	FD03	MAM48	E	M8	ENROUTE
01/29/18	01:06:02	FD01	MNB91	RR		REROUTED FROM FIR TO FDE
01/29/18	01:06:00	FD01	MNB91	D	M8	UNIT DISPATCH
01/29/18	01:05:28	PD08	PJE11	EVU		EVENT 180290075.3 UPDATED
01/29/18	01:02:21	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:02:12	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:02:08	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:01:30	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:01:11	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:00:26	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:00:23	ES03	RRN46	EVU		EVENT 180290075.2 UPDATED
01/29/18	00:59:57	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	00:59:49	ES03	RRN46	EVA		CREATED

IN THE MATTER OF:	*	BEFORE THE:
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
12231 Harford Road	*	FOR
11th Election District	*	BALTIMORE COUNTY
5th Councilmanic District	*	

RECEIVED
NOV 27 2018
BALTIMORE COUNTY
BOARD OF APPEALS

RE: PETITION FOR SPECIAL EXCEPTION * Case No.: 18-122-X

* * * * * * * * * * * * *

MOTION TO ADMIT PROTESTANTS EXHIBITS 23 AND 24

Protestants request that the Board admit Exhibits 23 and 24 as evidence in this case, along with this motion and attached Appendices A – F. Protestants Exhibits 23 and 24 were entered for identification purposes only at the Board of Appeals hearing on October 23, 2018 as Baltimore County Police Report of 1/28/18 (Exhibit 23) and Baltimore County Police Report of 1/29/18 (Exhibit 24). Members of the Board and opposing counsel were provided copies of Exhibits 23 and 24 at the hearing on October 23, 2018.

As requested by Chairman Garber at the October 23, 2018 hearing, protestants are hereby submitting evidence to link members of the Nepali American Cultural Center, Inc. (NACCB) to the January 28 and 29, 2018 Police Reports. This Motion and the attached Appendices A – F document why Protestant's Exhibits 23 and 24 are relevant to the case and provide the rationale for admitting the Exhibits, Motion, and Appendices as evidence.

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

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FAX: (410) 825-4923

FACTS

Appendix A shows the locations of the incidents described in the January 28, 2018 Police Report (Incident #1) and in the January 29, 2018 Police Report (Incident #2) on a Google Map, along with key details of each incident as described in Exhibits 23 and 24.

Incident #1 - January 28, 2018 at St. Joseph's Church Parking Lot

On January 28, 2018 there was a Nepal Idol Concert taking place at St. Joseph's Church Hall, located at 8420 Belair Road, from 5:30 p.m. - 11:00 p.m. At 22:39 hours (10:39 p.m.) a Baltimore County Police Officer responded to a call of a fight at St. Joseph's Catholic Church parking lot.

According to the police report, two (2) males were fighting and the officer tried to stop the fight. One individual involved in the fight attacked the officer and the subject was arrested and charged with Assault 2nd Degree on Police. Additional offenses cited in the police report include Disturbance of the Peace and Resisting Arrest. The other individual involved in the fight fled the scene. The officer reported that "I was confronted by a crowd closing in on me." It was reported that the large crowd numbered over one hundred (100) people. The report also states that inside the church hall, people were fighting and throwing bottles.

During the incident, back-up police units were called to the scene. The reports states "all drinking" and provided evidence for the statement. The report also states that "Several persons there laughed when ordered by myself and several other officers to disperse."

The report shows that twelve (12) police units responded to the incident at St. Joseph's Church parking lot.

Incident #2 - January 29, 2018 at Mount Everest Restaurant

On January 28 - 29, 2018 a Nepal Idol Concert After Party was held at Mount Everest Restaurant, located at 7927 Belair Road, from 11:30 p.m. to 1:45 a.m. Mount Everest Restaurant, a Nepalese restaurant, is located 1.4 miles south of St. Joseph's Catholic Church, the location of the Nepal Idol Concert. At 0059 hours (12:59 p.m.) a Baltimore County police unit was dispatched to the area around 7927 Belair Road for a possible fight.

The police report states that a large crowd was present and that a victim was found in the parking lot bleeding from his mouth and head. Additional back-up police units were called to the scene as well as a medic unit and fire engine. The victim did not want to provide the officer with information on who attacked him (the victim). The medic unit responding to the scene examined the victim and stated he had a broken jaw. The victim was transported to University of Maryland Shock Trauma in serious condition. The report also indicates a large knife was involved.

The report shows that eleven (11) police units, one medic unit, and one fire engine responded to the incident around Mount Everest Restaurant.

CONNECTION WITH THE APPLICANT NACCB

Appendix B provides a table titled **Hearing Attendees Directly Involved with Nepal Idol Concert in Baltimore on January 28, 2018.** Appendix B summarizes the connection between the Nepal Idol Concert and members of NACCB, based on the sign-in sheets from the January 17, 2018 Administrative Law Judge Hearing and from Days 1 – 6 of the Board of Appeals Hearings (July – November 2018).

Appendix C provides Facebook postings from January 2018 (see dates on attached postings):

- Facebook posting of the Nepal Idol concert advertising poster lists the event sponsors, including the only Platinum Sponsor--Ghimire Homes (see lower left corner)
- Facebook posting thanks a group of individuals associated with the Nepal Idol Concert, Baltimore
- Facebook posting acknowledges support and contributions received from Ghimire Homes Kris Ghimire and media partner Namlo Events

Appendix D provides the Eventbrite listing for ticket information for the Nepal Idol in Baltimore Concert and the Nepal Idol After Party. The dates, times, and locations of the Concert and After Party are listed in the Eventbrite announcement.

Appendix E provides the names of members of a Nepal Idol media partner, Namlo Events, from their website.

Appendix F provides photos from a YouTube video, "Nepal idol winner's program in baltimore usa," published on January 29, 2018. Note that this YouTube video was provided to the Board in the video library (See Disc A3, file DSC_7010). Also included in Appendix F are photos downloaded from the Nepal Idol Concert, Baltimore from the Namlo Events website.

Examination of the list of sponsors, media partners and individuals involved in the Nepal Idol Concert on January 28, 2018 shows that 11 members of NACCB matched the names listed in Appendices C, E, and F when compared to the following documents:

- Petitioner's sign-in sheet from January 17, 2018 Administrative Law Judge Hearing and list of witnesses
- Sign-in sheets from Board of Appeals Hearings, Days 1-6 for Petitioner's attendees, and list of witnesses (July - November, 2018)
- NACCB, Inc. Corporate Charter list of trustees, January 4, 2017
- One Application for NACCB Sign Use Permit submitted to Baltimore County on March 13, 2018 (NACCB member who signed permit form)

In conclusion, the above Appendices B, C, D, E, and F conclusively tie the hearing attendees in the hearing before this Board with the events held on January 28-29, 2018. Obviously therefore, Exhibits 23 and 24 should be entered into evidence by this Board.

RELEVANCE RELATED TO THE BOARD'S REQUIRED FINDINGS UNDER B.C.Z.R. §502.1

Introduction of the two police reports (Protestants Exhibits 23 and 24) as evidence in this case strongly relates to §502.1 criteria A (health, safety or general welfare) and C (hazard from fire, panic or other danger). The Exhibits, Motion, and Appendices clearly linking the police reports, Nepal Idol Concert and After Party to members of NACCB are not conjecture, but rather evidence that they have provided, or found on Facebook postings and websites of event organizers.

If this type of behavior demonstrated in the police reports is indicative of the NACCB behavior on a property they ***rented*** (St. Joseph's Catholic Church Hall), what can the local community expect regarding their behavior on a property they ***own*** (12231 Harford Road)?

The evidence clearly shows, as documented in the police reports, that NACCB is unable to control individuals attending events in which their members participated and helped organize. The disturbance did not happen just once, it occurred twice in connection with the Nepal Idol Concert and After Party.

Given that between 10,000 and 20,000 individuals of Nepalese descent reside in the greater Baltimore area, neighbors of 12231 Harford Road located in a rural agricultural R.C. 2 Zone are entirely justified in their concerns regarding health, safety and danger from the behavior of those attending NACCB events, as evidenced by the January 28 and 29, 2018 police reports.

CONCLUSION

In conclusion, the two police reports submitted as Petitioners Exhibits 23 and 24 should be admitted and relevant for consideration by this Board under §502.1, along with this Motion and Appendices A - F. The Board must weigh the evidence presented in these documents related to any Special Exception and any accompanying restrictions granted to NACCB regarding the subject property, and NACCB's willingness and ability to abide by the Board's decisions.

Furthermore, the evidence provided in these documents clearly indicates that Mr. Ghimire misrepresented the true facts of these incidents during his October 23, 2018 testimony and his testimony should be stricken.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
J. CARROLL HOLZER, P.A.
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
jcholzer38@gmail.com
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of November, 2018, a copy of the foregoing Motion to Admit Protestants Exhibits 23 and 24 was hand-delivered to the following:

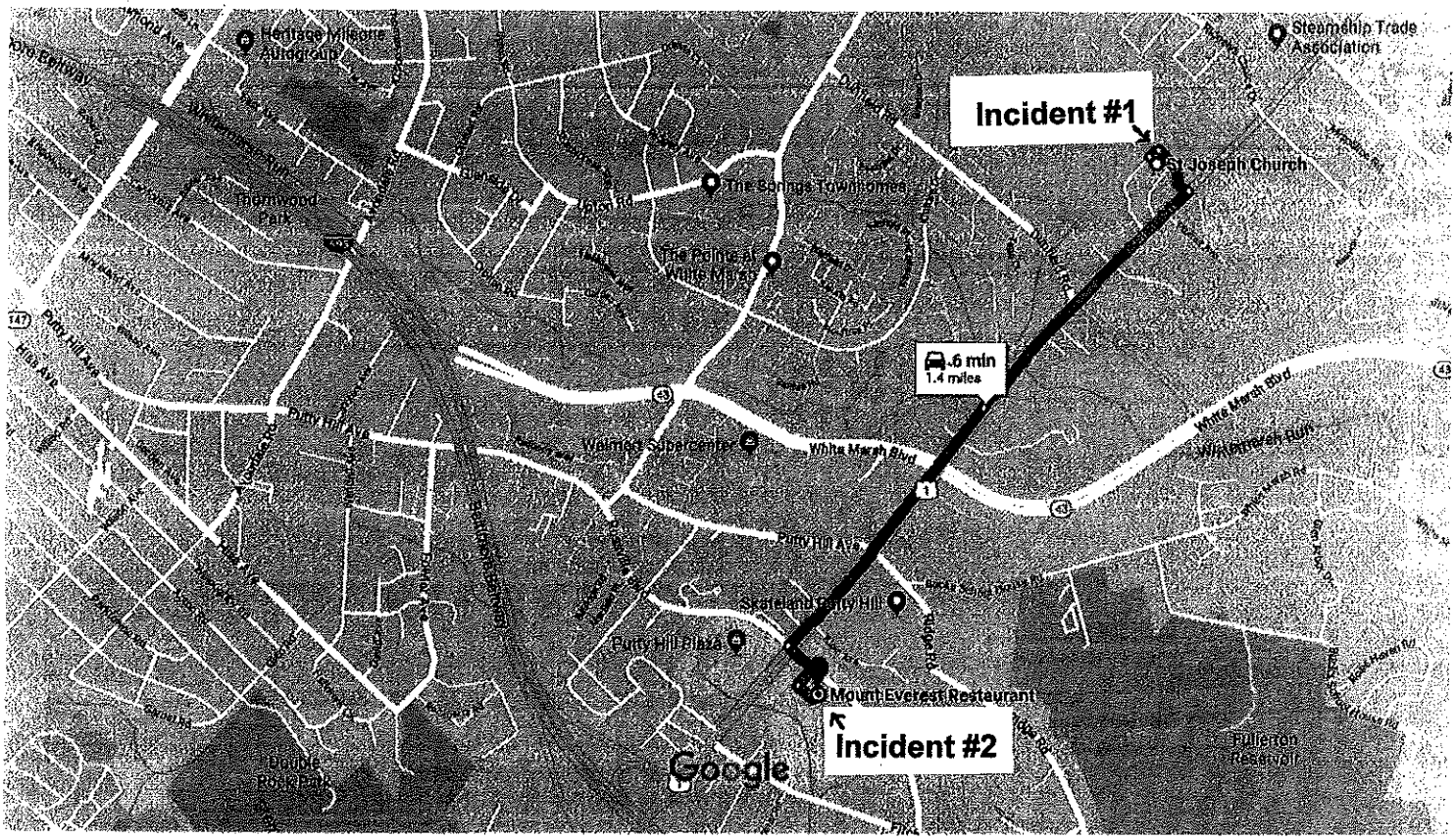
Lawrence E. Schmidt, Esquire
Smith, Gildea, & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, Maryland 21204

Timothy M. Kotroco, Esquire
305 Washington Avenue
Suite 502
Towson, Maryland 21204

J. CARROLL HOLZER, Esquire

Appendix A

Google Maps St Joseph Church to Mount Everest Restaurant Drive 1.4 miles, 6 min



Map data ©2018 Google 1000 ft

Incident #1 – Sunday, January 28, 2018

Police Incident No. 180281800

- Location: 8420 Belair Road (US-1), St. Joseph's Catholic Church Parking Lot
- Nepal Idol Concert in Church Hall, 5:30 pm – 11:00 pm
- Disturbance began at 2239 hours (10:30 pm)
- Police called for a fight
- 12 police units responded
- Offense: Assault 2nd degree on police; one arrest; other suspect fled the scene
- Other Offenses: Disturbance of the peace, resisting arrest
- Large crowd, over 100 people
- Transcript: "People fighting, throwing bottles, all drinking"

Incident #2 – Monday January 29, 2018

Police Incident No. 180290075

- Location: 7927 Belair Road (US-1), Mt. Everest Restaurant
- Nepal Idol Concert After Party, Mt. Everest Restaurant, 11:30 pm – 1:45 am
- Disturbance began at 0059 hours (12:59 pm)
- Police called for possible fight
- 11 police units, 1 medic unit, 1 fire engine responded
- Offense: Assault 2nd degree aggravated; suspect fled the scene
- Injury to victim: bleeding from mouth and head, broken jaw
- Victim transported to Univ. of MD Shock Trauma in serious condition
- Transcript: "Large group, over 20 people, large knife"

Hearing Attendees Directly Involved with Nepal Idol Concert in Baltimore on January 28, 2018

(See Appendix C for link to Nepal Idol Concert supporters)

Nepal Idol Affiliation/Name		Board of Appeals Hearing Dates												NACCB Trustee	Other
	ALJ	Day 1		Day 2		Day 3		Day 4		Day 5		Day 6			
		A	T	A	T	A	T	A	T	A	T	A	T		
Nepal Idol Platinum Sponsor Ghimire Homes, Kris Ghimire	X	X	X	X		X		X		X	X	X		X	**NACCB Resident Agent**
Acknowledged for Helping with Nepal Idol Events															
Keshav Acharya	X	X		X		X		X						X	**Submitted NACCB sign use permit to Baltimore County**
Hb (Harry) Bhandari		X													
Mahandra Deshar	X														
Shrijana Khanal	X	X													
Dhruba Onta	X														
Bijaya Shrestha	X														
Dilip Shrestha	X	X		X		X									**Nepal Idol event organizer**
Binod Uprety	X	X	X	X											
Nepal Idol Media Partner: Namlo Team															
Baikuntha Man Shrestha	X														
Bishal Man Shrestha	X														

KEY

ALJ – Administrative Law Judge Hearing, January 17, 2018
(Ghimire attended & testified; other X's = Petitioner attendees)

Board of Appeals Hearings, Day 1 – Day 6, July to November 2018
A – Attended hearing, signed in as Petitioner
T – Testified as Petitioner Witness

NACCB Trustee – based on NACCB, Inc. Corporate Charter, January 4, 2017

Protestant Exhibit ____

C-43

Appendix C

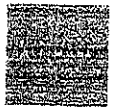
https://www.facebook.com/dirshrestha/posts/10155596074213509

Dilip Shrestha added a new photo.
January 31 at 10:41pm ·

We would like to express our sincere appreciation to all the friends, sponsors and media partners who made it to nepal idol concert taking out time from their hectic schedule . This event shouldn't have been such a success without your tremendous support.
We are with the people who believes that this event could have been better. We learned from our mistake and we will come back with better program in the future..
Last but not the least, shoutout to the centerpiece nishan bhattrai, pratap das and buddha lama who gave there hearts to make this event an indelible impression on everyone's memory.

At the end,
Special thanks to...
Sanosansar Hamrosansar (Shrijan Dai)
Punit Oz
Rav Sitaula
Ashok Uprety, Krish Uprety
Bikram Shrestha,
Purna Singh Baraily
Shaiesta Pokhrel
Kriti Gyawali
Askina Shrestha
Dhiraj Budhathoki

1113
Like
Comment Share



DMV Events
January 24 at 2:50pm ·

Kris Ghimire - NACCB Trustee (in Corp. Charter)

Ghimire Homes being a leading real estate agency in Nottingham is also a proud PLATINUM SPONSOR for this event

Check out this amazing Video put together by 12 Bucks Productions .!! Feel free to SHARE this post on your wall
Rav Sitaula

1111
Like
Comment Share
DMV Events
January 21 at 5:00pm ·

DMV Events would like to Thank Ghimire Homes for PLATINUM SPONSORSHIP. Buying a home is never an easy process but Ghimire Homes being one of the TOP Real Estate Agency in Nottingham is renowned for its Superb Reliable Customer Service and Top Level Consulting in the matters of Real Estate.
Check out their Website if you are considering Buying a Home this year
http://www.ghimirehomes.international/

Hearing Attendee

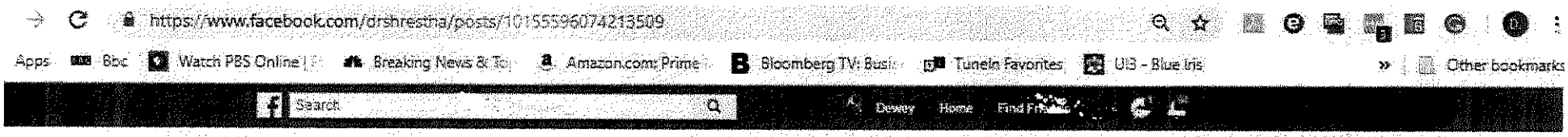
BOA Hearing - Witness

Hearing Attendee

Kshitiz Bhandari
Olympire Homes, Kul Mani, Asha BaYung Raee, Niranjan Rayamajhi, Binod Uprety, Shriiana Khanal, Dinesh Bhandari, Shakti Shrestha, Mahendra Deshar, Pragun SthaDeeya Lakhe Sumi Shrestha
Bijaya Shrestha Satish Chapagain Shiva Malla anu Anu Shrestha Onta Dhruba OntaSuresh Sapkota Suresh Stha Abin Manandhar Deepak Rijal nabin dai Keshav Acharya Kenchi Basnet Noyan Stha Samrid Dhakal Aakash Bhandary Avishek Prasa Hb bhandari Pankaj Upadhyaya dhan b rai Sundar Khadka Nisha Bhandari

Thank you everyone...
Nepal Idol live in Concert, Baltimore Organizer,
Bishwo Kiran Thapa and Dilip Shrestha

Hearing Attendee
Submitted Sign Permit



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Sanosansar Hamrosansar
January 28

#नेपालआईडलBALTIMORE #Promo #पहिलोनेपालआईडल2017 का बिजेता बुद्ध तामाका साथमा उपबिजेता निशान भट्टराई र प्रताप दास सहित स्थानीय कलाकारहरुको बेजोड प्रस्तुतिहरु सहितको भव्य कार्यक्रम #नेपालआईडलLiveinCONCERT यहि आउँदो जनवरीको २८ तारीख आइतबारका दिन हाम्रो यसै बाल्टिमोर शहरमा आयोजना हुने भएको छ। ..आउनुहोस् हामी सपरिवार जाऔं र कार्यक्रमलाई भव्य रुपमा सफल बनाऔं। नेपाली कला र कलाकारलाई माया गरौं।
organizers: DMV Events, Everest Entertainment, Bishwo Kiran Thapa, Dilip Shrestha,

#थप_जानकारीका_लागी,
https://www.facebook.com/events/195086254379666/?ti=cl

#अनलाइनटिकट का लागी यस लिंकमा सम्पर्क गर्नुहोस्।
https://www.eventbrite.com/e/nepal-idol-live-in-concert-bal...

#SPONSORS
Platinum : Ghimire Homes, Kris Ghimire
Gold : Himalayan Tax And Accounting, Namaste Baltimore, Shakti Shrestha
Silver: Kul Mani, Mount Everest Restaurant, Butter Chicken Restaurant, Romas Carryout, Sizzling Bombay Authentic Indian Cuisine, Mt. Everest Groceries, Nick Ishwar Adhikari

#MediaPartners
12 Bucks Productions
C-MOS Creation
NAMLO
Sanosansar Hamrosansar
मेरिल्याण्डका हामी नेपाली "Maryland Ka Hami Nepali"

Performers
Askina Shrestha
Dinesh Bhandari
Pokhareli Crew
Kalpana Poudel
Sujay Shrestha
Srijan Tamrakar, Sri Jan
And The Nepal Idol Crew

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141 Total Likes | 143 Total Follows

Invite your friends to like DMV Events

Andrea Accolla — Invite
Jessica Lalita Pieters — Invite
Lauren Clark — Invite

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Facebook © 2018

Chat (1)

DATE AND TIME

Sun, Jan 28, 2018, 5:30 PM –
Mon, Jan 29, 2018, 1:30 AM EST
Add to Calendar

LOCATION

St Joseph fullerton, Perryhall, MD, 21236
8416 Belair Rd, Nottingham, MD 21236-3019, United States
View Map

REFUND POLICY

No Refunds

DESCRIPTION

Nepal Idol 2017 is the first installment of a Nepalese reality television singing competition that is part of the Idols franchise created by Simon Fuller. Auditions for the show were held in seven Nepali cities, with contestants aged 16 to 30 participating. Nepal Idol is here with its first season in Nepal with three exceptional prodigies as our judges. The judges are Kali Prasad Baskota, Nhyoo Bajracharya and Indira Joshi.

After 5-month hunt for a singing sensation, fair and clear track of the talent and widest audience support, the Nepal's edition of Pop Idol franchise have officially announced Buddha Lama as first ever Nepal Idol from the grand finale that took place at Asian Two Amphitheatre, Grand Mall, Sanaya in Doha, Qatar.

Similarly, Nishan Bhattarai of Morang became First Runner Up while Pratap Das of Lalitpur got the tile of Second Runner Up.

DMV Events and Everest Entertainment Presents..

The Top 3 talents from Nepal Idol will be performing their first US TOUR concert in Baltimore on January 28th. Get ready to see your favorite idols.
1. Buddha Lama
2. Nishan Bhattarai
3. Pratap Das.
With the Best Nepali Idol Host, Sushil Nepal.

TAGS

Party Arts

DATE AND TIME

eventbrite Searc... Browse Even. Help Sign In Create Event

This event has ended.

SALES ENDED

JAN
28

Nepal Idol Live In Concert- Baltimore

by DMV Events and Everest Entertainment

$35 – $105

Nepal Idol Live In Concert- Baltimore
Sun, Jan 28, 2018, 5:30 PM – Mon, Jan 29, 2018, 1:30 AM EST

Sales Ended

DETAILS

Details

General Ticket

SALES ENDED

$35.00 + $4.01 FEE

After Party Will be hosted at Mt Everest Restaurant(7927 Belair Rd, Nottingham, MD 21236) From 11:30 PM TILL 1:45 AM. An after-party is a free entrance for Guests who hold Nepal Idol Ticket.

Hide Info

Meet and Greet

SALES ENDED

$60.00 + $5.39 FEE

Includes: General Admission, Meet and Greet.(6 PM TILL 11 PM) After Party Will be hosted at Mt Everest Restaurant(7927 Belair Rd, Nottingham, MD 21236) From 11:30 PM TILL 1:45 AM. An after-party is a free entrance for Guests who hold Nepal Idol Ticket.

Hide Info

VIP

SALES ENDED

$105.00 + $7.91 FEE

Include: Free Drinks all Night. Meet and Greet.(6 PM TILL 11 PM) Seating. After Party Will be hosted at Mt Everest Restaurant(7927 Belair Rd, Nottingham, MD 21236) From 11:30 PM TILL 1:45 AM. An after-party is a free entrance for Guests who hold Nepal Idol Ticket.

Hide Info

namloevents.com/#team

nline | P Breaking News & To Amazon.com: Prime Bloomberg TV: Busi TuneIn Favorites [redacted]

Namlo events

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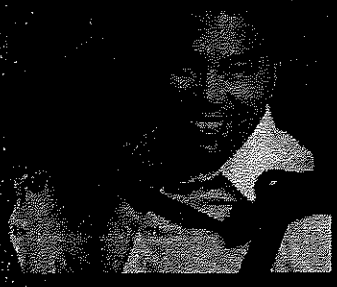
NAMLO TEAM

Namlo Events assembles a team of creative, talented people who really care about you and your event, all having different talents necessary to make it all work. That's the beauty of having a great team.

BIKRANT SHRESTHA
CEO/ARTIST/PHOTOGRAPHER

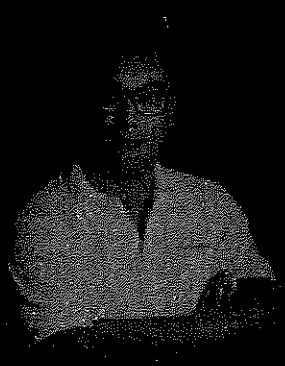
AMY E B SHRESTHA
MANAGING DIRECTOR/ARTIST/DESIGNER

DINESH GURUNG
DJ/MANAGING DIRECTOR

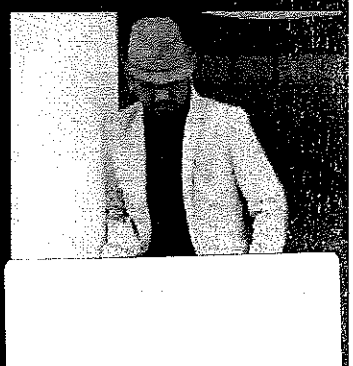


NADIM MAHARJAN
PHOTOGRAPHER

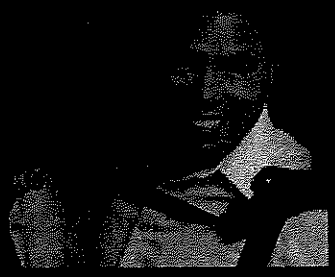
BISHAL MAN SHRESTHA
CINEMATOGRAPHER/ARTIST



BIPIN
PHOTOGRAPHER



ARJUN SUBEDI
CINEMATOGRAPHE



NADIM MAHARJAN
PHOTOGRAPHER

BISHAL MAN SHRESTHA
CINEMATOGRAPHER/ARTIST

BIPIN
PHOTOGRAPHER

ARJUN SUBEDI
CINEMATOGRAPHER

ANOJ
CINEMATOGRAPHER/EDITOR

SWAROOP RANJEET
PHOTOGRAPHER

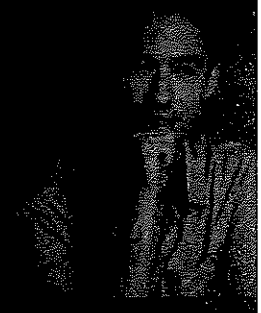
SUSHAN MANANDHAR
CINEMATOGRAPHER/EDITOR/WEB DESIGNER

YOLANDA RECINOS
EVENT DESIGNER

BAIKUNTHA MAN SHRESTHA
ARTIST/CREATIVE ADVISOR

EDITH BUCKLER
ADVISOR

J. GRANT KNUD-HANSEN
PHOTOGRAPHER



GABE DINSMOOR
CINEMATOGRAPHER

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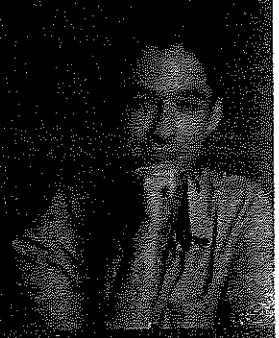
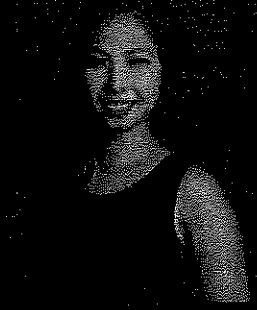
BAIKUNTHA MAN SHRESTHA
ARTIST/CREATIVE ADVISOR

EDITH BUCKLER
ADVISOR

J. GRANT KNUD-HANSEN
PHOTOGRAPHER



GABE DINSMOOR
CINEMATOGRAPHER



MIKA J NAKO
ILLUSTRATOR/CREATIVE DESIGNER

RITIKA S MANANDHAR
ADVISOR

AACISS BADGAMI
PHOTOGRAPHER

ASHOK UPRETY
CINEMATOGRAPHER/PHOTOGR

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1,321 views

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Published on Jan 29, 2018

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Singer are partap das,nishan bhattrai,buddha lama and some local singer and dj
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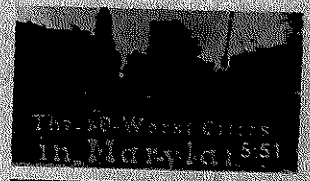

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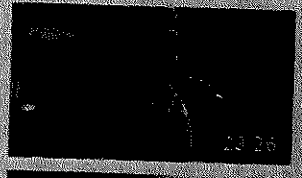
Explained
Nick Johnson
462K views

Buddha lama VS Sure
lama/बुद्ध लामाका फ्यान
Bikram Ale
237K views

Nepal Idol, Grand Fina
Episode 39
Nepal Idol
1.8M views

Nepal Idol, Finale Perf
~ Full Episode 36
Nepal Idol
1.2M views

NEPAL IDOL SEASON 2
FUNNY AUDI
Manip Rai
959K views

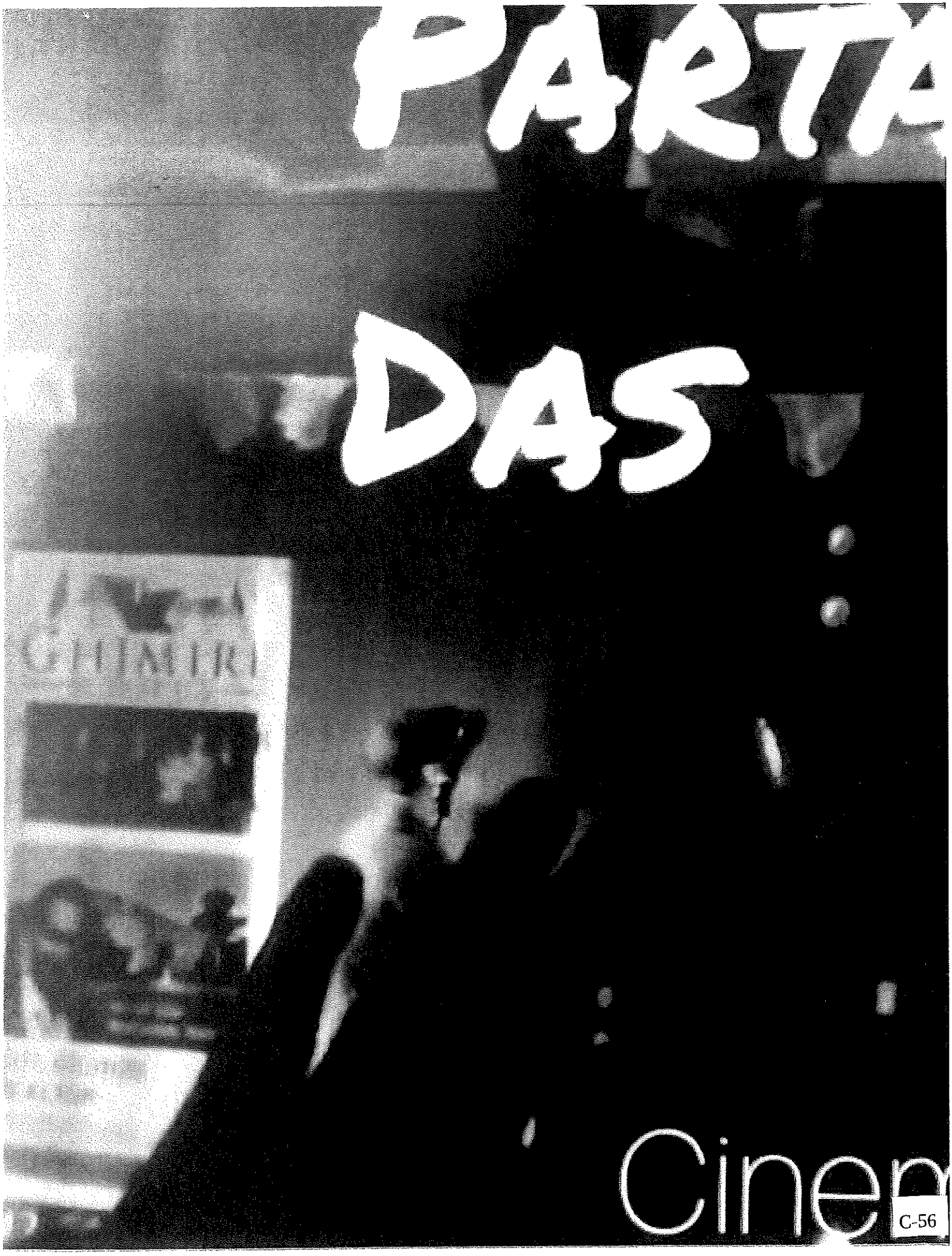


Nepal Idol // B
London UK //
NAS 3.0 PRODU
124K views

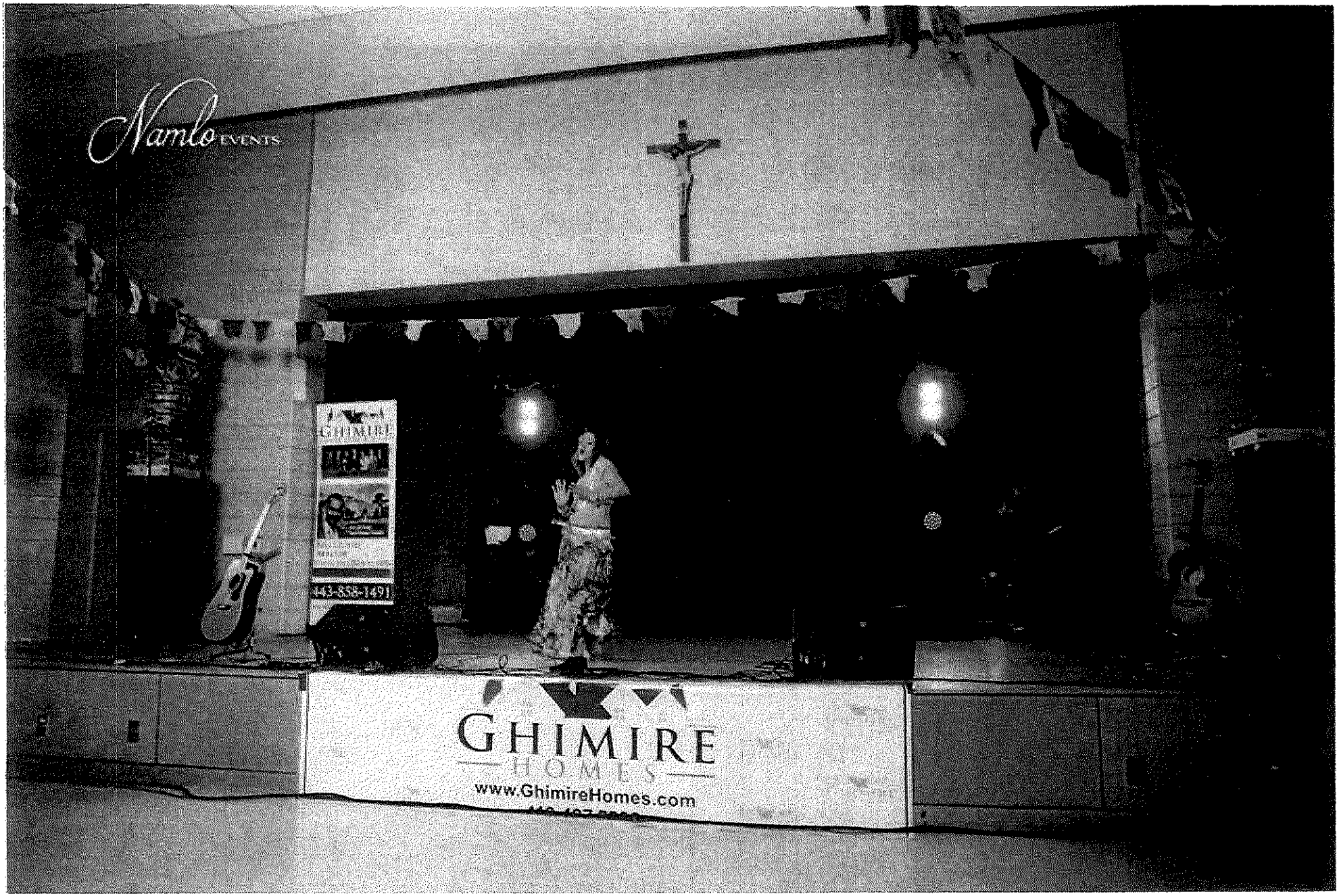
Nepal Idol Bud

C-55

Appendix F


PARTA
DAS
Cinem

NACC-Nepal Idol-(just part)



Namle EVENTS

Namlo EVENTS

DMV Events [illegible] Dilip Shrestha · post

[illegible]

https://www.facebook.com/drshrestha/posts/10155596074213509

IN THE MATTER OF:	*	BEFORE THE:
NEPALI AMERICAN CULTURAL CENTER 12231 Harford Road	*	BOARD OF APPEALS FOR
11th Election District 5th Councilmanic District	*	BALTIMORE COUNTY
RE: PETITION FOR SPECIAL EXCEPTION	*	Case No.: 18-122-X

* * * * * * * * * * * * *

MOTION TO RECONSIDER THE BOARD'S DECISION
AND READMIT PROTESTANTS EXHIBITS #22 AND #23

On November 27, 2018 Protestants submitted a Motion to Admit Protestants Exhibits #23 and #24. (Note that the Exhibits should have been titled #22 and #23.) The Motion of November 27, 2018 requested that the Board admit Exhibits #22 and #23 as evidence in this case, along with the motion and attached Appendices A – F. Protestants Exhibits #22 and #23 were entered for identification purposes only at the Board of Appeals hearing on October 23, 2018 as Baltimore County Police Report of 1/28/18 (Exhibit #22) and Baltimore County Police Report of 1/29/18 (Exhibit #23). Members of the Board and opposing Counsel were provided copies of Exhibits #22 and #23 at the hearing on October 23, 2018.

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
FAX: (410) 825-4923

On January 29, 2019 the Board verbally denied the motion on the basis that the Protestants had not adequately linked Ghimire Homes to Kris Ghimire.

This is a motion to reconsider the Board's decision of January 29, 2019.

The attached evidence is the SDAT for Ghimire Homes and banner photos with Mr. Ghimire's photo on stage at the event with which he denied involvement to this Board. The photos, previously submitted as Appendices in the November 27, 2018 Motion, clearly show Mr. Ghimire on the poster with Ghimire Homes. The attached documents provided from SDAT clearly show that Mr. Kris Ghimire is in fact the President and a principal in Ghimire Homes, LLC. This is affirmed in his sworn statement to the Maryland State Department of Assessments and Taxation.

CONCLUSION

In conclusion, the two police reports submitted as Petitioners Exhibits #22 and #23 should be admitted and relevant for consideration by this Board under 502.1, along with the November 27, 2018 Motion and Appendices A - F. The affidavits on documents Mr. Ghimire provided to SDAT clearly show he is directly involved in the operation of Ghimire Homes.

The evidence provided in these documents clearly indicates that Mr. Ghimire misrepresented the true facts of his involvement with this event during his October 23, 2018 testimony and his testimony should be stricken, and the Exhibit #22 and #23 should be admitted.

The referenced materials are attached hereto.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
J. CARROLL HOLZER, P.A.
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
jcholzer38@gmail.com
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of February, 2019, a copy of the foregoing Protestants Motion was hand-delivered to the following:

Lawrence E. Schmidt, Esquire
Smith, Gildea, & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, Maryland 21204

Timothy M. Kotroco, Esquire
305 Washington Avenue
Suite 502
Towson, Maryland 21204

J. CARROLL HOLZER, Esquire

C:\My Docs\Motions 2019\Clark – Mot to Reconsider Bd Dec – Readmit Prot Exh 22-23 - 2/4/19

MARYLAND BUSINESS EXPRESS

PLAN START MANAGE GROW HERE

Maryland Business Express

Home | Log In / Create Account

GHIMIRE HOMES: T00421840

General Information | Filing History

General Information

Status:
ACTIVE

Owner:
GHIMIRE HOMES LLC
SUITE 100
8030 BELAIR ROAD
NOTTINGHAM MD 21236

Location:
GHIMIRE HOMES
SUITE 100
8030 BELAIR ROAD
NOTTINGHAM MD 21236

Renewal Date:

Expiration Date:
12/29/2021

New Search | Order Documents

TRADE NAME APPROVAL SHEET

**** EXPEDITED SERVICE **** **** KEEP WITH DOCUMENT ****

TRANSACTION TYPE	FEES REMITTED
TN - Trade Name Registration	25
TA - Amendment	
TA1 - Amendment Owner Added	
TA2 - Amendment Owner Deleted	
TA3 - Amendment Owner Name Change	
TA4 - Amendment Location Added	
TA5 - Amendment Location Deleted	
TA6 - Amendment Location Changed	
TC - Cancellation	
TR - Renewal	
Expedited Fee	50

ID # T00421840 ACK # 1000362009967680
PAGES 0002
GHIMIRE HOMES

12/29/2018 AT 10 18 A WO # 0004716422

_____ Certified Copies

_____ Certificates

Copy Fee _____

Certificate of Fact Fee _____

TOTAL FEES 75

_____ Other Change(s)

NO FEE TRANSACTION TYPES

99T - Departmental Action
99TA - Departmental Action - Name Change
220T - Void Non-Payment
220TA - Departmental Action - Amendment
220TA1 - Departmental Action - Owner Added
220TA2 - Departmental Action - Owner Deleted
220TA3 - Departmental Action - Owner Name Change
220TA4 - Departmental Action - Location Added
220TA5 - Departmental Action - Location Deleted
220TA6 - Departmental Action - Location Changed

Code _____

Attention _____

Mail to Address

GHIMIRE HOMES LLC
SUITE 100
8030 BELAIR ROAD
NOTTINGHAM MD 21236

redit Card _____ Check ✓ Cash _____

_____ Documents on _____ Checks

pproved By _____

eyed By _____

OMMENT(S) WI

CUST ID 0003499845
WORK ORDER 0004716422
DATE 12-29-2018 10 18 AM
AMT PAID $75 00

Stamp Work Order and Customer Number HERE

MARYLAND BUSINESS EXPRESS

PLAN START MANAGE GROW HERE

Maryland Business Express

GHIMIRE HOMES, LLC: W17211418

General Information | Filing History | Annual Report/Personal Property

General Information

Department ID Number:
W17211418

Business Name:
GHIMIRE HOMES, LLC

Principal Office:
8030 BELAIR RD., STE.100
NOTTINGHAM MD 21236

Resident Agent:
KRIS GHIMIRE
5048 SPRINGHOUSE CIRCLE
ROSEDALE MD 21237

Status:
ACTIVE

Good Standing:
THIS BUSINESS IS IN GOOD STANDING
» Order Certificate of Status

Business Type:
DOMESTIC LLC

Business Code:
20 ENTITIES OTHER THAN CORPORATIONS

Date of Formation/ Registration:

04/26/2016

State of Formation:
MD

Stock Status:
N/A

Close Status:
N/A

New Search | Order Documents

Privacy and Security Policy | Accessibility Policy

FOR FILING AND [illegible] RELATED QUESTIONS
Maryland Department of Assessments & Taxation
410-767-1184 | Outside the Baltimore Metro Area: 888-248-4941
Maryland Relay: 800-735-2258

FOR TECHNICAL QUESTIONS AND SUPPORT
NIC Maryland, eGov Services Partner of the Department of Information Technology (DoIT) and Maryland.gov
» Click for 24/7 Support

SECURED

State of Maryland

State Department of Assessments and Taxation
Charter Division
TRADE NAME APPLICATION

FILING FEE $25 00

EXPEDITED FEE ADDITIONAL $50 00 | TOTAL EXPEDITED SERVICE $75 00

(Make checks payable to Department of Assessments and Taxation)

Prior to registering the business name of a home improvement company with the Maryland State Department of Assessments and Taxation an applicant is advised to contact the Commission at 410-230-6171 to ensure a specific name is available

1) TRADE NAME* *(Only one trade name may appear on this line)*

GHIMIRE HOMES

2) STREET ADDRESS(ES) WHERE NAME IS USED

8030 Belair Road Suite 100

CITY Nottingham STATE MD ZIP 21236

Post office box number is only accepted when part of the physical address

3) FULL LEGAL NAME OF OWNER OF BUSINESS OR INDIVIDUAL USING THE TRADE NAM

Ghimire Homes LLC W17211441

If more than one owner, attach an additional sheet listing each owner with his/her address Be sure each owner signs this for

4) If the owner is an individual or general partnership, do they have a personal property account (an "L" number)? Circle one YES (NO)

IF YES, WHAT IS THAT NUMBER? _____

IF NO, see item 4 of the Trade Name Application Instructions

5) ADDRESS OF OWNER 8030 Belair Road Suite 100

CITY Nottingham STATE MD ZIP 21236

Post office box number is only accepted when part of the physical address

6) DESCRIPTION OF BUSINESS Real Estate Brokerage

I affirm and acknowledge under penalties of perjury that the foregoing is true and correct to the best of my knowledge

President

SIGNATURE OF OWNER (AUTHORIZED TITLE) SIGNATURE OF OWNER (AUTHORIZED TITLE)

SIGNATURE OF OV CUST ID 0003499845
WORK ORDER 0004716422
DATE 12-29-2016 10 18 AM
AMT PAID $75 00 NER (AUTHORIZED TITLE)

Pho MD 1-888-246-5941

5000000000739531

ARTICLES OF ORGANIZATION

The undersigned, with the intention of creating a Maryland Limited Liability Company files the following Articles of Organization:

(1) The name of the Limited Liability Company is:
Ghimire Homes, LLC

(2) The purpose for which the Limited Liability Company is filed is as follows:
Real estate investment and property management.

(3) The address of the Limited Liability Company in Maryland is:
4520 Fitch Ave., Nottingham, MD, 21236

(4) The Resident Agent of the Limited Liability Company in Maryland is:
Kris Ghimire

whose address is:
5048 Springhouse Circle, Rosedale, MD, 21237

(5) Signature(s) of Authorized Person(s):
Kris Ghimire

(6) Signature(s) of Resident Agent(s):
Kris Ghimire

(7) Filing party's name and return address:
Kris Ghimire, 5048 Springhouse Circle, Rosedale, MD, 21237

I hereby consent to my designation in this document.

CORPORATE CHARTER APPROVAL SHEET

**** EXPEDITED SERVICE **** **** KEEP WITH DOCUMENT ****

DOCUMENT CODE F80 BUSINESS CODE _____

W17211418

Close _____ Stock _____ Nonstock _____

P A _____ Religious _____

Merging (Transferor) _____

Surviving (Transferee) _____

10003620089677755

Affix Barcode Label Here

ID # W17211418 ACK # 10003620089677755
PAGES 0002
GHIMIRE HOMES, LLC

12/29/2016 AT 10 26 A WO # 0004716432

New Name _____

FEES REMITTED

Base Fee	25
Org & Cap Fee	
Expedite Fee	50
Penalty	
State Recordation Tax	
State Transfer Tax	
____ Certified Copies	
Copy Fee	
____ Certificates	
Certificate of Status Fee	
Personal Property Filings	
Mail Processing Fee	
Other	
TOTAL FEES	75

Credit Card _____ Check _____ Cash _____

_____ Documents on _____ Checks

Approved By 16

Keyed By _____

COMMENT(S)

____	Change of Name
✓	Change of Principal Office
____	Change of Resident Agent
____	Change of Resident Agent Address
____	Resignation of Resident Agent
____	Designation of Resident Agent and Resident Agent's Address
____	Change of Business Code
____	Adoption of Assumed Name
____	Other Change(s)

Code _____

Attention _____

Mail Names and Address

Ghimire Homes LLC
8030 Belair Rd Suit 100
Nottingham, MD 21236

Stamp Work Order and Customer Number HERE

CUST ID 0003499855
WORK ORDER 0004716432
DATE 12-29-2016 10 26 AM
AMT PAID $75 00

RESOLUTION TO CHANGE PRINCIPAL OFFICE OR RESIDENT AGENT

The directors/stockholders/general partner/authonzed person of

Chmive Homes LLC

(Name of Entity)

organized under the laws of Maryland (State) passed the following resolutio

(Check applicable boxes)

☑ **The principal office is changed from, (old address)**

4518 Fitch Ave

Nottingham, MD 21236

to. (new address) 8030 Belair Road, Suite 100

Nottingham, MD 21236

☐ **The name and address of the resident agent is changed from**

N/A

to

I certify under penalties of perjury the foregoing is true

Signed _____

Secretary or Assistant Secretary
General Partner
Authorized Person

I hereby consent to my designation in this document as resident agent for this entity

Signed _____

Resident Agent

CUST ID 0003499855
WORK ORDER 0004716432
DATE 12-29-2016 10 25 AM
AMT PAID $75 00

MARYLAND BUSINESS EXPRESS

PLAN START MANAGE GROW HERE

Maryland Business Express

Home | Log In / Create Account

GHIMIRE INCORPORATED: D10816957

General Information | Filing History | Annual Report/Personal Property

General Information

Department ID Number:
D10816957

Business Name:
GHIMIRE INCORPORATED

Principal Office:
5048 SPRINGHOUSE CIRCLE
ROSEDALE MD 21237

Resident Agent:
HELEN FERNANDEZ GHIMIRE
5048 SPRINGHOUSE CIRCLE
ROSEDALE MD 21237

Status:
INCORPORATED

Good Standing:
THIS BUSINESS IS IN GOOD STANDING
» **Order Certificate of Status**

Business Type:
CORPORATION

Business Code:
04 ORDINARY BUSINESS - NON-STOCK

Date of Formation/ Registration:

08/23/2005

State of Formation:
MD

Stock Status:
NONSTOCK

Close Status:
NO

New Search | Order Documents

Privacy and Security Policy | Accessibility Policy

FOR FILING AND BUSINESS RELATED QUESTIONS
Maryland Department of Assessments & Taxation
410-767-1184 | Outside the Baltimore Metro Area: 888-245-0041
Maryland Relay: 800-735-2258

FOR TECHNICAL QUESTIONS AND SUPPORT
NIC Maryland, eGov Services Partner of the Department of Information Technology (DoIT) and Maryland.gov
» Click for 24/7 Support

SECURED

CORPORATE CHARTER APPROVAL SHEET

**** KEEP WITH DOCUMENT ****

DOCUMENT CODE 80 BUSINESS CODE _____

D10816957

Close _____ Stock _____ Nonstock _____

P.A. _____ Religious _____

Merging (Transferor) _____

Surviving (Transferee) _____

Affix Barcode Label Here

1000362001802448

Affix Barcode Label Here

ID # D10816957 ACK # 1000362001802448
PAGES: 0002
GHIMIRE INCORPORATED

04/22/2011 AT 12:16 P NO # 0003796366

New Name _____

FEES REMITTED

Base Fee:	25
Org. & Cap. Fee:	
Expedite Fee:	
Penalty:	
State Recordation Tax:	
State Transfer Tax:	
____ Certified Copies	
Copy Fee:	
____ Certificates	
Certificate of Status Fee:	
Personal Property Filings:	
Mail Processing Fee:	
Other:	
TOTAL FEES:	25

Credit Card _____ Check _____ Cash _____

_____ Documents on _____ Checks

Approved By: 012

Keyed By: _____

COMMENT(S):

____ Change of Name
__✓__ Change of Principal Office
____ Change of Resident Agent
____ Change of Resident Agent Address
____ Resignation of Resident Agent
____ Designation of Resident Agent and Resident Agent's Address
____ Change of Business Code
_____
____ Adoption of Assumed Name
_____
_____
____ Other Change(s)
_____
_____

Code _____

Attention: _____

Mail: Name and Address

GHIMIRE INCORPORATED
5048 SPRINGHOUSE CIR
ROSEDALE MD 21237-3356

Stamp Work Order and Customer Number HERE

CUST ID:0002579484
WORK ORDER:0003796366
DATE:04-25-2011 12:16
AMT. PAID:$25.00

APR 2 2 2011

RESOLUTION TO CHANGE PRINCIPAL OFFICE OR RESIDENT AGENT

The directors/stockholders/general partner/authorized person of Ghimire Incorporated
(Name of Entity)

organized under the laws of Maryland (State), passed the following resolution:

[CHECK APPLICABLE BOX(ES)]

☑ The principal office is changed from: (old address)
22 E 25th Street
Baltimore, MD 21218

to: (new address)
5048 Springhouse Circle
Rosedale, MD 21237

☐ The name and address of the resident agent is changed from:

to:

I certify under penalties of perjury the foregoing is true.

Secretary or Assistant Secretary
General Partner
Authorized Person

I hereby consent to my designation in this document as resident agent for this entity.

SIGNED Ghimire
Resident Agent

WORK ORDER:B00379636
DATE:04-25-2011 12:16 PM
AMT. PAID:$25.00

DMV Events shared Dilip Shrestha's post.
January 31 at 10:44pm ·
https://www.facebook.com/drshrestha/posts/10155596074213509

IN THE MATTER OF: Nepali American Cultural Center of Baltimore 12231 Harford Road	*	BEFORE THE
	*	BOARD OF APPEALS
11th Election District 5th Councilmanic Districts	*	OF
	*	BALTIMORE COUNTY
RE: PETITION FOR SPECIAL EXCEPTION	*	**Case No.: 2018-0122-X**
	*	

RECEIVED
MAR 05 2019
BALTIMORE COUNTY
BOARD OF APPEALS

* *

WRITTEN MEMORANDUM IN LIEU OF CLOSING ARGUMENT

The property owner, Nepali American Cultural Center of Baltimore (hereinafter "Petitioner" or "Nepali"), by and through their attorneys, Lawrence E. Schmidt and Smith, Gildea & Schmidt, LLC, submit this Written Memorandum in Lieu of Closing Argument in support of the Petition for Special Exception for the above referenced matter and respectfully state:

STATEMENT OF THE CASE

This matter comes before the County Board of Appeals (the "Board") as a *de novo* appeal of Administrative Law Judge ("ALJ") John Beverungen's final decision dated January 22, 2018 granting a Petition for Special Exception for a church or other building used for religious worship.[1] The Petition pertains to the property located at 12231 Harford Road (the "Property") and was filed pursuant to Baltimore County Zoning

[1] The BCZR, in describing such a proposed use, states "a church or building used for religious worship." By definition, a "church" is a structure used by any denomination of the Christian religion. The temple proposed here is of the Hindu faith and is thus not a church as that religion does not consider Jesus as the son of God. The use herein of that word (i.e. church) is thus in the vernacular.

Regulation (hereinafter "BCZR") § 1A01.2.C.6, which permits churches and other buildings used for religious worship in the RC-2 zone by special exception.

A public hearing on the petition was held before the ALJ on January 17, 2018. By written Opinion and Order dated January 22, 2018, ALJ Beverungen granted the petition. On February 16, 2018, an appeal of the ALJ's decision to the Board was filed by DeWitt and Mary Clark, David Hartman, Dave Poehler, Morgan Miner, and Carol Shaw (collectively, hereinafter referred to as the "Protestants"). They are represented by J. Carroll Holzer, Esquire. The public hearing before the Board consumed eleven non-consecutive days lasting from July 19, 2018 to February 13, 2019. The relevant testimony will be recounted as appropriate herein. Additionally, the parties submitted a significant volume of documentary evidence, including photographs, plans and plats, video recordings, etc.

STATEMENT OF THE FACTS

The collective evidence offered in this case established the following essential facts. The Petitioner, Nepali American Cultural Center of Baltimore, is a non-profit organization dedicated to establishing a Nepalese (Hindu) place of worship in Baltimore County. Members of Nepali generally are immigrants to the United States from Nepal and practice the Hindu faith. In furtherance of this mission, the Petitioner has purchased the subject property known as 12231 Harford Road in the Glen Arm community of northeastern Baltimore County.

The Property is approximately 30.8 acres in area, zoned RC-2, and the buildings thereon are currently not served by public water and sewer. Previously, there was a

private well and septic system serving the improvements on site, but those facilities no longer are functional and will be replaced.[2] The Property is an irregularly shaped parcel with frontage on Harford Road. It is outside of the County's Urban Rural Demarcation Line ("URDL"). There is a single existing access driveway serving the Property from Harford Road. This driveway is located on the northeast side of the Property, near the intersection of Harford Road and Bonaparte Avenue. Harford Road (Maryland Route 147) is a state highway and is under the control and jurisdiction of the State Highway Administration ("SHA"). The nearest major intersection is a traffic circle approximately one quarter mile to the east; where Harford Road intersects with Mt. Vista Lane (to the north) and Glen Arm Road (to the south).

The main building on the Property is an existing structure that was most recently used as a dwelling. It is a large and imposing mansion like structure. The structure was constructed of poured concrete and was built in 1933 after the original house on the Property was destroyed by fire. There are several other structures on the Property including a pool and pool house, a barn, an outbuilding/tenant house and a tennis court (which is also used for volleyball.) Many of these structures will be removed; however, the barn will be retained due to its historic designation. The volleyball court will be retained, primarily to be used by the youth of the congregation. When the Property was acquired by Nepali, the mansion was in a state of disrepair and the Petitioner has made significant effort and investment to rehabilitate it. It remains

[2] Subsequent to Mr. Powell's testimony, the Petitioner has moved forward to obtain permits and drill a well. A new septic system is also under construction pursuant to County permits.

uninhabitable at the present time, primarily due to the lack of a functioning well and septic system. But many cosmetic repairs have been made to clean up and restore the mansion and the Property, which have been abandoned for many years.

Although zoned with a Resource Conservation ("RC") 2 classification (agricultural), the Property is in a locale which features predominately residential and institutional uses. To the north and east, much of the locale is zoned RC-5 (Rural Residential) and contains dwellings and institutional uses. Unlike other RC-2 zoned areas of Baltimore County, the immediate area around the Property is not dominated by farms and undeveloped open spaces. In fact there are no farms or properties used for agricultural purposes adjacent to the Property. Even the RC-2 zoned properties on the opposite side of the Harford Road (to the south and west) are not agriculturally used but are improved with single-family dwellings. There is an existing church (Redeemer Presbyterian Church) and school (Redeemer Classical Christian School) located .4 miles east of the Property, on Mount Vista Road. Additionally, Beachmont Christian Ministries is located .4 miles southeast of the Property. The property owned by Beachmont Christian Ministries is also used as a camp and is improved with several athletic fields, a swimming pool, and a basketball/multi-purpose macadam court. Given these adjacent institutional and residential land uses, it is clear that the Property is not nestled in a pristine agricultural area that is devoid of development, as might be expected in the RC-2 zone. Thus, the impacts of the proposed use on agricultural operations in the general area are minimal, if existent at all.

As a matter of curious historical interest, the Property was once owned by Napoleon Bonaparte's nephew (hence the name of the residential road immediately across the entrance to the site as Bonaparte Ave.) The Property (known as Bella Vista or "beautiful view") is listed as a Baltimore County historic site, however, the dwelling itself is not specifically landmarked. An old barn on the Property is designated as historic by the County as it is one of the original structures. Although the federally designated Long Green Valley Historic District is nearby, the Property is not within that district.

The details of the proposed church use by the Nepali American Cultural Center of Baltimore were described largely through the testimony of Kris Ghimire. Mr. Ghimire is a founding member and a Trustee of the Nepali American Cultural Center of Baltimore. The Nepali American Cultural Center of Baltimore became an established legal entity in 2017 with the single mission of founding a Hindu Temple in Baltimore County. Mr. Ghimire described the rituals of the Hindu religion and the anticipated typical weekly schedule. The church is a traditional Hindu temple in terms of its services and schedule. Unlike Western religions (e.g. Sunday is considered the Sabbath for Christians); there is no one regular day for worship during the week. Thus, unlike Christian churches, there will not be a sizable group of individuals who will come to the Property on a set date and time every week. This, obviously, significantly lessens the impact of the use on the locale as visits by the members are spread out. Congregates attend the temple and pray on their own schedule to any one of the religion's 33 million Gods. Mr. Ghimire described the typical routine of worshipers who may come to the

temple on a particular day to celebrate a god which carries significance for that particular day. The Congregate might attend that day to honor that god through prayer or meditation and leave a gift in the god's honor. Other special events that might occur include weddings and the celebration of an infant taking his/her first solid food (rice) in a ceremony similar to a Christian baptism. However, alcohol and meat are not allowed on the property, thus the events conducted on the Property are religious ceremonies and customs only and there are not "receptions" or similar social gatherings that are often associated with Judeo Christian religions (weddings, bar mitzvah's, etc.). Such gatherings would occur off site following the religious ceremony. Moreover, there is no day school or child care operation proposed.

Nepali proposes to renovate the mansion building in order to provide indoor space for religious worship. No new buildings or building additions are proposed. The mansion contains a large first floor room/hall that can accommodate approximately 100 people which will serve as the primary room for prayer/services. Distinct from Western religions, there will be no permanent seats or pews provided in the main room. Temporary seating for approximately 80-90 people will be provided by folding chairs for significant events at the temple. At other times, these chairs may be removed. It is significant that the religious services conducted are not in the nature of a Christian/Jewish service whereat individuals would be seated for an extended time. The congregants will arrive, enter the building and pray/meditate and then leave. While the timing and identity of the individual is not yet determined, a priest may live in the tenant house (if/when it is rehabilitated) and would be the only person living on

the Property. On a typical day, 10-20 people are expected to attend the temple. Insofar as the use of the balance of the building, other rooms will be used for temple offices, meeting spaces and similar activities. There is no commercial scale kitchen proposed and the building will not be rented for outside (not temple) activities.

The proposed activity that generates much of the Protestants' concerns and objections are the religious festivals that will occur on the site. Since Nepali's acquisition of the Property, the owners have conducted several fundraisers and similar gatherings on the site. These fundraisers were to raise money to cover the acquisition costs and to pay for the repairs to the buildings and upkeep to the Property. As the Board recognized, adjudging the propriety of these past events is not a relevant consideration for the Board in consideration of the special exception, in that whether the events were "legal" is in the manner of a Code Enforcement issue. More importantly, in that the events have already occurred, whether they were "permissible" is now a moot issue. However, moving forward, the Petitioner hopes to hold periodic religious festivals on the Property. These are expected to generate a larger crowd than the number of typical weekly attendees, much the same as Christian churches are more crowded on Christmas and Easter and Jewish synagogues might have higher attendance on Rosh Hashanah or Yom Kippur. The Nepali festivals occur at different times throughout the year. They celebrate important "holidays" or "high holy days" of the Hindu religion. Depending on the festival, activities may span several days or up to approximately one week, with approximately 150 people in attendance at any one time. But, again, as the festivals last multiple days, the total attendance will be spread out. Obviously, given the

capacity of the main hall, individuals may be outside the building during the festivals. It is important to note that these festivals are a significant aspect of the practice of the Hindu religion. They are as much as part of the religious tradition/ritual of the Hindu faith as the weekly visits of the individuals who come to temple to pray or meditate. As such, they are constitutionally protected under the First Amendment of the Bill of Rights (as well as other protections under law, e.g. the Religious Land Use and Institutionalized Persons Act ("RLUIPA")) which guarantees all citizens the right to practice their religion without undo intrusion or control by the government. The practice of the Hindu faith cannot be molded into the routine of a Christian Church or Jewish synagogue. Similarly, like other churches, the outdoor activities (including the volleyball court) are a part of the temple's ministry and mission. Just as many Christian churches may have gymnasiums and fellowship halls for congregates to gather and participate in missions and rituals of the faith, the outdoor use of the property is an important aspect of the Hindu religious program. Obviously, such outdoor events are limited by the practical consideration of weather and daylight. Such activities are limited to daylight (as there are no plans for lighting, other than security lighting on the building) and such events will not be held during inclement/cold weather.

In support of the requested special exception, Nepali offered three expert witnesses. The first was the Petitioner's civil engineer, John Motsco, who presented the site plan (Petitioner's Exhibit No. 1) , discussed the layout and offered expert opinion that the use satisfied the criteria for Special Exception approval in BCZR § 502.1. He described the neighborhood and Property, including the current improvements on the

Property (i.e. the two-story mansion, the above referenced historic barn, a tennis/volleyball court, as well as several outbuildings). As noted above, the mansion will be converted to house the temple and many of the existing dilapidated buildings will be razed. There are no new proposed buildings.

Mr. Motsco offered opinions that the proposed church use is appropriate for the Property and locale in accordance with the Master Plan 2020 and relevant community plan. Harford Road is classified as a scenic route under the Baltimore County Master Plan 2020.[3] The County Council adopted the Greater Kingsville Area Community Plan (the "GKA Community Plan") in 1996 which identifies particular goals and recommends specific actions. As acknowledged by both the Petitioner and Protestants, the Property is within the jurisdiction of the GKA Community Plan. The GKA Community Plan specifically recommends that:

> "That special forms of development such as *churches* and recreational facilities, while beneficial to the residents, should be located in *close proximity to major roadways such as Harford and Belair Roads*, and provide a suitable buffer commensurate with size and usage from neighboring properties." (GKA Community pg. 27) (emphasis added)

Petitioner's proposed church use satisfies these recommendations. Most notably, the church is located on Harford Road, a State highway (and not a small County maintained residential road). The Property is within proximity to other institutional uses, namely, the Redeemer Presbyterian Church and Beachmont Christian Ministries, thus it "fits" the character and pattern of the neighborhood. The Property itself is large

[3] As noted by Mr. Motsco, the classification of Harford Road as a scenic route triggers considerations contained in the Comprehensive Manual of Development Policies ("CMDP") and the Baltimore County Landscape Manual. As indicated by Development Plans Review's November 17, 2017 comment, if the Special Exception is granted, a landscape and lighting plan will be required.

and can easily accommodate the proposed use. There are significant natural buffers on the Property, including substantial wooded areas which provide visual screening and provide noise mitigation to adjacent properties.

Mr. Motsco further addressed the important issues regarding the location of the dwelling on the Property, the required parking, the environmental features, etc. As he noted, the existing dwelling is located in the center of the Property, set back a significant distance from the Property's perimeter and adjacent land uses. Given the expected regular attendance of the temple and the requirements in the Baltimore County Zoning Regulations ("BCZR"), there are 38 proposed paved parking spaces. BCZR 409.6 requires that a church is required to have 1 parking space per 4 seats in the place of worship. Obviously, this requirement was contemplated for a Judeo/Christian house of worship. Its application here is complicated by the fact that the temple will not provide permanent seats or pews. Thus, Mr. Motsco, in consultation with the County Zoning Office, calculated the required parking by considering the estimated maximum number of attendees and capacity of the main room. As noted above, that room can accommodate approximately 100 individuals and perhaps 80-90 temporary chairs. Despite the fact that the expected average number of attendees on any one day is 10-20 people, the parking calculation is inclusive of potential festival attendees. Under the County parking space to seats ratio, the proposed parking can accommodate 152 people. There is existing paving that will be utilized for parking in combination with proposed new paved areas for angled parking. In addition, there are several flat grassy areas on the Property which are suitable for temporary parking if more cars are on site

than paved parking spaces. As a professional engineer, Mr. Motsco testified that utilization of these open grassy areas for overflow parking is appropriate. He indicated that additional paving is not needed or warranted and would only detract from the bucolic nature of the property. The size of the Property and location of these open areas significantly far from any adjacent property further supports the appropriateness of the proposed parking layout. There is virtually no scenario under which parking would "spill over" onto adjacent properties in the neighborhood. Indeed, parking is not allowed on Harford Road as the narrow shoulders do not permit it. Thus, from a parking standpoint, there will be no impact on the locale.

He also indicated that, like every other "development" in Baltimore County, the proposed use would be subject to the "development regulations" in Articles 32 and 33 of the Baltimore County Code. These regulations cover such items such as fire and building code considerations, the installation of wells and septic, stormwater management, environmental issues, etc. As Mr. Motsco opined, a property owners satisfaction of these requirements typically occurs after the underlying zoning (use) approval is in hand. This approach makes practical sense to the extent that a property owner would not incur the substantial costs associated with meeting the development regulations, if that owner did not have the prerequisite approval of the contemplated use. During the development review phase of the proposal, specific storm water management plans will be required by the County and given the size, grades and buffers of the Property, Mr. Motsco anticipates that storm water management will be

easily accomplished. He similarly opined that all applicable environmental regulations (i.e. forest buffer, forest conservation, etc.) will be met.

Mr. Motsco testified that there is an existing stream that runs along the southeastern and southern property line. The stream wanders on and off the Property and onto adjacent properties. There is no proposed construction in the vicinity of the stream and thus no impact thereto. There is a swath of woods along Harford Road that at its narrowest is approximately 50-60 feet. Along the western side of the Property, the patch of tress is approximately 100 feet wide. These wooded areas continue into the southern portion of the Property around the barn which is obscured by the dense forest. The woods then continue on the eastern property line. There is no proposed clearing of these wooded areas. These large wooded areas provide a substantial and natural buffer, far exceeding the natural buffers that typically exist in the RC-2 zone. This is not the case of open and cleared farm fields being converted to an institutional use, rather this is a largely wooded area that will be retained in its current condition. In sum, there will be no environmental impact caused by the use; due to the fact that little construction is proposed (no new buildings), the large area of the Property, and that most of the site will remain undisturbed.

The second expert witness was Joseph Caloggero, a traffic engineer, who discussed the traffic issues. He first offered expert opinion testimony regarding the capacity of Harford Road, indicating that he took traffic counts to ascertain the existing volumes. He concluded that the relatively minimal volume of traffic generated by the proposed use (based on the proposed use and the source material provided in the

Institute of Traffic Engineering Manual) will not impact the capacity or functionality of Harford road. Although a rural road in terms of location and character, Harford Road is a major commuter roadway in northwestern Baltimore County and presently carries significant traffic volumes (particularly during the morning and evening rush hours). The volumes anticipated here will not in any manner overwhelm Harford Road from a capacity standpoint. He also discussed the recently completed roundabout on Mount Vista Road/Glen Arm/Harford Road approximately one quarter mile from the subject Property's entrance, and opined that (particularly given its' schedule) the church will not cause any congestion to the area's roadways and traffic conditions. The roundabout has alleviated the previous difficult movements at that intersection.

Significant testimony was offered about the character of Harford Road in this locale and the speeds of traffic thereon. The road features numerous curves and some elevation changes which necessitate traffic slowing well below the fifty (50) miles per hour posted limit at and near the Property's entrance. Recognition of the reduced speed required to travel safely is also shown through the placement of numerous signs (containing both "chevrons" and words) by SHA in this area warning of turns in the roadway. Mr. Caloggero presented the results of a speed study that his office produced, that proved (without rebuttal) that traffic actually travels at a speed well below the posted limit.

Utilizing this data, Mr. Caloggero then determined the appropriate sight distance (both in a north and south direction) required from the existing access point. Mr. Caloggero testified on two occasions over the lengthy hearing held by the Board.

During his original testimony, he opined that the existing access point provided a safe and appropriate location for vehicles to enter and exit the Property. However, later Mr. Caloggero returned to testify to present additional data and conclusions based upon further input from SHA and further studies conducted by him. During his later testimony, he presented a revised site plan (Pet. Ex. 26) showing a modification to the access point which slightly relocated the same to provide additional sight distance. This new access will have a split design, so that entering and exiting traffic will each have its own dedicated lane. He confirmed that Nepali was agreeable to making these improvements, and that SHA personnel had reviewed and approved the revised access as meeting their governing standards and was appropriate from a traffic safety and engineering standpoint.

The Protestants offered no expert testimony to contradict Mr. Caloggero's opinions, notwithstanding the fact that they engaged a traffic expert to analyze this issue. This lack of evidence speaks for itself and it can clearly be surmised that the Protestants' expert did not rebut or dispute Mr. Caloggero's findings and conclusions. Certainly, the expert would have been presented to rebut those conclusions if a contrary opinion was formulated.

Finally, Nepali produced the testimony of James Powell, an environmental health specialist, who offered expert opinion testimony about the feasibility of a septic system and well to serve the proposed church use on the Property. Mr. Powell served for many years as Baltimore County's chief of the Groundwater Division in the Department of Environmental Protection and Sustainability. He is, quite candidly, **the**

expert in this field in Baltimore County based upon his extensive background and knowledge of the subject and subterranean conditions in Baltimore County. According to Mr. Powell, Maryland Department of Environment ("MDE") regulations require that the design of a septic system be based on peak sewage flow. He opined that the Property has sufficient area and appropriate soils to meet all of the applicable design criteria for a septic system for the proposed use. Ultimately, as the proposal is evaluated during the development review phase of the process and necessary permits are applied for and issued, the details of the well/septic system will be finalized. However, based upon his vast experience and knowledge, Mr. Powell opined without contradiction that a well and septic system could be placed on the Property so as to satisfy all County criteria and without any impact on adjacent wells and septic systems on nearby properties.

STANDARD OF REVIEW

The BCZR specifically states that churches and other buildings for religious worship are permitted in the RC-2 zone as special exceptions. BCZR § 1A01.2.C.6. As with any special exception, the subject request must be adjudged in accordance with the provisions of BCZR § 502.1 entitled "Special Exceptions." BCZR § 502.1 states:

> "Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:
>
> A. Be detrimental to the health, safety or general welfare of the locality involved;
> B. Tend to create congestion in roads, streets or alleys therein;
> C. Create a potential hazard from fire, panic or other danger;
> D. Tend to overcrowd land and cause undue concentration of population;
> E. Interfere with adequate provisions for schools, parks, water, sewage, transportation or other public requirements, conveniences or improvements;

F. Interfere with adequate light and air;
G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of the Zoning Regulations;
H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor
I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone.["]

The law of special exceptions in Maryland has been comprehensively addressed by the appellate courts of this state. As is well settled, the criteria stated in BCZR § 502.1 is to be applied to each petition in the manner as outlined in the seminal case of *Schultz v. Pritts,* 291 Md. 1 (1981).

In *Schultz,* the court discussed the role of special exceptions in the comprehensive zoning scheme enacted by the local jurisdiction and opined, "[t]he special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid." *Id.* at 11. Thus, a special exception use is not an exception to the zoning ordinance at all, rather, it is a conditional use that shares the legal presumption of validity, absent a showing that it should be denied because of particular egregious impacts at the locale considered. As stated by the Court in *Schultz,* "[t]he appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that a particular use proposed at the particular location proposed would have an adverse effect above and beyond those inherently associated with such special exception use irrespective of its location within the zone." *Id.* at 15.

In *Mossburg v. Montgomery Co.*, 107 Md. App. 1 (1995), the Court of Special Appeals further clarified this standard and stated that impacts from special exception uses are not, in and of themselves, a basis by which the special exception can be denied. *Id.* at 8-9. As held by the Court, it is the existence of these impacts in the first instance that justify the use being a special exception use (rather than allowed by right). *Id.*

The holding that detrimental impacts from a proposed special exception must be greater than those normally associated with impacts in similarly zoned areas is premised upon the concept that special exceptions are part of the contemplated zoning process established by the County Council. As such, all special exceptions are presumptively permissible and, therefore, in the interest of the general welfare of the public. See *Schultz,* 291 Md. at 11.

As such, the *Schultz* Court found:

> "The special exception use is a valid zoning mechanism that delegates to an administrative body a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or circumstance negating the presumption." *Id.*

Therefore, the Board of Appeals is guided by the special exception factors listed in § 502 of the BCZR with special attention placed upon whether detrimental effects would be any greater at the subject location, compared with other locations generally in the zone. The test is not whether the proposed use provides a benefit to the community. Likewise, the question here is not to compare one permitted use to another. Whether the community is better served if the Property remains in residential use or is farmed is not the issue. Additionally, the *Schultz* standard shoulders no evidentiary burden on the

petitioner (nor analysis by the zoning decision maker) to consider other sites in the zone for comparison. See *People's Counsel v. Loyola College,* 406 Md. 54, 103-104 (2008).

Although not subject to current proceedings, the fact that there are two religious based uses immediately adjacent to the Property is a significant factor for the Board's consideration. Petitioner has a reasonable expectation that it would be permitted to use the Property as a place of worship. Simply stated, upon what basis can the Board deny the instant request when similar uses are in close proximity?[4]

ARGUMENT

A. The Proposed Church Satisfied BCZR § 502.1

As noted above, BCZR § 502.1 contains the criteria which must be specifically applied to any requested special exception. Moreover, as previously noted, it is not the existence of impacts in these subject areas that is relevant, rather, it is whether the effects of those impacts are more egregious here than elsewhere in the zone. Significantly, the inherent impact of the proposed Nepali temple here is minimal, particularly when considered with the busy institutional uses (churches, camps, schools, etc.) nearby. More importantly, the impacts (to whatever degree they even exist) are no worse here than elsewhere in the zone. In fact, the impacts here are quite clearly less than they would be elsewhere in RC-2 zoned areas in the locale.

The application of the special exception criteria set forth in BCZR § 502.1 is particularly relevant in this case given the theme of the Protestants testimony. Many of

[4] A denial of the requested special exception relief would substantially burden the Petitioner's religious exercise without being the least restrictive means of achieving a compelling governmental interest, in violation of RLUIPA, 42 U.S.C. § 2000cc(a), and Free Exercise Clause of the First Amendment to the U.S. Constitution.

the Protestants wore t-shirts to the hearings stating "Preserve Our Valley." In response, "whose valley is it?" is a legitimate first question, in that Nepali owns acreage far greater than most of the Protestants. As such, Nepali has as much of a claim to "our valley" than, for example, Mr. and Dr. Clark, who own land approximately 1/15th of the size of the Nepali property. Moreover, Nepali has every right to use its property in any legal way permitted. Just as the residents may live there and can use their properties generally as they see fit, Nepali (assuming it meets the special exception criteria) may locate its place of worship in this valley. As noted above, a special exception is a presumptively permitted land use. As has been stated, special exception uses are neither "special" nor "exceptional" and are presumptively permitted. Simply stated, the basis of the Protestants clearly expressed objections (although not outwardly spoken) are that they don't want these "new comers" (who culturally and racially differ from them) in "their neighborhood." Such a contention is both legally wrong and morally reprehensible.

As importantly, the Protestants fundamental objections to the proposal are not legally relevant to the standard that the Board must apply. Through the oral testimony, photos, videos, etc. presented by the Protestants, it is clear that they object to *any* impact of the proposed temple. For example, they do not want to hear it (even the slightest noise is objectionable, as is evident from the "solitude" video wherein Dr. Clark objected to the faint sound of voices allegedly emanating from the Property while she embraces the louder "comforting" noise of traffic passing on Harford Road). Such an objection demonstrates the Protestants misunderstanding of the legal analysis required;

to wit, the church need not be a silent neighbor, only that any noise generated cannot create an impact more egregious here than elsewhere in the zone. Given the size of the Property, the extensive setbacks, the wooded perimeter and the topography, the noise is clearly of lesser impact then would be the case on other RC-2 zoned land. Other complaints were also legally illegitimate. The Protestants want no traffic impact and no cars visiting the site. The numerous videos/photos submitted of traffic provide no evidence upon which the petition could be denied. The evidence demonstrates what would be entirely expected for a rural roadway and showed no condition that would cause Nepali's traffic impacts to be more egregious at this location. Tellingly, lead opponent Dewitt Clark, in direct to a question on cross examination stated that Harford Road in this location is identical in physical appearance, configuration, character and volume to similar roadways throughout the locale. Thus, as required under the *Schultz* test, the impacts of the proposed temple are not more egregious than would be expected elsewhere in the zone. This is not the case (as contemplated by *Schultz)* where the Property under consideration is located on a roadway that is substandard in condition when compared to other rural roads. In fact, the location of the temple on a state highway (as opposed to a small County road) results in the inherent impacts of the anticipated traffic less than anticipated.

a. § 502.1 (a) The Proposed Church Will Not Be Detrimental To The Health, Safety Or General Welfare Of The Locality Involved.

BCZR § 502.1 (a) is broadly written and is a general catch all provision. Petitioners presented ample evidence and testimony that the grant of a special

exception for the requested church will not be detrimental to the health, safety or general welfare of the locale.

The dwelling is located in the middle of the 30+/- site and the surrounding edges of the Property are preserved and buffered with mature trees. There are no proposed buildings and no proposed clearing of any wooded areas. The adjacent institutional uses in the immediate area are far more "dense" and create significantly more impact that the proposed temple. These uses generate larger crowds, produce more traffic and generate more noise and activity than the Nepali proposal. Even the Protestants conceded that the nearby Redeemer Christian School and the Beachmont Christian Ministries properties nearby are in the "neighborhood" and thus their impacts and land uses are relevant in determining the character of the area at large and the impact of Nepali. As testified to by Mr. Motsco, the proposed use is compatible with such uses. Moreover, the dwelling is setback from property lines significantly and will be screened by landscaping. Unlike the neighboring Christian churches, with their primary activities clustered during the traditional Sunday morning worship hours, the proposed temple's daily schedule, averaging 10-20 congregates per day; poses no real impact to the locale.

Even Protestants contention that the temple use would adversely affect the residential uses in the surrounding area is misplaced. The Protestants' misrepresentation of the legal standard when adjudging special exceptions was obvious throughout the proceedings. With respect to special exceptions, the adverse effects that disqualify an exception must be more than mere annoyance because special exception uses, as opposed to permitted uses, assumes that those uses will include some adverse

impacts. One can scarcely imagine a use that causes less detriment than what is proposed. Individuals who reside in the area can host outdoor parties, have visitors (who arrive by car) and use their properties as we all do. Contrary to the assertion of the Protestants, this part of the Long Green Valley is not a designated "quiet zone" or an area where outdoor human activity is somehow outlawed. The institutional use proposed here will simply cause no unreasonable impact on the residential neighbors.

Contrary to Mr. Jakubiak's testimony, the Board should not consider other RC-2 zones throughout Baltimore County. As established by the standard set forth in *Schultz,* Petitioner need not show that there are other locations within the RC-2 zone in Baltimore County where the proposed use would have less of an adverse effect than on the local neighborhood of the Property. The standard is very clear that only the vicinity of the subject property is to be taken into account. See *Loyola* supra. The Board must determine whether the impacts in the subject location are above and beyond those inherent to the use—in this case, a church—itself. There is simply no factual basis in the record of this case which would support a finding that the proposed church will cause adverse impacts to the health, safety and general welfare of the local in a manner more egregious than elsewhere in the RC-2 zone.

b. § 502.1 (b) - The Proposed Church Will Not Tend To Create Congestion In The Roads, Streets Or Alleys Therein.

The proposed Church use on the Property will not tend to create congestion in the relevant roads, streets or alleys. The testimony of Mr. Ghimire, Mr. Motsco, and Mr. Caloggero is persuasive on this issue. Mr. Ghimire described the operation of the

Church, including the peak usage and typical weekly schedule. Unlike the more traditional Christian churches and Jewish synagogues, there is no single day or time in which congregates gather. In other words, people don't attend the temple on a Sunday morning as you might expect in a Christian church. Instead, attendance is spread out over the week because of the individual worship. As a result, from a traffic standpoint, there is no single weekly occasion which produces a spike in the volume of people. It is also of note that the GKA Community Plan recommends that churches be located either on Harford Road or Belair Road, the two State Highways in greater Kingsville.

As noted herein above, Mr. Caloggero, the Petitioner's traffic expert, conducted extensive studies and met with SHA in re-designing the access point to produce a safe, appropriate and lawful entrance/exit. The Board can impose reasonable conditions and restrictions to ensure that the proposed use's impacts are minimized and do not unduly detrimentally impact the neighborhood. In this case, Nepali is agreeable to providing those access improvements shown on Petitioner's Exhibit 26. Additionally, SHA will require that the Petitioner obtain an access permit from that agency, given the new use and improvements proposed. Petitioner is agreeable to the imposition of a restriction requiring the obtaining of an access permit and making the improvement required thereby.

Certainly the impact of the Church at this location will be no more than elsewhere in the zone. Particularly with the imposition of the conditions described herein, Petitioner easily satisfies the standards required under BCZR § 502.1(b).

c. § 502.1(c) – The Proposed Church Will Not Create A Potential Hazard From Fire, Panic Or Other Danger.

The Church will not generate any adverse condition as it relates to these factors. The building is situated on a large lot and is set back a significant distance from any property line, much less any neighboring building. The building satisfies all building setbacks. Additionally, due to the fact that the original Bella Vista mansion burned down, this building, when it was built, was constructed of concrete as the then owner at that time had a justified fear of fire and apparently constructed the home in a fire-resistant manner. Moreover, the significant rehabilitation of the building will be in accordance with all applicable codes and building standards. The activity on the Property is such that it will not create a panic or public nuisance. The inherent nature of the Church use is such that there is no reasonable expectation of a public hazard.

d. § 502.1 (d) – The Proposed Church Will Not Tend To Overcrowd Land And Cause Undue Concentration Of Population.

The Church will not inappropriately concentrate population. As noted above, the site will be occupied by attendees evenly throughout the week. The expected congregation size is appropriate for a Property that contains 30+/- acres. No new building or "mega" structure is proposed. For all of these reasons, the proposed Church does not "tend to overcrowd land and cause an undue concentration of population."

e. § 502.1 (e) – The Proposed Church Will Not Interfere With Adequate Provisions For Schools, Parks, Water, Sewage, Transportation And Other Public Requirements, Conveniences Or Improvements.

Surely the church will not impact schools or parks. The use does not increase the enrollment in local schools or generate use of public parks and open space. There are no

public utilities (water and sewer) at the Property, so public infrastructure will not be impacted. Public transportation, requirements, conveniences or improvements are not impacted.

f. § 502.1 (f) – The Proposed Church Will Not Interfere With Adequate Light And Air.

The proposed Church will not interfere with adequate light and air. The building will not cast a shadow on adjacent properties. There are no proposed new buildings or building additions. The view of the building from the adjacent roadways will be the same as has existed since this structure was built in the 1930's to replace the original mansion. There are no smells to be generated. As noted above, the Property is large and the dwelling is well setback from any lot lines. Simply stated, the proposed Church use will not cause any adverse impact in this regard.

g. § 502.1 (g) – The Proposed Church Is Consistent With The Purpose Of The Property's Zoning Classification And Is Consistent With The Spirit And Intent Of These Zoning Regulations.

As noted above, the RC-2 zoning regulations specifically identify churches as a permitted special exception use. Notwithstanding the Protestants' apparent desire that "their neighborhood" contain only houses and Christian institutions, the BCZR allows churches by special exception. As such, this use is part of the zoning scheme legislatively adopted by Baltimore County and is thus presumptively valid. (See *Schultz* supra).

The RC-2 zoning classification is an "agricultural" classification and is traditionally applied to properties that are near or adjacent to farms. This Property does

not abut any farms. There is no credible claim that the church use will, in any manner, adversely impact farms. Rather, unlike many RC-2 zoned properties, which are typically located in farmland and open space, this Property is located within the immediate vicinity of several other churches and institutions.

Insofar as the scenic view issue, Harford Road at this location is a scenic route and is designated as such in the Master Plan. This designation is not part of the BCZR or the special exception criteria in Section 502.1. The mere fact that Harford Road is a scenic route does not impose any additional limitations on the granting of a special exception. Scenic Views are addressed in the CMDP. Therein, scenic views are defined as either enclosed views, expansive views or focused views. The CMDP sets out a number of "guidelines" which "pertain to the ***development*** of any area within or adjacent to a designated scenic route." (emphasis added). To the extent that there are no new buildings, there is no new "development". The mere fact that there will be a church use on this lot does not mean that the scenic view will be compromised. The building will remain as is, whether a church or residence. In addition, it is to be noted that, the CMDP identifies the approval process for plans impacting a scenic view. Such plans may be modified by the Director of the Department of Planning and Director of the Department of Public Works. Given the absence of "impact on a scenic route" as a criteria in BCZR § 502.1 and that modifications are entrusted to the Directors of Planning and Public Works, arguably this is not an issue for the Board at all, but would rather be addressed during the development review phase of the review process.

However, if so, the collective weight of the evidence presented is that the proposed church use will not compromise the scenic view.

As such, the proposed church is consistent with the purpose of the RC-2 zoning scheme and is consistent with the BCZR.

h. § 502.1 (h) – The Proposed Church Is Consistent With The Impermeable Surface And Vegetative Retention Provisions Of These Zoning Regulations.

The proposed Church is consistent with these requirements and standards. Unlike other zones (e.g. RC-4) there are no regulations governing the RC-2 zone that limits or restricts impervious surface. The Protestants offered the testimony of lay witness DeWitt Clark regarding the suitability of the proposed paving parking lot and the stormwater management for the Property. His objections (in most instances offered as speculation) were rebutted by the Petitioner's civil engineer expert, Mr. Motsco. Mr. Motsco testified that the Property's stormwater would properly infiltrate and be in accordance with County and State standards. He also described the outfall of the proposed stormwater management plan, opining that the location and rate of discharge will not detrimentally impact the adjacent streams. Because additional paving will be required for a portion of the parking lot, the Petitioner will be required to meet the requirements of a grading permit and obtain approval for stormwater management. A restriction requiring compliance with the standards administered by the Department of Environmental Protection and Sustainability insofar as grading (ground disturbance) and stormwater management is appropriate. Mr. Motsco explained that the proposed

use will not result in clearly of any trees on the Property. Moreover, additional planting is proposed.

i. **§ 502.1 (i) – The Proposed Church Will Not Be Detrimental To The Environmental And Natural Resources Of The Site And The Vicinity, Including Forests, Streams, Wetlands, Aquifers And Floodplains In An RC-2, RC-4, RC-5 And RC-7 Zones.**

In this case, the flood plain, forest buffer and forest conservation areas have all been determined. Testimony was received from James Powell, an expert "environmental health specialist." Mr. Powell was previously employed by Baltimore County at the Department of Environmental Protection and Sustainability, and was an accepted expert related to on site sewage disposal and ground water issues. He testified about the proposed design and functionality of an on site sewage disposal system. He indicated that he had designed, tested and installed similar systems in the past. Mr. Powell opined that on site sewage disposal and well usage for the proposed church use could all be accomplished without detrimental impacts to the locale and environmental resources in the area.

B. The Proposed Use Does Not Produce Inappropriate Levels Of Noise.

There is nothing in all of the specific criteria listed in BCZR § 502.1 that relates to noise. Moreover, as Mr. Motsco testified, the County has no specific "noise standards" (other than those related to residential construction adjacent to an inter-state highway). Thus, the Protestants can point to no standard or criteria that Nepali will violate if its temple is permitted at this location. Although it is arguable that "noise" is not a

threshold issue in considering a special exception use; the impact of a noisy use could certainly impact a surrounding neighborhood.

On behalf of the Petitioner, the following reasonable context is offered. The proposed temple (as any church) will produce some noise. Whether it is a Christian Christmas tree lighting ceremony (complete with Christmas Carols) or a Nepalese Festival, there will be some noise generated by religious uses. Such is an inherent use of any building or property used for religious purposes. There are, however, already mitigating factors at this location. First, the site is large (30+ acres). This is not the case of a large building on a small lot. Second, the building and usable outside flat area of the Property are well setback from any property lines. Third, there are extensive mature trees along the perimeter of the Property. These will serve as a natural buffer. Finally, as Board member Dopkin pointed out, the location of the building on the top of a hill will help disperse any generated sound upwards and away from the neighbors.

Off site conditions are also relevant. All of the Protestants live across Harford Road from the Property. Thus, any noise on the Nepali site will be drowned out (as demonstrated in Protestants' videos) by traffic on Harford Road. Harford Road is a State highway and major commercial corridor in this neighborhood. Dr. Clark's rather ridiculous assertion notwithstanding, that traffic on Harford Road is soothing and preferable to the sound of children playing volleyball, the fact of the matter is that most noise on the Nepali site will be whited out by traffic on Harford Road.

Finally, and perhaps most persuasively, notwithstanding the alleged tranquility of the area, this is not a "sound proofed room" or library designated "quiet area." The

Protestants assertion that they are somehow entitled to a neighbor that produces not a sound is simply erroneous. People live in houses. They enjoy their yards. They cut grass (with power lawn mowers). Their children play out of doors. They play games and sports and they make noise. In agricultural zones (RC-2), there are farms. They often use tractors and other heavy equipment. There can be animals. They too make noise. The point to be made is that human activity generates noise and that the special exception criteria do not mandate that the Nepali temple be silent and that no sound may emanate therefrom. Certainly, as will be suggested below, the Board may impose a reasonable condition to prevent any noise from being improperly intrusive; however, the Protestants' fundamental position is without merit.

C. The Proposed Church Satisfies BCZR § 409.6.A.4.

Pursuant to BCZR 409.6, a church is required to have 1 parking space per 4 seats in the place of worship. This regulation was no doubt enacted in contemplation of a Judeo-Christian church, as these religions typically have seats for religious services. However, Hindu temples do not typically provide seats within the worship building. Nonetheless, evidence presented was that the maximum number of temporary seats that might be provided in the building would certainly not exceed 100, and thus the number of parking spaces arguably required would be 25. The plan shows a number of spaces (38) that exceeds that amount. Further, the plan provides for overflow areas to accommodate greater attendance during festivals. In summary, the plan meets the requirements insofar as the number of spaces required. Moreover, from a practical application, there is sufficient room on flat grassy areas of the Property to provide

extensive overflow without unnecessarily paving the property. Finally, even the Protestants concede that during the Fundraising events when attendance was highest, there was no off site parking that disrupted the neighborhood. Thus, the parking requirements in the BCZR are satisfied.

D. The Special Exception complies with the requirements of BCZR § 1A01.2.C.

BCZR § 1A01.2.C provides a finding that any proposed special exception in the RC-2 zone will not be detrimental to the primary agricultural uses in the vicinity. The proposal easily meets this test. As noted above, the Property is not now farmed and has not been farmed in many years. Thus, even though it is not a relevant objection, there can be no claim that a productive farm is being taken out of operation.

Moreover there are few (if any) active farms in the vicinity. The only impact on agriculture suggested by Protestants was a claim that traffic produced by the temple would interfere with "farm traffic" on Harford Road. But that assertion is entirely speculative and without any factual basis. As importantly, any farm traffic that uses Harford Road in this area is already subject to the substantial traffic volumes that this State roadway already bears.

E. Conditions and Limitations.

BCZR § 502.2 empowers the Board to "impose such conditions, restrictions or regulations as may be deemed necessary or advisable for the protection of surrounding or neighboring properties." In determining what conditions shall be imposed, the Board must obviously take into account a number of factors. First, the conditions must be for the purpose of providing protection to surrounding properties. That is, the conditions

cannot be punitive or arbitrary and must relate to the purpose of safeguarding the surrounding locale. This is consistent with Federal law (i.e. RLUIPA) which requires that a locale government, in applying its zoning regulations, must use the "least restrictive" means necessary to avoid improper interference with the practice of religion. Second, the restrictions must be practical and enforceable. They must be reasonable. The restrictions cannot be akin to death by one thousand cuts; whereby they are so intrusive and limiting so as to make the use of the property for a church untenable.

The Protestants submitted a list of proposed conditions; most of which are so ridiculous so as to not warrant comment. For example, the neighbors want to be able to enter the property twice a year "for inspection and verification." This is an interesting proposition given that the Protestants refused to meet with Nepali on the Property when offered the opportunity. Is this condition is imposed, can representatives of Nepali likewise enter Mr. Clark's house twice a year to make sure that his business is being properly conducted as a "home occupation", as restricted by the use regulations for the RC-2 zone? Of course not.

The conditions imposed by ALJ Beverungen are much more realistic and should be the guideline that the Board follows. In order to minimize the impact on the neighborhood, Nepali would agree to the following conditions:

1. The Nepali shall realign and improve the access point into the Property in accordance with Petitioner's Exhibit No. 26, under the auspices and at the direction of the State Highway Administration. The Petitioners shall obtain an

"access permit" from SHA and will implement all improvements as required thereunder.

2. Upon the obtaining of final special exception approval, the Petitioner shall submit an application to the Baltimore County Development Review Committee (DRC) to establish that process to be followed insofar as the application of the development review regulations in Article 32 of the Baltimore County Code to this project. Thereafter, the Petitioner shall obtain such approvals and permits as determined by Baltimore County for the improvement and conversion of the Property and main dwelling for use as a temple.
3. The Petitioner shall obtain all approvals as may be required by the Department of Environmental Protection and Sustainability insofar as Baltimore County's stormwater management, well and septic, forest conservation and forest buffer regulations.
4. All signage shall comply with BCZR § 450.
5. Petitioner shall submit for approval by Baltimore County a landscape and lighting plan. There shall be no outdoor lighting other than accessory and security lighting for the building.
6. Special Events (including festivals and similar activities) shall be limited to the hours of 10:00 a.m. to 10:00 p.m. and outdoor amplification of music or sound shall not be permitted.

CONCLUSION

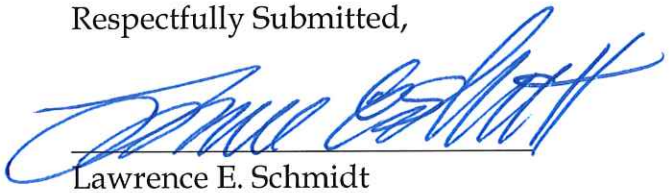
Notwithstanding the lengthy hearing on this matter and the residents' objections, the granting of the requested approval is warranted. There is a history of bitterly contested special exception cases in Baltimore County about churches, particularly in the County's rural areas. But there is no evidence in the record here to warrant a denial of the Petition.

Generally speaking, the opponents' objections can be generally characterized as falling within four areas of complaint; traffic, environmental effects, noise, and a vague notion that the church is inconsistent with their vision of the area. As to traffic, environmental effects, and noise, the conclusions of Mr. Caloggero, Mr. Motsco, and Mr. Powell were not effectively rebutted by any expert testimony and are supported by substantial evidence. As to noise, Protestants could not establish any evidence to support their claims. Finally, insofar as the character of the neighborhood argument, the objections simply miss the mark, both legally and pragmatically. This Property is not nestled in the middle of an unspoiled agricultural region of Baltimore County. There are adjacent church uses to the east and southeast. Moreover, a negative perception of the Nepalese people (which the Protestants clearly have) is both unjustified and legally insufficient to support a denial of a special exception; factual evidence of injury to the neighborhood or other detriment to the public welfare has to be presented. Finally, the overriding tenor and theme of the Protestants presentation; to wit, that this is "our valley" and that they can therefore impose their desires on others' properties is simply wrong. Such a position is contrary to the bedrock principles of individual property

rights and the constitutionally protected right of freedom to practice one's religion without inappropriate governmental interference.

For the foregoing reasons and based upon the record of evidence offered in this case, the Petitioner requests that the BOA grant the relief requested within its Petition for Special Exception.

Respectfully Submitted,



Lawrence E. Schmidt
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070
lschmidt@sgs-law.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 5th day of March, 2019, a copy of the foregoing Memorandum was mailed, postage pre-paid, to:

Timothy M. Kotroco, Esquire
305 Washington Avenue, Suite 502
Towson, MD 21204

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21204

LAWRENCE E. SCHMIDT

Krysundra Cannington

From: Timothy M. Kotroco <tkotroco@gmail.com>
Sent: Tuesday, March 5, 2019 4:13 PM
To: Krysundra Cannington; Lawrence Schmidt; J. Carroll Holzer, Esquire (jcholzer38 @gmail.com) (jcholzer38@gmail.com)
Cc: Alyssa Moyers
Subject: Re: Nepali

I agree. Thank you for clarifying this Mr. Schmidt.

Tim K.
Timothy M. Kotroco, Esquire
305 Washington Ave., Suite 502
Towson, Maryland 21204
410-299-2943

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From: Krysundra "Sunny" Cannington <kcannington@baltimorecountymd.gov>
Date: Tuesday, March 5, 2019 at 3:56 PM
To: Lawrence Schmidt <lschmidt@sgs-law.com>, "J. Holzer" <jcholzer38@gmail.com>, Timothy Kotroco <tkotroco@gmail.com>
Cc: Alyssa Moyers <amoyers@sgs-law.com>
Subject: RE: Nepali

Thank you.

From: Lawrence Schmidt [mailto:lschmidt@sgs-law.com]
Sent: Tuesday, March 05, 2019 3:42 PM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>; J. Carroll Holzer, Esquire (jcholzer38@gmail.com) (jcholzer38@gmail.com) <jcholzer38@gmail.com>; Timothy M. Kotroco <tkotroco@gmail.com>
Cc: Alyssa Moyers <amoyers@sgs-law.com>
Subject: Nepali

Sunny: you should have received a copy of my memorandum filed in the above case earlier today. I wanted to confirm with you that that memorandum is filed for the Petitioner and that Mr. Kotroco is not filing a separate memorandum. His input in contained within the memo filed.
Let me know if you have any questions. Thanks

Krysundra Cannington

From:	Lawrence Schmidt <lschmidt@sgs-law.com>
Sent:	Tuesday, March 05, 2019 3:42 PM
To:	Krysundra Cannington; J. Carroll Holzer, Esquire (jcholzer38@gmail.com) (jcholzer38 @gmail.com); Timothy M. Kotroco
Cc:	Alyssa Moyers
Subject:	Nepali

Sunny: you should have received a copy of my memorandum filed in the above case earlier today. I wanted to confirm with you that that memorandum is filed for the Petitioner and that Mr. Kotroco is not filing a separate memorandum. His input in contained within the memo filed.
Let me know if you have any questions. Thanks

Larry

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

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Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

February 14, 2019

NOTICE OF DELIBERATION

IN THE MATTER OF: Nepali American Cultural Center
12231 Harford Road
18-122-X 11th Election District; 5th Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 1A01.2.C.6 to allow a Church or other building for religious worship on property zoned RC-2.

1/22/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, subject to conditions.

----- SET WITH ----

IN THE MATTER OF: Nepali American Cultural Center
12231 Harford Road
CBA-19-004 11th Election District; 5th Councilmanic District

Re: Letter to Administrative Law Judge Beverungen requesting a clarification to the January 22, 2018 Order in Case No: 18-122-X to determine whether the Petitioners can host a fundraiser on the property from July 29, 2018 to August 3, 2018.

7/3/18 Administrative Law Judge Beverungen signed the prepared statement at the bottom of Mr. Kotroco's letter which provides that the gathering would not violate the conditions of the January 22, 2018 Administrative Law Judge Order that the Petitioners "…are free to gather on their property so long as no religious activities are occurring within the subject building and all other permit requirements, if any, are satisfied…"

This matter having concluded after 11 days of hearing, a public deliberation has been scheduled for the following:

DATE AND TIME: MARCH 13, 2019 at 9:00 a.m.

LOCATION: Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

NOTE: Closing briefs are due on **March 5, 2019 before 3:00 p.m.**
(Original and three [3] copies)

NOTE: PUBLIC DELIBERATIONS ARE OPEN WORK SESSIONS WHICH ALLOW THE PUBLIC TO WITNESS THE DECISION-MAKING PROCESS. ATTENDANCE IS NOT REQUIRED AND PARTICIPATION IS NOT ALLOWED. A WRITTEN OPINION AND ORDER WILL BE ISSUED BY THE BOARD WITHIN A REASONABLE TIMEFRAME AFTER THE CONCLUSION OF THE DELIBERATION. A COPY OF THAT OPINION AND ORDER WILL BE SENT TO ALL PARTIES.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

c: Counsel for Petitioner : Timothy Kotroco, Esquire
Co-Counsel for Petitioner : Lawrence E. Schmidt, Esquire
Petitioner : Nepali American Cultural Center c/o Kris Ghimire

Counsel for Protestants : J. Carroll Holzer, Esquire
Protestants : DeWitt and Mary Clark, David Hartman, Dave Poehler, Morgan Miner, and Carol Shaw

John A. Motsco/Little & Associates, Inc.

Jeff Mayhew Acting, Director/Department of Planning
Mike Mohler, Acting Director/PAI
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Nancy West, Assistant County Attorney
Office of People's Counsel

Tammy Zahner

From: Tammy Zahner
Sent: Thursday, February 14, 2019 10:29 AM
To: 'Alyssa Moyers'
Cc: 'lschmidt@sgs-law.com'; 'Carroll Holzer'; 'zwilkins@sgs-law.com'; 'tkotroco@gmail.com'; Krysundra Cannington
Subject: Nepali American Cultural Center

Hi Alyssa,

Sunny has forwarded your request for copies of the transcripts for Days 5, 6 and 7 of the Nepali American Cultural Center hearings, and your request for CD's for the January and February hearings.

The cost for copies of the transcripts total $288.50 and the breakdown is as follows:

- October 23, 2018 (258 pages at $0.50 per page) = $129.00
- November 1, 2018 (213 pages at $0.50 per page) = $106.50
- November 29, 2018 (106 pages at $0.50 per page) = $53.00

I was able to get the hearings for Days 8-11 on 3 CD's for a cost of $150.00.

Accordingly, the total amount due for the transcript copies and hearing CD's is $438.50

Please let us know if you have any questions.

Tammy A. Zahner, Legal Secretary
Board of Appeals of Baltimore County
Second Floor, Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3180
(410) 887-3182 (Fax)

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Krysundra Cannington

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Wednesday, February 13, 2019 3:10 PM
To: Krysundra Cannington
Cc: Lawrence Schmidt; Carroll Holzer (jcholzer38@gmail.com); Zachary J. Wilkins; Timothy M. Kotroco (tkotroco@gmail.com)
Subject: Nepali Americal Cultural Center

Sunny,

Larry has asked me to request the written transcripts which were obtained when Mr. McComas was appointed as a board member mid-hearing (Days 5-8), as well as CDs for the January and February hearing dates (Days 8-11). I understand the Board charges $0.50 per page and $50 per cd (effective 11/26/18).

I have reached out to Mr. Holzer separately asking whether he would like to split the cost of this request. If he agrees, SGS would pay the fee up front to the Board and then provide Mr. Holzer with the copies obtained.

Please let me know what the cost would be and I can provide a check for that amount. Thank you!

- *Alyssa*

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

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Please consider the environment before printing this email.

Krysundra Cannington

From: Krysundra Cannington
Sent: Tuesday, February 12, 2019 1:24 PM
To: 'Alyssa Moyers'
Cc: Carroll Holzer (jcholzer38@gmail.com); Lawrence Schmidt; Timothy M. Kotroco (tkotroco@gmail.com)
Subject: RE: Nepali American Cultural Center/18-122-X

Counsel,

I have confirmed with the Board that the hearing will start at 11 a.m. tomorrow. Can you please advise your clients of the time change?

Thank you!

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
410-887-3180

From: Alyssa Moyers [mailto:amoyers@sgs-law.com]
Sent: Tuesday, February 12, 2019 11:40 AM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>
Cc: Carroll Holzer (jcholzer38@gmail.com) <jcholzer38@gmail.com>; Lawrence Schmidt <lschmidt@sgs-law.com>; Timothy M. Kotroco (tkotroco@gmail.com) <tkotroco@gmail.com>
Subject: Nepali American Cultural Center/18-122-X

Sunny,

Please accept this email as a formal request to push tomorrow's hearing from 9am to 11am. Despite the delayed start time, we still anticipate concluding the matter by 4pm tomorrow. I have confirmed with Mr. Holzer that he is not opposed to this request and Mr. Kotroco is unavailable to attend the hearing tomorrow on behalf of the Petitioners.

Mr. Schmidt would like to extend his appreciation for everyone's understanding and cooperation with these unforeseen travel delays.

Please let me know if you have any questions.

- *Alyssa*

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

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Krysundra Cannington

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Tuesday, February 12, 2019 11:40 AM
To: Krysundra Cannington
Cc: Carroll Holzer (jcholzer38@gmail.com); Lawrence Schmidt; Timothy M. Kotroco (tkotroco@gmail.com)
Subject: Nepali American Cultural Center/18-122-X

Sunny,

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Mr. Schmidt would like to extend his appreciation for everyone's understanding and cooperation with these unforeseen travel delays.

Please let me know if you have any questions.

- *Alyssa*

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

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Please consider the environment before printing this email.

Krysundra Cannington

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Wednesday, February 06, 2019 11:02 AM
To: Krysundra Cannington; tkotroco@gmail.com; J. Carroll Holzer, Esquire (jcholzer38 @gmail.com)
Cc: Alyssa Moyers; Zachary J. Wilkins
Subject: RE: Nepali American Cultural Center 18-122-X and CBA-19-004

Sunny,

This is to acknowledge receipt of the Amended Notice of Assignment. Please advise the Board members that I may have a scheduling conflict in the morning of the 13th. This is a personal matter that I need to attend to. I appreciate that the Board is time sensitive in so far as keeping this matter on schedule and concluding the case by the close of business on February 13th. Therefore, although I might normally request that the hearing start later in the day, I am not making that request here so that the matter is not delayed and in view of the Board's comments made in open hearing. If I am late, either my associate, Zack Wilkins, or Tim Kotroco, will appear on behalf of the Petitioner. Please advise the Board members that my absence is not to be construed as any sign of disrespect to the panel but based upon certain circumstances that can not be avoided.

Thank you.

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

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From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Wednesday, February 06, 2019 9:31 AM
To: tkotroco@gmail.com; Lawrence Schmidt; J. Carroll Holzer, Esquire (jcholzer38@gmail.com)
Cc: Alyssa Moyers
Subject: Nepali American Cultural Center 18-122-X and CBA-19-004

Good morning Counsel,

Attached please find an Amended Notice of Assignment.

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

February 6, 2019

AMENDED NOTICE OF ASSIGNMENT

IN THE MATTER OF: Nepali American Cultural Center
12231 Harford Road
18-122-X 11th Election District; 5th Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 1A01.2.C.6 to allow a Church or other building for religious worship on property zoned RC-2.

1/22/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, subject to conditions.

----- SET WITH ----

IN THE MATTER OF: Nepali American Cultural Center
12231 Harford Road
CBA-19-004 11th Election District; 5th Councilmanic District

Re: Letter to Administrative Law Judge Beverungen requesting a clarification to the January 22, 2018 Order in Case No: 18-122-X to determine whether the Petitioners can host a fundraiser on the property from July 29, 2018 to August 3, 2018.

7/3/18 Administrative Law Judge Beverungen signed the prepared statement at the bottom of Mr. Kotroco's letter which provides that the gathering would not violate the conditions of the January 22, 2018 Administrative Law Judge Order that the Petitioners "...are free to gather on their property so long as no religious activities are occurring within the subject building and all other permit requirements, if any, are satisfied..."

The date and time below was announced during the hearing held on February 5, 2019. Counsel has agreed to waive the minimum time for notice. Additionally, the above referenced matters have been set at the same date and time in the interests of judicial economy.

ASSIGNED FOR: FEBRUARY 13, 2019, AT 9:00 A.M.

Krysundra Cannington

From: Krysundra Cannington
Sent: Wednesday, February 06, 2019 9:31 AM
To: tkotroco@gmail.com; Lawrence Schmidt, Esquire; J. Carroll Holzer, Esquire (jcholzer38 @gmail.com)
Cc: 'Alyssa Moyers'
Subject: Nepali American Cultural Center 18-122-X and CBA-19-004
Attachments: Nepali 18-122-X and CBA-19-004 Amended Assignment Notice.pdf

Good morning Counsel,

Attached please find an Amended Notice of Assignment.

Please do not hesitate to contact me with any questions.

Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180
Fax: 410-887-3182

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IN RE:	PETITIONS FOR SPECIAL EXCEPTION (12231 Harford Road)	*	BEFORE THE BOARD OF APPEALS
11th Election District 5th Councilmanic District		*	FOR BALTIMORE COUNTY
Nepali American Cultural Center Legal Owner		*	
		*	Case No.: 2018-0122-X

RECEIVED
FEB 04 2019
BALTIMORE COUNTY
BOARD OF APPEALS

* * * * * * * * * * * * * *

PROTESTANTS REPLY TO PET*ITIONERS RESPONSE*
TO EXHIBIT #34 AS *EX PARTE*

DeWitt and Mary Clark, 12150 Harford Road, Glen Arm, Maryland 21057, ***David Hartman***, 12513 Regwood Road, Hydes, Maryland 21082, ***Dave Poehler***, 12241 Harford Road, Glen Arm, Maryland 21057, ***Morgan Miner***, 11946 Harford Road, Glen Arm, Maryland 21057, and ***Carol Shaw***, 7 Country Hill Court, Kingsville, Maryland 21087, Protestants by ***J. Carroll Holzer, Esquire***, in the above-captioned matter herewith file their Reply to Petitioners Response and say as follows:

1. Petitioners admit that Administrative Law Judge Beverungen lost jurisdiction over this case when it was appealed on February 16, 2018 to this Board. Thus, Petitioners Exhibit #34, the letter written by Petitioners Counsel and modified and signed by the Administrative Law Judge should be stricken as not only is it an *ex parte* action, but the Administrative Law Judge letter was without jurisdiction as argued by Petitioners to render such opinion and/or clarification.

2. This Honorable Board should reject Petitioners Exhibit #34 and strike it. Petitioners reliance thereon should be denied the opportunity to further present rebuttal.

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
FAX: (410) 825-4923

3. Petitioners never denied that Counsel for the Protestants was never provided a copy of the letter, nor the Administrative Law Judge's response until it was mentioned on the first day of this Board's hearing.

4. The Administrative Law Judge obviously knew at the time of his receipt of the letter and his comments on July 3, 2018, that he no longer had jurisdiction over this case and that Counsel for Protestants had filed an appeal to this Board.

For the foregoing reasons, Protestants Motion to Strike Petitioners Exhibit #34 as *ex parte* should be granted.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
J. CARROLL HOLZER, P.A.
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
jcholzer38@gmail.com
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of February, 2019, a copy of the foregoing Protestants Motion to Strike Petitioners Exhibit No. 34 was mailed first class, postage pre-paid to the following:

Timothy M. Kotroco, Esquire
305 Washington Avenue
Suite 502
Towson, Maryland 21204

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, Maryland 21204

J. CARROLL HOLZER, Esquire

C:\My Docs\Replies 2019\Clark – Pet Reply Pet Resp Exh No 34 as *Ex Parte*- 2/4/19

Krysundra Cannington

From: Carroll Holzer <jcholzer38@gmail.com>
Sent: Monday, February 04, 2019 2:24 PM
To: Krysundra Cannington
Cc: Timothy M. Kotroco (tkotroco@gmail.com); Schmidt, Lawrence
Subject: Protestants Reply to Petitioners Response to Exhibit #34 as Ex Parte
Attachments: Clark - Pet Reply to Pet Resp - Exh 34 Ex Parte - 2-4-19.pdf

Dear Chairman Garber:

Attached please find Protestants Reply to Petitioners Response to Exhibit #34 as Ex Parte.

Very truly yours,

J. Carroll Holzer

IN THE MATTER OF:	*	BEFORE THE:
NEPALI AMERICAN CULTURAL CENTER 12231 Harford Road	*	BOARD OF APPEALS FOR
11th Election District 5th Councilmanic District	*	BALTIMORE COUNTY
RE: PETITION FOR SPECIAL EXCEPTION	*	Case No.: 18-122-X

RECEIVED
FEB 04 2019
BALTIMORE COUNTY
BOARD OF APPEALS

* * * * * * * * * * * * *

MOTION TO RECONSIDER THE BOARD'S DECISION AND READMIT PROTESTANTS EXHIBITS #22 AND #23

On November 27, 2018 Protestants submitted a Motion to Admit Protestants Exhibits #23 and #24. (Note that the Exhibits should have been titled #22 and #23.) The Motion of November 27, 2018 requested that the Board admit Exhibits #22 and #23 as evidence in this case, along with the motion and attached Appendices A – F. Protestants Exhibits #22 and #23 were entered for identification purposes only at the Board of Appeals hearing on October 23, 2018 as Baltimore County Police Report of 1/28/18 (Exhibit #22) and Baltimore County Police Report of 1/29/18 (Exhibit #23). Members of the Board and opposing Counsel were provided copies of Exhibits #22 and #23 at the hearing on October 23, 2018.

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
FAX: (410) 825-4923

On January 29, 2019 the Board verbally denied the motion on the basis that the Protestants had not adequately linked Ghimire Homes to Kris Ghimire.

This is a motion to reconsider the Board's decision of January 29, 2019.

The attached evidence is the SDAT for Ghimire Homes and banner photos with Mr. Ghimire's photo on stage at the event with which he denied involvement to this Board. The photos, previously submitted as Appendices in the November 27, 2018 Motion, clearly show Mr. Ghimire on the poster with Ghimire Homes. The attached documents provided from SDAT clearly show that Mr. Kris Ghimire is in fact the President and a principal in Ghimire Homes, LLC. This is affirmed in his sworn statement to the Maryland State Department of Assessments and Taxation.

CONCLUSION

In conclusion, the two police reports submitted as Petitioners Exhibits #22 and #23 should be admitted and relevant for consideration by this Board under 502.1, along with the November 27, 2018 Motion and Appendices A - F. The affidavits on documents Mr. Ghimire provided to SDAT clearly show he is directly involved in the operation of Ghimire Homes.

The evidence provided in these documents clearly indicates that Mr. Ghimire misrepresented the true facts of his involvement with this event during his October 23, 2018 testimony and his testimony should be stricken, and the Exhibit #22 and #23 should be admitted.

The referenced materials are attached hereto.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
J. CARROLL HOLZER, P.A.
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
jcholzer38@gmail.com
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of February, 2019, a copy of the foregoing Protestants Motion was hand-delivered to the following:

Lawrence E. Schmidt, Esquire
Smith, Gildea, & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, Maryland 21204

Timothy M. Kotroco, Esquire
305 Washington Avenue
Suite 502
Towson, Maryland 21204

J. CARROLL HOLZER, Esquire

MARYLAND BUSINESS EXPRESS
PLAN START MANAGE GROW HERE

Maryland Business Express

GHIMIRE HOMES: T00421840

General Information | Filing History

General Information

Status:
ACTIVE

Owner:
GHIMIRE HOMES LLC
SUITE 100
8030 BELAIR ROAD
NOTTINGHAM MD 21236

Location:
GHIMIRE HOMES
SUITE 100
8030 BELAIR ROAD
NOTTINGHAM MD 21236

Renewal Date:

Expiration Date:
12/29/2021

New Search | Order Documents

Protestant Exhibit _____

TR DE NAME APPROVAL SHEET

**** EXPEDITED SERVICE **** **** KEEP WITH DOCUMENT ****

1000362009967680

TRANSACTION TYPE	FEES REMITTED
TN - Trade Name Registration	25
TA - Amendment	
TA1 - Amendment Owner Added	
TA2 - Amendment Owner Deleted	
TA3 - Amendment Owner Name Change	
TA4 - Amendment Location Added	
TA5 - Amendment Location Deleted	
TA6 - Amendment Location Changed	
TC - Cancellation	
TR - Renewal	
Expedited Fee	50

ID # T00421640 ACK # 1000362009967680
PAGES 0002
GHIMIRE HOMES

12/29/2016 AT 10 18 A WO # 0004716422

_____ Certified Copies

_____ Certificates

Copy Fee _____

Certificate of Fact Fee _____

TOTAL FEES 75

_____ Other Change(s)

NO FEE TRANSACTION TYPES

99T - Departmental Action
99TA - Departmental Action - Name Change
220T - Void Non-Payment
220TA - Departmental Action - Amendment
220TA1 - Departmental Action - Owner Added
220TA2 - Departmental Action - Owner Deleted
220TA3 - Departmental Action - Owner Name Change
220TA4 - Departmental Action - Location Added
220TA5 - Departmental Action - Location Deleted
220TA6 - Departmental Action - Location Changed

Code _____

Attention _____

Mail to Address

GHIMIRE HOMES LLC
SUITE 100
8030 BELAIR ROAD
NOTTINGHAM MD 21236

redit Card _____ Check ✓ Cash _____

_____ Documents on _____ Checks

pproved By _____

eyed By _____

OMMENT(S) WI

CUST ID 0003499845
WORK ORDER 0004716422
DATE 12-29-2016 10 18 AM
AMT PAID $75 00

Stamp Work Order and Customer Number HERE

MARYLAND BUSINESS EXPRESS
PLAN START MANAGE GROW HERE

Maryland Business Express

GHIMIRE HOMES, LLC: W17211418

General Information | Filing History | Annual Report/Personal Property

General Information

Department ID Number:
W17211418

Business Name:
GHIMIRE HOMES, LLC

Principal Office:
8030 BELAIR RD., STE.100
NOTTINGHAM MD 21236

Resident Agent:
KRIS GHIMIRE
5048 SPRINGHOUSE CIRCLE
ROSEDALE MD 21237

Status:
ACTIVE

Good Standing:
THIS BUSINESS IS IN GOOD STANDING
» Order Certificate of Status

Business Type:
DOMESTIC LLC

Business Code:
20 ENTITIES OTHER THAN CORPORATIONS

Date of Formation/ Registration:

04/26/2016

State of Formation:
MD

Stock Status:
N/A

Close Status:
N/A

New Search | Order Documents

Privacy and Security Policy | Accessibility Policy

FOR FILING AND BUSINESS RELATED QUESTIONS
Maryland Department of Assessments & Taxation
410-767-1184 | Outside the Baltimore Metro Area: 888-246-5941
Maryland Relay: 800-735-2258

FOR TECHNICAL QUESTIONS AND SUPPORT
NIC Maryland, eGov Services Partner of the Department of Information Technology (DoIT) and Maryland.gov
• Click for 24/7 Support

SECURED

State of Maryland
State Department of Assessments and Taxation
Charter Division

TRADE NAME APPLICATION

FILING FEE $25 00
EXPEDITED FEE ADDITIONAL $50 00 | TOTAL EXPEDITED SERVICE $75 00
(Make checks payable to Department of Assessments and Taxation)

Prior to registering the business name of a home improvement company with the Maryland State Department of Assessments and Taxation an applicant is advised to contact the Commission at 410-230-6171 to ensure a specific name is available

1) TRADE NAME *(Only one trade name may appear on this line)*
GHIMIRE HOMES

2) STREET ADDRESS(ES) WHERE NAME IS USED
8030 Belair Road Suite 150

CITY Nottingham STATE MD ZIP 21236
Post office box number is only accepted when part of the physical address

3) FULL LEGAL NAME OF OWNER OF BUSINESS OR INDIVIDUAL USING THE TRADE NAM
Ghimire Homes LLC W17211441
If more than one owner, attach an additional sheet listing each owner with his/her address Be sure each owner signs this for

4) If the owner is an individual or general partnership, do they have a personal property account (an "L" number)? Circle one YES (NO)
IF YES, WHAT IS THAT NUMBER? _____
IF NO, see item 4 of the Trade Name Application Instructions

5) ADDRESS OF OWNER 8030 Belair Road Suite 150

CITY Nottingham STATE MD ZIP 21236
Post office box number is only accepted when part of the physical address

6) DESCRIPTION OF BUSINESS Real Estate Brokerage

I affirm and acknowledge under penalties of perjury that the foregoing is true and correct to the best of my knowledge

President
SIGNATURE OF OWNER (AUTHORIZED TITLE)

SIGNATURE OF OWNER (AUTHORIZED TITLE)

SIGNATURE OF OV

CUST ID 0003499845
WORK ORDER 0004716422
DATE 12-29-2016 10 18 AM
AMT PAID $75 00

NER (AUTHORIZED TITLE)

Phol

MD 1-888-246-5941

5000000000739531

ARTICLES OF ORGANIZATION

The undersigned, with the intention of creating a Maryland Limited Liability Company files the following Articles of Organization:

(1) The name of the Limited Liability Company is:
Ghimire Homes, LLC

(2) The purpose for which the Limited Liability Company is filed is as follows:
Real estate investment and property management.

(3) The address of the Limited Liability Company in Maryland is:
4520 Fitch Ave., Nottingham, MD, 21236

(4) The Resident Agent of the Limited Liability Company in Maryland is:
Kris Ghimire

whose address is:
5048 Springhouse Circle, Rosedale, MD, 21237

(5) Signature(s) of Authorized Person(s):
Kris Ghimire

(6) Signature(s) of Resident Agent(s):
Kris Ghimire

(7) Filing party's name and return address:
Kris Ghimire, 5048 Springhouse Circle, Rosedale, MD, 21237

I hereby consent to my designation in this document.

CORPO. ATE CHARTER APP. OVAL SHEET

**** EXPEDITED SERVICE **** **** KEEP WITH DOCUMENT ****

DOCUMENT CODE #80 BUSINESS CODE _____

W17211418

Close _____ Stock _____ Nonstock _____

P A _____ Religious _____

Merging (Transferor) _____

Surviving (Transferee) _____

1000362009967755

Affix Barcode Label Here

ID # W17211418 ACK # 1000362009967755
PAGES 0002
GHIMIRE HOMES, LLC

12/29/2016 AT 10 26 A WO # 0004716432

New Name _____

FEES REMITTED

Base Fee	25
Org & Cap Fee	
Expedite Fee	50
Penalty	
State Recordation Tax	
State Transfer Tax	
Certified Copies	
Copy Fee	
Certificates	
Certificate of Status Fee	
Personal Property Filings	
Mail Processing Fee	
Other	
TOTAL FEES	75

_____ Change of Name
✓ Change of Principal Office
_____ Change of Resident Agent
_____ Change of Resident Agent Address
_____ Resignation of Resident Agent
_____ Designation of Resident Agent and Resident Agent's Address
_____ Change of Business Code
_____ Adoption of Assumed Name
_____ Other Change(s)

Credit Card _____ Check _____ Cash _____

_____ Documents on _____ Checks

Code _____

Attention _____

Approved By 16

Keyed By _____

COMMENT(S)

Mail Names and Address

Ghimire Homes LLC
8030 Belair Rd Suit 100
Nottingham, MD 21236

Stamp Work Order and Customer Number HERE

CUST ID 0003499855
WORK ORDER 0004716432
DATE 12-29-2016 10 26 AM
AMT PAID $75 00

RESOLUTIC TO CHANGE PRINCIPAL OFI E OR RESIDENT AGENT

The directors/stockholders/general partner/authorized person of

Ghimire Homes LLC

(Name of Entity)

organized under the laws of Maryland passed the following resolutio

(State)

(Check applicable boxes)

☑ **The principal office is changed from, (old address)**

4518 Fitch Ave

Nottingham, MD 21236

to. (new address)

8030 Belair Road, Suite 100

Nottingham, MD 21236

☐ **The name and address of the resident agent is changed from**

N/A

to

I certify under penalties of perjury the foregoing is true

Signed _____

Secretary or Assistant Secretary
General Partner
Authorized Person

I hereby consent to my designation in this document as resident agent for this entity

Signed _____

Resident Agent

CUST ID 0003499855
WORK ORDER 0004716432
DATE 12-29-2016 10 26 AM
AMT PAID $75 00

MARYLAND BUSINESSEXPRESS
PLAN START MANAGE GROW HERE

Maryland Business Express

GHIMIRE INCORPORATED: D10816957

General Information | Filing History | Annual Report/Personal Property

General Information

Department ID Number:
D10816957

Business Name:
GHIMIRE INCORPORATED

Principal Office:
5048 SPRINGHOUSE CIRCLE
ROSEDALE MD 21237

Resident Agent:
HELEN FERNANDEZ GHIMIRE
5048 SPRINGHOUSE CIRCLE
ROSEDALE MD 21237

Status:
INCORPORATED

Good Standing:
THIS BUSINESS IS IN GOOD STANDING
» **Order Certificate of Status**

Business Type:
CORPORATION

Business Code:
04 ORDINARY BUSINESS - NON-STOCK

Date of Formation/ Registration:

08/23/2005

State of Formation:
MD

Stock Status:
NONSTOCK

Close Status:
NO

New Search | Order Documents

Privacy and Security Policy | Accessibility Policy

FOR FILING AND BUSINESS RELATED QUESTIONS
Maryland Department of Assessments & Taxation
410-767-1184 | Outside the Baltimore Metro Area: 888-246-5941
Maryland Relay: 800-735-2258

FOR TECHNICAL QUESTIONS AND SUPPORT
NIC Maryland, eGov Services Partner of the Department of Information Technology (DoIT) and Maryland.gov
» Click for 24/7 Support

SECURED

CORPORATE CHARTER APPROVAL SHEET

**** KEEP WITH DOCUMENT ****

DOCUMENT CODE 80 BUSINESS CODE _____

D10816957

Close _____ Stock _____ Nonstock _____

P.A. _____ Religious _____

Merging (Transferor) _____

Surviving (Transferee) _____

Affix Barcode Label Here

1000362001802448

Affix Barcode Label Here

ID # D10816957 ACK # 1000362001802448
PAGES: 0002
GHIMIRE INCORPORATED

04/22/2011 AT 12:16 P WO # 0003796366

New Name _____

FEES REMITTED

	Base Fee:	25
	Org. & Cap. Fee:	
	Expedite Fee:	
	Penalty:	
	State Recordation Tax:	
	State Transfer Tax:	
_____	Certified Copies	
	Copy Fee:	
_____	Certificates	
	Certificate of Status Fee:	
	Personal Property Filings:	
	Mail Processing Fee:	
	Other:	
	TOTAL FEES:	25

Credit Card _____ Check _____ Cash _____

_____ Documents on _____ Checks

Approved By: 012

Keyed By: _____

COMMENT(S):

_____ Change of Name
__✓__ Change of Principal Office
_____ Change of Resident Agent
_____ Change of Resident Agent Address
_____ Resignation of Resident Agent
_____ Designation of Resident Agent and Resident Agent's Address
_____ Change of Business Code
_____ Adoption of Assumed Name
_____ Other Change(s)

Code _____

Attention: _____

Mail: Name and Address

GHIMIRE INCORPORATED
5048 SPRINGHOUSE CIR
ROSEDALE MD 21237-3356

Stamp Work Order and Customer Number HERE

CUST ID:0002579486
WORK ORDER:0003796366
DATE:04-25-2011 12:16
AMT. PAID:$25.00

APR 2 2 2011

RESOLUTION TO CHANGE PRINCIPAL OFFICE OR RESIDENT AGENT

The directors/stockholders/general partner/authorized person of Ghimire Incorporated,
(Name of Entity)

organized under the laws of Maryland, passed the following resolution:
(State)

[CHECK APPLICABLE BOX(ES)]

☑ **The principal office is changed from: (old address)**

22 E 25th Street

Baltimore, MD 21218

to: (new address)

5048 Springhouse Circle

Rosedale, MD 21237

☐ **The name and address of the resident agent is changed from:**

to:

I certify under penalties of perjury the foregoing is true.

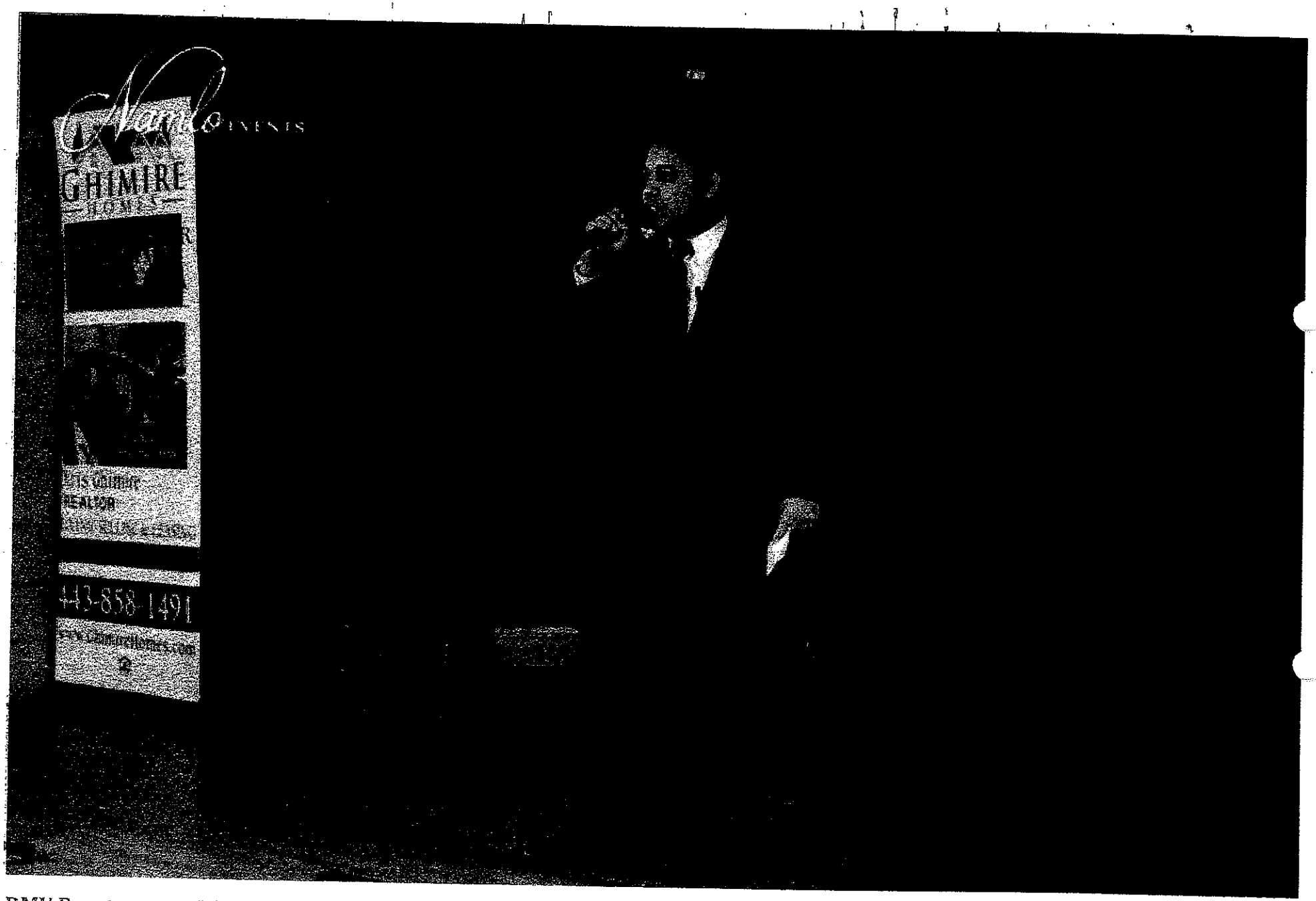
Secretary or Assistant Secretary
General Partner
Authorized Person

I hereby consent to my designation in this document as resident agent for this entity.

SIGNED _____
Resident Agent

WORK ORDER:000379636
DATE:04-25-2011 12:16 PM
AMT. PAID:$25.00

Namlo EVENTS
REALTOR



DMV Events shared Dilip Shrestha's post

https://www.facebook.com/drshrestha/posts/10155596074213509

Krysundra Cannington

From: Carroll Holzer <jcholzer38@gmail.com>
Sent: Monday, February 04, 2019 2:16 PM
To: Krysundra Cannington
Cc: Timothy M. Kotroco (tkotroco@gmail.com); Schmidt, Lawrence
Subject: Motion to Reconsider the Board's Decision and Readmit Protestants Exhibits #22 and # 23
Attachments: Clark - Mot to Reconsider Bd Dec - Readmit Prot Exh 22 -23 -2-4-19.pdf

Dear Chairman Garber:

Attached please find Motion to Reconsider the Board's Decision and Readmit Protestants Exhibits #22 and #23.

Very truly yours,

J. Carroll Holzer

IN RE:	PETITIONS FOR SPECIAL EXCEPTION (12231 Harford Road)	*	BEFORE THE BOARD OF APPEALS
11th Election District 5th Councilmanic District		*	FOR BALTIMORE COUNTY
Nepali American Cultural Center Legal Owner		*	
		*	Case No.: 2018-0122-X
		*	

RECEIVED
FEB 04 2019
BALTIMORE COUNTY
BOARD OF APPEALS

* * * * * * * * * * * * *

PROFFER OF MATERIALS FOR
EXHAUSTION OF ADMINISTRATIVE REMEDIES

DeWitt and Mary Clark, 12150 Harford Road, Glen Arm, Maryland 21057, ***David Hartman***, 12513 Regwood Road, Hydes, Maryland 21082, ***Dave Poehler***, 12241 Harford Road, Glen Arm, Maryland 21057, ***Morgan Miner***, 11946 Harford Road, Glen Arm, Maryland 21057, and ***Carol Shaw***, 7 Country Hill Court, Kingsville, Maryland 21087, Protestants by ***J. Carroll Holzer, Esquire***, in the above-captioned matter herewith file their Motion to Strike Petitioners Exhibit #34 as *ex parte* and say as follows:

1. Protestants attach the following documents bringing to County Officials the Zoning non-compliance of Petitioner and seeking enforcements by the County of said violations.

2. The County's refusal to take action.

3. The Board, on the basis of Code Enforcement being beyond its authority, refused to admit said attachments.

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
FAX: (410) 825-4923

4. For purpose of exhaustion of administrative remedy, these Exhibits were presented to the Board and the Board denied their admission into evidence and required they be submitted as a proffer.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
J. CARROLL HOLZER, P.A.
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
jcholzer38@gmail.com
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of February, 2019, a copy of the foregoing Proffer of Materials for Exhaustion of Administrative Remedies was mailed first class, postage pre-paid to the following:

Timothy M. Kotroco, Esquire
305 Washington Avenue
Suite 502
Towson, Maryland 21204

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, Maryland 21204

J. CARROLL HOLZER, Esquire

C:\My Docs\Motions 2019\Clark – Proffer of Materials for Exhaust - Admim Remedies - 2/4/19

RECEIVED
RECEIVED
JUL 11 2018
DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS
DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

July 11, 2018
Gunpowder Falls Watershed Preservation Association
12150 Harford Rd.
Glen Arm, MD. 21057

County Executive Don Mohler
400 Washington Avenue, Mailstop 2M01A
Historic Courthouse, Mezzanine
Towson, Maryland 21204

Dear Mr. Mohler:

As you may know, on July 1, 2018 Mr. Arnold Jablon issued an enforcement order prohibiting the owner of 12231 Harford Rd., Glen Arm MD, 21057 (NACCB ,Inc.) from continuing to hold group events. They have failed to comply with any of the requirements specified in the Special Exception granted by ALJ Beverungen in January 2018. Subsequent to Mr. Jablon's order, on the evening of July 10 the owner accessed the property to hold a volleyball tournament in open defiance of that enforcement order.

The GFWPA has always had two concerns about the use of that property. The first is the threat to community health and watershed degradation presented by the apparent lack of sanitation facilities to handle human waste.

The second issue is that the entrance used to gain access to the property is inadequate for such use. The sight distances and narrowness of the road preclude the owner's ability to acquire the needed Highway Access Permit from the State Highway Administration. Mr. Zeller of District 4 SHA has written that this use of the property given the dangerous location of the entrance should not be permitted.

We are deeply grateful that Mr. Jablon, Mr. Gardina and Mr. Zeller have stood up to correct this situation.

However, NACCB, Inc. has heavily promoted via internet and social media an event to be held during the period July 28-August 3, 2018. They hoped to attract the more than 500-1000 (their estimates) participants at a similar event held last year. That event resulted in the initial Cease and Desist order issued in 2017 by Mr. Jablon.

It is highly likely that the NACCB, Inc. will be unable to communicate their change in plans to all the guests they invited. Further, Mr. Jablon and Mr. Gardina are well aware of the lack of impact enforcement orders have had with the NACCB, Inc. in the past.

I am writing to you as the community leader representing over 100 landowners in the immediate area. I have two concerns to express about July28-August 3 and a request.

The first concern is about uncontrolled traffic. In his testimony before Judge Beverungen, Mr. Ghimire, the Resident Agent for the Corporation, testified that the many out of state visitors had difficulty navigating Harford Road, caused backups and trespassed on private driveways when they tried to find the property. Given the extent of the promotion for this year's event, we can expect even more disruption on this rural road which is already heavily used as a commuter route to I-695.

Protestant Exhibit _____

The second issue is the reasonable anticipation of possible civil conflict. Those out of state visitors who come to the closed property will be understandably disappointed and frustrated. It is even understandable that members of NACCB, Inc. may be frustrated and perhaps angry at what they consider to be a denial of an absolute right. Then we can have members of the community who have been patient and trusting in both the GFWPA and the County authorities who get annoyed by the disturbance of unpermitted traffic and perhaps even use of the property at 12231 Harford Road.

My request is that the County plan a response to any disturbance in Glen Arm during the period of July 28 to August 3. This plan could be communicated to all parties so they know the expectations and the response to violations of those expectations.

As President of GFWPA, I will work with the Baltimore County Police and the County Fire Marshall to inform the community of what is expected of them and what we can expect from the County.

Mr. Mohler, I will point out with pride that despite the community's feelings about the improper use of land by NACCB, Inc., not one person has taken it upon themselves to vandalize the unpermitted sign erected at the property entrance.

The community has respected the rights of all and values that the competing rights will be decided in the judicial process.

All they are asking is to know the County plan for avoiding disturbance in our rural community.

Respectfully,

Dewey Clark, President
Gunpowder Falls Watershed Preservation Association

cc: Arnold Jablon, County Permits
Vince Gardina, County Environmental Protection
Kevin Weis, State Department of Environment
Richard Zeller, State Highway Administration
Councilman David Marks
Councilman Wade Kach
Colonel John Gavrilis, Maryland Transportation Authority
Donna Kilduff, County Health Department
Marcus Johnson, County Fire Marshall
Captain Lamont Martin, County Police – Parkville Precinct
Carroll Holzer, Esq.
Timothy Kotroco, Esq.

RECEIVED

JUL 11 2018

DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

12150 Harford Road
Glen Arm, MD 21057
July 11, 2018

Mr. Arnold Jablon, Director
Baltimore County Permits, Approvals and Inspections
County Office Building
111 West Chesapeake Avenue, Suite 105
Towson, MD 21204

RE: 12231 Harford Road

Dear Mr. Jablon:

The community desires to inform you that on the evening of July 10, 2018 the NACCB, Inc., in defiance of your order dated July 1, 2018, and in disregard of requirements of the State Highway Administration and Maryland Department of the Environment, and concerns of the community, once again accessed the property and held a volleyball tournament on the subject site.

It is apparent that the NACCB, Inc. has no regard for your order, and the various County and State departments who have registered concern about the use of this property for the coming event of July 28 to August 3, 2018.

As such, it appears to the community that the County, the State, and the County Executive must exercise greater attention to this problem, which is quickly escalating to a potentially bad situation.

Within the confines of the County and State requirements, the Long Green Valley community and the 100+ landowners belonging to the Gunpowder Falls Watershed Preservation Association would request that you take immediate and prompt action to avoid any threats to public health and safety arising from activities of the NACCB, Inc.

Thank you for your prompt attention to this matter.

Sincerely,

Dewey Clark
President, Gunpowder Falls Watershed Preservation Association

cc: Donald Mohler, County Executive
Vince Gardina, County Environmental Protection
Kevin Weis, State Department of Environment
Richard Zeller, State Highway Administration
Councilman David Marks
Councilman Wade Kach
Carroll Holzer, Esq.
Timothy Kotroco, Esq.

FW: 12231 Harford Road

Here is the latest letter sent. Disregard the previous one which was a old draft.

Vincent J. Gardina, LEED AP

Director

Baltimore County Department of Environmental Protection and Sustainability

111 W. Chesapeake Avenue

Towson, MD 21204

410-887-3776

From: Lionel Van Dommelen
Sent: Tuesday, July 10, 2018 10:24 AM
To: Vincent Gardina <vgardina@baltimorecountymd.gov>; Arnold Jablon <ajablon@baltimorecountymd.gov>
Subject: RE: 12231 Harford Road

This is the correct letter.

Mr, Kris Ghimire, Resident Agent

Nepali American Cultural Center of Baltimore, Inc.

8030 Belair Rd., Nottingham, MD 21236

July 1, 2018

Re: 12231 Harford Road

Mr. Ghimire,

Protestant Exhibit 2

It has come to our attention that there have been advertisements for an event at your property

located at 12231 Harford Rd. to be held from July 29 to August 3. There have also been allegations of health code violations, including photos, submitted to us by concerned neighbors.

I am aware of the hearing before the Administrative Law Judge, and notwithstanding the approval Judge Beverungen granted, there has been no compliance with the terms and conditions as set out in that decision. Because these terms have not been met, any event such as that which is being advertised will constitute a violation of that order and a violation of the zoning regulations, as well as possible violations of the health code. If your organization holds this scheduled event, an immediate citation will be issued.

Sincerely,

Lionel van Dommelen, Chief

Bureau of Code Inspections and Enforcement

CC;

Mr. Timothy Kotroco, Esquire

Towson Commons, Suite 300

One West Pennsylvania Avenue

Towson, MD 21204

Email to Jablon (cc Gardina, Bcc Weis and Zeller)

Mr. Jablon,

Today is now July 10. On the Evening of July 9th, the day I first crafted the email below, the NACC,Inc. once again used the property as a recreation center. I have the recordings of their volley ball tournament.

Mr. Kotroco's client apparently views your enforcement orders with mockery and contempt. I am now even more convinced than indicated below that we need to be prepared for their open defiance of your order concerning the event July 28 to Aug 3. Please not that somewhere along the way the event was change to be July 29 to July 28. You may want to revise your order to reflect this.

Text of original email.

On July 9, 2018 I received an email from Mr. Gardina to the effect that you had transmitted an order to the NACCB, Inc., owner of the property located at 12231 Harford Road, prohibiting them from hosting group events since they have not complied with the conditions of the Special Exception granted by ALJ Beverungen.

Thank you. Can you please provide a copy of that order to me and to our attorney, Carroll Holzer, Esq.

We can then apprise the community of the action.

As you know, the NACCB, Inc. heavily promoted an event to be held on July 28-Aug 3, 2018. They apparently hoped to attract a large crowd from the Eastern Seaboard. This event last year (which resulted in your Cease and Desist order) attracted between 500 and 1,000 people (their statements vary) from at least 4 states.

It is very likely that not all intending to attend that event will receive NACCB, Inc.'s notification of their change in plans. The time for them to get the word out is very short.

We know that controlling the possible disturbance in the community requires County resources beyond your control.

We hope you will support our request to County Executive Mohler for coordinated plan to respond to any disturbance that may arise.

A copy of the order can be sent to Mr. Holzer and myself via email.

Once again, thank you for your assistance in this matter.

Respectfully,

Dewey Clark, President
Gunpowder Falls Watershed Preservation Association

12150 Harford Road
Glen Arm, MD 21057
July 24, 2018

Honorable John E. Beverungen
Administrative Law Judge for
Baltimore County
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, MD 21204

Judge Beverungen,

I just finished a conversation with Sherry of your Office. Earlier today I dropped off a complete copy of the preliminary motion Carroll Holzer, Esq. entered into the record during the proceedings on 19 July 2018.

As I explained in the note I left with her earlier, Larry read what is purported to be a letter from you into the record sans evidentiary copies. This meant we could not test the veracity of his interpretation. However, he interpreted it to mean you approved of the 1,000 person fundraiser scheduled for 28 July to 3 August at the property located at 12231 Harford Rd. This is in spite of the record of NACCB Inc.'s open defiance of the seven conditions set forth in your 22 Jan. 2018 decision granting a Special Exception to NACCB, Inc. (see copy of Protestant's Exhibit No. 1 left with Sherry).

I was informed by Sherry that you kept no file copy and that we will have to wait on Mr. Kotroco's leisure to get our copy and even that will not be provided to me, the primary protestant of standing or as President of the Association represented by Mr. Carroll Holzer, Esq.

I was further informed that Mr. Kotroco in fact prepared that letter for your signature and that upon review you signed it as some kind of letter of intent. I am very unclear about what that means or in fact how you intended for your letter to be used.

If I any of my understandings are imperfect, please correct them. Thank you for your time.

Respectfully,

DeWitt S. Clark, Ph.D.
President
Gunpowder Falls Watershed Preservation Association

June 18, 2018
12150 Harford Rd.
Glen Arm, MD 21057

Mr. Richard Zeller, Chief
Highway Access Permits
Maryland State Highway Administration
District 4
320 West Warren Road
Hunt Valley, MD 21030

Mr. Arnold Jablon, Director
Baltimore County Permits, Approvals and Inspections
County Office Building
111 West Chesapeake Avenue, Suite 105
Towson, MD 21204

Sirs

I am writing to inform you that the Corporate owner of the single residence property located at 12231 Harford Rd. Glen Arm, MD 21057 has publicized a very large fundraiser to take place July 29 to August 3, 2018. According to their own estimates, last year this fundraising event drew about 1,000 participants from several states. It resulted in the issuance of a Baltimore County Cease and Desist Order that, according to Arnold Jablon, is still in effect.

They have no sanitation facilities on site, no parking facilities for this event, and no SHA Highway Access permit. In addition, their own publicity photographs and videos reveal they have completed electrical installations without the benefit of a permit as verified by phone calls to Baltimore County Permits office on June 18, 2018. A licensed contractor observed what is in his opinion to be friable asbestos.

Mr. Jablon was adamant that we should notify the responsible officials if we were to become aware of just such a large event or if we became aware of violations of County Permit regulations.

The health, safety and ecological threats are obvious. Harford Road is a State road with no modern shoulders; at many points only 2 feet wide with guard rails directly on the shoulder on the other side. A traffic circle intended to control traffic in the immediate area was also recently installed. The entrance in question has very short sight distances due to blind curves in both directions. The property access is on the most dangerous 190 turn. This narrow rural road has become overburdened as a result of commuters driving to I-695 from Baltimore and Harford counties.

The July 29-Aug 3 fundraising event will create an unwarranted and unnecessary hazard not only for commuters. Out-of-area event participants unfamiliar with the nature of this rural road and the dangers it presents will also be trying to find an obscure address, stopping quickly, getting lost and causing backups on this route which, because this road traverses a valley, has no effective alternatives between Mt. Vista Rd. and Long Green Valley Rd., a distance of some 4 miles.

Protestant Exhibit ____

The owner of 12231 Harford Road is, as you know, well aware of the requirements for an SHA Access permit and that the current situation does not meet the criteria for that permit. In fact, there is no documentation that the owner has even started the SHA permitting process.

The owner and the attorneys handling this matter have been fully informed by you of the requirements to be met to change this property from its current single family use into a commercial venue.

The lack of sanitation facilities (they have a history of not seeking the required special events permits that would ensure health and safety factors are resolved) is a major threat to the community and the surrounding Gunpowder Falls watershed.

For your convenience I have included below the contact information for their attorney, Timothy Kotroco, and the Resident agent for the corporation, Kris Ghimire, who has an established real estate business in Baltimore County over the last 20 years.

Mr. Kris Ghimire, Resident Agent
Napali American Cultural Center of Baltimore, Inc.
8030 Belair Rd, Nottingham, MD 21236
(410) 497-5238

Mr. Timothy Kotroco, Esq.
Towson Commons, Suite 300
One West Pennsylvania Avenue
Towson, MD 21204- 5025
Whiteford, Taylor & Preston, LLP
(410) 832-2004

If you need additional information please feel free to contact me at the above address or by phone: 410.592.9998.

Respectfully,

Dewey Clark, President
Gunpowder Falls Watershed Preservation Association

Attachments:
Social Media Statements
Publicity Announcement

cc: (w/ Attachments)
County Executive David Mohler
Councilman David Marks
Councilman Wade Kach
Vincent Gardina (Env)
Lionel Van Dommelen (Zoning)
Matt Gawel (Inspections)
Jan M. Cook (Development)
Dennis Kennedy (Plans Review)
Ed Riesner (Electrical)
Karen Lewis (Permit Processing)
Traci Davis (Misc. Permits)
William Witty (Plumbing)
Senator Jim Brochin
Colonel John E. Gavrilis (MTA)
Lieutenant Timothy M. Mullin (MSP)
Maryland Dept. of the Environment
Long Green Valley Fire Company

12 September 2017
12150 Harford Rd.
Glen Arm MD 21057

Mr. Lionel Van Dommelen
Baltimore County Zoning Enforcement
Room 213
111 West Cheasapeake Ave.
Towson, MD 21204

I affirm that these photos are unmanipulated and were taken by me on the night of 10 September 2017 between the times of 8:30 PM and 8:45 PM as indicated by the EXIF data contained within the photo files. I was positioned in front of the power pole at the corner of Bonaparte Ave and Harford Rd.

I apologize for the quality, I was having problems with my flash. But it is easily seen that a number of different vehicles were observed leaving the Bonaparte property.

At the same time, my wife made the included sound recording from our porch using her cell phone. We are approximately 150 feet west of Harford Rd. across from the Bonaparte property.

I have included on the USB drive the photos, sound recording, a screen shot of Mr. Ghimire's Real Estate web site and a copy of the signage we propose to install on properties adjacent to the Bonaparte property.

From the Facebook pictures posted by this group, they appear to be respectful, kind, educated and affluent people. We find it hard to believe they would knowingly step on the rights of their neighbors and flout county laws, regulations and orders.

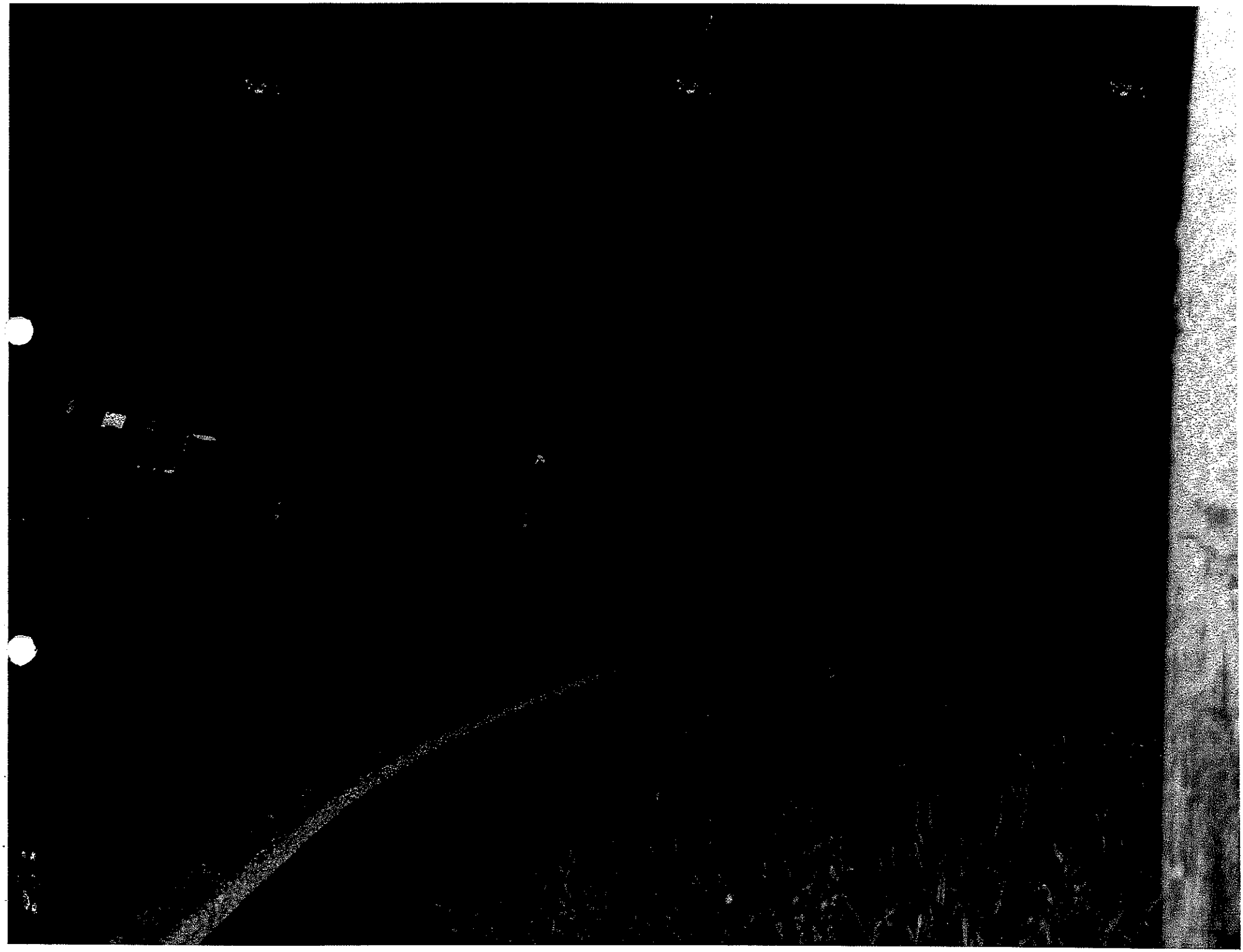
It is unfortunate the leaders/developers of this property have chosen the path they are taking. They certainly lost the goodwill of virtually every affected property owner.

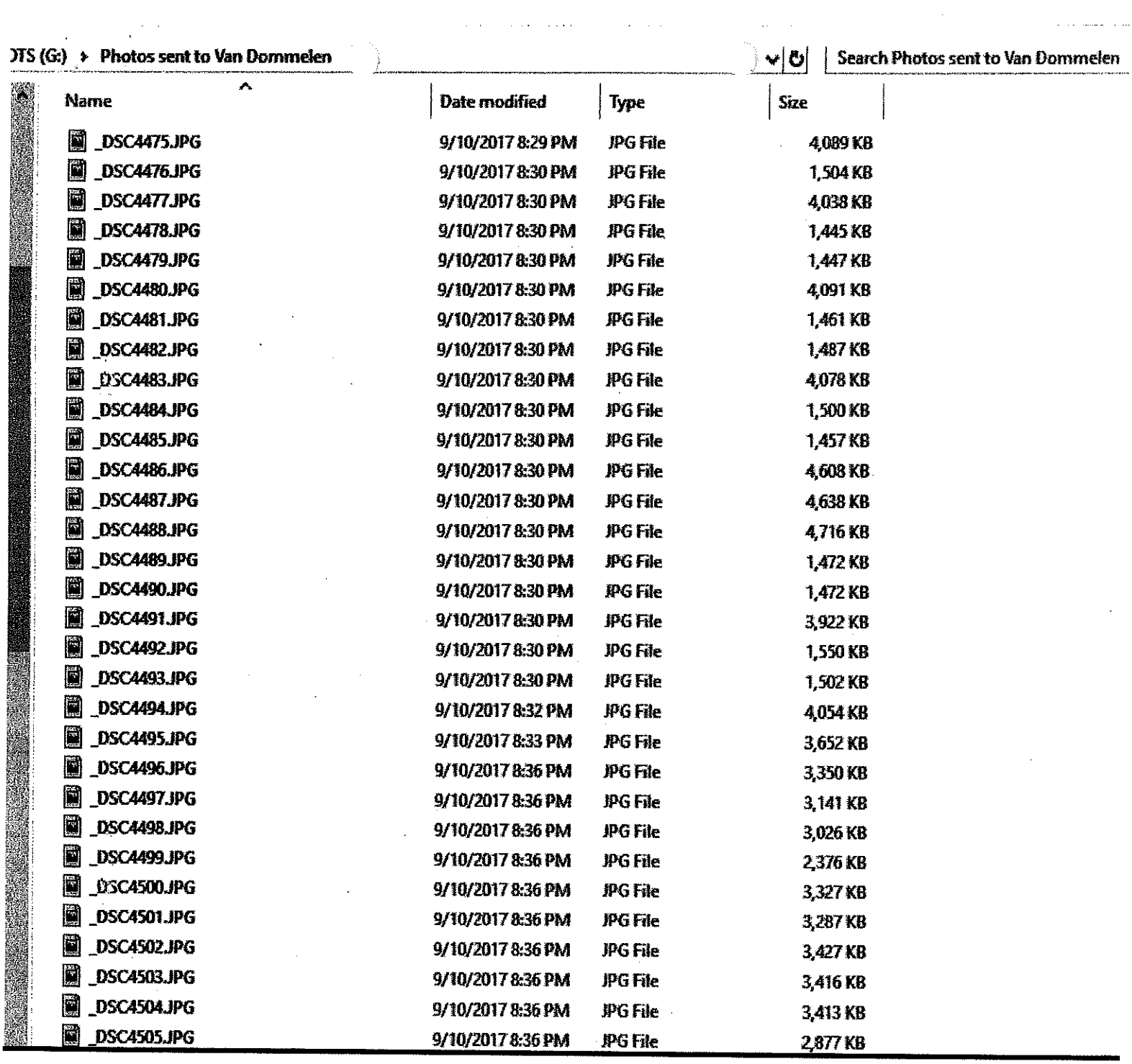
Thanks you for all you are doing.

Regards,

Dewey Clark

Protestant Exhibit ____





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TIMOTHY M. KOTROCO, Esq.
305 Washington Avenue, Suite 502
Towson, Maryland 21204
410-299-2943
Tkotroco@gmail.com

July 25, 2018

The Honorable Donald I. Mohler, III
County Executive for Baltimore County
400 Washington Avenue, Mezzanine Level
Towson, Maryland 21204

Re: Nepali American Cultural Center
Request for Police Protection

Dear County Executive Mohler,

I write to you out of great concern for the safety and welfare of a group of Baltimore County citizens. I have been working with the Nepali American community for over the past year. These families have become an integral part of Baltimore County having established themselves as successful business owners, doctors, engineers and otherwise productive members of our Baltimore County community.

Not long ago, these families gathered together and purchased an abandoned 30 acre estate formerly owned by Towson attorney, Robert DiCicco. The property is located at 12231 Harford Road in Glen Arm, Maryland. This estate property was abandoned and was severely vandalized by local residents. It was foreclosed upon by the bank who held the mortgage and was heading to auction. The Nepali community pooled together their resources and purchased the subject property.

Over the past year, these Baltimore County families have been investing their money, time and energy repairing the damage that the neighbors did to this property and today, the property is once again a showpiece. I have witnessed this transformation myself and this property now stands as one of the nicest estates in Baltimore County.

The goal of our Nepalese community is to utilize the subject property as a Temple for the purpose of exercising their religious freedoms. I represented the Nepali community at a hearing before the Honorable John E. Beverungen who approved the use of the property for that purpose. This will be the very first Buddhist Temple in Baltimore County. At the present time, these Baltimore County residents must travel to Finksburg, Carroll County to practice their religion.

The case is now on appeal before the Board of Appeals and I am confident that we will prevail at that level. We have not yet begun to occupy the building for religious worship as our building is not yet served by well and septic. The new owners have decided to abandon the old

Protestant Exhibit ____

well and septic systems and install brand new state of the art systems, which will be designed and approved by Baltimore County. That effort should be completed in the very near future.

A great deal of misinformation has been spread and I wanted to share some factual information with you before I got to the purpose of this letter. The reason for writing to you is to request police protection for an event that we have scheduled to occur this Saturday, July 28 at 10 am. (Set-up will begin at 9 am). The event is an open house picnic-fundraiser which will occur on the grounds of our 30 acre estate. Our gathering will occur within a tent that is being provided by Loane Brothers and portable toilets will be used for the convenience of our guests and families. Tours will be given of our newly renovated building. Our picnic will continue throughout the day on Saturday until 8pm and will continue each day until concluding on Friday, August 3rd. We hope to have as many as 200 people visit over the course of a 10 hour day. My wife Laura and I will be attending. The amount of visitors will dwindle over the ensuing days.

It is of paramount importance that our Nepali residents have police protection at this event on Saturday and Sunday and maybe over the week depending on how the picnic progresses. I make this request because of statements that were made at our hearing before Judge Beverungen and recent social media posts that cause me great concern. There are examples of events that have occurred across our country where tragedies have occurred that could have been avoided, had local government taken proper precautions. On behalf of the Nepalese community in Baltimore County, I ask that of your administration.

State Senator James Brochin and Councilman David Marks have been actively involved with our Baltimore County Nepalese community. Senator Brochin has spoken with Captain Lamont Martin of our Police Department, Precinct 8. Captain Martin indicated that he would have police protection available for our picnic.

Lastly, there have been allegations that our scheduled picnic violates the conditions of Judge Beverungen's decision. Judge Beverungen recently issued a written statement indicating that the picnic-fundraiser scheduled for this upcoming week in no way violates the terms and conditions of his Order and that the Nepali community is free to have a picnic gathering on their property just like any other Baltimore County citizen could do. I am sure Judge Beverungen would share that opinion with you were you to give him a call.

I am available and would welcome an opportunity to meet with you to discuss this matter in more detail. Thank you for your consideration of this request.

Very truly yours,

Timothy M. Kotroco

cc: The Honorable James Brochin
The Honorable David Marks

27 July, 1018
12150 Harford Rd.
Glen Arm, MD, 21057

The Honorable Donald I. Mohler, III
County Executive for Baltimore County
400 Washington Avenue, Mezzanine Level
Towson, MD 21024

RE: Letter for Timothy Kotroco Dated July 25 2018

Mr. Mohler,

I am in receipt of Mr. Kotroco's request for "police protection" for a "picinic" on a 31 acre tract located at 12231 Harford Rd. Glen Arm, Md 21057 that is subject to the conditions set forth in Judge Beverungen's January 22, 2018 decision. Please note, this decision and the attending conditions are imposed on the ENTIRE 31 acres of the property. I have attached a copy of that decision for your convenience.

It seems Mr. Kotroco finds himself in the surprising position of supporting my request of June 16 to you and your cabinet for a proactive plan to manage this event. I welcome his support to that request.

There are some facts which Mr. Kotroco fails to mention.

On July 23 I met for 30 minutes with Lt. Franzoni of the Parkville Precinct to discuss this very matter. This was the first the Precinct had heard of this. I could only approach the precinct AFTER NACCB,Inc. publicly announced this event which has been promoted regionally and internationally for the last 4 months at least.

I talked with Capt. Martin the following day.

The Nepali American **Cultural** Center of Baltimore, Inc.'s (NACCB, Inc.) public disclosure of this long planned July 28 event came **only** after intense community requests for information. This outcry was the result of public disclosure of documentary evidence including videos published by NACCB, Inc. These videos and our letters to you and other officials asking for proactive planning are located on a public folder on Google Drive (USB of contents enclosed).

The letter from Judge Beverungen to which Mr. Kotroco refers is of some interest to us. It was read into the record at the July 19th Hearing but no copies were made available. As a result, Mr. Holzer (opposing Counsel) was unable to test the veracity of what was read or the interpretation of the letter as explained by Mr. Schmidt.

I was instructed by Mr. Holzer to get a copy of that letter. When I contacted Judge Beverungen's Office, it was explained to me that that letter was prepared to go out over the Judge's signature by Mr. Kotroco himself. More disturbing was that I was informed I could not be provided a copy since Judge Beverungen did not keep a file copy.

Protestant Exhibit _____

I have included a copy of an email (followed by certified letter) to the Judge relating my understandings and asking him to correct me if I misunderstood anything. To date, there has been no response.

This "picnic" would appear to be an understatement of what is to take place. Mr. Holzer introduced into evidence some 50 pages of documentation (videos, social media and record of unapproved/uninspected improvements) including the NAACB, Inc. testimony before Judge Beverungen that there was no well or septic on the property and that the plumbing had even been removed from the main building.

Mr. Kotroco is absolutely correct. 110 landowners have joined the Gunpowder Falls Watershed Association (GFWPA) in action to oppose the overuse of this land. You are aware that SHA has gone on record saying that this property **should NOT** be used to for the purpose to which it has been put since January 2018. It DOES NOT have the required State Highway Access Permit because it does not meet the safety requirements. This was a very specific condition of Judge Beverungen's decision.

You are also aware that Mr. Kevin Weis, Chief, Baltimore Compliance Division, MDE is watching how the County acts to fulfill its statutory requirements to protect the watershed resources within the County.

Mr. Jablon, Judge Beverungen and Mr. Gardina have complete copies of the evidence introduced at the July 19 Hearing. The appellant did not contest this evidence. I am sure you can get those data from one of them.

The videos alone of the NACCB, Inc.'s defiance of County orders and disregard for the required permits for approved and **inspected** improvements such as well, septic, plumbing, asbestos abatement, wiring, etc. should cause any and all County officials concern. Further, upon last conversation, there is no record the building itself has been approve for public use by the Baltimore County Fire Marshall.

As for Mr. Kotroco's concerns about safety and public order. Seems a little late, but I concur. That was the focus of my conversations with the Commanders at the Parkville Precinct.

As for my community, I have attached a copy of the notice I sent to them about how to behave this weekend. I also gave Capt. Martin my cell phone number to help if any conflicts arise.

Mr. Kotroco should advise his clients that the community will be taking photographs and videos from public or private places, as is their right. Any interference with that right will be treated as an assault.

He should also advise his clients that any trespass on adjoining properties will be treated as such.

If they insist on violating Judge Beverungen's conditions for the ENTIRE property (and Mr. Ghimire made it clear in the ALJ Hearing that it was an intentional act to include the entire 31 acre property in the Special Exception), then they MUST remain on that property.

On multiple documented occasions, Mr. Holzer and the GFWPA have offered to sit down with Mr. Kotroco, the NACCB, Inc. Mr. Marks, Mr. Kach, Sen. Brochin and someone by the name of Bhandari (STILL no idea who he is and why he is involved) only to have met a lack of interest or even failure to meet appointments with excuses sent at later time.

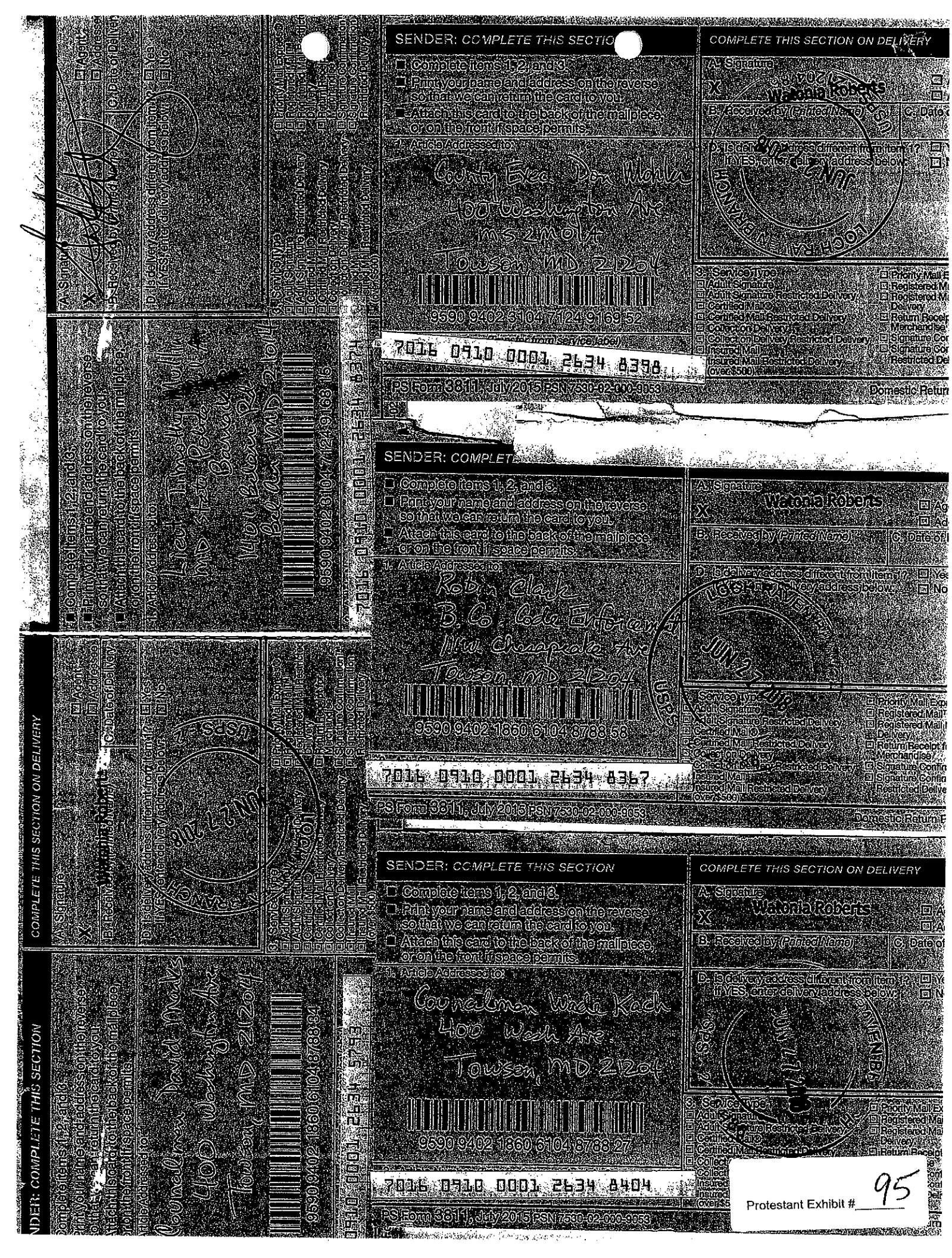
As always, I am available to speak with County Officials about our concerns.

Respectfully,

DeWitt S. Clark, Ph.D.
President
Gunpowder Falls Watershed Preservation Association

Attachments:

ALJ Decision
Instruction to Community
USB of Contents on Google Drive
Last email from Mr. Zeller



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

County Exec. Don Mohler
400 Washington Ave
MS 2M01A
Towson, MD 21204

9590 9402 3104 7124 9169 52

(Transfer from service label)

7016 0910 0001 2634 8398

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date of

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

Adult Signature
Adult Signature Restricted Delivery
Certified Mail®
Certified Mail Restricted Delivery
Collect on Delivery
Collect on Delivery Restricted Delivery
Insured Mail
Insured Mail Restricted Delivery (over $500)

Priority Mail Express®
Registered Mail
Registered Mail Restricted Delivery
Return Receipt for Merchandise
Signature Confirmation
Signature Confirmation Restricted Delivery

Domestic Return

SENDER: COMPLETE

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Robin Clark
B.Co. Code Enforcement
111 W. Chesapeake Ave
Towson, MD 21204

9590 9402 1860 6104 8788 58

7016 0910 0001 2634 8367

PS Form 3811, July 2015 PSN 7530-02-000-9053

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date of

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

Adult Signature
Adult Signature Restricted Delivery
Certified Mail®
Certified Mail Restricted Delivery
Collect on Delivery
Collect on Delivery Restricted Delivery
Insured Mail
Insured Mail Restricted Delivery (over $500)

Priority Mail Express®
Registered Mail
Registered Mail Restricted Delivery
Return Receipt for Merchandise
Signature Confirmation
Signature Confirmation Restricted Delivery

Domestic Return

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Councilman Wade Kach
400 Wash Ave
Towson, MD 21204

9590 9402 1860 6104 8788 27

7016 0910 0001 2634 8404

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date of

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

Adult Signature
Adult Signature Restricted Delivery
Certified Mail®
Certified Mail Restricted Delivery
Collect on Delivery
Collect on Delivery Restricted Delivery
Insured Mail
Insured Mail Restricted Delivery (over $500)

Priority Mail Express®
Registered Mail
Registered Mail Restricted Delivery
Return Receipt for Merchandise
Signature Confirmation
Signature Confirmation Restricted Delivery

Protestant Exhibit # 95

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Thomas Gentle
14A Oak Tree Close
Bexhaven, MD 21202

2. Article Number (Transfer from service label)

9590 9402 5104 7124 9168 39

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery (over $500)

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Rena L. Zale
Chief Ringway Tacos Franchise
713 Sky Ln
320 Ivory Mnr Apt 4
Haven Vale, MD 21023

9590 9402 1860 6104 8763 10

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8496

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery (over $500)

Domestic Return Receipt

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Lora V. Dominic
Chief Welcome Sup
Tru Customer Svc
Haven Vale, MD 21023

9590 9402 1860 6104 8767 80

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8489

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery (over $500)

Domestic Return Receipt

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1. Article Addressed to:

Mr. Thomas Gentle
14A Oak Tree Close
Bexhaven, MD 21202

9590 9402 5104 7124 9168 39

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8434

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery (over $500)

Domestic Return Receipt

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1. Article Addressed to:

Rena L. Zale
Chief Ringway Tacos Franchise
713 Sky Ln
320 Ivory Mnr Apt 4
Haven Vale, MD 21023

9590 9402 1860 6104 8763 10

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8496

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery (over $500)

Domestic Return Receipt

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1. Article Addressed to:

Lora V. Dominic
Chief Welcome Sup
Tru Customer Svc
Haven Vale, MD 21023

9590 9402 1860 6104 8767 80

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8489

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
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☐ Collect on Delivery Restricted Delivery
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Domestic Return Receipt

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Haven Lewis
Head Postal Worker
Tru Customer Svc
Haven Vale, MD 21023

9590 9402 8104 7124 9167 27

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8472

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery (over $500)

Domestic Return Receipt

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Watonia Roberts
Tru Customer Svc
Haven Vale, MD 21023

9590 9402 1860 6104 8780 09

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8465

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery (over $500)

Domestic Return Receipt

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1. Article Addressed to:

Haven Lewis
Head Postal Worker
Tru Customer Svc
Haven Vale, MD 21023

9590 9402 8104 7124 9167 27

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8472

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

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C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery (over $500)

Domestic Return Receipt

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1. Article Addressed to:

Watonia Roberts
Tru Customer Svc
Haven Vale, MD 21023

9590 9402 1860 6104 8780 09

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8465

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
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☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery (over $500)

Domestic Return Receipt

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Head Postal Worker
Tru Customer Svc
Haven Vale, MD 21023

9590 9402 8104 7124 9167 27

2. Article Number (Transfer from service label)

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PS Form 3811, July 2015 PSN 7530-02-000-9053

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☐ Insured Mail
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Domestic Return Receipt

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Watonia Roberts
Tru Customer Svc
Haven Vale, MD 21023

9590 9402 1860 6104 8780 09

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8465

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

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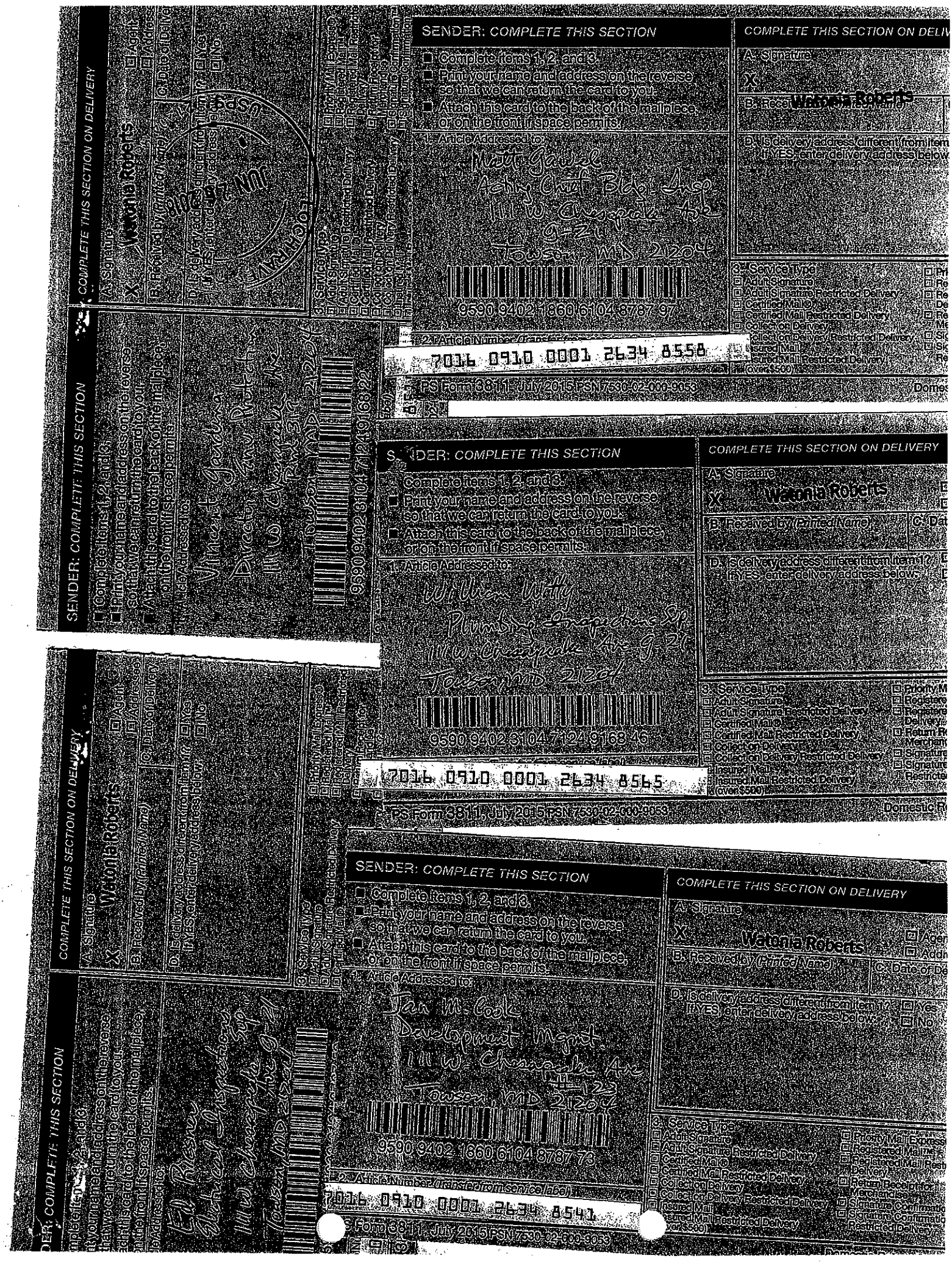
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery (over $500)

Domestic Return Receipt



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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Matt Gavel
Acting Chief Bldg. Insp.
111 W. Chesapeake Ave
Suite 213
Towson, MD 21204

9590 9402 1860 6104 8787 97

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8558

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

Adult Signature
Adult Signature Restricted Delivery
Certified Mail®
Certified Mail Restricted Delivery
Collect on Delivery
Collect on Delivery Restricted Delivery
Insured Mail
Insured Mail Restricted Delivery (over $500)

Priority Mail Express
Registered Mail™
Registered Mail Restricted Delivery
Return Receipt for Merchandise
Signature Confirmation™
Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

William Kelly
Plumbing Inspections Sp
111 W. Chesapeake Ave Suite 213
Towson MD 21204

9590 9402 3104 7124 9168 46

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8565

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

Adult Signature
Adult Signature Restricted Delivery
Certified Mail®
Certified Mail Restricted Delivery
Collect on Delivery
Collect on Delivery Restricted Delivery
Insured Mail
Insured Mail Restricted Delivery (over $500)

Priority Mail Express
Registered Mail™
Registered Mail Restricted Delivery
Return Receipt for Merchandise
Signature Confirmation™
Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jan M. Cook
Development Mgmt
111 W. Chesapeake Ave
Suite 123
Towson MD 21204

9590 9402 1860 6104 8787 73

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8541

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date of Delivery

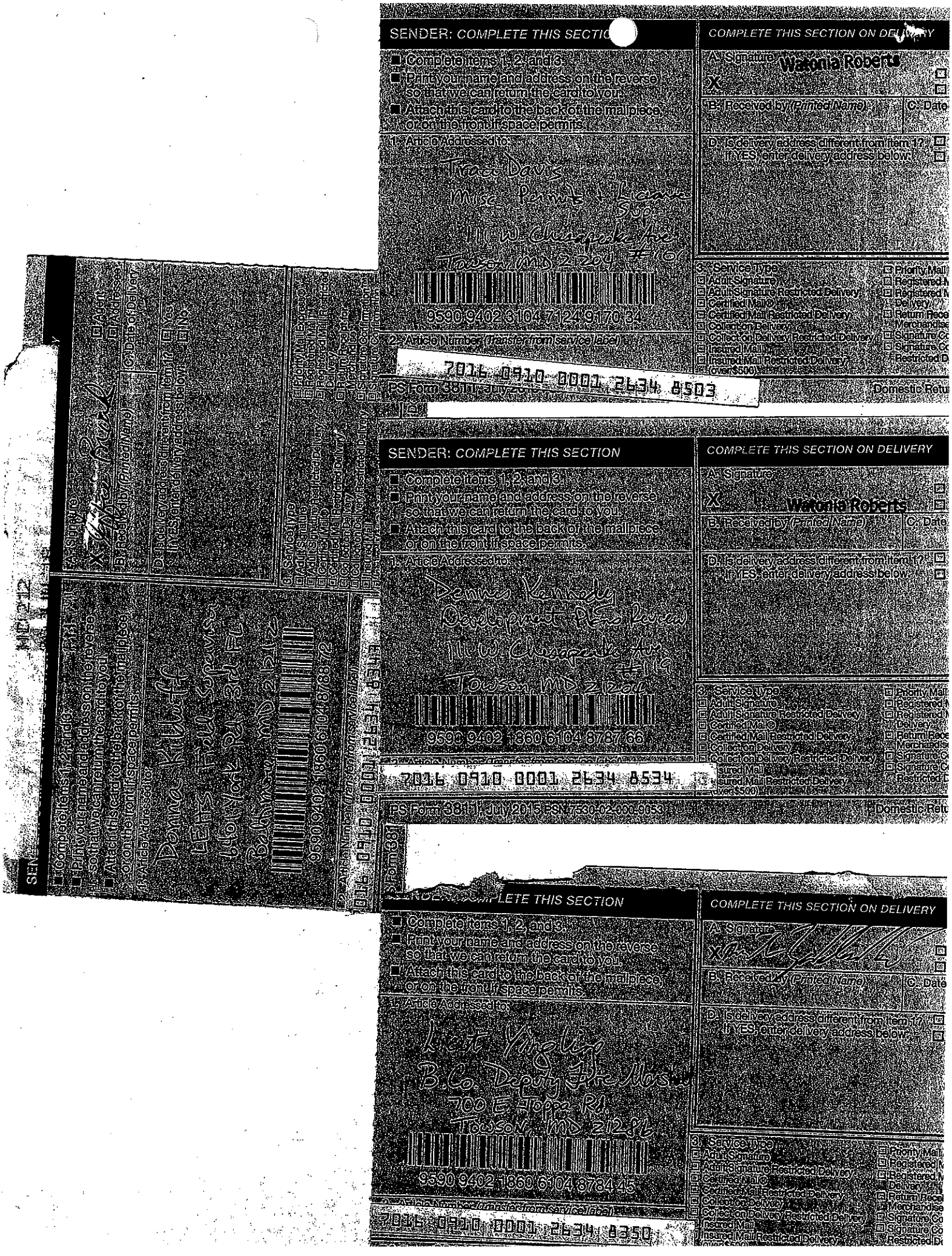
D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

Adult Signature
Adult Signature Restricted Delivery
Certified Mail®
Certified Mail Restricted Delivery
Collect on Delivery
Collect on Delivery Restricted Delivery
Insured Mail
Insured Mail Restricted Delivery (over $500)

Priority Mail Express
Registered Mail™
Registered Mail Restricted Delivery
Return Receipt for Merchandise
Signature Confirmation™
Signature Confirmation Restricted Delivery

Domestic Return Receipt



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Traci Davis
Misc. Permits + Licence Sup.
111 W. Chesapeake Ave.
Towson, MD 21204 #101

9590 9402 3104 7124 9170 34

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8503

PS Form 3811, July 2015

COMPLETE THIS SECTION ON DELIVERY

A. Signature: Watonia Roberts

X

B. Received by (Printed Name)

C. Date

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over $500)
- Priority Mail
- Registered M
- Registered M Delivery
- Return Rece Merchandise
- Signature Co
- Signature Co Restricted D

Domestic Retu

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Dennis Kennedy
Development Plans Review
111 W. Chesapeake Ave.
#119
Towson, MD 21204

9590 9402 1860 6104 8787 66

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8534

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date

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- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
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- Insured Mail Restricted Delivery (over $500)
- Priority Mail
- Registered M
- Registered M Delivery
- Return Rece Merchandise
- Signature Co
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Domestic Retu

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Lieut. Yingling
B.Co. Deputy Fire Marshal
700 E. Joppa Rd.
Towson, MD 21286

9590 9402 1860 6104 8784 45

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8350

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

C. Date

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over $500)
- Priority Mail
- Registered M
- Registered M Delivery
- Return Rece Merchandise
- Signature Co
- Signature Co Restricted D

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Donna Kilduff
LEITS Field Supervisor
6401 York Rd. 3rd FL
Baltimore, MD 21212

9590 9402 1860 6104 8788 72

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8343

A. Signature

X Agent

B. Received by (Printed Name)

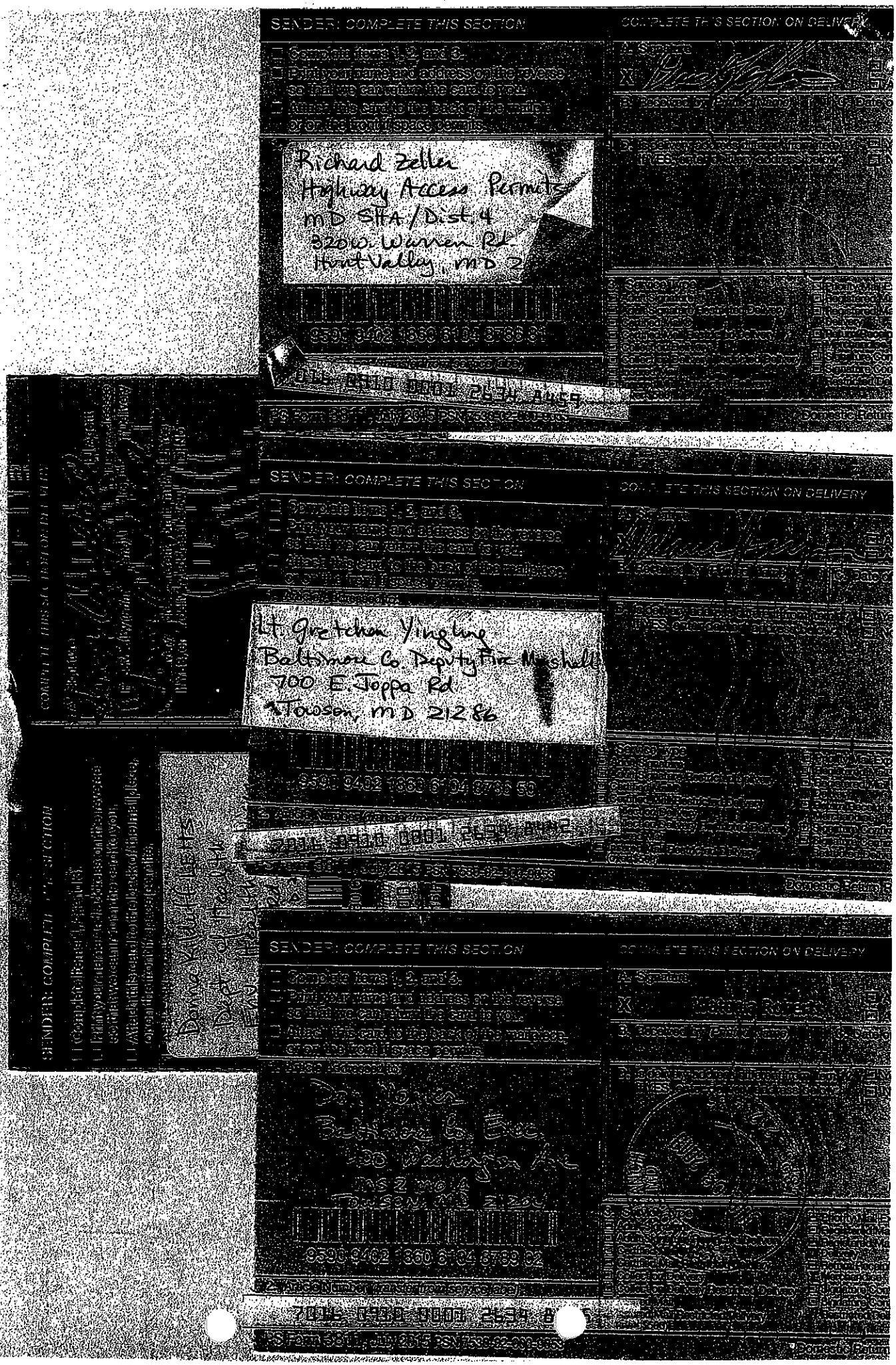
C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over $500)
- Priority Mail Express
- Registered Mail
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation
- Signature Confirmation Restricted Delivery

MD 212



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A. Signature

X

B. Received by (Printed Name)

C. Date of

D. Is delivery address different from item 1? If YES, enter delivery address below:

Richard Zeller
Highway Access Permits
MD SHA / Dist. 4
320 W. Warren Rd.
Hunt Valley, MD 2

9590 9402 1860 6104 8786 81

2. Article Number (transfer from service label)

7016 0910 0001 2634 8459

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

COMPLETE THIS SECTION ON DELIVERY

A. Signature

B. Received by (Printed Name)

C. Date of

D. Is delivery address different from item 1? If YES, enter delivery address below:

Lt. Gretchen Yingling
Baltimore Co. Deputy Fire Marshall
700 E. Joppa Rd
Towson, MD 21286

9590 9402 1860 6104 8786 50

2. Article Number (transfer from service label)

7016 0910 0001 2634 8442

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Matoria Roberts

B. Received by (Printed Name)

C. Date of

D. Is delivery address different from item 1? If YES, enter delivery address below:

Donna Kilhoff Lotts
Dept. of Health
Fwd. Health Rd

Article Addressed to:

Don Mohler
Baltimore Co. Exec.
400 Washington Ave
MS 2 MO 4
Towson, MD 21204

9590 9402 1860 6104 8789 02

2. Article Number (transfer from service label)

7016 0910 0001 2634 8

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return

Krysundra Cannington

From: Carroll Holzer <jcholzer38@gmail.com>
Sent: Monday, February 04, 2019 2:28 PM
To: Krysundra Cannington
Subject: Proffer of Materials for Exhaustion of Administrative Remedies
Attachments: Clark - Proffer of Materials for Exhaust - Admin Remedies - 2-4-19.pdf

Dear Chairman Garber:

Attached please find Proffer Materials for Exhaustion of Administrative Remedies.

Very truly yours,

J. Carroll Holzer

Krysundra Cannington

From: Krysundra Cannington
Sent: Monday, February 04, 2019 2:38 PM
To: 'Carroll Holzer'
Cc: Timothy M. Kotroco (tkotroco@gmail.com); Schmidt, Lawrence
Subject: RE: Motion to Reconsider the Board's Decision and Readmit Protestants Exhibits #22 and #23

Carroll,

Thank you for the emails (all 4 of them.)

Can you please provide an original and three copies of each document you emailed?

Thank you again,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180
Fax: 410-887-3182

Confidentiality Statement

This electronic mail transmission contains confidential information belonging to the sender which is legally privileged and confidential. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or taking of any action based on the contents of this electronic mail transmission is strictly prohibited. If you have received this electronic mail transmission in error, please immediately notify the sender.

From: Carroll Holzer [mailto:jcholzer38@gmail.com]
Sent: Monday, February 04, 2019 2:16 PM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>
Cc: Timothy M. Kotroco (tkotroco@gmail.com) <tkotroco@gmail.com>; Schmidt, Lawrence <lschmidt@sgs-law.com>
Subject: Motion to Reconsider the Board's Decision and Readmit Protestants Exhibits #22 and #23

Dear Chairman Garber:

Attached please find Motion to Reconsider the Board's Decision and Readmit Protestants Exhibits #22 and #23.

Very truly yours,

J. Carroll Holzer

Krysundra Cannington

From: Carroll Holzer <jcholzer38@gmail.com>
Sent: Monday, February 04, 2019 2:32 PM
To: Krysundra Cannington
Cc: Timothy M. Kotroco (tkotroco@gmail.com); Schmidt, Lawrence
Subject: Fwd: Proffer of Materials for Exhaustion of Administrative Remedies
Attachments: Clark - Proffer of Materials for Exhaust - Admin Remedies - 2-4-19.pdf

Dear Chairman Garber:

Attached please find "Proffer Materials for Exhaustion of Administrative Remedies".

Very truly yours,

J. Carroll Holzer

---------- Forwarded message ---------
From: **Carroll Holzer** <jcholzer38@gmail.com>
Date: Mon, Feb 4, 2019 at 2:27 PM
Subject: Proffer of Materials for Exhaustion of Administrative Remedies
To: Cannington, Krysundra <kcannington@baltimorecountymd.gov>

Dear Chairman Garber:

Attached please find Proffer Materials for Exhaustion of Administrative Remedies.

Very truly yours,

J. Carroll Holzer

IN THE MATTER OF: Nepali American Cultural Center of Baltimore 12231 Harford Road	*	BEFORE THE
	*	BOARD OF APPEALS
	*	OF
11th Election District 5th Councilmanic District	*	BALTIMORE COUNTY
RE: PETITION FOR SPECIAL EXCEPTION	*	**Case No.: 2018-0122-X**
	*	
	*	

RECEIVED
FEB 1 2019
BALTIMORE COUNTY
BOARD OF APPEALS

* *

PETITIONER'S RESPONSE TO PROTESTANTS' MOTION TO STRIKE PETITIONER'S EXHIBIT #34 AS *EX PARTE*

Nepali American Cultural Center of Baltimore (hereinafter "Petitioner"), by and through their attorneys, Lawrence E. Schmidt and Smith, Gildea & Schmidt, LLC, hereby responds to the Protestants' Motion to Strike Petitioner's Exhibit #34 As *Ex Parte* and respectfully state:

1. On January 22, 2018, John E. Beverungen, the Administrative Law Judge ("ALJ") for the within case then before the Office of Administrative Hearings, granted the Petition for Special Exception filed by Petitioner, to allow a church or other building for religious worship on property zoned RC-2, subject to certain proscribed conditions.
2. On February 16, 2018, Protestants filed an appeal of ALJ Beverungen's January 22, 2018 Order to the Board of Appeals ("Board"). Jurisdiction for this matter was thusly transferred to the Board.

3. On July 2, 2018, Timothy Kotroco, counsel for Petitioner, wrote to ALJ Beverungen to request clarification of his January 22, 2018 Order, specifically the restrictions contained therein as to whether it is appropriate to host a gathering event on the grounds of the subject property. This communication was necessitated by the ongoing efforts of the Protestants to prohibit any reasonable use of the property and any gathering thereon. Judge Beverungen replied to the letter, essentially stating that gatherings on the property were not prohibited by his Order.
4. On the fifth (5th) day of hearings before the Board in its de novo hearing regarding the appeal, Petitioner introduced the July 2, 2018 letter as Petitioner's Exhibit 34.
5. Petitioner introduced Exhibit 34 to rebut the allegation of Protestants that Petitioner conducted illegal activity on the subject property in violation of the January 22, 2018 Order.
6. The Board allowed, over Petitioner's objection, extensive evidence about the alleged illegal gatherings/use of the property. Although Petitioner respectfully believes that the Board erred in allowing evidence on this issue, in order to address/rebut the same, the Petitioner avers that the use of the property was not "illegal" and offered ALJ Beverungen' s response to the Kotroco letter as evidence thereof. Thus, in view of the Board's ruling, such letter is admissible and relevant evidence.

7. Any allegation of illegal conduct falls within the jurisdiction of the Baltimore County Code Enforcement Department rather than the Baltimore County Board of Appeals. Therefore, the issue presented by Protestants is improper.
8. The July 2, 2018 letter does not constitute an ex parte communication as that term is legally defined and applied.
9. Pursuant to MD Rules Judges, Rule 18-102.9(a), "A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge out of the presence of the parties or their attorneys, concerning a *pending or impending matter*..." (emphasis added).
10. As defined by Black Law's Dictionary (9th Ed. 2009) "pending" is: "Remaining undecided; awaiting decision."
11. Black Law's Dictionary does not define impending. As defined by Merriam Webster "impending" is: "to be about to occur." (downloaded January 29, 2019; https://www.merriam-webster.com/dictionary/impending).
12. ALJ Beverungen lost jurisdiction over the above referenced case upon Protestants' February 16, 2018 appeal. Thus, there was no matter before him when the letter was delivered.
13. Protestants' February 16, 2018 appeal vested the Board "with the exclusive power and jurisdiction over the subject matter of the proceedings, and the authority and control of the lower court with reference thereto is suspended." *Litty v. Becker*, 104 Md. App. 370, 374-75, (1995).

14. The July 2, 2018 letter does not constitute an ex parte communication because the communication did not concern a pending or impending matter as ALJ Beverungen lost jurisdiction over the above referenced case upon Protestants' appeal of ALJ Beverungen' s January 22, 2018 Order. Further, as noted above, having allowed Protestants' evidence alleging the illegal use of the property, the Board must allow rebuttal evidence to this allegation.

WHEREFORE, Petitioner respectfully requests that this Honorable Court deny Protestants' Motion to Strike Petitioner's Exhibit #34 As *Ex Parte*.

Respectfully Submitted,

Lawrence E. Schmidt
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070
lschmidt@sgs-law.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 15th day of February 2019, a copy of the foregoing Petitioner's Response to Protestants' Motion to Strike Petitioner's Exhibit #34 As Ex Parte was mailed, postage pre-paid, to:

Timothy M. Kotroco, Esquire
305 Washington Avenue
Suite 502
Towson, MD 21204

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21204

LAWRENCE E. SCHMIDT

Krysundra Cannington

From: Carroll Holzer <jcholzer38@gmail.com>
Sent: Friday, February 01, 2019 3:57 PM
To: Krysundra Cannington
Cc: Schmidt, Lawrence
Subject: Proposed List of Conditions
Attachments: Bonaparte conditions_2019_02_01_01_52_28_963.pdf

Mr. Garber
Attached is the list of Conditions you requested yesterday at our hearing.
If you have any questions, please let me know.
Very truly yours,

J. Carroll Holzer

Proposed List of Conditions
for the Operation of a House of Worship at 12231 Harford Road

Include language similar to the following regarding continuation of monitoring the conditions: The Gunpowder Falls Watershed Preservation Association (GFWPA), its successors and assigns, to hand off to another community group if necessary in the future, as well as the Nepali American Cultural Center, Inc. (NACCB) or any reincorporations or successors to NACCB, Inc. for the property at 12231 Harford Road.

- A place where 10-15 people a day can come to worship. Maximum 20 visitors per day with controlled entrance and verifiable count.
- No outdoor events, services, festivals, receptions, or fund raisers of any kind; no outdoor concerts or carnivals permitted on the grounds covered by this request. There shall be no outdoor loudspeakers, outdoor microphones, or outdoor pavilions (permanent or temporary, i.e. tents).
- No amplified sound from inside any building that can be heard from outside any building. No sound greater than 55 dB shall emanate from any boundary of the property except that associated with grounds maintenance.
- Use of the property for worship limited from dawn to dusk (or 8AM to 8PM).
- No food kitchen for use by visitors or for providing community assistance.
- No daycare or educational facility for yoga, language, cultural or other classes.

- Well/septic for a maximum of 50 people.
- Petitioner agrees to take corrective action up to and including the drilling of a new well on the Poehler property [12241 Harford Road] who (a) has a well meeting current well standards and (b) prior to construction of the development of 12231 Harford Road [NACCB, Inc. project] undertakes to establish a baseline of well usage and recharge through independent analysis and (c) gives NACCB, Inc. a copy of same and (d) can demonstrate a measurable degradation of that well due to the usage of the NACCB, Inc. well.

- Restrict all improvements to the existing footprint and purpose. Reclaimed buildings to be used only for their original purpose, other than the mansion. No other structures to be converted to a new use. Main building shall house only offices and areas required for worship; no classrooms or kitchen.
- No changes allowed to the exterior of the building such as erecting spires or towers. No changes to existing roof line, columns, or other exterior structures. Exterior features of the building must be maintained as is, except for code requirements and maintenance.

- No recreational facilities. Remove pool and remove volleyball/tennis/basketball court.
- Petitioner agrees to install an on-site water storage tank located underground or inside the building for on-site fire protection, as may be required by Baltimore County as part of its permit review.

- No architectural or landscape outdoor lighting. All lighting required by code to be approved will be limited to light standards limited to 20 feet in height, utilizing cut-off vs. flood lighting. Lighting will be turned off no later than 8 PM.
- Existing stone planter in existing entrance driveway to be retained as part of historic nature of the property and locale.
- Signage consistent with rural and historic nature of the property and locale (e.g. carved wood).
- No structure added to the property (e.g. windmills, cellphone towers, antennas, etc.) that will degrade the historic contribution of the property to the National Historic District.

- No LEFT EXIT out of the property; right turns ONLY. Vehicles shall travel northbound on Harford Road to the traffic circle to access MD 147 south. The driveway will consist of two lanes: one entrance lane; one exit lane directing traffic northbound ONLY.
- Headlight screening for Poehler property [12241 Harford Road] and Foxworthy property [6229 Bonaparte Avenue].
- No improvement to or use of the long-abandoned second entrance to the property, which is located south of the entrance on Harford Road. No additional entrances to be constructed anywhere on the property.
- Parking for 10 vehicles. No vehicle parking on grassy areas.
- All driveway/parking to be constructed as PERMEABLE surfaces.

- All new landscaping to be comprised of native plants as recommended by the Maryland Department of Natural Resources/Wildlife Heritage Services. This proscribes any use of non-native species (plants or animals).
- Regrading to control runoff onto Foxworthy Property [6229 Bonaparte Avenue].

- SHA Access Permit prior to any use of the property.

- Prior to allowing individuals into the building for any reason, Fire Department inspection, and remediation of all identified defects.

- Certificate of Occupancy prior to any use of the property.

- Protestants and their representatives can enter the property for inspection and verification purposes twice per year accompanied by the Resident Agent.
- Petitioners to place money in escrow or obtain a performance bond to execute equitable relief by Protestants.

- Provide a Certificate of Liability Insurance of $1 million per injury to protect members and guests.

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

January 30, 2019

AMENDED NOTICE OF ASSIGNMENT
As to time only

IN THE MATTER OF: Nepali American Cultural Center
12231 Harford Road
18-122-X 11th Election District; 5th Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 1A01.2.C.6 to allow a Church or other building for religious worship on property zoned RC-2.

1/22/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, subject to conditions.

Counsel has asked for three (3) additional hearing dates in the above referenced matter. We have scheduled an additional date to be used only in the event of inclement weather.

ASSIGNED FOR: **FEBRUARY 5, 2019, AT 9:00 A.M. – Day 10**
FEBURARY 13, 2019, AT 9:00 A.M. – Day 11

LOCATION: Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.
- Parties must file one (1) original and three (3) copies of all Motions, Memoranda, and exhibits (including video and PowerPoint) with the Board unless otherwise requested.
- Projection equipment for digital exhibits is available by request. A minimum of forty-eight (48) hours-notice is required. Supply is limited and not guaranteed.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington,
Administrator

c: Counsel for Petitioner : Timothy Kotroco, Esquire
Co-Counsel for Petitioner : Lawrence E. Schmidt, Esquire
Petitioner : Nepali American Cultural Center c/o Kris Ghimire

Counsel for Protestants : J. Carroll Holzer, Esquire
Protestants : DeWitt and Mary Clark, David Hartman, Dave Poehler, Morgan Miner, and Carol Shaw

John A. Motsco/Little & Associates, Inc.

Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Director/PAI
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Nancy West, Assistant County Attorney
Office of People's Counsel

IN RE:	PETITIONS FOR SPECIAL EXCEPTION (12231 Harford Road)	*	BEFORE THE
		*	BOARD OF APPEALS
11th Election District 5th Councilmanic District		*	FOR
		*	BALTIMORE COUNTY
Nepali American Cultural Center Legal Owner		*	
		*	Case No.: 2018-0122-X
		*	

* * * * * * * * * * * * *

PROTESTANTS MOTION TO STRIKE
PETITIONERS EXHIBIT #34 AS *EX PARTE*

DeWitt and Mary Clark, 12150 Harford Road, Glen Arm, Maryland 21057, ***David Hartman***, 12513 Regwood Road, Hydes, Maryland 21082, ***Dave Poehler***, 12241 Harford Road, Glen Arm, Maryland 21057, ***Morgan Miner***, 11946 Harford Road, Glen Arm, Maryland 21057, and ***Carol Shaw***, 7 Country Hill Court, Kingsville, Maryland 21087, Protestants by ***J. Carroll Holzer, Esquire***, in the above-captioned matter herewith file their Motion to Strike Petitioners Exhibit #34 as *ex parte* and say as follows:

1. Appellant/Protestants filed their first appeal to the Board by ***J. Carroll Holzer*** on February 16, 2018, and was given Case No.: 2018-0122-X.

2. The Board of Appeals held their first day of hearings on July 17, 2018.

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
FAX: (410) 825-4923

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JAN 17 2019
BALTIMORE COUNTY
BOARD OF APPEALS

3. At that hearing, the Nepali American Cultural Center read to the Board on the record, a portion of a letter from Mr. Kotroco to Administrative Law Judge Beverungen dated July 2, 2018 in which a Request for Clarification was rendered by the Administrative Law Judge relating to his previous Opinion in Case No.: 2018-0122-X.

4. Both the Kotroco letter and the Administrative Law Judge Opinion dated July 3, 2018 were *ex parte* communications by Counsel and the Administrative Law Judge. No copies to ***J. Carroll Holzer*** were shown on the letter and Opinion. I never received a copy of the letter as indicated by Counsel.

4.a. Petitioners knew or should have known that such an *ex parte* revision to a previous decision had no legal standing.

4.b. This *ex parte* revision changed the scope of the Administrative Law Judge's decision that resulted from the Hearing below.

1. It changed the Petitioner's Special Exception request from including the entire thirty (30) acre property to include only the existing main building.

2. It voided all conditions that applied to the entire property.
   a. Sound.
   b. Parking.
   c. Group size.

5. At this Board's first (1st) day of hearing, the letter was read by Counsel but ***not*** introduced as an exhibit. The letter was used to Deny Protestants Motion to Postpone the Board's hearing. The Protestants were required to obtain a copy of the

ex parte letter and Opinion by going to the Administrative Law Judge's office. That Office alleged they did not have a copy, but subsequently, provided it to the Protestants. Within thirty (30) days from July 3, 2018, a separate appeal to the *ex parte* Opinion of the Administrative Law Judge was taken to this Board.

6. On the fifth (5th) day of hearing before the Board, it was introduced by Petitioners as Petitioner's Exhibit 34, attached hereto.

7. Protestants believe the July 2nd and July 3rd Opinion of the Administrative Law Judge should be stricken from this Hearing record as a violation of *ex parte* procedure. Had Protestants received notice of the letter and subsequent Opinion, they could have requested an opportunity to participate before the Administrative Law Judge and answered the Request for Clarification. Protestants have been prejudiced by this *ex parte* failure.

8. Protestants are entitled relief from all actions and activities of the Petitioner that occurred as a result of this *ex parte* revision to the original Administrative Law Judge decision.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
J. CARROLL HOLZER, P.A.
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
jcholzer38@gmail.com
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of January, 2019, a copy of the foregoing Protestants Motion to Strike Petitioners Exhibit No. 34 was mailed first class, postage pre-paid to the following:

John E. Beverungen, Esquire
Administrative Law Judge
Office of Administrative Hearings
105 West Chesapeake Avenue
Suite 103
Towson, Maryland 21204

Timothy M. Kotroco, Esquire
305 Washington Avenue
Suite 502
Towson, Maryland 21204

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, Maryland 21204

J. CARROLL HOLZER, Esquire

C:\My Docs\Motions 2019\Clark – Pet Mot to Strike Pet Exh No 34 as *Ex Parte*- 1/15/19

TIMOTHY M. KOTROCO, Esq.
305 Washington Avenue, Suite 502
Towson, Maryland 21204
410-299-2943
Tkotroco@gmail.com

July 2, 2018

The Honorable John E. Beverungen
Administrative Law Judge for Baltimore County
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204

Re: Case No. 2018-0122-X, Petition for Special Exception
Request for Clarification of Your Order Dated January 22, 2018

Dear Judge Beverungen:

I write to you on behalf of my clients, the Nepali American Cultural Center and the zoning Order that you wrote approving the use of a building on their property for religious worship. The decision you wrote was dated the 22nd day of January, 2018 and a copy of that decision is attached hereto.

As you may know, some of the protestants who appeared at the hearing before you filed an appeal to the Board of Appeals and the case is currently pending before that agency. In the meantime, my clients have continued to repair the damage that has been done to the property by the local residents and continue to maintain the grounds, as they should.

At issue at this time is the language contained within your Order, specifically the seven restrictions located at the end of your approval. My clients have scheduled a fundraising event which is proposed to occur on the grounds of the subject property. These fundraising events are very important to the owners of the property as the repairs to fix the damage done to the property over the years has been extensive. This fundraising event is scheduled for July 29th to August 3rd, 2018.

I have attached to this letter a post that was taken from Facebook which advertises this event. As you are aware, social media, such as Facebook is an effective way to inform people of an event such as this fundraiser. Baltimore County Code Enforcement was provided a copy of that Facebook post by one of the protestants. Code Enforcement is attempting to assert that we cannot gather on our property because of the language of your restrictions contained within your Order. The fundraiser will be held outside on the property and not within the building. In fact, the building is not occupiable at this time as it still is not connected to water or sewer. It is however, anticipated that my clients will provide walking tours of the building to show the extensive improvements they have made to the property, of which they are very proud.

Petitioner's Exh. #34

Based upon this letter and the attachments hereto, I respectfully request your interpretation of your Order, specifically the restrictions contained therein as to whether it is appropriate for my clients to host this gathering event on the grounds of their property or whether such actions would violate the restriction you imposed upon them.

I have included a simple statement at the bottom of this letter for you to sign, should you deem it appropriate. Thank you for your time and consideration of this matter.

Very truly yours,

Timothy Kotroco

Timothy M. Kotroco

I understand the owners are proposing to host a gathering on the property July 29th through August 3rd, 2018. I also understand the Code Enforcement Bureau contends that the gathering would violate the terms and conditions of my January 22, 2018 Order granting special exception relief. I respectfully disagree and would note those conditions (as envisioned by BCZR section 502.2) related solely to the operations of a building for religious worship, which was the relief granted in the special exception case.

The owners are free to gather on their property so long as no religious activities are occurring within the subject building and all other permit requirements, if any, are satisfied. If this is the case, there is no violation of my Order. This owner should be treated no differently than any other citizen who wishes to host a party, a picnic or any other social event on their property.

7/3/2018
Date

John E. Beverungen, ALJ

TMK/mtk
Attachments

KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

January 22, 2018

Timothy M. Kotroco
305 Washington Avenue, Suite 502
Towson, Maryland 21204

RE: Petitions for Special Exception
Case No. 2018-0122-X
Property: 12231 Harford Road

Dear Mr. Kotroco:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: DeWitt Clark, 12150 Harford Road, Glen Arm, MD 21057
Morgan Miner, 11946 Harford Road, Glen Arm, MD 21057
Carol Shaw, 7 Country Hill Ct., Kingsville, MD 21087
Paul Koch, 12138 Harford Road, Glen Arm, MD 21057
Robin Beers, 12442 Jerusalem Road, Kingsville, MD 21087
Joyce Mason, 11813 Harford Road, Glen Arm, MD 21057

Darby Standiford & Ronald Standiford, 6415 Mt. Vista Road, Kingsville, MD 21087
Ginny Terhune, 404 W. Joppa Road, Towson, MD 21204
Stephen Brady, 6208 Banaparte Avenue, Glen Arm, MD 21057
Edward & Sharon Heimiller, 12702 Lee Ben Road, Kingsville, MD 21087
Peter Martin, 1954 Greenspring Drive, Timonium, MD 21093
Robert & Denise Smith, 6215 Bonaparte Avenue, Glen Arm, MD 21057
Ellen Hubbard, 7862 Oakdale Avenue, Rosedale, MD 21237
Mary C. Clark, 12150 Harford Road, Glen Arm, MD 21057
Philip Landefeld & David Hartman, 12513 Regwood Road, Hydes, MD 21084
Pat Garner, 12535 Merritt Avenue, Fork, MD 21051
TA Kneeshaw, 11 Kings Glen Ct., Kingsville, MD 21087
Joanne Foxworthy & Robert Shifflett, 6229 Bonaparte Avenue, Glen Arm, MD 21057
Joanne Marsh, 5714 Williams Road, Hydes, MD 21082
Patricia Foley, 6131 Glen Arm Road E, Glen Arm, MD 21057
Jeannette Kempske, 11748 Harford Road, Glen Arm, MD 21057
Barbara Yingling, 11744 Harford Road, Glen Arm, MD 21057
Rosemary Bronzert, 12517 Regwood Road, Hydes, MD 21082
Holly Hammond & Charles Bronzert, 10900 Harford Road, Glen Arm, MD 21057
Patti Thoorn, 6316 Hutschenreuter Road, Glen Arm, MD 21057
Ibby Fazzini, 12330 Long Green Pike, Glen Arm, MD 21057
Jim Shipley, 6801 Glen Arm Road East, Glen Arm, MD 21057
Joe Tiberi, 6041 Glen Arm Road East, Glen Arm, MD 21057
Dave Poehler, 12241 Harford Road, Glen Arm, MD 21057
Donna Carter, 5515 Williams Road, Hydes, MD 21082
Keith Reuling & Nancy Koerner, 12505 Regwood Road, Hydes, MD 21082
Mary Lou Wickham, 11752 Harford Road, Glen Arm, MD 21057
Lisa Vindiola, 11930 Harford Road, Glen Arm, MD 21057
Scott Striebinger, 18 Vista View Ct., Kingsville, MD 21047
Doug Honbarrier, 6219 Bonaparte Avenue, Glen Arm, MD 21057
Bernadette Poehler, 12241 Harford Road, Glen Arm, MD 21057
Donna Gillespie, 32 Edgemoor Road, Timonium, MD 21093

IN RE: PETITION FOR SPECIAL EXCEPTION (12231 Harford Road) 11th Election District 5th Council District Nepali American Cultural Center *Legal Owner*	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2018-0122-X

* * * * * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Exception filed on behalf of Nepali American Cultural Center, legal owner ("Petitioner"). The Special Exception was filed pursuant to the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow a church or other building for religious worship on property zoned RC-2.

Professional engineers John Motsco and Joe Caloggeri appeared in support of the petition. Timothy M. Kotroco, Esq. represented the Petitioner. Numerous citizens attended the hearing and objected to the request. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP), the Bureau of Development Plans Review (DPR), State Highway Administration (SHA) and the Department of Environmental Protection and Sustainability (DEPS). None of the reviewing agencies objected to the request.

The subject property is approximately 30.8 acres and is zoned RC-2. The property is improved with an historic single-family dwelling and several outbuildings. Petitioner purchased the property last year, at which time it was rundown and abandoned. Photographs submitted at the hearing reveal extensive vandalism to the property which occurred both before and after Petitioner purchased the property. Petitioner is in the process of renovating the property, and estimates that

at least 4-5 months of additional restoration work needs to be done before the property can be used by the congregation.

Special Exception

Doug Burgess, an attorney with a law office in the area, testified a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), wherein Maryland's highest court discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Mr. Motsco, a professional engineer accepted as an expert, explained the site plan in detail and said he has visited the property on several occasions. He testified the property is approximately 30.8 acres in size and is zoned RC-2. The witness noted the site has mature wooded buffers along all road frontages, and he testified Petitioner is not at this time proposing any new construction on the site. In conclusion, Mr. Motsco opined Petitioner satisfied each of the requirements set forth at B.C.Z.R. §502.1.

Several citizens testified in opposition to the proposal. Though each witness expressed concern with how the project may impact them individually, there were common themes in the testimony. Traffic conditions and roadway safety, and a concern for water wells and private sewage disposal, were the most frequently cited concerns. Many neighbors also complained about several events or gatherings at the site which generated a significant amount of noise. With the exception of the complaints about noise (which will be addressed in a condition included in the

final order), these concerns are inherent in the operation of a church or building for worship located in a rural area. In other words, most uses for which a special exception is required are regarded as "potentially troublesome because of noise, traffic, congestion...." *Montgomery County v. Butler*, 417 Md. 271, 297 (2010).

In rural zones especially roadways are often antiquated and overburdened, and water/sewer services are not provided by the County. Harford Road will be used to access the site, and as a state highway it is under the control and jurisdiction of the State Highway Administration (SHA). As Mr. Caloggeri (a professional engineer accepted as an expert) testified, the SHA, not Baltimore County, will examine the proposed access and determine whether improvements or other measures are necessary to ensure safe ingress/egress from the site.

As noted in the conditions below, Petitioner must obtain approval from Baltimore County for installation of well and septic systems for this property. Ronald Standiford, pastor of the adjacent Redeemer church, noted that the Christian school affiliated with the church has approximately 220 students and the well and septic system are sufficient. According to witnesses in Petitioner's case, far fewer people will visit this site on a daily basis, and thus there is no reason to believe the water supply and sewerage system would not be adequate.

THEREFORE, IT IS ORDERED this **22nd** day of **January, 2018,** by this Administrative Law Judge, that the Petition for Special Exception to allow a church or other building for religious worship on property zoned RC-2, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

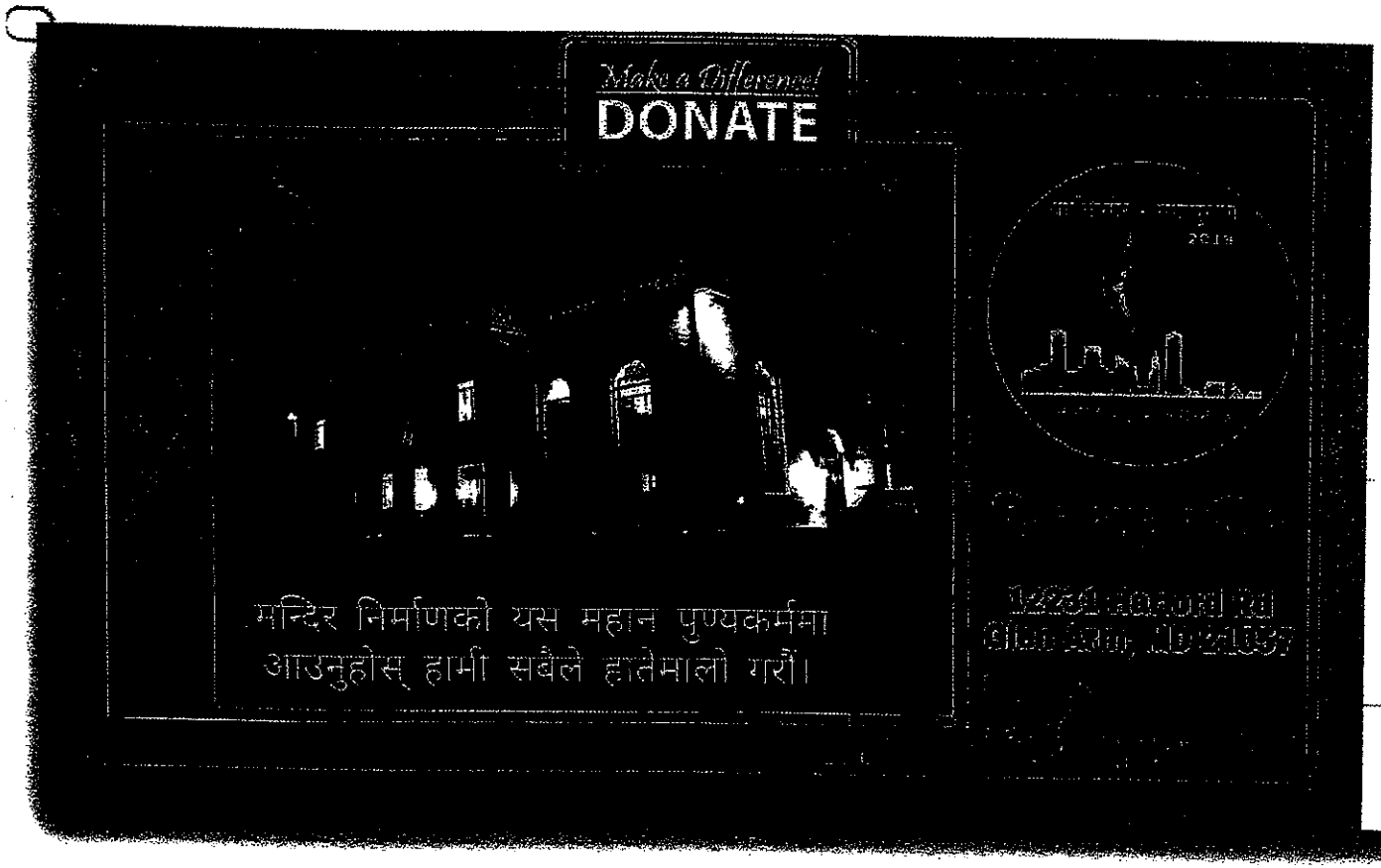
1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

2. Petitioner must submit for approval by Baltimore County landscape and lighting plans for the site.
3. Prior to operating a religious facility at the site Petitioner must install a sign at the Harford Road access point (in compliance with the B.C.Z.R. §450) containing the name of the facility and street address.
4. Prior to issuance of occupancy permits, Petitioner must demonstrate to DEPS that the well and septic system proposed will be sufficient to serve the facility.
5. Prior to issuance of permits Petitioner must comply with the ZAC comment of DEPS, a copy of which is attached hereto and incorporated herein.
6. Prior to issuance of permits Petitioner must obtain from SHA an access permit authorizing ingress and egress from the site via Harford Road.
7. Special events held at the site shall be limited to the hours of 10 a.m. to 10 p.m., and outdoor amplification of music or sound shall not be permitted.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln



Kris Ghimire
June 17 ·

Join us today at 6pm for the celebration! Two years later here is the transformation. Come and see for yourself...all the hard work our volunteers have put into it. The moment we have been waiting for

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57

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Rajan Tripathi Thank you volunteers!
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BALTIMORE COUNTY
BOARD OF APPEALS

IN RE: PETITIONS FOR SPECIAL EXCEPTION (12231 Harford Road)	*	BEFORE THE
	*	BOARD OF APPEALS
	*	FOR
11th Election District 5th Councilmanic District	*	BALTIMORE COUNTY
Nepali American Cultural Center Legal Owner	*	
	*	Case No.: 2018-0122-X
	*	

* * * * * * * * * * * * *

PROTESTANTS REPLY MEMO TO PETITIONERS RESPONSE TO MOTION TO ADMIT PROTESTANTS EXHIBITS #22 and #23

Protestants by ***J. Carroll Holzer, Esquire***, hereby replies to Petitioners response and says:

The only conclusion that can be drawn from Petitioners response is that it is entirely inadequate to the task and flawed throughout.

A. In its most basic purpose, the Petitioners response failed to counter the question posed by Chairman Garber: Does our Motion to introduce the police reports (Exhibits 22 and 23) fail to connect principal leaders, including the Resident Agent of NACCB, Inc. and members of the Community Center sponsored by this Corporation to the riots of January 28 and 29, 2018?

1. In fact, the Petitioners concede that these individuals ***were*** directly involved in the sponsorship and management of the Nepal Idol Concert and After Party that ended with said riots.

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This is despite Petitioners witness Ghimire's attempt to mislead the Board on this issue while under oath! Mr. Ghimire did so because he was aware this had serious 502.1 implications for this case.

2. Petitioners did not contest the overlap with those individuals found to be connected to the Nepal Idol Concert and After Party and those found on the sign-in sheets from these hearings as set forth in our Motion.

3. Petitioners did not contest that they were the same individuals.

4. The evidence establishes the fact that NACCB, Inc. has used and plans to use the subject property as a community center and recreation center.

B. Failing to mount an argument as discussed in section A. above, Petitioners suggest connections that are simply fantasy.

1. Petitioners paint Mr. Kneeshaw, the putative author of the police report that documented the January 28 and 29, 2018 riots, as a racist police officer.

a. Mr. Kneeshaw is ***not*** and never has served as a police officer in any jurisdiction.

b. Mr. Kneeshaw is ***not*** the author of the police reports.

c. Mr. Kneeshaw is ***not*** known to have any history of racist/ cultural/religious bias, is not known to have made any such statements in speech or written word, nor to have held membership in or support any organization that promotes such hatred and intolerance.

2. Petitioners create a fantasy that Mr. Kneeshaw made this report in an attempt to discredit the Nepali community of Baltimore.

a. All subsequent statements offered are rendered suspect by the mere fact that Petitioners never even bothered to confirm their assumption about Mr. Kneeshaw's status.

b. Petitioners provide absolutely no foundation for their alleged statements.

C. Petitioners introduce the specter of racial/ cultural/religious intolerance without foundation or any attempt to establish relevance.

1. Petitioners circular reasoning is obvious on its face ("no one would object to such a peaceful corporation;" "This is a putative religious organization;" "Therefore those objecting are intolerant").

2. Petitioners submit an argument that is a desperate attempt to introduce non-relevant factors into the case for some future legal attempt.

3. Protestants submit that this Board should reject those racial and religious arguments.

CONCLUSION

Protestants Exhibits #22 and #23 should be admitted into evidence by the Board.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
J. CARROLL HOLZER, P.A.
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on the 21st day of December 2018, a copy of the aforegoing Protestants Reply Memorandum to Petitioners Response to Motion to Admit Protestants Exhibits #23 and #24 was mailed first class, postage prepaid, to:

Timothy M. Kotroco, Esquire
305 Washington Avenue
Suite 502
Towson, Maryland 21204

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, Maryland 21204

J. CARROLL HOLZER, Esquire

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DEC 14 2018
BALTIMORE COUNTY
BOARD OF APPEALS

IN THE MATTER OF: Nepali American Cultural Center of Baltimore 12231 Harford Road	*	BEFORE THE
	*	BOARD OF APPEALS
11th Election District 5th Councilmanic Districts	*	OF
	*	BALTIMORE COUNTY
RE: PETITION FOR SPECIAL EXCEPTION	*	**Case No.: 2018-0122-X**
	*	

* *

Petitioner's Response to Motion to Admit Protestants' Exhibits 23 and 24

Nepali American Cultural Center of Baltimore, Petitioner, by Lawrence E. Schmidt and Smith, Gildea & Schmidt, LLC, hereby responds to the Protestants' Motion to Admit Protestants' Exhibits 23 and 24 and respectfully states:

As understood by the Petitioner, Protestants wish the Board to consider (as relevant evidence) two Police Reports published by the Baltimore County Police Department, involving incidents that occurred on January 28, 2018 (Prot. Ex. No. 22) and January 29, 2018 (Prot. Ex. No. 23), respectively.[1] According to Protestants' Exhibit 22, the Baltimore County Police Department (Officer Thomas A. Kneeshaw) responded to a disturbance at 8420 Belair Road (Baltimore County, Maryland) at 10:39 p.m. on January 28, 2018. The disturbance had occurred following a concert at that location. The nature of the disturbance was a fist fight between two adult males at the parking lot of St. Joseph's Church. One male involved (identified as Shree Man Sarki) was arrested. The other involved individual (unidentified) fled the scene when the police arrived.

[1] The Protestants' Motion incorrectly identifies the exhibits as numbered 23 and 24. According to the Board's log of exhibits, the exhibit numbers are actually 22 and 23.

Mr. Sarki was charged with several offenses associated with the skirmish, including assault, disturbance of the peace, etc. There is no indication in the police report (or in any subsequent exhibit offered by the Protestants) as to whether Mr. Sarki was tried and/or convicted of the chargers identified, or whether the charges were dropped or prosecuted. Thus, there is no indication in the information offered as to whether Mr. Sarki was guilty of any criminal offense and if he was ever so adjudged. As is well settled, the mere fact of an arrest is not evidence of criminal culpability.

The second exhibit (No. 23) relates to an event that occurred a couple of hours later (January 29, 2018 at 12:59 a.m.). At that time, the Baltimore County Police Department responded to a restaurant location (7927 Belair Road) to investigate a fight. Upon their arrival, the investigating officer states in his report that he encountered an individual of "Indian decent(sic)" identified as Budha Singh Tamang. Mr. Tamang was bleeding from his mouth and head. He had apparently been involved in a physical altercation. Mr. Tamang did not identify the individual with whom he had been fighting. Others present in the area also offered no identification. Mr. Tamang and his friends indicated that they "did not want Police help" and "wanted to drive home to Philadelphia." The Protestants offer these exhibits allegedly as relevant evidence of whether a church or other building used for religious worship should be approved via a special exception at 12231 Harford Road.

The concept of relevant evidence is codified in Maryland law and has also been addressed in numerous appellate decisions of the Maryland Courts. As stated in Maryland Rule 5-401, "'Relevant evidence means evidence having any tendency to

make the existence of any fact ***that is of consequence to the determination of the action*** more probable or less probable than it would be without the evidence." (emphasis added). Evidence is only admissible "...if it is relevant to the issues in the case and tends to either establish or disprove them." *Parker v. State*, 156 Md. App. 252 (2004). Evidence that is not relevant is inadmissible. Md. Rule 5-402. Further, Maryland Rule 5-403 provides: "Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of ***unfair prejudice, confusion of the issues***, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." (emphasis added).

That the Protestants offer this evidence in this land use case before the Board of Appeals is simply reprehensible. The "evidence" is prejudicial and has no probative value to resolving the issues in this case. It is irrelevant, immaterial and (by the application of any standard governing the admissibility of evidence) inappropriate. The "evidence" proves one thing and one thing only; that the Protestants who offer this evidence are motivated in their opposition by prejudice towards individuals of Nepali heritage and the Buddhist/Hindu faith.

The evidence is irrelevant for a number of reasons, including but not limited to the following:

1. The individuals named in the police reports (Shree Man Sarki and Budha Singh Tamang) are not parties to this case. The Petitioner is the Nepali American Cultural Center of Baltimore. Thus, these reports are not appropriate as evidence

of prior bad acts of the Petitioner and simply have nothing to do with the Petitioner.

2. There is no indication of any link between Messrs. Sarki and Tamang and the Petitioner. They are not officers, members, directors and/or employees of the Petitioner.

3. There is no indication that Messrs. Sarki and Tamang are even members of the congregation that would worship at 12231 Harford Road. To the contrary, Mr. Tamang apparently resides out of state, in Philadelphia, Pennsylvania.

4. The alleged involvement of Messrs. Sarki and Tamang in a fist fight has nothing to do with the issues presented in the instant matter and ultimate question to be decided; to wit, whether the proposed operation of a building to be used for religious worship at the subject property will be "detrimental to the health, safety and general welfare of the locale". (i.e. does the proposed special exception meet the requirements of BCZR § 502.1, the case law and other applicable requirements).

5. Apparently, there is some inference to be gathered that certain members of the Nepali American Cultural Center of Baltimore had "links" to a concert at St. Joseph's Church on the evening of the events described in the police reports. The simple response to this allegation is "so what?". That certain individuals associated with the Petitioner sponsored, attended, organized, etc. a concert at an off site location has nothing to do with the special exception request. Moreover there is no nexus between the individuals who sponsored and/or organized a

concert event at the church and a fight that occurred thereafter on the grounds or at a nearby restaurant.

6. As noted above, Exhibit 23 indicates that the individuals "involved" in the fracas outside the restaurant were of "Indian decent (sic)." India and Nepal are different countries. They share the common characteristic that both are located within the continent of Asia. Nonetheless, Protestants apparently infer that all "Asians" are lawless people who will do harm to their neighborhood. Protestants position is reminiscent of the days of Jim Crow in the Deep South; to wit, that all African Americans are criminals, lazy and thieves; who can't be trusted and certainly do not belong in certain areas of the County. Such is the position of the Protestants, that the Nepalese do not belong in (as stated on the tee shirts worn by many of the opponents at the Board's hearing) in "Our Valley."

7. Protestants assert, "(i)f this type of behavior in the police reports is indicative of the NACCB behavior on a property they *rented* (St. Joseph's Catholic Church Hall) what can the local community expect regarding their behavior on a property they *own* (12231 Harford Road?)" As noted above, the "behavior" was not by NACCB or anyone associated with it. Moreover, do the Protestants actually assert that behavior exhibited by young men attending a concert where alcohol is available will be the same behavior exhibited by individuals during worship? Apparently the Protestants contend that individuals who attend a

concert will act in the same manner as when they attend religious services. This attempted link is simply farcical.

In conclusion, the exhibits offered should not be accepted. This is not proper or appropriate evidence and provides no assistance to the Board (as the finders of fact) insofar as the actual issues presented in this case. That the evidence is even offered is unfortunate. It does nothing but to deepen the divide between the parties and perpetuate the Protestants' closed minded false stereotype of the Nepalese people. The Petitioner's urge the Board not alter its initial ruling sustaining Petitioner's objections to these exhibits. Such ruling would be consistent with the Board's other rulings in this case that evidence of unrelated activities by people of Nepalese descent is not proper evidence in this matter.

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600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070
lschmidt@sgs-law.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 14th day of December, 2018, a copy of the foregoing Petitioner's Response to Motion to Admit Protestants Exhibits 23 and 24 was mailed, postage pre-paid, to:

Timothy M. Kotroco, Esquire
305 Washington Avenue, Suite 502
Towson, MD 21204

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21204

LAWRENCE E. SCHMIDT

Board of Appeals of Baltimore County

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105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

December 13, 2018

NOTICE OF ASSIGNMENT
Additional Days

IN THE MATTER OF: Nepali American Cultural Center
12231 Harford Road
18-122-X 11th Election District; 5th Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 1A01.2.C.6 to allow a Church or other building for religious worship on property zoned RC-2.

1/22/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, subject to conditions.

Counsel has asked for three (3) additional hearing dates in the above referenced matter. We have scheduled an additional date to be used only in the event of inclement weather.

ASSIGNED FOR: **JANUARY 29, 2019, AT 9:00 A.M. – Day 8**
JANUARY 30, 2019, AT 9:00 A.M. – Day 9
FEBRUARY 5, 2019, AT 10:00 A.M. – Day 10
FEBURARY 13, 2019, AT 10:00 A.M. – Day 11

LOCATION: Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.
- Parties must file one (1) original and three (3) copies of all Motions, Memoranda, and exhibits (including video and PowerPoint) with the Board unless otherwise requested.

- Projection equipment for digital exhibits is available by request. A minimum of forty-eight (48) hours-notice is required. Supply is limited and not guaranteed.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington,
Administrator

c: Counsel for Petitioner : Timothy Kotroco, Esquire
Co-Counsel for Petitioner : Lawrence E. Schmidt, Esquire
Petitioner : Nepali American Cultural Center c/o Kris Ghimire

Counsel for Protestants : J. Carroll Holzer, Esquire
Protestants : DeWitt and Mary Clark, David Hartman, Dave Poehler, Morgan Miner, and Carol Shaw

John A. Motsco/Little & Associates, Inc.

Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Director/PAI
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Nancy West, Assistant County Attorney
Office of People's Counsel

IN THE MATTER OF:	*	BEFORE THE:
NEPALI AMERICAN CULTURAL CENTER 12231 Harford Road	*	BOARD OF APPEALS
	*	FOR
11th Election District 5th Councilmanic District	*	BALTIMORE COUNTY
	*	
RE: PETITION FOR SPECIAL EXCEPTION	*	Case No.: 18-122-X

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BALTIMORE COUNTY
BOARD OF APPEALS

* * * * * * * * * * * * *

MOTION TO ADMIT PROTESTANTS EXHIBITS 23 AND 24

Protestants request that the Board admit Exhibits 23 and 24 as evidence in this case, along with this motion and attached Appendices A – F. Protestants Exhibits 23 and 24 were entered for identification purposes only at the Board of Appeals hearing on October 23, 2018 as Baltimore County Police Report of 1/28/18 (Exhibit 23) and Baltimore County Police Report of 1/29/18 (Exhibit 24). Members of the Board and opposing counsel were provided copies of Exhibits 23 and 24 at the hearing on October 23, 2018.

As requested by Chairman Garber at the October 23, 2018 hearing, protestants are hereby submitting evidence to link members of the Nepali American Cultural Center, Inc. (NACCB) to the January 28 and 29, 2018 Police Reports. This Motion and the attached Appendices A – F document why Protestant's Exhibits 23 and 24 are relevant to the case and provide the rationale for admitting the Exhibits, Motion, and Appendices as evidence.

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FACTS

Appendix A shows the locations of the incidents described in the January 28, 2018 Police Report (Incident #1) and in the January 29, 2018 Police Report (Incident #2) on a Google Map, along with key details of each incident as described in Exhibits 23 and 24.

Incident #1 - January 28, 2018 at St. Joseph's Church Parking Lot

On January 28, 2018 there was a Nepal Idol Concert taking place at St. Joseph's Church Hall, located at 8420 Belair Road, from 5:30 p.m. - 11:00 p.m. At 22:39 hours (10:39 p.m.) a Baltimore County Police Officer responded to a call of a fight at St. Joseph's Catholic Church parking lot.

According to the police report, two (2) males were fighting and the officer tried to stop the fight. One individual involved in the fight attacked the officer and the subject was arrested and charged with Assault 2nd Degree on Police. Additional offenses cited in the police report include Disturbance of the Peace and Resisting Arrest. The other individual involved in the fight fled the scene. The officer reported that "I was confronted by a crowd closing in on me." It was reported that the large crowd numbered over one hundred (100) people. The report also states that inside the church hall, people were fighting and throwing bottles.

During the incident, back-up police units were called to the scene. The reports states "all drinking" and provided evidence for the statement. The report also states that "Several persons there laughed when ordered by myself and several other officers to disperse."

The report shows that twelve (12) police units responded to the incident at St. Joseph's Church parking lot.

Incident #2 - January 29, 2018 at Mount Everest Restaurant

On January 28 - 29, 2018 a Nepal Idol Concert After Party was held at Mount Everest Restaurant, located at 7927 Belair Road, from 11:30 p.m. to 1:45 a.m. Mount Everest Restaurant, a Nepalese restaurant, is located 1.4 miles south of St. Joseph's Catholic Church, the location of the Nepal Idol Concert. At 0059 hours (12:59 p.m.) a Baltimore County police unit was dispatched to the area around 7927 Belair Road for a possible fight.

The police report states that a large crowd was present and that a victim was found in the parking lot bleeding from his mouth and head. Additional back-up police units were called to the scene as well as a medic unit and fire engine. The victim did not want to provide the officer with information on who attacked him (the victim). The medic unit responding to the scene examined the victim and stated he had a broken jaw. The victim was transported to University of Maryland Shock Trauma in serious condition. The report also indicates a large knife was involved.

The report shows that eleven (11) police units, one medic unit, and one fire engine responded to the incident around Mount Everest Restaurant.

CONNECTION WITH THE APPLICANT NACCB

Appendix B provides a table titled **Hearing Attendees Directly Involved with Nepal Idol Concert in Baltimore on January 28, 2018.** Appendix B summarizes the connection between the Nepal Idol Concert and members of NACCB, based on the sign-in sheets from the January 17, 2018 Administrative Law Judge Hearing and from Days 1 – 6 of the Board of Appeals Hearings (July – November 2018).

Appendix C provides Facebook postings from January 2018 (see dates on attached postings):

- Facebook posting of the Nepal Idol concert advertising poster lists the event sponsors, including the only Platinum Sponsor--Ghimire Homes (see lower left corner)
- Facebook posting thanks a group of individuals associated with the Nepal Idol Concert, Baltimore
- Facebook posting acknowledges support and contributions received from Ghimire Homes Kris Ghimire and media partner Namlo Events

Appendix D provides the Eventbrite listing for ticket information for the Nepal Idol in Baltimore Concert and the Nepal Idol After Party. The dates, times, and locations of the Concert and After Party are listed in the Eventbrite announcement.

Appendix E provides the names of members of a Nepal Idol media partner, Namlo Events, from their website.

Appendix F provides photos from a YouTube video, "Nepal idol winner's program in baltimore usa," published on January 29, 2018. Note that this YouTube video was provided to the Board in the video library (See Disc A3, file DSC_7010). Also included in Appendix F are photos downloaded from the Nepal Idol Concert, Baltimore from the Namlo Events website.

Examination of the list of sponsors, media partners and individuals involved in the Nepal Idol Concert on January 28, 2018 shows that 11 members of NACCB matched the names listed in Appendices C, E, and F when compared to the following documents:

- Petitioner's sign-in sheet from January 17, 2018 Administrative Law Judge Hearing and list of witnesses
- Sign-in sheets from Board of Appeals Hearings, Days 1-6 for Petitioner's attendees, and list of witnesses (July - November, 2018)
- NACCB, Inc. Corporate Charter list of trustees, January 4, 2017
- One Application for NACCB Sign Use Permit submitted to Baltimore County on March 13, 2018 (NACCB member who signed permit form)

In conclusion, the above Appendices B, C, D, E, and F conclusively tie the hearing attendees in the hearing before this Board with the events held on January 28-29, 2018. Obviously therefore, Exhibits 23 and 24 should be entered into evidence by this Board.

RELEVANCE RELATED TO THE BOARD'S REQUIRED FINDINGS UNDER B.C.Z.R. §502.1

Introduction of the two police reports (Protestants Exhibits 23 and 24) as evidence in this case strongly relates to §502.1 criteria A (health, safety or general welfare) and C (hazard from fire, panic or other danger). The Exhibits, Motion, and Appendices clearly linking the police reports, Nepal Idol Concert and After Party to members of NACCB are not conjecture, but rather evidence that they have provided, or found on Facebook postings and websites of event organizers.

If this type of behavior demonstrated in the police reports is indicative of the NACCB behavior on a property they ***rented*** (St. Joseph's Catholic Church Hall), what can the local community expect regarding their behavior on a property they ***own*** (12231 Harford Road)?

The evidence clearly shows, as documented in the police reports, that NACCB is unable to control individuals attending events in which their members participated and helped organize. The disturbance did not happen just once, it occurred twice in connection with the Nepal Idol Concert and After Party.

Given that between 10,000 and 20,000 individuals of Nepalese descent reside in the greater Baltimore area, neighbors of 12231 Harford Road located in a rural agricultural R.C. 2 Zone are entirely justified in their concerns regarding health, safety and danger from the behavior of those attending NACCB events, as evidenced by the January 28 and 29, 2018 police reports.

CONCLUSION

In conclusion, the two police reports submitted as Petitioners Exhibits 23 and 24 should be admitted and relevant for consideration by this Board under §502.1, along with this Motion and Appendices A - F. The Board must weigh the evidence presented in these documents related to any Special Exception and any accompanying restrictions granted to NACCB regarding the subject property, and NACCB's willingness and ability to abide by the Board's decisions.

Furthermore, the evidence provided in these documents clearly indicates that Mr. Ghimire misrepresented the true facts of these incidents during his October 23, 2018 testimony and his testimony should be stricken.

Respectfully submitted,

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jcholzer38@gmail.com
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of November, 2018, a copy of the foregoing Motion to Admit Protestants Exhibits 23 and 24 was hand-delivered to the following:

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600 Washington Avenue
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Timothy M. Kotroco, Esquire
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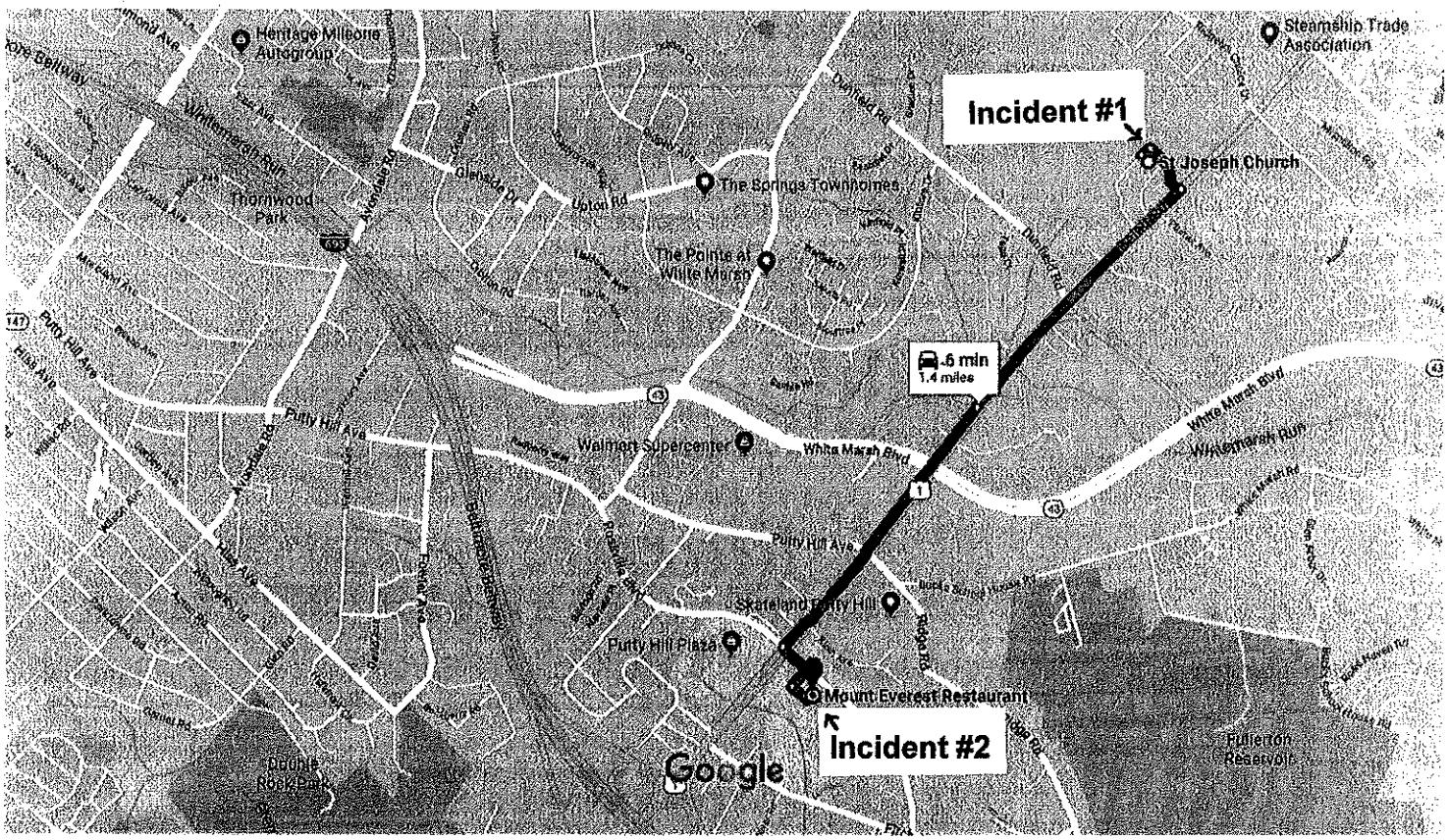
Towson, Maryland 21204

J. CARROLL HOLZER, Esquire

Appendix A

Google Maps St Joseph Church to Mount Everest Restaurant Drive 1.4 miles, 6 min



Incident #1 – Sunday, January 28, 2018

Police Incident No. 180281800

- Location: 8420 Belair Road (US-1), St. Joseph's Catholic Church Parking Lot
- Nepal Idol Concert in Church Hall, 5:30 pm – 11:00 pm
- Disturbance began at 2239 hours (10:30 pm)
- Police called for a fight
- 12 police units responded
- Offense: Assault 2nd degree on police; one arrest; other suspect fled the scene
- Other Offenses: Disturbance of the peace, resisting arrest
- Large crowd, over 100 people
- Transcript: "People fighting, throwing bottles, all drinking"

Incident #2 – Monday January 29, 2018

Police Incident No. 180290075

- Location: 7927 Belair Road (US-1), Mt. Everest Restaurant
- Nepal Idol Concert After Party, Mt. Everest Restaurant, 11:30 pm – 1:45 am
- Disturbance began at 0059 hours (12:59 pm)
- Police called for possible fight
- 11 police units, 1 medic unit, 1 fire engine responded
- Offense: Assault 2nd degree aggravated; suspect fled the scene
- Injury to victim: bleeding from mouth and head, broken jaw
- Victim transported to Univ. of MD Shock Trauma in serious condition
- Transcript: "Large group, over 20 people, large knife"

Hearing Attendees Directly Involved with Nepal Idol Concert in Baltimore on January 28, 2018

(See Appendix C for link to Nepal Idol Concert supporters)

Nepal Idol Affiliation/Name		Board of Appeals Hearing Dates												NACCB Trustee	Other
	ALJ	Day 1		Day 2		Day 3		Day 4		Day 5		Day 6			
		A	T	A	T	A	T	A	T	A	T	A	T		
Nepal Idol Platinum Sponsor Ghimire Homes, Kris Ghimire	X	X	X	X		X		X		X	X	X		X	**NACCB Resident Agent**
Acknowledged for Helping with Nepal Idol Events															
Keshav Acharya	X	X		X		X		X						X	**Submitted NACCB sign use permit to Baltimore County**
Hb (Harry) Bhandari		X													
Mahandra Deshar	X														
Shrijana Khanal	X	X													
Dhruba Onta	X														
Bijaya Shrestha	X														
Dilip Shrestha	X	X		X		X									**Nepal Idol event organizer**
Binod Uprety	X	X	X	X											
Nepal Idol Media Partner: Namlo Team															
Baikuntha Man Shrestha	X														
Bishal Man Shrestha	X														

KEY

ALJ – Administrative Law Judge Hearing, January 17, 2018
(Ghimire attended & testified; other X's = Petitioner attendees)

Board of Appeals Hearings, Day 1 – Day 6, July to November 2018
A – Attended hearing, signed in as Petitioner
T – Testified as Petitioner Witness

NACCB Trustee – based on NACCB, Inc. Corporate Charter, January 4, 2017

Protestant Exhibit

Appendix C

https://www.facebook.com/drsnrestha/posts/10155596074213509

Dilip Shrestha added a new photo.
January 31 at 10:41pm ·

We would like to express our sincere appreciation to all the friends, sponsors and media partners who made it to nepal idol concert taking out time from their hectic schedule . This event shouldn't have been such a success without your tremendous support.
We are with the people who believes that this event could have been better. We learned from our mistake and we will come back with better program in the future .
Last but not the least, shoutout to the centerpiece nishan bhattrai, pratap das and buddha lama who gave there hearts to make this event an indelible impression on everyone's memory.

At the end,
Special thanks to...
Sanosansar Hamrosansar (Shrijan Dai)
Punit Oz
Rav Sitaula
Ashok Upreti, Krish Upreti
Bikram Shrestha
Purna Singh Baraily
Shaiesta Pokhrel
Kriti Gyawali
Askina Shrestha
Dhiraj Budhathoki

1113
Like
Comment Share

DMV Events
January 24 at 2:50pm ·

Kris Ghimire - NACCB Trustee (in Corp. Charter)

Ghimire Homes being a leading real estate agency in Nottingham is also a proud PLATINUM SPONSOR for this event.

Check out this amazing Video put together by 12 Bucks Productions .!! Feel free to SHARE this post on your wall
Rav Sitaula

1111
Like
Comment Share
DMV Events
January 21 at 5:00pm ·

DMV Events would like to Thank Ghimire Homes for PLATINUM SPONSORSHIP. Buying a home is never an easy process but Ghimire Homes being one of the TOP Real Estate Agency in Nottingham is renowned for its Superb Reliable Customer Service and Top Level Consulting in the matters of Real Estate.
Check out their Website if you are considering Buying a Home this year
http://www.ghimirehomes.international/

Kshitiz Bhandari
Shimmire Homes, Kul Mani, Asha BaYung Raee, Niranjan Ravanajhi, Binod Uprety Shriiana Khanal, Dinesh Bhandari, Shakti Shrestha Mahendra Deshar, Pragun SthaDeeya Lakhe Simi Shrestha
Bijaya Shrestha Satish Chapagain Shiva Malla anu Anu Shrestha Onta Dhruba OntaSuresh Sapkota Suresh Stha Abin Manandhar Deepak Rijal nabin dai Keshav Acharya Kenchi Basnet Novan Stha Samrid Dhakal Aakash Bhandary Avishek Prasa Hb bhandari Pankaj Upadhyaya dhan b rai Sundar Khadka Nisha Bhandari

Thank you everyone...
Nepal Idol live in Concert, Baltimore Organizer,
Bishwo Kiran Thapa and Dilip Shrestha

Hearing Attendee
Submitted Sign Permit

https://www.facebook.com/drshrestha/posts/10155596074213509

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https://www.facebook.com/pg/dmvevents15/community/?ref=page_internal

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Send Message

Sanosansar Hamrosansar
January 26

#नेपालआईडलBALTIMORE #Promo #पहिलोनेपालआईडल2017 का बिजेता बुद्ध लामाका साथमा उपबिजेता निशान भट्टराई र प्रताप दास सहित स्थानीय कलाकारहरुको बेजोड प्रस्तुतिहरु सहितको भव्य कार्यक्रम #नेपालआईडलLiveInCONCERT यहि आउँदो जनवरीको २८ तारीख आइतबारका दिन हाम्रो यसै बाल्टिमोर शहरमा आयोजना हुने भएको छ। ...आउनुहोस् हामी सपरिवार जाऔं र कार्यक्रमलाई भव्य रुपमा सफल बनाऔं। नेपाली कला र कलाकारलाई माया गरौं।

organizers: DMV Events, Everest Entertainment, Bishwo Kiran Thapa, Dilip Shrestha,

#थप_जानकारीका_लागी,
https://www.facebook.com/events/195086254379666/?ti=cl

#अनलाइनटिकट का लागी यस लिंकमा सम्पर्क गर्नुहोस्।
https://www.eventbrite.com/e/nepal-idol-live-in-concert-bal...

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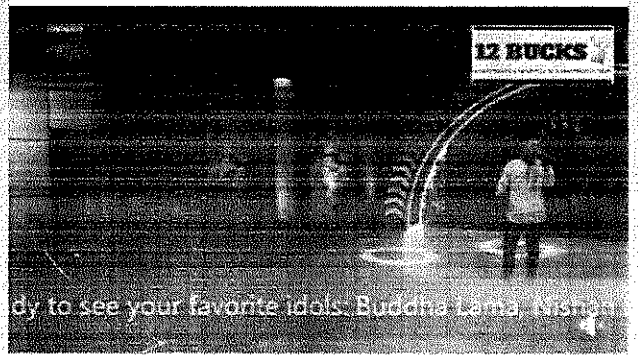
Platinum : Ghimire Homes, Kris Ghimire
Gold : Himalayan Tax And Accounting, Namaste Baltimore, Shakti Shrestha
Silver: Kul Mani, Mount Everest Restaurant, Butter Chicken Restaurant, Romas Carryout, Sizzling Bombay Authentic Indian Cuisine, Mt. Everest Groceries, Nick Ishwar Adhikari

#MediaPartners
12 Bucks Productions
C-MOS Creation
NAMLO
Sanosansar Hamrosansar
मेरिल्याण्डका हामी नेपाली "Maryland Ka Hami Nepali"

Performers
Askina Shrestha
Dinesh Bhandari
Pokhareli Crew
Kalpana Poudel
Sujay Shrestha
Srijan Tamrakar, Sri Jan
And The Nepal Idol Crew

See Translation



141 Total Likes | 143 Total Follows

Invite your friends to like DMV Events

Andrea Accolla — Invite
Jessica Lalita Pieters — Invite
Lauren Clark — Invite

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Chat (1)

Appendix D

DATE AND TIME

Sun, Jan 28, 2018, 5:30 PM –
Mon, Jan 29, 2018, 1:30 AM EST
Add to Calendar

LOCATION

St Joseph fullerton, Perryhall, MD, 21236
8416 Belair Rd, Nottingham, MD 21236-3019, United States
View Map

REFUND POLICY

No Refunds

DESCRIPTION

Nepal Idol 2017 is the first installment of a Nepalese reality television singing competition that is part of the Idols franchise created by Simon Fuller. Auditions for the show were held in seven Nepali cities, with contestants aged 16 to 30 participating. Nepal Idol is here with its first season in Nepal with three exceptional prodigies as our judges. The judges are Kali Prasad Baskota, Nhyoo Bajracharya and Indira Joshi.

After 5-month hunt for a singing sensation, fair and clear track of the talent and widest audience support, the Nepal's edition of Pop Idol franchise have officially announced Buddha Lama as first ever Nepal Idol from the grand finale that took place at Asian Two Amphitheatre, Grand Mall, Sanaya in Doha, Qatar.

Similarly, Nishan Bhattarai of Morang became First Runner Up while Pratap Das of Lalitpur got the tile of Second Runner Up.

DMV Events and Everest Entertainment Presents..

The Top 3 talents from Nepal Idol will be performing their first US TOUR concert in Baltimore on January 28th. Get ready to see your favorite idols.
1. Buddha Lama
2. Nishan Bhattarai
3. Pratap Das.
With the Best Nepali Idol Host, Sushil Nepal.

TAGS

Party Arts

DATE AND TIME

Protestant Exhibit _____

This event has ended.

SALES ENDED

JAN
28

Nepal Idol Live In Concert- Baltimore

by DMV Events and Everest Entertainment

$35 – $105

Nepal Idol Live In Concert- Baltimore
Sun, Jan 28, 2018, 5:30 PM – Mon, Jan 29, 2018, 1:30 AM EST

Sales Ended

DETAILS

Details

General Ticket

SALES ENDED

$35.00 + $4.01 FEE

After Party Will be hosted at Mt Everest Restaurant(7927 Belair Rd, Nottingham, MD 21236) From 11:30 PM TILL 1:45 AM. An after-party is a free entrance for Guests who hold Nepal Idol Ticket.

Hide Info

Meet and Greet

SALES ENDED

$60.00 + $5.39 FEE

Includes: General Admission, Meet and Greet.(6 PM TILL 11 PM) After Party Will be hosted at Mt Everest Restaurant(7927 Belair Rd, Nottingham, MD 21236) From 11:30 PM TILL 1:45 AM. An after-party is a free entrance for Guests who hold Nepal Idol Ticket.

Hide Info

VIP

SALES ENDED

$105.00 + $7.91 FEE

Include: Free Drinks all Night. Meet and Greet.(6 PM TILL 11 PM) Seating. After Party Will be hosted at Mt Everest Restaurant(7927 Belair Rd, Nottingham, MD 21236) From 11:30 PM TILL 1:45 AM. An after-party is a free entrance for Guests who hold Nepal Idol Ticket.

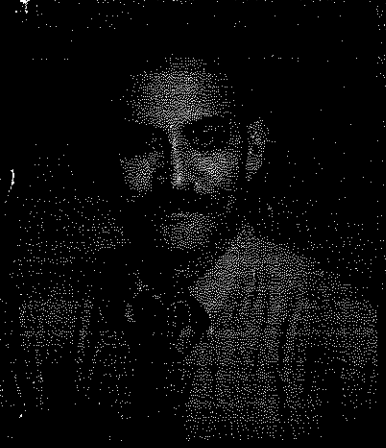
Hide Info

namloevents.com/#team

Online | P Breaking News & Top Amazon.com: Prime Bloomberg TV: Busi TuneIn Favorites [redacted]

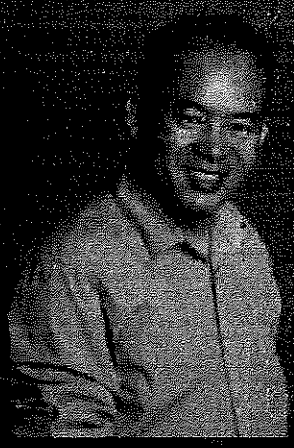
NAMLO TEAM

Namlo Events assembles a team of creative, talented people who really care about you and your event, all having different talents necessary to make it all work. That's the beauty of having a great team.



BIKRANT SHRESTHA
CEO/ARTIST/PHOTOGRAPHER

AMY E B SHRESTHA
MANAGING DIRECTOR/ARTIST/DESIGNER



DINESH GURUNG
DJ/MANAGING DIRECTOR

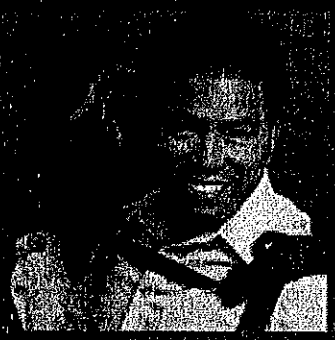
NADIM MAHARJAN
PHOTOGRAPHER

BISHAL MAN SHRESTHA
CINEMATOGRAPHER/ARTIST

BIPIN
PHOTOGRAPHER

ARJUN SUBEDI
CINEMATOGRAPHER

Protestant Exhibit _____



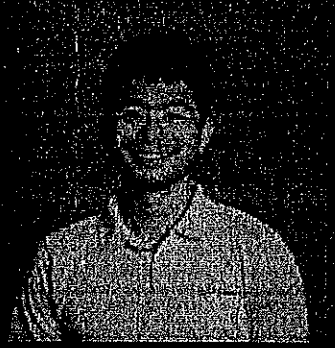
NADIM MAHARJAN
PHOTOGRAPHER

BISHAL MAN SHRESTHA
CINEMATOGRAPHER/ARTIST

BIPIN
PHOTOGRAPHER

ARJUN SUBEDI
CINEMATOGRAPHER

ANOJ
CINEMATOGRAPHER/EDITOR



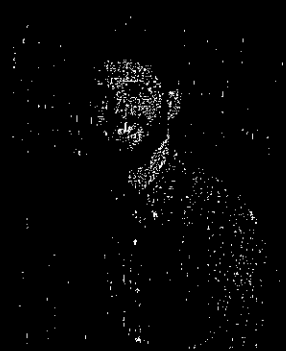
SWAROOP RANJEET
PHOTOGRAPHER

SUSHAN MANANDHAR
CINEMATOGRAPHER/EDITOR/WEB DESIGNER

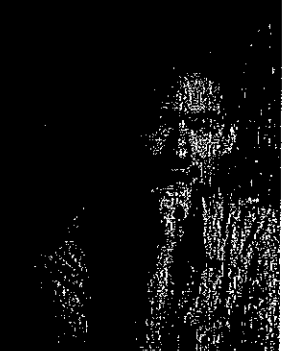
YOLANDA RECINOS
EVENT DESIGNER

BAIKUNTHA MAN SHRESTHA
ARTIST/CREATIVE ADVISOR

EDITH BUCKLER
ADVISOR



J. GRANT KNUD-HANSEN
PHOTOGRAPHER

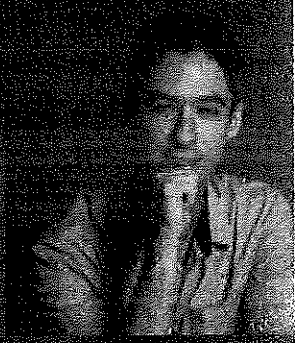


GABE DINSMOOR
CINEMATOGRAPHER

BAIKUNTHA MAN SHRESTHA
ARTIST/CREATIVE ADVISOR

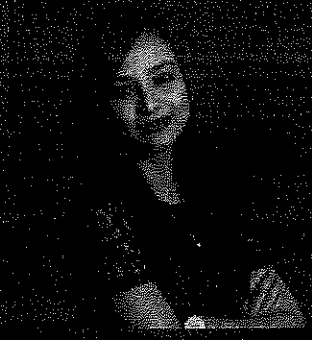
EDITH BUCKLER
ADVISOR

J. GRANT KNUD-HANSEN
PHOTOGRAPHER



GABE DINSMOOR
CINEMATOGRAPHER

MIKA J NAKO
ILLUSTRATOR/CREATIVE DESIGNER



RITIKA S MANANDHAR
ADVISOR

AACISS BADGAMI
PHOTOGRAPHER

ASHOK UPRETY
CINEMATOGRAPHER/PHOTOGR

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YouTube Search

Nepal idol winner's program in baltimore usa

1,321 views

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Shivam Mixup
Published on Jan 29, 2018

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Singer are partap das,nishan bhattrai,buddha lama and some local singer and dj
Video maker-shiva bhandari

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Nepal Idol
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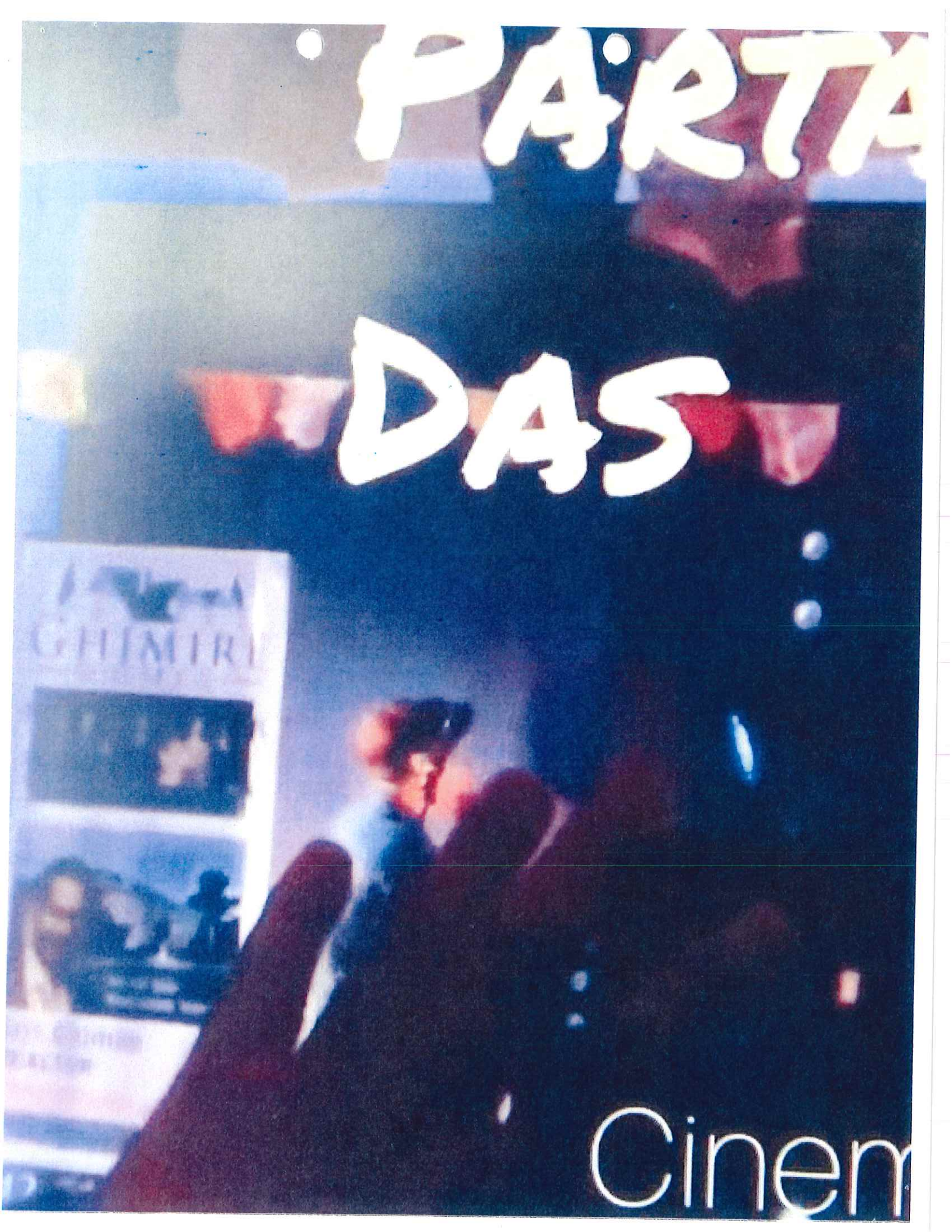
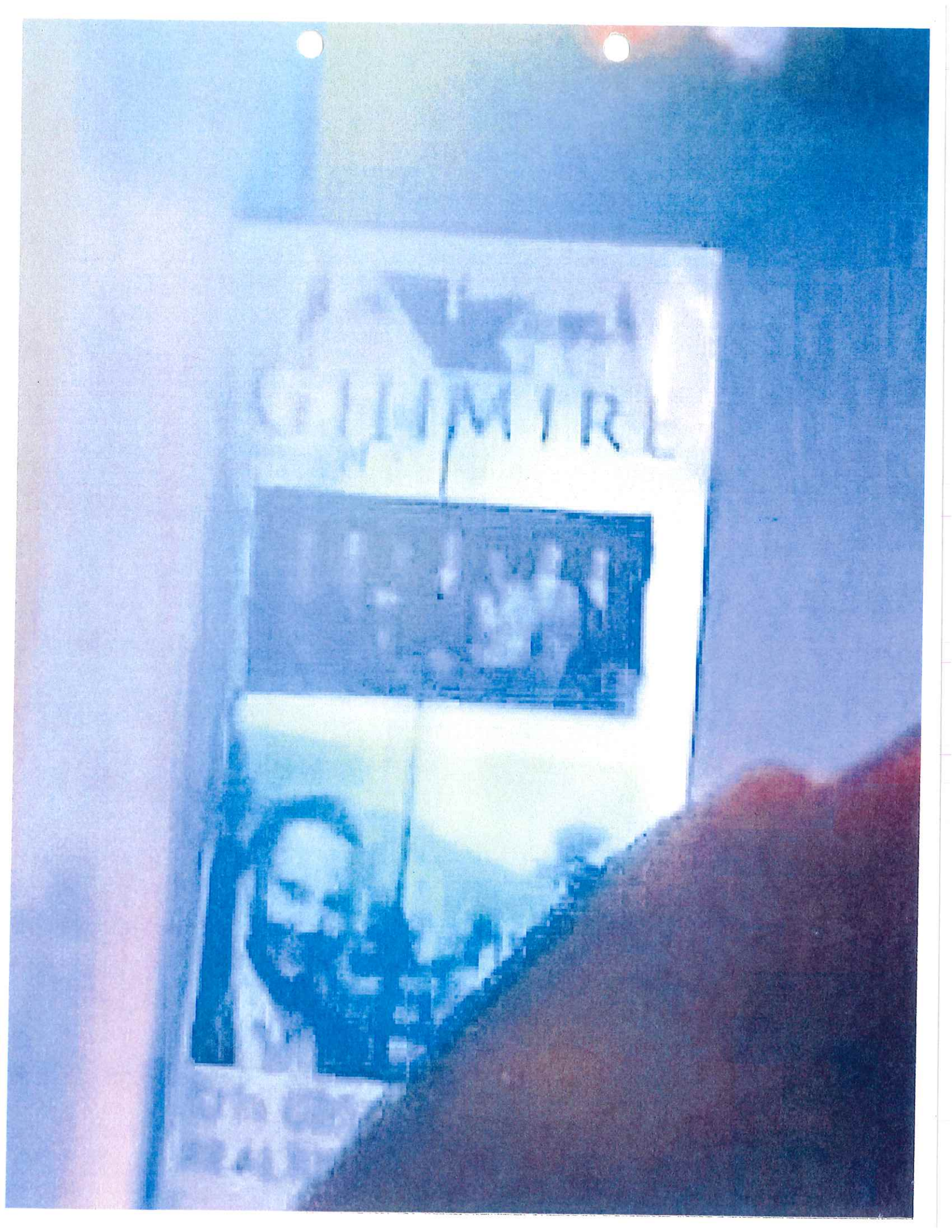
124K views

Nepal idol Budd...

Protestant Exhibit ____

Appendix F


PARTA
DAS
CHIMERA
Cinem



Namko

NACC-Nepal Idol-(just part)

Namlo EVENTS
Kris Ghimire
REALTOR

Namlo EVENTS

DMV Events shared Dilip Shrestha's post
January 31 at 10:44pm ·
https://www.facebook.com/drshrestha/posts/10155596074213509

Krysundra Cannington

From: Krysundra Cannington
Sent: Monday, November 26, 2018 3:24 PM
To: tkotroco@gmail.com; Lawrence Schmidt, Esquire; J. Carroll Holzer, Esquire (jcholzer38 @gmail.com)
Cc: 'Alyssa Moyers'
Subject: Nepali American Cultural Center 18-122-X

Good afternoon Counsel,

As you are aware, we have a hearing scheduled in the matter of the Nepali American Cultural Center, Case No: 18-122-X on Thursday, November 29, 2018 at 9:00 a.m. Please be advised the Board will be meeting to discuss procedural matters including the scheduling of additional dates, and the objections recently filed. The **Board will NOT be hearing any testimony or taking any evidence on Thursday**. Please advise your clients and witnesses as appropriate.

We kindly ask that you reserve your questions until Thursday and bring your calendars.

Thank you for your attention to this matter,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180
Fax: 410-887-3182

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J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
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THE 508 BUILDING
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TOWSON, MD 21286
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER38@GMAIL.COM

November 26, 2018
#8228

SENT VIA FIRST CLASS MAIL and HAND-DELIVERED

Ms. Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

RECEIVED
NOV 26 2018
BALTIMORE COUNTY
BOARD OF APPEALS

RE: *In the Matter of:* *Nepali American Cultural Center*
Property: *12231 Harford Road*
Case No.: *2018-122-X*

Dear Chairman Garber and Panel Members Murphy and Dopkin:

I have reviewed the correspondence from Mr. Schmidt dated November 19, 2018 regarding the admissibility of video evidence submitted to the Board on November 1, 2018 on behalf of my client, the Gunpowder Falls Watershed Preservation Association.

My response to the Board is provided in the order of the videos listed in Mr. Schmidt's November 19 letter. Note that Mr. Schmidt's reference to Discs does not match the evidence as submitted. I have referred to the Disc and file names (e.g., DSC_4992) correctly, below.

Note: Apparently Mr. Schmidt did not comprehend the explanation of the video library. All snippets are from the library and the first video of the folder in that library has the identifying information for all videos from that particular Facebook post.

There are several reasons why the video evidence should be admitted in this case:

1. The evidence relates to specific §502.1 criteria.

2. The evidence contradicts testimony provided by NACCB witnesses in the Board of Appeals hearings.

3. The evidence shows use of the property as a community center and/or recreation center, instead of a house of worship.

GOLD DISCS (snippets from library discs)

Disc A1

(These are the same videos on the USB submitted as Appendix 3 of the Preliminary Motion.)

The Preliminary Motion Appendices were already admitted for purposes associated with the Preliminary Motion. However, the three videos on Disc A1 also address the merits of the case as it relates to 502.1 criteria as well as contradiction of Petitioner witness testimony.

a. DSC_4992: This video of a large event at the subject property is relevant because it contradicts testimony provided by a NACCB witness in the Board of Appeals hearings (Mr. Ghimire). Note that the videos that follow the video at 12231 Harford Road were not meant to be submitted. The relevant video ends at 8:29.

b. DSC_5005: This video of a large event at the subject property contradicts testimony provided by a NACCB witness in the Board of Appeals hearings (Mr. Ghimire).

c. DSC_5006: This video is a continuation of the video in DSC_5005. The same rationale applies for the relevance of this video.

Disc A2 – Dash cams video footage--there was no objection

Disc A3

c. DSC_5006: See Disc A1, DSC_5005 above

d. DSC_6978: This promotional video about the subject property was not submitted for what was said in the video. The relevance of this video relates to use of the property as a community center and recreational center, and

contradicts testimony provided by a NACCB witness in the Board of Appeals hearings (Mr. Ghimire). It also provides evidence of marketing reach far from a regional audience and relates to 502.1 criteria A and B. Also, Mr. Schmidt admits this video has probative value.

e. DSC_6985: This video shows activities during a July 4th event at the subject property and is relevant because this video relates to use of the property as a community center, and contradicts testimony provided by a NACCB witness in the Board of Appeals hearings (Mr. Ghimire).

f. DSC_6986: This promotional video about the subject property was not submitted for what was said in the video. The relevance of this video relates to use of the property as a community center and recreational center, and contradicts testimony provided by a NACCB witness in the Board of Appeals hearings (Mr. Ghimire). It also provides evidence of marketing reach far from a regional audience and relates to 502.1 criteria A and B.

g. DSC_6988: This video of events during the July-August 2018 large event is relevant because it accompanies photo evidence to be presented, which contradicts testimony provided by a NACCB witness in the Board of Appeals hearings (Mr. Ghimire).

h. DSC_6989: This video of events during the July-August 2018 large event is relevant because it contradicts testimony provided by a NACCB witness in the Board of Appeals hearings (Mr. Ghimire).

i. DSC_6990: This video of a panel discussion by local officials and others is relevant because it shows use of the property as a community center.

j. DSC_6994: This promotional video about the subject property is relevant because it provides evidence of marketing reach far from a regional audience and relates to 502.1 criteria A and B.

k. DSC_7010: This video from the Nepal Idol concert in Baltimore on Januay 28, 2018 is relevant because it provides a link to the January 28 and January 29, 2018 police reports. This video also contradicts testimony provided by a NACCB witness in the Board of Appeals hearings (Mr. Ghimire). Further, this video relates to 502.1 criteria A and C.

l. DSC_7016: This video from the July-August, 2018 large event contradicts testimony provided by a NACCB witness in the Board of Appeals hearings (Mr. Ghimire). Further, this video relates to 502.1 criterion C.

Disc A4

a. DSC_7040A: This video from the July-August, 2018 large event contradicts testimony provided by a NACCB witness in the Board of Appeals hearings (Mr. Ghimire). Further, this video relates to 502.1 criteria A and G.

b. DSC_7040B: Continuation from video DSC_7040A; same rationale

c. DSC_7040C: Continuation from videos DSC_7040A and DSC_7040B. The footage in this video segment relates to 502.1 criteria A and C.

d. DSC_7040: This video from the July-August, 2018 large event contradicts testimony provided by a NACCB witness in the Board of Appeals hearings (Mr. Ghimire). Further, this video relates to 502.1 criteria A and G.

e. DSC_7042: This video from the July-August, 2018 large event contradicts testimony provided by a NACCB witness in the Board of Appeals hearings (Mr. Ghimire). Further, this video relates to 502.1 criterion G.

f. DSC_7045: This video from the July-August, 2018 large event contradicts testimony provided by a NACCB witness in the Board of Appeals hearings (Mr. Ghimire). Further, this video relates to 502.1 criteria C and G.

g. DSC_7047: This video from the July-August, 2018 large event contradicts testimony provided by a NACCB witness in the Board of Appeals hearings (Mr. Ghimire). Further, this video relates to 502.1 criterion G.

h. DSC_7057: Same video and rationale as Disc A3, file DSC_7010

k. MD Rt. 94 Dash cam: This video shows dash cam footage of a typical rural road on Baltimore County, compared to the winding road with blind curves around the subject property. The video relates to 502.1 criteria B and C. Further, the video footage contradicts testimony provided by a NACCB witness in the Board of Appeals hearings (Mr. Caloggero).

White Discs

REC CENTER 1-14: The videos are relevant because they provide evidence of use of the property as a community center and recreation center and relate to 502.1 criteria A and G.

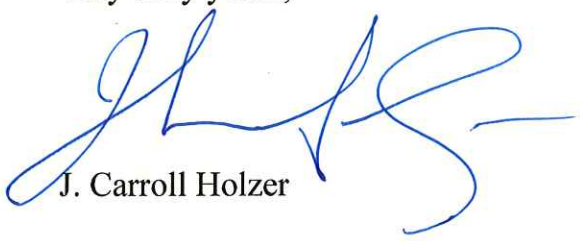
FB VIDS 1-15: These have the complete videos from which the snippets were taken, including the authentication information. See documentation provided above for the relevance of the video snippets included on Discs A1, A3, and A4.

CONCLUSION

The evidence provided on these video discs is *pri*marily evidence provided by NACCB, with the exception of the dash cam footage. This primary evidence shows that NACCB members and their actions have exceeded what they are stating under oath at the Board of Appeals hearings. Much of the video evidence is relevant to a cultural center or recreational center and not a house of worship.

Finally, the evidence impeaches the testimony of the NACCB witnesses. This is relevant to the Board as they determine whether to believe all of the NACCB testimony in this case.

Very truly yours,



J. Carroll Holzer

JCH: mlg

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that on this 26th day of November, 2018, a copy of the aforegoing letter was mailed, postage pre-paid to the following:

Timothy M. Kotroco, Esquire
305 Washington Avenue
Suite 502
Towson, Maryland 21204

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, Maryland 21204

J. CARROLL HOLZER, Esquire

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI

LAUREN D. BENJAMIN
MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH
CARMELO D. MORABITO
SARAH A. ZADROZNY
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
MARY G. LOKER
STEPHEN J. NOLAN
*Admitted in MD, FL, PA

November 19, 2018

Sent Via Email and First Class Mail
Board of Appeals of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

RECEIVED
NOV 20 2018
BALTIMORE COUNTY
BOARD OF APPEALS

Re: In the Matter of: Nepali American Cultural Center
Property: 12231 Harford Road
Case No. 2018-122-X

Dear Chairman Garber and Panel Members Murphy and Dopkin:

I have had the opportunity to review the video discs offered into evidence by Mr. Holzer on behalf of his clients in the above matter. Pursuant to your instructions, I am submitting this correspondence to set out my view (on behalf of the Petitioner, Nepali Cultural Community of Baltimore), regarding this evidence and its admissibility in these proceedings. In the interest of brevity and to make my position as clear and simple as possible, I am setting out my position in the form of this letter with a copy to Mr. Holzer, counsel for the Protestants.

The discs submitted are offered in two sets. One such set is four gold colored discs, which I understand are essentially the "highlights" of the presentation. I will address those first.

1. Disc A1 contains three folders. They are :
   a. Disc 4992 contains what appears to be one of the fundraising events on the subject property. It appears to have been taken from a Facebook post. As is the case with many of these videos, it is a film of a computer screen. I technically object to its admission as to relevance, lack of foundation and authenticity. The events depicted are indicted not authenticated. However, I do appreciate that it shows the property and building and from that standpoint may have some value to the Board. Just as any property owner may host a gathering on their property (family picnic, Christmas party, political fundraiser, etc.) my clients may do so at this site for so long as they are compliant with all applicable laws. If there is a question as to an event's propriety, it is a matter for the Code Enforcement Office in Baltimore County. But

videos of these events are not germane to the ultimate issue in this case. After minutes of the Facebook posts of the fundraising event, there are then series of speeches of what appear to be priests or other Nepalese religious leaders. These interviews were not conducted on the property. The individuals are speaking the Nepalese language. I object to the relevance of these interviews and therefore object to this portion of the video. The final portion of the video is of a little girl talking to her parents. It appears that they are teaching her the Nepalese language. That the Protestants even offer this as evidence is simply outrageous. That they present this family video to express opposition to the proposal is entirely inappropriate. I object to this.

b. Disc 5005 contains a lengthy video (apparently taken from Facebook posts) of one of the Fundraisers at the property. Again, the date is unknown. There are numerous interviews of individuals at the event. They are all speaking Nepalese. I do not know what they are saying. If these remarks are to be used as evidence, then I think it required (as would be the case in a court) that the Protestants provide a translation of what is being said. To the extent that the video shows the property, it might have some probative value to the Board. Beyond that, I do not know its relevance. I incorporate my comments hereinabove.

c. Disc 5006 is more of the same. There is a video of one of the Fundraisers. There are interviews of attendees. They are speaking Nepalese. I would have the same position as expressed above. At the end of this Disc there is a 30 second clip of a mother and father cat "hugging" a kitten with the subtitle, "one of the most adorable scenes on the internet." I frankly have no idea of why this is included or what this is intended to show. To the best of my knowledge, the Hindu and Buddhist religions do not use cats as part of their religious worship.

2. Disc A2 contains eleven different scenes of Dash CAM video footage. To the extent that it depicts the relevant neighborhood, then I do not object. It is not clear as to where these videos were taken. Some of the areas (e.g. the entrance to the property, the traffic circle to the north) are readily identifiable, speak for themselves and are not objectable. Other scenes are simply rural type roads. I am assuming they are all nearby and in the vicinity, but it is not clear.

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   a. There are two entries, both labeled CAM 10.20180728_111501. They appear to video taken in July 2018 from a stationary camera across from the entrance to the property. I have no objection to these.

b. Disc 4933. This is video from Mr. Clarke's front yard, date not shown. It is similar (or the same) as the video shown in the hearing. I do not object.

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d. Disc 6978. This is another video from a fundraiser on the property. There are women dressed in the traditional Nepalese garb. There are interviews with numerous attendees. Everyone is speaking Nepalese. If these remarks are to be used as evidence, then I think it required (as would be the case in a court) that the Protestants provide a translation of what is being said. I have the same objections as above.

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h. Disc 6989. More of the same. More Nepalese women in traditional garb. More interviews with people speaking Nepalese. I have the same objections as above.

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Nepalese immigrants are thankful to be in the United States and appreciative of the opportunities that our democratic system provides them.

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2. Rec Center 1 through 14. These videos are much the same as in the gold "highlight" videos. Scenes from the fundraisers on Facebook, interviews (all spoken in Nepalese), miscellaneous videos of priests and other off site activities. I object to all of these for similar reasons set forth above.

3. FB VIDS 1-15. These videos are much the same as in the gold "highlight" videos. Scenes from the fundraisers on Facebook, interviews (all spoken in Nepalese), miscellaneous videos of priests and other off site activities. I object to all of these for similar reasons set forth above.

4. Dash Cam 1 (2 videos) the first from the deck and the second a dash cam (No objection)

In summary, I do not object to videos showing traffic conditions on nearby roads, traffic conditions at the entrance to the site, and conditions at or near the property (i.e. Mr. Clark's yard). My client acknowledges that it has had two events for fundraising at the property in the nearly two years that it has owned the site. I object to the relevance of the videos of those, except those that depict the physical condition of the property. The official activities related to the practice of Hinduism and Buddhism, the interviews with priests, the interviews in foreign language and events not on the property are all objectable.

Very truly yours,

Lawrence E. Schmidt

LES/amf
cc: Timothy M. Kotroco, Esquire
J. Carroll Holzer, Esquire

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI

LAUREN D. BENJAMIN
MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH
CARMELO D. MORABITO
SARAH A. ZADROZNY
of counsel:
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*Admitted in MD, FL, PA

November 19, 2018

Sent Via Email and First Class Mail
Board of Appeals of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

RECEIVED
NOV 19 2018
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BOARD OF APPEALS

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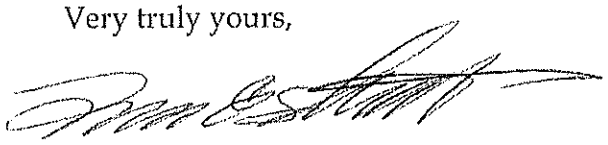

Lawrence E. Schmidt

LES/amf
cc: Timothy M. Kotroco, Esquire
J. Carroll Holzer, Esquire

Krysundra Cannington

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Monday, November 19, 2018 2:08 PM
To: Krysundra Cannington
Cc: tkotroco@gmail.com; Lawrence Schmidt; J. Carroll Holzer, Esquire (jcholzer38 @gmail.com)
Subject: RE: Nepali American Cultural Center 18-122-X
Attachments: Letter to BOA identifying objections to CDs introduced.PDF

Sunny –

Based on the dates provided, Petitioners' are available December 18 and 19 and January 7th and 9th .

Thanks.

- *Alyssa*

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

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Please consider the environment before printing this email.

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Friday, November 16, 2018 9:19 AM
To: tkotroco@gmail.com; Lawrence Schmidt; J. Carroll Holzer, Esquire (jcholzer38@gmail.com)
Cc: Alyssa Moyers; Tammy Zahner; marycc421@gmail.com
Subject: Nepali American Cultural Center 18-122-X Additional Dates

Good morning,

The following dates are currently available on the Board's calendar: December 18, 19, January 3, 7, 9, 11, 14, 16, 18, 22, 23, 25, 29, 30, and 31.

Please advise as to which dates work best for you.

Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue

Krysundra Cannington

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Monday, November 19, 2018 2:04 PM
To: Krysundra Cannington; tkotroco@gmail.com; Lawrence Schmidt; J. Carroll Holzer, Esquire (jcholzer38@gmail.com)
Cc: marycc421@gmail.com; Tammy Zahner
Subject: RE: Nepali American Cultural Center 18-122-X
Attachments: Letter to BOA identifying objections to CDs introduced.PDF

Sunny,

Attached please find a letter on behalf of Petitioner's identifying objections to Protestant's CD exhibits.

- *Alyssa*

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

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Please consider the environment before printing this email.

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Friday, November 16, 2018 1:08 PM
To: tkotroco@gmail.com; Lawrence Schmidt; J. Carroll Holzer, Esquire (jcholzer38@gmail.com)
Cc: Alyssa Moyers; marycc421@gmail.com; Tammy Zahner
Subject: Nepali American Cultural Center 18-122-X

Counsel,

Just a reminder: It is my understanding Petitioners have until Monday, November 19th, to file something regarding Protestant's CD exhibits. It is also my understanding Protestants have until Monday, November 26th, to respond. Please note, any filings must be received in this office no later than 3:00 p.m. on their due date.

Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180

Tammy Zahner

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Monday, November 19, 2018 2:04 PM
To: Krysundra Cannington; tkotroco@gmail.com; Lawrence Schmidt; J. Carroll Holzer, Esquire (jcholzer38@gmail.com)
Cc: marycc421@gmail.com; Tammy Zahner
Subject: RE: Nepali American Cultural Center 18-122-X
Attachments: Letter to BOA identifying objections to CDs introduced.PDF

Sunny,

Attached please find a letter on behalf of Petitioner's identifying objections to Protestant's CD exhibits.

RECEIVED
NOV 19 2018
BALTIMORE COUNTY
BOARD OF APPEALS

- *Alyssa*

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

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Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180

Fax: 410-887-3182

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CONNECT WITH BALTIMORE COUNTY

www.baltimorecountymd.gov

Krysundra Cannington

From: Marycc421 <marycc421@gmail.com>
Sent: Monday, November 19, 2018 7:43 AM
To: Krysundra Cannington
Subject: Re: Nepali American Cultural Center 18-122-X Additional Dates

Thank you, Sunny. I will check these dates with Mr. Holzer's office.
Mary

On 11/16/2018 9:19 AM, Krysundra Cannington wrote:

> Good morning,
>
> The following dates are currently available on the Board's calendar: December 18, 19, January 3, 7, 9, 11, 14, 16, 18, 22, 23, 25, 29, 30, and 31.
>
> Please advise as to which dates work best for you.
>
> Thank you,
>
> Sunny
>
> Krysundra "Sunny" Cannington
> Administrator
> Board of Appeals of Baltimore County
> The Jefferson Building, Suite 203
> 105 W. Chesapeake Avenue
> Towson, MD 21204
> Phone: 410-887-3180
> Fax: 410-887-3182
>
> Confidentiality Statement
>
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CONNECT WITH BALTIMORE COUNTY

www.baltimorecountymd.gov

Krysundra Cannington

From: Krysundra Cannington
Sent: Friday, November 16, 2018 9:19 AM
To: tkotroco@gmail.com; Lawrence Schmidt, Esquire; J. Carroll Holzer, Esquire (jcholzer38 @gmail.com)
Cc: 'Alyssa Moyers'; Tammy Zahner; 'marycc421@gmail.com'
Subject: Nepali American Cultural Center 18-122-X Additional Dates

Good morning,

The following dates are currently available on the Board's calendar: December 18, 19, January 3, 7, 9, 11, 14, 16, 18, 22, 23, 25, 29, 30, and 31.

Please advise as to which dates work best for you.

Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180
Fax: 410-887-3182

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Tammy Zahner

From: Tammy Zahner
Sent: Tuesday, October 30, 2018 12:19 PM
To: 'marycc421@gmail.com'
Subject: RE: Nepali
Attachments: Exhibit Lists Days 1-5.pdf

Mary,

Attached are the Exhibits lists for Days 1-5.
Please let us know if you have any questions.

Tammy A. Zahner, Legal Secretary
Board of Appeals of Baltimore County
Second Floor, Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3180
(410) 887-3182 (Fax)

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From: Marycc421 [mailto:marycc421@gmail.com]
Sent: Monday, October 29, 2018 4:22 PM
To: Tammy Zahner <tzahner@baltimorecountymd.gov>
Subject: Re: Nepali

Tammy,
Would you be able to email me the updated list of Exhibits for this case?
Thanks,
Mary

On 10/24/2018 1:58 PM, Tammy Zahner wrote:

> Mrs. Clark:
>
> Pursuant to your request, attached is a copy of the sign-in sheet for October 23, 2018.
> Please let us know if you have any questions.
>
> Tammy A. Zahner, Legal Secretary
> Board of Appeals of Baltimore County
> Second Floor, Suite 203
> 105 West Chesapeake Avenue
> Towson, Maryland 21204

(410) 887-3180
(410) 887-3182 (Fax)

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www.baltimorecountymd.gov

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 11/01/2018

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
MARCIA BARTON	11909 WOODBERRY PL	KINGSVILLE 21087	mabarton@sbcglobal.net	☒	☐	☐
KRIS Ghimire	5048 Springhouse Cir	Ellicott 21227		☒	☒	☐
SHYAM KARKI	19 Longknall Way	Kingsville, MD21087	nepal1975@yahoo.com	☒	☐	☐
[illegible]		BALTIMORE MD		☒	☐	☐
Deepak Sharma	4325 Penn Ave			☒	☐	☐
Rajan Dhakal	16 Ayr Ct	Nottingham MD 21236	rjdhakalji@gmail.com	☒	☐	☐
Rajni Sharma	16 Ayr Ct.	Nottingham MD21236		☒	☐	☐
Sharmila	3699 Perry Hall Rd	21234	sharmilakcpu@gmail.com	☒	☐	☐
Dinesh Subedi			[illegible]	☒	☐	☐
Jasmin Subedi				☒	☐	☐
Jyoti Ranabhat				☒	☐	☐
Uma Ranabhat				☒	☐	☐
Pearl (moti) Regmi	8296 Berryfield Dr	Nottingham, MD21236		☒	☐	☐
Kumar Karki	4401 Cottington Rd.	Nottingham MD21236		☒	☐	☐
Vimesh Manandhar	8631 Weather blvd	Nottingham MD 21236		☒	☐	☐
Man K. Shrestha	8243 Berryfield dr.	Nottingham MD 21236		☒	☐	☐
Shalik Wagle	4325 Cottington Rd	"		☒	☐	☐

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 11/1/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
Ring KC	413 Lansbeth Bridge Ct	Lutherville MD		☐	☐	☐
"	Dhimdi Pangni	"		☐	☐	☐
Shreejan Tamang	6676 Collingdale Rd	Perryville MD		☒	☐	☐
Mary Clark	12150 Harford Rd	Glen Arm, MD		☐	☑	☐
Dewey Clark	12150 Harford Rd	Glen Arm, MD		☐	☑	☐
Joyce Mason	11813 Harford Rd	Glen Arm MD		☐	☑	☐
				☐	☐	☐
				☐	☐	☐
				☐	☐	☐
				☐	☐	☐
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Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 10/23/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
CARL SHAW	PO Box 36	FORK, MD 21051		☐	☒	☐
Joanne Foxwortly	6229 Bonaparte Ave.	Glen Arm MD 21057		☐	☒	☐
JOYCE Mason	11813 Harford Rd	Glen Arm, MD 21057		☐	☒	☐
ROBIN BEERS	12442 JERUSALEM RD	KINGSVILLE, MD 21087		☐	☒	☐
Danny Clark	12150 Harford	21057		☐	☒	☐
Mary Clark	12150 Harford	21057		☐	☒	☐
ELLEN HUBBARD	7862 OAKDALE AVE	ROSEDALE MD 21237		☐	☒	☐
MARCIA BARTON	11909 WOODBERRY PLACE	KINGSVILLE, 21087		☒	☐	☐
[illegible]				☒	☐	☐
Ken Ghimire	8047 Springhouse Cir	Rosedale 21237		☒	☐	☐
krishna Chhetri	3705 perryhall Rd	Perryhall 21128		☒	☐	☐
Jyoti Ranabha				☒	☐	☐
Morgan Miner	11946 Harford Rd.	21057		☐	☒	☐
Balaram Paudel	11 WINTHROP ET TOWSON - 21204			☐	☐	☐
Dinesh Subedi				☐	☐	☐
Jasmine "				☒	☐	☐
Dipendra Bhatta				☐	☐	☐
Rajn Sharma	16 Ayr Ct.	Baltimore 21236		☐	☐	☐

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 10/23/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
BIJAYA SHRESTHA	6717 DOUGLAS FOREST RD			☐	☒	☐
BILL SWIFT	12 VISTA VIEW CT	KINGSVILLE 21087		☐	☒	☐
Rajy Parajuli	9 Gunfalls Garth	Nottingham 21236		☑	☒	☐
Man Shrestha	8243 Berryfield Drive	Nottingham 21236		☑	☐	☐
Sheik Wajih	4326 Cottington Rd	" "		☒	☐	☐
				☐	☐	☐
				☐	☐	☐
				☐	☐	☐
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				☐	☐	☐
				☐	☐	☐

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 10/11/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
Bruce Morgan	3 Longknoll Way	Kingsville MD 21087	bruceatlas@comcast.net	☐	☑	☐
Joyce Mason	11813 Harford Rd	Glen Arm, MD 21057	Joyce.A.Mason@comcast.net	☐	☑	☐
Mary Clark	12150 Harford Rd	Glen Arm, MD 21057		☐	☑	☐
Dewey Clark	12150 Harford Rd.	Glen Arm, MD 21057		☐	☑	☐
ELLEN HUBBARD	7502 OAKDALE AVE	ROSEDALE MD. 21237		☐	☑	☐
Joann Townley	6229 Bonaparte Ave	Glen Arm MD 21057		☐	☑	☐
Jeanne Marsh	Williams Lane	Hydes Md.		☐	☑	☐
Robert Sutfliett	6229 Bonaparte Ave.	Glen Arm MD 21057		☐	☑	☐
ROBIN BEERS	12442 JERUSACEM RD,	KINGSVILLE, MD 21087		☐	☑	☐
DAVID HARTMAN	12513 REDWOOD RD	HYDES, MD 21082		☐	☑	☐
STEWART WALKER	2700 BALDWIN MILL RD	BALDWIN, MD 21013		☐	☐	☐
[redacted]	1			☐	☐	☐
MARCIA BARTON	11909 Woodbery Pl	Kingsville 21087		☒	☐	☐
KRIS Ghimire	5048 Springhill Cir	Rosedale 21237		☒	☐	☐
Dave Poehler	12241 Harford rd	GlenArm 21057		☐	☑	☐
Sharmila KC	2+C 3699 Perry Hall R	Perry Hall 21128	sharmilakcus@gmail.com	☒	☐	☐
NARE SHAKE	11	11	11	☒	☐	☐
Shree K Regmi	2915 Andorra Ct	Parkville MD				

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 10/11/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
Shanker Nepal.	2 Trompet ct.	Nottingham. MD 21236	USAOUNOV@gmail.com.	☒	☐	☒
Shree K Re		2415 Conroy Ct		☒	☐	☒
Shila pahari	Jessica lane	Perryhall MD 21128		☒	☐	☐
Surendra Raj Dhakal	"	" "		☒	☐	☐
Keshav Acharya	9441 Bellball Dr	9441 Bellball Dr, 21236		☒	☐	☐
Dipendra Bhattarai	6703 Queens Ferry Rd	Baltimore MD 21239		☒	☐	☐
Shreejan Tamrakar	6676 Collinsdale Rd	Parkville MD 21234		☒	☐	☐
SHYAM KARKI	19 Longknoll Way	Kingsville, MD 21057		☒	☐	☐
[illegible]				☒	☐	☐
Jyoti Kaushal				☒	☐	☐
Dinesh Subedi		Baltimore MD		☐	☐	☐
Jasmin "		" "		☒	☐	☐
CARL SHAW	PO Box 36 21051	Fork Md		☒	☒	☐
Morgan Miner	11946 Harford Rd.	Glen Ann 21057		☐	☒	☐
Shelik Wagle	4326 Cottage Rd	Nottingham MD		☒	☐	☐
Rajni Sharma	16 Ayr ct.	Nottingham MD 21236		☒	☐	☐
Rajan Dhakal	16 Ayr Ct.	Nottingham MD 21236		☒	☐	☐

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 10/11/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
Hemanta Paudel	2620 Toppa Ter	21234		☐	☐	☑
Balaram Paudel	11 Winturop Ct.	21204	BRoudel@gmail.com	☐	☐	☐
Ron Standiford	6415 MT. Vista Rd	21087		☐	☑	☐
Darby Standiford	6415 MT Vista Rd	21087		☑	☑	☐
Man Shrestha	8243 Berryfield	21234		☑	☐	☐
Ram C. Adhikari	1216 Longford Rd. Lutherville	21093	rcadhikari17@yahoo.com.	☑	☐	☐
Dol nath Khanire	2714 Superior ave	21234		☐	☐	☐
Harry Brand	4213 Cardwell	21236		☐	☐	☐
Mahendra	201 point to point sq	21015		☐	☐	☐
Nakarmi Ramlal	" "	21015		☐	☐	☐
Netra KL	8523 Westermun circle	21236		☐	☐	☐
				☑	☐	☐
				☐	☐	☐
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				☐	☐	☐
				☐	☐	☐

Board of Appeals Sign-in Sheet

RECEIVED
OCT 09 2018
BALTIMORE COUNTY
BOARD OF APPEALS

IN THE MATTER OF:	*	BEFORE THE
Nepali American Cultural Center	*	BOARD OF APPEALS
12231 Harford Road	*	OF
11th Election District	*	BALTIMORE COUNTY
5th Councilman District	*	CASE NO.: 18-122-X

* * * * * * * * * * * *

OBJECTION TO AND MOTION TO QUASH SUBPOENA

Dewitt Clark by his attorney, Douglas W. Biser, in response to the Subpoena previously issued and served on him objects to the Subpoena and moves to have the Subpoena quashed and for reasons states as follows:

1. A Subpoena recently was served on Dewitt Clark, a copy of which is attached hereto.

2. Dewitt Clark is the President of the Gunpowder Falls Watershed Preservation Association (GFWP). The GFWP is a protestant in the pending case. The Subpoena is directed to Dewitt Clark. It is unclear whether the Subpoena is asking for documents from Dewitt Clark individually or Dewitt Clark as the President of GFWP. As such the Subpoena is confusing, nonspecific and therefore compliance is impossible.

3. The Subpoena requires Dewitt Clark to produce the following: "Your entire file, including but not limited to each and every email, photograph, Facebook post, text message and the like, either sent or received relating to this case."

4. The description of the documents and things in the Subpoena is overbroad and the production of same would be highly burdensome. The Subpoena as currently

constituted, asking for literally everything that is "relating to this case", would require Dewitt Clark to produce thousands of pages of documents, photographs, plans, plats, emails and other correspondence which include hundreds of privileged communications with counsel and items prepared in anticipation of litigation. These items are privileged and not subject to a subpoena.

5. The "entire file", as requested, is ambiguous as there is no "entire file." Much, if not all, of the information Dewitt Clark has kept on his personal computer and hard drive and is not kept in a "file."

6. Even with a more specific and detailed request, the Subpoena constitutes a fishing expedition and is virtually impossible to comply with in its present form.

7. Under Rule 5 of the Rules Of Practice And Procedure of the Board of Appeals for Baltimore County, a subpoena is improper if it fails to set forth a general statement as to the purpose of documents and things subpoenaed. The Subpoena issued to Dewitt Clark fails to set forth the purpose and therefore is improper under Rule 5.

8. The expansive and overbroad scope of the Subpoena, even if broken down into specific categories of documents, would take hundreds of hours to comply with by way of a review of Mr. Clark's computer to access the contents therein and separate the contents into categories including those privileged and non-privileged. Such an undertaking would cost thousands of dollars in time plus attorneys fees. The request for Dewitt Clark's "entire file" would require a review of virtually every document he has in his computer, personal and otherwise, and would include a review of many items unrelated

to the present case. Even after such a review it would be impossible to determine which of the information constituted his "file."

9. The cost and expense of compliance with the Subpoena, if possible, is overly burdensome. If such cost is to be incurred it should be shifted to the party issuing the Subpoena and requesting the documents and things.

10. The Maryland Rules, which can be used by reference, provide in Rule 2-510(h), that: "...a party or an attorney responsible for the issuance and service of a Subpoena should take reasonable steps to avoid imposing undue burden or cost from the person subject to this Subpoena." The issuing party in this case did not take any reasonable steps to narrow the scope of the Subpoena or to avoid such undue burden or cost.

11. In conclusion, the Subpoena issued to Dewitt Clark is overly broad, burdensome, impossible to comply with, does not comply with applicable rules, and requests information and documents that are protected by the attorney-client privilege, including attorney-work-product and matters prepared in anticipation of litigation. As such, the Subpoena should be quashed.

WHEREFORE, Dewey Clark by his attorney Douglas W. Biser, prays that the Board of Appeals quash the Subpoena.

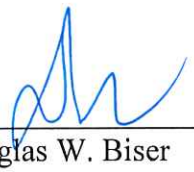
Douglas W. Biser-CPF: 7712010024
Mudd, Harrison & Burch, L.L.P.
401 Washington Avenue, Suite 900
Towson, Maryland 21204
(410) 828-1335
dwb@mhblaw.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 9th day of October, 2018, a copy of the Dewitt Clarks' Objection To and Motion to Quash Subpoena, first class, postage prepaid, to:

Lawrence E. Schmidt
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Ste 200
Towson, Maryland 21204

J. Carroll Holzer
508 Fairmount Avenue
Towson, Maryland 21286



Douglas W. Biser

IN THE MATTER OF:	*	BEFORE THE
Nepali American Cultural Center	*	BOARD OF APPEALS
12231 Harford Road	*	OF
11th Election District	*	BALTIMORE COUNTY
5th Councilmanic District	*	CASE NO.: 18-122-X

* * * * * * * * * * * * * *

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County)
Dewitt Clark
12150 Harford Road
Glen Arm, MD 21057

YOU ARE HEREBY COMMANDED TO: (X) Personally appear; ( ) Produce documents and/or objects only; (X) Personally appear and produce documents or objects; in **Hearing Room 2, The Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204 on** October 11, 2018 **at** 10:00am **a.m./p.m.**

YOU ARE COMMANDED TO produce the following documents or objects (for general purpose as stated): Your entire file, including but not limited to each and every e-mail, photograph, Facebook post, text message and the like, either sent or received relating to this case.

SUBPOENA REQUESTED BY:
Lawrence E. Schmidt
(Name of Party/Attorney)
Smith, Gildea & Schmidt, LLC
(Address/Telephone #)
600 Washington Ave., Suite 200
Towson, MD 21204

The witness named above is hereby ORDERED to so appear before the Board of Appeals of Baltimore County. The Board requests (____) the Sheriff, (X) Private Process Server, to issue the summons set forth herein.

RECEIVED
SEP 12 2018
BALTIMORE COUNTY
BOARD OF APPEALS

Tommy A. Jahnke
Board of Appeals for Baltimore County

IN THE MATTER OF:	*	BEFORE THE BOARD OF APPEALS	
PETITION FOR SPECIAL EXCEPTION (12231 Harford Road) 11th Election District 5th Council District Nepali American Cultural Center Legal Owner Petitioner	*	OF BALTIMORE COUNTY DOCKET NO.:	Case No. 2018-0122-X

* * * * * * * * * * * * *

SUBPOENA

Please issue a subpoena to the following witness to appear before the Board of Appeals for Baltimore County:

TO: **Joseph Colaggero, P.E.**
The Traffic Group
Address: 9900 Franklin Square Drive Suite H
Baltimore, Maryland 21236

YOU ARE HEREBY COMMANDED TO:

( ) Personally appear; ( ) Produce documents and or objects only;

(X) Personally appear and produce documents or objects;

(Place and date where attendance is required)

Baltimore County Board of Appeals
Jefferson Building
105 West Chesapeake Avenue
Suite 206
Towson, Maryland 21204

Thursday, October 11, 2018 at 9:00 a.m. and all Hearing Dates Thereafter

YOU ARE COMMANDED TO produce copies of the following documents or objects:

All emails, letters, documents and memos sent or received concerning the **NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE, Inc.** including but not limited to those by and from any and all representatives of the NACCB, Inc. and all Maryland and Baltimore County elected and unelected officials and staff.

All emails, letters, documents and memos sent or received involving John Burgess, Esq. (Expert Witness at ALJ), John Motsco, P.E. (Expert Witness) and James Powell (Expert Witness).

All memos, work orders, raw data, reports, emails and other documents internal to **The Traffic Group** concerning Case No. 2018-0122-X.

All memos, letters, emails and documents concerning evaluation of the property located at 12231 Harford Rd., Glen Arm, MD, 21057 pertaining to the provisions of BCZR Section 502.1.

J. Carroll Holzer, 508 Fairmount Avenue, Towson, Maryland 21286 410-825-6961
(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date 10/3/18

Sammy A. Zahner
BALTIMORE COUNTY BOARD OF APPEALS

RECEIVED
OCT 03 2018
BALTIMORE COUNTY
BOARD OF APPEALS

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

August 10, 2018

AMENDED NOTICE OF ASSIGNMENT
(Amended as to time only)

IN THE MATTER OF: Nepali American Cultural Center
12231 Harford Road
18-122-X 11th Election District; 5th Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 1A01.2.C.6 to allow a Church or other building for religious worship on property zoned RC-2.

1/22/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, subject to conditions.

This matter has been specially set by agreement of Counsel. No postponements will be granted without sufficient reasons and documentation in accordance with Rules 2(b) and (c) of the Board's Rules of Practice and Procedure.

ASSIGNED FOR:

SEPTEMBER 6, 2018 AT 9:00 A.M. – Day 2
SEPTEMBER 12, 2018 AT 9:00 A.M. – Day 3
OCTOBER 11, 2018 AT 9:00 A.M. – Day 4
OCTOBER 23, 2018 AT 9:00 A.M. – Day 5
NOVEMBER 1, 2018 AT 9:00 A.M. – Day 6
NOVEMBER 29, 2018 AT 9:00 A.M. – Day 7

LOCATION:

Baltimore County Council's Chambers
Historic Courthouse
400 Washington Avenue, Second Floor
Towson, Maryland 21204

IN THE MATTER OF:	*	BEFORE THE BOARD OF APPEALS	
PETITION FOR SPECIAL EXCEPTION (12231 Harford Road) 11th Election District 5th Council District Nepali American Cultural Center Legal Owner Petitioner	* * * *	OF BALTIMORE COUNTY DOCKET NO.:	Case No. 2018-0122-X

* * * * * * * * * * * * *

SUBPOENA

Please issue a subpoena to the following witness to appear before the Board of Appeals for Baltimore County:

TO: **John Motsco, P.E.**
Little and Associates
Address: 1055 Taylor Avenue, # 307
Towson, Maryland 21286

YOU ARE HEREBY COMMANDED TO:

( ) Personally appear; ( ) Produce documents and or objects only;

(X) Personally appear and produce documents or objects;

(Place and date where attendance is required)

Baltimore County Board of Appeals
Jefferson Building
105 West Chesapeake Avenue
Suite 206
Towson, Maryland 21204

Thursday, October 11, 2018 at 9:00 a.m. and all Hearing Dates Thereafter

YOU ARE COMMANDED TO produce copies of the following documents or objects:

Complete Plan Package Prepared for the **NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE, Inc.** dated September 28, 2017.

All documentation, notes and instructions that resulted in the creation of the plans for the **NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE, Inc.** dated September 28, 2017.

All documentation, notes and instructions regarding the revision to the plans for the **NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE, Inc.** dated September 28, 2017.

All emails, letters, documents and memos sent or received concerning the **NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE, Inc.** including but not limited to those by and from any and all representatives of the NACCB, Inc. and all Maryland and Baltimore County elected and unelected officials and staff.

All emails, letters documents and memos sent or received involving John Burgess, Esq. (Expert Witness at ALJ), Joseph Collagero, P.E. (Expert Witness) and James Powell (Expert Witness).

All memos, work orders, raw data, reports, emails and other documents **internal to Little and Associates, Inc.** concerning Case No. 2018-0122-X.

All memos, letters, emails and documents concerning evaluation of the property located at 12231 Harford Rd., Glen Arm, MD, 21057 pertaining to the provisions of BCZR Section 502.1.

J. Carroll Holzer, 508 Fairmount Avenue, Towson, Maryland 21286 410-825-6961
(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date 10/3/18

Jeremy X. Zahner
BALTIMORE COUNTY BOARD OF APPEALS

RECEIVED
OCT 03 2018
BALTIMORE COUNTY
BOARD OF APPEALS

C:\My Docs\Subpoenas 201\Clark – Motsco Subpoena - 10/3/18

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

August 10, 2018

AMENDED NOTICE OF ASSIGNMENT
(Amended as to time only)

IN THE MATTER OF: Nepali American Cultural Center
12231 Harford Road
18-122-X 11th Election District; 5th Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 1A01.2.C.6 to allow a Church or other building for religious worship on property zoned RC-2.

1/22/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, subject to conditions.

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ASSIGNED FOR:

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OCTOBER 23, 2018 AT 9:00 A.M. – Day 5
NOVEMBER 1, 2018 AT 9:00 A.M. – Day 6
NOVEMBER 29, 2018 AT 9:00 A.M. – Day 7

LOCATION:

Baltimore County Council's Chambers
Historic Courthouse
400 Washington Avenue, Second Floor
Towson, Maryland 21204

Krysundra Cannington

From: Krysundra Cannington
Sent: Thursday, September 20, 2018 9:03 AM
To: Lawrence Schmidt, Esquire; tkotroco@gmail.com; J. Carroll Holzer, Esquire (jcholzer38 @gmail.com)
Cc: Tammy Zahner; 'Alyssa Moyers'
Subject: Nepali American Cultural Center October 11 hearing

Good morning Counsel,

It is my understanding Mr. Garber mentioned during a previous hearing that he may have a schedule conflict with the October 11, 2018 hearing date in the above referenced matter. I have recently been informed that Mr. Garber no longer has a conflict for that date. Therefore, the hearing will proceed as scheduled on October 11, 2018.

Please contact me with any questions.

Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180
Fax: 410-887-3182

Confidentiality Statement

This electronic mail transmission contains confidential information belonging to the sender which is legally privileged and confidential. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or taking of any action based on the contents of this electronic mail transmission is strictly prohibited. If you have received this electronic mail transmission in error, please immediately notify the sender.

Tammy Zahner

From: Tammy Zahner
Sent: Monday, September 17, 2018 2:47 PM
To: 'marycc421@gmail.com'
Subject: Nepali
Attachments: Day 3 sign-in sheet.pdf

Dear Mrs. Clark:

Attached is a copy of the Board sign-in sheet for the September 12, 2018 hearing.

I have spoken with our Administrator, and as a Court Reporter was present for the September 12th hearing, her transcript is the official record.
We will not be providing a copy of the recording, if any, for the September 12th hearing.

Please let us know if you have any questions.

Tammy A. Zahner, Legal Secretary
Board of Appeals of Baltimore County
Second Floor, Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3180
(410) 887-3182 (Fax)

Confidentiality Statement
This electronic mail transmission contains confidential information belonging to the sender which is legally privileged and confidential. This information is intended only for the use of the individual or entity named above. If you are not the intended receipient, you are hereby notified that any disclosure, copying, distribution, or taking of any action based on the contents of this electronic mail transmission is strictly prohibited. If you have received this electronic mail transmission in error, please immediately notify the sender.

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 9/12/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
ROBIN BEERS	12442 JERUSALEM RD.	KINGSVILLE, MD. 21087		☐	☑	☐
JOYCE MASON	11813 Harford Rd	Glen Arm MD 21057		☐	☑	☐
CAROL SHAW	7 Country Hill Ct	Kingsville 21087	carolnshaw@comcast.net	☐	☑	☐
T A KNEESHAW	11 KINGS GLEN CT	21089		☐	☑	☐
Pat Garner	12535 Merritt Ave	Fork 21051		☐	☑	☐
Mary Clark	12150 Harford Rd.	Glen Arm, MD 21057		☐	☑	☐
ELLEN HUBBARD	7862 OAKDALE AVE	ROSEDALE MD 21237	MEHUBBARD50@VERIZON.NET	☐	☑	☐
SHYAM KARKI	19 Longhorn all Way	Kingsville, MD 21087		☑	☐	☐
KRIS Ghimire	~~KRIS~~ 5048 Springhouse Ln 21237	Rosedale MD 21237	—	☑	☐	☐
UPENDRA SUBEDI		BALTIMORE MD 21210		☑	☐	☐
Surendra Raj Dhakal	8632 Jessica ln ~~perryhall 21128~~	Perryhall MD 21128		☑	☑	☐
Shila pahari	8632 Jessica ln. ~~perryhall 21128~~	perryhall MD 21128.		☑	☑	☐
Joanne Foxwalley	6229 Bonaparte Ave	Glen Arm, MD 2105-		☐	☑	☐
Robert Shifflett	6229 Bonaparte Ave	Glen Arm, MD 21057		☐	☑	☐
Dave Poehler	12241 Harford rd	Glen Arm MD 21057		☐	☑	☐
Shreejan Tamalkar	6676 Collinsdale Rd	Parkville MD		☑	☐	☐
Jasmine Subedi				☑	☐	☐

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 9/12/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
Ravilal Sunar	8826 Victory Ave	Parkville.		☑	☐	☑
DWARKA SINGH	541 Seven TRAILS DR	Aberdeen MD 21001	dansingh@comcast.net	☑	☐	☑
Morgan Miner	11946 Harford Rd.	Glen Arm, MD 21057	miner.morgan13@gmail.com	☐	☑	☐
Dhirendra Parajuli	3 Reldas ct. ~~Cockeysville~~	Cockeysville MD 21030	parajulidhi6@yahoo.com	☑	☐	☐
Yogendra Raj Parajuli	3 Reldas ct	cockeysville MD	21030 jog.r Parajuli@gmail.com	☑	☐	☐
Shree K Regmi	2941 Andoor ct	parkville MD	—	☑	☐	☑
Salina Sharma	4326 Lottington Rd.	Nottingham MD 21236		☑	☐	☐
Bishnu Sharma	4 Leinster Garth	Nottingham, MD 21236		☑	☐	☐
Keslav Acharya	9441 Bellhal Dr	Nottingham, MD 21236		☑	☑	☐
RAM P. BHANDARI	96 Cedarchip ct	Parkville, MD 21234		☑	☐	☐
Rajendra upreti	332 Stevenson Lane	Towson	binod1515@hotmail.com	☑	☐	☐
Dorothy E. Foos	6403 Lewis Road	Baldwin, Md. 21013	elcrouch@yahoo.com	☐	☐	☑
Dilip Shrestha	443-374-8625	Towson	dilip64@Hotmail.Com	☑	☐	☑
Dipendra Bhattarai	443-554-6565	Towson	rddipen@gmail.com	☑	☐	☑
Amar Bhandari	443-972-0841	Bel Air	—	☑	☐	☐
Kranti Bhandari	"	"		☑	☐	☐
Dewey Clark	12150 Harford Rd	Glen Arm, MD 21057		☐	☑	☐

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 9/12/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
Sushma Karki	9022 Fieldchat RD	Nottingham, MD 21236	sushmacarkey@gmail.com	☑	☐	☐
Ron Stanford	6415 Mt Vista RD	Kingsville MD 21087	Classicdadman@yahoo.com	☐	☑	☐
Rajni Sharma	16 Ayr Ct.	Nottingham MD 21236		☑	☐	☐
Sita Dhol	9441 Bellhall	Nottingham MD 21236		☑	☐	☐
Sribina	3699 ph Rd	Perryhall 21128		☑	☐	☐
Shamila KC	3699 ph rd	" 21128		☑	☐	☐
Dolnath Ghimire	2714 Superior ave	Parkville 21234		☑	☐	☐
Man Shrestha	8243 Berryfield Dr	Nottingham MD 21236	Shrestha man777@yahoo.com	☑	☐	☐
Prakash Shrestha	6305 Holly LN	Baltimore MD 21212		☑	☐	☐
Purushotam Shrestha	3710 Paca Ave	Abingdon MD 21009	Puruandanupa@gmail.com	☑	☐	☐
Krishna Upreti	9221 Bretton Park Rd	Parkville 21234	krishupreti@live.com	☑	☐	☐
Shalik Wagle	4326 Lottington Rd	Nottingham MD		☑	☐	☐
Netra KC	8523 Westerman Circle	Nottingham 21236	—	☑	☐	☐
Balaram Paudel	11 Winthrop Ct Towson MD		BPoudel@hotmail.com	☑	☐	☐
Kul P. Gurung	4 Minte Dr Nottingham	MD 21236	Kulgrg2003@yahoo.com	☑	☐	☐
Mukendra Deshar	201 point to point sq	Bel Air, MD - 21015		☑	☐	☐
Joanne Marsh	Williams Rd	Hydes Md.		☐	☑	☐

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 9/12/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
Tarun Paudel	2620 Soppa Terrace	Parkville MD 21234	gajjahomeinspector@gmail.com	☒	☐	☐
				☐	☐	☐
				☐	☐	☐
				☐	☐	☐
				☐	☐	☐
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				☐	☐	☐
				☐	☐	☐
				☐	☐	☐

IN THE MATTER OF:	*	BEFORE THE
Nepali American Cultural Center	*	BOARD OF APPEALS
12231 Harford Road	*	OF
11th Election District	*	BALTIMORE COUNTY
5th Councilmanic District	*	CASE NO.: 18-122-X

* * * * * * * * * * * * *

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County) Dewitt Clark
12150 Harford Road
Glen Arm, MD 21057

YOU ARE HEREBY COMMANDED TO: (X) Personally appear; ( ) Produce documents and/or objects only; (X) Personally appear and produce documents or objects; in **Hearing Room 2, The Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204 on** October 11, 2018 **at** 10:00am **a.m./p.m.**

YOU ARE COMMANDED TO produce the following documents or objects (for general purpose as stated): Your entire file, including but not limited to each and every e-mail, photograph, Facebook post, text message and the like, either sent or received relating to this case.

SUBPOENA REQUESTED BY:
Lawrence E. Schmidt
(Name of Party/Attorney)
Smith, Gildea & Schmidt, LLC
(Address/Telephone #)
600 Washington Ave., Suite 200
Towson, MD 21204

The witness named above is hereby ORDERED to so appear before the Board of Appeals of Baltimore County. The Board requests (____) the Sheriff, (_X_) Private Process Server, to issue the summons set forth herein.

RECEIVED
SEP 12 2018
BALTIMORE COUNTY
BOARD OF APPEALS

Tammy A. Gahler
Board of Appeals for Baltimore County

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

September 10, 2018

AMENDED NOTICE OF ASSIGNMENT
(Amended as to location only)

IN THE MATTER OF: Nepali American Cultural Center
12231 Harford Road
18-122-X 11th Election District; 5th Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 1A01.2.C.6 to allow a Church or other building for religious worship on property zoned RC-2.

1/22/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, subject to conditions.

This matter has been specially set by agreement of Counsel. No postponements will be granted without sufficient reasons and documentation in accordance with Rules 2(b) and (c) of the Board's Rules of Practice and Procedure.

ASSIGNED TO:

SEPTEMBER 12, 2018 AT 9:00 A.M. – Day 3
OCTOBER 11, 2018 AT 9:00 A.M. – Day 4
OCTOBER 23, 2018 AT 9:00 A.M. – Day 5
NOVEMBER 1, 2018 AT 9:00 A.M. – Day 6
NOVEMBER 29, 2018 AT 9:00 A.M. – Day 7

LOCATION:

Hearing Room #2, Second Floor
The Jefferson Building, Suite 206
105 W. Chesapeake Avenue
Towson, Maryland 21204

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.
- Parties must file one (1) original and three (3) copies of all Motions, Memoranda, and exhibits (including video and PowerPoint) with the Board unless otherwise requested.
- Projection equipment for digital exhibits is available by request. A minimum of forty-eight (48) hours-notice is required. Supply is limited and not guaranteed.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington,
Administrator

c: Counsel for Petitioner : Timothy Kotroco, Esquire
Co-Counsel for Petitioner : Lawrence E. Schmidt, Esquire
Petitioner : Nepali American Cultural Center c/o Kris Ghimire

Counsel for Protestants : J. Carroll Holzer, Esquire
Protestants : DeWitt and Mary Clark, David Hartman, Dave Poehler, Morgan Miner, and Carol Shaw

John A. Motsco/Little & Associates, Inc.

Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Director/PAI
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Nancy West, Assistant County Attorney
Office of People's Counsel

Krysundra Cannington

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Monday, September 10, 2018 3:48 PM
To: Krysundra Cannington
Cc: Lawrence Schmidt; Carroll Holzer (jcholzer38@gmail.com); Timothy M. Kotroco (tkotroco@gmail.com)
Subject: 12231 Harford Road/Case No. 2018-122-X
Attachments: Letter to BOA re_ location of hearing.PDF

Sunny,

Please see the attached related to the hearing on September 12th.

Thanks.

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this email in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

Please consider the environment before printing this email

SMITH, GILDEA & SCHMIDT, LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI

MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH
DUKE MAY, V
CARMELO D. MORABITO
SARAH A. ZADROZNY
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
MARY G. LOKER
*Admitted in MD, FL, PA

September 10, 2018

Sent Via Email and First Class Mail

Ms. Krysundra L. Cannington, Administrator
Board of Appeals of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

RECEIVED
SEP 10 2018
BALTIMORE COUNTY
BOARD OF APPEALS

Re: In the Matter of: Nepali American Cultural Center
Property: 12231 Harford Road
Case No. 2018-122-X

Dear Sunny,

This is to confirm that the hearing scheduled for September 12th will begin at 9:00 a.m. and be held in the Board's hearing room located in the Jefferson Building, 105 W. Chesapeake Avenue, Towson in Hearing Room #2, Second Floor, Suite 206. The October 11th, October 23rd, November 1st and November 29th hearing dates will also begin at 9:00 a.m. and be held in the Board's hearing room. Mr. Kotroco, Mr. Holzer and I support this request to hold future hearings at the Board's hearing room.

The court reporter will appear as scheduled on September 12th since Petitioner's case is intended to conclude that day. Accordingly, the Petitioner's case will be transcribed by the court reporter and made part of the Board's file.

As always, we appreciate the Board's willingness to accommodate our requests for both the larger hearing room and moving back to the Board's hearing room in the Jefferson Building.

Very truly yours,

Lawrence E. Schmidt

LES/amf
cc: Timothy M. Kotroco, Esquire
J. Carroll Holzer, Esquire

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI

MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH
DUKE MAY, V
CARMELO D. MORABITO
SARAH A. ZADROZNY
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
MARY G. LOKER
*Admitted in MD, FL, PA

September 10, 2018

Sent Via Email and First Class Mail
Ms. Krysundra L. Cannington, Administrator
Board of Appeals of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re:	In the Matter of:	Nepali American Cultural Center
	Property:	12231 Harford Road
	Case No.	2018-122-X

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Very truly yours,

Lawrence E. Schmidt

LES/amf
cc: Timothy M. Kotroco, Esquire
J. Carroll Holzer, Esquire

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 9/6/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
Sharmilake	3699 Perry Hall Rd	MD 21128	Sharmilakale@gmail.com	☑	☐	☐
Man Shrestha	8243 Berry field Dr	Notting MD 21236	Shresthaman777@gmail.com	☑	☐	☐
Shreejan Tamrakar	6676 Collinsdale Rd	MD 21234	fmcast50.bncc@gmail.com	☑	☐	☐
Ram Ghimire	8512 Castlemill cir	MD. 21236	Rghimire1978@gmail.com	☑	☐	☐
Keshav Acharya	9441 Bellhall Dr	Notth. MD 21236		☑	☐	☐
Rajan Dhakal	16 Ayr Ct	Nottingham MD 21236	rjdhakalji@gmail.com	☑	☐	☐
Rajni Sharma	16 Ayr Ct.	Nottingham MD 21236		☑	☐	☐
BILL SWIFT	12 VISTA VIEW Ct	KINGSVILLE 21087	WM.SWIFT517@GMAIL.COM	☑	☐	☐
Dhirendra Parajuli	8828 [illegible] Apt 2	Perryhall 21236	Parajuli[illegible]@yahoo.com	☑	☐	☐
PREM RAJA MAHAT	515 Walker Ave Balto	Baltimore	premraja@hotmail.co	☑	☐	☐
Rina KC	43 Lambeth Bridge ct.	Timonium 21093	Bikrina@gmail.com	☑	☐	☐
Sushma Karki	9022 Field Chat RD	Nottingham 21236	sushmacarkey@gmail.com	☑	☐	☐
Paras Shrestha	9510 Hickory Falls way	"		☑	☐	☐
Jasmine Sabed.	22 Ebbinge ct	Essex MD 21221		☑	☐	☐
Dinesh Sabed	"	"		☑	☐	☐
Shree Krishna regmi	2911 Andorra Ct	21234		☑	☐	☐
Binod Upreti				☑	☐	☐

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 9/6/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
DeWitt Clark	12150 Harford Rd	Glen Arm, MD 21057		☐	☑	☐
T A Kneeshaw	11 Kings Glen Ct	Kingsville, MD 21087		☐	☑	☐
Bruce Morgan	3 Longknoll Way	Kingsville, MD 21087		☐	☑	☐
Carol Shaw	7 Country Hill Ct	Kingsville Md 21087		☐	☑	☐
Joyce Mason	11813 Harford Rd	Glen Am, MD 21057		☐	☑	☐
Mary Clark	12150 Harford Rd	Glen Arm, MD 21057		☐	☑	☐
RAM P. BHANDARI	96 CEDAR CHIP CT	PERRY HALL MD		☑	☐	☑
Donna Carter	5515 Williams Rd	Hydes		☐	☒	☐
Indira Kanti	14 Longknoll Dr.	Kingsville, 21087		☐	☐	☐
Sylvan "	"	"	[illegible]19-75@yahoo.com	☑	☐	☐
[illegible]				☑	☐	☐
Kris Ghimire	5048 Springhouse Ctr	Rosedale MD	KRIS@ghimirehomes.com	☑	☐	☐
Morgan Miner	11946 Harford Rd	Glen Arm, MD	miner.morgan13@gmail.com	☐	☑	☐
Krishna Chhetri	3705 Perryhall Rd	Perryhall MD	KRKC81@Gmail.com.	☐	☐	☐
Robin Beers	12442 Jerusalem Rd	Kingsville MD		☐	☑	☐
Dave Poehler	12241 Harford rd	Glen Arm MD		☐	☑	☐
NARESH KC	3699 Perry Hill Rd	Perry Hill		☑	☐	☐

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 9/6/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
Ammar	3397 Park Blvd	Nottingham.	Mehmaily@yahoo.com	☑	☐	☐
Dipendra Bhattarai	6703 Queens Ferry Rd	Baltimore	rddipen@gmail.com	☑	☐	☐
Dilip Shrestha	1717 Aberdeen Rd.	Towson	dilip64@hotmail.com	☑	☐	☐
Shanker Nepal	2 Trumpet Ct Nottingham	Nottingham MD. 21236	usa04Nov@gmail.com.	☑	☐	☐
Raju Parajuli	9 Gunfalls Garth	Nottingham MD 21236	keeraju2003@yahoo.com.	☑	☐	☐
Krishna Chunara	6821 Timberlane Rd	Baltimor, MD 21209	Kbchunara@yahoo.com.	☑	☐	☐
Rajan Tripathi	2309 Mountain Dr.	Crofton, MD	rtripathi04@gmail.com	☑	☐	☐
Kamal Bhandari	4706 Beaconsfield Dr	Nottingham		☑	☐	☐
Biki Thapa	1812 Yorkshire Rd	Towson MD 21286		☑	☐	☐
Kul P. Gurung	4 Minte Dr. Nottingham	MD 21236		☑	☐	☐
Netra KC	8523 Westerman Circle	Nottingham MD 21236		☑	☐	☐
Shalik Waje	4326 Cottington Rd	" "		☑	☐	☐
Tarun Paudel	2620 Joppa Terrace Parkville	MD 21234	gyjjabhomeinspector@gmail.com	☑	☐	☐
Ram C. Adhikari	1216 Longford Rd Cultonville	MD 21093	rcadhikari17@yahoo.com.	☑	☐	☐
Deepak Khatri	8610 Hickorythicket Pl.	MD 21236	khatrideep82@gmail.com	☑	☐	☐
[illegible]				☑	☐	☐
Balaram Paudel	11 Winthrop Ct Towson	MD-21204		☑	☐	☐

Shree Krish ~~2401 Andorra Ct~~

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 9/6/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
Helen Ghimire	5048 Springhouse Circle	Rosedale, MD 21237	helenghimire@gmail.com	☑	☐	☐
Sharon Heimiller	12702 LeeBen Rd	Kingsville MD 21087	sharonhei@comcast.net	☐	☑	☐
Ron Standiford	6415 MT. VISTARD	Kingsville, MD 21087	classicdadman@yahoo.com	☐	☑	☐
Bishwa Gautam	1616 Desoto Road	Baltimore 21230	bishwaraj1965@gmail.com	☑	☐	☐
Srivash Das	1616 Desto Road	Baltimore, 21230	srivashdas1967@gmail.com	☑	☐	☐
Kumar Kanci	4401 Cottington Rd.	Baltimore - 21236	Kancik@hotmail.com	☑	☐	☐
Lolit bhattarai	22 Sylvan Park Ct	Baltimore - 21236	bhattarailalit84@Gmail.com	☑	☐	☐
Khumkala bhattarai	22 Sylvan Park Ct	Baltimore - 21236		☑	☐	☐
				☐	☐	☐
				☐	☐	☐
				☐	☐	☐
				☐	☐	☐
				☐	☐	☐
				☐	☐	☐
				☐	☐	☐
				☐	☐	☐
				☐	☐	☐

IN THE MATTER OF:	*	BEFORE THE BOARD OF APPEALS
PETITION FOR SPECIAL EXCEPTION	*	OF
(12231 Harford Road) 11th Election District 5th Council District	*	BALTIMORE COUNTY
Nepali American Cultural Center Legal Owner Petitioner	*	DOCKET NO.: Case No. 2018-0122-X
	*	
To allow a church or other building or other building for religious worship on a property zoned R.C. 2	*	

* * * * * * * * * * * * *

SUBPOENA

Please issue a subpoena to the following witness to appear before the Board of Appeals for Baltimore County:

WITNESS: } Douglas Burgess, Esquire
Address: **8640 Ridgelys Choice Drive**
BCEFCU Building #201A
Nottingham, Maryland 21236

YOU ARE HEREBY COMMANDED TO:

( ) Personally appear; ( ) Produce documents and or objects only;

(X) Personally appear and produce documents or objects;

(Place and date where attendance is required)

Baltimore County Board of Appeals
Jefferson Building
105 West Chesapeake Avenue
Suite 206
Towson, Maryland 21204

Wednesday, September 12, 2018 at 10:00 a.m.

YOU ARE COMMA DED TO produce the following doc. ients or objects:

List of transactions involving Mr. Doug Burgess, Esquire and any of the following: Kris Ghimire, Helen Ghimire, Everest Real Estate Investments, LLC and the **NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE, INC.**

J. Carroll Holzer, 508 Fairmount Avenue, Towson, Maryland 21286 410-825-6961
(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date 9/5/18

Tammy A. Zahner
BALTIMORE COUNTY BOARD OF APPEALS

C;\My Docs\Subpoenas 201\Clark – Burgess Subpoena - 9/5/18

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

August 10, 2018

AMENDED NOTICE OF ASSIGNMENT
(Amended as to time only)

IN THE MATTER OF: Nepali American Cultural Center
12231 Harford Road
18-122-X 11th Election District; 5th Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 1A01.2.C.6 to allow a Church or other building for religious worship on property zoned RC-2.

1/22/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, subject to conditions.

This matter has been specially set by agreement of Counsel. No postponements will be granted without sufficient reasons and documentation in accordance with Rules 2(b) and (c) of the Board's Rules of Practice and Procedure.

ASSIGNED FOR:

SEPTEMBER 6, 2018 AT 9:00 A.M. – Day 2
SEPTEMBER 12, 2018 AT 9:00 A.M. – Day 3
OCTOBER 11, 2018 AT 9:00 A.M. – Day 4
OCTOBER 23, 2018 AT 9:00 A.M. – Day 5
NOVEMBER 1, 2018 AT 9:00 A.M. – Day 6
NOVEMBER 29, 2018 AT 9:00 A.M. – Day 7

LOCATION:

Baltimore County Council's Chambers
Historic Courthouse
400 Washington Avenue, Second Floor
Towson, Maryland 21204

IN THE MATTER OF:	*	BEFORE THE BOARD OF APPEALS	
PETITION FOR SPECIAL EXCEPTION (12231 Harford Road) 11th Election District 5th Council District Nepali American Cultural Center Legal Owner Petitioner	*	OF BALTIMORE COUNTY DOCKET NO.:	Case No. 2018-0122-X

* * * * * * * * * * * * *

SUBPOENA

Please issue a subpoena to the following witness to appear before the Board of Appeals for Baltimore County:

TO: } **John Motsco, P.E.**
Little and Associates
Address: 1055 Taylor Avenue, # 307
Towson, Maryland 21286

YOU ARE HEREBY COMMANDED TO:

( ) Personally appear; ( ) Produce documents and or objects only;

(X) Personally appear and produce documents or objects;

(Place and date where attendance is required)

Baltimore County Board of Appeals
Jefferson Building
105 West Chesapeake Avenue
Suite 206
Towson, Maryland 21204

Wednesday, September 12, 2018 at 10:00 a.m.

YOU ARE COMMANDED TO produce the following documents or objects:

Complete Plan Package Prepared for the **NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE, Inc.** dated September 28, 2017.

All documentation, notes and instructions that resulted in the creation of the plans for **NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE, Inc.** dated September 28, 2017.

All documentation, notes and instructions regarding the revision to the plans for **NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE, Inc.** dated September 28, 2017.

J. Carroll Holzer, 508 Fairmount Avenue, Towson, Maryland 21286 410-825-6961
(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date 9/5/18

Tammy A. Jahner
BALTIMORE COUNTY BOARD OF APPEALS

RECEIVED
SEP 05 2018
BALTIMORE COUNTY
BOARD OF APPEALS

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

August 10, 2018

AMENDED NOTICE OF ASSIGNMENT
(Amended as to time only)

IN THE MATTER OF: Nepali American Cultural Center
12231 Harford Road
18-122-X 11th Election District; 5th Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 1A01.2.C.6 to allow a Church or other building for religious worship on property zoned RC-2.

1/22/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, subject to conditions.

This matter has been specially set by agreement of Counsel. No postponements will be granted without sufficient reasons and documentation in accordance with Rules 2(b) and (c) of the Board's Rules of Practice and Procedure.

ASSIGNED FOR:

SEPTEMBER 6, 2018 AT 9:00 A.M. – Day 2
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NOVEMBER 29, 2018 AT 9:00 A.M. – Day 7

LOCATION:

Baltimore County Council's Chambers
Historic Courthouse
400 Washington Avenue, Second Floor
Towson, Maryland 21204

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

August 10, 2018

AMENDED NOTICE OF ASSIGNMENT
(Amended as to time only)

IN THE MATTER OF: Nepali American Cultural Center
12231 Harford Road
18-122-X 11th Election District; 5th Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 1A01.2.C.6 to allow a Church or other building for religious worship on property zoned RC-2.

1/22/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, subject to conditions.

This matter has been specially set by agreement of Counsel. No postponements will be granted without sufficient reasons and documentation in accordance with Rules 2(b) and (c) of the Board's Rules of Practice and Procedure.

ASSIGNED FOR:

SEPTEMBER 6, 2018 AT 9:00 A.M. – Day 2
SEPTEMBER 12, 2018 AT 9:00 A.M. – Day 3
OCTOBER 11, 2018 AT 9:00 A.M. – Day 4
OCTOBER 23, 2018 AT 9:00 A.M. – Day 5
NOVEMBER 1, 2018 AT 9:00 A.M. – Day 6
NOVEMBER 29, 2018 AT 9:00 A.M. – Day 7

LOCATION:

Baltimore County Council's Chambers
Historic Courthouse
400 Washington Avenue, Second Floor
Towson, Maryland 21204

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.
- Parties must file one (1) original and three (3) copies of all Motions, Memoranda, and exhibits (including video and PowerPoint) with the Board unless otherwise requested.
- Projection equipment for digital exhibits is available by request. A minimum of forty-eight (48) hours-notice is required. Supply is limited and not guaranteed.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington,
Administrator

c: Counsel for Petitioner : Timothy Kotroco, Esquire
Co-Counsel for Petitioner : Lawrence E. Schmidt, Esquire
Petitioner : Nepali American Cultural Center c/o Kris Ghimire

Counsel for Protestants : J. Carroll Holzer, Esquire
Protestants : DeWitt and Mary Clark, David Hartman, Dave Poehler, Morgan Miner, and Carol Shaw

John A. Motsco/Little & Associates, Inc.

Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Director/PAI
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Nancy West, Assistant County Attorney
Office of People's Counsel

bcc: Christina Belcastro, Administrator/County Council

Alyssa
6/25/18

Nepali -

Stipulation -

still in negotiations

IN RE: PETITIONS FOR SPECIAL EXCEPTION (12231 Harford Road)	*	BEFORE THE BOARD OF APPEALS
	*	FOR
11th Election District 5th Councilmanic District	*	BALTIMORE COUNTY
Nepali American Cultural Center Legal Owner	*	
	*	Case No.: CBA-19-0004
	*	

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BALTIMORE COUNTY
BOARD OF APPEALS

* * * * * * * * * * * *

RESPONSE TO CASE NO.: CBA-19-0004

Protestants, ***DeWitt and Mary Clark***, 12150 Harford Road, Glen Arm, Maryland 21057; ***David and Bernadette Poehler***, 12241 Harford Road, Glen Arm, Maryland 21057; ***Joanne Foxworthy***, 6229 Bonaparte Avenue, Glen Arm, Maryland 21057; ***Carol Shaw***, 7 Country Hill Court, Kingsville, Maryland 21087; ***Tom and Morgan Miner***, 11946 Harford Road, Glen Arm, Maryland 20157 and ***David Hartman***, 12513 Regwood Road, Hydes, Maryland 21082, by their attorney, ***J. Carroll Holzer, Esquire***, hereby submits this Memorandum in Lieu of Final Argument to the Board this 5th day of March 2019, as requested by the Board.

I. I hereby adopt all of Protestants' Memorandum of Law related to Case No.: 18-122-X.

II. The consequences of the Kotroco/Beverugen letter of July 2, 2018 and its use in this matter are improper and unduly prejudicial to the Protestant.

A. Portions of this *ex-parte* letter were **READ** into the record by Petitioner to influence this Board's decision on Protestant Motion 1. Petitioner represented that this letter was valid and that they were accurate in its representation. Protestant was **refused** a copy of this letter and was unable to contest its use until well after it was used by Petitioner to influence the judgment of this Board.

B. The "presence" of this letter unduly influenced subsequent Board rulings which hampered Protestants presentation of their case.

C. This *ex parte* letter amended the decision of the court below in a manner that materially impacted the Protestant.

1. It was used to influence the County Executive's enforcement of existing county zoning codes that were in effect.

    a. This created undue harm and disturbance to Protestants.

    b. It precluded the development of a record of official complaint records regarding Petitioner's use of subject property that violated the property rights of the adjoining neighbors, community and locale.

2. It allowed use of subject property that was proscribed by the official decision handed down by the court below.

D. This letter was used to mischaracterize a week-long fundraising event attended by over 300 participants per day as a "picnic."

E. This letter mischaracterized and misrepresented the Protestants as motivated by hate without the benefit of evidence.

Therefore, Protestants request this Board to rule on the judicial validity of the Beverungen letter dated July 2, 2018. We do NOT ask that the presence of this letter in the record of Case No.: 18-122-X be stricken; only that the **effect** of this letter be ruled inappropriate and unduly presented and relied upon.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
J. CARROLL HOLZER, P.A.
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on the 5th day of March 2019, a copy of the aforegoing Memorandum was mailed first class, postage prepaid, to:

Timothy M. Kotroco, Esquire
305 Washington Avenue
Suite 502
Towson, Maryland 21204

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, Maryland 21204

J. CARROLL HOLZER, Esquire

IN THE MATTER OF: Nepali American Cultural Center of Baltimore 12231 Harford Road	*	BEFORE THE BOARD OF APPEALS OF
11th Election District 5th Councilmanic District	*	BALTIMORE COUNTY
RE: PETITION FOR SPECIAL EXCEPTION	*	**Case No.: CBA-19-004**

RECEIVED
MAR 05 2019
BALTIMORE COUNTY
BOARD OF APPEALS

* *

WRITTEN MEMORANDUM IN LIEU OF CLOSING ARGUMENT

The proper owner, Nepali American Cultural Center of Baltimore (hereinafter "Petitioner" or "Nepali"), by and through their attorneys, Lawrence E. Schmidt and Smith, Gildea & Schmidt, LLC, submit this Written Memorandum in Lieu of Closing Argument in opposition of the appeal filed for the above reference matter and respectfully state:

STATEMENT OF THE CASE AND FACTS

This matter comes before the County Board of Appeals (the "Board") on "appeal" of a letter, dated July 2, 2018, which requested clarification of the Administrative Law Judge ("ALJ") John Beverungen's final decision dated January 22, 2018 granting a Petition for Special Exception for a church or other building used for religious worship. The Petition pertains to the property located at 12231 Harford Road (the "Property") and was filed pursuant to Baltimore County Zoning Regulation (hereinafter "BCZR") § 1A01.2.C.6, which permits churches and other buildings used

for religious worship in the RC-2 zone by special exception. The Petition was assigned Case No.: 2018-0122-X.

A public hearing was held before the ALJ on January 17, 2018. By written Opinion and Order dated January 22, 2018, ALJ Beverungen granted the zoning petition in Case No.: 2018-0122-X. On February 16, 2018, an appeal of the ALJ's decision to the Board was filed by DeWitt and Mary Clark, David Hartman, Dave Poehler, Morgan Miner, and Carol Shaw (collectively, hereinafter referred to as the "Protestants"). They are represented by J. Carroll Holzer, Esquire. The public hearing before the Board consumed eleven non-consecutive days lasting from July 19, 2018 to February 13, 2019.

While the litany of litigation related to the special exception was in process, another related aspect of the matter was on going. On July 2, 2018, Timothy Kotroco, counsel for Petitioner, wrote to ALJ Beverungen to request clarification of his January 22, 2018 Order, specifically the restrictions contained therein as to whether it would be appropriate to host a fundraiser event on the grounds of the Property. On July 3, 2018, ALJ Beverungen replied to the July 2, 2018 letter, acknowledging that the July 29 through August 3, 2018 gathering would not violate the terms and conditions of his January 22, 2018 Order because the conditions related solely to the operations of a building for religious worship. Petitioner then held the fundraiser event on the Property from July 29 through August 3, 2018.

On July 30, 2018, an "appeal" of the July 3, 2018 ALJ Beverungen letter to the Board was filed by Protestants. During the lengthy litigation concerning the review of the special exception in Case No.: 2018-0122-X, the Protestants' appeal of ALJ

Beverungen's letter remained dormant at the Board. On the 11th day of hearings before this Board in the special exception case, the appeal of the letter at the Board was resuscitated at the request of the Protestants. It is the appeal of this letter that is the matter now before this Board. For the reasons that follow, the "appeal" of the July 3, 2018 ALJ Beverungen letter should be dismissed as an improper appeal.

ARGUMENT

The appeal of the July 3, 2018 ALJ Beverungen letter should be dismissed because the subject matter of the appeal is improper. Under the Baltimore County Charter, the Board may exercise functions and powers over appeals from executive, administrative and adjudicatory orders. See Baltimore County Charter § 602(d). The appeal purports to challenge a letter authored by ALJ Beverungen on July 3, 2018. That letter is neither a final judgment nor an order and the issue presented from the letter is moot.

1. The Issue Presented is Moot

The issue presented on appeal is moot and there is no justiciable controversy between the parties to which this Board could grant an effective remedy. Petitioner respectfully maintains that the question presented is moot because even if this Board were to decide for the Protestants, the rights and positions of the parties would remain unchanged. After ALJ Beverungen issued the July 3, 2018 letter, Petitioner held the fundraiser event on the Property from July 29 through August 3, 2018. As such, any dispute relating to the July 3, 2018 letter is rendered moot after the fundraiser event occurred.

As well settled by the Maryland Court of Appeals, "a question is moot if, at the time it is before the court, there is no longer an existing controversy between the parties, so that there is no longer any effective remedy which the court can provide." *Attorney Gen v. Anne Arundel County Sch. Bus Contractors Ass'n.* 286 Md. 324, 407 A 2d 749 (1979). A moot case is generally dismissed without the Appellate court deciding the merits of the controversy. *Coburn v. Coburn,* 342 Md. 244, 250(1996). The Court in rare instances may address the merits of a moot case if the case presents unresolved issues in matters of important public concern that, if decided, will establish a rule for future conduct. *Id.* The dates of the event referenced in the July 3, 2018 letter have come and gone and the event has already occurred. This matter does not present an important public concern.

Appellate courts do not sit to decide abstract propositions or moot questions of law. *Potts v. Governor,* 255 Md. 445, 258 A.2d 180 (1969). The practice of rendering "advisory opinions" is "long forbidden" in Maryland. Application of *Worthington,* 336 Md. 555, 557 (1994). Even assuming arguendo that the Board was to reverse the "opinion" of ALJ Beverungen, the event has already occurred and there would be no effective remedy. A case is moot if an appellate court cannot grant effective relief. *Surland v. State,* 392 Md. 17, 31 (2006).

Timothy Kotroco's July 2, 2018 letter was specific as to the dates of the fundraiser event. The parties agree that the referenced fundraiser event in the July 3, 2018 ALJ Beverungen letter has already occurred. There is no controversy for this Board to decide and the issue presented is moot.

2. This Appeal Should be Dismissed as an Improper Interlocutory Appeal

ALJ Beverungen's July 3, 2018 letter did not constitute a final order or contain an operative event from which an appeal could be taken. On February 16, 2018, Protestants filed an appeal of ALJ Beverungen's January 22, 2018 Order to the Board. Protestants' February 16, 2018 appeal vested the Board "with the exclusive power and jurisdiction over the subject matter of the proceedings, and the authority and control of the [ALJ] with reference thereto is suspended." *Litty v. Becker,* 104 Md. App. 370, 374-75 (1995). ALJ Beverungen did not have authority or jurisdiction to issue the July 3, 2018 letter.

The Maryland Code defines a final judgment as "a judgment, decree, sentence, order, determination, decision, or other action by a court... from which an appeal... may be taken." §12-101(f). In *Rohrbeck v. Rohrbeck,* the Court of Appeals of Maryland described three attributes that all final judgments must have: (1) It must be intended by the court as an unqualified, final disposition of the matter in controversy, (2) unless the court properly acts pursuant to Md. Rule 2-602(b), it must adjudicate or complete the adjudication of all claims against all parties, and (3) the clerk must make a proper record of it in accordance with Md. Rule 2-601. The requirement of "'finality,' arises from [t]he fundamental objective ... [which] is 'to prevent piecemeal appeals and to prevent the interruptions of ongoing judicial proceedings."' *WSSC v. Bowen,* 410 Md. 287, 294-95 (2009). ALJ Beverungen did not issue, renew, deny, revoke, suspend, annul or modify the January 22, 2018 Order. By allowing Protestants to appeal the July 3, 2018 letter, it effectively allows the Protestants to split a controversy into multiple cases which is inefficient and wastes both the Board's and the Parties' resources. It is certain

to result in piecemeal appeals and interruptions of ongoing judicial proceedings, precisely why we have a final judgment rule in the first place. *Hams v. State,* 420 Md. 300, 312 (2010).

The July 3, 2018 letter is not an order. It contains no appealable "decision". There is nothing contain therein that is appealable. Upon Protestants' February 16, 2018 appeal, jurisdiction for this matter was thusly transferred to the Board. Any allegation of illegal conduct falls within the jurisdiction of the Baltimore County Code Enforcement Department rather than the Board.

CONCLUSION

For the reasons set forth above, Nepali requests this Board to dismiss the appeal as improper and grant such other and further relief as the nature of the cause may require.

Respectfully Submitted,

Lawrence E. Schmidt
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070
lschmidt@sgs-law.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 5th day of March 2019, a copy of the foregoing Memorandum was mailed, postage pre-paid, to:

Timothy M. Kotroco, Esquire
305 Washington Avenue, Suite 502
Towson, MD 21204

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21204

LAWRENCE E. SCHMIDT

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI

MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH
DUKE MAY, V
CARMELO D. MORABITO
SARAH A. ZADROZNY
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
MARY G. LOKER
*Admitted in MD, FL, PA

August 8, 2018

Via Email and First Class Mail
J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21204

RECEIVED
AUG - 9 2018
BALTIMORE COUNTY
BOARD OF APPEALS

Re: Appeal to Board of Appeals
Decision of ALJ dated July 3, 2018
Case No. 2018-0122-X
Property: 12231 Harford Road

Dear Carroll:

I am in receipt of your Notice of Appeal in reference to the letter drafted by Tim Kotroco dated July 2, 2018 and the sign off of the same by ALJ John Beverungen on July 3, 2018. Your Notice purports to appeal ALJ Beverungen's "opinion" to the Board of Appeals.

Respectfully, this appeal is improper. For a number of reasons, I'd ask that it be voluntarily withdrawn. First, Mr. Kotroco's letter (by its own terms) relates to an event that has already occurred, from July 29, 2018 to August 3, 2018. The letter clearly states (paragraph three), "(m)y clients have scheduled a fund raising event . . . for July 29th through August 3rd, 2018." Further, the letter asks, "I respectfully request your interpretation of your order . . . as to whether it is appropriate for my clients to host *this* gathering event . . ." (emphasis added). Since the dates of the event have come and gone and the event has already occurred, it seems apparent that the appeal is invalid as the issue presented is moot. Even if the Board were to reverse the "opinion" of the ALJ, the event has already occurred and the matter is no longer at issue.

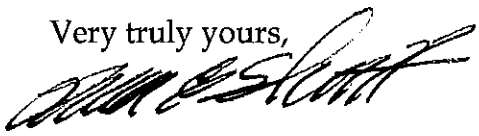
Moreover, even if the issue was not moot, I do not believe that ALJ Beverungen's "opinion" is an appealable event. It is his statement of the intent of his previously issued order. It is an interlocutory decision. I draw your attention to the recently issued decision by the Court of Special Appeals in the matter of Galloway Creek, in which you were counsel for the Protestants. In that case, your client's "appeal" was similarly of a letter written by ALJ Beverungen. In that matter, the

appeal was dismissed by the Board of Appeals as improper. Many of the reasons cited by the Circuit Court and the Court of Special Appeals affirming that dismissal exist here.

It seems to me that the parties are already spending significant dollars and expanding considerable efforts on the underlying petition for special exception. Why are we litigating and spending money on a matter that is clearly not proper for litigation? If this matter were in Court, I would respectfully suggest that it would be proper for the Court to impose costs and expenses per Md. Rule 1-341.

Let's fight about something legitimate. Let me know.

Very truly yours,



Lawrence E. Schmidt

LES/amf
CC: Board of Appeals
Timothy Kotroco, Esquire
Kris Ghimire

DONALD I. MOHLER III
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

July 30, 2018

Timothy M. Kotroco
305 Washington Avenue
Suite 502
Towson, Maryland 21204

RECEIVED
JUL 30 2018
BALTIMORE COUNTY
BOARD OF APPEALS

RE: **APPEAL TO BOARD OF APPEALS**
(Decision of ALJ dated July 3, 2018)
Case No. 2018-0122-X
Property: 12231 Harford Road

Dear Mr. Kotroco:

Please be advised that an appeal of the above-referenced case was filed in this Office on July 30, 2018. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to contact the Board at 410-887-3180.

Sincerely,

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS/dlw

c: J. Carroll Holzer, Esq., 508 Fairmount Avenue, Towson, MD 21286
Lawrence E. Schmidt, Esq., Smith, Gildea & Schmidt, 600 Washington Ave, Suite 200, Towson, MD 21204-1301
Baltimore County Board of Appeals
People's Counsel for Baltimore County

APPEAL

Petition for Special Exception
(12231 Harford Road)
11th Election District – 5h Councilmanic District
***Legal Owners*: Nepali American Cultural Center**
Case No. 2018-0122-X

Notice of Appeal (Decision of ALJ dated July 3, 2018) by J. Carroll Holzer, Esq. on July 3, 2018

Appeal packet originally forwarded to BOA on February 22, 2018

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

№ 143390

Date: 7-30-18

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				385.00

Total: 385.00

Rec From: J. Carroll Holzer Esq.

For: Appeal - Case No. 2018-0122 A

Ex Parte Decision of ALJ dated 7-2-18

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

PAID RECEIPT

BUSINESS	ACTUAL	TIME	ORN
7/31/2018	7/30/2018	13:06:05	3

REG WS03 WALKIN CAH
>>RECEIPT # 703032 7/30/2018 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 143390
Recpt Tot 385.00
385.00 CK 4.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

IN RE: PETITIONS FOR SPECIAL EXCEPTION (12231 Harford Road)	*	BEFORE THE
	*	OFFICE OF
	*	ADMINISTRATIVE HEARINGS
11th Election District 5th Councilmanic District	*	FOR
Nepali American Cultural Center	*	BALTIMORE COUNTY
Legal Owner	*	
	*	Case No.: 2018-0122-X
	*	
	*	

RECEIVED
JUL 30 2018
OFFICE OF
ADMINISTRATIVE HEARINGS

RECEIVED
AUG 02 2018
BALTIMORE COUNTY
BOARD OF APPEALS

* * * * * * * * * * * * *

NOTICE OF APPEAL TO THE COUNTY BOARD OF APPEALS FROM THE ADMINISTRATIVE LAW JUDGE'S *EX PARTE* OPINION DATED JULY 3, 2018

Appellants/Protestants, ***DeWitt and Mary Clark***, 12150 Harford Road, Glen Arm, Maryland 21057, ***David Hartman***, 12513 Regwood Road, Hydes, Maryland 21082, ***Dave Poehler***, 12241 Harford Road, Glen Arm, Maryland 21057, ***Morgan Miner***, 11946 Harford Road, Glen Arm, Maryland 21057, and ***Carol Shaw***, 7 Country Hill Court, Kingsville, Maryland 21087, by ***J. Carroll Holzer, Esquire,*** hereby appeal to the County Board of Appeals from the *ex parte* Decision of the Administrative Law

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
FAX: (410) 825-4923

Judge John Beverungen, dated July 3, 2018, attached to the *ex parte* letter request for reconsideration by Timothy E. Kotroco, Esquire, dated July 2, 2018, (see attached Kotroco letter, Administrative Law Judge's response and original Opinion and Order dated January 22, 2018).

Appellants, feeling aggrieved by the Decision of the Administrative Law Judge's *ex parte* reconsideration submitted to Counsel for Petitioners note this appeal within thirty (30) days of the *ex parte* Order, now seeks review by the Baltimore County Board of Appeals. Appellants were parties below and fully participated in the proceedings. Filed concurrently with this Notice of Appeal is a check payable to "Baltimore County" to cover costs of this appeal.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
J. CARROLL HOLZER, P.A.
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on the 30th day of July 30, 2018, a copy of the aforegoing Notice of Appeal to County Board of Appeals from the Administrative Law Judge's *Ex Parte* Opinion Dated July 3, 2018, was mailed first class, postage prepaid, to:

Baltimore County Board of Appeals
Jefferson Building
105 West Chesapeake Avenue
Second Floor, Suite 203
Towson, Maryland 21204

Timothy M. Kotroco, Esquire
305 Washington Avenue
Suite 502
Towson, Maryland 21204

John E. Beverungen, Esquire
Administrative Law Judge
Office of Administrative Hearings
105 West Chesapeake Avenue
Suite 103
Towson, Maryland 21204

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, Maryland 21204

J. Carroll Holzer

J. CARROLL HOLZER, Esquire

TIMOTHY M. KOTROCO, Esq.
305 Washington Avenue, Suite 502
Towson, Maryland 21204
410-299-2943
Tkotroco@gmail.com

RECEIVED
JUL 26 2018
DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

July 2, 2018

The Honorable John E. Beverungen
Administrative Law Judge for Baltimore County
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204

Re: Case No. 2018-0122-X, Petition for Special Exception
Request for Clarification of Your Order Dated January 22, 2018

Dear Judge Beverungen:

I write to you on behalf of my clients, the Nepali American Cultural Center and the zoning Order that you wrote approving the use of a building on their property for religious worship. The decision you wrote was dated the 22nd day of January, 2018 and a copy of that decision is attached hereto.

As you may know, some of the protestants who appeared at the hearing before you filed an appeal to the Board of Appeals and the case is currently pending before that agency. In the meantime, my clients have continued to repair the damage that has been done to the property by the local residents and continue to maintain the grounds, as they should.

At issue at this time is the language contained within your Order, specifically the seven restrictions located at the end of your approval. My clients have scheduled a fundraising event which is proposed to occur on the grounds of the subject property. These fundraising events are very important to the owners of the property as the repairs to fix the damage done to the property over the years has been extensive. This fundraising event is scheduled for July 29th to August 3rd, 2018.

I have attached to this letter a post that was taken from Facebook which advertises this event. As you are aware, social media, such as Facebook is an effective way to inform people of an event such as this fundraiser. Baltimore County Code Enforcement was provided a copy of that Facebook post by one of the protestants. Code Enforcement is attempting to assert that we cannot gather on our property because of the language of your restrictions contained within your Order. The fundraiser will be held outside on the property and not within the building. In fact, the building is not occupiable at this time as it still is not connected to water or sewer. It is however, anticipated that my clients will provide walking tours of the building to show the extensive improvements they have made to the property, of which they are very proud.

Based upon this letter and the attachments hereto, I respectfully request your interpretation of your Order, specifically the restrictions contained therein as to whether it is appropriate for my clients to host this gathering event on the grounds of their property or whether such actions would violate the restriction you imposed upon them.

I have included a simple statement at the bottom of this letter for you to sign, should you deem it appropriate. Thank you for your time and consideration of this matter.

Very truly yours,

Timothy M. Kotroco

I understand the owners are proposing to host a gathering on the property July 29th through August 3rd, 2018. I also understand the Code Enforcement Bureau contends that the gathering would violate the terms and conditions of my January 22, 2018 Order granting special exception relief. I respectfully disagree and would note those conditions (as envisioned by BCZR section 502.2) related solely to the operations of a building for religious worship, which was the relief granted in the special exception case.

The owners are free to gather on their property so long as no religious activities are occurring within the subject building and all other permit requirements, if any, are satisfied. If this is the case, there is no violation of my Order. This owner should be treated no differently than any other citizen who wishes to host a party, a picnic or any other social event on their property.

7/3/2018
Date

John E. Beverungen, ALJ

TMK/mtk
Attachments

KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

January 22, 2018

Timothy M. Kotroco
305 Washington Avenue, Suite 502
Towson, Maryland 21204

RE: Petitions for Special Exception
Case No. 2018-0122-X
Property: 12231 Harford Road

Dear Mr. Kotroco:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: DeWitt Clark, 12150 Harford Road, Glen Arm, MD 21057
Morgan Miner, 11946 Harford Road, Glen Arm, MD 21057
Carol Shaw, 7 Country Hill Ct., Kingsville, MD 21087
Paul Koch, 12138 Harford Road, Glen Arm, MD 21057
Robin Beers, 12442 Jerusalem Road, Kingsville, MD 21087
Joyce Mason, 11813 Harford Road, Glen Arm, MD 21057

Darby Standiford & Ronald Standiford, 6415 Mt. Vista Road, Kingsville, MD 21087
Ginny Terhune, 404 W. Joppa Road, Towson, MD 21204
Stephen Brady, 6208 Banaparte Avenue, Glen Arm, MD 21057
Edward & Sharon Heimiller, 12702 Lee Ben Road, Kingsville, MD 21087
Peter Martin, 1954 Greenspring Drive, Timonium, MD 21093
Robert & Denise Smith, 6215 Bonaparte Avenue, Glen Arm, MD 21057
Ellen Hubbard, 7862 Oakdale Avenue, Rosedale, MD 21237
Mary C. Clark, 12150 Harford Road, Glen Arm, MD 21057
Philip Landefeld & David Hartman, 12513 Regwood Road, Hydes, MD 21084
Pat Garner, 12535 Merritt Avenue, Fork, MD 21051
TA Kneeshaw, 11 Kings Glen Ct., Kingsville, MD 21087
Joanne Foxworthy & Robert Shifflett, 6229 Bonaparte Avenue, Glen Arm, MD 21057
Joanne Marsh, 5714 Williams Road, Hydes, MD 21082
Patricia Foley, 6131 Glen Arm Road E, Glen Arm, MD 21057
Jeannette Kempske, 11748 Harford Road, Glen Arm, MD 21057
Barbara Yingling, 11744 Harford Road, Glen Arm, MD 21057
Rosemary Bronzert, 12517 Regwood Road, Hydes, MD 21082
Holly Hammond & Charles Bronzert, 10900 Harford Road, Glen Arm, MD 21057
Patti Thoorn, 6316 Hutschenreuter Road, Glen Arm, MD 21057
Ibby Fazzini, 12330 Long Green Pike, Glen Arm, MD 21057
Jim Shipley, 6801 Glen Arm Road East, Glen Arm, MD 21057
Joe Tiberi, 6041 Glen Arm Road East, Glen Arm, MD 21057
Dave Poehler, 12241 Harford Road, Glen Arm, MD 21057
Donna Carter, 5515 Williams Road, Hydes, MD 21082
Keith Reuling & Nancy Koerner, 12505 Regwood Road, Hydes, MD 21082
Mary Lou Wickham, 11752 Harford Road, Glen Arm, MD 21057
Lisa Vindiola, 11930 Harford Road, Glen Arm, MD 21057
Scott Striebinger, 18 Vista View Ct., Kingsville, MD 21047
Doug Honbarrier, 6219 Bonaparte Avenue, Glen Arm, MD 21057
Bernadette Poehler, 12241 Harford Road, Glen Arm, MD 21057
Donna Gillespie, 32 Edgemoor Road, Timonium, MD 21093

IN RE: PETITION FOR SPECIAL EXCEPTION (12231 Harford Road) 11th Election District 5th Council District Nepali American Cultural Center *Legal Owner*	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2018-0122-X

* * * * * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Exception filed on behalf of Nepali American Cultural Center, legal owner ("Petitioner"). The Special Exception was filed pursuant to the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow a church or other building for religious worship on property zoned RC-2.

Professional engineers John Motsco and Joe Caloggeri appeared in support of the petition. Timothy M. Kotroco, Esq. represented the Petitioner. Numerous citizens attended the hearing and objected to the request. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP), the Bureau of Development Plans Review (DPR), State Highway Administration (SHA) and the Department of Environmental Protection and Sustainability (DEPS). None of the reviewing agencies objected to the request.

The subject property is approximately 30.8 acres and is zoned RC-2. The property is improved with an historic single-family dwelling and several outbuildings. Petitioner purchased the property last year, at which time it was rundown and abandoned. Photographs submitted at the hearing reveal extensive vandalism to the property which occurred both before and after Petitioner purchased the property. Petitioner is in the process of renovating the property, and estimates that

at least 4-5 months of additional restoration work needs to be done before the property can be used by the congregation.

Special Exception

Doug Burgess, an attorney with a law office in the area, testified a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), wherein Maryland's highest court discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Mr. Motsco, a professional engineer accepted as an expert, explained the site plan in detail and said he has visited the property on several occasions. He testified the property is approximately 30.8 acres in size and is zoned RC-2. The witness noted the site has mature wooded buffers along all road frontages, and he testified Petitioner is not at this time proposing any new construction on the site. In conclusion, Mr. Motsco opined Petitioner satisfied each of the requirements set forth at B.C.Z.R. §502.1.

Several citizens testified in opposition to the proposal. Though each witness expressed concern with how the project may impact them individually, there were common themes in the testimony. Traffic conditions and roadway safety, and a concern for water wells and private sewage disposal, were the most frequently cited concerns. Many neighbors also complained about several events or gatherings at the site which generated a significant amount of noise. With the exception of the complaints about noise (which will be addressed in a condition included in the

final order), these concerns are inherent in the operation of a church or building for worship located in a rural area. In other words, most uses for which a special exception is required are regarded as "potentially troublesome because of noise, traffic, congestion...." *Montgomery County v. Butler*, 417 Md. 271, 297 (2010).

In rural zones especially roadways are often antiquated and overburdened, and water/sewer services are not provided by the County. Harford Road will be used to access the site, and as a state highway it is under the control and jurisdiction of the State Highway Administration (SHA). As Mr. Caloggeri (a professional engineer accepted as an expert) testified, the SHA, not Baltimore County, will examine the proposed access and determine whether improvements or other measures are necessary to ensure safe ingress/egress from the site.

As noted in the conditions below, Petitioner must obtain approval from Baltimore County for installation of well and septic systems for this property. Ronald Standiford, pastor of the adjacent Redeemer church, noted that the Christian school affiliated with the church has approximately 220 students and the well and septic system are sufficient. According to witnesses in Petitioner's case, far fewer people will visit this site on a daily basis, and thus there is no reason to believe the water supply and sewerage system would not be adequate.

THEREFORE, IT IS ORDERED this 22nd day of **January, 2018**, by this Administrative Law Judge, that the Petition for Special Exception to allow a church or other building for religious worship on property zoned RC-2, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

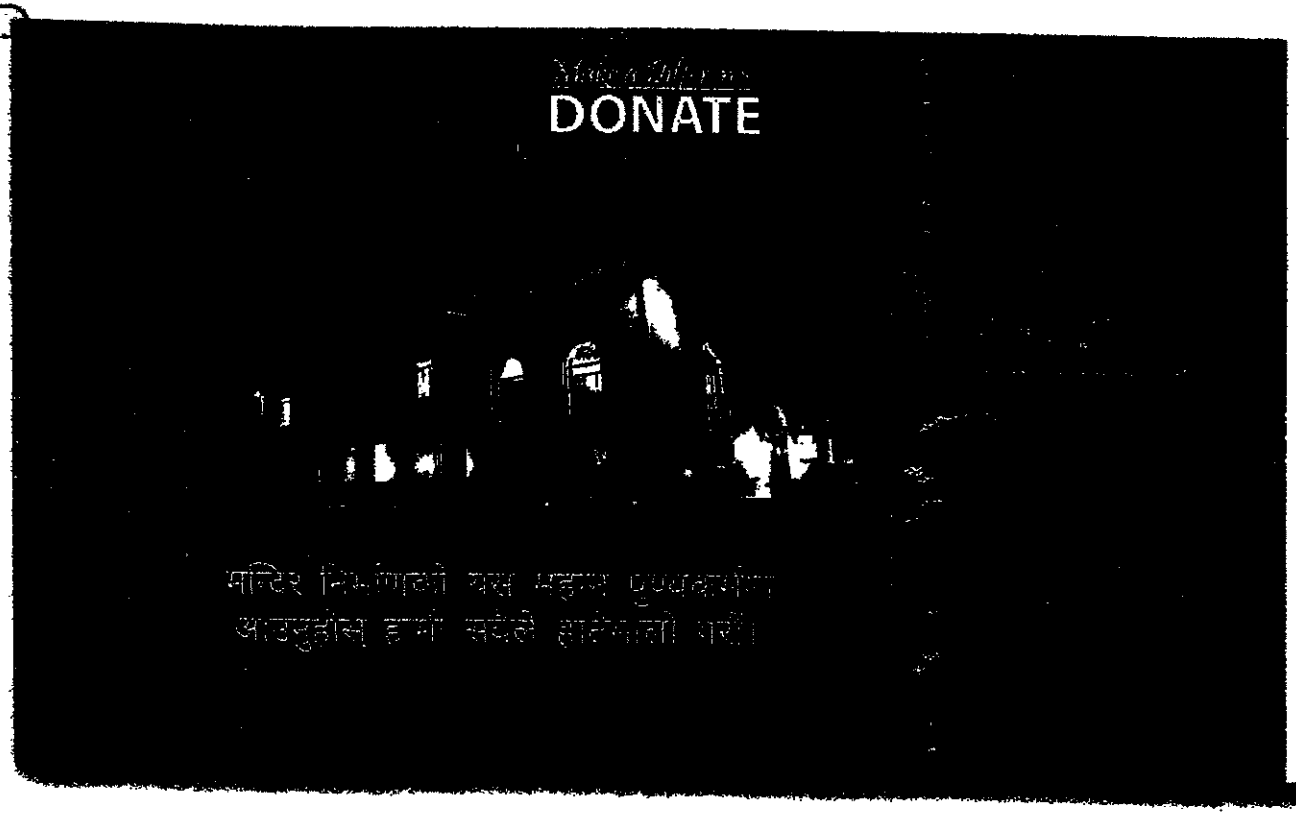
1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

2. Petitioner must submit for approval by Baltimore County landscape and lighting plans for the site.
3. Prior to operating a religious facility at the site Petitioner must install a sign at the Harford Road access point (in compliance with the B.C.Z.R. §450) containing the name of the facility and street address.
4. Prior to issuance of occupancy permits, Petitioner must demonstrate to DEPS that the well and septic system proposed will be sufficient to serve the facility.
5. Prior to issuance of permits Petitioner must comply with the ZAC comment of DEPS, a copy of which is attached hereto and incorporated herein.
6. Prior to issuance of permits Petitioner must obtain from SHA an access permit authorizing ingress and egress from the site via Harford Road.
7. Special events held at the site shall be limited to the hours of 10 a.m. to 10 p.m., and outdoor amplification of music or sound shall not be permitted.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln



Kris Ghimire
June 17 ·

Join us today at 6pm for the celebration! Two years later here is the transformation. Come and see for yourself...all the hard work our volunteers have put into it. The moment we have been waiting for

Like Share

57

2 Shares 1 Comment

Rajan Tripathi Thank you volunteers!
Like · 2w

TIMOTHY M. KOTROCO, Esq.
305 Washington Avenue, Suite 502
Towson, Maryland 21204
410-299-2943
Tkotroco@gmail.com

RECEIVED
JUL 26 2018
DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

July 2, 2018

The Honorable John E. Beverungen
Administrative Law Judge for Baltimore County
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204

Re: Case No. 2018-0122-X, Petition for Special Exception
Request for Clarification of Your Order Dated January 22, 2018

Dear Judge Beverungen:

I write to you on behalf of my clients, the Nepali American Cultural Center and the zoning Order that you wrote approving the use of a building on their property for religious worship. The decision you wrote was dated the 22nd day of January, 2018 and a copy of that decision is attached hereto.

As you may know, some of the protestants who appeared at the hearing before you filed an appeal to the Board of Appeals and the case is currently pending before that agency. In the meantime, my clients have continued to repair the damage that has been done to the property by the local residents and continue to maintain the grounds, as they should.

At issue at this time is the language contained within your Order, specifically the seven restrictions located at the end of your approval. My clients have scheduled a fundraising event which is proposed to occur on the grounds of the subject property. These fundraising events are very important to the owners of the property as the repairs to fix the damage done to the property over the years has been extensive. This fundraising event is scheduled for July 29th to August 3rd, 2018.

I have attached to this letter a post that was taken from Facebook which advertises this event. As you are aware, social media, such as Facebook is an effective way to inform people of an event such as this fundraiser. Baltimore County Code Enforcement was provided a copy of that Facebook post by one of the protestants. Code Enforcement is attempting to assert that we cannot gather on our property because of the language of your restrictions contained within your Order. The fundraiser will be held outside on the property and not within the building. In fact, the building is not occupiable at this time as it still is not connected to water or sewer. It is however, anticipated that my clients will provide walking tours of the building to show the extensive improvements they have made to the property, of which they are very proud.

Based upon this letter and the attachments hereto, I respectfully request your interpretation of your Order, specifically the restrictions contained therein as to whether it is appropriate for my clients to host this gathering event on the grounds of their property or whether such actions would violate the restriction you imposed upon them.

I have included a simple statement at the bottom of this letter for you to sign, should you deem it appropriate. Thank you for your time and consideration of this matter.

Very truly yours,

Timothy M. Kotroco

I understand the owners are proposing to host a gathering on the property July 29th through August 3rd, 2018. I also understand the Code Enforcement Bureau contends that the gathering would violate the terms and conditions of my January 22, 2018 Order granting special exception relief. I respectfully disagree and would note those conditions (as envisioned by BCZR section 502.2) related solely to the operations of a building for religious worship, which was the relief granted in the special exception case.

The owners are free to gather on their property so long as no religious activities are occurring within the subject building and all other permit requirements, if any, are satisfied. If this is the case, there is no violation of my Order. This owner should be treated no differently than any other citizen who wishes to host a party, a picnic or any other social event on their property.

7/3/2018
Date

John E. Beverungen, ALJ

TMK/mtk
Attachments

Krysundra Cannington

From: HTI Gmail <historictimekeepers@gmail.com>
Sent: Tuesday, July 31, 2018 5:59 AM
To: Timothy M. Kotroco; Arnold Jablon; Carroll Holzer
Cc: County Executive Don Mohler; Lawrence Stahl; Appeals Board
Subject: RE: 18-122-X (Kotroco offer)

Mr. Kotroco

I am in receipt of your email to Carroll Holzer dated 30 July 2018. Carroll is at a house with no cell service and communication with him is very spotty. I wanted to get back to you quickly.

I understand that your clients are now willing to accept an offer made by GFWPA to discuss this issue back in January 2018, shortly after the ALJ hearing of 19 January 2018.

The GFWPA is willing to meet with you and your client with only one condition.

That is that you and your clients stipulate to Mr. Garber and the Zoning Board of Appeals; Judge Stahl, the Managing Judge of the Administrative Law Judge Offices; Mr. Jablon and County Executive Mohler that to this date there is no cause of action for a lawsuit based on religious, cultural or racial intolerance. This stipulation should include language that justifiable and typical zoning enforcement actions do not constitute acts of intolerance on the part of the County.

This simple statement of fact will enable both parties to begin to sort this out with a fresh start.

Upon his return, Carroll may well advise us to take a different position. But you and your clients should be prepared for the above eventuality.

I do not want to put you into an unethical position by responding to me, so I will ask Carroll to contact you upon his return next week.

Regards,

DeWitt S. Clark, Ph.D.
President
Gunpowder Falls Watershed Preservation Association

Krysundra Cannington

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Monday, July 30, 2018 5:25 PM
To: Krysundra Cannington; 'J. Carroll Holzer, Esquire (jcholzer38@gmail.com) (jcholzer38@gmail.com)'; 'Timothy M. Kotroco'; Alyssa Moyers
Subject: RE: Nepali American Cultural Center 18-122-X Scheduling

Sunny: I know that you wanted to send out a reminder notice for the next hearing date on the above matter (Nepali American Cultural Center). According to my calendar, that date is September 6, 2018. I believe that the Board wanted to start at 9:00 a.m. and that is fine with me. I'll assume that to be the time unless I hear differently from you.

I also understand that at the first hearing date that we had 103 people sign the sign in sheets. That was both sides. I have spoken to my client and they have advised that there will be appreciably less people this next date. They pointed out to me that this was the first week that public schools are back in session and that it is anticipated that many members of their group will be unable to attend because of that.

Obviously, there were a number of neighbors also appearing so I'll leave it to Mr. Holzer's judgment as to whether his side will produce a large number of attendees in September. If not, then I think we can safely conduct the hearing in the Board's room. I am cure that is preferable if possible. And if we have significantly fewer, all can probably fit.

Please let me know what the final decision is on the rook and time. If we are at the Board, Alyssa can contact the court reporter and cancel her (as we will have the Board's recording equipment). And I'll make sure we're present and ready to go at 9:00 a.m.

As always, thanks for your help and efforts with the logistics.

Larry

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

[illegible]

Tammy Zahner

From: Tammy Zahner
Sent: Wednesday, July 25, 2018 10:05 AM
To: 'historictimekeepers@gmail.com'
Subject: Nepali 18-122-X
Attachments: Day 1 sign-in sheet.pdf

Dear Ms. Clark:

Pursuant to your request, attached are the sign-in sheets for the July 19, 2018 hearing.

Sincerely,

Tammy A. Zahner, Legal Secretary
Board of Appeals of Baltimore County
Second Floor, Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3180
(410) 887-3182 (Fax)

Confidentiality Statement
This electronic mail transmission contains confidential information belonging to the sender which is legally privileged and confidential. This information is intended only for the use of the individual or entity named above. If you are not the intended receipient, you are hereby notified that any disclosure, copying, distribution, or taking of any action based on the contents of this electronic mail transmission is strictly prohibited. If you have received this electronic mail transmission in error, please immediately notify the sender.

NOTICE:

- This matter has been specially set by agreement of Counsel. No postponements will be granted without sufficient reasons and documentation in accordance with Rules 2(b) and (c) of the Board's Rules of Practice and Procedure.

- Parties agreed to submit a written agreement regarding how the record before the Board will be created. The deadline for submitting that written agreement is 3:00 p.m. on June 25, 2018

- Parties must file one (1) original and three (3) copies of all Exhibits, Motions, and Memoranda with the Board.

Nepali American Cultural Center
Case No.: 18-122-X

Date: 7/19/18

Please print clearly

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Please Check: Protestant	Please Check: Interested Citizen
TA KNEESHAW	11 KINGS GLEN CT	KINGSVILLE, MD 21087		☐	☒	☒
Pat Garner	12535 Merritt Ave	Fork MD 21051		☐	☒	☐
CAROL SHAW	7 Country Hill Ct	Kingsville 21087		☐	☒	☐
Joanne MARSH	5714 Williams Rd	Hydes, md 21082		☐	☒	☐
Sharon Heimiller	12702 Lee Ben Rd	Kingsville MD 21087		☐	☒	☐
Edward Heimiller	12702 Lee Ben Road	Kingsville MD 21087		☐	☒	☐
Donna Carter	5515 Williams Rd	Hydes, 21082		☐	☒	☐
ROBIN Beers	12442 JERUSALEM RD	KINGSVILLE, MD. 21087		☐	☒	☐
UPENDRA SUBEDI	6401 CLOISTER GATE DR	BALTIMORE MD 21212	PETESUBEDI@4074MAIL.COM	☒	☐	☐
STEWART WALKER	2700 BALDWIN MILL ROAD	BALDWIN, MD 21013		☐	☐	☒
Suresh Shrestha	5202 Overlook Circle	White Mans MD 21162		☒	☐	☐
Jasmine	22 Ebbing Ct	Essex MD 21221		☒	☐	☐
Dinesh Subedi	22 Ebbing Ct	Essex MD 21221		☒	☐	☐
Khagendra Adhikari	1804 ~~Ander~~ Stafford Cove.	Oxford MS 38655		☒	☐	☐
PATRICK Collison	Reyweed Rd	Hydes MD 21082	PCollison@OFGMD.com	☐	☒	☐
Netra KC	8523 Westernun Cire	Nottingham		☐	☐	☐
Daniel Montague	12828 Fork Rd	Fork, MD 21051	rev.danielM3@gmail.com	☐	☐	☒

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Date: 7/19/18

Please print clearly

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
Joanne Foxworthy	6229 Bonaparte Ave	Glen Arm Md 21057	joanne.foxworthy@gmail.com	☐	☒	☐
Joyce Mason	11813 Harford Rd	Glen Arm MD 21057	joyce.a.mason@comcast.net	☐	☒	☐
Morgan Miner	11946 Harford Rd.	Glen Arm MD 21057	miner.morgan13@gmail.com	☐	☒	☐
Darby Standiford	6415 MT Vista Rd	Kingsville 21087	darby.standiford@gmail.com	☐	☒	☐
Ron Standiford	6415 MT. Vista Rd	Kingsville 21087	classicdadman@yahoo.com	☐	☒	☐
Mary Clark	12150 Harford Rd	Glen Arm MD 21057	marycc421@gmail.com	☐	☒	☐
Dewey Clark	12150 Harford Rd	Glen Arm 21057	GFWPA@protonmail.com	☐	☒	☐
WAYNE KOERNER	12505 Kegwood Rd	Hydes, Md. 21082	WKOERNER1@COMCAST.NET	☐	☒	☐
DOUG BURGESS	2415 CABERNET CT.	FALLSTON, MD 21047	DOUG@BURGESSLAWLLC.COM	☒	☐	☐
JOE CALOGGERO	THE TRAFFIC GROUP, INC 9900 FRANKLIN SQ DR STE H	BALT 21236	JCALOGGERO@TRAFFICGROUP.COM	☒	☐	☐
Dhruba Giri	6 pinemont pl #2B	Nottingham, MD 21236	dhrubarajgiri@gmail.com	☒	☐	☐
Jagat Ghimire	4518 Fitch Ave	" "	kajcollectionleaders.com	☒	☐	☐
Sharda Ghimire	4518 Fitch Ave	" "		☒	☐	☐
Dorothy Foos	6403 Lewis Rd	Baldwin Md 21013	elcrouch@yahoo.com	☐	☐	☒
William Swift	12 Vista View Ct	KINGSVILLE MD 21087	WM.SWIFT517@GMAIL.COM	☐	☐	☒
Donna Kuhn	11408 Cedar Lane	Kingsville MD 21087	Donna592@comcast.net	☐	☒	☐
Kamal Bhandari	4706 Beaconsfield Dr	Nottingham.		☒	☐	☐

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 7/19/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
Ida Thompson-Twining	11511 Harford Rd	Glen Arm 21057		☑	☐	☑
Richard Ciddick	5237 Glen Arm Rd	Glen Arm, Md 21057		☑	☐	☑
Tarun Poudel	2620 Joppa Terrace	Parkville MD 21234	gurjabhomeinspector@gmail.com	☑	☐	☑
Keshav Acharya	9441 Bellhall Dr.	Nottingham, MD 21236		☑	☐	☐
Kumar Karki	4C101 Cottington Rd.	Nottingham 21236		☑	☐	☑
Lalit Bhattarai	22 Sylvan pond ct	Nottingham, 21236		☑	☐	☑
Naresh KC	3699 perry Hill Rd	Perry Hall, MD		☑	☐	☑
ELLEN HUBBARD	7862 OAKDALE AVE	ROSEDALE MD 21237		☐	☑	☐
Dave Poelker	12241 Harford rd	Glenarm MD 21057		☐	☑	☐
Ravilal Sunar	8826 Victory Ave	Parkville, MD 21234		☑	☐	☑
Shreejan Tamrakar	6676 collinsdale Rd	Parkville MD 21234		☑	☐	☑
CHAPAGAIN GOVIND	7513 Gelley terr.	Baltimore MD 21237		☑	☐	☐
Gaurav Sitaula	1590 Harford Sq. drive	Edgewood, MD 21040		☑	☐	☐
Dipendra Bhattarai	6703 Queens Ferry Rd	Baltimore MD 21237		☑	☐	☐
Ananda Ghimire	9007 Throgmorton rd	Parkville 21234		☑	☐	☐
H.B Bhandari	4214 Cardwell Ave	Nottingham 21236		☑	☐	☐
Raj Kumar Pun	2 Viewridge ct	Nottingham 21236		☑	☐	☐

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 7/19/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
Ram Ghimire	8512 Castlemill Cir	Baltimore, MD 21236	Rghimire1978@gmail.com	☒	☐	☐
Laxman Gnawali	4 Leinstergarth	Baltimore MD 21236	laxman1018@gmail.com	☒	☐	☐
Krishna Panthe	2210 Montauk Dr	Crofton, MD 21114	Kjpanthe@yahoo.com	☒	☐	☐
Rajan Tripathi	2309 " "	" " "	RTRIPATHI197@GMAIL.com	☒	☐	☐
Dolnath Ghimire	2744 Hyperion ave.	Balti. MD	ghimiredolnath@gmail	☒	☐	☐
Umesh Pokhrel	2518 Run Run Way	Baltimore, MD	Uinbox.pokhrel@gmail.com	☒	☐	☐
Raju Parajuli	9 Gunfalls Gate Ct	Nottingham Baltimore MD	leerajuz2003@yahoo.com	☒	☐	☐
Kul P. Gurung	4 Mintz Dr Nottingham	MD 21236	kulgg2003@yahoo.com	☒	☐	☐
Donna Wrightson	12521 Regwood Rd.	Hydes, MD 21082	dmwrightson at comcast.net	☐	☒	☐
Dennis Wrightson	12521 Regwood Rd.	Hydes, MD 21082	dmwrightson at comcast.net	☐	☒	☐
Purit Ojha	1590 Harford Square Dr	Edgewood MD	beepbeep.purit@ymail.com	☒	☐	☐
Prabin Bhandari	1242 Cardwell Ave	Nottingham	bhandarip6@gmail.com	☒	☐	☐
Ambar "	"	"	"	☒	☐	☐
Kanti K. "	"	"	"	☒	☐	☐
Shrijana Kharal	332 Stevenson Ln #	Towson, MD	nehawins2003@hotmail.com	☒	☐	☐
Binod Upreti	" Towson, "	"	binod1515@hotmail.com	☒	☐	☐
KRIS Ghimire	5048 Springhouse Cir	Reisterstown, MD	kris@ghimirehome.com	☒	☐	☐

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 7/19/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
SHYAM KARKI	19 Longknoll Way	Wingsville, MD	nepal1995@yahoo.com	☑	☐	☐
INDIRA KARKI	"	" 21057	nepali1976@ "	☑	☐	☐
Madhuri Chapagain	30 Gunfalls Garth Baltimore		madhu.chapagai@gmail.com	☑	☐	☐
Maiya P. Khanal	7 oaksylvan way	Nottingham MD	Khanalmunaa@yahoo.com	☑	☐	☐
Man K. Shrestha	8243 Berryfield Dr.	Nottingham MD, 21236	Shresthaman777@yahoo.com	☑	☐	☐
Kshetra K. Shrestha	"	"	–	☑	☐	☐
Kabirman Katila	4416 Cole Farm Rd	Nottingham MD, 21236	–	☑	☐	☐
Dadhi Ram Bhattrai	22 Sylvan park Ct.	"	–	☑	☐	☐
Paras Mani Shrestha	9510 Hickory Falls way	Nottingham 21236	ParasShanal@Gmail.com	☑	☐	☐
Ammar Chhantyal	3397 PARK FALLS DR	NOTTINGHAM 21236	Achhantyal-yahoo.com	☑	☐	☐
~~KABIR MAN~~ Chet Nath	2 Trumpet Ct	Nottingham 21236		☐	☐	☐
Bikash Ojha	8604 Cottington Rd	Nottingham, MD 21236	ojha.bikash11@gmail.com	☑	☐	☐
Om P Ojha	56 open gate Ct	Nottingham MD 21236	pokhareli.om@yahoo.com	☑	☐	☐
Krishna Chhetri	3705 Perryhall Rd	Perryhall	KrkC@Gmail.com	☑	☐	☐
Milan Chhetri	15 Brantwood Ct, MD	Nottingham MD 21236	milankc@hotmail.com	☑	☐	☐
Nima Tamang	306 Altea Ct MD	Bel air	nimsbro7@hotmail.com	☑	☐	☐
Shanker Nepal	2 Trumpet Ct Nottingham MD 21236	bel air.	usa04Nov@gmail.com	☑	☐	☐

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 7/19/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
CHRIS Collison	12501 Regwood RD	Hydes MD 21082	Collison@Comcast.net	☐	☒	☐
DAVID HARTMAN	12513 REGWOOD RD.	HYDES MD 21082	DHARTMAN@STA-BALTO.COM	☐	☒	☐
BRUCE MORGAN	3 Longknoll Way	Kingsville MD 21087	bruceatlas@comcast.net	☐	☒	☐
VIKKI SCHICK	949 Ellendale Dr	Towson MD 21286	VIKKI SCHICK@hotmail.com	☐	☐	☒
Deepak Sharma	4325 Penn Ave	Nottingham 21236	rangrijal@gmail.com	☑	☐	☐
Dilip Shrestha	1717 Aberdeen Rd	TOWSON MD 21286	dilip64@hotmail.com	☒	☐	☐
AMRIT SING	213 Garden Rd	TOWSON MD 21286	amritfitan@yahoo.com	☒	☐	☐
ARACHANA SINGH	"	"	Singarachana09@gmail.com	☒	☐	☐
Sharmila KC	3699 Perry Hall Rd	Perry Hall MD 21128	sharmilakcus@gmail.com	☒	☐	☐
Kishor KC	27 Gunfalls Garth.	Baltimore MD 21236	kishor_kc73@yahoo.com.	☒	☐	☐
SARAH O. DEACON	11115 Harford Road	Glen Arm 21057	sdeaconart@msn.com	☑	☐	☑
Shalik Wagle	4326 Cottington Rd	Nottingham MD 21236	shalik_sh@gmail.com	☒	☐	☐
Khagendra Chhantz	6238 Winter Lane	Hanover MD. 21076	KbC3179@gmail.com	☒	☐	☐
Rajendra Chhetri	8507 Castlemill Cir	Nottingham, MD, 21236	rajenchhetri84@gmail.com	☑	☐	☐
Bishwokiran Thapa	1812 6th Hill RD	TOWSON MD, 21286	thapa.biki@yahoo.com	☑	☐	☐
PREM RAJA MAHA	515 WALKER AVE	BALTIMORE MD 21212	premmahat.gmail.com	☑	☐	☐
MARIO DiFONZO	9 Country Hill Ct	Kingsville, MD 21087	MDiFonzo@gmail.com	☐	☐	☑

Nepali American Cultural Center
Case No.: 18-122-X

Date: 7/19/18

Please print clearly

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
Prashanta Shrestha	3820 Pinedale Dr.	Nottingham MD 21236	lizarprash@gmail.com	☒	☐	☐
Prakash Shrestha	6305 Holly LN Baltimore	Baltimore MD 21212	Prakash_752000@yahoo.com	☒	☐	☐
Diwash Pokharel	8812 Dove Dr	Perry Hall, MD 21128	diwashe gmail.com	☒	☐	☐
ELMER KREISEL	949 Ellendale DR. TOWSON, MD	21286	KREISEL@TOWSON.EDU	☐	☐	☒
				☐	☐	☐
				☐	☐	☐
				☐	☐	☐
				☐	☐	☐
				☐	☐	☐
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				☐	☐	☐
				☐	☐	☐
				☐	☐	☐

7/19/18

- 9am start times

→ Kotroco to discuss with Schmidt & their client re: move to Bd Hearing Rooms

7/2/18 10:58 am

Alyssa called re: Nepali and the concerns you expressed about the Council Chambers.

Larry will be bringing an easle to display the Plans and will have extra copies for the Board members.

Larry is reaching out to Holzer about having to share the table. Larry is ok with it.

There will be a spot/area for the witness to testify.

Larry is doing all that he can to address your concerns.

J

IN THE MATTER OF: NEPALI AMERICAN CULTURAL CENTER 12231 Harford Road	*	BEFORE THE
	*	BOARD OF APPEALS
11TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	FOR
	*	BALTIMORE COUNTY
	*	**Case No. 18-122-X**

* * * * * * * * * * * * *

STIPULATION BY PARTIES FOR RECORD OF HEARING

Petitioners (Nepali American Cultural Center), by their attorneys, Timothy Kotroco, Lawrence E. Schmidt, Esquire and Smith, Gildea & Schmidt, LLC and Appellants/Protestants, by their attorneys, J. Carroll Holzer and Holzer & Lee, hereby stipulate and agree to the following:

1. The Board of Appeals ("Board") has scheduled seven (7) days for the requisite public hearing on this matter.

2. At the request of the parties, the Board has secured the Baltimore County Council's Chambers in the Historic Courthouse for each of the seven days hearings due to the expected large number of attendees that could not be accommodated in the Board's hearing room.

3. The parties hereby agree that Petitioner will secure a Court Reporter to attend each of the seven hearings at the Council's Chambers, or as many hearing dates as are needed, and a written transcript of each day will be prepared and submitted as part of the Board's file.

4. Parties further agree that the cost of a Court Reporter's attendance and preparation of an original transcript for the Board will be paid by the Petitioners, and any copy of the transcript requested by a party or interested person will be paid for by the party/interested person.

5. In the event that the number of attendees is less than anticipated and the Board conducts any of the hearing dates in its' own hearing room and not the Council's Chambers, then the Board shall utilize the existing recording equipment in the hearing room and the attendance of a court reporter will not be required; unless requested, arranged for and paid by the party who desires that a court reporter be present.

LAWRENCE E. SCHMIDT
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070
Attorneys for Petitioner

J. CARROLL HOLZER
Holzer and Lee
508 Fairmount Avenue
Towson, Maryland 21204
(410) 825-6961
Attorney for Protestants

TIMOTHY KOTROCO
305 Washington Avenue, Suite 502
Towson, MD 21204
(410) 832-2004
Attorney for Petitioners

Krysundra Cannington

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Friday, June 29, 2018 9:50 AM
To: 'Tim Kotroco'
Cc: 'J. Carroll Holzer, Esquire'; Krysundra Cannington; Alyssa Moyers
Subject: RE: Nepali Cultural Center

Tim: I talked to Carroll this morning. He is fine with the stipulation. When you come by today, I can get you to sign the stipulation.

Carroll, I will sign your name and file the original with the Board this afternoon. OK?

Larry

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

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From: Lawrence Schmidt
Sent: Wednesday, June 27, 2018 2:36 PM
To: 'Tim Kotroco'
Cc: J. Carroll Holzer, Esquire; Krysundra "Sunny" Cannington; Alyssa Moyers
Subject: RE: Nepali Cultural Center

Thanks.
We'll see what Carroll says.

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

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Krysundra Cannington

From: Carroll Holzer <jcholzer38@gmail.com>
Sent: Friday, June 29, 2018 9:37 AM
To: Krysundra Cannington
Subject: Case No.: 18-122-X In the Matter of Nepali American Cultural Center
Attachments: Nepali.pdf

Dear Sunny:

Please see the attached Stipulation by Parties for Record of Hearing.

If you have any questions, please feel free to give me a call.

--
Very truly yours,

J. Carroll Holzer

IN THE MATTER OF: NEPALI AMERICAN CULTURAL CENTER 12231 Harford Road	*	BEFORE THE
	*	BOARD OF APPEALS
11TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	FOR
	*	BALTIMORE COUNTY
	*	**Case No. 18-122-X**

* * * * * * * * * * * * *

STIPULATION BY PARTIES FOR RECORD OF HEARING

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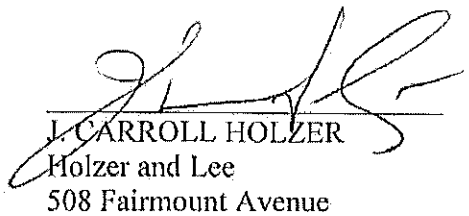
LAWRENCE E. SCHMIDT
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070
Attorneys for Petitioner

TIMOTHY KOTROCO
305 Washington Avenue, Suite 502
Towson, MD 21204
(410) 832-2004
Attorney for Petitioners



J. CARROLL HOLZER
Holzer and Lee
508 Fairmount Avenue
Towson, Maryland 21204
(410) 825-6961
Attorney for Protestants

Gmail Carroll Holzer <jcholzer38@gmail.com>

Nepali Cultural Center

1 message

Lawrence Schmidt <lschmidt@sgs-law.com> Wed, Jun 27, 2018 at 10:25 AM
To: "Timothy M. Kotroco" <tkotroco@gmail.com>, "J. Carroll Holzer, Esquire (jcholzer38@gmail.com) (jcholzer38@gmail.com)" <jcholzer38@gmail.com>
Cc: "Krysundra Cannington (kcannington@baltimorecountymd.gov)" <kcannington@baltimorecountymd.gov>, Alyssa Moyers <amoyers@sgs-law.com>

Tim/Carroll: Attached is a stipulation that I have put together regarding the Nepali Cultural Center hearing at the Board of Appeals. As you know, the Board has graciously obtained the Council Chambers for the hearing in anticipation of the crowd. The attached makes provision for creating the record of the case in the manner we've discussed. If the hearings are not attended as expected and the Board decides to move to its own hearing room, we can adjust as indicated. Please let me know if you are all comfortable with the attached and, if so, I'll circulate for signature.
I've also copied Sunny at the Board on this to make sure that the Board is likewise agreeable to proceeding in this fashion. Of course, let me know about any changes or corrections that are requested. Thanks

Larry Schmidt

Lawrence E. Schmidt | Partner

SMITH, GILDEA & SCHMIDT, LLC

600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070

lschmidt@sgs-law.com | www.sgs-law.com

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Stipulation for Record.docx

20K

Krysundra Cannington

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Wednesday, June 27, 2018 2:36 PM
To: 'Tim Kotroco'
Cc: J. Carroll Holzer, Esquire; Krysundra Cannington; Alyssa Moyers
Subject: RE: Nepali Cultural Center

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We'll see what Carroll says.

Lawrence E. Schmidt | Partner
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600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
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From: Tim Kotroco [mailto:tkotroco@gmail.com]
Sent: Wednesday, June 27, 2018 2:12 PM
To: Lawrence Schmidt
Cc: J. Carroll Holzer, Esquire; Krysundra "Sunny" Cannington; Alyssa Moyers
Subject: Re: Nepali Cultural Center

The stipulation is fine with me.

Timothy M. Kotroco, Esq.
305 Washington Ave. Suite 502
Towson, MD 21204
Cell: 410-299-2943

On Wed, Jun 27, 2018, 10:26 AM Lawrence Schmidt <lschmidt@sgs-law.com> wrote:

Tim/Carroll: Attached is a stipulation that I have put together regarding the Nepali Cultural Center hearing at the Board of Appeals. As you know, the Board has graciously obtained the Council Chambers for the hearing in anticipation of the crowd. The attached makes provision for creating the record of the case in the manner we've discussed. If the hearings are not attended as expected and the Board decides to move to its own hearing room, we can adjust as indicated. Please let me know if you are all comfortable with the attached and, if so, I'll circulate for signature.
I've also copied Sunny at the Board on this to make sure that the Board is likewise agreeable to

Krysundra Cannington

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Sent: Wednesday, June 27, 2018 2:12 PM
To: Lawrence E. Schmidt, Esquire
Cc: J. Carroll Holzer, Esquire; Krysundra Cannington; Alyssa Moyers
Subject: Re: Nepali Cultural Center

The stipulation is fine with me.

Timothy M. Kotroco, Esq.
305 Washington Ave. Suite 502
Towson, MD 21204
Cell: 410-299-2943

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Larry Schmidt

Lawrence E. Schmidt | Partner

SMITH, GILDEA & SCHMIDT, LLC

600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070

lschmidt@sgs-law.com | www.sgs-law.com

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Krysundra Cannington

From:	Lawrence Schmidt <lschmidt@sgs-law.com>
Sent:	Wednesday, June 27, 2018 10:25 AM
To:	'Timothy M. Kotroco'; J. Carroll Holzer, Esquire (jcholzer38@gmail.com) (jcholzer38 @gmail.com)
Cc:	Krysundra Cannington; Alyssa Moyers
Subject:	Nepali Cultural Center
Attachments:	Stipulation for Record.docx

Tim/Carroll: Attached is a stipulation that I have put together regarding the Nepali Cultural Center hearing at the Board of Appeals. As you know, the Board has graciously obtained the Council Chambers for the hearing in anticipation of the crowd. The attached makes provision for creating the record of the case in the manner we've discussed. If the hearings are not attended as expected and the Board decides to move to its own hearing room, we can adjust as indicated. Please let me know if you are all comfortable with the attached and, if so, I'll circulate for signature.
I've also copied Sunny at the Board on this to make sure that the Board is likewise agreeable to proceeding in this fashion. Of course, let me know about any changes or corrections that are requested. Thanks

Larry Schmidt

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

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IN THE MATTER OF: NEPALI AMERICAN CULTURAL CENTER 12231 Harford Road	*	BEFORE THE
	*	BOARD OF APPEALS
11TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	FOR
	*	BALTIMORE COUNTY
	*	**Case No. 18-122-X**

* * * * * * * * * * * * *

STIPULATION BY PARTIES FOR RECORD OF HEARING

Petitioners (Nepali American Cultural Center), by their attorneys, Timothy Kotroco, Lawrence E. Schmidt, Esquire and Smith, Gildea & Schmidt, LLC and Appellants/Protestants, by their attorneys, J. Carroll Holzer and Holzer & Lee, hereby stipulate and agree to the following:

1. The Board of Appeals ("Board") has scheduled seven (7) days for the requisite public hearing on this matter.
2. At the request of the parties, the Board has secured the Baltimore County Council's Chambers in the Historic Courthouse for each of the seven days hearings due to the expected large number of attendees that could not be accommodated in the Board's hearing room.
3. The parties hereby agree that Petitioner will secure a Court Reporter to attend each of the seven hearings at the Council's Chambers, or as many hearing dates as are needed, and a written transcript of each day will be prepared and submitted as part of the Board's file.
4. Parties further agree that the cost of a Court Reporter's attendance and preparation of an original transcript for the Board will be paid by the Petitioners, and any copy of the transcript requested by a party or interested person will be paid for by the party/interested person.
5. In the event that the number of attendees is less than anticipated and the Board conducts any of the hearing dates in its' own hearing room and not the Council's Chambers, then the Board shall utilize the existing recording equipment in the hearing room and the attendance of a court reporter will not be required; unless requested, arranged for and paid by the party who desires that a court reporter be present.

LAWRENCE E. SCHMIDT
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070
Attorneys for Petitioner

TIMOTHY KOTROCO
305 Washington Avenue, Suite 502
Towson, MD 21204
(410) 832-2004
Attorney for Petitioners

J. CARROLL HOLZER
Holzer and Lee
508 Fairmount Avenue
Towson, Maryland 21204
(410) 825-6961
Attorney for Protestants

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

June 11, 2018

NOTICE OF ASSIGNMENT

IN THE MATTER OF: Nepali American Cultural Center
12231 Harford Road
18-122-X 11th Election District; 5th Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 1A01.2.C.6 to allow a Church or other building for religious worship on property zoned RC-2.

1/22/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, subject to conditions.

This matter has been specially set by agreement of Counsel. No postponements will be granted without sufficient reasons and documentation in accordance with Rules 2(b) and (c) of the Board's Rules of Practice and Procedure.

ASSIGNED FOR:

JULY 19, 2018, AT 10:00 A.M. – Day 1
SEPTEMBER 6, 2018 AT 10:00 A.M. – Day 2
SEPTEMBER 12, 2018 AT 10:00 A.M. – Day 3
OCTOBER 11, 2018 AT 10:00 A.M. – Day 4
OCTOBER 23, 2018 AT 10:00 A.M. – Day 5
NOVEMBER 1, 2018 AT 10:00 A.M. – Day 6
NOVEMBER 29, 2018 AT 10:00 A.M. – Day 7

LOCATION:

Baltimore County Council's Chambers
Historic Courthouse
400 Washington Avenue, Second Floor
Towson, Maryland 21204

Parties agreed to submit a written agreement regarding how the record before the Board will be created. The deadline for submitting that written agreement is 3:00 p.m. on June 25, 2018

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.
- Parties must file one (1) original and three (3) copies of all Motions, Memoranda, and exhibits (including video and PowerPoint) with the Board unless otherwise requested.
- Projection equipment for digital exhibits is available by request. A minimum of forty-eight (48) hours-notice is required. Supply is limited and not guaranteed.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington,
Administrator

c: Counsel for Petitioner : Timothy Kotroco, Esquire
Co-Counsel for Petitioner : Lawrence E. Schmidt, Esquire
Petitioner : Nepali American Cultural Center c/o Kris Ghimire

Counsel for Protestants : J. Carroll Holzer, Esquire
Protestants : DeWitt and Mary Clark, David Hartman, Dave Poehler, Morgan Miner, and Carol Shaw

John A. Motsco/Little & Associates, Inc.

Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Director/PAI
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Nancy West, Assistant County Attorney
Office of People's Counsel

bcc: Christina Belcastro, Administrator/County Council

Krysundra Cannington

From: Carroll Holzer <jcholzer38@gmail.com>
Sent: Thursday, June 07, 2018 1:17 PM
To: Krysundra Cannington
Subject: Re: Agreement

Dear Sunny:

I am available the following dates in November:

- Thursday, November 1, 2018 and
- Thursday, November 29, 2018

I am also available the following dates in December:

- Wednesday, December 5, 2018
- Thursday, December 6, 2018
- Thursday, December 13, 2018
- Wednesday, December 19, 2018
- Thursday, December 20, 2018
-

On Tue, Jun 5, 2018 at 10:17 AM, Krysundra Cannington <kcannington@baltimorecountymd.gov> wrote:

Carroll,

I also hope to finish the hearings by the end of October but because there are so many pieces to this puzzle, could you please provide your availability for the November and December dates just in case?

Thank you,

Sunny

Krysundra "Sunny" Cannington

Krysundra Cannington

From: Krysundra Cannington
Sent: Tuesday, June 05, 2018 10:18 AM
To: 'Carroll Holzer'
Subject: RE: Agreement

Carroll,

I also hope to finish the hearings by the end of October but because there are so many pieces to this puzzle, could you please provide your availability for the November and December dates just in case?

Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
410-887-3180

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From: Carroll Holzer [mailto:jcholzer38@gmail.com]
Sent: Monday, June 04, 2018 10:35 AM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>
Subject: Agreement

Dear Sunny:

Larry Schmidt offered to "**DRAFT**" up the Agreement. I have not seen a **DRAFT** at this point.

I forwarded your e-mail with the dates through ***Thursday, December 20, 2018***.

Our availability is as follows:

FIRM DATES:

Krysundra Cannington

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Monday, June 04, 2018 8:06 AM
To: Krysundra Cannington; tkotroco@gmail.com; Lawrence Schmidt; J. Carroll Holzer, Esquire (jcholzer38@gmail.com)
Subject: RE: Nepali American Cultural Center 18-122-X Scheduling

Sunny –

On behalf of the Petitioners, we are available for the following dates provided:

October 4, 11, 17, 18, 23, 24, 25,
November 1, 8, 15, 29
December 13, 19

Includes Tim per Alyssa

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821
amoyers@sgs-law.com | www.sgs-law.com

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Please consider the environment before printing this email.

From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Friday, June 01, 2018 1:26 PM
To: tkotroco@gmail.com; Lawrence Schmidt; J. Carroll Holzer, Esquire (jcholzer38@gmail.com)
Cc: Alyssa Moyers
Subject: FW: Nepali American Cultural Center 18-122-X Scheduling

Good afternoon,

Last week I sent the email below. I haven't heard back from you regarding the dates offered.

Please respond no later than close of business Wednesday, June 6, 2018.

Thank you.

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204

Krysundra Cannington

From: Carroll Holzer <jcholzer38@gmail.com>
Sent: Monday, June 04, 2018 10:35 AM
To: Krysundra Cannington
Subject: Agreement

Dear Sunny:

Larry Schmidt offered to "**DRAFT**" up the Agreement. I have not seen a **DRAFT** at this point.

I forwarded your e-mail with the dates through ***Thursday, December 20, 2018***.

Our availability is as follows:

FIRM DATES:

- ***Thursday, July 19, 2018***
- ***Thursday, September 6, 2018***
- ***Wednesday, September 12, 2018***

AVAILABLE DATES:

- ***Thursday, October 4, 2018***
- ***Thursday, October 11, 2018***
- ***Wednesday, October 17, 2018***
- ***Thursday, October 18, 2018***
- ***Tuesday, October 23, 2018***
- ***Wednesday, October 24, 2018***
- ***Thursday, November 1, 2018***

NOTE: My clients would like to finish the ***Hearings*** by the end of October.

If you have any questions, feel free to give me a call.

--
Very truly yours,

J. Carroll Holzer

Krysundra Cannington

From: Krysundra Cannington
Sent: Friday, May 25, 2018 9:05 AM
To: Lawrence Schmidt, Esquire; tkotroco@gmail.com; J. Carroll Holzer, Esquire (jcholzer38 @gmail.com)
Cc: 'Alyssa Moyers'
Subject: Nepali American Cultural Center 18-122-X Scheduling

Good morning Counsel,

As you are aware, in trying to schedule a total of seven hearing dates, we have offered every available date in July, August, and September. After checking with the Board and County Council, we will be scheduling July 19, September 6, and September 12, 2018.

In an effort to find at least four more hearing dates, we are hereby offering October, November, and December. Please review the following dates with your clients and witnesses, and let me know as many dates as possible that you are available.

October 3, 4, 11, 17, 18, 23, 24, 25,
November 1, 8, 15, 29
December 5, 6, 13, 19, 20

Additionally, the Board is still awaiting the agreement regarding the record.

Thank you for your attention and cooperation in this matter.

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180
Fax: 410-887-3182

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5/16/18 10:23am
J. Carroll Holzer, Esq

witness on vacation
8/12 to 9/4

Good dates for Holzer are:
7/19, 8/9, 8/14, 9/6, 12, 18,
19, 20 & 26

Krysundra Cannington

From: Krysundra Cannington
Sent: Wednesday, May 16, 2018 9:27 AM
To: tkotroco@gmail.com; Lawrence Schmidt, Esquire; J. Carroll Holzer, Esquire (jcholzer38 @gmail.com)
Cc: Alyssa Moyers
Subject: Nepali American Cultural Center 18-122-X Scheduling

Good morning Counsel,

I am following up regarding my email of Thursday, May 10, 2018. I asked you to double check the dates previously offered (July 17, 18, 24, 25, 26, August 1, 2, 8, 15, and 16) as well as review new dates (August 21, 22, 23, 29, 30, September 5, 6, 11, 12, 13, 18, 19, 20, 25, 26, and 27) for the scheduling of 7 total hearing dates in this matter. Presently I am holding July 19, August 9 and August 14.

As you know, we have been trying to schedule this matter for the last 3 weeks. I have other cases that I cannot schedule while waiting to hear back from you. Therefore, I kindly request that you respond regarding the above dates no later than the close of business on Friday, May 18, 2018. Otherwise, I will assume all dates listed above are available and we will schedule the dates that work best for the Board and County Council.

Lastly, the written agreement regarding the record and transcripts is still outstanding.

Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180
Fax: 410-887-3182

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Krysundra Cannington

From: Krysundra Cannington
Sent: Thursday, May 10, 2018 12:12 PM
To: Lawrence Schmidt, Esquire; tkotroco@gmail.com; J. Carroll Holzer, Esquire (jcholzer38 @gmail.com)
Cc: Alyssa Moyers
Subject: Nepali American Cultural Center

Good afternoon Counsel,

Thank you for your emails.

As explained by phone, I am grateful you have agreed on three dates, however, I have not reviewed any of the dates offered with the Board or County Council.

It is my understanding that Mr. Schmidt and Mr. Kotroco anticipate needing 3 days for Petitioner's case. Mr. Holzer indicated to me, by phone, that he anticipates needing 3 or 4 days for Protestant's case. Therefore, I am trying to schedule 7 days of hearing.

In an effort to do so, I asked that parties double check the dates previously offered for more availability. I will check the July 19, August 9, and August 14 dates with the Board and Council. I am now asking that you check the following dates as well: August 21, 22, 23, 29, 30, September 5, 6, 11, 12, 13, 18, 19, 20, 25, 26, and 27.

As for the part regarding the Court Reporter and transcript, the Board has asked for an agreement of the parties in writing.

Thank you for your time and consideration in this matter.

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180
Fax: 410-887-3182

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5/10/18 - 10:00am - Holzer

Larry - 3 days

Carroll - 3 to 4 for his

July 19

Aug 9 & 14

Holzer - thinking

- 3 days for church
- if end up in Sept to consider ~ asked for offer -
- after first few dates

Krysundra Cannington

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Thursday, May 10, 2018 10:27 AM
To: Lawrence Schmidt; Krysundra Cannington; J. Carroll Holzer, Esquire (jcholzer38 @gmail.com) (jcholzer38@gmail.com); 'Timothy M. Kotroco'
Subject: RE: Nepali American Cultural Center 18-122-X Scheduling

Sunny,

I thought it was easiest to summarize the dates that Applicant/Developer are available. As I understand your initial email, the dates offered are not yet confirmed with the panel's calendars nor the availability of the counsel room. As such, for scheduling purposes, Applicant/Developer are available the following dates: July 17, 18, 19, 24, 25 and August 1, 2, and 14.

Thanks.

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

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Please consider the environment before printing this email.

From: Lawrence Schmidt
Sent: Wednesday, May 09, 2018 3:15 PM
To: Krysundra Cannington (kcannington@baltimorecountymd.gov); J. Carroll Holzer, Esquire (jcholzer38@gmail.com) (jcholzer38@gmail.com); 'Timothy M. Kotroco'; Alyssa Moyers
Subject: FW: Nepali American Cultural Center 18-122-X Scheduling

Sunny: July 19, August 9 and August 14 are good for the parties and counsel. Please lock in those dates. We are working on others. Also, I've asked Mr. Kotroco to confirm that the applicant/developer is willing to arrange for a court reporter at the hearings and provide a transcript to the Board. I believe that to be the case but by this email ask that he confirm. Larry

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

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Krysundra Cannington

From: Timothy M. Kotroco <tkotroco@gmail.com>
Sent: Thursday, May 10, 2018 9:46 AM
To: Lawrence Schmidt; Krysundra Cannington; J. Carroll Holzer, Esquire (jcholzer38 @gmail.com) (jcholzer38@gmail.com); Alyssa Moyers
Subject: Re: Nepali American Cultural Center 18-122-X Scheduling

Sunny,

I assume that the Court reporter will only be needed for the dates that we are having our hearing at the County Council hearing room. For all of the other dates where we are meeting at the Board of Appeal's hearing room, we will utilize the Board's recording system. Mr. Holzer indicated that after a few days of hearings have passed the crowd will be manageable enough to use the Board's hearing room and suggested that we only use the County Council Chambers for the first three or four days. I agree with his assessment.

My client has agreed to pay for the court reporter for the days when we meet at the County Council hearing room.

Thank you.

Tim K.

Tim
Timothy M. Kotroco, Esquire
305 Washington Ave., Suite 502
Towson, Maryland 21204
410-299-2943

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From: Lawrence Schmidt <lschmidt@sgs-law.com>
Date: Wednesday, May 9, 2018 at 3:14 PM
To: Krysundra "Sunny" Cannington <kcannington@baltimorecountymd.gov>, "J. Holzer" <jcholzer38@gmail.com>, Timothy Kotroco <tkotroco@gmail.com>, Alyssa Moyers <amoyers@sgs-law.com>
Subject: FW: Nepali American Cultural Center 18-122-X Scheduling

Sunny: July 19, August 9 and August 14 are good for the parties and counsel. Please lock in those dates. We are working on others. Also, I've asked Mr. Kotroco to confirm that the

Krysundra Cannington

From: Krysundra Cannington
Sent: Wednesday, May 09, 2018 2:14 PM
To: 'Carroll Holzer'; Larry Schmidt; Timothy M. Kotroco (tkotroco@gmail.com)
Subject: RE: Nepali American Cultural Center 18-122-X Scheduling

Counsel:

Can you each please provide me with all of the dates offered that work for you? I'd like to have more than 3 dates to review with the Board and County Council.

Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
410-887-3180

From: Carroll Holzer [mailto:jcholzer38@gmail.com]
Sent: Wednesday, May 09, 2018 2:11 PM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>; Jason Garber (jasonsgarber@gmail.com) <jasonsgarber@gmail.com>; Larry Schmidt <lschmidt@gildeallc.com>; Timothy M. Kotroco (tkotroco@gmail.com) <tkotroco@gmail.com>
Subject: Re: Nepali American Cultural Center 18-122-X Scheduling

Apologies All:

Misspoke on available dates. July 19 is good. AUGUST 9 AND 14 ARE THE GOOD DATES.
Sorry
Carroll

On Wed, May 9, 2018 at 2:02 PM, Carroll Holzer <jcholzer38@gmail.com> wrote:

Folks
In checking my calendar and my clients, we are available for the three hearing days scheduled for the Applicant:
July 19; Aug. 8 & 9, 2018.

Larry, Tim and I have not yet discussed the Agreement re court reporter and transcript.
Best,
Carroll Holzer

On Tue, May 8, 2018 at 11:16 AM, Krysundra Cannington <kcannington@baltimorecountymd.gov> wrote:

Krysundra Cannington

From: Carroll Holzer <jcholzer38@gmail.com>
Sent: Wednesday, May 09, 2018 2:11 PM
To: Krysundra Cannington; Jason Garber (jasonsgarber@gmail.com); Larry Schmidt; Timothy M. Kotroco (tkotroco@gmail.com)
Subject: Re: Nepali American Cultural Center 18-122-X Scheduling

Apologies All:

Misspoke on available dates. July 19 is good. AUGUST 9 AND 14 ARE THE GOOD DATES.
Sorry
Carroll

On Wed, May 9, 2018 at 2:02 PM, Carroll Holzer <jcholzer38@gmail.com> wrote:
Folks
In checking my calendar and my clients, we are available for the three hearing days scheduled for the Applicant:
July 19; Aug. 8 & 9, 2018.

Larry, Tim and I have not yet discussed the Agreement re court reporter and transcript.
Best,
Carroll Holzer

On Tue, May 8, 2018 at 11:16 AM, Krysundra Cannington <kcannington@baltimorecountymd.gov> wrote:

Counsel,

Please provide an email update as to your availability and the agreement of counsel regarding the transcript.

Thank you,

Krysundra "Sunny" Cannington

Administrator

Board of Appeals of Baltimore County

Krysundra Cannington

From: Carroll Holzer <jcholzer38@gmail.com>
Sent: Wednesday, May 09, 2018 2:02 PM
To: Krysundra Cannington
Cc: Lawrence Schmidt, Esquire; tkotroco@gmail.com; Jason Garber (jasonsgarber@gmail.com)
Subject: Re: Nepali American Cultural Center 18-122-X Scheduling

Folks
In checking my calendar and my clients, we are available for the three hearing days scheduled for the Applicant:
July 19; Aug. 8 & 9, 2018.

Larry, Tim and I have not yet discussed the Agreement re court reporter and transcript.
Best,
Carroll Holzer

On Tue, May 8, 2018 at 11:16 AM, Krysundra Cannington <kcannington@baltimorecountymd.gov> wrote:

Counsel,

Please provide an email update as to your availability and the agreement of counsel regarding the transcript.

Thank you,

Krysundra "Sunny" Cannington

Administrator

Board of Appeals of Baltimore County

410-887-3180

From: Krysundra Cannington
Sent: Friday, April 27, 2018 1:23 PM
To: Lawrence Schmidt, Esquire <lschmidt@sgs-law.com>; tkotroco@gmail.com; J. Carroll Holzer, Esquire

Krysundra Cannington

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Tuesday, May 08, 2018 2:25 PM
To: 'J. Carroll Holzer, Esquire (jcholzer38@gmail.com)'; Krysundra Cannington
Cc: 'Timothy M. Kotroco'; Alyssa Moyers
Subject: RE: Nepales Cultural Center

Sunny: See the email that I sent to Mr. Holzer on April 30, 2018. I advised him of three dates that were acceptable to our side (me, Tim Kotroco and our clients) and I believe we can conclude our case within that time frame. I believe that he is ok with these dates and assume he is waiting to hear from his client to get a final ok.

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

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at (410)

From: Lawrence Schmidt
Sent: Monday, April 30, 2018 11:46 AM
To: J. Carroll Holzer, Esquire (jcholzer38@gmail.com)
Cc: 'Timothy M. Kotroco'; Alyssa Moyers
Subject: Nepales Cultural Center

Carroll: It appears that Tim and I (and our witnesses) are available on July 19, 24 and August 4. I'd anticipate we'll have our case completed on those three days. Let me know if they work for you and also how many other dates you need.
Larry

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

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at (410).

Krysundra Cannington

From: Krysundra Cannington
Sent: Tuesday, May 08, 2018 11:17 AM
To: Lawrence Schmidt, Esquire; tkotroco@gmail.com; J. Carroll Holzer, Esquire (jcholzer38 @gmail.com)
Cc: Jason Garber (jasonsgarber@gmail.com)
Subject: RE: Nepali American Cultural Center 18-122-X Scheduling

Counsel,

Please provide an email update as to your availability and the agreement of counsel regarding the transcript.

Thank you,

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
410-887-3180

From: Krysundra Cannington
Sent: Friday, April 27, 2018 1:23 PM
To: Lawrence Schmidt, Esquire <lschmidt@sgs-law.com>; tkotroco@gmail.com; J. Carroll Holzer, Esquire (jcholzer38@gmail.com) <jcholzer38@gmail.com>
Subject: Nepali American Cultural Center 18-122-X Scheduling

Good afternoon Counsel,

Concern was expressed over the County Council working directly with you regarding scheduling. Therefore, I will be working with you, the County Council, and the Board, to schedule this matter. Currently, the following dates are available on my calendar: July 17, 18, 19, 24, 25, 26, August 1, 2, 8, 9, 14, 15, and 16, 2018.

As usual, any hearing scheduled would commence at 10:00 a.m. As always, we will schedule the dates as consecutively as possible.

Please be advised, I will be out of the office next week, returning on Tuesday, May 8th. I kindly request that you take this time to coordinate with your witnesses and clients and email me your availability. Upon my return, I will review your emails and coordinate the dates that work for you with the Board members and County Council.

It is my understanding that you are to provide me with an email which details the agreement of the parties with regard to a Court Reporter and transcript. Please include this information with your email about your available dates.

Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator

Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180
Fax: 410-887-3182

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Krysundra Cannington

From: Carroll Holzer <jcholzer38@gmail.com>
Sent: Friday, April 27, 2018 4:32 PM
To: Krysundra Cannington
Subject: Re: Nepali American Cultural Center 18-122-X Scheduling

Sunny
Because scheduling cases before the CBA will be difficult during the summer, I prepared the following list of dates that I will be away on vacation, or conflicts with previously scheduled cases:
June 1, Court of Special Appeals
June 5, Balto. Co. Circuit Court
July 21 thru Aug. 4, Vacation

Hope this helps,
Carroll Holzer

On Fri, Apr 27, 2018 at 1:23 PM, Krysundra Cannington <kcannington@baltimorecountymd.gov> wrote:

Good afternoon Counsel,

Concern was expressed over the County Council working directly with you regarding scheduling. Therefore, I will be working with you, the County Council, and the Board, to schedule this matter. Currently, the following dates are available on my calendar: July 17, 18, 19, 24, 25, 26, August 1, 2, 8, 9, 14, 15, and 16, 2018.

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Thank you,

Sunny

Krysundra "Sunny" Cannington

Administrator

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--

Very truly yours,

J. Carroll Holzer

Krysundra Cannington

From: Krysundra Cannington
Sent: Friday, April 27, 2018 1:23 PM
To: Lawrence Schmidt, Esquire; tkotroco@gmail.com; J. Carroll Holzer, Esquire (jcholzer38 @gmail.com)
Subject: Nepali American Cultural Center 18-122-X Scheduling

Good afternoon Counsel,

Concern was expressed over the County Council working directly with you regarding scheduling. Therefore, I will be working with you, the County Council, and the Board, to schedule this matter. Currently, the following dates are available on my calendar: July 17, 18, 19, 24, 25, 26, August 1, 2, 8, 9, 14, 15, and 16, 2018.

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It is my understanding that you are to provide me with an email which details the agreement of the parties with regard to a Court Reporter and transcript. Please include this information with your email about your available dates.

Thank you,

Sunny

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Krysundra Cannington

From: Thomas Bostwick
Sent: Friday, April 27, 2018 11:06 AM
To: Lawrence Schmidt
Cc: Alyssa Moyers; tkotroco@gmail.com; Krysundra Cannington
Subject: RE: Hearing Room

Larry,

I spoke with Sunny this morning and she did speak with Chris Belcastro, our Administrator here, last week and did get some dates from Chris as to when the Chamber would not be available for use (since that's a much smaller block of dates because we don't use it nearly as much in the summer). So she has some dates and indicated she will coordinate with the lawyers in the case to get some dates of when you and the others, and your witnesses, are available and then check the Board's schedule, then circle back to make sure those dates still jibe with when the room is available. So she's aware of it and will be working on it with the lawyers, Chris here at the Council, and the Board.

Thanks. Tom.

From: Lawrence Schmidt [mailto:lschmidt@sgs-law.com]
Sent: Thursday, April 26, 2018 4:32 PM
To: Thomas Bostwick <tbostwick@baltimorecountymd.gov>
Cc: Alyssa Moyers <amoyers@sgs-law.com>; tkotroco@gmail.com
Subject: RE: Hearing Room

Hi Tom: We had our scheduling conference at the Board today. Sunny was aware of my contact to you but indicated that she had not talked to anyone. So I don't know what is going on there. Tim Kotroco said he was going to call you and perhaps he's already done that. Let us know.

Sunny said that she is already scheduling cases into July. SO I would think we would want to have hearing dates from mid July through mid August. Perhaps 304 days during that time frame. Obviously subject to when the Council is using the room or someone else has "first dibs" on it. From the website, it looks like the Council has work sessions or legislative sessions July 2, 2018, July 31, 2018 and August 6, 2018. That works for us as there are few conflicts in that summer is pretty light. Let Tim or I know.
Thanks again.

Larry

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From: Thomas Bostwick [mailto:tbostwick@baltimorecountymd.gov]
Sent: Wednesday, April 25, 2018 2:01 PM
To: Lawrence Schmidt
Cc: Alyssa Moyers
Subject: RE: Hearing Room

Larry,

From what I understand, Sunny at the Board of Appeals also reached out to Chris Belcastro, the Administrator here, last week and broached the question as well (assuming it's the same case – can't imagine it isn't) of whether they could potentially utilize the Chamber for a hearing due to the anticipated large number of persons attending. It appears that Chris and Sunny are working on the scheduling details, so I think it is likely a go. You may want to follow up with Sunny.

Thanks. Tom.

From: Lawrence Schmidt [mailto:lschmidt@sgs-law.com]
Sent: Wednesday, April 25, 2018 10:10 AM
To: Thomas Bostwick <tbostwick@baltimorecountymd.gov>
Cc: Alyssa Moyers <amoyers@sgs-law.com>
Subject: RE: Hearing Room

Tom: Not to push, but let me know if you have anything to tell me regarding the above and our string of emails. I have a scheduling meeting tomorrow at the Board of Appeals with all counsel and the Board panel hearing the case. I can tell them that I have reached out to you and am waiting to hear or, it is a "no go" if that is the case, or it "might be possible" or whatever. So if you have any news, let me know.

Thanks,
Larry

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lschmidt@sgs-law.com | www.sgs-law.com

From: Lawrence Schmidt
Sent: Thursday, April 19, 2018 12:19 PM
To: 'Thomas Bostwick'
Cc: Alyssa Moyers
Subject: RE: Hearing Room

Sure Tom. Handle however you think best. And I am happy to get involved to the extent that you think proper.

Lawrence E. Schmidt | Partner
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600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

From: Thomas Bostwick [mailto:tbostwick@baltimorecountymd.gov]
Sent: Thursday, April 19, 2018 11:53 AM
To: Lawrence Schmidt
Cc: Alyssa Moyers
Subject: Re: Hearing Room

Okay Larry. It sounds reasonable but I frankly just don't know what the protocols are for using our room.

I am away today and tomorrow but I'll be back in the office on Monday.

Is this something I can discuss with Chris and Tom on Monday rather than just forwarding our emails?

Tom.

Sent from my iPhone

On Apr 19, 2018, at 7:27 AM, Lawrence Schmidt <lschmidt@sgs-law.com> wrote:

> That's fine. I think the hearing that I had was probably in the 1990's (as you know, I was Commissioner from 1991 to 2004) so it has been a long time ago. I just recall that it took some heavy lifting, but I recall we had the hearing at the Council Chambers.
>
> Tim Kotroco handled the instant case before Beverungen and I've seen the sign in sheets. He brought me in as co-counsel for the appeal. Tim said he thinks there were about 80 people there at the ALJ hearing from the Church and another 40

from the neighborhood. It was apparently a mob scene. People were standing in the aisles and in the hall. It was somewhat disruptive from what I am told.

We can get around the requirement of recording the proceedings by bringing in a court reporter in lieu of the recording equipment that is installed in the Board's hearing room. So creating a record is not an obstacle to moving the hearing. The Board's hearing room is no bigger than Beverungen's (if that big) and typically appeals' hearings generate crowds larger than the ALJ hearings.

If nothing can be done than so be it; I was just trying to get in front of the issue and offer the Board an option. I am supposed to meet at the Board on April 26 as sort of a preliminary logistics conference and wanted to reach out to you before hand.

If you have any thoughts (or Tom or Chris do), let me know.

Thanks for the response.
Larry

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600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

[illegible]

From: Thomas Bostwick [mailto:tbostwick@baltimorecountymd.gov]
Sent: Thursday, April 19, 2018 10:15 AM
To: Lawrence Schmidt
Cc: Alyssa Moyers
Subject: Re: Hearing Room

Larry,

That issue never came up when I was in the zoning commissioner's office,

We had a few hearings that generated quite a bit of interest, however, we used to hold our hearings in room 106 which was fairly large and the planning board room in the Jefferson building. That also could accommodate quite a few people. Certainly not as big as the council chamber.

If it's OK with you, I will forward your email to Tom Peddicord and Chris Belcastro and see what they think.

Tom.

Sent from my iPhone

On Apr 18, 2018, at 11:55 AM, Lawrence Schmidt <lschmidt@sgs-law.com> wrote:

> Tom: I have a question and perhaps you can provide some direction. When I was Zoning Commissioner, I recall having a hearing that generated a lot of public interest so that the hearing room could not accommodate all of the individuals who appeared. I recall asking the County Council if we could use the Council chambers on a date that did not conflict with any of their events and I seem to recall that they consented. I think the Council chambers is the biggest meeting type space of that nature in Towson. I can't think of anything comparable in the New Courts Building or Courthouse.
>
> Anyway, I am getting involved in a case involving a Church and expect a lot of folks attending, both from the Church and the neighborhood. I was wondering if any such arrangement could be made? I expect that the hearing may not be held under the summer (after May 31) so that might help in that the schedule might be lighter then (summer). I don't know if you have any thoughts or if this ever came up when you were DZC.
>
> Let me know.
>
> Thanks.
> Larry

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lschmidt@sgs-law.com | www.sgs-law.com

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www.baltimorecountymd.gov

Krysundra Cannington

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Friday, April 20, 2018 3:21 PM
To: Appeals Board; tkotroco@gmail.com; J. Carroll Holzer, Esquire (jcholzer38@gmail.com)
Subject: RE: Nepali American Cultural Center 18-122-X

Thank you Sunny. See you then.
Larry Schmidt

Lawrence E. Schmidt|Partner
Smith, Gildea & Schmidt, llc
600 Washington Avenue|Suite 200|Towson, MD 21204|(410) 821-0070
lschmidt@sgs-law.com|www.sgs-law.com

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From: Appeals Board [mailto:appealsboard@baltimorecountymd.gov]
Sent: Friday, April 20, 2018 3:06 PM
To: tkotroco@gmail.com; Lawrence Schmidt; J. Carroll Holzer, Esquire (jcholzer38@gmail.com)
Subject: Nepali American Cultural Center 18-122-X

Good afternoon Counsel,

Please be advised the Board will meet on Thursday, April 26, 2018 at 10:00 a.m. for Counsel to present any preliminary issues. The Board will not be hearing the merits of this matter on April 26, 2018.

I kindly ask that you bring your calendars so we can discuss scheduling.

Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180
Fax: 410-887-3182

Krysundra Cannington

From: Appeals Board
Sent: Friday, April 20, 2018 3:06 PM
To: tkotroco@gmail.com; Lawrence Schmidt, Esquire; J. Carroll Holzer, Esquire (jcholzer38 @gmail.com)
Subject: Nepali American Cultural Center 18-122-X

Good afternoon Counsel,

Please be advised the Board will meet on Thursday, April 26, 2018 at 10:00 a.m. for Counsel to present any preliminary issues. The Board will not be hearing the merits of this matter on April 26, 2018.

I kindly ask that you bring your calendars so we can discuss scheduling.

Thank you,

Sunny

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Krysundra Cannington

From: Carroll Holzer <jcholzer38@gmail.com>
Sent: Thursday, April 19, 2018 12:31 PM
To: Krysundra Cannington
Subject: Bonaparte Continuance

Sunny
Mr. Holzer is on his way back from Florida. I told him we spoke yesterday about needing the Board's approval for continuance. Dewey stopped by this morning. I told him I would follow up. He may call you to ask the same question. If you get that approval, I will forward to him so he wouldn't need to call.
Sterling

--
Very truly yours,

J. Carroll Holzer

Krysundra Cannington

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Wednesday, April 18, 2018 2:09 PM
To: Krysundra Cannington; 'Carroll Holzer'
Cc: Timothy M. Kotroco (tkotroco@gmail.com); Alyssa Moyers
Subject: RE: 12231 Harford Road/2018-122-X

Sunny: I'd think we'd want to discuss/settle:

1. The number of days required for the hearing. (I'd say three, but defer to Tim and Carroll as I am new to the case).
2. Get those dates scheduled and make them consecutive (or nearly so, i.e. 2 one week and the third the following; but not so we have months go by between hearing dates).
3. Where the hearing will be held. I appreciate that the Board has the room it has and it is what it is. But I also anticipate a large crowd. On the Church side, people could argue that the County is improperly not "accommodating" their desire to be present and participate in the exercise of their advocacy for their religion if they can't get in the room. The opponents may also object. In other words, at least the issue should be discussed. Whether there is any resolution remains to be seen.
4. Identify any preliminary motions (if any) that either side has. (I can't think of any off hand)
5. If mutually agreeable, the parties could identify experts (no requirement that this be done but it could be discussed.)
6. Identify when experts will be testifying (i.e. "my traffic expert will testify on the second day so your traffic expert can be present to hear that testimony").
7. Any pre-trial briefing ? (none that I know of)

I am not sure we need to be together to discuss all of this. But I'm willing to appear as needed and/or conference call or work through you (Sunny) or whatever is the Board's preference.

Larry

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lschmidt@sgs-law.com | www.sgs-law.com

Krysundra Cannington

From: Krysundra Cannington
Sent: Wednesday, April 18, 2018 1:14 PM
To: 'Lawrence Schmidt'; 'Carroll Holzer'
Cc: Timothy M. Kotroco (tkotroco@gmail.com); Alyssa Moyers
Subject: RE: 12231 Harford Road/2018-122-X

Larry, Sterling and Tim,

I spoke with the Board regarding the unopposed request for postponement and the subsequent request to meet on April 26th for "preliminary matters." The Board has asked if you could please identify (not argue) the preliminary matters that you would like the Board to hear on April 26th.

Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
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From: Lawrence Schmidt [mailto:lschmidt@sgs-law.com]
Sent: Wednesday, April 18, 2018 11:59 AM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>; 'Carroll Holzer' <jcholzer38@gmail.com>
Cc: Timothy M. Kotroco (tkotroco@gmail.com) <tkotroco@gmail.com>
Subject: RE: 12231 Harford Road/2018-122-X

Thanks Sunny. We'll wait to hear.

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600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
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Krysundra Cannington

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Wednesday, April 18, 2018 11:59 AM
To: Krysundra Cannington; 'Carroll Holzer'
Cc: Timothy M. Kotroco (tkotroco@gmail.com)
Subject: RE: 12231 Harford Road/2018-122-X

Thanks Sunny. We'll wait to hear.

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600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
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From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Wednesday, April 18, 2018 11:57 AM
To: Lawrence Schmidt; 'Carroll Holzer'
Cc: Timothy M. Kotroco (tkotroco@gmail.com)
Subject: RE: 12231 Harford Road/2018-122-X

Larry, Sterling, and Tim,

I am waiting to hear back from the Board members and will let you know what they say.

Sunny

From: Lawrence Schmidt [mailto:lschmidt@sgs-law.com]
Sent: Wednesday, April 18, 2018 11:52 AM
To: 'Carroll Holzer' <jcholzer38@gmail.com>
Cc: Timothy M. Kotroco (tkotroco@gmail.com) <tkotroco@gmail.com>; Krysundra Cannington <kcannington@baltimorecountymd.gov>
Subject: RE: 12231 Harford Road/2018-122-X

Sunny: If acceptable to the Board, I will plan to attend on April 26th and treat the meeting as a scheduling conference. I will tell my clients not to appear and will not bring any expert witnesses. We can discuss future hearing dates and the logistics of this matter then. Sunny, let me know if the Board is agreeable to proceeding in that matter.

Larry

Krysundra Cannington

From: Krysundra Cannington
Sent: Wednesday, April 18, 2018 11:57 AM
To: 'Lawrence Schmidt'; 'Carroll Holzer'
Cc: Timothy M. Kotroco (tkotroco@gmail.com)
Subject: RE: 12231 Harford Road/2018-122-X

Larry, Sterling, and Tim,

I am waiting to hear back from the Board members and will let you know what they say.

Sunny

From: Lawrence Schmidt [mailto:lschmidt@sgs-law.com]
Sent: Wednesday, April 18, 2018 11:52 AM
To: 'Carroll Holzer' <jcholzer38@gmail.com>
Cc: Timothy M. Kotroco (tkotroco@gmail.com) <tkotroco@gmail.com>; Krysundra Cannington <kcannington@baltimorecountymd.gov>
Subject: RE: 12231 Harford Road/2018-122-X

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Larry

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From: Carroll Holzer [mailto:jcholzer38@gmail.com]
Sent: Wednesday, April 18, 2018 10:38 AM
To: Lawrence Schmidt
Cc: Timothy M. Kotroco (tkotroco@gmail.com); Cannington, Krysundra
Subject: Re: 12231 Harford Road/2018-122-X

Larry

Krysundra Cannington

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Wednesday, April 18, 2018 11:52 AM
To: 'Carroll Holzer'
Cc: Timothy M. Kotroco (tkotroco@gmail.com); Krysundra Cannington
Subject: RE: 12231 Harford Road/2018-122-X

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Larry

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lschmidt@sgs-law.com | www.sgs-law.com

From: Carroll Holzer [mailto:jcholzer38@gmail.com]
Sent: Wednesday, April 18, 2018 10:38 AM
To: Lawrence Schmidt
Cc: Timothy M. Kotroco (tkotroco@gmail.com); Cannington, Krysundra
Subject: Re: 12231 Harford Road/2018-122-X

Larry
I will run past our clients and Carroll. No witnesses. Or maybe indicate the number of witnesses to determine how many days. Details to be worked out April 26.
Thanks,
Sterling

On Wed, Apr 18, 2018 at 10:20 AM, Lawrence Schmidt <lschmidt@sgs-law.com> wrote:

I have no problem "opening the case" on April 26 to take care of "preliminary matters." I would think mainly scheduling and logistics. I don't think starting with any witnesses makes

Krysundra Cannington

From: Carroll Holzer <jcholzer38@gmail.com>
Sent: Wednesday, April 18, 2018 10:38 AM
To: Lawrence Schmidt
Cc: Timothy M. Kotroco (tkotroco@gmail.com); Krysundra Cannington
Subject: Re: 12231 Harford Road/2018-122-X

Larry
I will run past our clients and Carroll. No witnesses. Or maybe indicate the number of witnesses to determine how many days. Details to be worked out April 26.
Thanks,
Sterling

On Wed, Apr 18, 2018 at 10:20 AM, Lawrence Schmidt <lschmidt@sgs-law.com> wrote:

> I have no problem "opening the case" on April 26 to take care of "preliminary matters." I would think mainly scheduling and logistics. I don't think starting with any witnesses makes sense as we'll not get in for a second day in months and I don't think it makes sense starting presentation of witnesses. But if you want us all in one place to map out the future proceedings, ok with me.
>
> Larry

Lawrence E. Schmidt | Partner

SMITH, GILDEA & SCHMIDT, LLC

600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070

lschmidt@sgs-law.com | www.sgs-law.com

Krysundra Cannington

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Wednesday, April 18, 2018 10:21 AM
To: 'Carroll Holzer'; Alyssa Moyers
Cc: Krysundra Cannington; Timothy M. Kotroco (tkotroco@gmail.com)
Subject: RE: 12231 Harford Road/2018-122-X

I have no problem "opening the case" on April 26 to take care of "preliminary matters." I would think mainly scheduling and logistics. I don't think starting with any witnesses makes sense as we'll not get in for a second day in months and I don't think it makes sense starting presentation of witnesses. But if you want us all in one place to map out the future proceedings, ok with me.

Larry

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

From: Carroll Holzer [mailto:jcholzer38@gmail.com]
Sent: Wednesday, April 18, 2018 10:02 AM
To: Alyssa Moyers
Cc: Krysundra Cannington; Timothy M. Kotroco (tkotroco@gmail.com); Lawrence Schmidt
Subject: Re: 12231 Harford Road/2018-122-X

Ladies and Counselors
Mr. Holzer is in Florida until Saturday. I have seen the letter of postponement and the the joining of Larry Schmidt to the team representing Nepali American Cultural Center. I was away Monday & Tuesday and am only now getting into the postponement request. I do not know our position. I will talk to our clients and Mr. Holzer about the postponement.

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Ladies and Counselors
Mr. Holzer is in Florida until Saturday. I have seen the letter of postponement and the the joining of Larry Schmidt to the team representing Nepali American Cultural Center. I was away Monday & Tuesday and am only now getting into the postponement request. I do not know our position. I will talk to our clients and Mr. Holzer about the postponement.

Alternatively, is it possible for the case to be opened on April 26 to take care of some preliminary matters, witnesses, experts, etc. at that time and then discuss dates, duration and location so everyone is on the same page on the 26th? I think I have seen that in the past from the other side.
Best regards,
Sterling Leese

On Tue, Apr 17, 2018 at 3:47 PM, Alyssa Moyers <amoyers@sgs-law.com> wrote:

Sunny –

Please see the attached in connection with the above referenced matter. Thank you.

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

Krysundra Cannington

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Tuesday, April 17, 2018 3:48 PM
To: Krysundra Cannington
Cc: Carroll Holzer (jcholzer38@gmail.com); Timothy M. Kotroco (tkotroco@gmail.com); Lawrence Schmidt
Subject: 12231 Harford Road/2018-122-X
Attachments: LT BOA requesting postponement of 4.26.18 hearing - pdf.PDF

Sunny –

Please see the attached in connection with the above referenced matter. Thank you.

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

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MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI

MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH
CARMELO D. MORABITO
SARAH A. ZADROZNY
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
MARY G. LOKER
*Admitted in MD, FL, PA

April 17, 2018

Sent Via Email and First Class Mail
Ms. Krysundra L. Cannington, Administrator
Board of Appeals of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

RECEIVED
APR 23 2018
BALTIMORE COUNTY
BOARD OF APPEALS

Re: In the Matter of: Nepali American Cultural Center
Property: 12231 Harford Road
Case No. 2018-122-X

Dear Sunny,

Please accept this letter as notice that I have been hired to serve as co-counsel with Timothy M. Kotroco for the Petitioners, Nepali American Cultural Center, in the above referenced matter. Please copy me on all future correspondence, notices and orders related to this matter.

I understand that this matter has been scheduled for a hearing before the Board on April 26, 2018 beginning at 10:00 a.m. Unfortunately, I believe that the anticipated opposition in this matter will require a minimum of three (3) days of hearing before the Board. Accordingly, I respectfully request that this matter be postponed to a week that the Board can schedule three consecutive days. I would also request that, based on the attendance at the Administrative Law Judge hearing, this matter could be set for a hearing in a larger room available at the County. Perhaps the County Council would allow their space.

Mr. Kotroco and I have both reached out to Mr. Holzer to obtain his concurrence with these requests, however, we were advised that he will be out of the office until next week.

Thank you for your courtesy. I look forward to hearing from you.

Very truly yours,

Lawrence E. Schmidt

LES/amf
cc: Timothy M. Kotroco, Esquire
J. Carroll Holzer, Esquire

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
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Sent: Tuesday, April 17, 2018 3:48 PM
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Sunny –

Please see the attached in connection with the above referenced matter. Thank you.

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SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

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Please consider the environment before printing this email.

Dewey Clark
(410) 592-3617

4/17/18
11:10 a.m.

p/c re: Napoli Case 18-122-X

-He understands a postponement request has been filed- scheduled for 4/26/18.

He is a Protestant & has alot of people scheduled to attend.

Is it going to be postponed?

J

4/17/18 1:10 pm
LM for Holzer - cl called - no pp req filed at this time. ~~AG~~

11:00 am

Alyssa 4/6/18

Re: Nepali American Cultural Center
18-122-X

Larry Schmidt has been retained to be Co-Counsel with Jim Kotroco to represent Nepali American Cultural Center.

Larry will be sending a letter requesting a postponement of the April 26th hearing and requesting that 3 days of hearings be scheduled.

- Also they anticipate a large amount of people attending the hearing. Would it be possible to see if hearings could be held at the Council hearing room? (Larry did that once as Zoning Commissioner).
I indicated we need a recording - Courtsmart there?
Alyssa said they will most likely have a Court Reporter at the hearings as she is sure it will be appealed.
I said our budget does not allow/accommodate a Court Reporter.

J

4/26/18

Counsel to √ with County Council about using their space. To send me an email with agreement re: transcript and possible dates to coordinate with panel.

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

March 6, 2018

NOTICE OF ASSIGNMENT

IN THE MATTER OF: Nepali American Cultural Center
12231 Harford Road
18-122-X 11th Election District; 5th Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 1A01.2.C.6 to allow a Church or other building for religious worship on property zoned RC-2.

1/22/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, subject to conditions.

ASSIGNED FOR: **APRIL 26, 2018, AT 10:00 A.M.**

LOCATION: Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.
- Parties must file one (1) original and three (3) copies of all Motions, Memoranda, and exhibits (including video and PowerPoint) with the Board unless otherwise requested.
- Projection equipment for digital exhibits is available by request. A minimum of forty-eight (48) hours-notice is required. Supply is limited and not guaranteed.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington,
Administrator

KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

February 22, 2018

Timothy M. Kotroco
305 Washington Avenue, Suite 502
Towson, Maryland 21204

J. Carroll Holzer, Esq.
508 Fairmount Avenue
Towson, Maryland 21286

RECEIVED
FEB 22 2018
BALTIMORE COUNTY
BOARD OF APPEALS

RE: **APPEAL TO BOARD OF APPEALS**
Case No. 2018-0122-X
Location: 12231 Harford Road

Dear Counsel:

Please be advised that an appeal of the above-referenced case was filed in this Office on February 16, 2018. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to contact the Board at 410-887-3180.

Sincerely,

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS:sln

Enclosure

c: DeWitt Clark, 12150 Harford Road, Glen Arm, MD 21057
Morgan Miner, 11946 Harford Road, Glen Arm, MD 21057
Carol Shaw, 7 Country Hill Ct., Kingsville, MD 21087
Paul Koch, 12138 Harford Road, Glen Arm, MD 21057

Robin Beers, 12442 Jerusalem Road, Kingsville, MD 21087
Joyce Mason, 11813 Harford Road, Glen Arm, MD 21057
Darby Standiford & Ronald Standiford, 6415 Mt. Vista Road, Kingsville, MD 21087
Ginny Terhune, 404 W. Joppa Road, Towson, MD 21204
Stephen Brady, 6208 Banaparte Avenue, Glen Arm, MD 21057
Edward & Sharon Heimiller, 12702 Lee Ben Road, Kingsville, MD 21087
Peter Martin, 1954 Greenspring Drive, Timonium, MD 21093
Robert & Denise Smith, 6215 Bonaparte Avenue, Glen Arm, MD 21057
Ellen Hubbard, 7862 Oakdale Avenue, Rosedale, MD 21237
Mary C. Clark, 12150 Harford Road, Glen Arm, MD 21057
Philip Landefeld & David Hartman, 12513 Regwood Road, Hydes, MD 21084
Pat Garner, 12535 Merritt Avenue, Fork, MD 21051
TA Kneeshaw, 11 Kings Glen Ct., Kingsville, MD 21087
Joanne Foxworthy & Robert Shifflett, 6229 Bonaparte Avenue, Glen Arm, MD 21057
Joanne Marsh, 5714 Williams Road, Hydes, MD 21082
Patricia Foley, 6131 Glen Arm Road E, Glen Arm, MD 21057
Jeannette Kempske, 11748 Harford Road, Glen Arm, MD 21057
Barbara Yingling, 11744 Harford Road, Glen Arm, MD 21057
Rosemary Bronzert, 12517 Regwood Road, Hydes, MD 21082
Holly Hammond & Charles Bronzert, 10900 Harford Road, Glen Arm, MD 21057
Patti Thoorn, 6316 Hutschenreuter Road, Glen Arm, MD 21057
Ibby Fazzini, 12330 Long Green Pike, Glen Arm, MD 21057
Jim Shipley, 6801 Glen Arm Road East, Glen Arm, MD 21057
Joe Tiberi, 6041 Glen Arm Road East, Glen Arm, MD 21057
Dave Poehler, 12241 Harford Road, Glen Arm, MD 21057
Donna Carter, 5515 Williams Road, Hydes, MD 21082
Keith Reuling & Nancy Koerner, 12505 Regwood Road, Hydes, MD 21082
Mary Lou Wickham, 11752 Harford Road, Glen Arm, MD 21057
Lisa Vindiola, 11930 Harford Road, Glen Arm, MD 21057
Scott Striebinger, 18 Vista View Ct., Kingsville, MD 21047
Doug Honbarrier, 6219 Bonaparte Avenue, Glen Arm, MD 21057
Bernadette Poehler, 12241 Harford Road, Glen Arm, MD 21057
Donna Gillespie, 32 Edgemoor Road, Timonium, MD 21093
Joshua Barlow, 3444 Jarrettsville Pike, Monkton, MD 21111

APPEAL

Petition for Special Exception
12331 **(~~12213~~ Harford Road)**
11th Election District – 5th Councilmanic District
Legal Owner: Nepali American Cultural Center
Case No. 2018-0122-X

Petition for Special Exception (October 31, 2017)

Zoning Description of Property

Notice of Zoning Hearing (November 22, 2017)

Certificate of Publication (December 28, 2017)

Certificate of Posting (December 18, 2017) by J. Lawrence Pilson

Entry of Appearance by People's Counsel (November 7, 2017)

Petitioner(s) Sign-in Sheet – 4 pages
Citizen(s) Sign-in Sheet – 2 pages

Zoning Advisory Committee Comments

Petitioner(s) Exhibits -

1. Site Plan
2. Site plan (highlighted)
3. Photos of vicinity
4. Aerial-surrounding uses
5. My Neighborhood map
6. Aerial showing buffer
7. Aerial showing site with existing buildings
8. Photos-Main House
9. 1-10-2018 letter from Traffic Group
10. Map & photos re: sight distance
11. Map & photos re: stopping distance
12. Facebook posts

Protestants' Exhibits –

1. Thumb Drive with sound recording

Administrative Law Judge Order and Letter (GRANTED, January 22, 2018)

Notice of Appeal – J. Carroll Holzer, Esq. February 16, 2018

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

№ 143367

Date: 2-16-18

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				385.00

Total: 385.00

Rec From: J. Carroll Holzer, Esq.

For: OAH - Appeal

Case No. 2018-0122-X
12231 Harford Rd.
Hearing - 1-17-18 Ck. # 4562

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

CASHIER'S VALIDATION

PAID RECEIPT
BUSINESS ACTUAL TIME DRW
2/16/2018 2/16/2018 12:15:14 5
REG USER WALETH LRB
RECEIPT # 940002 2/16/2018 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 143367
Receipt Tot $385.00
$385.00 CK $.00 CA
Baltimore County, Maryland

RECEIVED
FEB 16 2018
OFFICE OF
ADMINISTRATIVE HEARINGS

IN RE: PETITIONS FOR SPECIAL EXCEPTION (12231 Harford Road)	*	BEFORE THE
	*	OFFICE OF
	*	ADMINISTRATIVE HEARINGS
11th Election District 5th Councilmanic District	*	FOR BALTIMORE COUNTY
Nepali American Cultural Center Legal Owner	*	
	*	Case No.: 2018-0122-X
	*	

* * * * * * * * * * * * *

NOTICE OF APPEAL

DeWitt and Mary Clark, 12150 Harford Road, Glen Arm, Maryland 21057, ***David Hartman***, 12513 Regwood Road, Hydes, Maryland 21082, ***Dave Poehler***, 12241 Harford Road, Glen Arm, Maryland 21057, ***Morgan Miner***, 11946 Harford Road, Glen Arm, Maryland 21057, and ***Carol Shaw***, 7 Country Hill Court, Kingsville, Maryland 21087, Appellants, *by* ***J. Carroll Holzer, Esquire***, feeling aggrieved by the Decision of the Administrative Law Judge's January 22, 2018 Opinion and Order entered in the above-captioned matter and attached hereto. This appeal, noted within thirty (30) days of the Final Order, now seeks review by the Baltimore County Board of Appeals.

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
FAX: (410) 825-4923

Appellants were parties below and fully participated in the proceedings. Filed concurrently with this Notice of Appeal is a check payable to "Baltimore County" to cover costs of this appeal.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
J. CARROLL HOLZER, P.A.
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on the 16th day of February 2018, a copy of the aforegoing Notice of Appeal was mailed first class, postage prepaid, to:

Baltimore County Board of Appeals
Jefferson Building
105 West Chesapeake Avenue
Second Floor, Suite 203
Towson, Maryland 21204

Timothy M. Kotroco, Esquire
305 Washington Avenue
Suite 502
Towson, Maryland 21204

J. CARROLL HOLZER, Esquire

IN RE: PETITION FOR SPECIAL EXCEPTION (12231 Harford Road) 11th Election District 5th Council District Nepali American Cultural Center *Legal Owner*	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2018-0122-X

* * * * * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Exception filed on behalf of Nepali American Cultural Center, legal owner ("Petitioner"). The Special Exception was filed pursuant to the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow a church or other building for religious worship on property zoned RC-2.

Professional engineers John Motsco and Joe Caloggeri appeared in support of the petition. Timothy M. Kotroco, Esq. represented the Petitioner. Numerous citizens attended the hearing and objected to the request. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP), the Bureau of Development Plans Review (DPR), State Highway Administration (SHA) and the Department of Environmental Protection and Sustainability (DEPS). None of the reviewing agencies objected to the request.

The subject property is approximately 30.8 acres and is zoned RC-2. The property is improved with an historic single-family dwelling and several outbuildings. Petitioner purchased the property last year, at which time it was rundown and abandoned. Photographs submitted at the hearing reveal extensive vandalism to the property which occurred both before and after Petitioner purchased the property. Petitioner is in the process of renovating the property, and estimates that

final order), these concerns are inherent in the operation of a church or building for worship located in a rural area. In other words, most uses for which a special exception is required are regarded as "potentially troublesome because of noise, traffic, congestion…." *Montgomery County v. Butler*, 417 Md. 271, 297 (2010).

In rural zones especially roadways are often antiquated and overburdened, and water/sewer services are not provided by the County. Harford Road will be used to access the site, and as a state highway it is under the control and jurisdiction of the State Highway Administration (SHA). As Mr. Caloggeri (a professional engineer accepted as an expert) testified, the SHA, not Baltimore County, will examine the proposed access and determine whether improvements or other measures are necessary to ensure safe ingress/egress from the site.

As noted in the conditions below, Petitioner must obtain approval from Baltimore County for installation of well and septic systems for this property. Ronald Standiford, pastor of the adjacent Redeemer church, noted that the Christian school affiliated with the church has approximately 220 students and the well and septic system are sufficient. According to witnesses in Petitioner's case, far fewer people will visit this site on a daily basis, and thus there is no reason to believe the water supply and sewerage system would not be adequate.

THEREFORE, IT IS ORDERED this **22nd** day of **January, 2018,** by this Administrative Law Judge, that the Petition for Special Exception to allow a church or other building for religious worship on property zoned RC-2, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

RECEIVED
FEB 16 2018
OFFICE OF
ADMINISTRATIVE HEARINGS

IN RE: PETITIONS FOR SPECIAL EXCEPTION (12231 Harford Road)	*	BEFORE THE
	*	OFFICE OF
	*	ADMINISTRATIVE HEARINGS
11th Election District 5th Councilmanic District	*	FOR BALTIMORE COUNTY
Nepali American Cultural Center Legal Owner	*	
	*	Case No.: 2018-0122-X
	*	

* * * * * * * * * * * * *

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FEB 20 2018
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BOARD OF APPEALS

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J. CARROLL HOLZER, P.A.
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
Attorney for Appellants

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Baltimore County Board of Appeals
Jefferson Building
105 West Chesapeake Avenue
Second Floor, Suite 203
Towson, Maryland 21204

Timothy M. Kotroco, Esquire
305 Washington Avenue
Suite 502
Towson, Maryland 21204

J. CARROLL HOLZER, Esquire

IN RE: PETITION FOR SPECIAL EXCEPTION (12231 Harford Road) 11th Election District 5th Council District Nepali American Cultural Center *Legal Owner*	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2018-0122-X

* * * * * * * * * * * *

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final order), these concerns are inherent in the operation of a church or building for worship located in a rural area. In other words, most uses for which a special exception is required are regarded as "potentially troublesome because of noise, traffic, congestion...." *Montgomery County v. Butler*, 417 Md. 271, 297 (2010).

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As noted in the conditions below, Petitioner must obtain approval from Baltimore County for installation of well and septic systems for this property. Ronald Standiford, pastor of the adjacent Redeemer church, noted that the Christian school affiliated with the church has approximately 220 students and the well and septic system are sufficient. According to witnesses in Petitioner's case, far fewer people will visit this site on a daily basis, and thus there is no reason to believe the water supply and sewerage system would not be adequate.

THEREFORE, IT IS ORDERED this **22nd** day of **January, 2018,** by this Administrative Law Judge, that the Petition for Special Exception to allow a church or other building for religious worship on property zoned RC-2, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

January 22, 2018

Timothy M. Kotroco
305 Washington Avenue, Suite 502
Towson, Maryland 21204

RE: Petitions for Special Exception
Case No. 2018-0122-X
Property: 12231 Harford Road

Dear Mr. Kotroco:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: DeWitt Clark, 12150 Harford Road, Glen Arm, MD 21057
Morgan Miner, 11946 Harford Road, Glen Arm, MD 21057
Carol Shaw, 7 Country Hill Ct., Kingsville, MD 21087
Paul Koch, 12138 Harford Road, Glen Arm, MD 21057
Robin Beers, 12442 Jerusalem Road, Kingsville, MD 21087
Joyce Mason, 11813 Harford Road, Glen Arm, MD 21057

Darby Standiford & Ronald Standiford, 6415 Mt. Vista Road, Kingsville, MD 21087
Ginny Terhune, 404 W. Joppa Road, Towson, MD 21204
Stephen Brady, 6208 Banaparte Avenue, Glen Arm, MD 21057
Edward & Sharon Heimiller, 12702 Lee Ben Road, Kingsville, MD 21087
Peter Martin, 1954 Greenspring Drive, Timonium, MD 21093
Robert & Denise Smith, 6215 Bonaparte Avenue, Glen Arm, MD 21057
Ellen Hubbard, 7862 Oakdale Avenue, Rosedale, MD 21237
Mary C. Clark, 12150 Harford Road, Glen Arm, MD 21057
Philip Landefeld & David Hartman, 12513 Regwood Road, Hydes, MD 21084
Pat Garner, 12535 Merritt Avenue, Fork, MD 21051
TA Kneeshaw, 11 Kings Glen Ct., Kingsville, MD 21087
Joanne Foxworthy & Robert Shifflett, 6229 Bonaparte Avenue, Glen Arm, MD 21057
Joanne Marsh, 5714 Williams Road, Hydes, MD 21082
Patricia Foley, 6131 Glen Arm Road E, Glen Arm, MD 21057
Jeannette Kempske, 11748 Harford Road, Glen Arm, MD 21057
Barbara Yingling, 11744 Harford Road, Glen Arm, MD 21057
Rosemary Bronzert, 12517 Regwood Road, Hydes, MD 21082
Holly Hammond & Charles Bronzert, 10900 Harford Road, Glen Arm, MD 21057
Patti Thoorn, 6316 Hutschenreuter Road, Glen Arm, MD 21057
Ibby Fazzini, 12330 Long Green Pike, Glen Arm, MD 21057
Jim Shipley, 6801 Glen Arm Road East, Glen Arm, MD 21057
Joe Tiberi, 6041 Glen Arm Road East, Glen Arm, MD 21057
Dave Poehler, 12241 Harford Road, Glen Arm, MD 21057
Donna Carter, 5515 Williams Road, Hydes, MD 21082
Keith Reuling & Nancy Koerner, 12505 Regwood Road, Hydes, MD 21082
Mary Lou Wickham, 11752 Harford Road, Glen Arm, MD 21057
Lisa Vindiola, 11930 Harford Road, Glen Arm, MD 21057
Scott Striebinger, 18 Vista View Ct., Kingsville, MD 21047
Doug Honbarrier, 6219 Bonaparte Avenue, Glen Arm, MD 21057
Bernadette Poehler, 12241 Harford Road, Glen Arm, MD 21057
Donna Gillespie, 32 Edgemoor Road, Timonium, MD 21093

IN RE: PETITION FOR SPECIAL EXCEPTION (12231 Harford Road) 11th Election District 5th Council District Nepali American Cultural Center *Legal Owner*	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2018-0122-X

* * * * * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Exception filed on behalf of Nepali American Cultural Center, legal owner ("Petitioner"). The Special Exception was filed pursuant to the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow a church or other building for religious worship on property zoned RC-2.

Professional engineers John Motsco and Joe Caloggeri appeared in support of the petition. Timothy M. Kotroco, Esq. represented the Petitioner. Numerous citizens attended the hearing and objected to the request. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP), the Bureau of Development Plans Review (DPR), State Highway Administration (SHA) and the Department of Environmental Protection and Sustainability (DEPS). None of the reviewing agencies objected to the request.

The subject property is approximately 30.8 acres and is zoned RC-2. The property is improved with an historic single-family dwelling and several outbuildings. Petitioner purchased the property last year, at which time it was rundown and abandoned. Photographs submitted at the hearing reveal extensive vandalism to the property which occurred both before and after Petitioner purchased the property. Petitioner is in the process of renovating the property, and estimates that

ORDER RECEIVED FOR FILING
Date 11/22/18
By

at least 4-5 months of additional restoration work needs to be done before the property can be used by the congregation.

Special Exception

Doug Burgess, an attorney with a law office in the area, testified a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), wherein Maryland's highest court discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Mr. Motsco, a professional engineer accepted as an expert, explained the site plan in detail and said he has visited the property on several occasions. He testified the property is approximately 30.8 acres in size and is zoned RC-2. The witness noted the site has mature wooded buffers along all road frontages, and he testified Petitioner is not at this time proposing any new construction on the site. In conclusion, Mr. Motsco opined Petitioner satisfied each of the requirements set forth at B.C.Z.R. §502.1.

Several citizens testified in opposition to the proposal. Though each witness expressed concern with how the project may impact them individually, there were common themes in the testimony. Traffic conditions and roadway safety, and a concern for water wells and private sewage disposal, were the most frequently cited concerns. Many neighbors also complained about several events or gatherings at the site which generated a significant amount of noise. With the exception of the complaints about noise (which will be addressed in a condition included in the

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Date 1/22/18
By lsln

final order), these concerns are inherent in the operation of a church or building for worship located in a rural area. In other words, most uses for which a special exception is required are regarded as "potentially troublesome because of noise, traffic, congestion...." *Montgomery County v. Butler*, 417 Md. 271, 297 (2010).

In rural zones especially roadways are often antiquated and overburdened, and water/sewer services are not provided by the County. Harford Road will be used to access the site, and as a state highway it is under the control and jurisdiction of the State Highway Administration (SHA). As Mr. Caloggeri (a professional engineer accepted as an expert) testified, the SHA, not Baltimore County, will examine the proposed access and determine whether improvements or other measures are necessary to ensure safe ingress/egress from the site.

As noted in the conditions below, Petitioner must obtain approval from Baltimore County for installation of well and septic systems for this property. Ronald Standiford, pastor of the adjacent Redeemer church, noted that the Christian school affiliated with the church has approximately 220 students and the well and septic system are sufficient. According to witnesses in Petitioner's case, far fewer people will visit this site on a daily basis, and thus there is no reason to believe the water supply and sewerage system would not be adequate.

THEREFORE, IT IS ORDERED this **22nd** day of **January, 2018,** by this Administrative Law Judge, that the Petition for Special Exception to allow a church or other building for religious worship on property zoned RC-2, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

ORDER RECEIVED FOR FILING
Date 1/22/18
By ASH

2. Petitioner must submit for approval by Baltimore County landscape and lighting plans for the site.
3. Prior to operating a religious facility at the site Petitioner must install a sign at the Harford Road access point (in compliance with the B.C.Z.R. §450) containing the name of the facility and street address.
4. Prior to issuance of occupancy permits, Petitioner must demonstrate to DEPS that the well and septic system proposed will be sufficient to serve the facility.
5. Prior to issuance of permits Petitioner must comply with the ZAC comment of DEPS, a copy of which is attached hereto and incorporated herein.
6. Prior to issuance of permits Petitioner must obtain from SHA an access permit authorizing ingress and egress from the site via Harford Road.
7. Special events held at the site shall be limited to the hours of 10 a.m. to 10 p.m., and outdoor amplification of music or sound shall not be permitted.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln

ORDER RECEIVED FOR FILING
Date 1/22/18
By sln

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and Sustainability (EPS) - Development Coordination

DATE: November 21, 2017

SUBJECT: DEPS Comment for Zoning Item # 2018-0122-X
Address 12231 Harford Road
(Nepali American Cultural Center Property)

Zoning Advisory Committee Meeting of **November 13, 2017.**

__X__ The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

__X__ Any development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

__X__ Any development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Additional Comments:

Reviewer: Paul Dennis, Environmental Impact Review Date: 11/21/2017

PLEASE PRINT CLEARLY

CASE NAME 2018-122-X
CASE NUMBER
DATE 1-17-2018

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
Timothy M. Kotroco	305 Washington Avenue, Suite 502	Towson, MD 21204	Tkotroco@gmail.com
JOE CALOGGERO	THE TRAFFIC GROUP 9900 FRANKLIN SQ DRIVE. STE H	BALT 21236	JCALOGGERO@TRAFFICGROUP.COM
John Motsco	1055 Taylor Ave Suite 307	TOWSON MD 21286	JohnM@littleAssociates.com
CHRIS COLLISON	12501 Regwood Rd	Hydes MD 21082	collison@comcast.net
Yagya Rana	4415 Laplata Avenue, Baltimore	MD, 21211	yagyabdrana@gmail.com
BIKRAM KC	9022 Fieldchat Rd	Nottingham, MD 21236	bikramkc7@gmail.com
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KIRAN PANTHA	724 TINKER ROAD	MIDDLE RIVER, MD, 21220	kpantha@hotmail.com
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Rajan Tripathi		Crofton, MD	
Yashoda Gurung	201 point to point sq	Bel-Air, MD - 21015	Mahendadesa@hotmail.c
Dilip Shrestha	1717 Aberdeen Rd E	Parkville MD - 21234	dilip64@hotmail.com

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER _____
DATE _____

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Timothy M. Kotroco	305 Washington Avenue, Suite 502	Towson, MD 21204	Tkotroco@gmail.com
SHYAM KARKI	19 Longknell Way	Kingsville, MD 21087	Shyamkarki@gmail.com
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Sangam Acharya	21 Sylvanoak way, ~~MD 21236~~	Baltimore, MD-21236	Sharmasangam@gmail.com
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Krishna Uprety	9221 Bretton Reef Rd	Parkvill, MD, 21234	Krishuprety@live.com

PLEASE PRINT CLEARLY

CASE NAME
CASE NUMBER
DATE

PETITIONER'S SIGN-IN SHEET

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	~~Towson MD 21204~~		
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Sujan Karki	1 Casheel Ct Nottingham	MD 21236	Sujan.kumar.karki@gmail
Kamal Bhandari	4706 Beaconsfield Dr	MD 21236	Kamal Bhandari USACG Corp
Jill Breysse	11963 Harford Rd Glen Arm	MD 21057	jbreysse42@gmail.com

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER _____
DATE _____

PETITIONER'S SIGN-IN SHEET

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Krishna Pd. Bhatta	3 Fernsell Ct	Rosedale, MD, 21237	—
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DILLI POUDEL	526 Hanna Road	Bel Air, MD.	poudeldilliram@gmail.com

PLEASE PRINT CLEARLY

CASE NAME 2018-122-X
CASE NUMBER
DATE 1-17-2018

CITIZEN'S SIGN - IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
DeWitt Clark	12150 Harford Rd	Glen Arm, MD, 21057	Historictimekeepers@gmail
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Joanne MARSH	5714 WILLIAMS RD	Hydes, md 21082	Jodukes19@gmail.com

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER _____
DATE _____

CITIZEN'S SIGN - IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
Patricia J Foley	6131 Glen Arm Rd E	Glen Arm, MD 21057	patricia.foley@verizon.net
Robert Shifflett	6229 Bonaparte Ave	Glen Arm M.D	
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Barbara Yingling	11744 Harford Rd	Glen Arm, MD 21057	jbyingling@comcast.net
ROSEMARY BRONZERT	12517 REGWOOD RD	HYDES, MD 21082	NERF12517@VERIZON.NET
HOLLY L. HAMMOND	10900 HARFORD RD	GLEN ARM, MD 21057	berries301@hotmail.com
CHARLES BRONZERT	" " "	" " "	CBRONZERT@Arm.com
PATTI THORN	6316 Hutschenreuter Rd	Glen Arm 21057	pattithorn7@gmail.com
Ibby Fazzini	12330 Long Green Pike	Glen Arm 21057	ibby@homesale.com
JIM SHIPLEY	6101 GLEN ARM RD EAST	GLEN ARM 21057	jimshipley1950@GMAIL.com
JOE TIBERI	6041 GLEN ARM RD. E.	GLEN ARM, MD 21057	jtiberi@oakcontracting.com
Dave Poehler	12241 Harford rd	Glen Arm, MD 21057	Poehler.e@gmail.com
Donna Carter	5515 Williams Rd	Hydes Md 21082	talisman254@gmail.com
KEITH Reuling & NANCY KOERNER	12505 Regwood Rd.	Hydes, Md. 21082	NKOERNER1@comcast.com
MARY LOU WICKHAM	11752 HARFORD ROAD	GLEN ARM, MD 21057	mlwickham@gmail.com
Lisa Vindiola	11930 Harford Rd	Glen Arm, MD 21057	lisa.m.vindiola@gmail.com
SCOTT STRIEBINGER	18 VISTA VIEW CT	KINGSVILLE MD 21047	with Greater Mt Vista Association
Doug Honbarrier	6219 Bonaparte Ave.	Glen Arm. MD 21057	doughonbarrier@comcast.net
BERNADETTE POEHLER	12241 HARFORD RD	Glen Arm MD 21057	POEHLER.E@gmail.com
Donna Gillespie	32 Edgemoor RD	Timonium, MD 21093	dmgillespie@verizon.net

KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits, Approvals & Inspections

January 11, 2018

Nepali American Cultural Center
Kris Ghimire
8030 Bel Air Road
Nottingham MD 21237

RE: Case Number: 2018-0122 X, Address: 12231 Harford Road

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on October 31, 2017. This letter is not an approval, but only a **NOTIFICATION.**

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel
Timothy M Kotroco, Esquire, 305 Washington Avenue, Suite 502, Towson MD 21204

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and Sustainability (EPS) - Development Coordination

DATE: November 21, 2017

SUBJECT: DEPS Comment for Zoning Item # 2018-0122-X
Address 12231 Harford Road
(Nepali American Cultural Center Property)

Zoning Advisory Committee Meeting of **November 13, 2017**.

__X__ The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

__X__ Any development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

__X__ Any development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Additional Comments:

Reviewer: Paul Dennis, Environmental Impact Review Date: 11/21/2017

November 30, 2017

Ms. Kristen Lewis
Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 109
Towson, Maryland 21204

Dear Ms. Lewis:

Thank you for the opportunity to review the site plan to accompany the petition for special exception, for a proposed church on the property at 12231 Harford Road (MD 147) located on the east side of MD 147 south of Mt. Vista Road in Baltimore County. The Maryland Department of Transportation State Highway Administration (MDOT SHA) has reviewed the submittal listed below and is pleased to respond.

12231 Harford Road
Site Plan Review for Special Exception
Case No. 2018-0122-X
SHA Tracking No. 17APBA030XX
MD 147 (east side) 1000' south of Mt. Vista Road
Mile Post 8.10
Baltimore County

The MDOT SHA requests the opportunity to review a trip generation analysis for this proposed development to determine the extent of road improvements needed to mitigate the traffic impact. This analysis should be sent to the District 4 Office, Ms. Wendy Wolcott, 320 West Warren Road, Hunt Valley, MD 21030 to the attention of Richard Zeller. Please utilize the above SHA tracking number when making this submission.

The MDOT SHA notes that the sight distance at the existing entrance on MD 147 when looking south is inadequate, and therefore recommends that the developer investigate the possibility of constructing a new access along the property frontage on MD 147 to accommodate this new development, where adequate sight distance could be achieved.

Whether a new access will be constructed, or safety improvements to the existing entrance (acceleration/deceleration lanes), an access permit will be required from the Access Management Office to construct the improvements.

If there are any questions, please contact Mr. Richard Zeller at 410-229-2332 or toll free (in Maryland only), 1-866-998-0367 (x2332) or by email at (rzeller@sha.state.md.us).

Sincerely,

Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

cc: Little & Associates, Inc. / 1055 Taylor Avenue, Suite 307, Towson, MD 21286
Nepali American Cultural Center of Baltimore / 12231 Harford Road
Glen Arm, MD 21057
Mr. Jan M. Cook / 111 W. Chesapeake Avenue, Towson, MD 21204
Mr. Vishnu Desai / 111 W. Chesapeake Avenue, Towson, MD 21204
Mr. Donald Distance, SHA District 4 Traffic

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

DATE: November 17, 2017

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For November 13, 2017
Item No. 2018-0122-X

The Bureau of Development Plans Review has reviewed the subject zoning items and we have no comments.

If Special Exception is granted, a landscape plan is required per the requirement of the Landscape Manual. A Lighting Plan is also required.

Harford Road, Maryland Route 147, is a state road. All improvements, intersections, entrances, drainage requirements and construction affecting a state road right-of-way are subject to the standards, specifications and approval of the *Maryland State Highway Administration* in addition to those of Baltimore County.

* * * * *

VKD: efc
cc: file

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: 11/27/2017

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: **ZONING ADVISORY COMMITTEE COMMENTS**
Case Number: 18-122

INFORMATION:
Property Address: 12231 Harford Road
Petitioner: Nepali American Cultural Center, Kris Ghimire, Trustee
Zoning: RC 2
Requested Action: Special Exception

The Department of Planning has reviewed the petition for a special exception to use the property for a church or other building for religious worship on property zoned RC 2.

A site visit was conducted on November 7, 2017.

The Department has no objection to granting the petitioned zoning relief

For further information concerning the matters stated herein, please contact Kaylee Justice at 410-887-3480.

Prepared by:
Lloyd T. Moxley

Division Chief:
Kathy Schlabach

AVA/KS/LTM/ka

c: Kaylee Justice
Timothy Kotroco, Esquire
Office of the Administrative Hearings
People's Counsel for Baltimore County

KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director,Department of Permits,
Approvals & Inspections

November 22, 2017

NOTICE OF ZONING HEARING

The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2018-0122-X
12231 Harford Road
S/s Harford Road, 75 ft. e/of centerline of Bonaparte Avenue
11th Election District – 5th Councilmanic District
Legal Owners: Nepali American Cultural Center

Special Exception to allow a church or other building for religious worship on property zoned RC-2; and for such other and further relief as the nature of this cause may require.

Hearing: Wednesday, January 17, 2018 at 1:30 p.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

Arnold Jablon
Director

AJ:kl

C: Timothy Kotroco, 305 Washington Avenue, Ste. 502, Towson 21204
Kris Ghimire, 8030 Bel Air Road, Nottingham 21237

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURS., DECEMBER 28, 2017**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

THE BALTIMORE SUN MEDIA GROUP

501 N. Calvert St., P.O. Box 1377
Baltimore, Maryland 21278-0001
tel: 410/332-6000
800/829-8000

WE HEREBY CERTIFY, that the annexed advertisement of Order No 5366876

Sold To:
Timothy Kotroco Esq. - CU00421252
305 Washington Avenue
#502
Towson,MD 21204

Bill To:
Timothy Kotroco Esq. - CU00421252
305 Washington Avenue
#502
Towson,MD 21204

Was published in "Jeffersonian", "Bi-Weekly", a newspaper printed and published in Baltimore County on the following dates:

Dec 28, 2017

NOTICE OF ZONING HEARING

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12231 Harford Road
S/s Harford Road, 75 ft. e/of centerline of Bonaparte Avenue
11th Election District - 5th Councilmanic District
Legal Owner(s) Nepali American Cultural Center

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ARNOLD JABLON, DIRECTOR OF PERMITS, APPROVALS AND INSPECTIONS FOR BALTIMORE COUNTY

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Administrative Hearings Office at (410) 887-3868.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

12/083 Dec. 28 5366876

The Baltimore Sun Media Group

By S. Wilkinson

Legal Advertising

CERTIFICATE OF POSTING

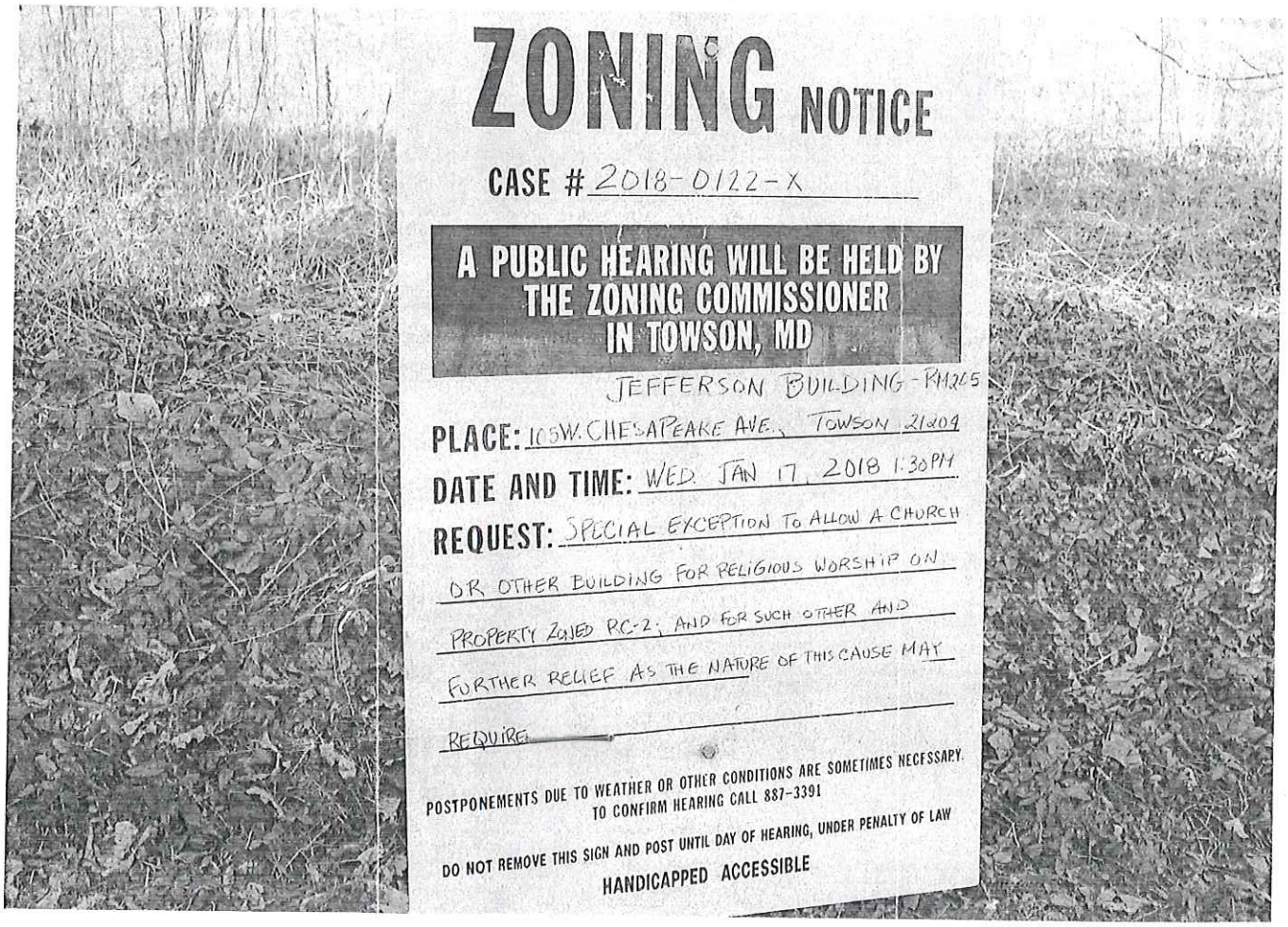
Date: 12-18-17

RE: Case Number: 2018-0122-X

Petitioner/Developer: Nepali American Cultural Center

Date of Hearing/Closing: 1-17-18 1:30PM

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 12231 Hanford Rd



RE:	PETITION FOR SPECIAL EXCEPTION 12231 Harford Road; S/S Harford Road, 75'E of c/line of Bonaparte Avenue 11th Election & 5th Councilmanic Districts Legal Owner(s): Nepali American Cultural Center by Kris Ghimire, Trustee Petitioner(s)	*	BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS FOR BALTIMORE COUNTY 2018-122-X

* * * * * * * * * * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED
NOV 07 2017

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of November, 2017, a copy of the foregoing Entry of Appearance was mailed to Timothy Kotroco, Esquire, 305 Washington Avenue, Suite 502, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 12231 Harford Road **which is presently zoned** RC 2

Deed References: 38898/0065 10 Digit Tax Account # 11-1700006067

Property Owner(s) Printed Name(s) Nepali American Cultural Center of Baltimore

(SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1.____ **a Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

SEE ATTACHED

2.__X__ **a Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

SEE ATTACHED

3.____ **a Variance** from Section(s)

SEE ATTACHED

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: **(Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)**

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.
Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Nepali American Cultural Center, By: Kris Ghimire, Trustee

Name #1 – Type or Print Name #2 – Type or Print

Signature #1 Signature # 2

8030 Bel Air Road Nottingham MD

Mailing Address City State

21237 / 410-497-5238 / Kris@ghimirehomes.com

Zip Code Telephone # Email Address

Attorney for Petitioner:

Timothy M. Kotroco

Name- Type or Print

Timothy Kotroco

Signature

305 Washington Avenue, Suite 502, Towson, Maryland

Mailing Address City State

21204 / 410-299-2943 / TKotroco@gmail.com

Zip Code Telephone # Email Address

Representative to be contacted:

Same As Attorney for Petitioner

Name – Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

ORDER RECEIVED FOR FILING
Date 11/02/18
By NEN

CASE NUMBER 2018-0122-X **Filing Date** 10/31/2018 **Do Not Schedule Dates:** _____ **Reviewer** Drop off No Review

REV. 10/4/11

ATTACHMENT TO SPECIAL EXCEPTION PETITION

The Petitioner, requests the following zoning relief:

SPECIAL EXCEPTION RELIEF, pursuant to section 1A01.2.C.6 of the BCZR to allow a Church or other building for religious worship on property zoned RC2;

AND For such other and further relief as the nature of this cause may require.

2018-0122-X

PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

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Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Nepali American Cultural Center, By: Kris Ghimire, Trustee

Name #1 – Type or Print Name #2 – Type or Print

Signature #1 Signature # 2

8030 Bel Air Road Nottingham MD

Mailing Address City State

21237 / 410-497-5238 / Kris@ghimirehomes.com

Zip Code Telephone # Email Address

Attorney for Petitioner:

Timothy M. Kotroco

Name- Type or Print

Timothy Kotroco

Signature

305 Washington Avenue, Suite 502, Towson, Maryland

Mailing Address City State

21204 / 410-299-2943 / TKotroco@gmail.com

Zip Code Telephone # Email Address

Representative to be contacted:

Same As Attorney for Petitioner

Name – Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

ORDER RECEIVED FOR FILING
Date 11/22/18
By ben

CASE NUMBER 2018-0122-X **Filing Date** 10/31/2017 **Do Not Schedule Dates:** _____ **Reviewer** Jump off HO Review

REV. 10/4/11

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AND For such other and further relief as the nature of this cause may require.

2018-0122-X

September 5, 2017

ZONING DESCRIPTION FOR
#12231 HARFORD ROAD

Beginning at a point in the center of Harford Road, which has a variable width, at the distance of 75 feet east of the centerline of Bonaparte Avenue, which has a variable width. Thence binding in the center of Harford Road the following seventeen courses and distances:: **(1)** North 72 degrees 15 minutes West 153.50 feet; thence **(2)** North 30 degrees 02 minutes West 222 feet; thence **(3)** North 37 degrees 32 minutes West 60 feet; thence **(4)** North 54 degrees 31 minutes West 60 feet; thence **(5)** North 79 degrees 48 minutes West 60 feet; thence **(6)** South 83 degrees 17 minutes West 60 feet; thence **(7)** South 69 degrees 06 minutes West 65 feet; thence **(8)** South 59 degrees 19 minutes West 159 feet; thence **(9)** South 50 degrees 15 minutes West 126 feet; thence **(10)** South 41 degrees 37 minutes West 175 feet; thence **(11)** South 35 degrees 37 minutes West 132 feet; thence **(12)** South 31 degrees 39 minutes West 233 feet; thence **(13)** South 34 degrees 50 minutes West 178 feet; thence **(14)** South 31 degrees 36 minutes West 222 feet; thence **(15)** South 21 dgrees 22 minutes West 221 feet; thence **(16)** South 36 degrees 30 minutes West 216 feet; thence **(17)** South 31 degrees 06 minutes West 157.45 feet; thence leaving said Harford Road **(18)** South 58 degrees 33 minutes 16 seconds East 442.24 feet; thence **(19)** North 54 degrees 09 minutes East 867.73 feet; thence **(20)** North 56 degrees 14 minutes East 344.45 feet; thence **(21)** North 57 degrees 36 minutes East 121 feet; thence **(22)** North 02 degrees 19 minutes East 282 feet; and thence **(23)** North 16 degrees 39 minutes East 344.68 feet to the place of beginning. Being that land as recorded in Deed Liber J.L.E. 38898 folio 65, containing 30.864 acres of land, more or less. Located in the Eleventh Election District and Fifth Council District.

James G. Wiest
Professional Land Surveyor
MD Registration No. 21390
License Expires February 5, 2018

2018-0122-X

September 5, 2017

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#12231 HARFORD ROAD

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James G. Wiest
Professional Land Surveyor
MD Registration No. 21390
License Expires February 5, 2018

2018-0122-X

David A Derickson

From: Maxim Sharbaugh
Sent: Wednesday, January 17, 2018 1:24 PM
To: John Bryan; Lionel Van Dommelen; Vishnubhai K Desai; Carl Richards Jr
Cc: David A Derickson; Jeffrey N Perlow
Subject: PIA Request - 12231 Harford Rd
Attachments: 12231 Harford Road.pdf

Hello All,

Please provide me with any documents you have related to the address on the attached request. Thank you.

Regards,

Maxim Sharbaugh
Department of Permits, Approvals and Inspections
Director's Office
111 W. Chesapeake Ave, Room 105
Towson, MD 21204
(410) 887 - 3353

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

DATE: November 17, 2017

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For November 13, 2017
Item No. 2018-0122-X

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

If Special Exception is granted, a landscape plan is required per the requirement of the Landscape Manual. A Lighting Plan is also required.

Harford Road, Maryland Route 147, is a state road. All improvements, intersections, entrances, drainage requirements and construction affecting a state road right-of-way are subject to the standards, specifications and approval of the *Maryland State Highway Administration* in addition to those of Baltimore County.

* * * * *

VKD: efc
cc: file

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

NO. 160518

Date: 10/31/17

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				500.00

Total: 500.00

Rec From: Napoli American Cultural Ctr

For: 12231 Honfield Rd

2018-0122-X

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

CASHIER'S VALIDATION

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
10/31/2017	10/31/2017	09:39:01	1

REG NE01 WALKIN LJR
>>RECEIPT # 759134 10/31/2017 CFLH
Dept 5 520 ZONING VERIFICATION
CR NO. 160518
Recpt Tot $500.00
$500.00 CK $.00 CA
Baltimore County, Maryland

CASE NO. 2018- 0122-X

CHECKLIST

Comment Received	Department	Support/Oppose/ Conditions/ Comments/ No Comment
11-17	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	C
11-21	DEPS (if not received, date e-mail sent _____)	C
_____	FIRE DEPARTMENT	_____
11-27	PLANNING (if not received, date e-mail sent _____)	No objection
11-30	STATE HIGHWAY ADMINISTRATION	C
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT Date: 12-28-17

SIGN POSTING Date: 12-18-17 by Prison

PEOPLE'S COUNSEL APPEARANCE Yes ☑ No ☐

PEOPLE'S COUNSEL COMMENT LETTER Yes ☐ No ☐

Comments, if any: _____

2018-0122-X

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Account Identifier: **District** - 11 **Account Number** - 1700006067

Owner Information

Owner Name:	NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	12231 HARFORD ROAD GLEN ARM MD 21057-9329	**Deed Reference:**	/38898/ 00065

Location & Structure Information

Premises Address:	12231 HARFORD RD GLEN ARM 21057-9329	**Legal Description:**	30.864 AC ES HARFORD RD 650FT N HUTCHENREUTER RD

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0054	0015	0375		0000				2018	Plat Ref:

Special Tax Areas: **Town:** NONE
Ad Valorem:
Tax Class:

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1930	6,517 SF		30.8600 AC	04

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
2	YES	STANDARD UNIT	STUCCO	5 full/ 2 half		

Value Information

	Base Value	Value As of 01/01/2018	Phase-in Assessments As of 07/01/2017	Phase-in Assessments As of 07/01/2018
Land:	377,100	377,100		
Improvements	474,400	494,700		
Total:	851,500	871,800	661,700	858,267
Preferential Land:				0

Transfer Information

Seller: RESIDENTIAL MORTGAGE LOAN	**Date:** 04/27/2017	**Price:** $661,000
Type: NON-ARMS LENGTH OTHER	**Deed1:** /38898/ 00065	**Deed2:**
Seller: DICICCO ROBERT A	**Date:** 12/15/2016	**Price:** $1,137,425
Type: NON-ARMS LENGTH OTHER	**Deed1:** /38400/ 00145	**Deed2:**
Seller: OBRECHT G FREDER AG USE 83-84	**Date:** 05/12/1976	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /05632/ 00188	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2017	07/01/2018
County:	700	0.00	497,766.00
State:	700	0.00	497,766.00
Municipal:	700	0.00|0.00	0.00|0.00

Tax Exempt: **Special Tax Recapture:**

Exempt Class:	NONE

Homestead Application Information
Homestead Application Status: No Application

Homeowners' Tax Credit Application Information	
Homeowners' Tax Credit Application Status: No Application	**Date:**

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: 11/27/2017

FROM: Andrea Van Arsdale
Director, Department of Plann

Duplicates

SUBJECT: **ZONING ADVISORY CO**
Case Number: 18-122

INFORMATION:
Property Address: 12231 Harford Roa
Petitioner: Nepali American Cultural Center, Kris Gh tee
Zoning: RC 2
Requested Action: Special Exception

The Department of Planning has reviewed the petition for a special exception to use the property for a church or other building for religious worship on property zoned RC 2.

A site visit was conducted on November 7, 2017.

The Department has no objection to granting the petitioned zoning relief

For further information concerning the matters stated herein, please contact Kaylee Justice at 410-887-3480.

Prepared by:

Lloyd T. Moxley

Division Chief:

Kathy Schlabach

AVA/KS/LTM/ka

c: Kaylee Justice
Timothy Kotroco, Esquire
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

DATE: November 17, 2017

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For November 13, 2017
Item No. 2018-0122-X

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* * * * *

VKD: efc
cc: file

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and Sustainability (EPS) - Development Coordination

DATE: November 21, 2017

SUBJECT: DEPS Comment for Zoning Item # 2018-0122-X
Address 12231 Harford Road
(Nepali American Cultural Center Property)

Zoning Advisory Committee Meeting of **November 13, 2017**.

__X__ The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

__X__ Any development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

__X__ Any development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Additional Comments:

Reviewer: Paul Dennis, Environmental Impact Review Date: 11/21/2017

TO: PATUXENT PUBLISHING COMPANY
Thursday, December 28, 2017 Issue - Jeffersonian

Please forward billing to:
Timothy Kotroco, Esq.
305 Washington Avenue, Ste. 502
Towson, MD 21204

410-299-2943

NOTICE OF ZONING HEARING

The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2018-0122-X
12231 Harford Road
S/s Harford Road, 75 ft. e/of centerline of Bonaparte Avenue
11th Election District – 5th Councilmanic District
Legal Owners: Nepali American Cultural Center

Special Exception to allow a church or other building for religious worship on property zoned RC-2; and for such other and further relief as the nature of this cause may require.

Hearing: Wednesday, January 17, 2018 at 1:30 p.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

Arnold Jablon
Director of Permits, Approvals and Inspections for Baltimore County

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the legal owner/petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Case Number: 2018-0122-X

Property Address: 12231 Harford Road

Property Description: _____

_____

Legal Owners (Petitioners): Napoli American Cultural Center

Contract Purchaser/Lessee: Trustee: Kris Ghimire

PLEASE FORWARD ADVERTISING BILL TO:

Name: Timothy M. Kotroco Esq.

Company/Firm (if applicable): _____

Address: 305 Washington Avenue
Suite 502
Towson, Maryland 21204

Telephone Number: 410-299-2943

Revised 7/9/2015

Debra Wiley

From: Debra Wiley
Sent: Monday, January 29, 2018 12:29 PM
To: Timothy M. Kotroco Esq. (tkotroco@gmail.com)
Subject: Case No. 2018-0122-X - 12231 Harford Road
Attachments: 20180129124410826.pdf

Mr. Kotroco,

It has been brought to my attention that the ZAC comment from DEPS referred to on page 4 (condition #5) was not attached to ALJ Beverungen's Opinion and Order; please find attached now. In the event that you have not received the Order, I have attached that as well.

Let me know if you require anything further.

Thanks.

-----Original Message-----
From: adminhearingscpr@baltimorecountymd.gov [mailto:adminhearingscpr@baltimorecountymd.gov]
Sent: Monday, January 29, 2018 12:44 PM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Admin Hearings Copier

This E-mail was sent from "RNP002673903BB1" (MP 3054).

Scan Date: 01.29.2018 12:44:10 (-0500)
Queries to: adminhearingscpr@baltimorecountymd.gov

mailed copy on 1/23/18

The McLeans
12402 Harford Rd
Hydes, MD, 21082

RECEIVED
JAN 17 2018
OFFICE OF
ADMINISTRATIVE HEARINGS

January 16, 2018

Administrative Law Judge,
Jefferson Building,
105 W. Chesapeake Ave
Towson, MD 21204

To the administrative law judge for hearing 2018-0122-X, on the property at 12231 Harford Rd, Hydes, MD.

We regret that we were not able to attend the hearing in person. We are the owners and residents of 12402 Harford Rd, approximately half a mile north of the location for which a zoning exemption is being requested.

We were deeply concerned that the property owners of 12231 Harford Rd. hosted several events during the summer of 2017 without proper permitting and with no prior notification of the residents of the area. We're further concerned about the potential impacts resulting from increasing demand placed on the water and septic systems by a greatly enlarged level of activity at the property. Additionally, the property entrance is located on a dangerous curve on Harford Rd. With that said, we also recognize the importance of allowing people the opportunity to worship as an important part of life. It is therefore our position to ask that any zoning exemption be allowed for a church only, with conditions limiting the number and size of special events, including fairs and festivals, which would be allowed to take place on the property. We further ask that a cultural center or other commercial entity not be permitted under any zoning exemption. If it is not possible for a zoning exemption to allow for a church only, with limitations on event size and frequency, than we would ask that the zoning exemption request be rejected completely. Finally, in the event that a zoning exemption is granted, we would ask that the zoning revert to its current type should a transfer of ownership occur.

Thank you for taking the time to consider our input.

Very sincerely,

Alexander and Linda McLean

NE 16-H
6201
6101
6041
1983-0291-A
6200
6208
6240
6242
3 CD
6201
6203
6218
2006-0622-A
6215
RC 5
1976-0138-A
6226
PAI # 110577
Pt. Bk./Folio # MP97047
6219
Pt. Bk. 0000042, Folio 0019
6039
PAI # 110577
Pt. Bk./Folio # 042019
Pt. Bk. 0000050, Folio 0016
6225
6230
PAI # 110577
6029
6229
R-1949-1495
054B2
12154
Pt. Bk./Folio # MP96160
PAI # 111077
PAI # 110783
12150
PAI # 110255
PAI # 110255
2014-0135-A
12239
PAI # 111077
PAI # 110783
PAI # 110255
PAI # 111077
PAI # 110783
12130
Pt. Bk. 0000042, Folio 0108
12146
Pt. Bk./Folio # 042108
R-1987-0459-A
1999-0347-SPH
12231
HARFORD RD
GROWTH TIER 4
(No New Subdivisions of 4
or More Additional Lots)
12128
11 ED RC 2
NE 15-H
Pt. Bk./Folio # 040043
12124
12231
5 CD
12120
Pt. Bk. 0000040, Folio 0043
054B3
HUTSCHENREUTER RD
Pt. Bk. 0000058, Folio 0093
PAI # 110539
Pt. Bk./Folio # 058093
6107
6111
PAI # 110539
PAI # 110539
PAI # 110680
Pt. Bk./Folio # MP92181
6138
PAI # 110680
PAI # 110680
PAI # 110680
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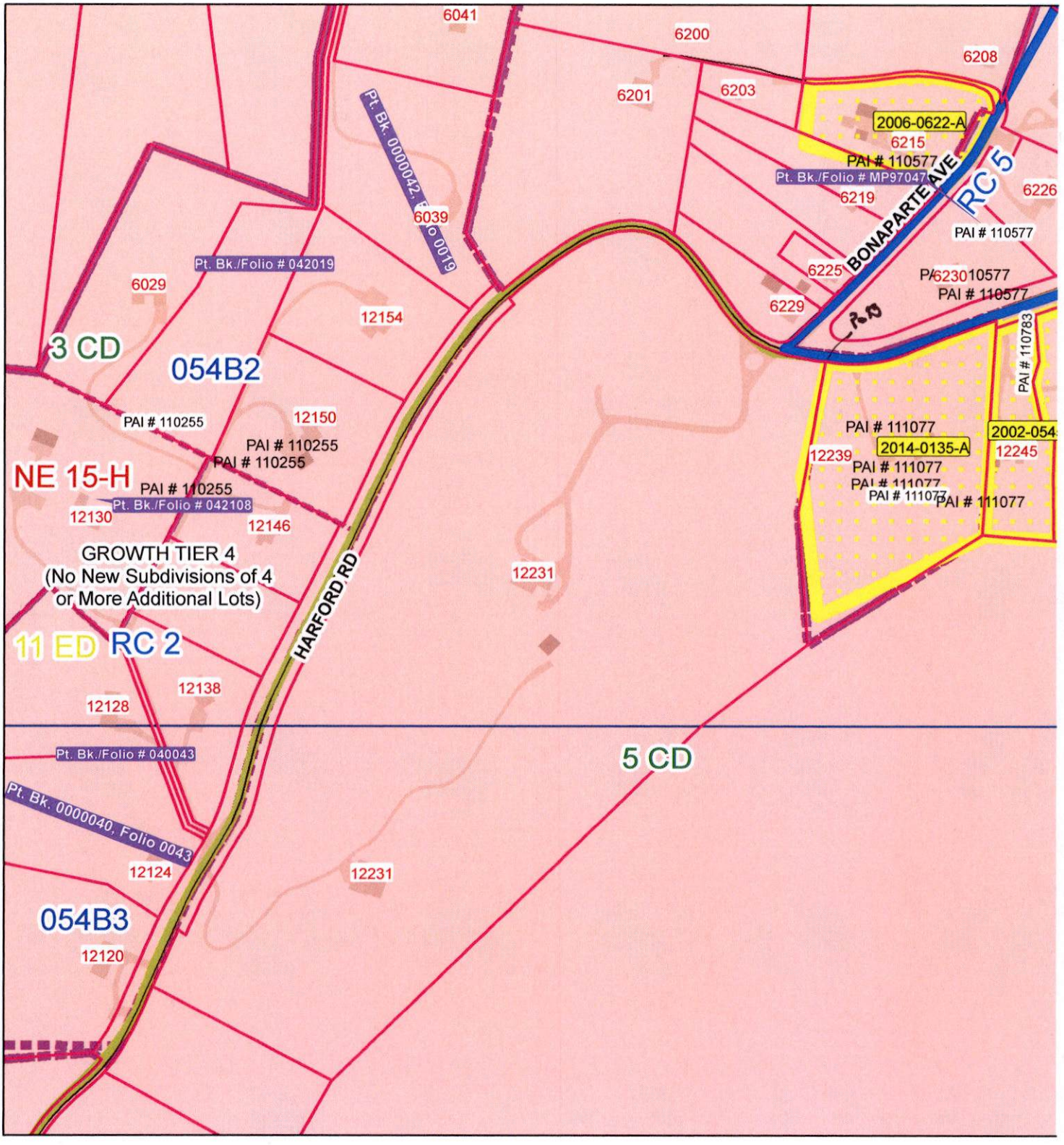
6121

12231 Harford Road 2016-0122-X



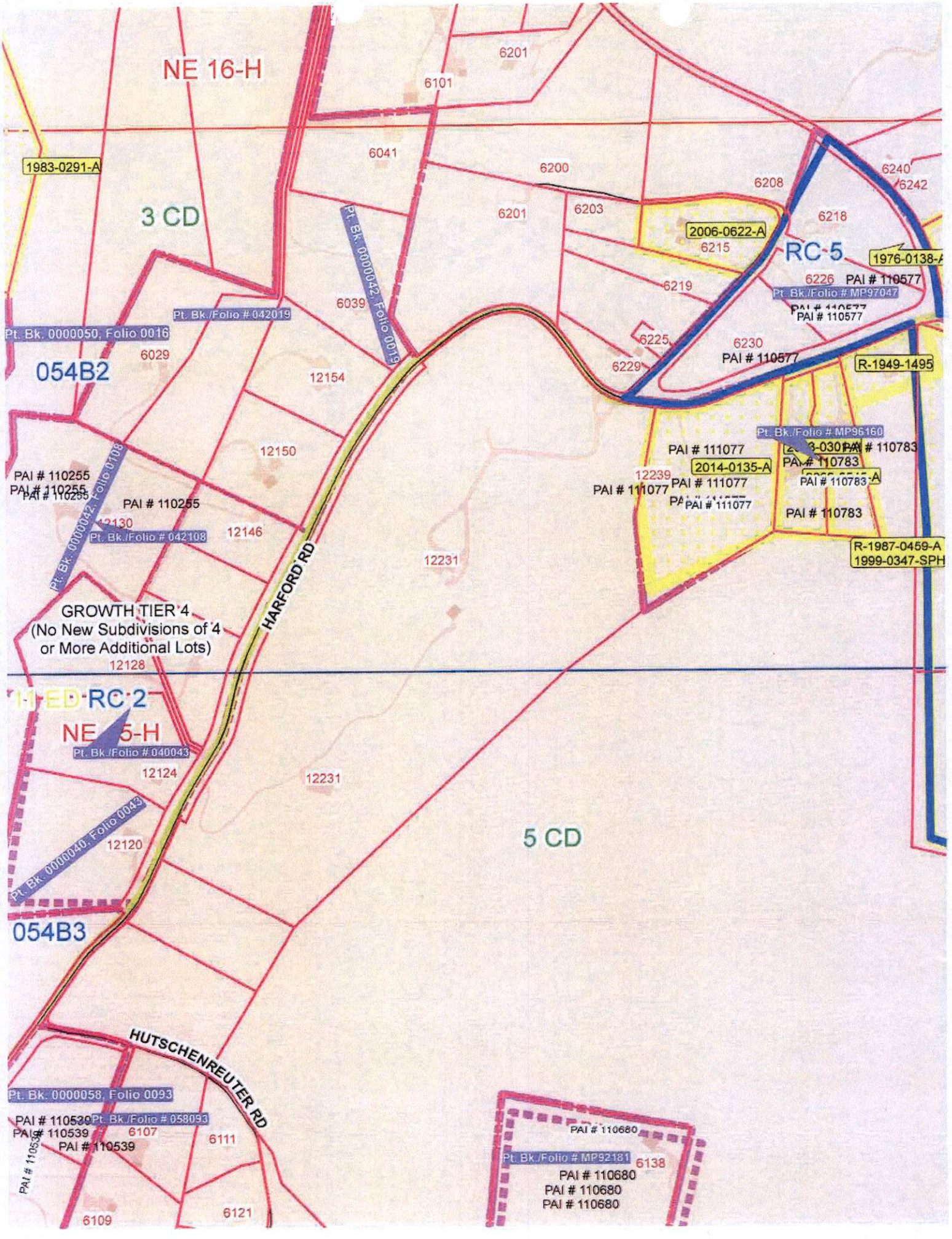
Publication Date: 10/31/2017

Publication Agency: Permits, Approvals & Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot

N
W E
S

0 80 160 320 480 640 Feet

1 inch = 300 feet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1976-0138-A
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6107
6111
PAI # 110539
PAI # 110680
Pt. Bk./Folio # MP92181
6138
PAI # 110680
PAI # 110680
PAI # 110680
6109
6121

Eugene Cauley

From: Vishnubhai K Desai
Sent: Friday, November 17, 2017 4:22 PM
To: Erin Kuhn; Donald Distance; Richard Zeller
Cc: Greg Carski; Walter Phillips; Steven Kohan; Randy Bosley; Eugene Cauley
Subject: RE: A CCMS ticket has been assigned to Randy Bosley - Case #: SR-0320592; 12231 HARFORD ROAD
Attachments: 12231 Harford Road.pdf

Good Afternoon:

As per Case#: SR-0320592:

We have received Special Exception zoning case request (zoning case # 2018-0122-X) for the property address as 12231 Harford Road.
Plan is attached for your information.

Thanks,
Vishnu

From: Vishnubhai K Desai
Sent: Monday, August 21, 2017 8:22 AM
To: 'Erin Kuhn' <EKuhn@sha.state.md.us>; Donald Distance <DDistance@sha.state.md.us>; Richard Zeller <RZeller@sha.state.md.us>
Cc: Greg Carski <gcarski@baltimorecountymd.gov>; Walter Phillips <WPhillips@sha.state.md.us>; Steven Kohan <SKohan@sha.state.md.us>; Randy Bosley <RBosley@sha.state.md.us>
Subject: A CCMS ticket has been assigned to Randy Bosley - Case #: SR-0320592

Good Morning:

We havenot received any plans for this development. What's the address?
Thanks,

Vishnu Desai

From: Erin Kuhn [mailto:EKuhn@sha.state.md.us]
Sent: Friday, August 18, 2017 4:38 PM
To: Donald Distance <DDistance@sha.state.md.us>; Richard Zeller <RZeller@sha.state.md.us>
Cc: Greg Carski <gcarski@baltimorecountymd.gov>; Vishnubhai K Desai <vdesai@baltimorecountymd.gov>; Walter Phillips <WPhillips@sha.state.md.us>; Steven Kohan <SKohan@sha.state.md.us>; Randy Bosley <RBosley@sha.state.md.us>
Subject: RE: A CCMS ticket has been assigned to Randy Bosley - Case #: SR-0320592

If we have not received any information on this development, then that should be our answer at this time.

Erin

From: Donald Distance
Sent: Friday, August 18, 2017 4:04 PM
To: Richard Zeller <RZeller@sha.state.md.us>
Cc: Greg Carski <gcarski@baltimorecountymd.gov>; Erin Kuhn <EKuhn@sha.state.md.us>; 'vdesai@baltimorecountymd.gov' <vdesai@baltimorecountymd.gov>; Walter Phillips <WPhillips@sha.state.md.us>; Steven Kohan <SKohan@sha.state.md.us>; Randy Bosley <RBosley@sha.state.md.us>
Subject: RE: A CCMS ticket has been assigned to Randy Bosley - Case #: SR-0320592

Rich:

I am not sure at this point if the site will access a state roadway. If you hear something or know someone that could help, let me know.

Thanks,
Donald

From: Richard Zeller
Sent: Friday, August 18, 2017 3:46 PM
To: Donald Distance <DDistance@sha.state.md.us>
Cc: Greg Carski <gcarski@baltimorecountymd.gov>; Erin Kuhn <EKuhn@sha.state.md.us>; 'vdesai@baltimorecountymd.gov' <vdesai@baltimorecountymd.gov>; Randy Bosley <RBosley@sha.state.md.us>
Subject: RE: A CCMS ticket has been assigned to Randy Bosley - Case #: SR-0320592

Donald,

I'm not aware of this development. Does it have or proposed access to a state road?

Rich

From: Donald Distance
Sent: Friday, August 18, 2017 3:27 PM
To: Richard Zeller <RZeller@sha.state.md.us>
Cc: Greg Carski <gcarski@baltimorecountymd.gov>; Erin Kuhn <EKuhn@sha.state.md.us>; 'vdesai@baltimorecountymd.gov' <vdesai@baltimorecountymd.gov>; Randy Bosley <RBosley@sha.state.md.us>
Subject: FW: A CCMS ticket has been assigned to Randy Bosley - Case #: SR-0320592

Rich and Vishnubhai:

We have to respond back to the elected official and the citizen by C.O.B. on 8/21.

-Rich, are there any permits or plans regarding the Nepali American Cultural Center of Baltimore.

-Vishnubhai, are there any permits or plans in the County zoning process regarding the Nepali American Cultural Center of Baltimore.

Thanks,

Donald C. Distance
Transportation Manager – Team Leader
State Highway Administration District 4

320 W. Warren Road
Hunt Valley, MD 21030
410-229-2396
Toll free 866-998-0367
Fax 410-527-4688
ddistance@sha.state.md.us

From: Service Request Notification [mailto:noreply@salesforce.com]
Sent: Monday, August 14, 2017 3:38 PM
To: Randy Bosley <RBosley@sha.state.md.us>
Subject: A CCMS ticket has been assigned to Randy Bosley - Case #: SR-0320592

*** NEW CCMS CASE ASSIGNMENT NOTIFICATION ***

The following ticket has been assigned to Randy Bosley.

Re-route this ticket to the correct work unit (queue) if this issue is not handled by your office.

Case #: SR-0320592	**Service Request Owner:** Randy Bosley
Topic: Other	**Sub-Topic:** Other

Description: From: County Council District 3 [mailto:council3@baltimorecountymd.gov]
Sent: Tuesday, August 08, 2017 5:02 PM
To: Wendy Wolcott <WWolcott@sha.state.md.us>
Subject: FW: Nepali American Cultural Center of Baltimore

Wendy,

Would you be able to provide an answer to question 2 below, and if possible, how the State of Maryland comes to this decision?

Thank you for your help.

Ryan

From: Tim Theodoropoulos [mailto:timtheo@comcast.net]
Sent: Sunday, August 06, 2017 10:54 AM
To: County Council District 3 <council3@baltimorecountymd.gov>
Cc: 'Szeliga, Kathy Delegate' <Kathy.Szeliga@house.state.md.us>
Subject: Nepali American Cultural Center of Baltimore

Hi Wade,

I learned via facebook about the Nepali American Cultural Center of Baltimore planning on taking over the mansion just up the road from my home. This was the first we have heard about this and are not real happy about it moving forward.

I have lots of questions:

1. How is it that only a zoning exception will be required and not a zoning change on a RC2 zoned property?
2. Is the state of Maryland OK with the increased traffic on Harford Road and the driveway entrance/exit for increased vehicle traffic?
3. What are the exact plans/activities of the Cultural Center.... Religious services, daycare, schools, community events/festivals? Cultural Center is a very broad term and does not give specific activities for the property use. Current use type specified on tax records is "Agricultural".
4. Why was the community not informed of this project until now?
5. How many members will be attracted to the facility?

Can you provide more details of the exact use of this property and to my questions above?

I also would like to speak to you via telephone when you have a moment.

Thank you,
Tim Theodoropoulos
11814 Harford Road
410-409-4743

Priority: Medium	**Status:** In Progress
County: Baltimore	**Route Name/Number:**
Closest Intersecting:	**Is it in the Roadway:** No
Lane/Ramp/Shoulder:	**Direction:**
Customer's Name: Councilman Wade Kach	**Initial Response Due Date:** 8/14/2017
Response Request Type: E-Mail	**Due Date:** 8/21/2017

Click on a link below for additional details and customer contact information:

- Advanced Licensed Users: Click Here to Access the Service Request ticket
- Basic CCMS Users: Click Here to Access the Service Request ticket

REMINDER: IF THIS CASE REQUIRES AN INITIAL RESPONSE TO THE CUSTOMER MAKE SURE IT IS PROVIDED WITHIN ONE BUSINESS DAY.

PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 12231 Harford Road **which is presently zoned** RC 2

Deed References: 38898/0065 10 Digit Tax Account # 11-1700006067

Property Owner(s) Printed Name(s) Nepali American Cultural Center of Baltimore

(SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1. ____ **a Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

SEE ATTACHED

2. X **a Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

SEE ATTACHED

3. ____ **a Variance** from Section(s)

SEE ATTACHED

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: **(Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)**

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.
Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Nepali American Cultural Center, By: Kris Ghimire, Trustee

Name #1 – Type or Print Name #2 – Type or Print

Signature #1 Signature # 2

8030 Bel Air Road Nottingham MD

Mailing Address City State

21237 / 410-497-5238 / Kris@ghimirehomes.com

Zip Code Telephone # Email Address

Attorney for Petitioner:

Timothy M. Kotroco

Name- Type or Print

Timothy Kotroco

Signature

305 Washington Avenue, Suite 502, Towson, Maryland

Mailing Address City State

21204 / 410-299-2943 / TKotroco@gmail.com

Zip Code Telephone # Email Address

Representative to be contacted:

Same As Attorney for Petitioner

Name – Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

CASE NUMBER 2018-0122-X Filing Date 10/31/2018 Do Not Schedule Dates: _____ Reviewer Drop off No Review

REV. 10/4/11

ATTACHMENT TO SPECIAL EXCEPTION PETITION

The Petitioner, requests the following zoning relief:

SPECIAL EXCEPTION RELIEF, pursuant to section 1A01.2.C.6 of the BCZR to allow a Church or other building for religious worship on property zoned RC2;

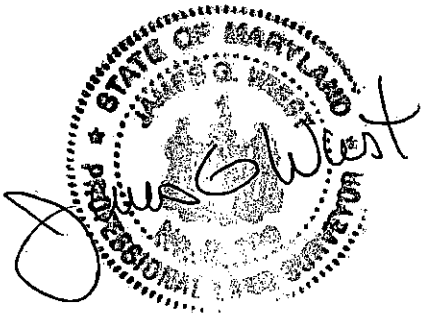
AND For such other and further relief as the nature of this cause may require.

2018-0122-X

September 5, 2017

ZONING DESCRIPTION FOR
#12231 HARFORD ROAD

Beginning at a point in the center of Harford Road, which has a variable width, at the distance of 75 feet east of the centerline of Bonaparte Avenue, which has a variable width. Thence binding in the center of Harford Road the following seventeen courses and distances:: **(1)** North 72 degrees 15 minutes West 153.50 feet; thence **(2)** North 30 degrees 02 minutes West 222 feet; thence **(3)** North 37 degrees 32 minutes West 60 feet; thence **(4)** North 54 degrees 31 minutes West 60 feet; thence **(5)** North 79 degrees 48 minutes West 60 feet; thence **(6)** South 83 degrees 17 minutes West 60 feet; thence **(7)** South 69 degrees 06 minutes West 65 feet; thence **(8)** South 59 degrees 19 minutes West 159 feet; thence **(9)** South 50 degrees 15 minutes West 126 feet; thence **(10)** South 41 degrees 37 minutes West 175 feet; thence **(11)** South 35 degrees 37 minutes West 132 feet; thence **(12)** South 31 degrees 39 minutes West 233 feet; thence **(13)** South 34 degrees 50 minutes West 178 feet; thence **(14)** South 31 degrees 36 minutes West 222 feet; thence **(15)** South 21 dgrees 22 minutes West 221 feet; thence **(16)** South 36 degrees 30 minutes West 216 feet; thence **(17)** South 31 degrees 06 minutes West 157.45 feet; thence leaving said Harford Road **(18)** South 58 degrees 33 minutes 16 seconds East 442.24 feet; thence **(19)** North 54 degrees 09 minutes East 867.73 feet; thence **(20)** North 56 degrees 14 minutes East 344.45 feet; thence **(21)** North 57 degrees 36 minutes East 121 feet; thence **(22)** North 02 degrees 19 minutes East 282 feet; and thence **(23)** North 16 degrees 39 minutes East 344.68 feet to the place of beginning. Being that land as recorded in Deed Liber J.L.E. 38898 folio 65, containing 30.864 acres of land, more or less. Located in the Eleventh Election District and Fifth Council District.



James G. Wiest
Professional Land Surveyor
MD Registration No. 21390
License Expires February 5, 2018

2018-0122-X

Real Property Data Search (w1)

Search Result for BALTIMORE COUNTY

View Map	View GroundRent Redemption	View GroundRent Registration

Account Identifier: **District - 11 Account Number -** 1700006067

Owner Information

Owner Name:	NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE	**Use:** **Principal Residence:**	RESIDENTIAL NO
Mailing Address:	12231 HARFORD ROAD GLEN ARM MD 21057-9329	**Deed Reference:**	/38898/ 00065

Location & Structure Information

Premises Address:	12231 HARFORD RD GLEN ARM 21057-9329	**Legal Description:**	30.864 AC ES HARFORD RD 650FT N HUTCHENREUTER RD

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0054	0015	0375		0000				2018	Plat Ref:

Special Tax Areas: **Town:** NONE
Ad Valorem:
Tax Class:

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1930	6,517 SF		30.8600 AC	04

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
2	YES	STANDARD UNIT	STUCCO	5 full/ 2 half		

Value Information

	Base Value	Value As of 01/01/2018	Phase-in Assessments As of 07/01/2017	Phase-in Assessments As of 07/01/2018
Land:	377,100	377,100		
Improvements	474,400	494,700		
Total:	851,500	871,800	661,700	858,267
Preferential Land:				0

Transfer Information

Seller: RESIDENTIAL MORTGAGE LOAN	**Date:** 04/27/2017	**Price:** $661,000
Type: NON-ARMS LENGTH OTHER	**Deed1:** /38898/ 00065	**Deed2:**
Seller: DICICCO ROBERT A	**Date:** 12/15/2016	**Price:** $1,137,425
Type: NON-ARMS LENGTH OTHER	**Deed1:** /38400/ 00145	**Deed2:**
Seller: OBRECHT G FREDER AG USE 83-84	**Date:** 05/12/1976	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /05632/ 00188	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2017	07/01/2018
County:	700	0.00	497,766.00
State:	700	0.00	497,766.00
Municipal:	700	0.00|0.00	0.00|0.00

Tax Exempt: **Special Tax Recapture:**
Exempt Class: NONE

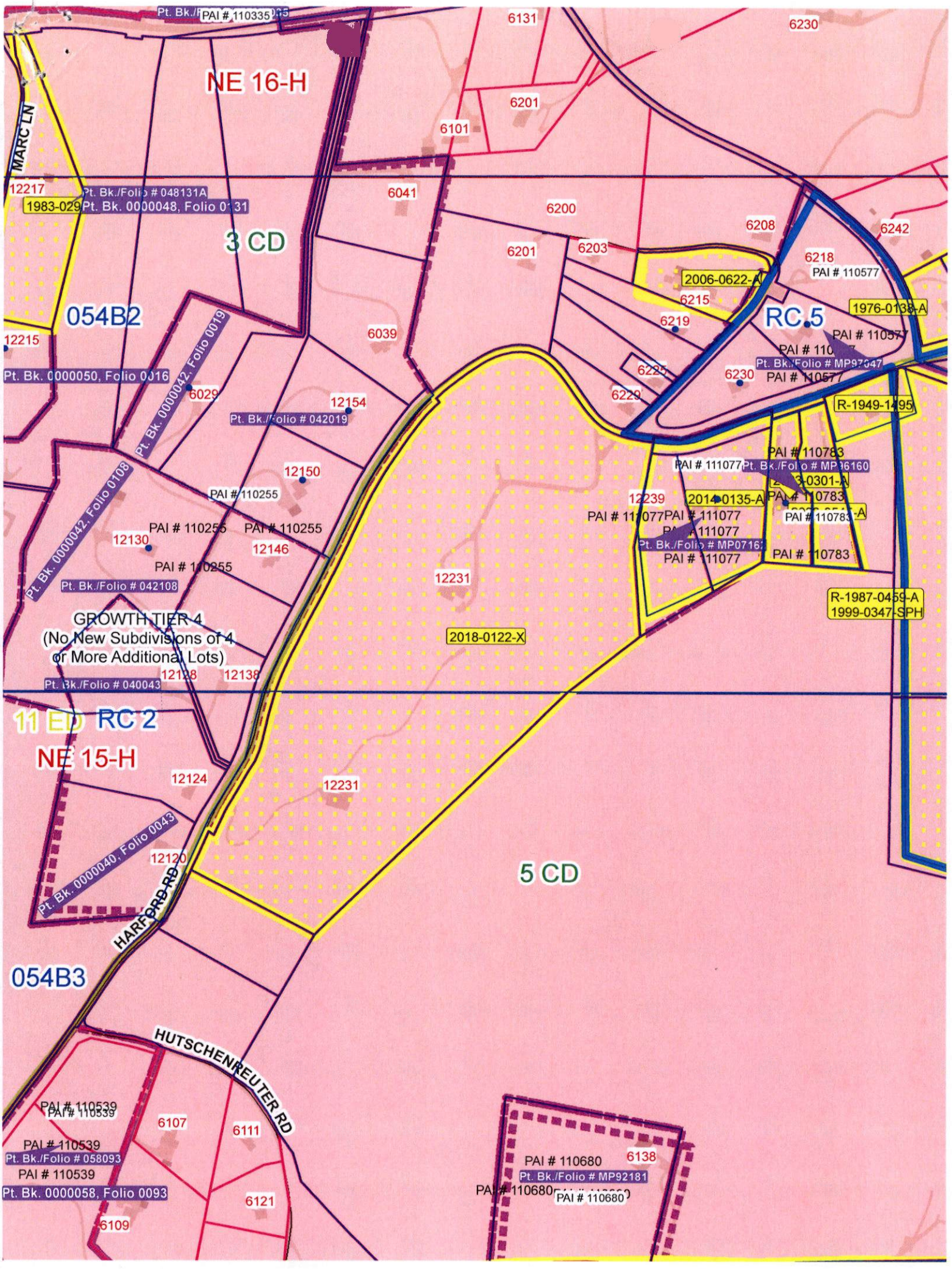
Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**

1. This screen allows you to search the Real Property database and display property records.
2. Click **here** for a glossary of terms.
3. Deleted accounts can only be selected by Property Account Identifier.
4. The following pages are for information purpose only. The data is not to be used for legal reports or documents. While we have confidence in the accuracy of these records, the Department makes no warranties, expressed or implied, regarding the information.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1983-029
Pt. Bk. 0000050, Folio 0016
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Pt. Bk./Folio # 042019
Pt. Bk./Folio # 042108
Pt. Bk./Folio # 040043
Pt. Bk. 0000040, Folio 0043
Pt. Bk./Folio # 058093
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Pt. Bk./Folio # MP97047
Pt. Bk./Folio # MP07163
Pt. Bk./Folio # MP92181
PAI # 110335
PAI # 110577
PAI # 110783
PAI # 111077
PAI # 110255
PAI # 110539
PAI # 110680
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To be filed with the Department of Permits, Approvals and Inspections

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Deed References: 38898/0065 10 Digit Tax Account # 11-1700006067

Property Owner(s) Printed Name(s) Nepali American Cultural Center of Baltimore

(SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1. ____ **a Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

SEE ATTACHED

2. X **a Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

SEE ATTACHED

3. ____ **a Variance** from Section(s)

SEE ATTACHED

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: **(Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)**

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.
Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Nepali American Cultural Center, By: Kris Ghimire, Trustee

Name #1 – Type or Print Name #2 – Type or Print

Signature #1 Signature # 2

8030 Bel Air Road Nottingham MD

Mailing Address City State

21237 / 410-497-5238 / Kris@ghimirehomes.com

Zip Code Telephone # Email Address

Attorney for Petitioner:

Timothy M. Kotroco

Name- Type or Print

Timothy Kotroco

Signature

305 Washington Avenue, Suite 502, Towson, Maryland

Mailing Address City State

21204 / 410-299-2943 / TKotroco@gmail.com

Zip Code Telephone # Email Address

Representative to be contacted:

Same As Attorney for Petitioner

Name – Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

CASE NUMBER 2018-0122-X Filing Date 10/31/2018 Do Not Schedule Dates: ____ Reviewer Drop off No Review

REV. 10/4/11

ATTACHMENT TO SPECIAL EXCEPTION PETITION

The Petitioner, requests the following zoning relief:

SPECIAL EXCEPTION RELIEF, pursuant to section 1A01.2.C.6 of the BCZR to allow a Church or other building for religious worship on property zoned RC2;

AND For such other and further relief as the nature of this cause may require.

2018-0122-X

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS APPROVALS AND INSPECTIONS
111 W. Chesapeake Avenue, Room 105
Towson, Maryland 21204
410-887-3353

PUBLIC INFORMATION ACT (PIA) REQUEST FORM

DATE OF REQUEST: 12/18/2018

REQUESTER INFORMATION

Name (First, Mi, Last) DeWitt S. Clark

Title President

Organization Gunpowder Falls Watershed Preservation Assoc

Category ☐ Attorney ☐ Citizen ☐ Interest Group
☐ Consultant ☐ Media ☐ Student ☐ Other

Street Address 12150 Harford Rd
City Glen Arm State MD Zip 21057 Country USA
Telephone 410 592 3617 Email Address Historictimetoopers@gmail.com

Billing address (if different than above)

Street Address _____
City _____ State _____ Zip _____ Country _____
Telephone _____ Email Address _____

PROPERTY/FACILITY FOR WHICH INFORMATION IS REQUESTED

Facility Name _____

Street Address* 12231 Harford Rd Tax I.D. # 17-00-006067

Subdivision _____

Tax Map _____ Grid _____ Parcel _____ Lot # _____ Tax ID# _____

Case No.: _____

PLEASE NOTE: Under the Public Information Act, the Department of Permits Approvals and Inspections has 30 (thirty) days to fulfill this request for information. If the request cannot be honored, you will be notified within 10 (ten) days regarding the denial.

** including suite or apartment number where applicable*

PAI GA3w

Rev. 03/17

PER JOHN W/ LITTLE, IT CANNOT BE DONE AS A ZAK ITEM FOR ZONING HEARING....

Please check the PAI program from which you are seeking records:

Code Violations (zoning, building, electrical, and plumbing)

- [x] Building Plans Review
- [x] Code Enforcement†
- [ ] Development Management
- [x] Development Plans Review
- [ ] Miscellaneous Permits & Licenses
- [ ] Real Estate Compliance
- [x] Zoning Review†
- [ ] Sediment & Erosion Control Inspections†
- [ ] Use & Occupancy Permits*
- [ ] Building Inspections and Permits*†
- [ ] Electrical Inspections and Permits*†
- [ ] Plumbing & Gasfitting Inspections and Permits*†

Please specify what information is being requested:

ALL ~~Records of~~ correspondence & Actions taken Related to 12237 Harford Rd since 1 JAN 201

- [x] I will pick this information up after being called and notified that it is ready.
- [ ] I wish this information to be mailed at my expense.

FEE INFORMATION:
- Staff time is charged at $35/h after the first two (2) hours of research. (when more than two hours of research is required, research will not begin until payment is received.)
- Photocopies will be made after payment of $0.50 per 8 ½ x 11 per sheet is received.
- Copies will be mailed upon receipt of self-addressed postage prepaid envelope.

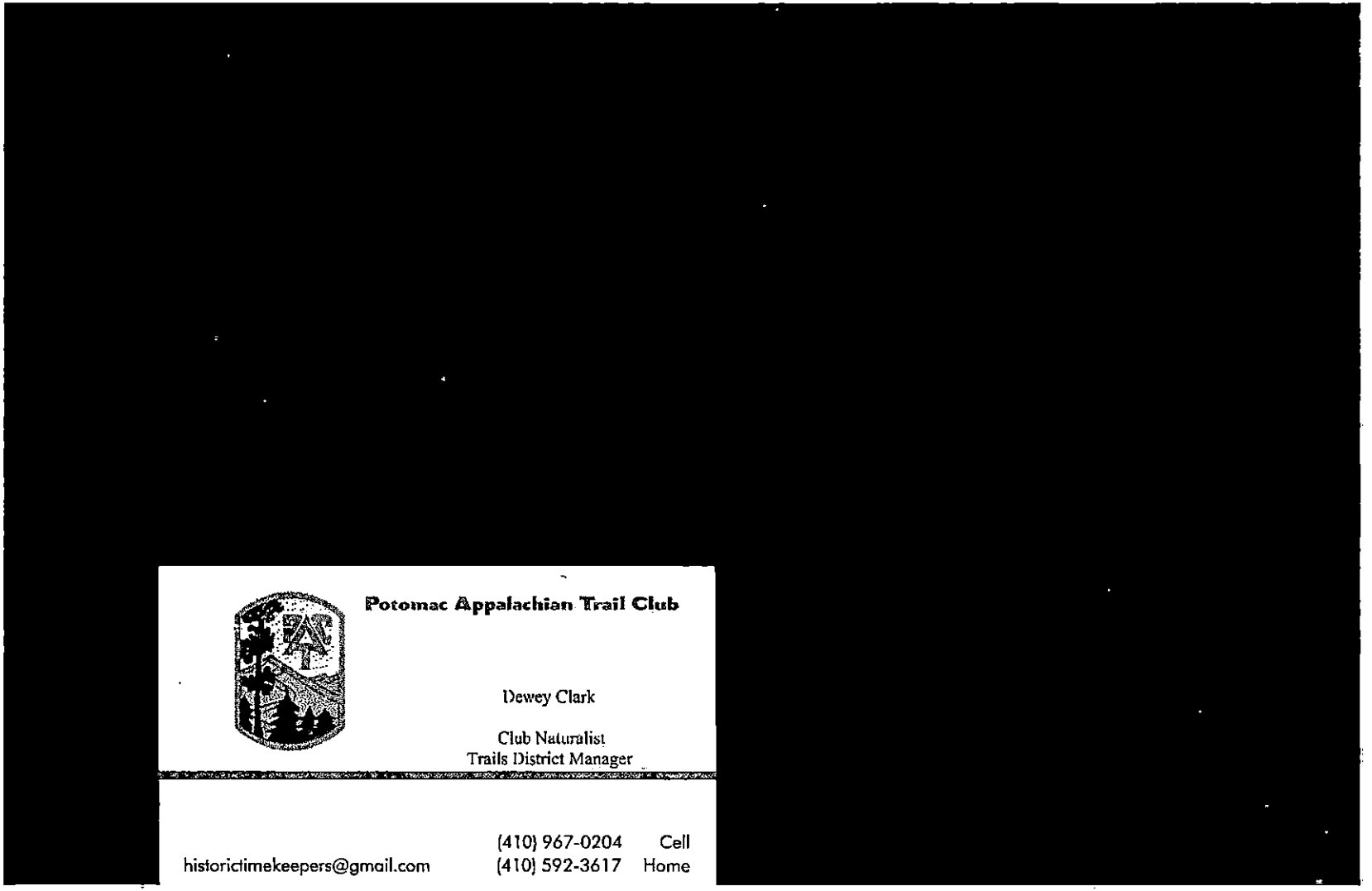
**Copies of the documents below are subject to the following fee schedule:*

Building, Electrical, Plumbing & Gasfitting Inspections and Permits

Residential: $20 per address/per trade
Commercial: $50 per address/per trade

Use & Occupancy Permits: $50 per address

† **Insofar as your request is for confirmation of code violations or verification of zoning, this is not a request within the parameters of the Maryland Public Information Act. It is a request for confirmation of certain information.** Be advised that there is a fee for each letter of confirmation: an expedited response, within 10 days from the date of request, is $500.00 per letter; otherwise the fee is $150.00 per letter. A check, made payable to Baltimore County, may be mailed to the Department of Permits, Approvals and Inspections, County Office Bldg., Rm 105, 111 West Chesapeake Ave., Towson, Maryland 21204.



Potomac Appalachian Trail Club

Dewey Clark

Club Naturalist
Trails District Manager

historictimekeepers@gmail.com

(410) 967-0204 Cell
(410) 592-3617 Home

0034217 163

First National Settlement Services, Inc.
File No. 2013-1942
Tax ID # 11-1108080850

KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits, Approvals & Inspections

This Deed, made this 22nd day of July, 2013, by and between George P. Hutschenreuter, party of the first part, Grantor; and Bernadette T. Poehler and Clarence D. Poehler, parties of the second part, Grantees.

Kristen Lewis
Bond Servicing
Deed to Notify
Principal
"Residence"

RECEIVED
JAN 17 2014
OFFICE OF ADMINISTRATIVE HEARINGS

- Witnesseth -

That for and in consideration of the sum of Three Hundred Forty Thousand And 00/100 Dollars ($340,000.00), which includes the amount of any outstanding Mortgage or Deed of Trust, if any, the receipt whereof is hereby acknowledged, the said Grantor does grant and convey to the said Bernadette T. Poehler and Clarence D. Poehler, as tenants by the entirety unto the survivor of them, his or her heirs and assigns, in fee simple, all that lot of ground situate in the County of Baltimore, State of Maryland and described as follows, that is to say:

BEING KNOWN AND DESIGNATED AS ALL THAT LOT OF GROUND, SITUATE, LYING AND BEING IN 11TH DISTRICT OF BALTIMORE COUNTY, AFORESAID AND DESCRIBED AS FOLLOWS, THAT IS TO SAY; BEGINNING FOR THE SAME, AT THE END OF THE N 53° 35' E121 FEET LINE OF THE LAND CONVEYED BY SOPHIA STEWART TO CHARLES J. BONAPARTE, BY DEED DATED MARCH 27, 1902, AND RECORDED AMONG THE AND RECORDS OF BALTIMORE COUNTY, IN LIBER N.B.M. NO. 280, FOLIO 139, AND RUNNING THENCE BINDING ON SAID LAND AS DESCRIBED IN SAID DEED, N 3° 00' W 282.15 FEET AND N 12° 20' E 344.85 FEET TO THE BALTIMORE AND HARFORD TURNPIKE, AND THENCE LEAVING THE OUTLINE OF THE AFORESAID CONVEYANCES TO BONAPARTE AND BINDING ON SAID TURNPIKE ROAD, AND ON THE OUTLINES OF THE WHOLE TRACT CONVEYED BY CHARLES W. COVER TO GEORGE HUTSCHENREUTER, BY DEED DATED MARCH 16, 1918 AND RECORDED AMONG SAID LAND RECORDS IN LIBER W.P.C. NO. 495, FOLIO 95 REVERSELY, S 82° 30' E 99 FEET AND N 71° 00' E 238.75 FEET OR TO THE END OF THE S 74° 45' W 25.5 PERCHES LINE OF THE LIND CONVEYED BY SOPHIA STEWART TO JOSEPH L. PACE AND WIFE, BY LIBER N.P.C. NO. 281, FOLIO 445. AND THENCE, LEAVING THE ROAD, AND BINDING ON SAID PACE CONVEYANCE, S 9° 12' W 454.41 FEET, AND THENCE, LEAVING THE PACE LAND, AND RUNNING FROM A NEW DIVIDING LINE THROUGH AND ACROSS THE WHOLE TRACK OF THE GRANTORS, S 54° W 470 FEET MORE OR LESS, TO THE BEGINNING, CONTAINING 5 ACRES, MORE OR LESS.

BEING the fee simple property which, by Deed dated April 1, 1953, and recorded in the Land Records of the County of Baltimore, Maryland, in Liber 2272, Folio 190, was granted and conveyed by Emma H. Hutschenreuter unto George P. Hutschenreuter and Joyce A. Hutschenreuter.

Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Bernadette T. Poehler and Clarence D. Poehler, as tenants by the entirety unto the survivor of them, his or her heirs and assigns, in fee simple.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 34217, p. 0163, MSA_CE62_34073. Date available 12/03/2013. Printed 01/17/2014.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 34217, p. 0164. MSA_CE62_34073. Date available 12/03/2013. Printed 01/17/2014.

KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits, Approvals & Inspections

And the said party of the first part hereby covenants that he has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that he will warrant specially the property hereby granted; and that he will execute such further assurances of the same as may be requisite.

As Witness the hand and seal of said Grantor, the day and year first above written.

WITNESS:

Angela D. Johnson

Chas Morris. Power of Attorney For George P. Hutschenreuter {Seal}

Dr. Charles Morris as Power of Attorney for George P. Hutschenreuter

STATE OF MARYLAND, COUNTY OF Cecil, to wit:

I hereby certify that on this 22nd day of July, 2013, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Dr. Charles Morris, the Grantor herein, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged the same for the purposes therein contained, and further acknowledged the foregoing Deed to be her act, and in my presence signed and sealed the same, giving oath under penalties of perjury that the consideration recited herein is correct.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

MARISA WORKMAN
Notary Public
Cecil County
Maryland
My Commission Expires Mar. 27, 2017

Marisa Workman
Notary Public
My commission expires: 3/27/17

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

James Pembrook Scott
James Pembrook Scott, Attorney

AFTER RECORDING, PLEASE RETURN TO:
First National Settlement Services, Inc.
703 Bestgate Road
Suite 200
Annapolis, MD 21401

BALTIMORE COUNTY DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 2014- 0135 -A Address 12241 Hartford Rd.

Contact Person: LEONARD WASILEWSKI Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 12/12/13 **Posting Date:** 12/22/13 **Closing Date:** 1/6/14

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

1. **POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.

2. **DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.

3. **ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification, usually within 10 days of the closing date if all County agencies' comments are received, as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.

4. **POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 2014- 0135 -A Address 12241 Hartford Rd.

Petitioner's Name: Bernadette & Clarence Poehler Telephone 410 593-7905

Posting Date: 12/22/13 **Closing Date:** 1/6/14

Wording for Sign:

To permit an accessory structure/pole barn in the side yard with a height of 25 feet in lieu of the permitted rear yard and 15 feet.

Revised 7/06/11

CASE NO. 2014- 0135-A

CHECKLIST

Comment Received	Department	Support/Oppose/ Conditions/ Comments/ No Comment
12-20	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	NC
_____	DEPS (if not received, date e-mail sent _____)	_____
_____	FIRE DEPARTMENT	_____
_____	PLANNING (if not received, date e-mail sent _____)	_____
12-19	STATE HIGHWAY ADMINISTRATION	No objection
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT Date: _____

SIGN POSTING Date: 12-22 by Pilson

PEOPLE'S COUNSEL APPEARANCE Yes ☐ No ☐

PEOPLE'S COUNSEL COMMENT LETTER Yes ☐ No ☐

Comments, if any: Not principal residence per SDAT - Provided proof of deed - Kristen hand delivered 1/17/14

MEMORANDUM

DATE: March 4, 2014

TO: Zoning Review Office

FROM: Office of Administrative Hearings

RE: Case No. 2014-0135-A - Appeal Period Expired

The appeal period for the above-referenced case expired on February 27, 2014. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: Case File
Office of Administrative Hearings

CERTIFICATE OF POSTING

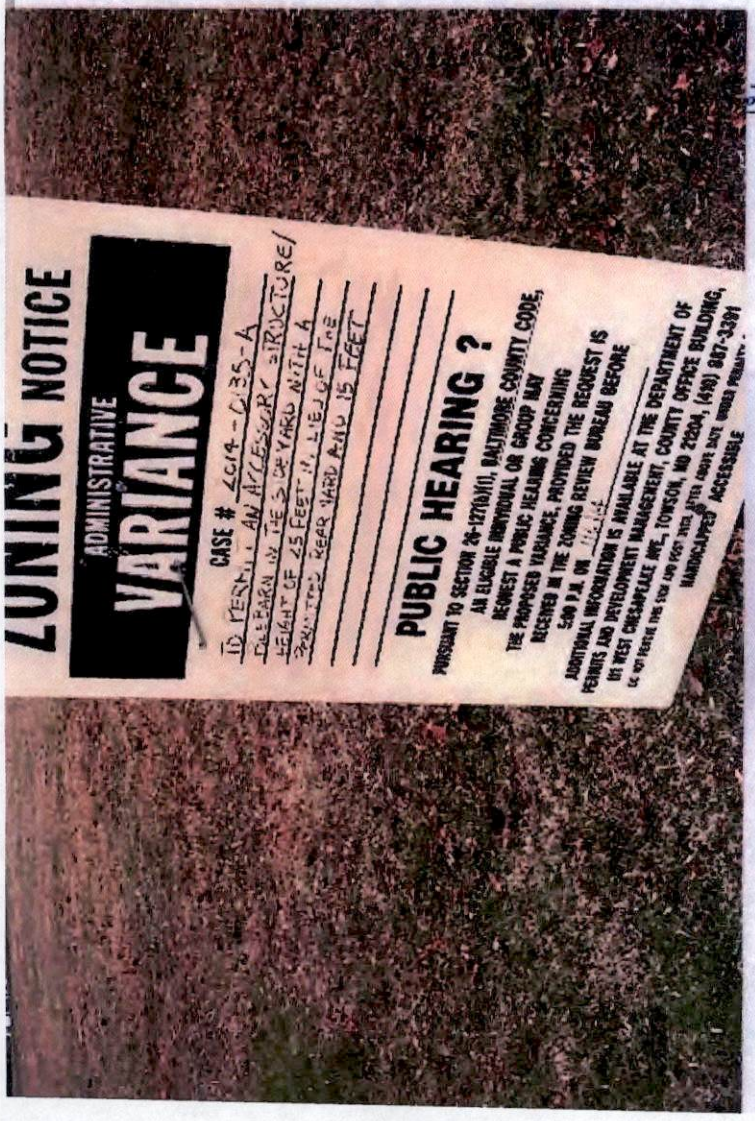
Date: 12-22-13

RE: Case Number: 2014-0135-A

Petitioner/Developer: Dave Poehler

Date of Hearing/Closing: 1-6-14

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 12241 Harford Rd



12-22-13
(Month, Day, Year)

J. Lawrence Pilson
(Signature of Sign Poster)

J. LAWRENCE PILSON
(Printed Name of Sign Poster)

1015 Old Barn Road
(Street Address of Sign Poster)

Parkton, MD 21120
(City, State, Zip Code of Sign Poster)

410-343-1443
(Telephone Number of Sign Poster)

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. 107010

Date: 12/12/13

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
1001	806	0000		6150				75.00

Total: 75.00

Rec From: Tochka

For: 12241 Kenwood Rd. 21057

2014-0135-A

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

PAID RECEIPT

BUSINESS ACTUAL TIME DRW
12/12/2013 12/12/2013 08:19:07 5
REG: WS05 WALKIN RS05 LRB
RECEIPT 0 713416 12/12/2013 OFLH
5 528 ZONING VERIFICATION
NO. 107010
Recpt Tot $75.00
$75.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

CASE ZO14-0135-A

POETHLER PROPERTY

Zoning property description for 12241 Harford Road Glen Arm MD 21057

Beginning at a point on the south side of ~~Bonaparte Avenue~~ Harford Rd which is 60 feet of right-of-way wide at the distance of 101+/- feet ~~south~~ South East of the centerline of the nearest improved intersecting street ~~Harford Road~~ Bonaparte Ave which is 60 feet wide.

Thence the following courses and distances: (1st Point of Call "POC") S.83 15'06"E. 83.84', (2nd POC) N.71 24'58" E. 300.96', (3rd POC) S.03 49'44" W. 478.61', (4th POC) S.58 07'46"W. 446.51', (5th POC) N.04 06'06" W. 281.94', (6th POC) N.10 17'08" E.351.67" back to the point of beginning as recorded in Deed Liber (0034217) Folio (163) containing 5 acres more or less. Property is located in the 11th Election District and the 3rd Council District.

0034217 167

State of Maryland Land Instrument Intake Sheet

| | Baltimore City | X | County: Baltimore

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and the County Finance Office only.

(Type or Print in Black Ink Only All Copies Must Be Legible)

IMP FD SURC 40.00
RECORDING FEE 20.00
TR TAX STATE 1,700.00
TOTAL 1,760.00
Rec'd BABA
CK BK# 4139
Ser 17, 2013 10439

KEVIN KAMENETZ
County Executive

ARNOLD BLON
County Administrative Officer
Director, Department of Permits, Approvals & Inspections

1 Type of Instruments — ( ) Check Box if Addendum Intake Form is Attached.

4	Deed		Mortgage		Other		Other
2	Deed of Trust		Lease				

2 Conveyance Check Box

X	Improved Sale Arms-Length [1]		Unimproved Sale Arms-Length [2]		Multiple Arms Length [3]		Not an Arms-Length Sale [9]

3 Tax Exemptions (if Applicable) — Cite or Explain Authority

Recordation	
State Transfer	
County Transfer	00 PM

4 Consideration and Tax Calculations

Consideration		Amount	Finance Office Use Only		
Purchase Price/Consideration	$	340,000.00	Transfer and Recordation Tax Consideration		
Any New Mortgage	$	240,000.00	Transfer Tax Consideration	$	
Balance of Existing Mortgage	$		x ( ) % =	$	
Other:	$		Less Exemption Amount -	$	4770.00
			Total Transfer Tax =	$	
Other:	$		Recordation Tax Consideration	$	
			x ( ) per $500 =	$	1700.00
Full Cash Value	$	340,000.00	TOTAL DUE	$	

5 Fees

Amount of Fees	Doc. 1	Doc. 2	Agent:
Recording Charge	$ 60.00	$ 60.00	
Surcharge	$ 0.00	$ 0.00	Tax Bill:
State Recordation Tax	$ 1,700.00	$ 0.00	
State Transfer Tax	$ 1,700.00	$ 0.00	C.B. Credit:
County Transfer Tax	$ ~~5,100.00~~ 4770.00	$ 0.00	
Other	$	$	Ag. Tax/Other:
Other	$	$	

6 Description of Property

SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No.(1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
	11-1108080850	2272/190		11-1108080850	( ) (5)

Subdivision Name	Lot (3a)	Block(3b)	Sect/AR(3c)	Plat Ref.	SqFt/Acreage(4)

Location/Address of Property Being Conveyed (2): 12241 Harford Road, Glen Arm, MD 21057

Other Property Identifiers (if applicable) | Water Meter Account No.

Residential | X | or Non-Residential | | | Fee Simple | X | or Ground Rent | | | Amount: $N/A

Partial Conveyance? | | Yes | X | No | Description/Amt. of SqFt/Acreage Transferred: N/A

If Partial Conveyance, List Improvements Conveyed: N/A

60

1700.00

7 Transferred From

Doc. 1 – Grantor(s) Name(s)	Doc. 2 – Grantor(s) Name(s)
George P. Hutschenreuter	Bernadette T. Poehler
	Clarence D. Poehler
Doc. 1 - Owner(s) of Record, if Different from Grantor(s)	**Doc. 2 – Owner(s) of Record, if Different from Grantor(s)**

8 Transferred To

Doc. 1 – Grantee(s) Name(s)	Doc. 2 – Grantee(s) Name(s)
Bernadette T. Poehler	Credit Union Mortgage Association, Inc.
Clarence D. Poehler	

New Owner's (Grantee) Mailing Address: 3221 Summit Ave, Baltimore, MD 21234

9 Other Names to Be Indexed

Doc. 1 – Additional Names to be Indexed (Optional)	Doc. 2 - Additional Names to be Indexed (Optional)

10 Contact/Mail Information

Instrument Submitted By or Contact Person

Name: Trisha Ruberg
Firm: First National Settlement Services, Inc.
Address: 703 Bestgate Road, Suite 200, Annapolis, MD 21401
Phone: 410-919-2271

X Return to Contact Person
Hold for Pickup
Return Address Provided

11 IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

Assessment Information

X Yes No Will the property being conveyed be the grantee's principal residence?
Yes X No Does transfer include personal property? If yes, identify:
Yes X No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required)

Assessment Use Only - Do Not Write Below This Line

( ) Terminal Verification ( ) Agricultural Verification ( ) Whole ( ) Part ( ) Tran. Process Verification

Transaction Number: Date Received: Deed Reference: Assigned Property No.:

Geo	Map	Sub	Block		
Zoning	Grid	Plat	Lot		
Use	Parcel	Section	Occ. Cd.		
Town Cd.	RECORDATION TAX NOT REQUIRED				

Director of Budget and Finance
BALTIMORE COUNTY, MARYLAND
T.P. ART 12-108

DOC 2 3 4 5 6

Initial

Date 9/17/2013

Zoning Review | County Office Building

111 West Chesapeake Avenue, Room 111 | Towson, Maryland 21204 | Phone 410-887-3351 | Fax 410-887-3048

www.baltimorecountymd.gov

2013-1942

BALTIMORE COUNTY CIRCUIT COURT (Land Records) LLE 34217, p. 0167, MSA_CE62_34173. Date available 12/03/2013. Printed 01/17/2014.

KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits, Approvals & Inspections

January 7, 2013

Bernadette & Clarence D. Poehler
12241 Harford Road
Glen Arm MD 21057

RE: Case Number: 2014-0135 A, Address: 12241 Harford Road

Dear Mr. & Ms. Poehler:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on December 12, 2013. This letter is not an approval, but only a **NOTIFICATION.**

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaf

Enclosures

c: People's Counsel

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

DATE: December 20, 2013

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans
Review

SUBJECT: Zoning Advisory Committee Meeting
For December, 23 2013
Item No. 2014- 0135 and 0136

The Bureau of Development Plans Review has reviewed the subject-zoning items, and we have no comments.

DAK:CEN
Cc: file

G:\DevPlanRev\ZAC -No Comments\ZAC12232013 -.doc

Martin O'Malley, *Governor*
Anthony G. Brown, *Lt. Governor*

State Highway Administration
Maryland Department of Transportation

James T. Smith, Jr., *Secretary*
Melinda B. Peters, *Administrator*

Date: 12/19/13

Ms. Kristen Lewis
Baltimore County Department of
Permits, Approvals & Inspections
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 2014-0135-A.
Administrative Variance
Bernadette T. & Clarence Poehler
12241 Harford Road
MD147

Dear Ms. Lewis:

We have reviewed the site plan to accompany petition for variance on the subject of the above captioned, which was received on 12/16/13. A field inspection and internal review reveals that an entrance onto MD147 consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for Variance, Case Number 2014-0135-A.

Should you have any questions regarding this matter feel free to contact Richard Zeller at 410-545-5598 or 1-800-876-4742 extension 5598. Also, you may email him at (rzeller@sha.state.md.us). Thank you for your attention.

Sincerely,

Steven D. Foster, Chief/
Development Manager
Access Management Division

SDF/raz

2. Petitioner must submit for approval by Baltimore County landscape and lighting plans for the site.
3. Prior to operating a religious facility at the site Petitioner must install a sign at the Harford Road access point (in compliance with the B.C.Z.R. §450) containing the name of the facility and street address.
4. Prior to issuance of occupancy permits, Petitioner must demonstrate to DEPS that the well and septic system proposed will be sufficient to serve the facility.
5. Prior to issuance of permits Petitioner must comply with the ZAC comment of DEPS, a copy of which is attached hereto and incorporated herein.
6. Prior to issuance of permits Petitioner must obtain from SHA an access permit authorizing ingress and egress from the site via Harford Road.
7. Special events held at the site shall be limited to the hours of 10 a.m. to 10 p.m., and outdoor amplification of music or sound shall not be permitted.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln

final order), these concerns are inherent in the operation of a church or building for worship located in a rural area. In other words, most uses for which a special exception is required are regarded as "potentially troublesome because of noise, traffic, congestion...." *Montgomery County v. Butler*, 417 Md. 271, 297 (2010).

In rural zones especially roadways are often antiquated and overburdened, and water/sewer services are not provided by the County. Harford Road will be used to access the site, and as a state highway it is under the control and jurisdiction of the State Highway Administration (SHA). As Mr. Caloggeri (a professional engineer accepted as an expert) testified, the SHA, not Baltimore County, will examine the proposed access and determine whether improvements or other measures are necessary to ensure safe ingress/egress from the site.

As noted in the conditions below, Petitioner must obtain approval from Baltimore County for installation of well and septic systems for this property. Ronald Standiford, pastor of the adjacent Redeemer church, noted that the Christian school affiliated with the church has approximately 220 students and the well and septic system are sufficient. According to witnesses in Petitioner's case, far fewer people will visit this site on a daily basis, and thus there is no reason to believe the water supply and sewerage system would not be adequate.

THEREFORE, IT IS ORDERED this **22nd** day of **January, 2018,** by this Administrative Law Judge, that the Petition for Special Exception to allow a church or other building for religious worship on property zoned RC-2, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

at least 4-5 months of additional restoration work needs to be done before the property can be used by the congregation.

Special Exception

Doug Burgess, an attorney with a law office in the area, testified a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), wherein Maryland's highest court discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Mr. Motsco, a professional engineer accepted as an expert, explained the site plan in detail and said he has visited the property on several occasions. He testified the property is approximately 30.8 acres in size and is zoned RC-2. The witness noted the site has mature wooded buffers along all road frontages, and he testified Petitioner is not at this time proposing any new construction on the site. In conclusion, Mr. Motsco opined Petitioner satisfied each of the requirements set forth at B.C.Z.R. §502.1.

Several citizens testified in opposition to the proposal. Though each witness expressed concern with how the project may impact them individually, there were common themes in the testimony. Traffic conditions and roadway safety, and a concern for water wells and private sewage disposal, were the most frequently cited concerns. Many neighbors also complained about several events or gatherings at the site which generated a significant amount of noise. With the exception of the complaints about noise (which will be addressed in a condition included in the

IN RE: PETITION FOR SPECIAL EXCEPTION (12231 Harford Road) 11th Election District 5th Council District Nepali American Cultural Center *Legal Owner*	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2018-0122-X

* * * * * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Exception filed on behalf of Nepali American Cultural Center, legal owner ("Petitioner"). The Special Exception was filed pursuant to the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow a church or other building for religious worship on property zoned RC-2.

Professional engineers John Motsco and Joe Caloggeri appeared in support of the petition. Timothy M. Kotroco, Esq. represented the Petitioner. Numerous citizens attended the hearing and objected to the request. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP), the Bureau of Development Plans Review (DPR), State Highway Administration (SHA) and the Department of Environmental Protection and Sustainability (DEPS). None of the reviewing agencies objected to the request.

The subject property is approximately 30.8 acres and is zoned RC-2. The property is improved with an historic single-family dwelling and several outbuildings. Petitioner purchased the property last year, at which time it was rundown and abandoned. Photographs submitted at the hearing reveal extensive vandalism to the property which occurred both before and after Petitioner purchased the property. Petitioner is in the process of renovating the property, and estimates that

ADMINISTRATIVE ZONING PETITION

FOR ADMINISTRATIVE VARIANCE – OR – ADMINISTRATIVE SPECIAL HEARING
To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 12241 HARFORD RD GLEN ARM MD 21057 which is presently zoned RC 2

Deed Reference 34217 - 163 10 Digit Tax Account # 1 1 0 8 0 8 0 8 5 0

Property Owner(s) Printed Name(s) BERNADETTE T POEHLER CLARENCE D POEHLER

(SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION(S) AND ADDING THE PETITION REQUEST)
Administrative Variances require that the Affidavit on the reverse of this Petition Form be completed / notarized.

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a

1. ✓ **ADMINISTRATIVE VARIANCE** from section(s)

Sections: 400.1; 400.3

To permit an accessory structure/pole barn in the side yard with a height of 25 feet in lieu of the permitted rear yard and 15 feet.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County.

2. ____ **ADMINISTRATIVE SPECIAL HEARING** to approve a waiver pursuant to Sections 32-4-107(b), 32-4-223.(8), and Section 32-4- 416(a)(2): (*indicate type of work in this space to raze, alter or construct addition to building*)

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County.

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.
Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners:

BERNADETTE T POEHLER CLARENCE D POEHLER

Name #1 – Type or Print Name #2 – Type or Print

Signature #1 Signature # 2

12241 HARFORD RD GLEN ARM MD

Mailing Address City State

21057 410 593 7905 POEHLER.E@GMAIL.COM

Zip Code Telephone # Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

ORDER RECEIVED FOR FILING
Date 1-28-14
By DW

Representative to be contacted:

Name – Type or Print

Signature SAME AS ABOVE

Mailing Address City State

Zip Code Telephone # Email Address

A PUBLIC HEARING having formally demanded and/or found to be required, it is ordered by the Office of Administrative Law, of Baltimore County, this _____day of _____, _____ that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Administrative Law Judge of Baltimore County

CASE NUMBER 2014-0135-A **Filing Date** 12/12/2013 **Estimated Posting Date** ___/___/____ **Reviewer** ZM

POEHLER PROPERTY 12241 HARFORD RD GLEN ARM MD 21057
ADMINISTRATIVE ZONING PETITION
BERNADETTE T POEHLER CLARENCE D POEHLER

Based upon personal knowledge, the following are the facts which we base the request for an Administrative Variance

(1) Variance request to allow accessory structure to be located within the side yard in lieu of the required rear yard per section 400.1 of the BCZR.

The building placement in the rear would be unnecessarily burdensome due to the extremely steep grade of the property behind the home in the rear yard. Placement of the structure within the side yard reduces the need for grading the property and increases the distance between the structure and the tree line of the uniquely shaped property (please see photographs attached to application)

Permitting structure area to be along side the existing structure would give substantial relief to the property owners and the unique topography of the land which slopes toward the tree line behind the existing structure

Granting the relief of the area ordinance would not impact public safety or the welfare of the community and based on the curvature of the street, the area placement of the structure will not be noticeable to the community

(2) Variance request to allow the height of the accessory structure (garage) to be 25 feet in lieu of the required 15 feet per section 400.3 of the BCZR.

The allowance of the variance would provide for the peak to allow clearance of an RV and truck/plow to gain access to garage for storage and maintenance of vehicles

The property we are petitioning for a height variance is for a detached garage at our home and we desire to store our RV and personal vehicles on our property

The property currently has an attached garage that does not allow clearance of storage of an RV or our truck with snow plow attached.

0135-A

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 34217, p. 0165, MSA_CE62_34073. Date available 12/03/2013. Printed 01/17/2014.

0034217 165

File No. 2013-1942

OWNER OCCUPANCY AFFIDAVIT

KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits, Approvals and Inspections

Bernadette T. Poehler and Clarence D. Poehler, the Grantees in the within Deed hereby certify under the penalties of perjury, as evidenced by the joinder herein, that the land conveyed in this Deed is residentially improved owner-occupied real property and that the residence will be occupied by us.

WITNESS:

As to All

Bernadette T. Poehler (SEAL)

Clarence D. Poehler (SEAL)

STATE OF MARYLAND, AA Co, to wit:

I HEREBY CERTIFY, that on this 22nd day of July, 2013, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Bernadette T. Poehler and Clarence D. Poehler, the parties herein, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged the foregoing to be their act, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires: 04/23/15

Melanie L. Rodenhizer
Anne Arundel County
Notary Public
Comm. Exp. 04/23/15

Zoning Review | County Office Building
111 West Chesapeake Avenue, Room 111 | Towson, Maryland 21204 | Phone 410-887-3391 | Fax 410-887-3048
www.baltimorecountymd.gov

0034217 166

CERTIFICATION OF EXEMPTION FROM WITHHOLDING UPON DISPOSITION OF MARYLAND REAL ESTATE

AFFIDAVIT OF RESIDENCY OR PRINCIPAL RESIDENCE

KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits, Approvals & Inspections

File Number: 2013-1942

Property: 12241 Harford Road, Glen Arm, MD 21057

Based on the certification below, Transferor claims exemption from the tax withholding requirements of § 10-912 of Maryland's Tax General Article. Section 10-912 states that certain tax payments must be withheld when a deed or other instrument that affects a change in ownership of real property is recorded. The requirements of § 10-912 do not apply when a transferor provides a certification of Maryland residency or certification that the transferred property is the transferor's principal residence.

1. Transferor Information
Name of Transferor: George P. Hutschenreuter

2. Reason for Exemption	
Resident Status	☐ I, Transferor, am a resident of the State of Maryland. ☐ Transferor is a resident entity under § 10-912(A)(4) of Maryland's Tax General Article. I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.
Principal Residence	☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC § 121.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Angela M. Johnson
Witness

Dr. Charles Morris as Power of Attorney for George P. Hutschenreuter
Name

Chas Morris Power of Attorney for George P. Hutschenreuter
Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By:

Name

Title

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 34217, p. 0166, MSA_CE62_34073. Date available 12/03/2013. Printed 01/17/2014.

KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

January 28, 2014

Bernadette T. Poehler
Clarence D. Poehler
12241 Harford Road
Glen Arm, Maryland 21057

RE: Petition for Administrative Variance
Case No. 2014-0135-A
Property: 12241 Harford Road

Dear Mr. and Mrs. Poehler:

Enclosed please find a copy of the decision rendered in the above-captioned matter

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the Baltimore County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Baltimore County Office of Administrative Hearings at 410-887-3868.

Sincerely,

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw
Enclosure

2. The Petitioners or subsequent owners shall not convert the subject accessory structure/pole barn into a dwelling unit or apartment. The accessory structure/pole barn shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.

3. The accessory structure/pole barn shall not be used for commercial purposes.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:dlw

ORDER RECEIVED FOR FILING

Date 1-28-14

By DW

IN RE: PETITION FOR ADMIN. VARIANCE (12241 Harford Road)	*	BEFORE THE
11th Election District	*	OFFICE OF ADMINISTRATIVE
3rd Council District		
Bernadette T. and Clarence D. Poehler	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	**CASE NO. 2014-0135-A**

* * * * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County for consideration of a Petition for Administrative Variance filed by the legal owners of the property, Bernadette T. and Clarence D. Poehler. The Petitioners are requesting Variance relief pursuant to Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R) to permit a proposed accessory structure/pole barn in the side yard with a height of 25 ft. in lieu of the permitted rear yard and maximum height of 15 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse ZAC comments received from any of the County reviewing agencies.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on December 22, 2013, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code (B.C.C.). Based upon the information available, there is no evidence in

ORDER RECEIVED FOR FILING

Date 1-28-14

By

the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Administrative Law Judge, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Although the Department of Planning did not make any recommendations related to the accessory structure height and usage, I will impose conditions that the barn shall not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, kitchen or bathroom facilities, and not be used for commercial purposes.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, this 28th day of January, 2014 by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R) to permit a proposed accessory structure/pole barn in the side yard with a height of 25 ft. in lieu of the permitted rear yard and maximum height of 15 ft., be and is hereby GRANTED.

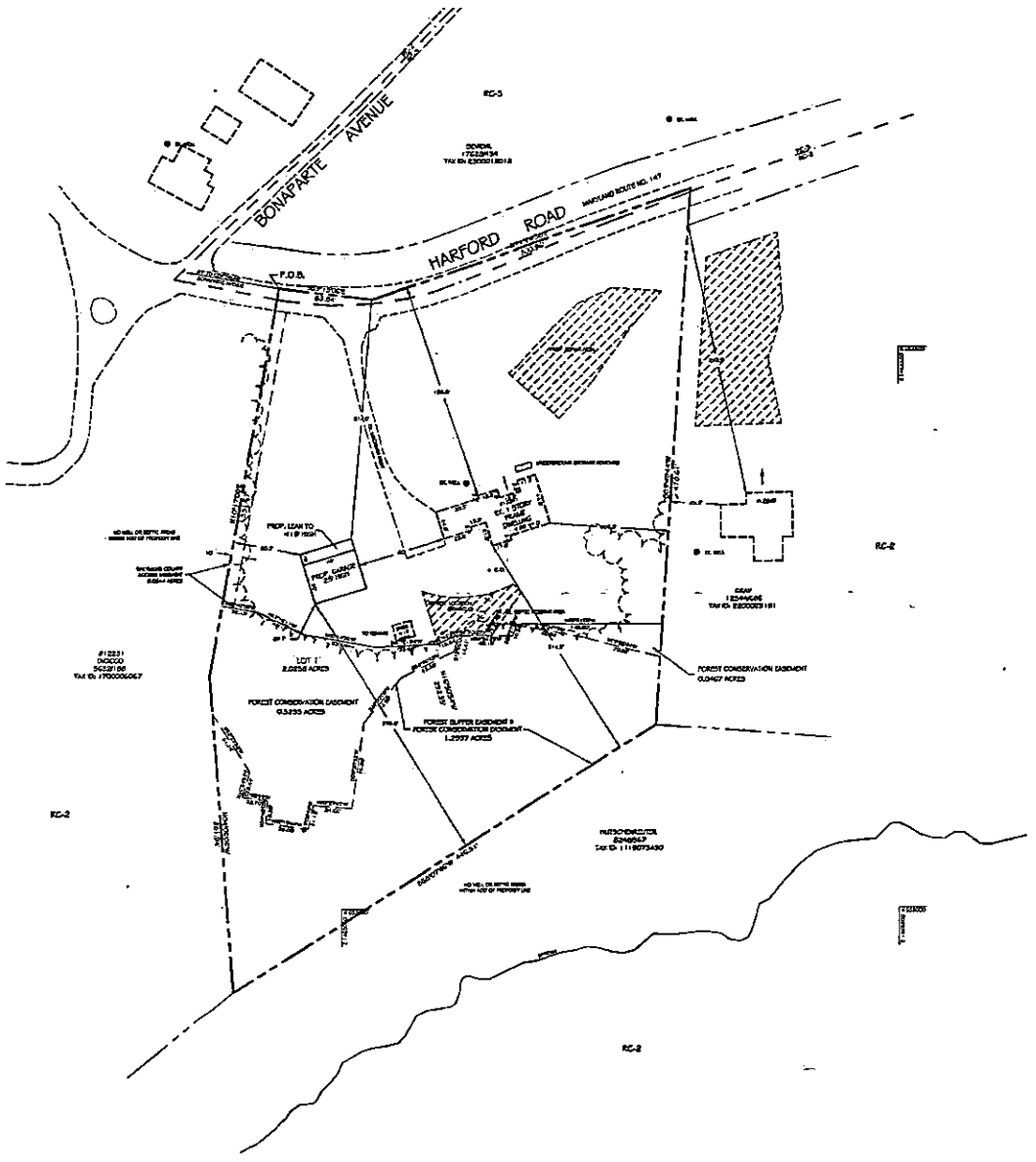
The relief granted herein shall be subject to the following:

1. Petitioners may apply for any appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

ORDER RECEIVED FOR FILING

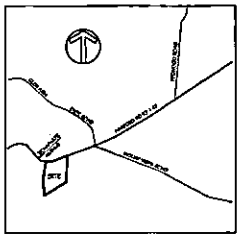
Date 1-28-14

By DW



SITE DATA:

1) OWNER: BERNADETTE T. POEHLER AND CLARENCE O. POEHLER
2) OWNERS ADDRESS: 12241 HARFORD ROAD
GLEN ARM, MARYLAND 21057
410-817-3106
3) DEED REFERENCE: 34211/0163
4) TAX ACCOUNT NUMBER: 1100080830
5) TAX MAP: 54 GRID 15 PARCEL 210
6) ZONING: RC-2
7) ZONING MAP: 05/08
8) CENSUS TRACT: 4111.01
9) COUNCILMANIC DISTRICT: 3rd
10) ELECTION DISTRICT: 11th
11) WATERSHED: LOWER GUNPOWDER
12) SUBDIVERSHED: NONE
13) SCHOOL DISTRICT: KINGSVILLE ES
14) REGIONAL PLANNING DISTRICT: 318
15) AREA OF TRACT: 4.6372 ACRES
16) EXISTING USE: SINGLE FAMILY DWELLING
17) FLOOR ZONING HEARINGS: NONE
18) NO CURRENT OR OUTSTANDING VIOLATIONS
19) NO HISTORICAL SIGNIFICANCE
20) NOT WITHIN THE CHESAPEAKE BAY CRITICAL AREA
21) NOT WITHIN A 100-YEAR FLOOD PLAIN
22) PRIVATE WELL AND SEPTIC



VICINITY MAP
SCALE: 1" = 1000'

VARIANCES REQUESTED:

1) TO ALLOW ACCESSORY STRUCTURES TO BE LOCATED WITHIN THE SIDE YARD IN LIEU OF THE REQUIRED REAR YARD PER SECTION 400.1 OF THE BCZR, AND

2) TO ALLOW THE HEIGHT OF THE ACCESSORY STRUCTURE (GARAGE) TO BE 25 FEET IN LIEU OF THE REQUIRED 15 FEET PER SECTION 400.3 OF THE BCZR, AND

3) FOR OTHER AND SUCH RELIEF AS MAY BE DETERMINED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE

NOTE:

THIS PLAN MAY BE USED BY THE CLARENCE AND BERNADETTE POEHLER AS A PLAN TO ACCOMPANY A BUILDING PERMIT PROVIDED THAT LOCATION, SETBACKS AND DIMENSIONING OF THE ACCESSORY STRUCTURES HAVE NOT BEEN CHANGED OR MODIFIED AND IS IN ACCORDANCE WITH VARIANCES REQUESTED SHOULD THE RELIEF BE GRANTED.

2014-0135-A

GRAPHIC SCALE

(IN FEET)
1 inch = 50 ft.

kjWellsInc
7400 NEW CUT ROAD
KINGSVILLE, MARYLAND 21057
(410) 592-5650

Land Surveying & Site Planning

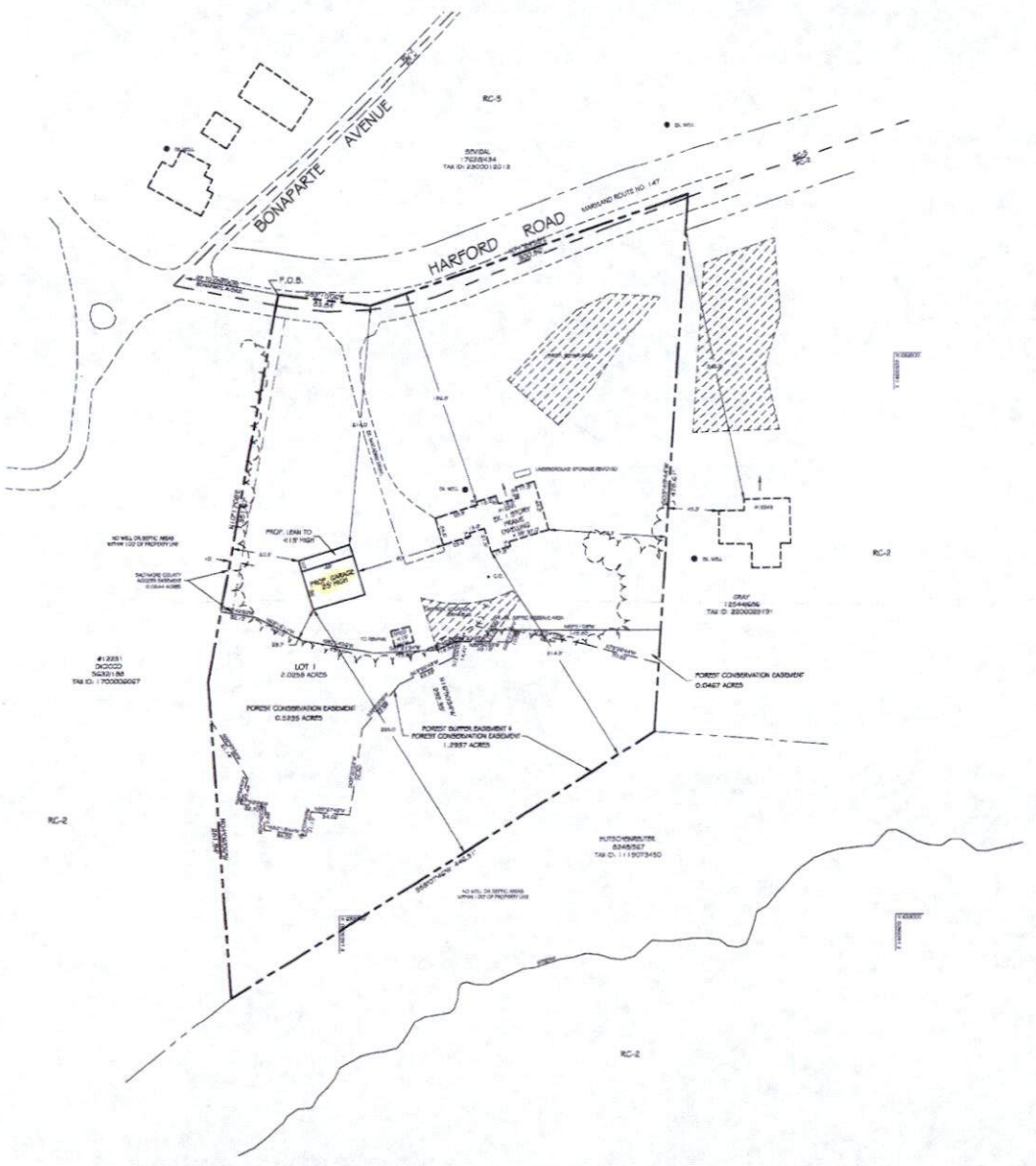
NAD 83/91

REVISIONS:

NO.	DATE

PLAN TO ACCOMPANY AN
ADMINISTRATIVE VARIANCE
POEHLER PROPERTY
12241 HARFORD ROAD
BALTIMORE COUNTY
MARYLAND
11th ELECTION DISTRICT 3rd COUNCILMANIC DISTRICT

DRAWN BY: KJW
CHECKED BY: KJW
DATE: 12/01/2015
PROJECT NO.:
2013-054
SHEET 1 OF 1


BONAPARTE AVENUE
HARFORD ROAD
MARYLAND ROUTE NO. 147
P.O.B.
RC-5
RC-2
RC-2
RC-2
LOT 1
2.0258 ACRES
PROP. LEAN TO
415' HIGH
PROP. GARAGE
25' HIGH
FOREST CONSERVATION EASEMENT
0.5235 ACRES
FOREST CONSERVATION EASEMENT
0.0467 ACRES
FOREST BUFFER EASEMENT &
FOREST CONSERVATION EASEMENT
1.2557 ACRES
NO WELL OR SEPTIC AREAS
WITHIN 100' OF PROPERTY LINE
#1223
DIGGS
TAX ID: 1700030827
GRAY
TAX ID: 2300020731
HUTCHINSON
TAX ID: 1119073450
SPADAL
TAX ID: 2300012018
PROPERTY LINE
BUILDING RESTRICTION LINE
EXISTING 1 STORY
FRAME DWELLING
#1224
STONE WALL
STREAM
WETLANDS
100 YEAR FLOOD PLAIN
SHOWN ON FEMA MAP
SHOWN ON FEMA MAP
SHOWN ON FEMA MAP

ADMINISTRATIVE VARIANCE · POEHLER PROPERTY 12241 HARFORD RD GLEN ARM, MD 21057

PHOTO ~~3/5~~ 2/3

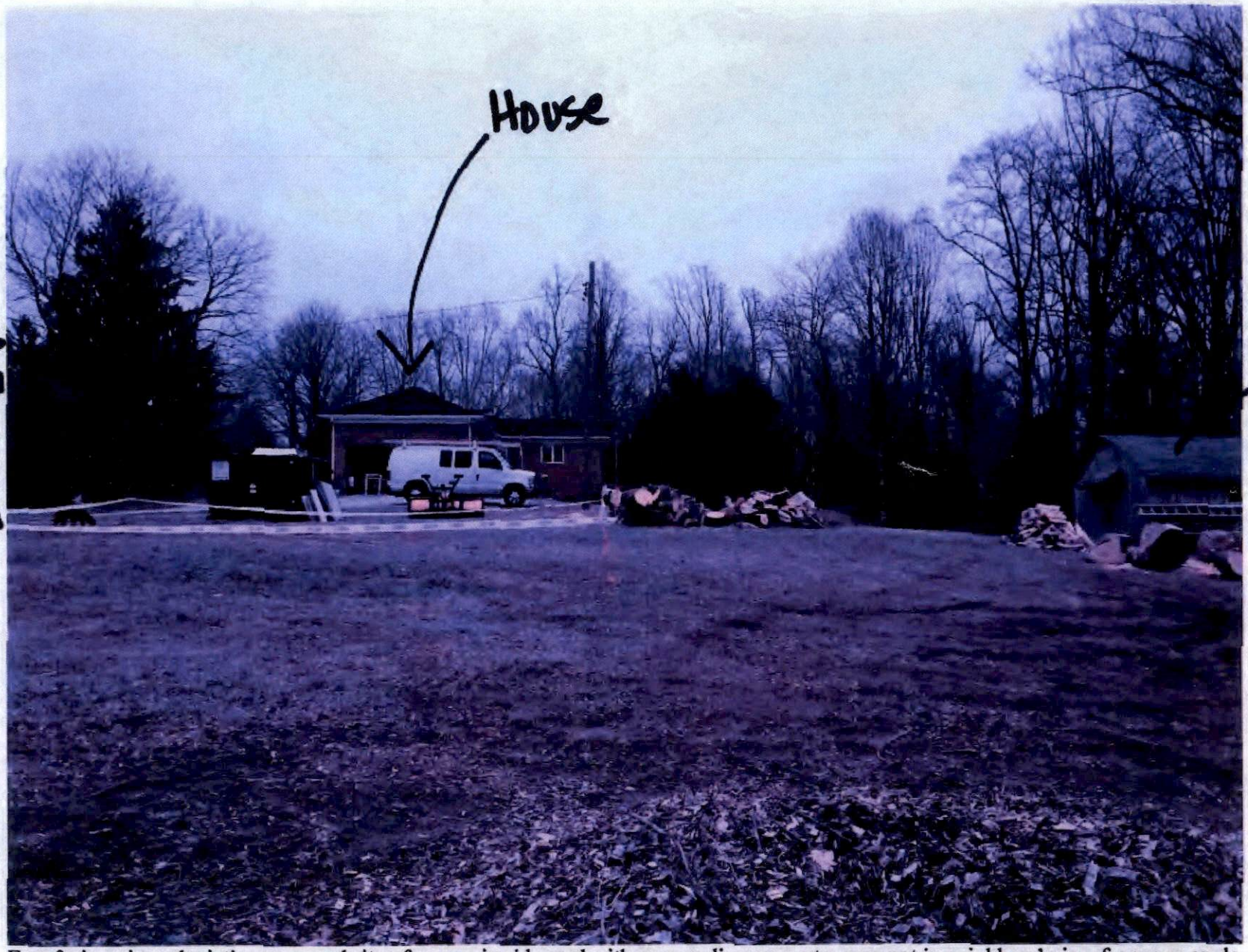
CASE: 2014-0135-A

Proposed garage site – picture taken from end of existing driveway

CAUTION TAPE OUTLINES AREA OF PROPOSED GARAGE

ADMINISTRATIVE VARIANCE · POEHLER PROPERTY 12241 HARFORD RD Glen Arm MD 21057

PHOTO ~~5~~ 1/3



East facing view, depicting proposed site of garage in side yard with surrounding property, area not in neighbors' view from any angle

CASE 2014-013 -A

Not the same owner as petition

Search Help

Real Property Data Search (w1)

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Account Identifier: District - 11 Account Number - 1108080850

Owner Information

Owner Name: HUTSCHENREUTER G P
HUTSCHENREUTER JOYCE A

Use: RESIDENTIAL
Principal Residence: NO

Mailing Address: APT 302
615 RIVIERA DUNES WAY
PALMETTO FL 34221-7147

Deed Reference: 1)
2)

Location & Structure Information

Premises Address: 12241 HARFORD RD
GLEN ARM MD 21057-9325

Legal Description: 5 ACRES ES SHARON DR
2640 S OF MT VISTA

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0054	0015	0210		0000				2012	Plat Ref:

Special Tax Areas: **Town:** NONE
Ad Valorem:
Tax Class:

Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use
1958	1,699 SF	1274 SF	5.0000 AC	04

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
1.000000	YES	STANDARD UNIT	BRICK	2 full	1 Attached	

Value Information

	Base Value	Value As of 01/01/2012	Phase-in Assessments As of 07/01/2013	As of 07/01/2014
Land:	168,000	168,000		
Improvements	246,400	196,500		
Total:	414,400	364,500	364,500	364,500
Preferential Land:	0			0

Transfer Information

Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2013	07/01/2014
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|0.00	0.00|0.00

Tax Exempt:
Exempt Class:

Special Tax Recapture: NONE

Homestead Application Information

Homestead Application Status: Denied

BALTIMORE COUNTY, MARYLAND

Inter-Office Memorandum

DATE: January 9, 2014

TO: Kristen Lewis, Office of Zoning Review
Department of Permits, Approvals & Inspections (PAI)

FROM: John Beverungen, Administrative Law Judge
Office of Administrative Hearings

RE: Petition for Administrative Variance – 01/06/14 Closing Date
Case No. 2014-0135-A – 12241 Harford Road, 21057 (Formal Demand)

After receipt and a review of the above-captioned case file, I am requesting that this case be set in for a public hearing. Baltimore County Code (B.C.C.) § 32-3-303(a)(1), states in pertinent part:

> " ... the Zoning Commissioner may grant variances from area and height regulations **without a public hearing if the variance petition involves an owner-occupied lot** zoned residential ... ." (Emphasis Added)

Our office is returning the file to you for further processing such as notifying the Petitioners, posting and advertising of the hearing notices.

Thank you for your attention and cooperation in this matter.

JEB:dlw

c: Office of People's Counsel
W. Carl Richards, Jr., Supervisor, Zoning Review Office, PAI

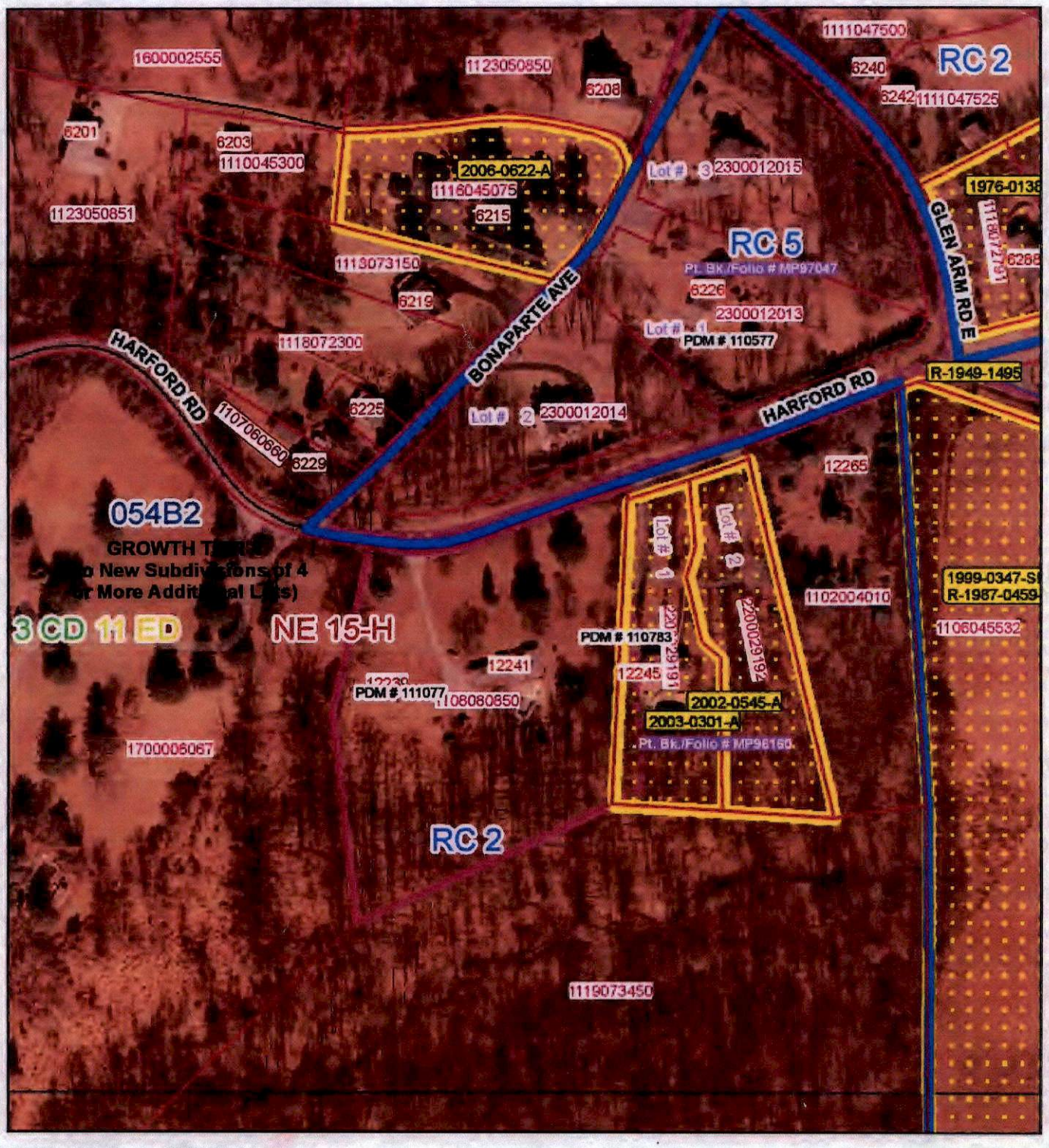
ADMINISTRATIVE VARIANCE POEHLER PROPERTY 12241 HARFORD RD GLEN ARM MD 21057

PHOTO #5 3/3

Picture from northwest corner of property depicting the slope of the property, noting view of only top of shed in background

CASE 2014-0135-A

12241 Harford Road 2014-0135-A



Publication Date: 12/12/2013

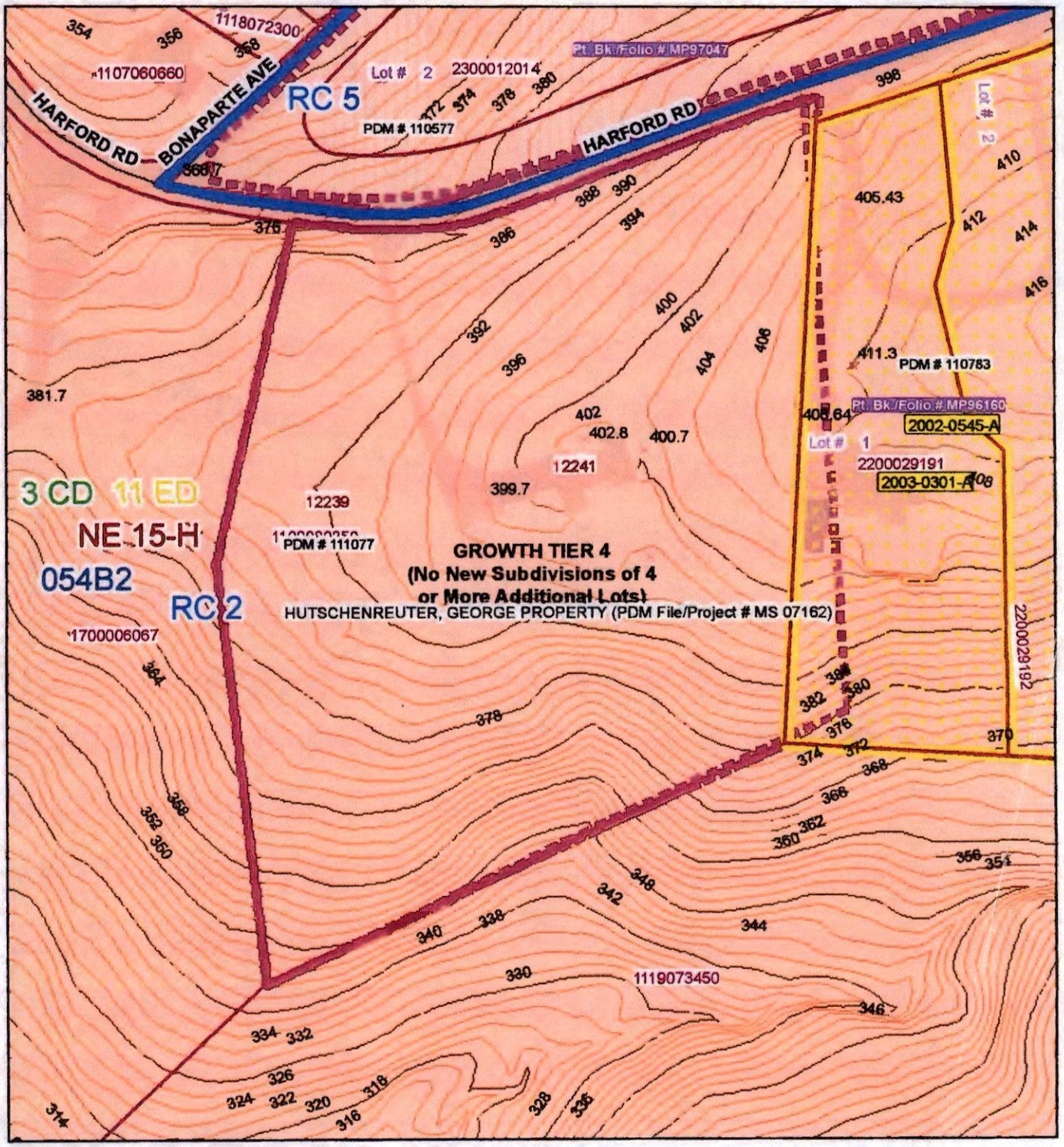
Publication Agency: Permits, Approvals & Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot

N
W E
S

0 50 100 200 300 400 Feet

1 inch = 200 feet

122-1 Harford Road 2014-0135-A



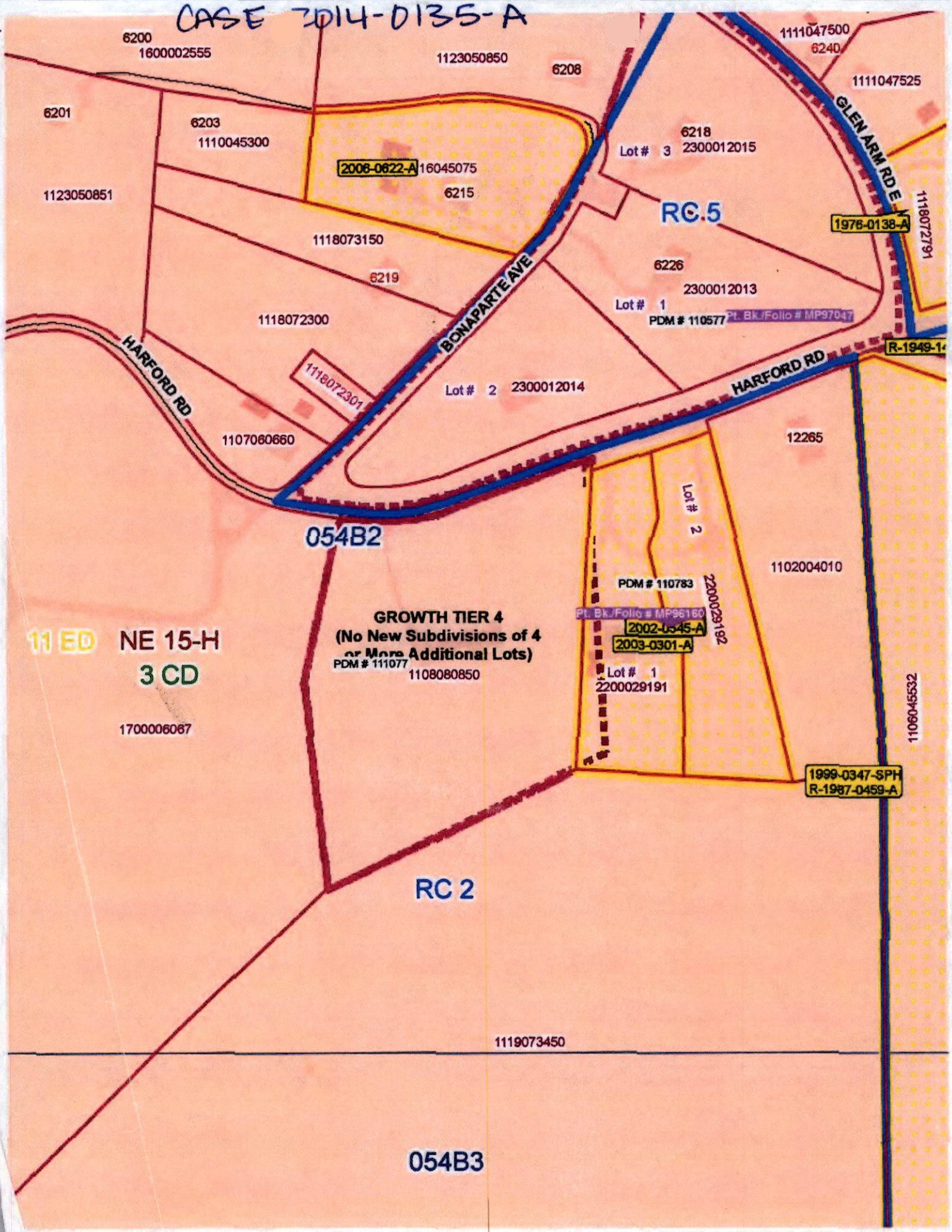
Publication Date: 12/12/2013

Publication Agency: Permits, Approvals & Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot

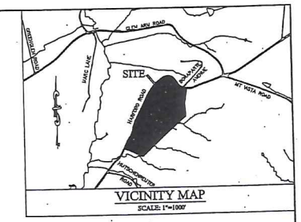
N
W E
S

0 25 50 100 150 200 Feet

1 inch = 100 feet



DEHLER PROPERTY 12241 HARFORD RD GLEN ARM MD 21057



VICINITY MAP
SCALE 1"=1000'

PROPERTY INFORMATION

1. OWNER:
   NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE
   12231 HARFORD ROAD
   GLEN ARM, MD 21057
2. TAX ACCOUNT #: 1700006067
3. DEED REF: 36569/65
4. SITE AREA: 30.8± AC. (1,341,646 S.F.)
5. EXISTING USE: DWELLING
6. TAX MAP: 39 GRID: 22 PARCEL: 55483 & 55483
7. ELECTION DISTRICT: 11 COUNCILMANIC DISTRICT: 5
8. THIS SITE HAS NO KNOWN PREVIOUS COMMERCIAL USE(S).
9. THIS SITE IS NOT LOCATED WITHIN ANY DEFICIENT AREAS BASED ON THE 2017 WATER, SEWER, AND TRANSPORTATION BASIC SERVICES MAPS PURSUANT TO SECTION 4A02.
10. NO KNOWN 100 YEAR FLOODPLAINS ARE LOCATED ON THE SITE (FEMA MAP 4001C0130F)
11. THIS SITE IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA (CBCA)
12. THIS SITE IS LISTED ON THE BALTIMORE COUNTY HISTORIC AND INVENTORY OF HISTORIC PROPERTIES AS BA-329, KNOWN AS "BELLA VISTA (SITE)", & BA-5368, KNOWN AS THE "BELLA VISTA BARN".
13. THIS SITE IS NOT LOCATED WITHIN ANY HISTORICAL DISTRICT.
14. THIS SITE HAS NO PREVIOUS ZONING HISTORY.
15. NO NEW SIGNS ARE PROPOSED.
16. DRIVEWAY AND PARKING ARE AS SHOWN.
17. SITE IS OUTSIDE OF THE URDL. PUBLIC WATER AND SEWER ARE NOT AVAILABLE. THE SITE IS SERVED BY PRIVATE WELL AND SEPTIC.

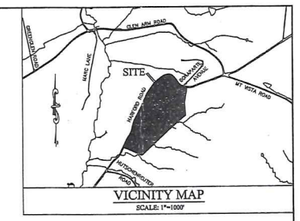
PARKING DATA:
PARKING REQUIRED: 1 SPOT PER 4 SEATS. 38 PARKING SPACES PROVIDED.

ZONING REQUEST:
THE PETITIONER REQUESTS THE FOLLOWING ZONING RELIEF:

SPECIAL EXCEPTION RELIEF, PURSUANT TO SECTION 1A01.2.C.5 OF THE BCZR TO ALLOW A CHURCH OR OTHER BUILDING FOR RELIGIOUS WORSHIP.

AND FOR SUCH OTHER AND FURTHER RELIEF AS THE NATURE OF THIS CAUSE MAY REQUIRE.

LEO & REGINA SYDLIK
12120 HARFORD ROAD
DEED: 13497/311
17000054412
ROBERT & KATHRYN TRANTER
12134 HARFORD ROAD
DEED: 5652/452
17000058413
PAUL & BARBARA KOCH
12138 HARFORD ROAD
DEED: 15786/283
17000068415
PAUL & DONNA HECKEL
12142 HARFORD ROAD
DEED: 12312/207
17000052418
PAUL & DONNA HECKEL
12148 HARFORD ROAD
DEED: 8786/778
17000065417
ERNEST & MARY CLARK
12160 HARFORD ROAD
DEED: 8782/311
17000143363
HOLLY EMMINGTER
12154 HARFORD ROAD
DEED: 27179/287
17000074364
ERNEST & EILEEN KING
6020 GLEN ARM ROAD
DEED: 5852/607
17000143396
IRA TED SMITH
6221 BONAPARTE AVENUE
DEED: 5177/652
11230006651
HARFORD ROAD (ROUTE 147)
HIGHWAY R/W PER PLAT 40/43
HIGHWAY R/W PER PLAT 42/18
S31°36'W 222.00'
S34°30'W 178.00'
S21°37'W 293.00'
S36°30'W 218.00'
S31°26'W 157.45'
S41°37'W 175.00'
S35°07'W 132.00'
S31°39'W 223.00'
S69°06'W 65.00'
S83°17'W 60.00'
N79°48'W 60.00'
N54°31'W 60.00'
N07°39'E 80.00'
N07°39'E 270.00'
N82°20'E 150.00'
EX. DWLG
EX. GARAGE
EX. TENNIS COURT
PROP. PARKING (TYP.)
#12231
EX. TWO-STORY BUILDING
EX. DRIVEWAY (PAVED)
EX. DRIVEWAY (CONCRETE & GRAVEL)
EX. BARN
EX. ROOT CELLAR
EX. TWO-STORY DWLG.
EX. POOL
EX. WOODS
EX. STREAM (TYP.)
EX. STREAM (TYP.)
ROBERT & EMILY DICICCO
HARFORD ROAD
DEED: 5831/192
17000061068
LEONARD & MILDRED HUTSCHENREUTER
6136 HUTSCHENREUTER LANE
DEED: 37328/185
11607*450
BERNADETTE & CLARENCE PODDLER
12241 HARFORD ROAD
DEED: 3478*/214
11060*0550
JESS & MARIA SEVDAL
6230 BONAPARTE AVENUE
DEED: 17825/404
2300012053
HIGHWAY R/W PER MSP 870474
BONAPARTE AVENUE
75'± TO INTERSECTION OF BONAPARTE AVENUE
POB
N54°31'E 867.73'
N07°39'E 344.45'
N07°39'E 137.00'
N19°24'E 342.68'
N82°20'E 280.00'
335'±
337'±
355'±
655'±
652'±
670'±
375'±
335'±
30'±
65'±
65'±
65



VICINITY MAP
SCALE: 1"=1000'

PROPERTY INFORMATION

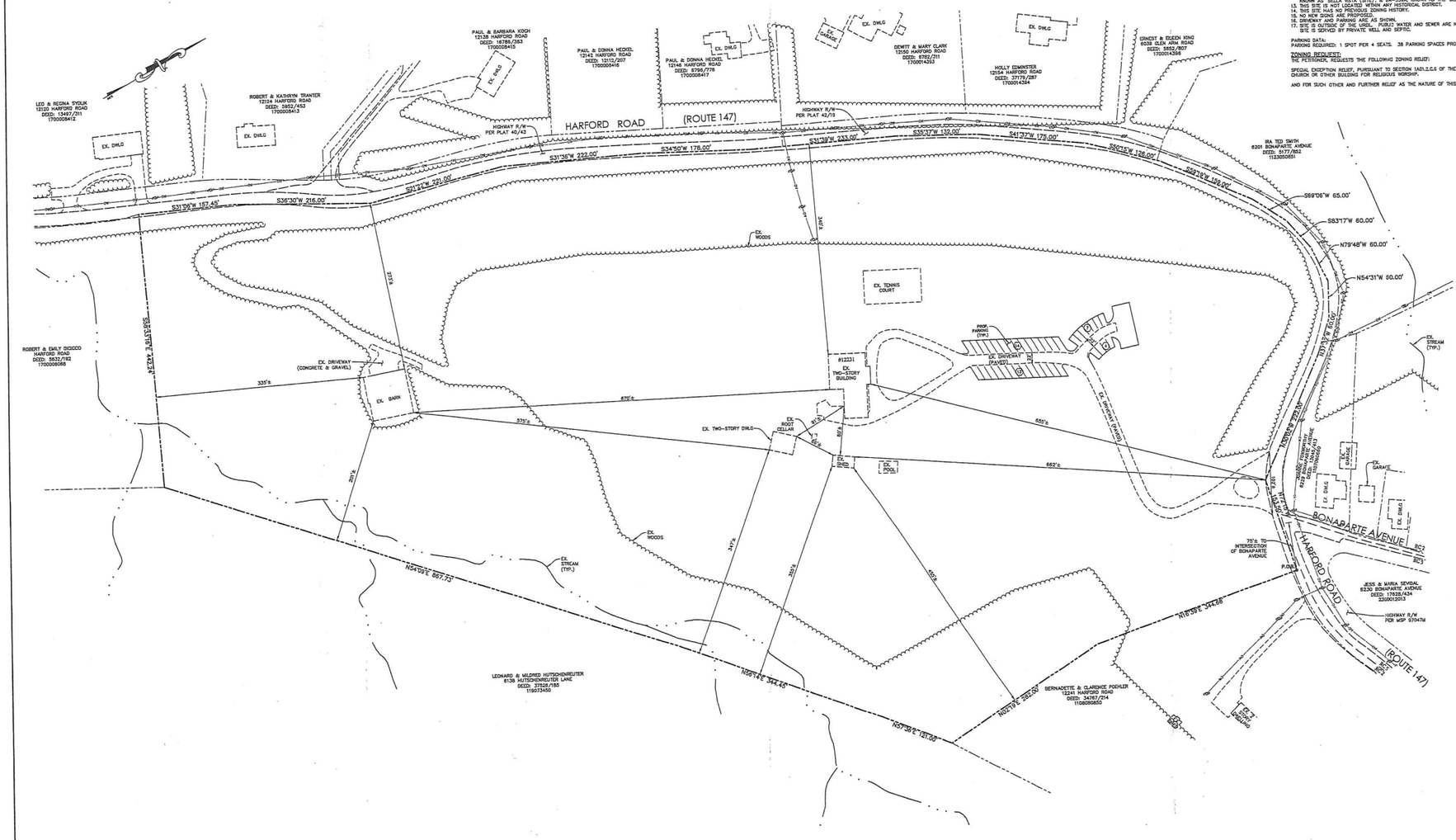
1. OWNER:
   NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE
   12231 HARFORD ROAD
   GLEN ARM, MD 21057
2. TAX ACCOUNT #: 1700006087
3. DEED REF: 38588/65
4. SITE AREA: 30.86 AC. (1,341,548 S.F.)
5. EXISTING ZONING: RC 2
6. ZONING MAP: 03-NE; E 12-483
7. ELECTION DISTRICT: 11; COUNCILMANIC DISTRICT: 5
8. THIS SITE HAS NO KNOWN PREVIOUS COMMERCIAL PERMITS.
9. THIS SITE IS NOT LOCATED WITHIN ANY DEFICIENT AREAS BASED ON THE 2017 WATER, SEWER, AND TRANSPORTATION BASIC SERVICES MAPS, PURSUANT TO SECTION 4A02.
10. NO KNOWN 100 YEAR FLOODPLAINS ARE LOCATED ON THE SITE (FEMA MAP 24005C0250F)
11. THIS SITE IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA (CBCA).
12. THIS SITE IS LISTED IN THE MARYLAND INVENTORY OF HISTORIC PROPERTIES AS BA-539, KNOWN AS 'BELLA VISTA (SITE)' & BA-538A, KNOWN AS THE 'BELLA VISTA BARN'.
13. THIS SITE IS NOT LOCATED WITHIN ANY HISTORICAL DISTRICT.
14. THERE IS NO KNOWN ZONING HISTORY.
15. NO NEW SIGNS ARE PROPOSED.
16. DRIVEWAY AND PARKING ARE AS SHOWN.
17. SITE IS OUTSIDE OF THE URDL. PUBLIC WATER AND SEWER ARE NOT AVAILABLE. THE SITE IS SERVED BY PRIVATE WELL AND SEPTIC.

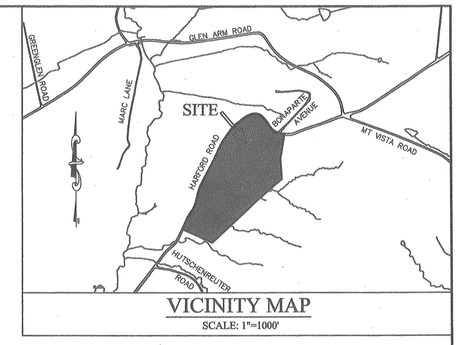
PARKING DATA:
PARKING REQUIRED: 1 SPOT PER 4 SEATS. 38 PARKING SPACES PROVIDED.

ZONING REQUEST:
THE PETITIONER, REQUESTS THE FOLLOWING ZONING RELIEF:

SPECIAL EXCEPTION RELIEF, PURSUANT TO SECTION 1A01.2.C.6 OF THE BCZR TO ALLOW A CHURCH OR OTHER BUILDING FOR RELIGIOUS WORSHIP.

AND FOR SUCH OTHER AND FURTHER RELIEF AS THE NATURE OF THIS CAUSE MAY REQUIRE.


LEO & REGINA SVOLIK
12120 HARFORD ROAD
DEED: 13497/311
1700008412
ROBERT & KATHRYN TRANTER
12124 HARFORD ROAD
DEED: 5652/453
1700008413
PAUL & BARBARA KOCH
12138 HARFORD ROAD
DEED: 16788/383
1700008415
PAUL & DONNA HEDKEL
12142 HARFORD ROAD
DEED: 12015/207
1700008416
PAUL & DONNA HEDKEL
12146 HARFORD ROAD
DEED: 8795/775
1700008417
DEWITT & MARY CLARK
12150 HARFORD ROAD
DEED: 8782/311
1700014353
HOLLY EDMINSTER
12154 HARFORD ROAD
DEED: 37179/287
1700014384
ERNEST & EILEEN KING
6039 GLEN ARM ROAD
DEED: 5852/807
1700014398
IRA TED SMITH
6201 BONAPARTE AVENUE
DEED: 5177/552
1123005051
ROBERT & EMILY DIDDIO
HARFORD ROAD
DEED: 5632/192
1700008068
LEONARD & MILDRED HUTSCHENREUTER
6138 HUTSCHENREUTER LANE
DEED: 37535/185
119073450
BERNADETTE & CLARENCE PODHLER
12241 HARFORD ROAD
DEED: 34707/214
1108080850
JESS & MARIA SEVDAL
6230 BONAPARTE AVENUE
DEED: 17935/434
2350012013
HARFORD ROAD (ROUTE 147)
HIGHWAY R/W PER PLAT 40/43
HIGHWAY R/W PER PLAT 42/13
HIGHWAY R/W PER MSP 57047M
BONAPARTE AVENUE
EX. DWLG
EX. BARN
EX. GARAGE
EX. SHED
EX. POOL
EX. ROOT CELLAR
EX. TWO-STORY DWLG.
EX. WOODS
EX. STREAM (TYP.)
EX. TENNIS COURT
#12231
EX. TWO-STORY BUILDING
PROP. PARKING (TYP.)
EX. DRIVEWAY (PAVED)
EX. DRIVEWAY (CONCRETE & GRAVEL)
EX. DRIVEWAY (GRAVEL)
PROP. DRIVEWAY
PROP. ENTRANCE
75'± TO INTERSECTION OF BONAPARTE AVENUE
POINT OF BEGINNING
S31°26'W 157.45'
S36°30'W 216.00'
S31°24'W 221.00'
S31°36'W 222.00'
S34°50'W 178.00'
S31°39'W 233.00'
S38°37'W 139.00'
S41°37'W 175.00'
S50°15'W 126.00'
S59°26'W 199.00'
S59°06'W 65.00'
S83°17'W 60.00'
N79°48'W 60.00'
N54°31'W 60.00'
N30°05'W 229.00'
N10°59'W 227.00'
N18°39'E 344.68'
N18°19'E 280.00'
N57°38'E 181.00'
N49°09'E 887.73'
N68°44'E 344.68'
S58°37'E 1424'
335'±
375'±
470'±
655'±
662'±
317'±
302'±
300'±
20'±
85'±
65'±
50'±
R=25.00'
L=39.27'
R=25.00'
L=39.27'
R=25.00'
L=39.27'



VICINITY MAP
SCALE: 1"=1000'

PROPERTY INFORMATION

1. OWNER:
   NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE
   12231 HARFORD ROAD
   GLEN ARM, MD 21057
2. TAX ACCOUNT #: 1700006067
3. DEED REF: 38898/65
4. SITE AREA: 30.8± AC. (1,341,648 S.F.)
5. EXISTING ZONING: RC 2
6. ZONING MAP: 054B2 & 054B3
7. ELECTION DISTRICT: 11 COUNCILMANIC DISTRICT: 5
8. THIS SITE HAS NO KNOWN PREVIOUS COMMERCIAL PERMITS.
9. THIS SITE IS NOT LOCATED WITHIN ANY DEFICIENT AREAS BASED ON THE 2017 WATER, SEWER, AND TRANSPORTATION BASIC SERVICES MAPS, PURSUANT TO SECTION 4A02.
10. NO KNOWN 100 YEAR FLOODPLAINS ARE LOCATED ON THE SITE (FEMA MAP 400100280F)
11. THIS SITE IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA (CBCA).
12. THIS SITE IS LISTED IN THE MARYLAND INVENTORY OF HISTORIC PROPERTIES AS BA-539, KNOWN AS 'BELLA VISTA (SITE)', & BA-539A, KNOWN AS THE 'BELLA VISTA BARN'.
13. THIS SITE IS NOT LOCATED WITHIN ANY HISTORICAL DISTRICT.
14. THIS SITE HAS NO PREVIOUS ZONING HISTORY.
15. NO NEW SIGNS ARE PROPOSED.
16. DRIVEWAY AND PARKING ARE AS SHOWN.
17. SITE IS OUTSIDE OF THE URDL. PUBLIC WATER AND SEWER ARE NOT AVAILABLE. THE SITE IS SERVED BY PRIVATE WELL AND SEPTIC.

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THE PETITIONER, REQUESTS THE FOLLOWING ZONING RELIEF:

SPECIAL EXCEPTION RELIEF, PURSUANT TO SECTION 1A01.2.C.6 OF THE BCZR TO ALLOW A CHURCH OR OTHER BUILDING FOR RELIGIOUS WORSHIP.

AND FOR SUCH OTHER AND FURTHER RELIEF AS THE NATURE OF THIS CAUSE MAY REQUIRE.

LEO & REGINA SYDLIK
12120 HARFORD ROAD
DEED: 13497/311
1700008412

ROBERT & KATHRYN TRANTER
12124 HARFORD ROAD
DEED: 5952/453
1700008413

PAUL & BARBARA KOCH
12138 HARFORD ROAD
DEED: 16786/383
1700008415

PAUL & DONNA HECKEL
12142 HARFORD ROAD
DEED: 12212/207
1700008416

PAUL & DONNA HECKEL
12146 HARFORD ROAD
DEED: 8796/776
1700008417

DEWITT & MARY CLARK
12150 HARFORD ROAD
DEED: 6782/311
1700014393

HOLLY EDMINSTER
12154 HARFORD ROAD
DEED: 37179/287
1700014394

ERNEST & EILEEN KING
6039 GLEN ARM ROAD
DEED: 5852/807
1700014396

IRA TED SMITH
6201 BONAPARTE AVENUE
DEED: 5177/852
1123050851

ROBERT & EMILY DICICCO
HARFORD ROAD
DEED: 5632/192
1700006068

LEONARD & MILDRED HUTSCHENREUTER
6138 HUTSCHENREUTER LANE
DEED: 37528/185
119073450

BERNADETTE & CLARENCE POEHLER
12241 HARFORD ROAD
DEED: 34767/214
1108080850

JESS & MARIA SEVDAL
6230 BONAPARTE AVENUE
DEED: 17628/434
2300012013

JOANIE CONDORITY
6229 BONAPARTE AVENUE
DEED: 13544/413
1700026260

HARFORD ROAD (ROUTE 147)

HIGHWAY R/W PER PLAT 40/43

HIGHWAY R/W PER PLAT 42/19

HIGHWAY R/W PER MSP 97047M

S31°06'W 157.45'
S36°30'W 216.00'
S21°22'W 231.00'
S31°36'W 222.00'
S34°50'W 178.00'
S31°39'W 233.00'
S35°37'W 132.00'
S41°37'W 175.00'
S50°15'W 126.00'
S69°16'W 159.00'
S69°06'W 65.00'
S83°17'W 60.00'
N79°48'W 60.00'
N54°31'W 60.00'
N53°32'W 65.00'
N39°09'W 222.00'
N53°50'W 102.00'

S58°33'18"E 1422.24'
N54°09'E 867.73'
N58°14'E 344.45'
N57°36'E 121.00'
N02°18'E 282.00'
N18°39'E 344.68'

EX. DWLG
EX. GARAGE
EX. WOODS
EX. TENNIS COURT
EX. BARN
EX. DRIVEWAY (CONCRETE & GRAVEL)
EX. TWO-STORY DWLG
EX. ROOT CELLAR
EX. SHED
EX. POOL
EX. STREAM (TYP.)
EX. DRIVEWAY (PAVED)
PROP. PARKING (TYP.)
#12231 EX. TWO-STORY BUILDING
EX. 2 STORY TIMBERFRAME
EX. GARAGE
EX. DWLG
EX. STREAM (TYP.)
75'± TO INTERSECTION OF BONAPARTE AVENUE
P.O.B.
RC2
RC3

335'±
670'±
575'±
655'±
662'±
201'±
347'±
355'±
459'±
91'±
80'±
66'±
102'±
124'±
124'±
2475'±
3470'±

LITTLE & ASSOCIATES, INC.
ENGINEERS~~LAND PLANNERS~~SURVEYORS
1055 TAYLOR AVENUE, SUITE 307
TOWSON, MARYLAND 21286
PHONE: (410)296-1636 FAX: (410)296-1639

STATE OF MARYLAND
JAMIE A. MOSER
No. 44112
PROFESSIONAL ENGINEER

PROFESSIONAL CERTIFICATION
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 44112 , EXPIRATION DATE: 6/9/19.

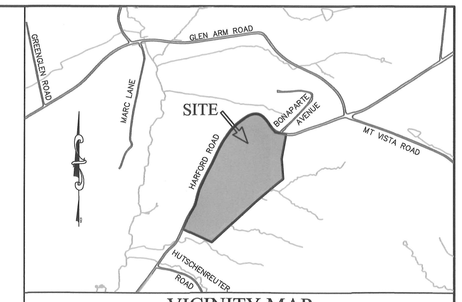
PLAN TO ACCOMPANY PETITION FOR
SPECIAL EXCEPTION
#12231 HARFORD ROAD

DISTRICT 11c5
SCALE: 1"=60'

BALTIMORE COUNTY, MD
OCTOBER 20, 2017

2018-0122-X

17267A



VICINITY MAP
SCALE: 1"=1000'

PROPERTY INFORMATION

1. OWNER:
   NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE
   12231 HARFORD ROAD
   GLEN ARM, MD 21057
2. TAX ACCOUNT #: 1700006067
3. DEED REF: 38898/65
4. SITE AREA: 30.8± AC. (1,341,648 S.F.)
5. EXISTING ZONING: RC 2
6. ZONING MAP: 05482 & 05483
7. ELECTION DISTRICT: 11 COUNCILMANIC DISTRICT: 5
8. THIS SITE HAS NO KNOWN PREVIOUS COMMERCIAL PERMITS.
9. THIS SITE IS NOT LOCATED WITHIN ANY DEFICIENT AREAS BASED ON THE 2017 WATER, SEWER, AND TRANSPORTATION BASIC SERVICES MAPS, PURSUANT TO SECTION 4A02.
10. NO KNOWN 100 YEAR FLOODPLAINS ARE LOCATED ON THE SITE (FEMA MAP 4001000280F)
11. THIS SITE IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA (CBCA).
12. THIS SITE IS LISTED IN THE MARYLAND INVENTORY OF HISTORIC PROPERTIES AS BA-539, KNOWN AS 'BELLA VISTA (SITE)', & BA-539A, KNOWN AS THE 'BELLA VISTA BARN'.
13. THIS SITE IS NOT LOCATED WITHIN ANY HISTORICAL DISTRICT.
14. THIS SITE HAS NO PREVIOUS ZONING HISTORY.
15. NO NEW SIGNS ARE PROPOSED.
16. DRIVEWAY AND PARKING ARE AS SHOWN.
17. SITE IS OUTSIDE OF THE URDL. PUBLIC WATER AND SEWER ARE NOT AVAILABLE. THE SITE IS SERVED BY PRIVATE WELL AND SEPTIC.

PARKING DATA:
PARKING REQUIRED: 1 SPOT PER 4 SEATS. 38 PARKING SPACES PROVIDED.

ZONING REQUEST:
THE PETITIONER, REQUESTS THE FOLLOWING ZONING RELIEF:

SPECIAL EXCEPTION RELIEF, PURSUANT TO SECTION 1A01.2.C.6 OF THE BCZR TO ALLOW A CHURCH OR OTHER BUILDING FOR RELIGIOUS WORSHIP.

AND FOR SUCH OTHER AND FURTHER RELIEF AS THE NATURE OF THIS CAUSE MAY REQUIRE.

LEO & REGINA SYDLIK
12120 HARFORD ROAD
DEED: 13497/311
1700008412

ROBERT & KATHRYN TRANTER
12124 HARFORD ROAD
DEED: 5952/463
1700008413

PAUL & BARBARA KOCH
12138 HARFORD ROAD
DEED: 16786/383
1700008415

PAUL & DONNA HECKEL
12142 HARFORD ROAD
DEED: 12112/207
1700008416

PAUL & DONNA HECKEL
12146 HARFORD ROAD
DEED: 6796/776
1700008417

DEWITT & MARY CLARK
12150 HARFORD ROAD
DEED: 6782/311
1700014393

HOLLY EDMINSTER
12154 HARFORD ROAD
DEED: 37179/287
1700014394

ERNEST & EILEEN KING
6039 GLEN ARM ROAD
DEED: 5852/807
1700014396

IRA TED SMITH
6201 BONAPARTE AVENUE
DEED: 5177/852
1123050851

ROBERT & EMILY DICICCO
HARFORD ROAD
DEED: 5632/192
1700006068

LEONARD & MILDRED HUTSCHENREUTER
6138 HUTSCHENREUTER LANE
DEED: 37526/185
119073450

BERNADETTE & CLARENCE POEHLER
12241 HARFORD ROAD
DEED: 34767/214
1108080850

JOANNE FORNORTHY
6229 BONAPARTE AVENUE
DEED: 10041/415
1070808560

JESS & MARIA SEVIDAL
6230 BONAPARTE AVENUE
DEED: 17628/434
2300012013

HARFORD ROAD (ROUTE 147)

HIGHWAY R/W PER PLAT 40/43

HIGHWAY R/W PER PLAT 42/19

HIGHWAY R/W PER MSP 97047M

S31°06'W 157.45'
S36°30'W 216.00'
S21°22'W 221.00'
S31°36'W 222.00'
S34°50'W 178.00'
S31°39'W 233.00'
S35°37'W 132.00'
S41°37'W 175.00'
S50°15'W 126.00'
S58°19'W 159.00'
S69°06'W 65.00'
S83°17'W 60.00'
N79°48'W 60.00'
N54°31'W 60.00'
N37°32'W 60.00'
N30°09'W 229.00'
N27°15'W 153.50'
N16°39'E 344.88'
N02°19'E 282.00'
N57°36'E 121.00'
N36°14'E 344.45'
N54°09'E 867.73'
S58°33'06"E 442.24'

EX. DRIVEWAY (CONCRETE & GRAVEL)
EX. BARN
EX. WOODS
EX. STREAM (TYP.)
EX. TENNIS COURT
EX. DRIVEWAY (PAVED)
PROP. PARKING (TYP.)
#12231
EX. TWO-STORY BUILDING
EX. ROOT CELLAR
EX. TWO-STORY DWLG
EX. SHED
EX. POOL
EX. GARAGE
EX. DWLG
EX. SHED
EX. DRIVEWAY (PAVED)
75'± TO INTERSECTION OF BONAPARTE AVENUE
P.O.B.
BONAPARTE AVENUE
RC 2
RC 5
RC 4
RC 3
RC 1
EX. STORY BUILDING

335'±
670'±
575'±
655'±
662'±
459'±
355'±
347'±
201'±
340'±
213'±
91'±
80'±
66'±
22'
22'

LITTLE & ASSOCIATES, INC.
ENGINEERS~~LAND PLANNERS~~SURVEYORS
1055 TAYLOR AVENUE, SUITE 307
TOWSON, MARYLAND 21286
PHONE: (410)296-1636 FAX: (410)296-1639

PROFESSIONAL CERTIFICATION
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND,
LICENSE NO. 44112 , EXPIRATION DATE: 6/9/19.

STATE OF MARYLAND · JOHN A. MYERS · No. 44112 · PROFESSIONAL ENGINEER

PLAN TO ACCOMPANY PETITION FOR
SPECIAL EXCEPTION
#12231 HARFORD ROAD

DISTRICT 11c5
SCALE: 1"=60'

BALTIMORE COUNTY, MD
OCTOBER 20, 2017

17267A

Board of Appeals

Case No: CBA-19-004 Case Name: Nepali American Cultural Center

Exhibit List

Party: Protestant Date: 2-13

Exhibit No:	Description:
ID ✓ 1	Protestant's Motion to Strike
ID ✓ 2	Protestants reply to Motion to Strike
~~ID~~ 3	~~Letter~~.
	VERIFIED BY KC DATE: 2/13/19

IN RE:	PETITIONS FOR SPECIAL EXCEPTION (12231 Harford Road)	*	BEFORE THE
		*	BOARD OF APPEALS
11th Election District 5th Councilmanic District		*	FOR
		*	BALTIMORE COUNTY
Nepali American Cultural Center Legal Owner		*	
		*	Case No.: CBA-19-004
		*	

* * * * * * * * * * * * *

PROTESTANTS MOTION TO STRIKE TIM KOTROCO LETTER DATED JULY 2, 2018 AS *EX PARTE* AND NOT IN THE ALJ JURISDICTION TO OPINE

DeWitt and Mary Clark, 12150 Harford Road, Glen Arm, Maryland 21057, ***David Hartman***, 12513 Regwood Road, Hydes, Maryland 21082, ***Dave Poehler***, 12241 Harford Road, Glen Arm, Maryland 21057, ***Morgan Miner***, 11946 Harford Road, Glen Arm, Maryland 21057, and ***Carol Shaw***, 7 Country Hill Court, Kingsville, Maryland 21087, Protestants by ***J. Carroll Holzer, Esquire***, in the above-captioned matter herewith file their Motion to Strike Kotroco letter and ALJ Opinion as *ex parte* and not within ALJ jurisdiction to opine and say as follows:

1. Appellant/Protestants filed their first appeal to the Board by ***J. Carroll Holzer*** on February 16, 2018, and was given Case No.: 2018-0122-X.

2. The Board of Appeals held their first day of hearings on July 17, 2018.

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
FAX: (410) 825-4923

Protestant
CBA Exhibit
1

3. At that hearing, the Nepali American Cultural Center read to the Board on the record, a portion of a letter from Mr. Kotroco to Administrative Law Judge Beverungen dated July 2, 2018 in which a Request for Clarification was rendered by the Administrative Law Judge relating to his previous Opinion in Case No.: 2018-0122-X.

4. Both the Kotroco letter and the Administrative Law Judge Opinion dated July 3, 2018 were *ex parte* communications by Counsel and the Administrative Law Judge. No copies to ***J. Carroll Holzer*** were shown on the letter and Opinion. I never received a copy of the letter as indicated by Counsel.

4.a. Petitioners knew or should have known that such an *ex parte* revision to a previous decision had no legal standing and the ALJ was without jurisdiction to opine.

4.b. This *ex parte* revision changed the scope of the decision that resulted from the Hearing below.

1. It changed the Appellant's Special Exception request from including the entire thirty (30) acre property to include only the existing main building.

2. It voided all conditions that applied to the entire property.

   a. Sound.

   b. Parking.

   c. Group size.

5. At this Board's first (1st) day of hearing in Case No.: 2018-0122X, the letter was read by Counsel but ***not*** introduced as an exhibit. The letter was used to Deny Protestants Motion to Postpone the Board's hearing. The Protestants were required to obtain a copy of the *ex parte* letter and Opinion by going to the Administrative Law Judge's office. They were at first denied by the Office by alleging they did not have a copy but subsequently, it was provided to the Protestants. Within thirty (30) days from July 3, 2018, a separate appeal to the *ex parte* Opinion was taken to this Board.

6. On the fifth (5th) day of hearing before the Board in Case No.: 2018-0122X, it was introduced by Petitioners as Petitioner's Exhibit 34, attached hereto.

7. Protestants believe the July 2nd and July 3rd Opinion should be stricken as a violation of *ex parte* procedure. Had Protestants received notice of the letter and subsequent Opinion, they could have requested an opportunity to participate before the Administrative Law Judge and answered the Request for Clarification. Protestants have been prejudiced by this *ex parte* failure by Counsel and the Administrative Law Judge.

8. The ALJ had no authority to Opine to the Kotroco July 2, 2018 letter because the case had been appealed and the Administrative Law Judge no longer had jurisdiction.

9. Protestants are entitled to injunctive and equitable relief from all actions and activities of the Petitioner that occurred as a result of this *ex parte* revision to the original decision.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
J. CARROLL HOLZER, P.A.
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
jcholzer38@gmail.com
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of February, 2019, a copy of the foregoing Protestants Motion to Strike Tim Kotroco Letter Dated July 2, 2018 as Ex Parte and Not in the ALJ Jurisdiction to Opine was mailed first class, postage pre-paid to the following:

Timothy M. Kotroco, Esquire
305 Washington Avenue
Suite 502
Towson, Maryland 21204

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, Maryland 21204

J. CARROLL HOLZER, Esquire

TIMOTHY M. KOTROCO, Esq.
305 Washington Avenue, Suite 502
Towson, Maryland 21204
410-299-2943
Tkotroco@gmail.com

July 2, 2018

The Honorable John E. Beverungen
Administrative Law Judge for Baltimore County
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204

Re: Case No. 2018-0122-X, Petition for Special Exception
Request for Clarification of Your Order Dated January 22, 2018

Dear Judge Beverungen:

I write to you on behalf of my clients, the Nepali American Cultural Center and the zoning Order that you wrote approving the use of a building on their property for religious worship. The decision you wrote was dated the 22nd day of January, 2018 and a copy of that decision is attached hereto.

As you may know, some of the protestants who appeared at the hearing before you filed an appeal to the Board of Appeals and the case is currently pending before that agency. In the meantime, my clients have continued to repair the damage that has been done to the property by the local residents and continue to maintain the grounds, as they should.

At issue at this time is the language contained within your Order, specifically the seven restrictions located at the end of your approval. My clients have scheduled a fundraising event which is proposed to occur on the grounds of the subject property. These fundraising events are very important to the owners of the property as the repairs to fix the damage done to the property over the years has been extensive. This fundraising event is scheduled for July 29th to August 3rd, 2018.

I have attached to this letter a post that was taken from Facebook which advertises this event. As you are aware, social media, such as Facebook is an effective way to inform people of an event such as this fundraiser. Baltimore County Code Enforcement was provided a copy of that Facebook post by one of the protestants. Code Enforcement is attempting to assert that we cannot gather on our property because of the language of your restrictions contained within your Order. The fundraiser will be held outside on the property and not within the building. In fact, the building is not occupiable at this time as it still is not connected to water or sewer. It is however, anticipated that my clients will provide walking tours of the building to show the extensive improvements they have made to the property, of which they are very proud.

Petitioner's Exh. #34

Based upon this letter and the attachments hereto, I respectfully request your interpretation of your Order, specifically the restrictions contained therein as to whether it is appropriate for my clients to host this gathering event on the grounds of their property or whether such actions would violate the restriction you imposed upon them.

I have included a simple statement at the bottom of this letter for you to sign, should you deem it appropriate. Thank you for your time and consideration of this matter.

Very truly yours,

Timothy M. Kotroco

I understand the owners are proposing to host a gathering on the property July 29th through August 3rd, 2018. I also understand the Code Enforcement Bureau contends that the gathering would violate the terms and conditions of my January 22, 2018 Order granting special exception relief. I respectfully disagree and would note those conditions (as envisioned by BCZR section 502.2) related solely to the operations of a building for religious worship, which was the relief granted in the special exception case.

The owners are free to gather on their property so long as no religious activities are occurring within the subject building and all other permit requirements, if any, are satisfied. If this is the case, there is no violation of my Order. This owner should be treated no differently than any other citizen who wishes to host a party, a picnic or any other social event on their property.

7/3/2018
Date

John E. Beverungen, ALJ

TMK/mtk
Attachments

KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

January 22, 2018

Timothy M. Kotroco
305 Washington Avenue, Suite 502
Towson, Maryland 21204

RE: Petitions for Special Exception
Case No. 2018-0122-X
Property: 12231 Harford Road

Dear Mr. Kotroco:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: DeWitt Clark, 12150 Harford Road, Glen Arm, MD 21057
Morgan Miner, 11946 Harford Road, Glen Arm, MD 21057
Carol Shaw, 7 Country Hill Ct., Kingsville, MD 21087
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Bernadette Poehler, 12241 Harford Road, Glen Arm, MD 21057
Donna Gillespie, 32 Edgemoor Road, Timonium, MD 21093

IN RE: PETITION FOR SPECIAL EXCEPTION (12231 Harford Road) 11th Election District 5th Council District Nepali American Cultural Center *Legal Owner*	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2018-0122-X

* * * * * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Exception filed on behalf of Nepali American Cultural Center, legal owner ("Petitioner"). The Special Exception was filed pursuant to the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow a church or other building for religious worship on property zoned RC-2.

Professional engineers John Motsco and Joe Caloggeri appeared in support of the petition. Timothy M. Kotroco, Esq. represented the Petitioner. Numerous citizens attended the hearing and objected to the request. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP), the Bureau of Development Plans Review (DPR), State Highway Administration (SHA) and the Department of Environmental Protection and Sustainability (DEPS). None of the reviewing agencies objected to the request.

The subject property is approximately 30.8 acres and is zoned RC-2. The property is improved with an historic single-family dwelling and several outbuildings. Petitioner purchased the property last year, at which time it was rundown and abandoned. Photographs submitted at the hearing reveal extensive vandalism to the property which occurred both before and after Petitioner purchased the property. Petitioner is in the process of renovating the property, and estimates that

at least 4-5 months of additional restoration work needs to be done before the property can be used by the congregation.

Special Exception

Doug Burgess, an attorney with a law office in the area, testified a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), wherein Maryland's highest court discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Mr. Motsco, a professional engineer accepted as an expert, explained the site plan in detail and said he has visited the property on several occasions. He testified the property is approximately 30.8 acres in size and is zoned RC-2. The witness noted the site has mature wooded buffers along all road frontages, and he testified Petitioner is not at this time proposing any new construction on the site. In conclusion, Mr. Motsco opined Petitioner satisfied each of the requirements set forth at B.C.Z.R. §502.1.

Several citizens testified in opposition to the proposal. Though each witness expressed concern with how the project may impact them individually, there were common themes in the testimony. Traffic conditions and roadway safety, and a concern for water wells and private sewage disposal, were the most frequently cited concerns. Many neighbors also complained about several events or gatherings at the site which generated a significant amount of noise. With the exception of the complaints about noise (which will be addressed in a condition included in the

final order), these concerns are inherent in the operation of a church or building for worship located in a rural area. In other words, most uses for which a special exception is required are regarded as "potentially troublesome because of noise, traffic, congestion...." *Montgomery County v. Butler*, 417 Md. 271, 297 (2010).

In rural zones especially roadways are often antiquated and overburdened, and water/sewer services are not provided by the County. Harford Road will be used to access the site, and as a state highway it is under the control and jurisdiction of the State Highway Administration (SHA). As Mr. Caloggeri (a professional engineer accepted as an expert) testified, the SHA, not Baltimore County, will examine the proposed access and determine whether improvements or other measures are necessary to ensure safe ingress/egress from the site.

As noted in the conditions below, Petitioner must obtain approval from Baltimore County for installation of well and septic systems for this property. Ronald Standiford, pastor of the adjacent Redeemer church, noted that the Christian school affiliated with the church has approximately 220 students and the well and septic system are sufficient. According to witnesses in Petitioner's case, far fewer people will visit this site on a daily basis, and thus there is no reason to believe the water supply and sewerage system would not be adequate.

THEREFORE, IT IS ORDERED this **22nd** day of **January, 2018,** by this Administrative Law Judge, that the Petition for Special Exception to allow a church or other building for religious worship on property zoned RC-2, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

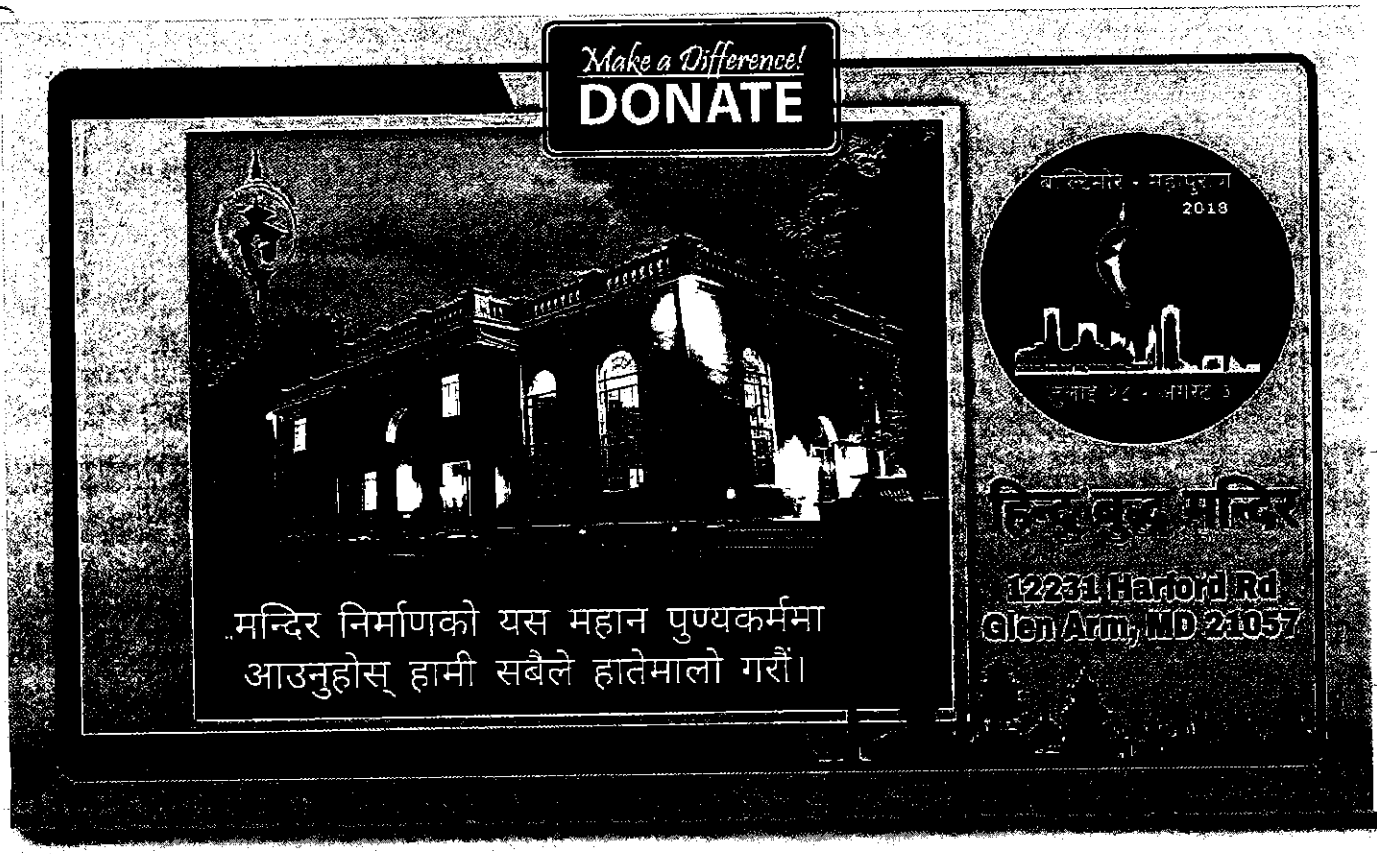
1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

2. Petitioner must submit for approval by Baltimore County landscape and lighting plans for the site.
3. Prior to operating a religious facility at the site Petitioner must install a sign at the Harford Road access point (in compliance with the B.C.Z.R. §450) containing the name of the facility and street address.
4. Prior to issuance of occupancy permits, Petitioner must demonstrate to DEPS that the well and septic system proposed will be sufficient to serve the facility.
5. Prior to issuance of permits Petitioner must comply with the ZAC comment of DEPS, a copy of which is attached hereto and incorporated herein.
6. Prior to issuance of permits Petitioner must obtain from SHA an access permit authorizing ingress and egress from the site via Harford Road.
7. Special events held at the site shall be limited to the hours of 10 a.m. to 10 p.m., and outdoor amplification of music or sound shall not be permitted.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln



Kris Ghimire
June 17 ·

Join us today at 6pm for the celebration! Two years later here is the transformation. Come and see for yourself...all the hard work our volunteers have put into it. The moment we have been waiting for 😀

Like Share

57

2 Shares 1 Comment

Rajan Tripathi Thank you 🙏 volunteers!
Like · 2w

IN RE:	PETITIONS FOR SPECIAL EXCEPTION (12231 Harford Road)	*	BEFORE THE BOARD OF APPEALS
11th Election District 5th Councilmanic District		*	FOR BALTIMORE COUNTY
Nepali American Cultural Center Legal Owner		*	
		*	Case No.: CBA-19-004
		*	

* * * * * * * * * * * * *

PROTESTANTS REPLY TO MOTION TO STRIKE TIM KOTROCO LETTER DATED JULY 2, 2018 AS EX PARTE AND NOT IN THE ALJ JURISDICTION TO OPINE

DeWitt and Mary Clark, 12150 Harford Road, Glen Arm, Maryland 21057, ***David Hartman***, 12513 Regwood Road, Hydes, Maryland 21082, ***Dave Poehler***, 12241 Harford Road, Glen Arm, Maryland 21057, ***Morgan Miner***, 11946 Harford Road, Glen Arm, Maryland 21057, and ***Carol Shaw***, 7 Country Hill Court, Kingsville, Maryland 21087, Protestants by ***J. Carroll Holzer, Esquire***, in the above-captioned matter herewith file their Reply to Petitioners Response and say as follows:

1. Petitioners admit that Administrative Law Judge Beverungen lost jurisdiction over this case when it was appealed on February 16, 2018 to this Board. Thus, Petitioners Kotroco letter written by Petitioners Counsel and modified and signed by the Administrative Law Judge should be stricken as not only is it an *ex parte* action, but the Administrative Law Judge Opinion was without jurisdiction, to render such opinion and/or clarification.

2. This Honorable Board should reject Petitioners Kotroco letter and ALJ Opinion and strike it.

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
FAX: (410) 825-4923

Protestant
CBA Exhibit
2

3. Petitioners never denied that Counsel for the Protestants was never provided a copy of the letter, nor the Administrative Law Judge's response until it was mentioned on the first day of this Board's hearing.

4. The Administrative Law Judge obviously knew at the time of his receipt of the letter and his comments on July 3, 2018, that he no longer had jurisdiction over this case and that Counsel for Protestants had filed an appeal to this Board.

For the foregoing reasons, Protestants Motion to Strike Petitioners Exhibit #34 as *ex parte* should be granted.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
J. CARROLL HOLZER, P.A.
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
jcholzer38@gmail.com
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of February, 2019, a copy of the foregoing Protestants Reply to Motion to Strike Tim Kotroco Letter Dated July 2, 2018 as Ex Parte and Not in the ALJ Jurisdiction to Opine was mailed first class, postage pre-paid to the following:

Timothy M. Kotroco, Esquire
305 Washington Avenue
Suite 502
Towson, Maryland 21204

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
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Towson, Maryland 21204

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TIMOTHY M. KOTROCO, Esq.
305 Washington Avenue, Suite 502
Towson, Maryland 21204
410-299-2943
Tkotroco@gmail.com

July 2, 2018

The Honorable John E. Beverungen
Administrative Law Judge for Baltimore County
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204

Re: Case No. 2018-0122-X, Petition for Special Exception
Request for Clarification of Your Order Dated January 22, 2018

Dear Judge Beverungen:

I write to you on behalf of my clients, the Nepali American Cultural Center and the zoning Order that you wrote approving the use of a building on their property for religious worship. The decision you wrote was dated the 22nd day of January, 2018 and a copy of that decision is attached hereto.

As you may know, some of the protestants who appeared at the hearing before you filed an appeal to the Board of Appeals and the case is currently pending before that agency. In the meantime, my clients have continued to repair the damage that has been done to the property by the local residents and continue to maintain the grounds, as they should.

At issue at this time is the language contained within your Order, specifically the seven restrictions located at the end of your approval. My clients have scheduled a fundraising event which is proposed to occur on the grounds of the subject property. These fundraising events are very important to the owners of the property as the repairs to fix the damage done to the property over the years has been extensive. This fundraising event is scheduled for July 29th to August 3rd, 2018.

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Petitioner's Exh. #34

Based upon this letter and the attachments hereto, I respectfully request your interpretation of your Order, specifically the restrictions contained therein as to whether it is appropriate for my clients to host this gathering event on the grounds of their property or whether such actions would violate the restriction you imposed upon them.

I have included a simple statement at the bottom of this letter for you to sign, should you deem it appropriate. Thank you for your time and consideration of this matter.

Very truly yours,

Timothy Kotroco

Timothy M. Kotroco

I understand the owners are proposing to host a gathering on the property July 29th through August 3rd, 2018. I also understand the Code Enforcement Bureau contends that the gathering would violate the terms and conditions of my January 22, 2018 Order granting special exception relief. I respectfully disagree and would note those conditions (as envisioned by BCZR section 502.2) related solely to the operations of a building for religious worship, which was the relief granted in the special exception case.

The owners are free to gather on their property so long as no religious activities are occurring within the subject building and all other permit requirements, if any, are satisfied. If this is the case, there is no violation of my Order. This owner should be treated no differently than any other citizen who wishes to host a party, a picnic or any other social event on their property.

7/3/2018
Date

John E. Beverungen, ALJ

TMK/mtk
Attachments

KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

January 22, 2018

Timothy M. Kotroco
305 Washington Avenue, Suite 502
Towson, Maryland 21204

RE: Petitions for Special Exception
Case No. 2018-0122-X
Property: 12231 Harford Road

Dear Mr. Kotroco:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

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IN RE: PETITION FOR SPECIAL EXCEPTION (12231 Harford Road) 11th Election District 5th Council District Nepali American Cultural Center *Legal Owner*	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2018-0122-X

* * * * * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Exception filed on behalf of Nepali American Cultural Center, legal owner ("Petitioner"). The Special Exception was filed pursuant to the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow a church or other building for religious worship on property zoned RC-2.

Professional engineers John Motsco and Joe Caloggeri appeared in support of the petition. Timothy M. Kotroco, Esq. represented the Petitioner. Numerous citizens attended the hearing and objected to the request. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP), the Bureau of Development Plans Review (DPR), State Highway Administration (SHA) and the Department of Environmental Protection and Sustainability (DEPS). None of the reviewing agencies objected to the request.

The subject property is approximately 30.8 acres and is zoned RC-2. The property is improved with an historic single-family dwelling and several outbuildings. Petitioner purchased the property last year, at which time it was rundown and abandoned. Photographs submitted at the hearing reveal extensive vandalism to the property which occurred both before and after Petitioner purchased the property. Petitioner is in the process of renovating the property, and estimates that

at least 4-5 months of additional restoration work needs to be done before the property can be used by the congregation.

Special Exception

Doug Burgess, an attorney with a law office in the area, testified a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), wherein Maryland's highest court discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Mr. Motsco, a professional engineer accepted as an expert, explained the site plan in detail and said he has visited the property on several occasions. He testified the property is approximately 30.8 acres in size and is zoned RC-2. The witness noted the site has mature wooded buffers along all road frontages, and he testified Petitioner is not at this time proposing any new construction on the site. In conclusion, Mr. Motsco opined Petitioner satisfied each of the requirements set forth at B.C.Z.R. §502.1.

Several citizens testified in opposition to the proposal. Though each witness expressed concern with how the project may impact them individually, there were common themes in the testimony. Traffic conditions and roadway safety, and a concern for water wells and private sewage disposal, were the most frequently cited concerns. Many neighbors also complained about several events or gatherings at the site which generated a significant amount of noise. With the exception of the complaints about noise (which will be addressed in a condition included in the

final order), these concerns are inherent in the operation of a church or building for worship located in a rural area. In other words, most uses for which a special exception is required are regarded as "potentially troublesome because of noise, traffic, congestion...." *Montgomery County v. Butler*, 417 Md. 271, 297 (2010).

In rural zones especially roadways are often antiquated and overburdened, and water/sewer services are not provided by the County. Harford Road will be used to access the site, and as a state highway it is under the control and jurisdiction of the State Highway Administration (SHA). As Mr. Caloggeri (a professional engineer accepted as an expert) testified, the SHA, not Baltimore County, will examine the proposed access and determine whether improvements or other measures are necessary to ensure safe ingress/egress from the site.

As noted in the conditions below, Petitioner must obtain approval from Baltimore County for installation of well and septic systems for this property. Ronald Standiford, pastor of the adjacent Redeemer church, noted that the Christian school affiliated with the church has approximately 220 students and the well and septic system are sufficient. According to witnesses in Petitioner's case, far fewer people will visit this site on a daily basis, and thus there is no reason to believe the water supply and sewerage system would not be adequate.

THEREFORE, IT IS ORDERED this **22nd** day of **January, 2018,** by this Administrative Law Judge, that the Petition for Special Exception to allow a church or other building for religious worship on property zoned RC-2, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

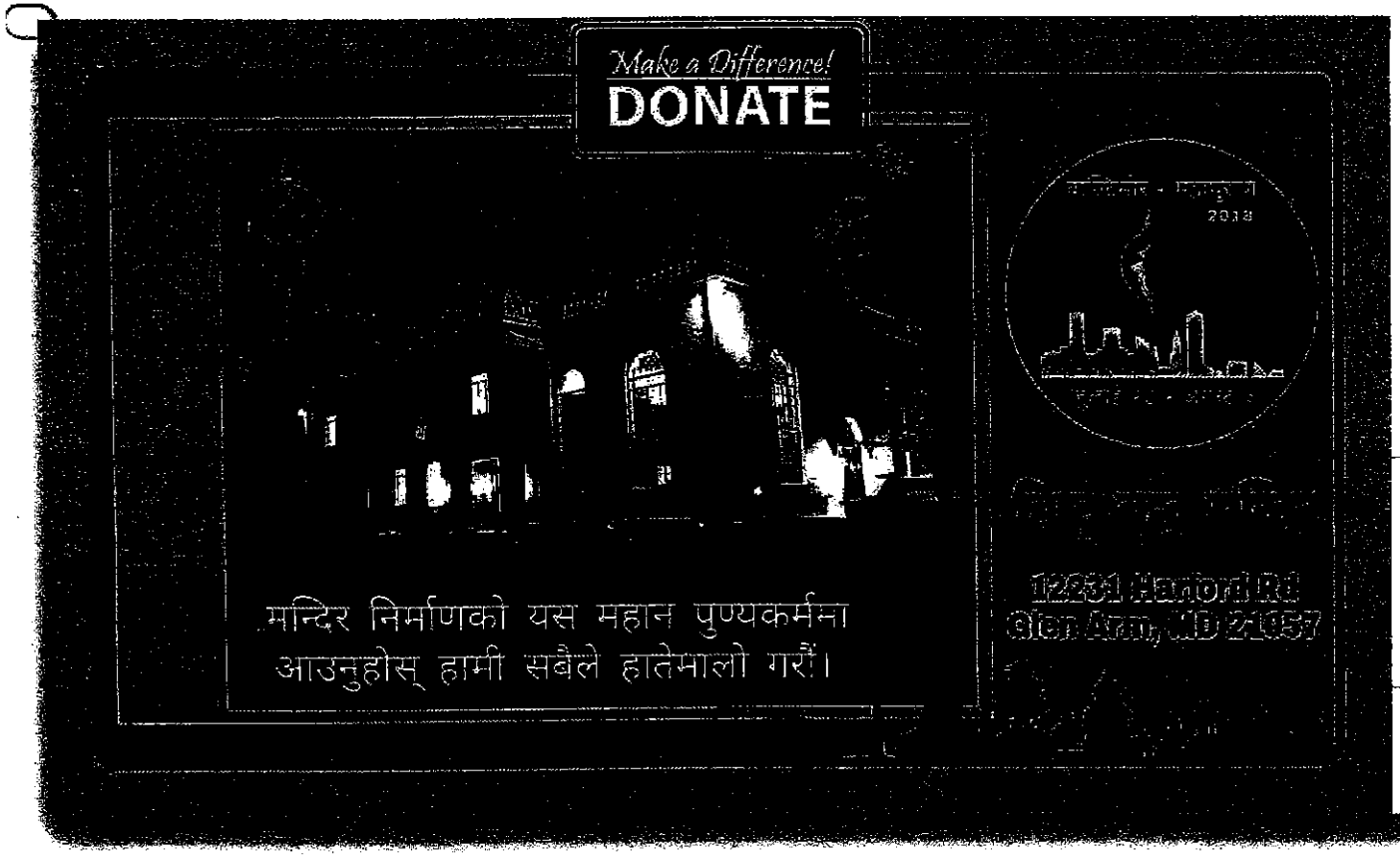
1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

2. Petitioner must submit for approval by Baltimore County landscape and lighting plans for the site.
3. Prior to operating a religious facility at the site Petitioner must install a sign at the Harford Road access point (in compliance with the B.C.Z.R. §450) containing the name of the facility and street address.
4. Prior to issuance of occupancy permits, Petitioner must demonstrate to DEPS that the well and septic system proposed will be sufficient to serve the facility.
5. Prior to issuance of permits Petitioner must comply with the ZAC comment of DEPS, a copy of which is attached hereto and incorporated herein.
6. Prior to issuance of permits Petitioner must obtain from SHA an access permit authorizing ingress and egress from the site via Harford Road.
7. Special events held at the site shall be limited to the hours of 10 a.m. to 10 p.m., and outdoor amplification of music or sound shall not be permitted.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln



Kris Ghimire
June 17 ·

Join us today at 6pm for the celebration! Two years later here is the transformation. Come and see for yourself...all the hard work our volunteers have put into it. The moment we have been waiting for

Like Share

57

2 Shares 1 Comment

Rajan Tripathi Thank you volunteers!
Like · 2w

Board of Appeals

Case No: 18-122-X Case Name: Nepali

Exhibit List

Party: Petitioner Date: 7/19/18 - Day 1

Exhibit No:	Description:
✓ 1	Site Plan
✓ 2.	Aerial Photo.
✓ 3	Google Map Surrounding Religious Uses
✓ 4	Protestant Fundraising Card Request.
	VERIFIED BY _____ DATE: _____

KC
7/20/18

Day 2

Board of Appeals

Case No: 18-122-X Case Name: Negali

Exhibit List

Day 2

Party: Petitioner Date: 9/6/18

Exhibit No:	Description:
✓ 5	Articles Incorporation Negali American
✓ 6	Daniel Radebaugh Esq letter
✓ 7	Deed of Trust (L38898, P72)
✓ 8	John Motsco PE, CV
✓1A	Duplicate Site Plan.
✓9a-9mm	Photos.
✓ 10	MD Hist Trust Inventory for Property
✓ ✓11 ✓12a-e	Locality Outlined Photos of Before Work on Bldg
✓ 13	Joseph Caloggero PE
✓ 14.	First Floor Plan.
✓ 15a	Site Distance Chart
✓ 15b	Site Distance Chart with Aerial
✓ 16a	Site Distance Chart w/ Proposed New Exit
✓ 16b	Site Distance Chart w/ 3 Alternatives
	VERIFIED BY KC DATE: 9/7/18

Day 3

Board of Appeals

Case No: 18-122-X Case Name: Nepali

Exhibit List

Party: Petitioner Date: 9/12/18

Exhibit No:	Description:
✓ 17-d	Photos 7/16/18 replace Pet 16A Photo
✓ 18	Baltimore County GIS
✓ 19	Balto County My Neighborhood + Photos
✓ 20	Balto County My Neighborhood + Photos
✓ 21	EPS Wath Usage Summary
✓ 22	Plan 10/20/17 Cattle Assoc Topo Plan
✓ 23	Deed 8/11/15
✓ 24	SDAT - SHA
	VERIFIED BY KC DATE: 9/13/18

Day 4

Board of Appeals

Case No: 18-122-X Case Name: Nepali

Exhibit List

Party: Petitioner. Date: 10/11/18

Exhibit No:	Description:
✓25	B. County EPS Letter Perc Results 10/3/18
✓26	Final Access Design Sight Distance Plat
✓27	10/9/18 SHA Letter to Joseph Caloggero.
✓28.	10/9/18 Email Caloggero to SHA Speed Study.
✓29.	Caloggero Results of HCM Hwy Segment Analysis.
✓30	Caloggero Crash Summary MD 147
	VERIFIED BY Jay DATE: 10/12/18

Day 5

Board of Appeals

Case No: 18-122-X Case Name: Negali

Exhibit List

Party: Petitioners Date: 10/23/18

Exhibit No:	Description:
✓ 31	Aerial Photo of Site + Poehler house.
✓ 32 A	Photo Poehler House Variance Barn Case
✓ 32 B	Photo Poehler Proposed Barn - Variance Case
✓ 32 C.	Photo Front yard Poehler. - Variance Case.
✓ 33	Affidavit Variance Case
✓ 34	Letter from Tim Kotroco Esq to AAJ 7/2/18
✓ 35	SOAT Report for Historic Timekeepers, Inc.
✓ 36	Historic Timekeepers Restoration Services + Supplies
✓ 37	Historic Timekeepers Restoration Services + Supplies (From website)
✓ 38	Website Pages - Explore Beachmont - Corn Maze (from website)
✓ 39	Website Page - Corn Maze at Beachmont
✓ 40	Easter Sunrise Service - Google e-mail with Link to website
✓ 41	Redeemer Classical Christian School Website
✓ 42	Redeemer Classical Christian Student Life.
	VERIFIED BY KC DATE: 10/24/18

KC 1/31/19

Board of Appeals

Case No: 18-122-Y Case Name: NCPACF

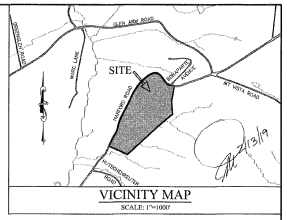
Exhibit List

Party: Petitioner Date: ~~10~~ 1-30-19

Exhibit No:	Description:
✓ 43	Redeemer Classical Christian School - Athletic Schedule
✓ 44	National Register of Historic Places - Inventory Nomination Form
✓ 45	Zoom View of ~~the~~ the maps from 44
✓ 46	Greater Kingsville Area Community Plan 7-1-96
	VERIFIED BY _____ DATE: _____

KC 1/31/19

KC 2/6/19



VICINITY MAP
SCALE: 1"=1000'

PROPERTY INFORMATION

1. OWNER:
NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE
12231 HARFORD ROAD
GLEN ARM, MD 21057
2. TAX ACCOUNT #: 1700006067
3. DEED REF: 38886/86
4. SITE AREA: 30.84 AC. (1,343,646 S.F.)
5. EXISTING ZONING: RC 2, 05483
6. PROPOSED USE: PLACE OF WORSHIP
7. ELECTION DISTRICT: 11 COUNCILMANIC DISTRICT: 5
8. THIS SITE HAS NO KNOWN PREVIOUS COMMERCIAL PERMITS.
9. THIS SITE IS NOT LOCATED WITHIN ANY DEFICIENT AREAS BASED ON THE 2017 WATER, SEWER, AND TRANSPORTATION BASIC SERVICES MAPS, PURSUANT TO SECTION 4A02.
10. NO KNOWN 100 YEAR FLOODPLAINS ARE LOCATED ON THE SITE (FEMA MAP 24005C0035F)
11. THIS SITE IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA (CBCA).
12. THIS SITE IS LISTED IN THE MARYLAND INVENTORY OF HISTORIC PROPERTIES AS BA-539, KNOWN AS "BELLA VISTA (SITE)", & BA-538A, KNOWN AS THE "BELLA VISTA BARN".
13. THIS SITE IS NOT LOCATED WITHIN ANY HISTORICAL DISTRICT.
14. THIS SITE HAS NO PREVIOUS ZONING HISTORY.
15. NO NEW STREETS ARE PROPOSED.
16. DRIVEWAY AND PARKING ARE AS SHOWN.
17. SITE IS OUTSIDE OF THE URDL. PUBLIC WATER AND SEWER ARE NOT AVAILABLE. THE SITE IS SERVED BY PRIVATE WELL AND SEPTIC.

PARKING DATA:
PARKING REQUIRED:
RELIGIOUS WORSHIP-1 SPOT PER 4 SEATS, 38 PARKING SPACES PROVIDED.
CONGREGA SOCIAL: 2 SPOTS / EMPLOYEE, 4 PARKING SPACES PROVIDED.

ZONING REQUEST:

THE PETITIONER REQUESTS THE FOLLOWING ZONING RELIEF:

SPECIAL EXCEPTION RELIEF, PURSUANT TO SECTION 1A01.2.C.6 OF THE BCZR TO ALLOW A CHURCH OR OTHER BUILDING FOR RELIGIOUS WORSHIP.

AND FOR SUCH OTHER AND FURTHER RELIEF AS THE NATURE OF THIS CAUSE MAY REQUIRE.

Petitioner
CBA Exhibit 1

PLAN TO ACCOMPANY PETITION FOR
SPECIAL EXCEPTION
#12231 HARFORD ROAD

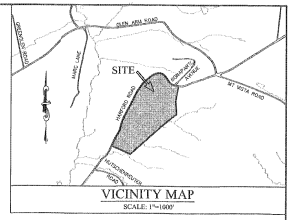
DISTRICT 11c5
SCALE: 1"=60'

BALTIMORE COUNTY, MD
OCTOBER 20, 2017
REV. JULY 18, 2018

LITTLE & ASSOCIATES, INC.
ENGINEERS~~LAND PLANNERS~~SURVEYORS
1055 TAYLOR AVENUE, SUITE 307
TOWSON, MARYLAND 21286
PHONE: (410)296-1636 FAX: (410)296-1639

PROFESSIONAL CERTIFICATION
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 16812 , EXPIRATION DATE: 6/9/19.

17267A



VICINITY MAP
SCALE: 1"=1000'

PROPERTY INFORMATION

1. OWNER:
NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE
12231 HARFORD ROAD
GLEN ARM, MD 21057
2. TAX ACCOUNT #: 1700006067
3. DEED REF: 36188/65
4. SITE AREA: 3.094 AC. (1,741,648 S.F.)
5. EXISTING ZONING: RC 2
6. ZONING MAP: CHEC & 0S4B3
7. ELECTION DISTRICT: 11 COUNCILMANIC DISTRICT: 5
8. THIS SITE HAS NO KNOWN PREVIOUS COMMERCIAL PERMITS.
9. THIS SITE IS NOT LOCATED WITHIN ANY DEFICIENT AREAS (BASED ON THE 2017 WATER, SEWER, AND TRANSPORTATION DEFICIENCY REPORT) PURSUANT TO SECTION 4A02.
10. NO KNOWN 100 YEAR FLOODPLAINS ARE LOCATED ON THIS SITE (FEMA MAP: 24005C0280F)
11. THIS SITE IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
12. THIS SITE IS LISTED IN THE MARYLAND INVENTORY OF HISTORIC PROPERTIES AS BA-539, KNOWN AS "BELLA VISTA (SITE)", & BA-539A, KNOWN AS THE "BELLA VISTA BARN".
13. THIS SITE IS NOT LOCATED WITHIN ANY HISTORICAL DISTRICT.
14. THIS SITE HAS NO PREVIOUS ZONING HISTORY.
15. NO NEW SIGNS ARE PROPOSED.
16. DRIVEWAY AND PARKING ARE AS SHOWN.
17. THE SITE CONSISTS OF THE LOT(S). PUBLIC WATER AND SEWER ARE NOT AVAILABLE. THE SITE IS SERVED BY PRIVATE WELL AND SEPTIC.

PARKING DATA:
PARKING REQUIRED
RELIGIOUS WORSHIP:1 SPOT PER 4 SEATS, 38 PARKING SPACES PROVIDED.
CARETAKERS OTTAGE: 2 SPOTS / DWELLING, 2 PARKING SPACES PROVIDED.

ZONING REQUEST:
THE PETITIONER REQUESTS THE FOLLOWING ZONING RELIEF:

SPECIAL EXCEPTION RELIEF, PURSUANT TO SECTION 1A01.2.C.6 OF THE BCZR TO ALLOW A CHURCH OR OTHER BUILDING FOR RELIGIOUS WORSHIP.

AND FOR SUCH OTHER AND FURTHER RELIEF AS THE NATURE OF THIS CAUSE MAY REQUIRE.

Petitioner CRA Exhibit 1A

LITTLE & ASSOCIATES, INC.
ENGINEERS---LAND PLANNERS---SURVEYORS
1055 TAYLOR AVENUE, SUITE 307
TOWSON, MARYLAND 21286
PHONE:(410)296-1636 FAX:(410)296-1639

PROFESSIONAL CERTIFICATION
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 54112 , EXPIRATION DATE: 8/9/19.

PLAN TO ACCOMPANY PETITION FOR
SPECIAL EXCEPTION
#12231 HARFORD ROAD

DISTRICT 11c5
SCALE: 1"=60'

BALTIMORE COUNTY, MD
OCTOBER 20, 2017
REV. JULY 18, 2018

17267A

#12231 Harford Road

Petitioner
CBA Exhibit
2

Surrounding Religious Uses

Petitioner
CBA Exhibit
3

Petitioner
CBA Exhibit
4

Attention Neighbors

FACT: Development of the Bonaparte Tract is **NOT** approved

Hearings on the Bonaparte Tract (12231 Harford Rd.) will go into Nov. 2018

First court date for developer's (**Nepali American Cultural Center**) justification is **July 19, 2018**

If you want to join the **over 100** households asking us to represent them, email us at GFWPA@protonmail.com or send a postcard with your name and address to us at GFWPA, P.O. Box 2, Fork MD 21051

Help preserve one of the last rural valleys in Baltimore County!

Remember, the less confident someone is, the more shrill their speech

Gunpowder Falls Watershed Preservation Assoc.

Membership is free; legal fund donations welcome

Mail to: Carroll Holzer, Esq. File 8228, 508 Fairmount Ave., Towson MD 21286

GFWPA
P.O. Box 2
Fork, MD 21051

Roland Twining
11511 Harford Rd.
Glen Arm, MD 21057

State of Maryland
Department of Assessments and Taxation

Charter Division

Petitioner
CBA Exhibit
5

Larry Hogan
Governor

Sean P. Powell
Director

Date: 01/04/2017

SHYAM KARKI
19 LONGKNOLL WAY
KINGSVILLE MD 21087

THIS LETTER IS TO CONFIRM ACCEPTANCE OF THE FOLLOWING FILING:

ENTITY NAME	: NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE
DEPARTMENT ID	: D17700022
TYPE OF REQUEST	: ARTICLES OF INCORPORATION
DATE FILED	: 01-04-2017
TIME FILED	: 03:19 PM
RECORDING FEE	: $100.00
ORG. & CAP FEE	: $20.00
EXPEDITED FEE	: $70.00
COPY FEE	: $25.00
FILING NUMBER	: 1000362009981889
CUSTOMER ID	: 0003501686
WORK ORDER NUMBER	: 0004718263

PLEASE VERIFY THE INFORMATION CONTAINED IN THIS LETTER. NOTIFY THIS DEPARTMENT IN WRITING IF ANY INFORMATION IS INCORRECT. INCLUDE THE CUSTOMER ID AND THE WORK ORDER NUMBER ON ANY INQUIRIES. EVERY YEAR THIS ENTITY MUST FILE A PERSONAL PROPERTY RETURN IN ORDER TO MAINTAIN ITS EXISTENCE EVEN IF IT DOES NOT OWN PERSONAL PROPERTY. THE RETURN IS FOUND ON THE SDAT WEBSITE.

Charter Division
Baltimore Metro Area (410) 767-1350
Outside Metro Area (888) 246-5941

301 West Preston Street-Room 801-Baltimore, Maryland 21201-2395
Telephone (410)767-4950 / Toll free in Maryland (888)246-5941
MRS (Maryland Relay Service) (800)735-2258 TT/Voice- Fax (410)333-7097
Website: www.dat.maryland.gov

0010455840

CACCPT

NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE

ARTICLES OF INCORPORATION

FIRST: The undersigned:

The initial Trustees for the Corporation shall be as follows:

Shyam Karki and Indira Karki	19 Longknoll Way, KingsVille, MD 21087
Keshav Acharya and Maya Chauhan	9441 Bellhall Dr, Nottingham, MD 21236
Khagendra and Kumari Chhantyal	6305 Washington Blvd, Elkridge, MD 21075
Kiran and Bijaya Pantha	724 Tinker Road, Middle River, MD 21220
Mohan Thapa	11131 Pulaski Hwy, White Marsh, MD 21162
Ram and Tara Devi Bhandari	96 Cedar Chip Ct, Parkville, MD 21234
Ravilal and Tek Kumari Sunar	8826 Victory Ave, Parkville, MD 21234
Bikash and Rina Gautam	43 Lambeth Bridge Ct, Timonium, MD 21234
Kris and Helen Ghimire	5048 Springhouse Circle, Rosedale, MD 21237
Krishna and Anju KC	3705 Perry Hall Rd Perry Hall, MD 21128

STATE OF MARYLAND

I hereby certify that this is a true and complete copy of the 5 page document on file in this office. DATED: 1/4/2017.

STATE DEPARTMENT OF ASSESSMENTS AND TAXATION:

BY: _____, Custodian

This stamp replaces our previous certification system. Effective: 6/95

Mrigen and Rachana Homagain	10835 Catron Rd, Perry Hall, Rd 21128
Naresh and Sharmila KC	3699 Perry Hall Rd, Perry Hall, MD 21228
Rajan Dhakal and Rajani Sharma	16 Ayr Ct, Nottingham, MD 21236
Shalik and Salina Wagle	4326 Cottington Road Nottingham, MD 21236
Tarun and Mekha Paudel	2620 Joppa Terrace, Parkville, MD 21234

Being at least 18 years of age have been elected by the members of the congregation of to act as trustees in the name and on behalf of said congregation do hereby associate ourselves as incorporators with the intention of forming a religious corporation under the general laws of Maryland.

SECOND: The name of the corporation is:

Nepali American Cultural Center of Baltimore

THIRD: Purpose of the corporation shall be:

A. To promote the religious, educational, social and cultural aspects of Hinduism.
B. To participate and coordinate activities with other institutions with like-minded objectives.
C. To promote peace and harmony among all members of the corporations.

FOURTH: Election of Trustees:

A. Time and manner for the election of new Trustees:
   - All those who will donate $5,000 or more will be members of the Board of Trustees. Each trustee if married will have 2 votes; one for each spouse and single ones will have only one vote.

- Must be recommended by the two current Trustees

B. Qualification of those able to be elected as a Member of the Executive Committee of Board of Trustees:
   - Must be over the age of Eighteen (18) years.
   - Must be recommended by the two current Trustees.
   - Must be elected by the majority vote of the current Board of Trustees.

C. Qualification of those able to vote for Executive Committee of Board of Trustees:
   - Must be over the age of Eighteen (18) years.
   - Must be a member of the Board of Trustees.

FIFTH: The address of the principal place of worship is:

8030 Belair Road, Suite 200
Nottingham, MD 21236

SIXTH: The name and address of the resident agent of the corporation are:

Kris Ghimire
5048 Springhouse Circle
Rosedale, MD 21237

SEVENTH: "This corporation is organized exclusively for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code."

"Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue law) or (b) by a corporation contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code of 1986 (or corresponding provision of any future United States Internal Revenue Law."

"Upon the dissolution of this corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code (or corresponding section on any future federal tax code), or shall be distributed to the Federal government, or to a state or local government for public purpose. Any such assets not so disposed of shall be disposed by the Court of Common Pleas of the county in which the principal office of the corporation is ten located, exclusively for such purposes or to such organization or organizations, as said Court shall determine which are organized and operated exclusively for such purposes.

EIGHT:

IN WITNESS WHEREOF, we the trustees have signed these Articles of Incorporation and severally acknowledge the same to be our act.

SIGNATURES OF TRUSTEES:

I hereby consent to my designation in this document as resident agent for this corporation.

SIGNATURE OF RESIDENT AGENT LISTED IN SIXTH.:

CORPORATE CHARTER APPROVAL SHEET

** EXPEDITED SERVICE **

** KEEP WITH DOCUMENT **

DOCUMENT CODE 02 BUSINESS CODE 16

_____

Close _____ Stock _____ Nonstock _____

P.A. _____ Religious /

Merging (Transferor) _____

Surviving (Transferee) _____

Affix Barcode Label Here

Affix Barcode Label Here

New Name _____

FEES REMITTED

	Base Fee:	100
	Org. & Cap. Fee:	80
	Expedite Fee:	20
	Penalty:	
	State Recordation Tax:	
	State Transfer Tax:	
1	Certified Copies	
	Copy Fee:	25
	Certificates	
	Certificate of Status Fee:	
	Personal Property Filings:	
	Mail Processing Fee:	
	Other:	
	TOTAL FEES:	225

_____ Change of Name
_____ Change of Principal Office
_____ Change of Resident Agent
_____ Change of Resident Agent Address
_____ Resignation of Resident Agent
_____ Designation of Resident Agent and Resident Agent's Address
_____ Change of Business Code
_____ Adoption of Assumed Name
_____ Other Change(s)

Credit Card _____ Check / Cash _____

_____ Documents on _____ Checks

Approved By: 17

Keyed By: _____

COMMENT(S):

Code _____

Attention: _____

Mail: Names and Address

X Shyam KARKI
19 Longknoll Way,
Kingsville, MD 21087

Stamp Work Order and Customer Number HERE

Petitioner
CBA Exhibit
6

LAW OFFICE OF DANIEL M. RADEBAUGH LLC
1407 York Road, Suite 201
Lutherville, MD 21093
O- (443) 268-0741 F- (443) 268-0621
dan@radebaughlaw.com

September 5, 2018

Kris Ghimire
8030 Belair Road Suite 100
Baltimore, MD 21236

Re: Deed of Trust securing 12231 Harford Road, Glen Arm, MD 21157

Dear Mr. Ghimire:

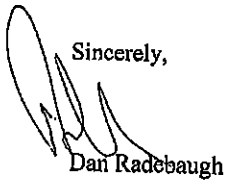
I understand that a question has arisen regarding the "Occupancy" section of the Deed of Trust which secures the loan from Mario Smoot to Nepali American Cultural Center of Baltimore, a Maryland Religious Corporation, and encumbers the property located at 12231 Harford Road, Glen Arm, MD 21157. Below I will discuss the reasoning for the language in said Deed of Trust.

Most Deeds of Trust are securing loans made to borrowers on their principal residence. These loans are insured by Fannie Mae, Freddie Mac, Federal Housing Administration or the Veterans Administration. The language in this type of Deed of Trust does not change and the "Occupancy" section states "Borrower shall occupy and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy..." This type of Borrower has received financing that is only available to borrowers who will occupy the property securing the loan.

In all other situations, the Deed of Trust will simply state that the Borrower has received a commercial loan and does not intend to occupy the property. Implied in this language is that it will not be Borrower's principal residence. With the subject property, the borrower is a religious corporation. As a corporation, it cannot have a principal residence. It still has all rights to use the property as it sees fit.

Furthermore, the Deed of Trust is a contract between lender and borrower. No third party has standing to challenge the use and/or occupancy of the owner of the property based on the owner's contract with its lender.

I have attached pages from the subject deed of trust and a sample deed of trust for residential properties for your reference. If you need any additional information, please don't hesitate to ask. Thank you.



Sincerely,

Dan Radebaugh

or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. **Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. **Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

4. **Occupancy.** This is a commercial loan. Borrower agrees that Borrower and/or Guarantor will not occupy Property.

5. **Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 38898, p. 0072, MSA_CE62_38755. Date available 05/04/2017. Printed 09/05/2018.

03 of 04

BOOK: 38898 PAGE: 72

Petitioner
CBA Exhibit
7

Return to:
Advantage Settlement, Inc.
6521 Arlington Blvd, Ste 310
Falls Church, VA 22042
File No: 2017-02014MD
Tax Map ID: 11-1700006067

After Recording Return To:
R & P Settlement Group LLC
1407 York Road, Suite 201
Lutherville, MD 21093

Title Insurer: First American Title Insurance Co.
14150 Newbrook Drive, Ste 250
Chantilly, VA 20151

LR - DOT/MTG Recording Fee 75.00
Name: nepali american cultural center
Ref:
LR - Surcharge 40.00
SubTotal: 115.00
Total: 3,560.00
04/27/2017 03:21 CC03-CR
#8267913 CC0301 - Baltimore County/CC03.01.03 - Register 03

115.00

[Space Above This Line For Recording Data]

PURCHASE

DEED OF TRUST

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated March 24, 2017, together with all Riders to this document.
(B) "Borrower" is Nepali American Cultural Center of Baltimore, a Maryland Religious Corporation. Borrower is the trustor under this Security Instrument.
(C) "Lender" is Mario Smoot. Lender's address is 114 Forge Haven Drive, Perry Hall, MD 21128. Lender is the beneficiary under this Security Instrument.
(D) "Trustee" is Daniel M. Radebaugh, 1407 York Road, Suite 201, Lutherville, MD 21093.
(E) "Note" means the Promissory Note signed by Borrower and dated March 24, 2017. The Note states that Borrower owes Lender Four Hundred Fifty Thousand Dollars (U.S. $450,000.00). Borrower has promised to pay this debt pursuant to the Promissory Note and Agreement signed March 24, 2017.
(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."
(G) "Loan" means the debt evidenced by the Note and all sums due under this Security Instrument.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 38898, p. 0073, MSA_CE62_38755. Date available 05/04/2017. Printed 09/05/2018.

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(L) "Escrow Items" means those items that are described in Section 3.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the County of Baltimore:

12231 Harford Road, Glen Arm, MD 21157 ("Property Address").

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges. Borrower shall pay principal and interest in accordance with the Note. Borrower shall

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 38898, p. 0074, MSA_CE62_38755. Date available 05/04/2017. Printed 09/05/2018.

be responsible for the payment of real estate taxes, homeowner's insurance and homeowner's association dues, if applicable. These items will not be escrowed by Lender.

2. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 2.

3. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 3 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 38898, p. 0075, MSA_CE62_38755. Date available 05/04/2017. Printed 09/05/2018.

Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

4. Occupancy. This is a commercial loan. Borrower agrees that Borrower and/or Guarantor will not occupy Property.

5. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient

to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

6. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions.

Any amounts disbursed by Lender under this Section 6 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

7. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 38898, p. 0076, MSA_CE62_38755. Date available 05/04/2017. Printed 09/05/2018.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 38898, p. 0077, MSA_CE62_38755. Date available 05/04/2017. Printed 09/05/2018.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

8. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind and benefit the

successors and assigns of Lender.

9. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

10. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

11. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 38898, p. 0078, MSA_CE62_38755. Date available 05/04/2017. Printed 09/05/2018.

include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

12. Borrower's Copy. Borrower shall be given one copy of the Note and of this Security Instrument.

13. Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 13, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

14. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

15. Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 38898, p. 0079, MSA_CE62_38755. Date available 05/04/2017. Printed 09/05/2018.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 38898, p. 0080, MSA_CE62_38755. Date available 05/04/2017. Printed 09/05/2018.

and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower and the notice of acceleration given to Borrower shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section.

16. Hazardous Substances. As used in this Section 16: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 38898, p. 0081, MSA_CE62_38755. Date available 05/04/2017. Printed 09/05/2018.

affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

17. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale, assent to decree, and/or any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 17, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall mail or cause Trustee to mail a notice of sale to Borrower in the manner prescribed by Applicable Law. Trustee shall give notice of sale by public advertisement and by such other means as required by Applicable Law. Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale and by notice to any other persons as required by Applicable Law. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, Trustee's fees of 6% of the gross sale price and reasonable attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

Borrower, in accordance with Title 14, Chapter 200 of the Maryland Rules of Procedure, does hereby declare and assent to the passage of a decree to sell the Property in one or more parcels by the equity court having jurisdiction for the sale of the Property, and consents to the granting to any trustee appointed by the assent to decree of all the rights, powers and remedies granted to the Trustee in this Security Instrument together with any

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 38898, p. 0082, MSA_CE62_38755. Date available 05/04/2017. Printed 09/05/2018.

and all rights, powers and remedies granted by the decree. Neither the assent to decree nor the power of sale granted in this Section 17 shall be exhausted in the event the proceeding is dismissed before the payment in full of all sums secured by this Security Instrument.

18. Release. Upon payment of all sums secured by this Security Instrument, Lender or Trustee, shall release this Security Instrument and mark the Note "paid" and return the Note to Borrower. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

19. Substitute Trustee. Lender, at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder by an instrument recorded in the city or county in which this Security Instrument is recorded. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by Applicable Law.

20. Possession of the Property. Borrower shall have possession of the Property until Lender has given Borrower notice of default pursuant to this Security Instrument.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Nepali American Cultural Center of Baltimore

Shyam Karki, Authorized Trustee

Trustee

Bikram Pokhrel, Authorized Trustee

[Space Below This Line For Acknowledgment]

* as Trustees for Nepali American Cultural Center of Baltimore

State of Maryland, Baltimore County

I hereby affirm that on this 24th day of March, 2017, Shyam Karki and Bikram Pokhrel * personally appeared before me and signed this Deed of Trust.

Notary Public

My commission expires 05/19/18

Seal: DEIRDRE T. VO NOTARY PUBLIC MONTGOMERY COUNTY, MD COMMISSION EXPIRES MAY 19, 2018

DocuSign Envelope ID: 145AC2BF-E082-48CB-8CE7-7E5894DE22CC

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 38898, p. 0083, MSA_CE62_38755. Date available 05/04/2017. Printed 09/05/2018.

Affidavit in lieu of Maryland Mortgage Lender License number in accordance with 3-104.1 of the Real Property Articles of the Annotated Code of Maryland

Mario Smoot (The Lender) who's mailing address **114 Forge Haven Dr., Perry Hall, MD 21128**. The Lender in connection with the loan is exempt from the licensing requirements under Financial Institutions Article 11-501 through 11-524. Annotated Code of Maryland. The employee of the lender who originated the loan is exempt from the licensing requirements under Financial Institutions Article 11-601 through 11-618 Annotated Code of Maryland

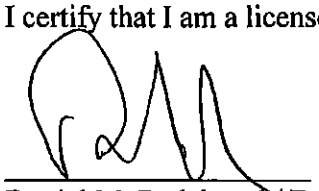
I solemnly affirm under penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true and correct.

DocuSigned by:
Mario Smoot 3/22/2017
7966CF2CDE6D4B6...
Mario Smoot, Fund Manager Date

Shyam Karki 3-24-17
Nepali American Cultural Center of Baltimore Date
Authorized Trustee, Shyam Karki

3-24-17
Nepali American Cultural Center of Baltimore Date
Authorized Trustee, Bikram Pokhrel

I certify that I am a licensed Maryland attorney and that I prepared this Deed of Trust.



Daniel M. Radebaugh, Esq.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 38898, p. 0084, MSA_CE62_38755. Date available 05/04/2017. Printed 09/05/2018.

Legal Description

BEGINNING for the same in the center of the Harford Road at the beginning of that parcel of land which by a deed dated May 15, 1931 and recorded among the Land Records of Baltimore County in Liber L.McL.M. No. 877, folio 214 was conveyed by the Sisters of Mercy in the City of Baltimore, Incorporated to G. Frederick Obrecht and running thence and binding in the center of the Harford Road and on the first thru the sixteenth lines inclusive and on a part of the seventeenth line of the aforesaid parcel of land, the following seventeen courses and distances viz: (referring the courses in this description to the magnetic meridian of 1962) North 72 degrees 15 minutes West 153.50 feet, North 30 degrees 02 minutes West 222 feet, North 37 degrees 32 minutes West 60 feet, North 54 degrees 31 minutes West 60 feet, North 79 degrees 48 minutes West 60 feet, South 83 degrees 17 minutes West 60 feet, South 69 degrees 06 minutes West 65 feet, South 59 degrees 19 minutes West 159 feet, South 50 degrees 15 minutes West 126 feet, South 41 degrees 37 minutes West 175 feet, South 35 degrees 37 minutes West 132 feet, South 31 degrees 39 minutes West 233 feet, South 34 degrees 50 minutes West 178 feet, South 31 degrees 36 minutes West 222 feet, South 21 degrees 22 minutes West 221 feet, South 36 degrees 30 minutes West 216 feet and South 31 degrees 06 minutes West 157.45 feet, thence leaving said Harford Road and outlines and running for a line of division South 58 degrees 33 minutes 16 seconds East 442.24 feet to intersect the twenty-fifth or North 51 degrees 08 minutes East 881.73 feet line of the aforesaid parcel of land and thence running with and binding on a part of said twenty-fifth line and on the twenty-sixth thru the last lines inclusive the following five courses and distances viz: North 54 degrees 09 minutes East 867.73 feet, North 56 degrees 14 minutes East 344.45 feet, North 57 degrees 36 minutes East 121 feet, North 2 degrees 19 minutes East 282 feet and North 16 degrees 39 minutes East 344.68 feet to the place of beginning.

Containing 30.864 Acres of land more or less.

For informational purposes only,
PROPERTY ADDRESS:
12231 Harford Road
Glen Arm, MD 21057

TAX MAP ID: 11-1700006067
PARCEL ID or RPC:

(NEPALI AMERICAN 17.083.PFD/2017-02014MD/10)

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 38898, p. 0085, MSA_CE62_38755. Date available 05/04/2017. Printed 09/05/2018.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 38898, p. 0086, MSA_CE62_38755. Date available 05/04/2017. Printed 09/05/2018.

Return to: 2017-02014MD
Advantage Settlement, Inc.
6521 Arlington Blvd, Ste 310
Falls Church, VA 22042
File No.
Tax Map ID: 11 - 1720006067

WAIVER OF ESCROW
Exhibit

Lender: Mario Smoot
Property Address: 12231 Harford Rd, Glen Arm, MD 21057

The Lender hereby agrees to waive the requirement for the monthly deposit of escrow finds for the mortgage loan.

The undersigned applicant(s) agree(s) to be solely responsible for the timely payment of any and all property taxes, assessments, leasehold payments, ground rents and hazard or property insurance premiums (including flood insurance premiums, if applicable), collectively referred to as the "Escrow Items," affecting the property. Further, the applicant(s) agree(s) to provide the Lender with written evidence of the payment of all property taxes and assessments on or before September 30th of each and every year and all other Escrow Items within two (2) weeks following the date that they are due for payment.

In the event that applicant(s) fails to provide written evidence of the payment of property taxes and assessments on or before September 30th of each and every year or in the event that the Lender receives a cancellation notice from the hazard or property insurance company or in the event applicant(s) fails to pay the water bill or fails to provide written evidence of the payment of all other Escrow Items within two (2) weeks following the date that they are due for payment, Lender shall have the right to collect a $250.00 penalty from applicant(s) for each and every occurrence.

Lender shall have the right to establish or reestablish an escrow for the payment of the Escrow Items in accordance with the terms of your loan documents in the event that during the term of the mortgage loan:

1. Applicant(s) fail(s) to pay any of the Escrow Items in a prompt and timely manner.
2. Applicant(s) fail(s) to provide Lender with evidence of payment of the Escrow Items within two (2) weeks following receipt of a written request from Lender.
3. Applicant(s) is(are) otherwise in default under the terms of the mortgage loan documents; or
4. It becomes necessary for Lender to advance funds to pay all or any portion of the Escrow Items.

Acknowledged and accepted:

Date 3/22/2017

Shyam Karki Trustee
By: Nepali American Cultural Center of Baltimore
Authorized Trustee, Shyam Karki

Trustee
By: Nepali American Cultural Center of Baltimore
Authorized Trustee, Bikram Pokhrel

Petitioner
CBA Exhibit

John Motsco P.E.

Maryland Professional Engineer License Number 44112
1055 Taylor Avenue, Suite 307, Towson, MD 21286
410-296-1636 johnm@littleassociates.com

Technical Skills

AutoCAD 2004, 2007	TR-20	HEC-HMS
HEC-RAS	eONE Design Assistant 8.0	Microsoft Office

Technical Knowledge

Septic System Design	Pressure Sewer Design
Floodplain analyses	Sediment Control Design
Storm Drain Hydrology and Hydraulics	Environmental Site Design
Geometric Road Design	Stormwater Management Design

Work Experience

Little & Associates, Inc., Towson, MD - Senior Project Engineer/Manager
September 2004 - Current

Schedule, design, and manage all engineering, permitting and public contract administration, for a variety of residential and commercial projects, supervising a group of 6 – 9 junior engineers and CADD draftsmen. Act as the primary liaison between Investors, Construction Superintendents, and Government Agencies. Provide construction inspection and Utility As-Built documentation for security reduction and contract suitability.

Provide expert testimony in matters of Land Development, Land Planning, Stormwater Management, Engineering. Accepted as an expert witness by the Baltimore County Administrative Law Judge and the Baltimore County Board of Appeals

Instruct New Hires in company policy and procedures aid familiarity with corporate and governmental design standards. Train employees in basic and advanced AutoCAD commands and techniques. Revised CAD layering standards to comply with AIA standards and coordinated rollout company wide. Supervise Workstation and Networking maintenance and upgrades. Perform repairs and maintenance on large format printer. Manage web-based E-Mail server.

Sinchak Electric, Severn, MD - Electrician
Summer 1999, 2000, December 2000 – January 2002, Summer 2002, 2003, & 2004

Design and install electrical systems to meet client expectations in accordance with National and Local Electrical Code. Estimate materials quantities. Maintain truck inventory and supply of consumables.

Education

The Pennsylvania State University
Bachelors of Science – Civil Engineering – Graduated May 2004

Training, Certifications and Awards

Maryland Professional Engineer License Number 44112
State of Maryland – Erosion & Sediment Control (Green Card) Certification
Baltimore County Soil Conservation District Consulting Firm of the Year – 2004, 2005 & 2016
Maximizing AutoCAD Productivity Seminar

John Motsco P.E.

Maryland Professional Engineer License Number 44112
1055 Taylor Avenue Suite 307, Towson, MD 21286
410-296-1636 johnm@littleassociates.com

Community Input Meetings

Osprey Pointe f.k.a. Cape May Cove (15-0757)
Schmidt Property (11-1129)
Dietz Place Manor (11-1022)
Overlook at Honeygo (11-1140)
Pulaski Crossing (11-1041)
Victoria Crossing (04-0751)
Vincent Estates (15-1006)
Bissel Property (11-1157)
Woodley Park (04-0278)

Development Plan Hearings

Osprey Pointe f.k.a. Cape May Cove (15-0757)
Bucks School House Road (14-0368) (2015-0250-SPH)
Overlook at Honeygo (11-1140)
Dietz Place Manor (11-1022)
Pulaski Crossing (11-1041)
Victoria Crossing (04-0751)
Perry Hall Ridge (11-1144)

Board of Appeals

Trappe Lane (#1206) (CBA-16-041)

Variance / Special Hearing / Special Exception

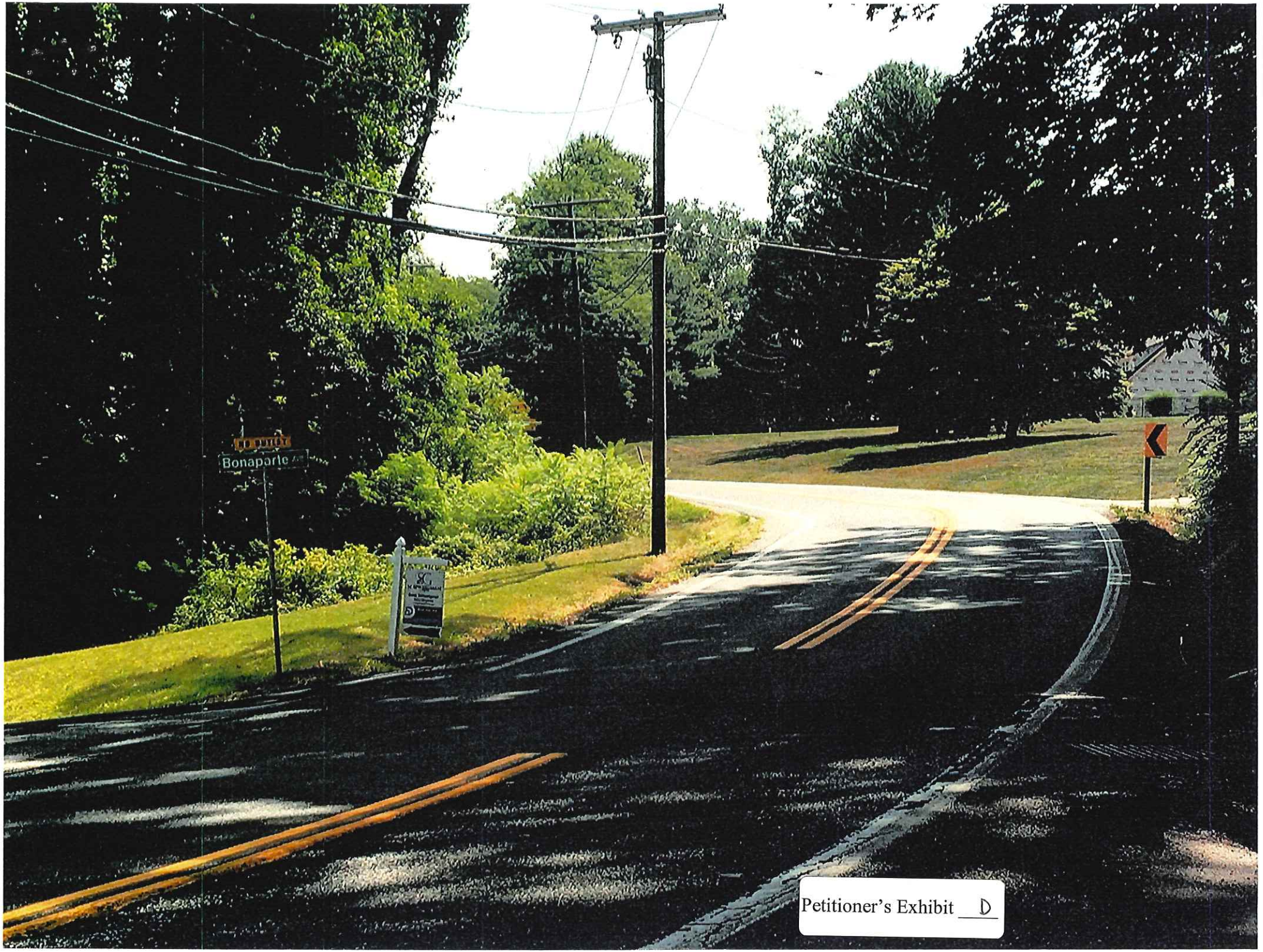
E. Joppa Road (#1609) (2017-0084-SPHA)
Hitt Property – #1805 Joppa Road (2016-0119-SPHXA)
Ruby Tuesday Randallstown (2015-0229-A)
Perry Hall Animal Hospital - #9022 Belair Road (2017-0024-A)
Simonds Property (2016-0289-SPHX)
Washington Boulevard (#4325) (2015-0214-X)
Moreland Memorial Park Cemetery (2016-0102-SPH)
Thompson Residence – #2422 Poplar Avenue (2017-0060-A)
Morris Avenue (#523) (2016-0123-SPH)
Regwood Road (#12402) (2016-0157-SPH)
Seneca Park Road (#976) (2018-0087-A)
Beech Avenue (#7407) (2018-0075-A)
Baltimore County Game and Fish Protective Association of Glen Arm (2018-0007-SPHX)
Phoenix Auto (2017-0289-SPHXA)
Moran Residence - #309 W. Chesapeake Avenue (2018-0089-A)
Miller Property - #925 Ellendale Road (2018-0100-SPH)
Heydt Residence - #12500 Jerusalem Road (2018-0106-A)
Harford Road (#12231) (2018-0122-X)
#7803 Harford Road (2018-0184-A)
Delrey Avenue (#18) (2018-0220-ASA)
#7938 33rd Street (2018-0236-SPH)

Petitioner
CBA Exhibit
9

Petitioner's Exhibit A

Petitioner's Exhibit B

Petitioner's Exhibit C



Petitioner's Exhibit D

Petitioner's Exhibit E

Petitioner's Exhibit F

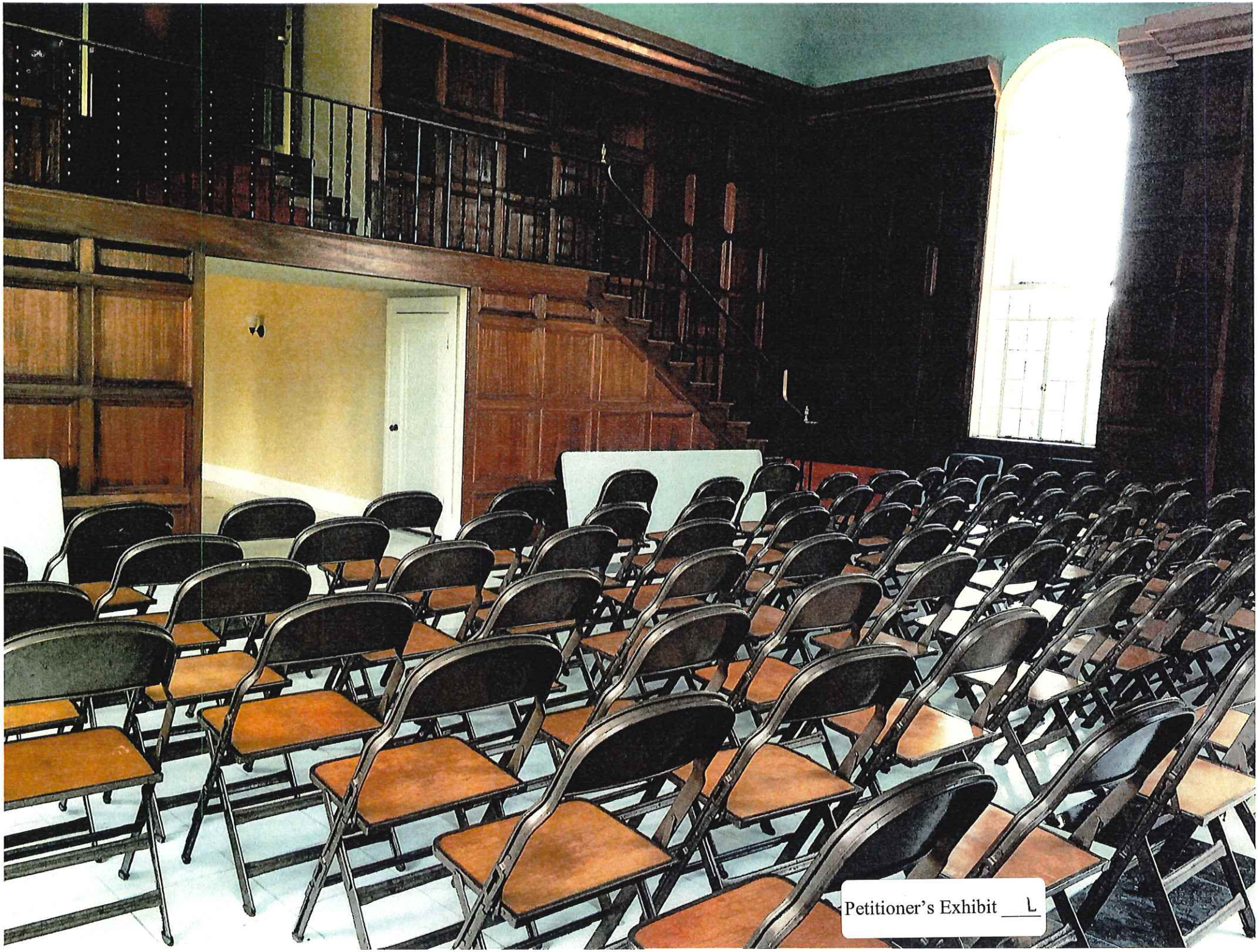
Petitioner's Exhibit G

Petitioner's Exhibit H

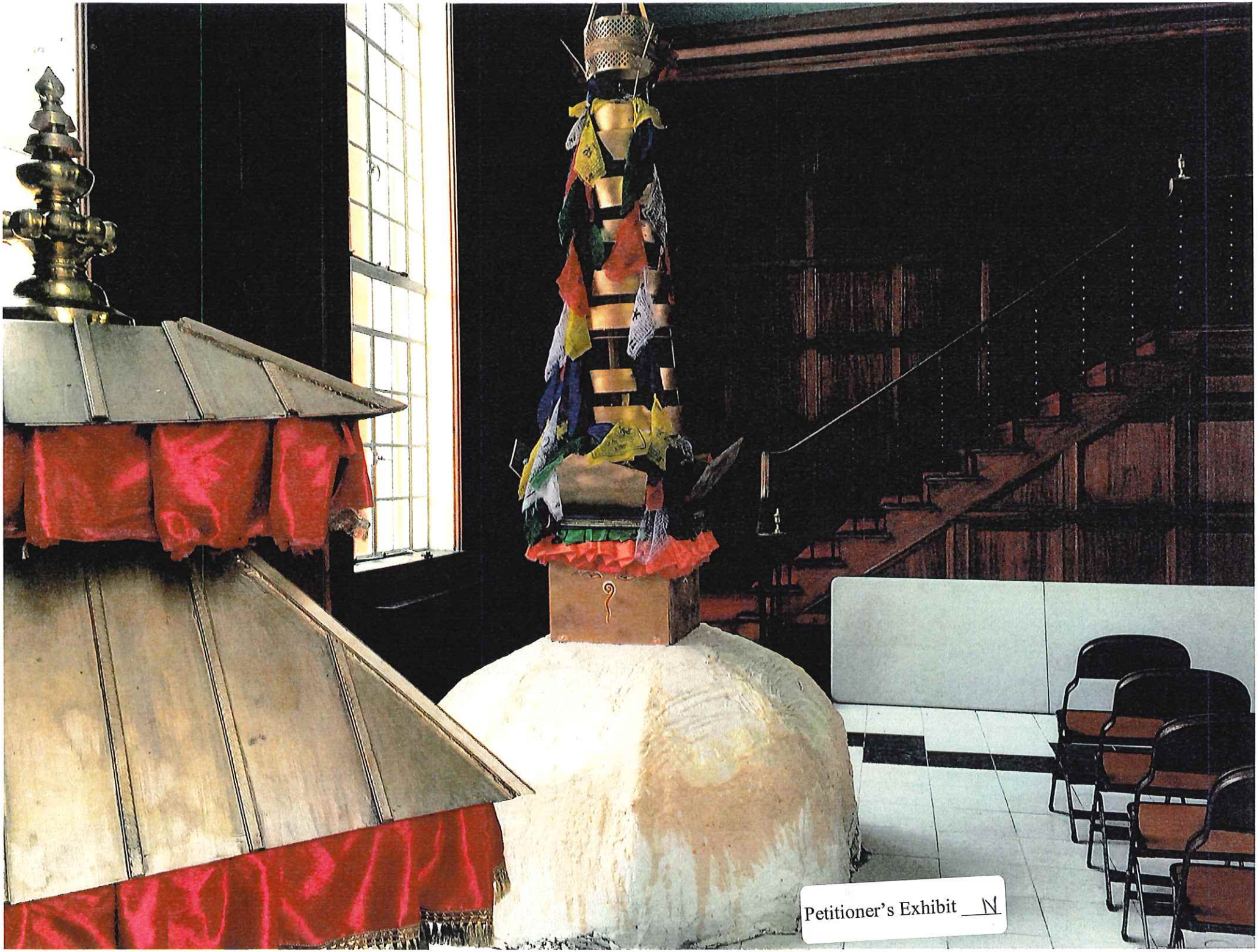
Petitioner's Exhibit 1

Petitioner's Exhibit J

Petitioner's Exhibit K


Petitioner's Exhibit L

Petitioner's Exhibit M


Petitioner's Exhibit N

Petitioner's Exhibit 0

Petitioner's Exhibit 9

Petitioner's Exhibit Q

Petitioner's Exhibit R

Petitioner's Exhibit S

Petitioner's Exhibit 1

Petitioner's Exhibit 4

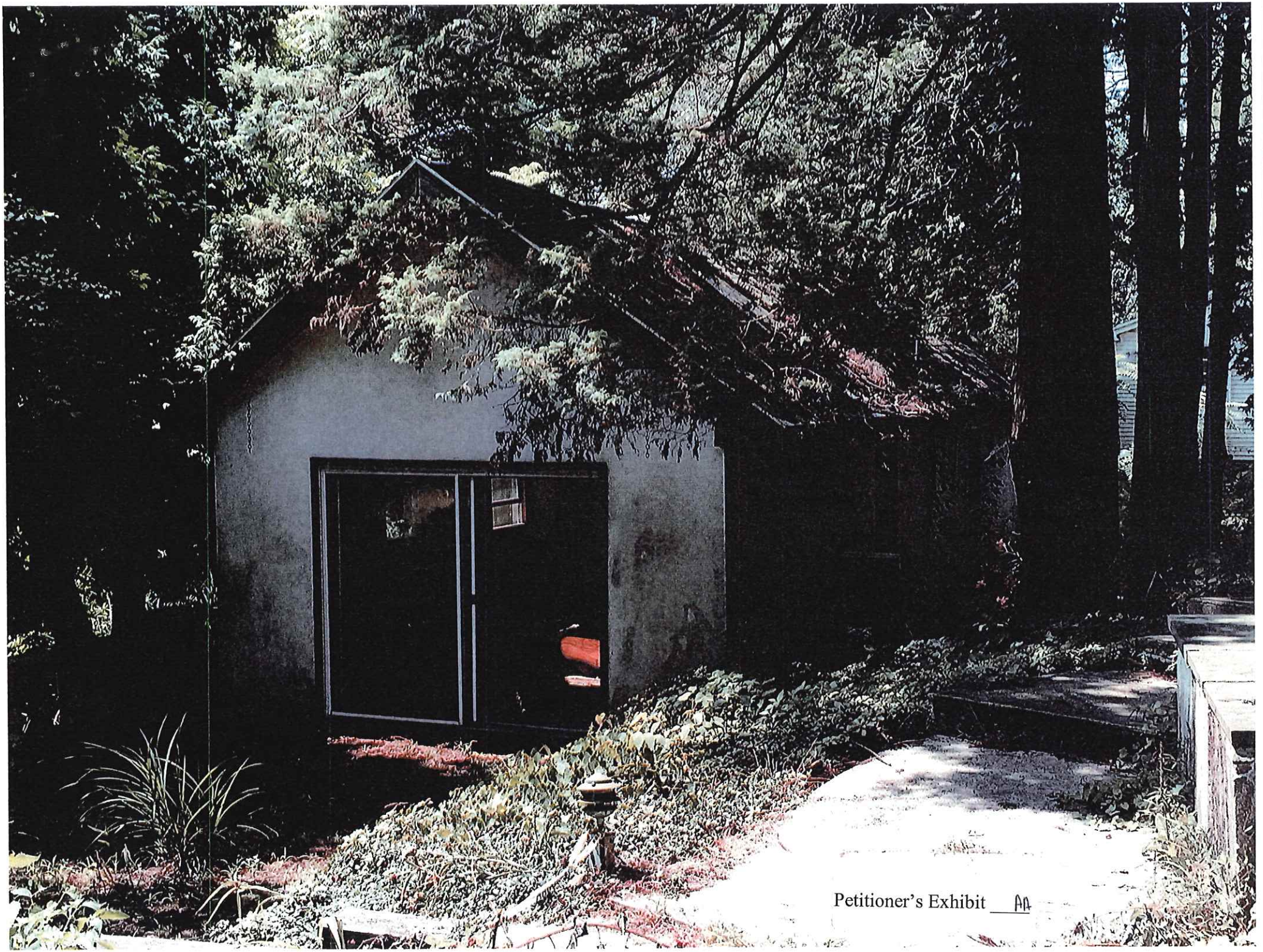
Petitioner's Exhibit V

Petitioner's Exhibit W

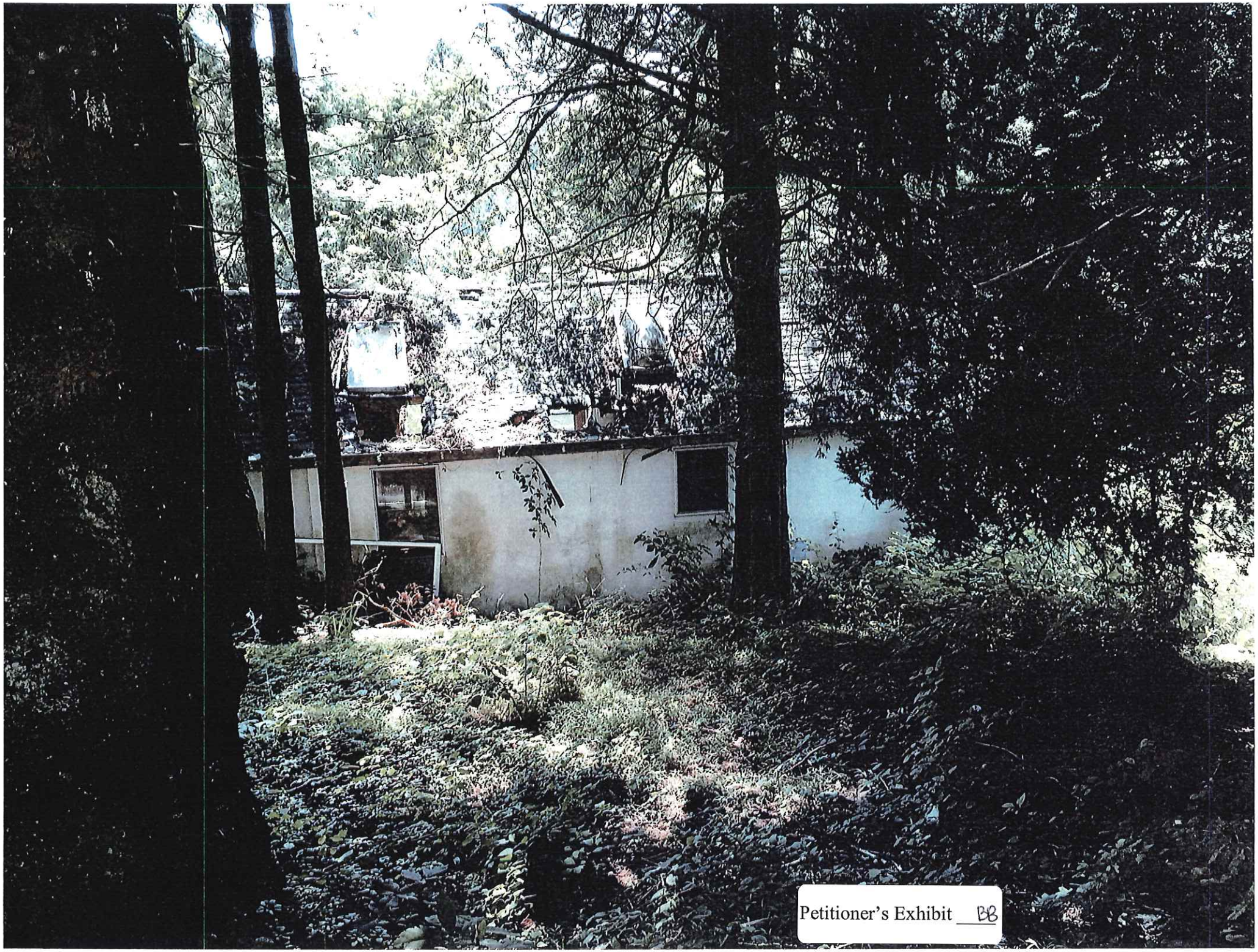
Petitioner's Exhibit X

Petitioner's Exhibit 4

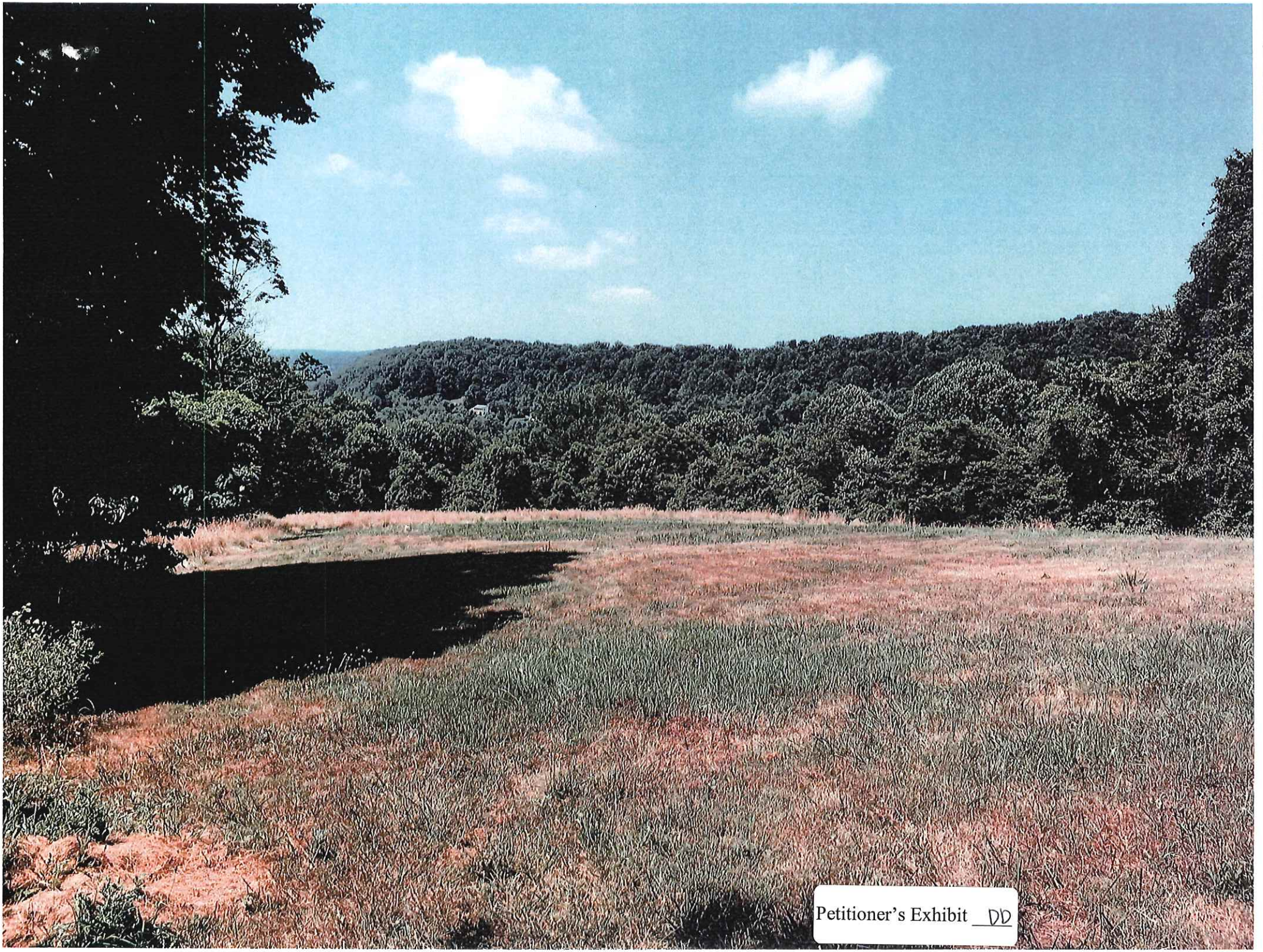
Petitioner's Exhibit 7

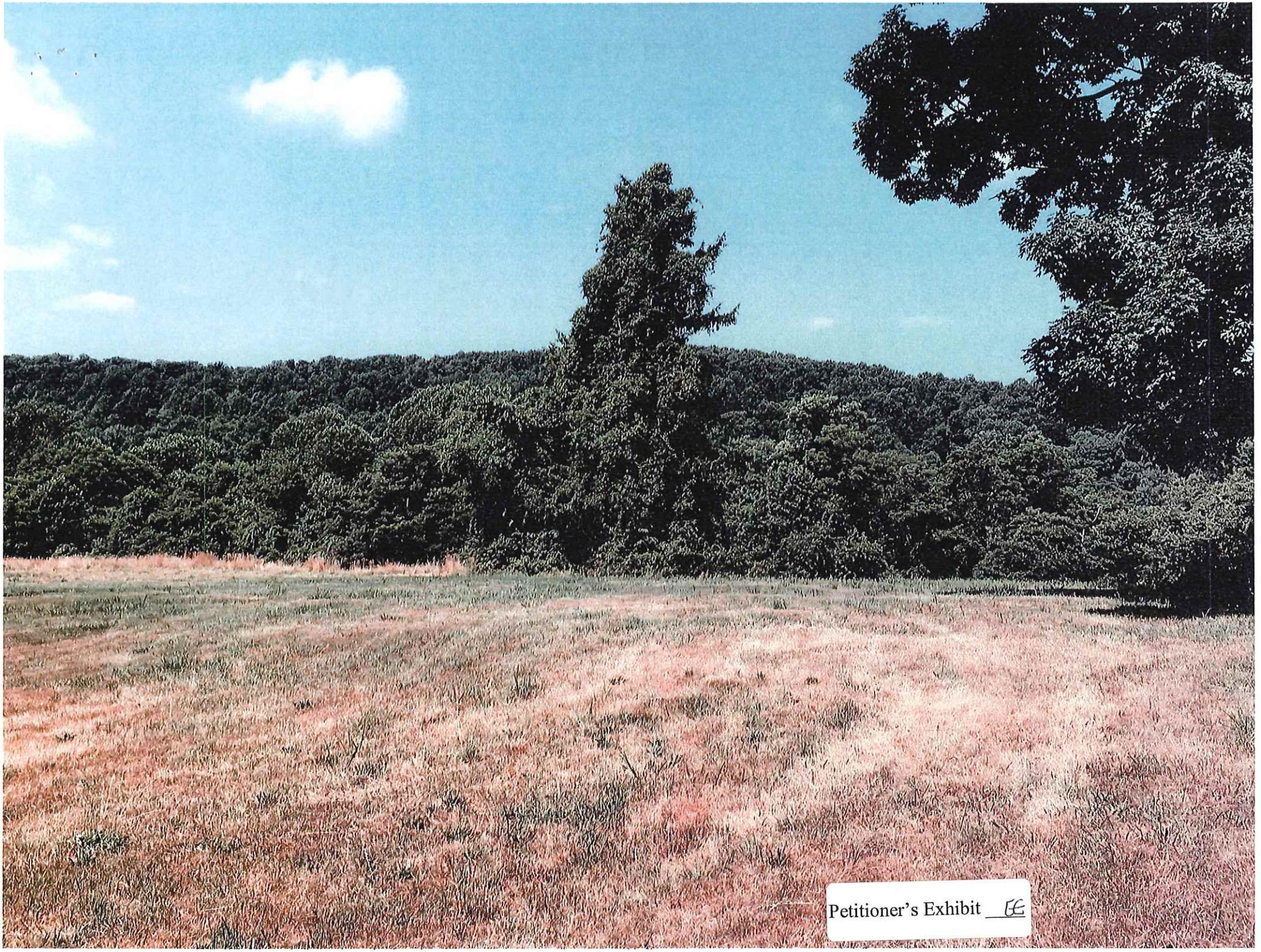


Petitioner's Exhibit AA


Petitioner's Exhibit BB

Petitioner's Exhibit CC


Petitioner's Exhibit DD

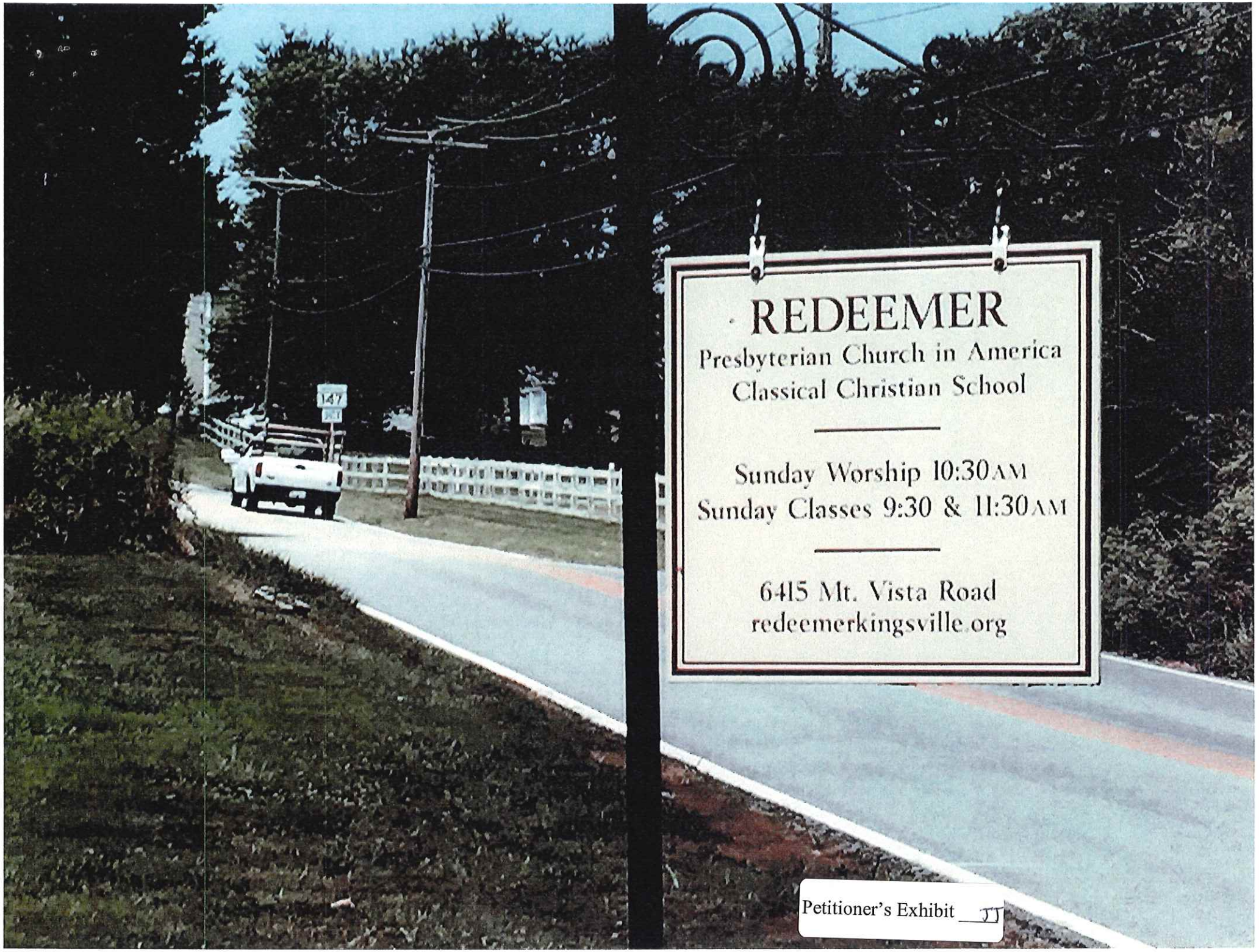

Petitioner's Exhibit GG

Petitioner's Exhibit ff

Petitioner's Exhibit GG

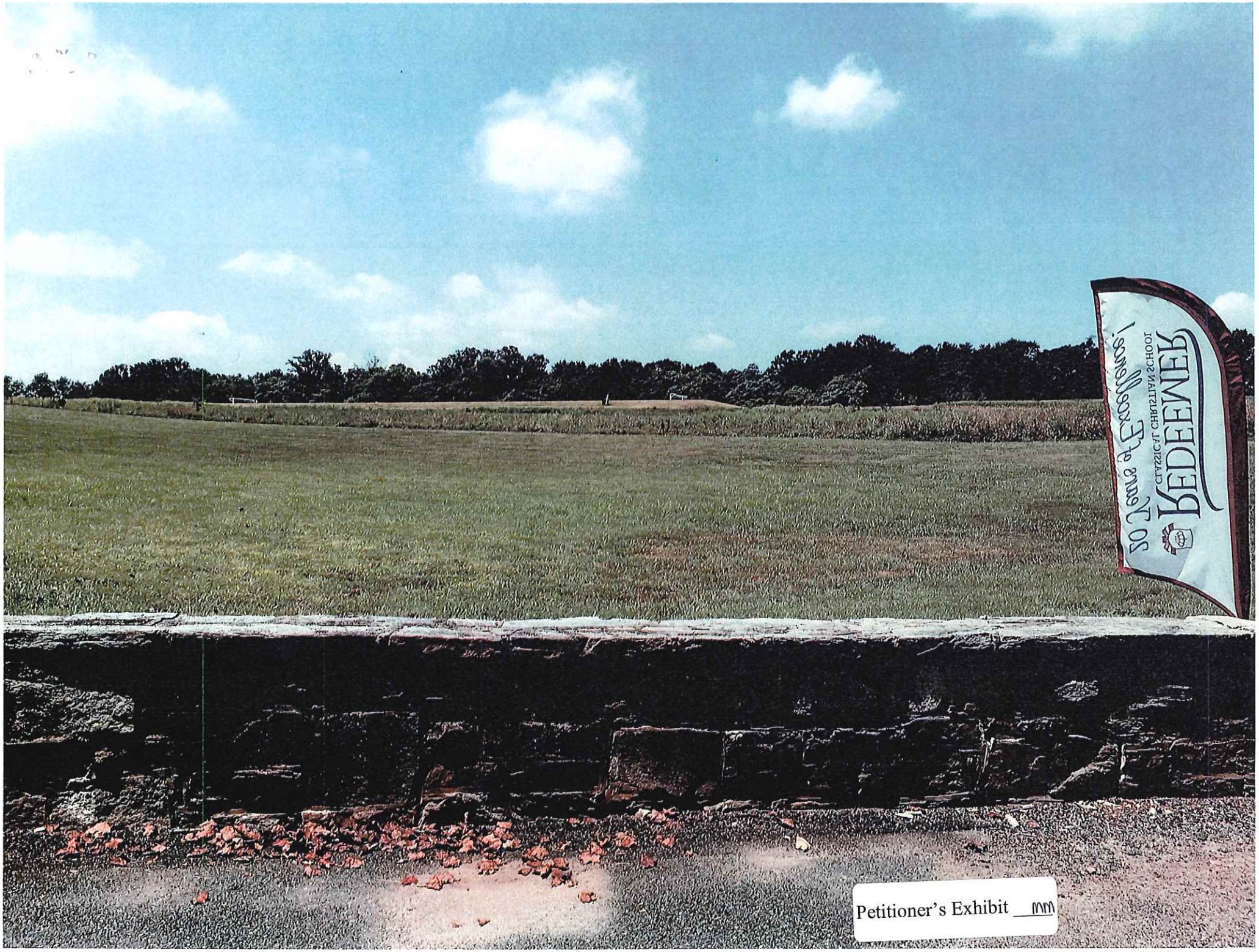
Petitioner's Exhibit HH

Petitioner's Exhibit 11


REDEEMER
Presbyterian Church in America
Classical Christian School
Sunday Worship 10:30AM
Sunday Classes 9:30 & 11:30AM
6415 Mt. Vista Road
redeemerkingsville.org
147
Petitioner's Exhibit JJ

147
Petitioner's Exhibit KK

Petitioner's Exhibit LL



Petitioner's Exhibit ___

MARYLAND INVENTORY OF HISTORIC PROPERTIES

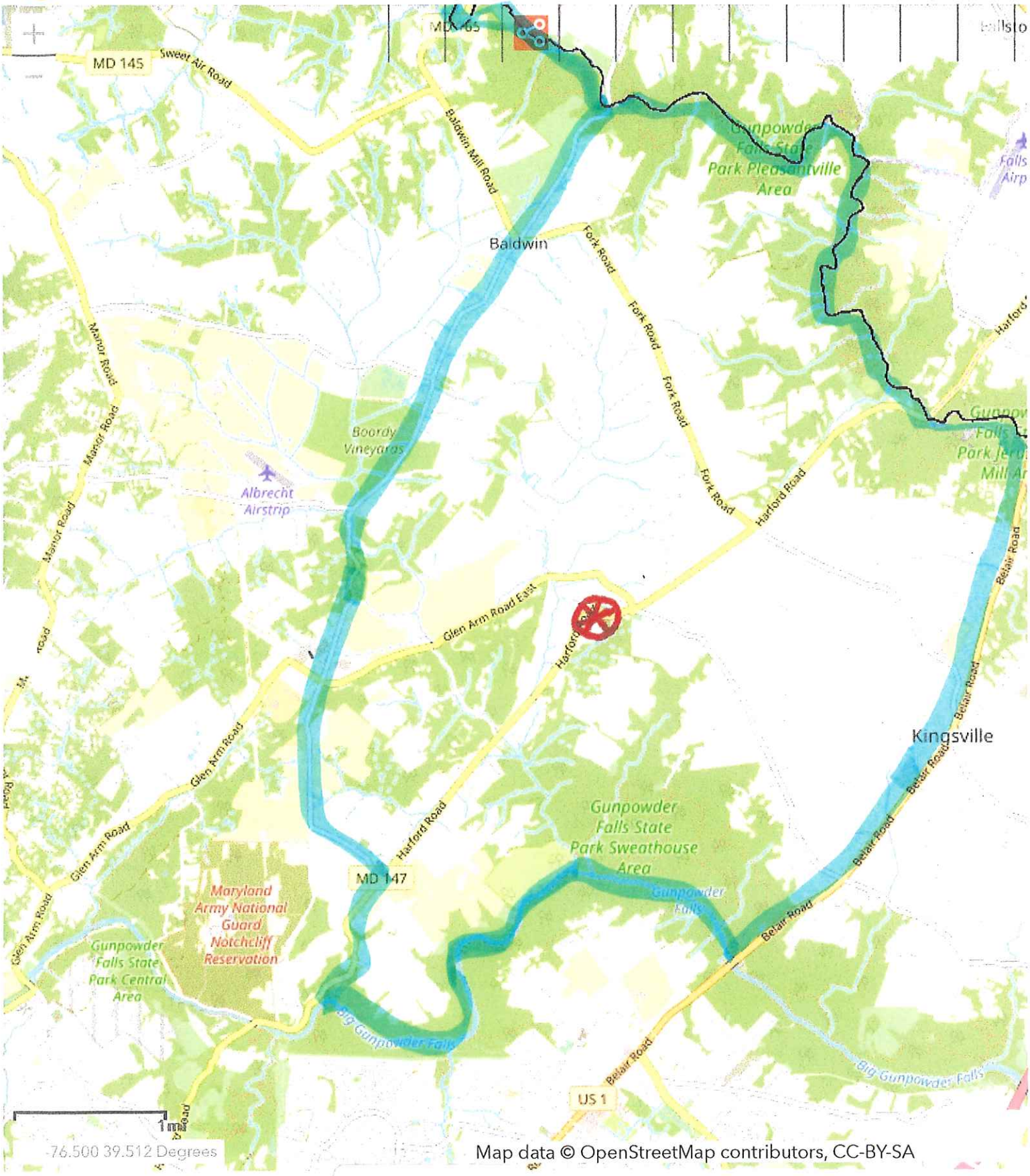
BA-539 **BELLA VISTA (SITE)** - 1895 - East side of Harford Road, 0.5 mile south of Mt. Vista Road. After finding the former Homestead of the Gittings family unsuitable as a country home, Charles J. Bonaparte, then a Baltimore attorney and political reformer, built a very large stick and shingle or Queen Anne style, gable-roofed house on a hilltop to the east. The contractor was John Cowen. During his residence there, he served as Secretary of the Navy and Attorney General in the Theodore Roosevelt cabinet. He died in 1921. During the ownership of the Obrecht family, the house burned on January 20, 1933. Bella Vista was replaced by a contemporary house in poured concrete which still stands.

BA-539A **BELLA VISTA BARN** - 1895 - Barn built in brick with gambrel roof to a design by Charles J. Bonaparte. Contractor was John Cowen. Elaborately timbered roof support system (wood truss). Down the slope from former Obrecht house.

Petitioner
CBA Exhibit
10

Locality

Baltimore County - My Neighborhood

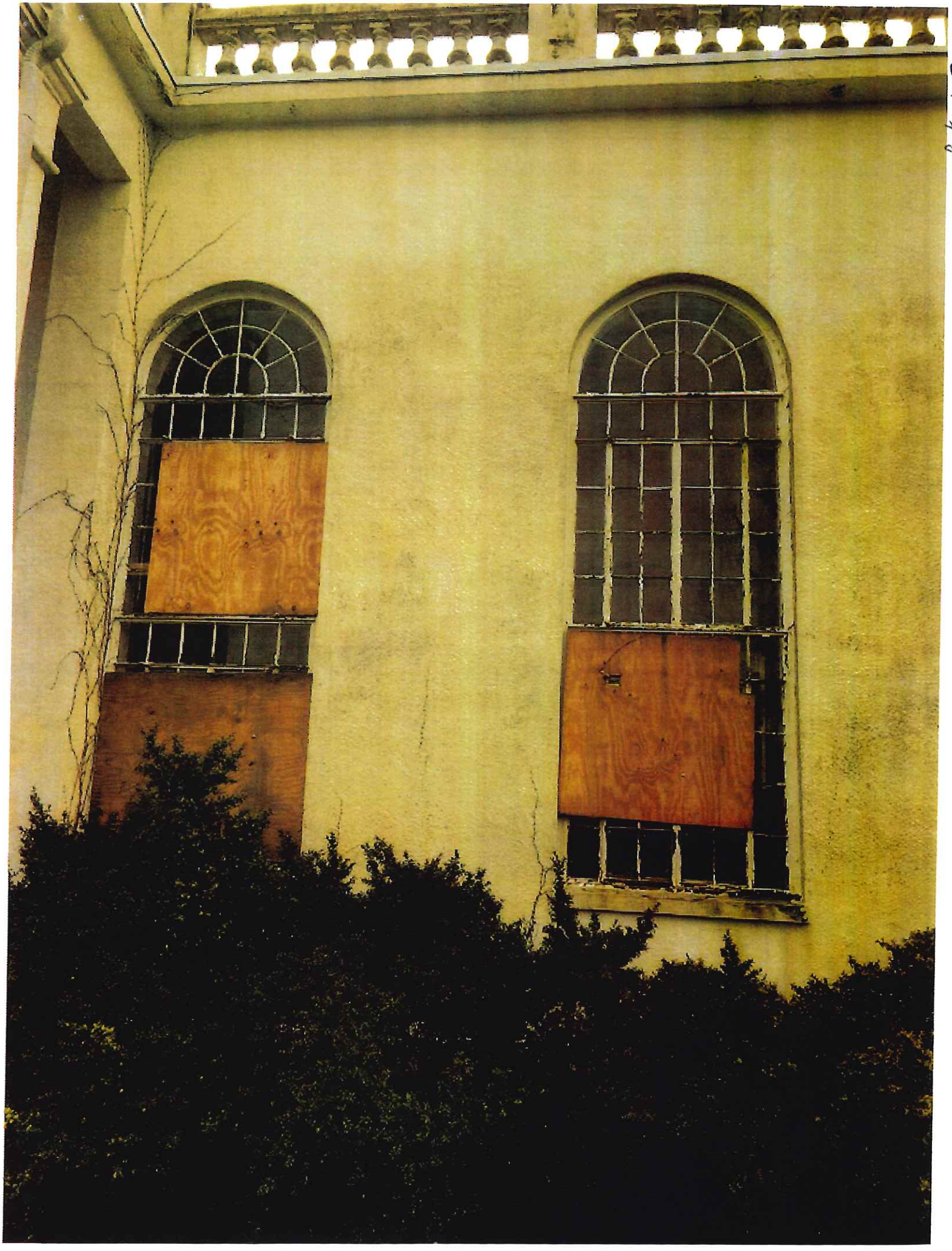


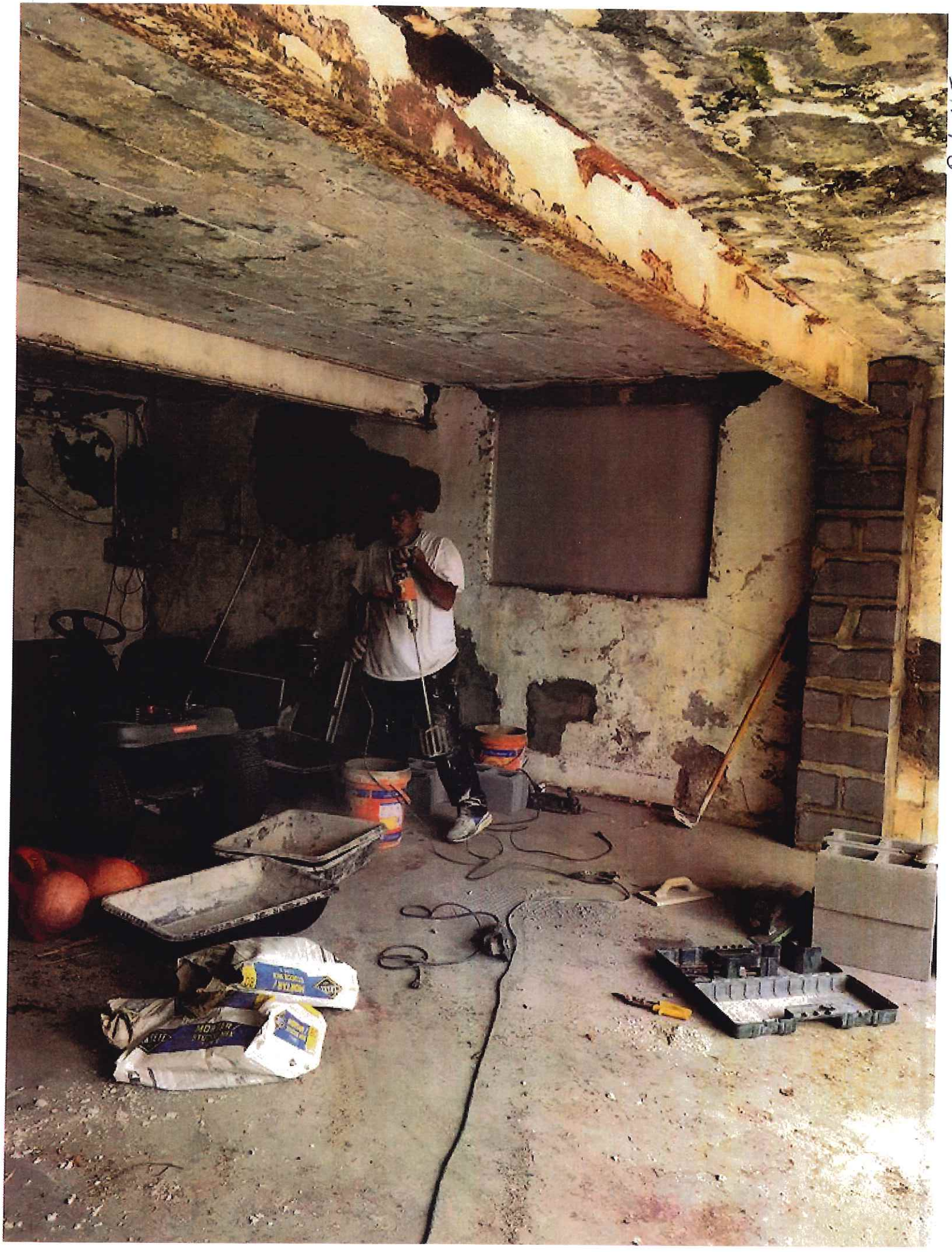
Petitioner
CBA Exhibit
11

Petitioner
CBA Exhibit
12a

Det 11 B

Pet 11C





Pet 11E

JOSEPH J. CALOGGERO, P.E., PTOE, PTP

Vice President

The Traffic Group
Merging Innovation and Excellence

"A Leader in Sustainable Transportation Solutions"

Joe Caloggero is a professional Traffic Engineer who brings almost 30 years of both technical and academic experience to The Traffic Group, Inc. His responsibilities include, but are not limited to, various traffic engineering and managerial tasks in the areas of traffic impact analysis, traffic safety studies, and transportation planning. He has managed over 500 Land Development Projects and has testified as an expert witness for various projects in many different jurisdictions.

Previously, Mr. Caloggero served as a Traffic Engineer for Parsons Brinckerhoff Quade & Douglas, Inc. and the Maryland State Highway Administration. During his career, he has performed various traffic engineering tasks, including traffic signal design, highway and intersection capacity analysis, maintenance and protection of traffic design, and transportation planning.

Job History

2000 - Present
Vice President - The Traffic Group, Inc.

1998 – 2000
Traffic Engineer
Parsons, Brinckerhoff, Quade & Douglas, Inc.

1993 - 1998
Traffic Engineer
Maryland State Highway Administration

Educational Background

- **Bachelor of Science in Civil Engineering**
  West Virginia University, Dec. 1991

Affiliations

- Certified Professional Transportation Planner (PTP)
- Certified Professional Traffic Operations Engineer (PTOE)
- Registered Professional Engineer (P.E.) – Florida, Hawaii, Maryland, New Jersey, South Carolina, Virginia, and West Virginia
- Institute of Transportation Engineers (I.T.E.)
- The Maryland Association of Engineers
- County Engineers' Association of Maryland (CEAM)

Publications

- Co-author, "*Positive Guidance in Maryland—Guidelines and Case Studies*," Maryland State Highway Administration Document, July 1997.
- Co-author, "*Highway Agency Tort Liability and Risk Management Relative to Pedestrian Facilities*," Proceedings of Conference on Risk Management and Tort Liability, Pennsylvania State University, April 1993.

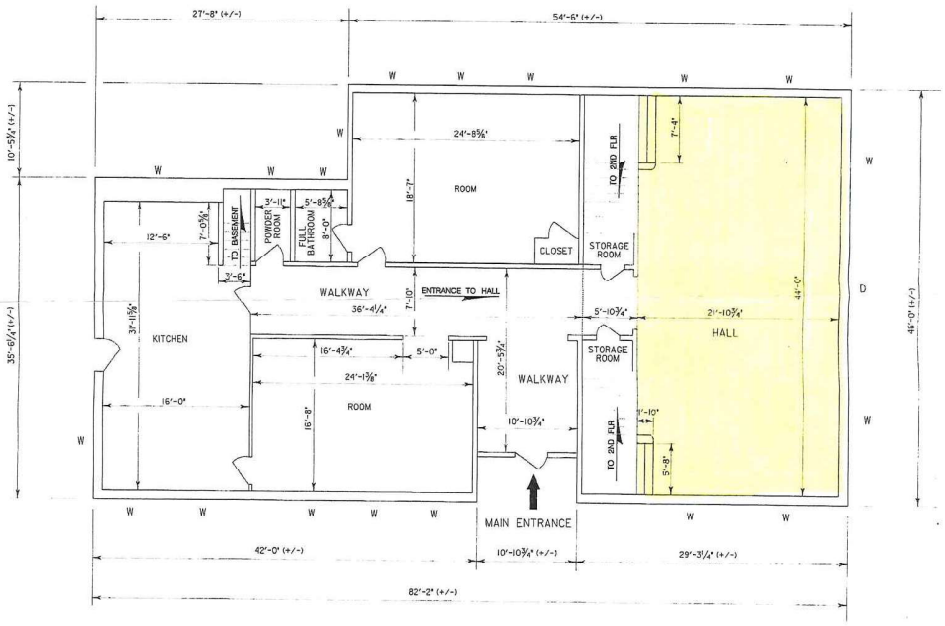
Places where Mr. Caloggero has testified as an expert witness

DELAWARE
- Kent County, DE – Regional Planning Commission

MARYLAND
- Baltimore County – Zoning Commissioner, Board of Appeals
- Calvert County – Board of Appeals
- Carroll County – Board of Zoning Appeals, Planning and Zoning Commission
- Charles County – Board of Appeals
- City of Brunswick – Mayor and Council
- City of Frederick – Planning Commission, Board of Appeals
- City of Hagerstown – Planning Commission, Mayor & City Council City of Rockville – Board of Appeals
- Frederick County – Planning Commission, Board of Appeals, Board of County Commissioners
- Howard County – Hearing Examiner, Board of Appeals
- Montgomery County – Hearing Examiner, Planning Board
- Prince George's County – Hearing Examiner, Planning Board
- St. Mary's County – County Commissioners, Planning Commission
- Town of La Plata – Planning Commission
- Town of Mount Airy – Board of Zoning Appeals
- Town of Rising Sun – Planning Commission
- Town of Taneytown – Planning Commission
- Town of Thurmont – Planning Commission
- Town of Walkersville – Board of Appeals

VIRGINIA
- City of Manassas, VA – Planning Commission
- Town of Front Royal, VA – Planning Commission, Town Council

Petitioner
CBA Exhibit
13



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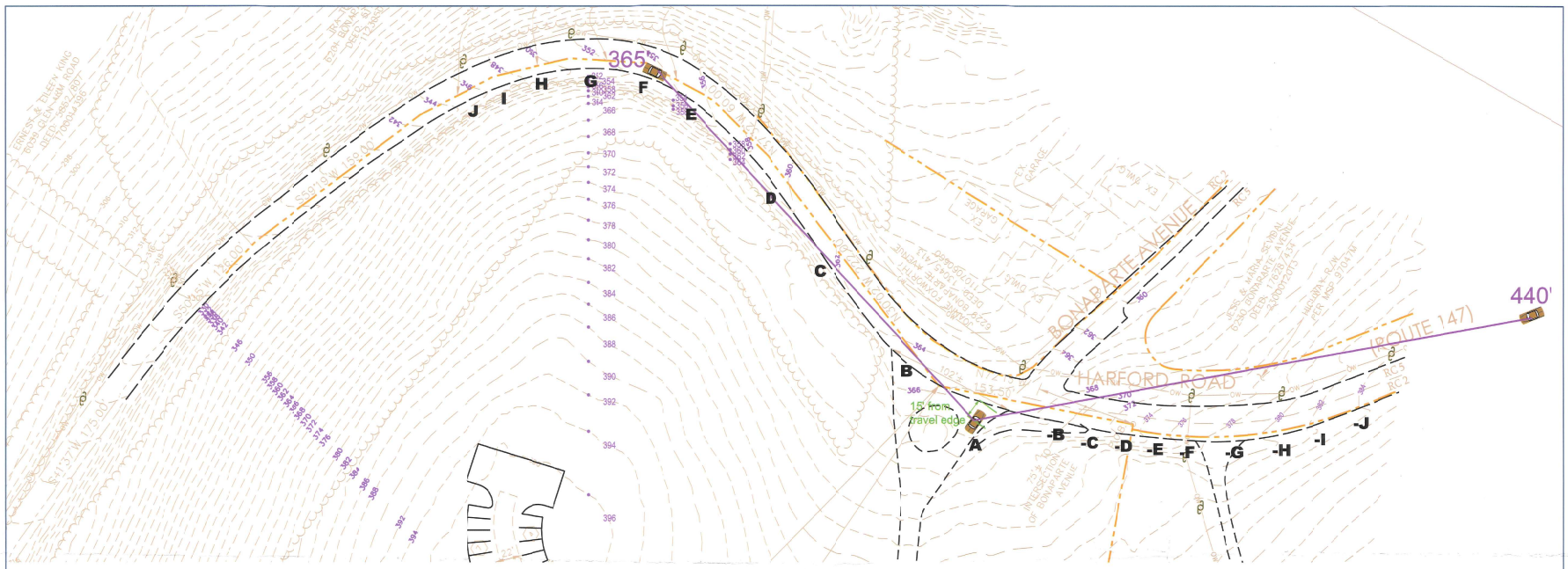

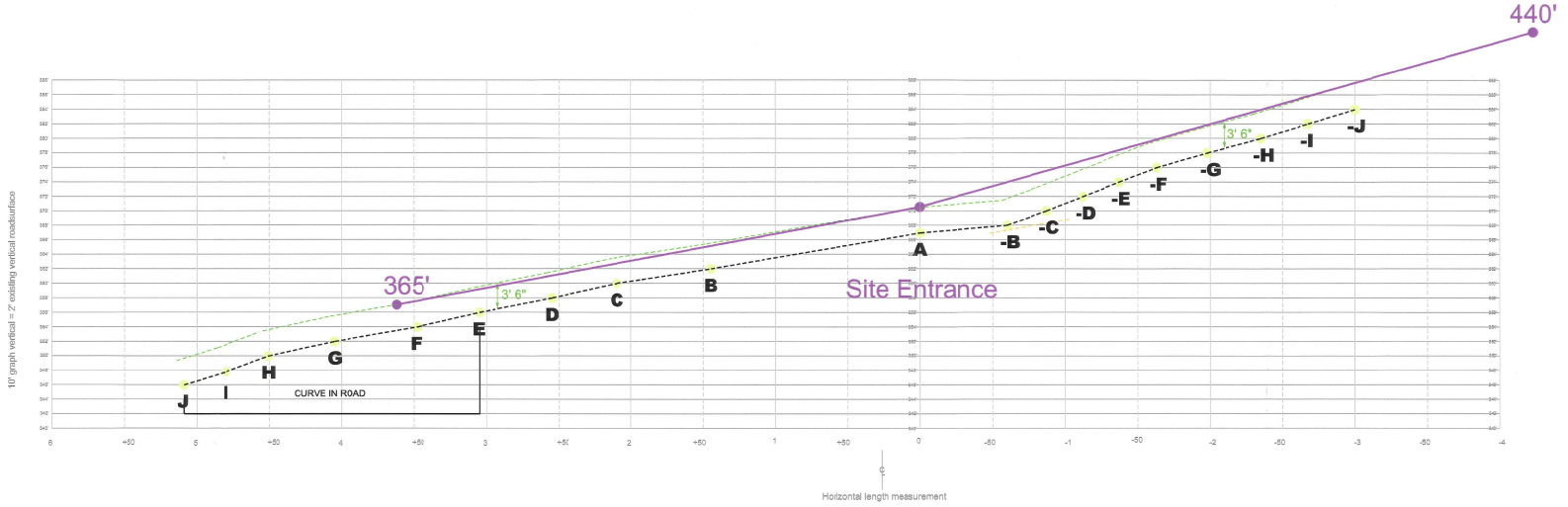

0' 100' 200'
GRAPHIC SCALE

NORTH

Sight Distance

#12231 Harford Road ALJ Decision

Scale: 1" = 40'
Location: Baltimore County, Maryland
Job Number: R1Jos
File Name: ?
Revision: ?

The Traffic Group, Inc. suite h - 9900 franklin square dr. - baltimore, maryland 21236 410.931.8600 - fax: 410.931.8601 - 1.800.583.8411 www.trafficgroup.com

The Traffic Group®
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PLOTTED: 28/02/18
PLOTTED: 7:50:57 AM
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Petitioner
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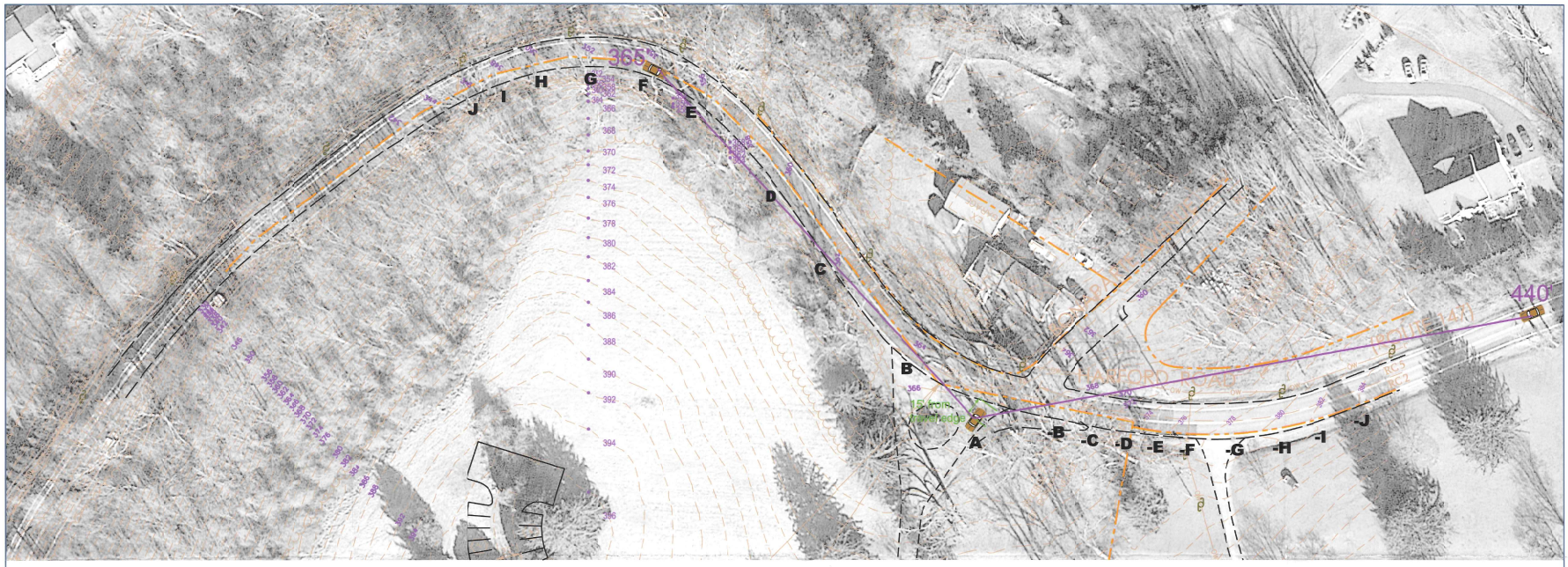

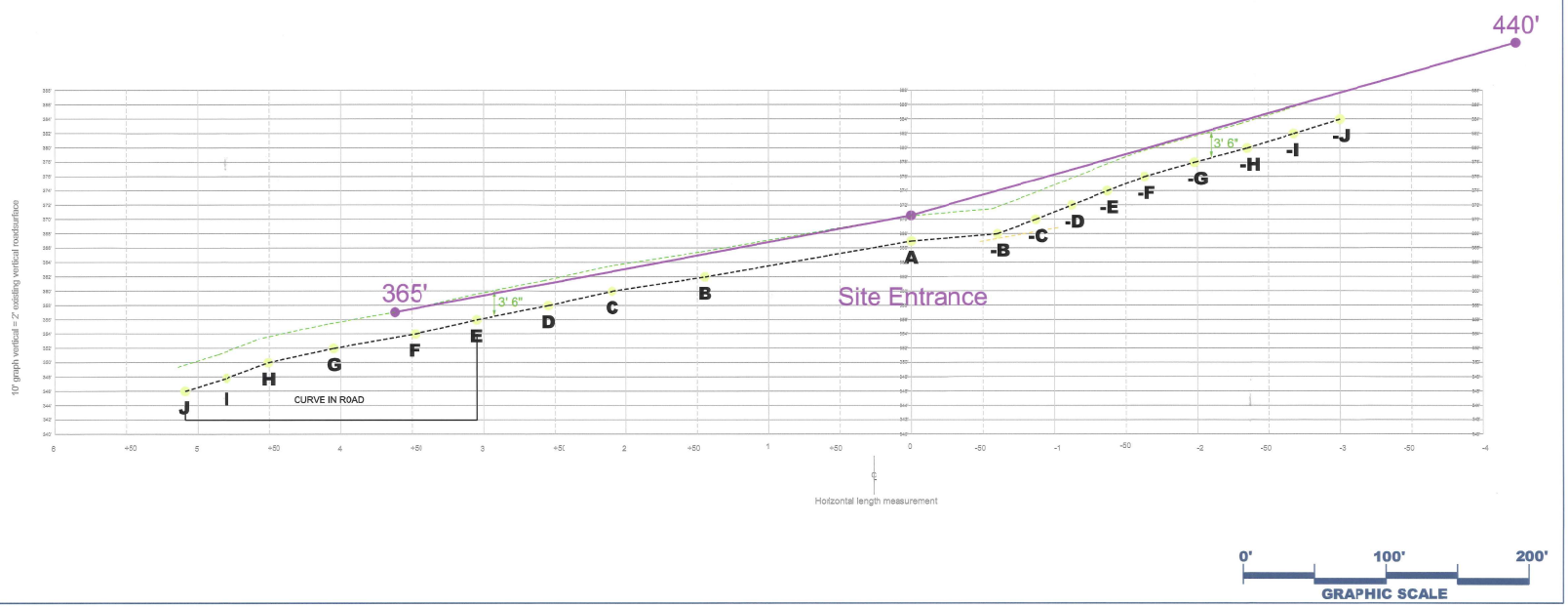

NORTH

Sight Distance

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Job Number: RJ06
File Name: 7

Revision: 7

The Traffic Group, Inc. suite h - 9900 franklin square dr. - baltimore, maryland 21236 410.931.6600 - fax: 410.931.6601 - 1.800.583.8411 www.trafficgroup.com

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Petitioner
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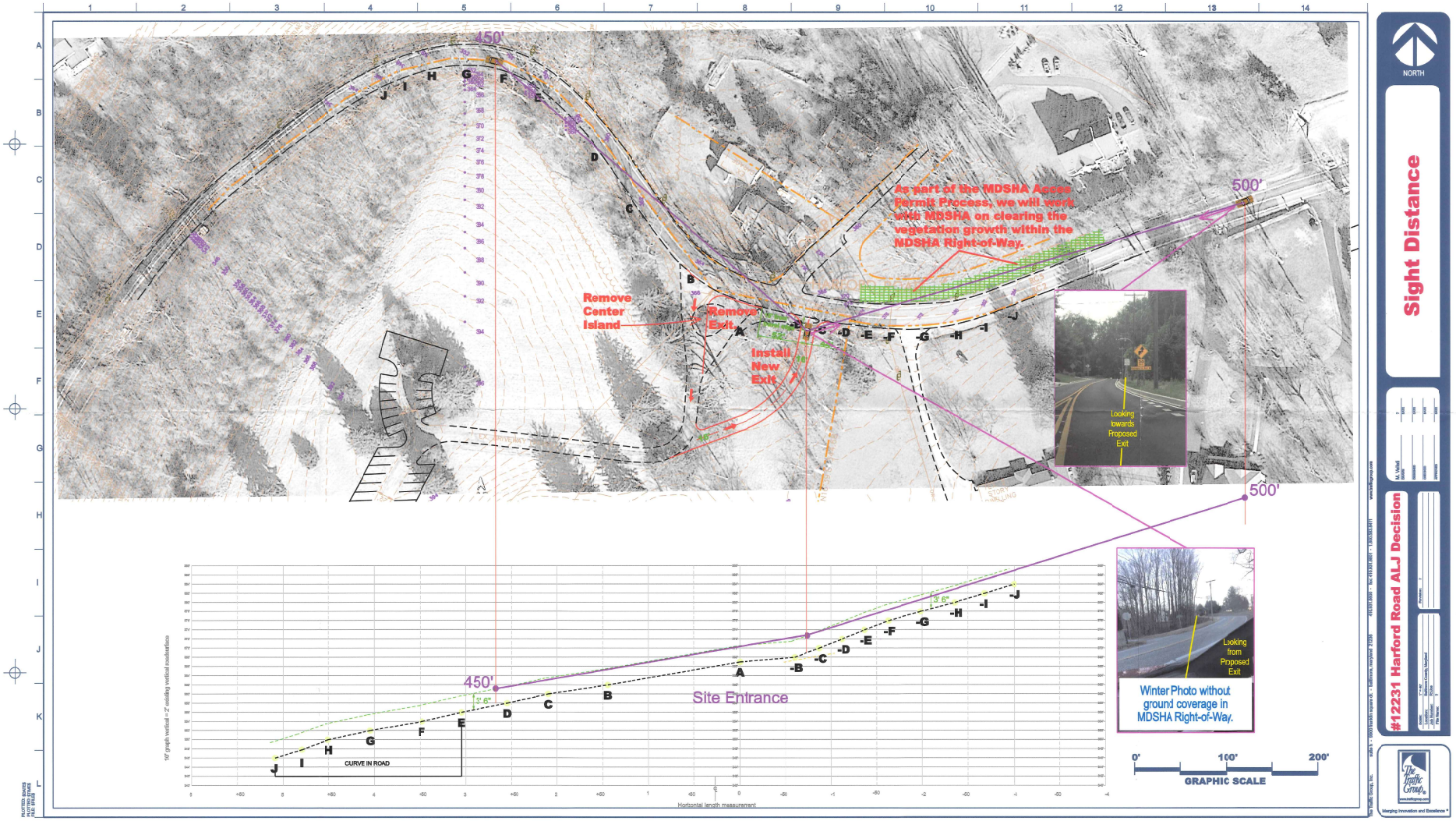

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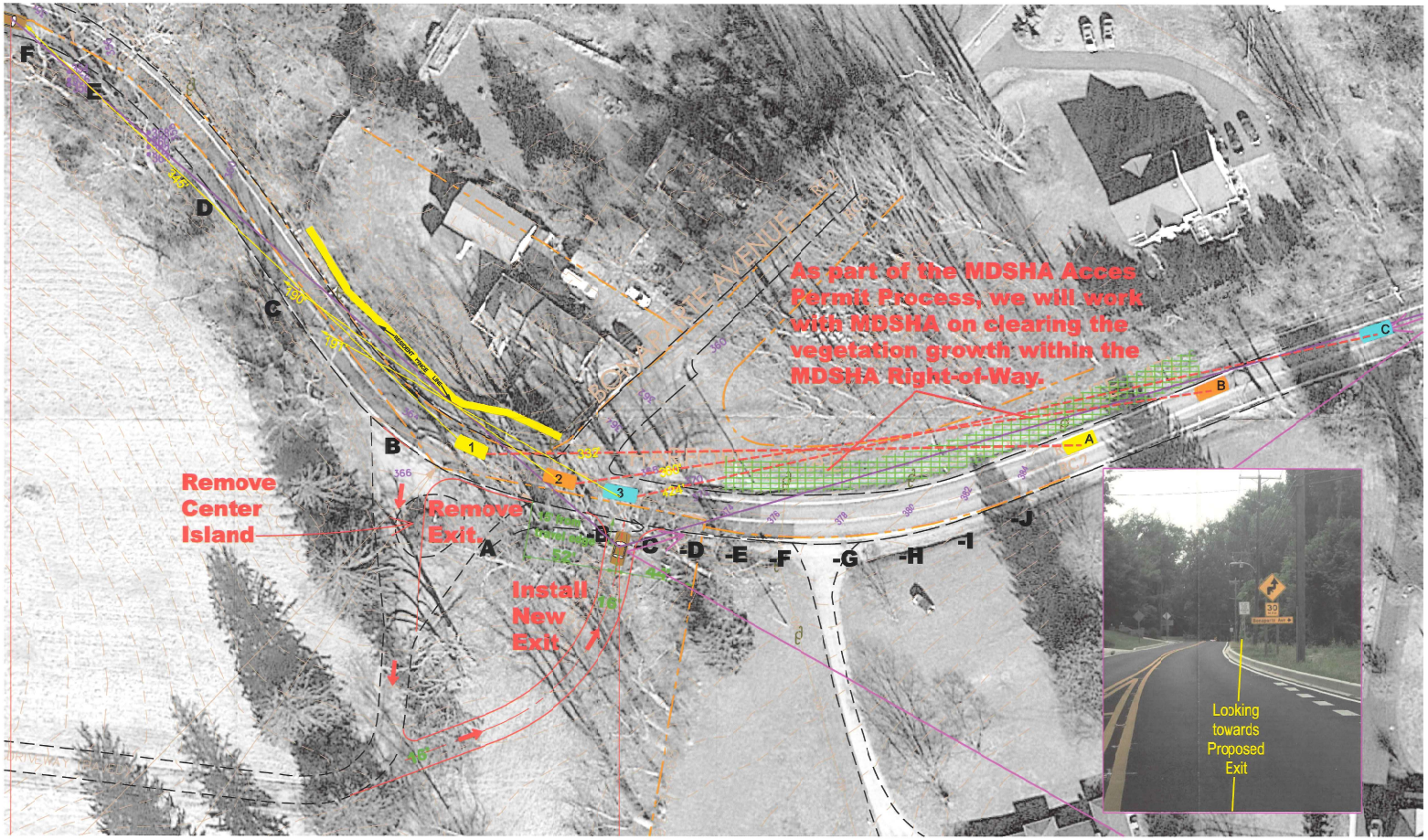

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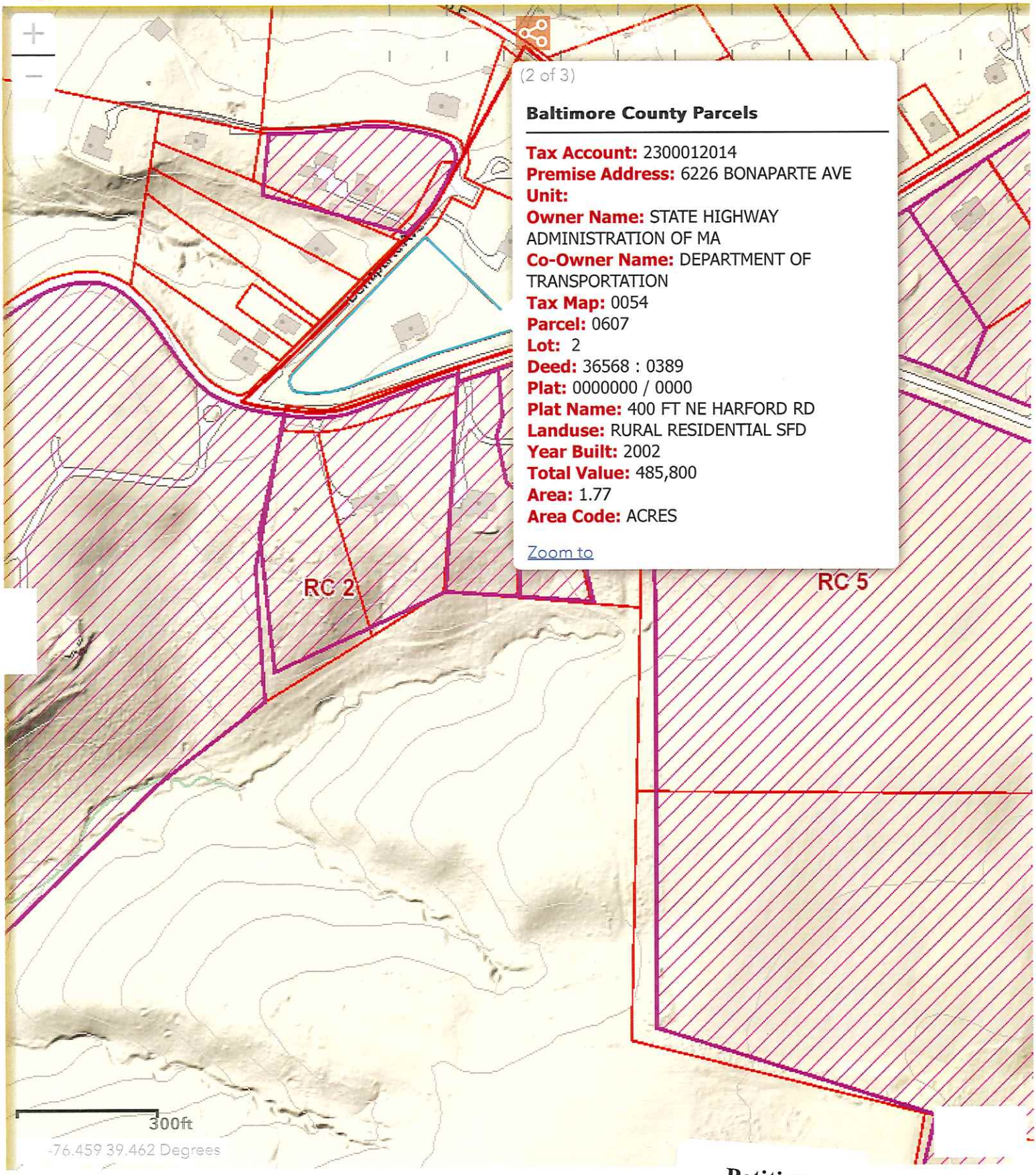
Baltimore County - My Neighborhood



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Baltimore County - My Neighborhood

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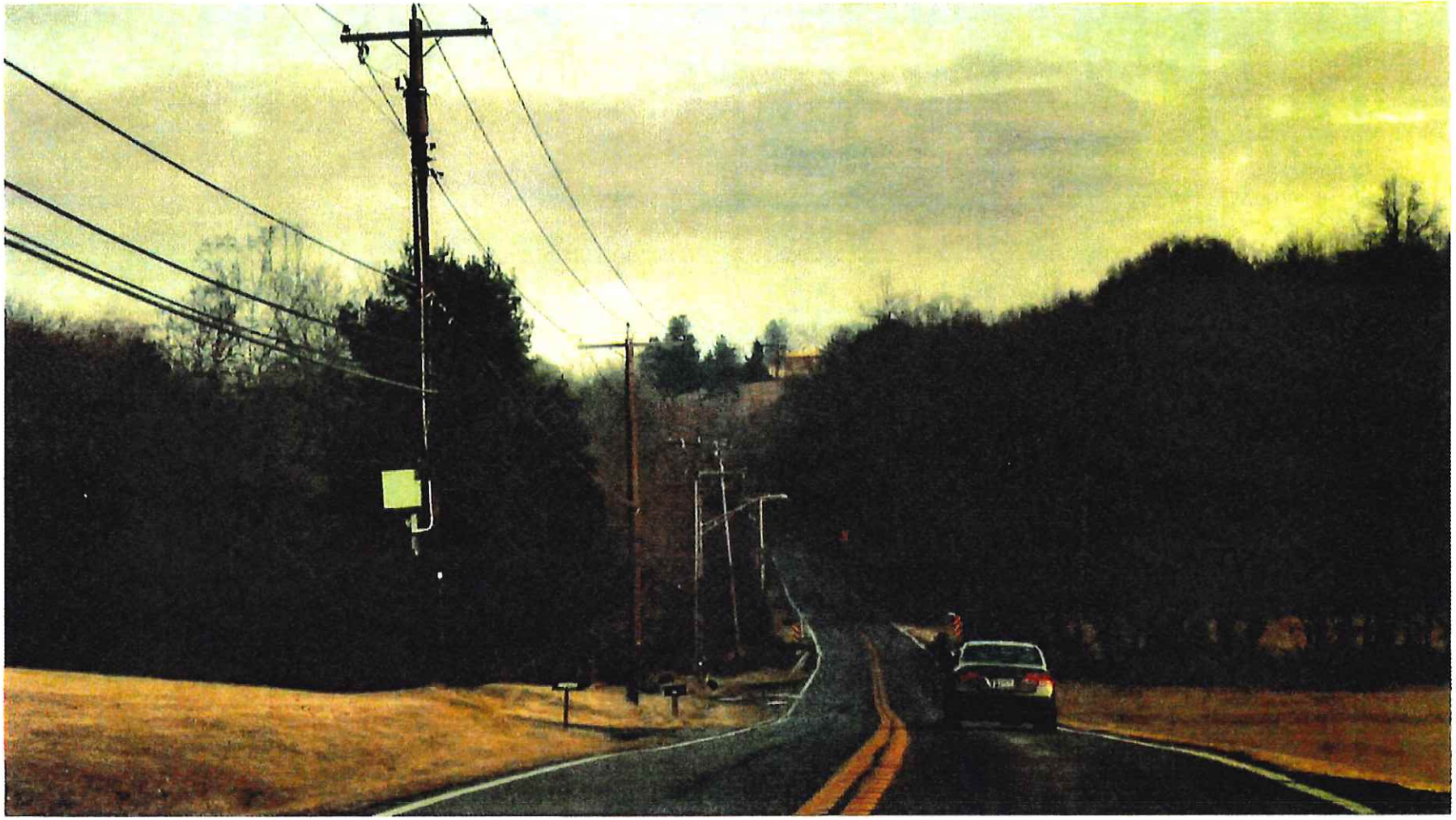

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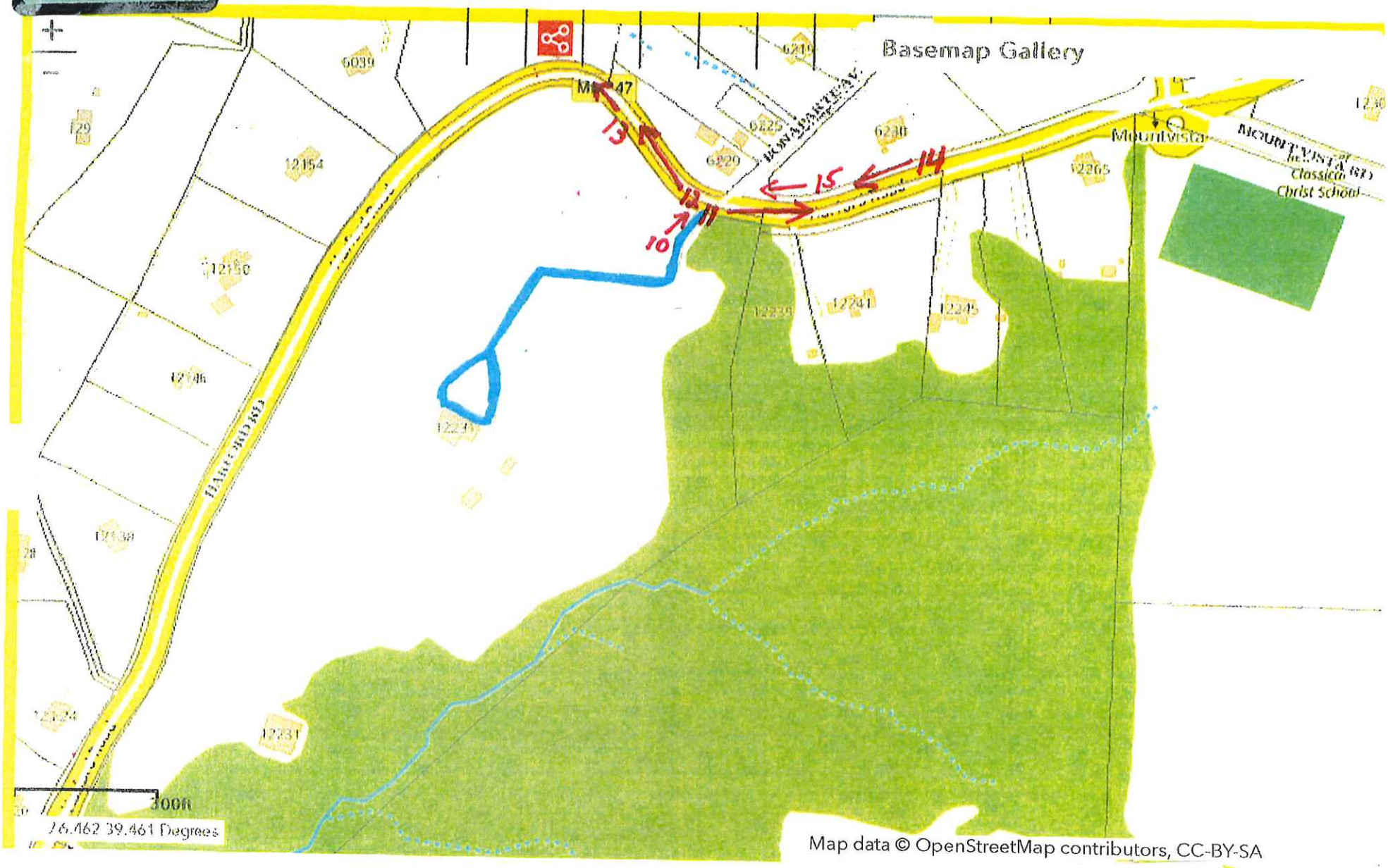
EXHIBIT

e County - My Neighborhood



http://bcgis.baltimorecountymd.gov/myneighborhood/

Petitioner
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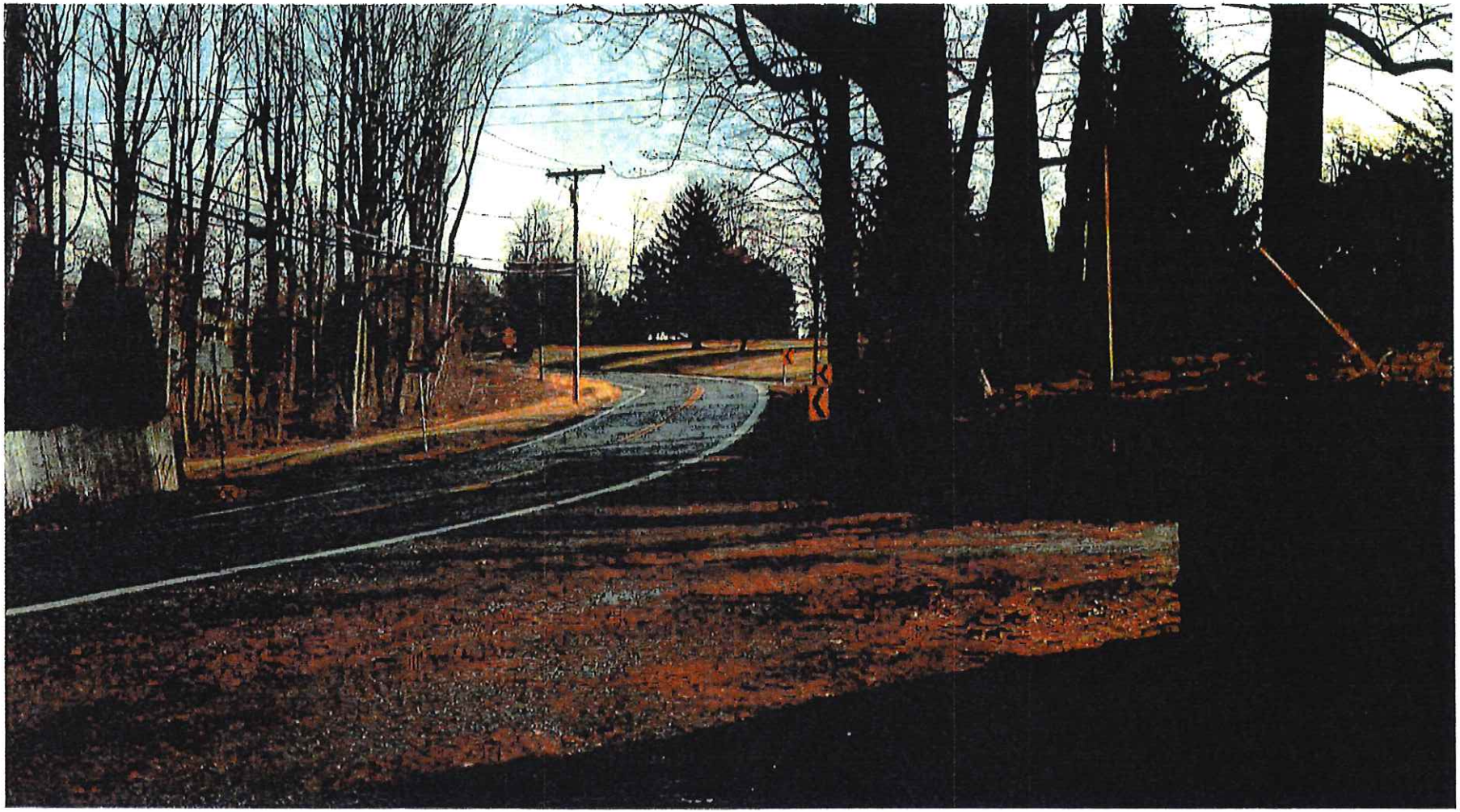

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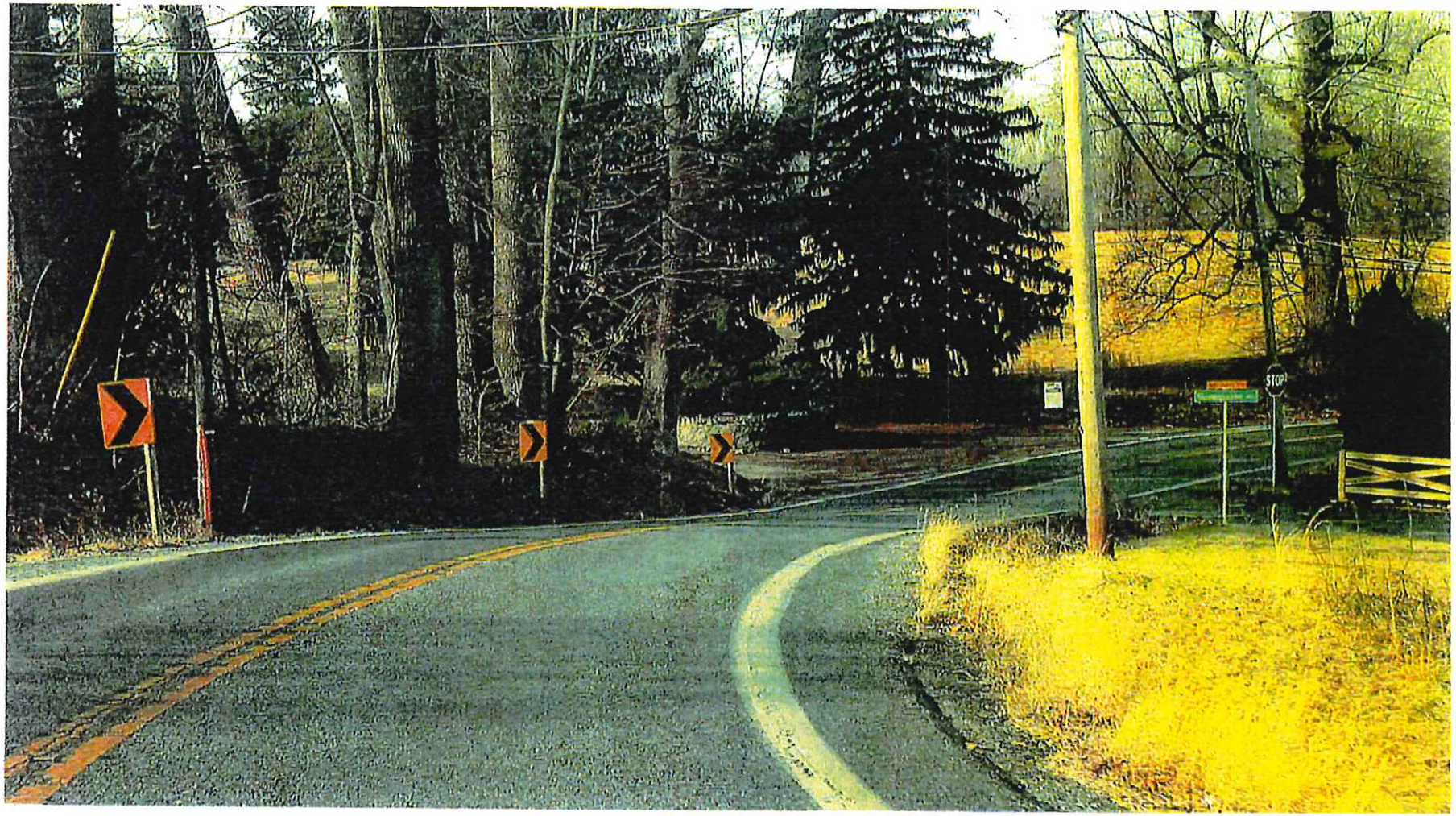

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Petitioner
CBA Exhibit
21

BALTIMORE COUNTY

DEPARTMENT OF ENVIRONMENTEAL PROTECTION AND SUSTAINABILITYP

Water Usage Summary

Property Address: 12231 Harford Road

Property Owner: NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE

Property Owner Address: 12231 Harford Road, Glen Arm, Maryland 21057

Registered Agent for the Corporation: Kris Ghimire, Address on Record –
5048 Springhouse Circle, Rosedale, Maryland 21237

Corporation's Principal Address - 8030 Belair Road, Ste. 200, Nottingham, Md. 21236

Representative for Owner: Kris Acharya – Board Member for Nepali American
Cultural Center of Baltimore,
Phone number - 410-720-2031
Email – kris@mounteverestconstruction.com

Operator Name: - There is no operator for the site – it will be used exclusively for members of the congregation and there will be no tenants or leases on or for the property.

Name of Person Completing this Form: Rob Powell,
Phone Number 443-900-3169,
Email address "robpowell781@verizon.net"

Affiliation with Property: Consultant for Owner

By signing below, I certify that the information submitted below is accurate and true to the best of my knowledge.

Signature:

Date:

1. Provide a detailed description of the type of facility to be served by private well and/or OSDS. Include the hours of operation, number of employees (part-time and full time). If

a food service facility, include the number of seats, and an interior floor plan of the facility. For churches and banquet halls, include the frequently and number of services or special events. For existing facilities, explain proposed changes as they affect capacity.

THE FACILITY is sited on a 30.8-acre tract of land on the east side of Harford Road, south of Mount Vista Road intersection. The Bonaparte Mansion is located on this property along with several other out buildings and a three-bedroom dwelling. This property is listed in the Maryland Inventory of Historic Properties (BA-539) and is known as the "Bella Vista" site. None of the buildings are currently occupied and have been vacant for a period of at least 4-5 years according to the current owner's representative. The structure has 5 bedrooms upstairs (second level) and 2 ½ baths. The lower level (first floor) has the hall, two bedrooms, 1 ½ baths and a kitchen (residential)

THE MANSION structure will be used solely for religious worship and related activities. The congregation currently has 800 – 900 members with the membership coming from the general tri-state area. The first floor will be used for worship activities that will take place in the hall and the two former bedrooms (one in the front and one in the rear of the structure). A floor plan is provided for further clarification. The "Hall" (as it is noted on the floor plan) will be used as a Prayer Room and will have multiple Deity's in the room for those worshiping. An attached photo is provided depicting examples. Similar Deity's or prayer stations will be provided in the other two rooms on the first floor. The temple will be open during the week and weekends from approximately 9am to 5 pm. Members of the congregation coming to pray or worship will normally be there for anywhere from 10 – 30 minutes. It is anticipated that during the week days, approximately 10-15 people will visit the site for worship, meditation and prayer. During the weekend, the number of those worshipping would increase to approximately 30 members.

The second floor of the structure will be used as an office for the Priest and one office for a secretary/administrator. Another of the rooms upstairs will be used for meetings for the Board of Trustees, who generally meet once/month. The kitchen has residential equipment in it (double oven, stove top in an island and a refrigerator. The kitchen will be used sporadically by the staff member and the Priest. No food or alcohol will be served in the Mansion as it is to be used as a place of worship only. The Hall/Prayer Room will be used exclusively for worship only. No part of the Mansion will be rented out for parties/social events; either for members or non-members. Members may use the Prayer Room for a wedding ceremony and blessing by the Priest (which may take up to 2-3 hours) but the celebration afterwards will take place at another venue off site. There

will be no seating in the prayer room, even for weddings. The wedding is usually attended by the Priest, bride, groom and a small group of close family. Others will be at the wedding but will not be in the building all of the time. Maximum number of those on the property for the wedding will not exceed 100 persons.

TENANT DWELLING has three-bedrooms and is currently vacant. This structure will be used for housing the Priest and his wife. It will not be rented out to others.

OUT BUILDINGS AND OTHER ANCILLARY STRUCTURES – There is a barn located on the lower portion of the property. No use is currently planned for this structure. There is also an in-ground swimming pool and a pool house; both of which are in poor condition. Neither of these structures are to be used.

THE OUTSIDE GROUNDS/PROPERTY – It is anticipated there will be 3-4 outside festivals during any given year; such festivals to be held outside, generally in the front of the Mansion. Those attending the festivals will not be permitted to use the restrooms in the Mansion, hence portable facilities will be rented for the occasions. Food will be served during those events; provided by members bringing their own prepared dishes from home and possibly some vendors providing food. There will be no food preparation, warming or cleaning of dishes in the kitchen inside the Mansion. All utensils and cookware will be taken from the site at the conclusion of the event. It is anticipated that plates, cups and eating utensils will be single service items. The outside festivals that will be held during the year are as follows:

- **HOLI** – is generally held on the day after the full moon in early March. It is called the "Festival of Color" and is held outside. Food will be served (preparation and cleaning as noted above) and it is anticipated the attendance would be between 100-200 people. Portable outside restroom facilities will be provided for the guests
- **SUMMER FESTIVAL** – is just what it says. It will be held sometime during the summer months, during a weekend and food will be served. It is expected that 100-200 people would be in attendance. Portable outside bathroom facilities will be provided and there will be no kitchen use as previously noted.
- **DASHINI** – is the biggest event of the year. It occurs mid-October and is a 10-day festival. The last 3 days of the festival will see increased usage of the Mansion with as many as 50 members coming for prayer or worship. The last day of the festival will bring approximately 200 people to the event. Snacks and drinks (no alcohol) will be served with some snacks

being provided by members; however, there will be no vendors providing food nor will there be cooked food provided onsite. As before, portable outside restroom facilities will be provided.

- **DIWALI** – is a "Festival of Lights" that is observed for 5 days, culminating if an evening gathering onsite. It is expected that 100-200 people would be in attendance; with no food being served and as before, outside portable restroom facilities being provided.

2. Provide an estimate of the projected peak daily water usage that will discharge to the OSDS. Sewage flows must be justified through actual water meter information or based on MDE and/or US EPA wastewater flow estimates. Water meter information must include daily readings collected over a 2-month consecutive period inclusive of the months of maximum water usage. If cooling water from ice machines is directed to OSDS, estimate the volume from this source separately. Attach documentation as needed.
    a. **TENANT DWELLING** – is a three-bedroom dwelling and although only the Priest and his wife will be residing there, the peak anticipated sewage flow in accordance with MDE regulations would be 150 gal./bedroom/day for a total peak daily design flow of 450 gpd. The existing septic system serving the structure is a metal septic tank (collapsed) and an unknown field component. A new sewage disposal system is planned to be installed for the dwelling and at that time, the existing septic system component will be located and properly abandoned and backfilled.
    b. **MANSION** – All of the outdoor festivals will not entail usage of either the kitchen for food preparation or cleanup nor will the bathroom facilities (1 ½ baths for the first floor) be used by those attending the outside festivals. Consequently, the highest usage would entail the following scenario:
        i. A wedding would be held in the prayer room – 2-3 hours max with no food or drinks served. Anticipated maximum number of people attending would be 100 persons although as stated before, not all will be in the prayer room during the service. MDE Guidelines for Waste Water Flows for Use in Designing On-Site Systems specifies 3 gal./seat/day for a church/assembly hall with no food service. This would provide for a flow of 300 gpd.
        ii. Staff present during the day – Priest and secretary/administrator. MDE Guidelines noted previously specifies 15 gal./person/day for workplaces; thus, providing for a flow of 30 gpd.

iii. Meeting of the Board of Trustees – assume 10 people with an assigned flow of 3 gal./person/day = 30 gpd.
iv. The maximum total flow to be generated by the facility would then be calculated as follows: 300 gpd (wedding) + 30 gpd (staff) + 30 gpd (meeting) = 360 gpd.
v. MDE regulations COMAR 26.04.02.05J stipulates a minimum flow from a non-residential usage of 400 gpd.
vi. In consideration of the unforeseen possibility of additional meetings and/or staffing arising in the future, the congregation is proposing/requesting that the design flow of the sewage disposal system be 700 gpd.

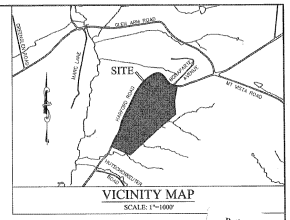
The exact location of the septic system for the Mansion is unknown at this time however, given the age of the system, the congregation desires to install a new sewage disposal system and to abandon and backfill the existing one.

3. Provide the number of wells and construction of each well serving the property. Include well tag numbers, total depth, casing depth and well yield information. Show the location of each well on a site plan along with the location of water lines outside of the building.

   To the best of our knowledge, there is one well, drilled and located in a pit adjacent to the swimming pool. This well is to be abandoned, backfilled and a new well drilled.

4. Provide a description of the water treatment devices that are installed on the water supply (e.g., neutralizer, softener, reverse osmosis, ultraviolet light, etc.). Include documentation for the most recent water quality tests for bacteria, nitrates and any other water monitoring results that may be viable.

   When the proposed replacement water well is drilled, it will be sampled as noted above. Results of the tests will dictate the need for additional water treatment.



VICINITY MAP
SCALE: 1"=1000'

Petitioner CBA Exhibit 22

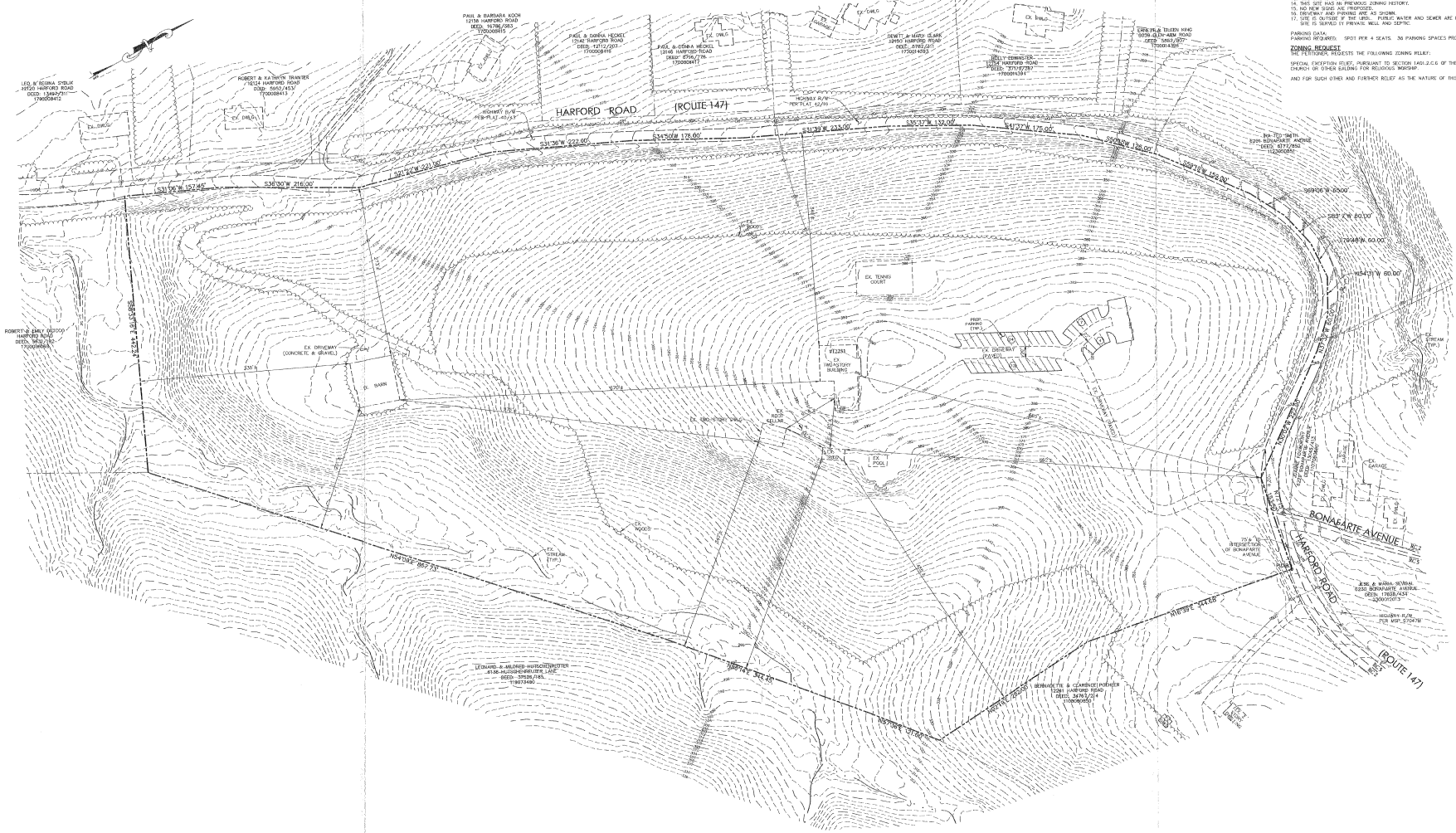
PROPERTY INFORMATION
1. OWNER:
NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE
12231 HARFORD ROAD
GLEN ARM, MD 21057
2. TAX ACCOUNT #: 1700018067
3. DEED REF: 38868/452
4. SITE AREA: 3.00 AC. (1,141,648 S.F.)
5. EXISTING ZONING: RC
6. ZONING MAP: 05-B2 & 05-B3
7. ELECTION DISTRICT: 11 COUNCILMANIC DISTRICT: 5
8. THIS SITE HAS 04 KNOWN PREVIOUS COMMERCIAL PERMITS.
9. THIS SITE IS NOT LOCATED WITHIN ANY DEFICIENT AREAS BASED ON THE 2017 WATER, SEWER, AND TRANSPORTATION BASIC SERVICES MAPS, PURSUANT TO SECTION 4A02.
10. NO KNOWN 100 YEAR FLOODPLAINS ARE LOCATED ON THE SITE (FEMA MAP 4001600289F).
11. THIS SITE IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA (CBCA).
12. THIS SITE IS LISTED ON MARYLAND HISTORICAL TRUST PROPERTIES AS BA-539, BELLA VISTA FARM. BELLA VISTA FARM, BA-539A, KNOWN AS THE "BELLA VISTA BARN".
13. THIS SITE IS NOT LOCATED WITHIN ANY HISTORICAL DISTRICT.
14. THIS SITE HAS NO PREVIOUS ZONING HISTORY.
15. NO NEW SIGNS ARE PROPOSED.
16. DRIVEWAY AND PARKING ARE AS SHOWN.
17. SITE IS OUTSIDE 'B' THE UBDL. PUBLIC WATER AND SEWER ARE NOT AVAILABLE. THE SITE IS SERVED BY PRIVATE WELL AND SEPTIC.

PARKING DATA:
PARKING REQUIRED: SPOT PER 4 SEATS. 38 PARKING SPACES PROVIDED.

ZONING REQUEST
THE PETITIONER REQUESTS THE FOLLOWING ZONING RELIEF:

SPECIAL EXCEPTION RELIEF, PURSUANT TO SECTION 1A01.2.C.6 OF THE BCZR TO ALLOW A CHURCH OR OTHER BUILDING FOR RELIGIOUS WORSHIP.

AND FOR SUCH OTHER AND FURTHER RELIEF AS THE NATURE OF THIS CAUSE MAY REQUIRE.


HARFORD ROAD (ROUTE 147)
BONAPARTE AVENUE
HARFORD ROAD (ROUTE 147)
PAUL & BARBARA KOCH 12136 HARFORD ROAD DEED: 16786/283 1700008915
PAUL & DONNA HECKEL 12140 HARFORD ROAD DEED: 12112/207 1700008416
PAUL & DONNA HECKEL 12146 HARFORD ROAD DEED: 8796/278 1700008417
DEWITT & MARY CLARK 12150 HARFORD ROAD DEED: 8782/481 1700014353
HOLLY HENNESSY & MICHAEL HOFFMAN DEED: 37192/257 1700011397
CHRIS M. & TRUDY KING 12039 GLEN ARM ROAD DEED: 5665/277 1700014356
LEO, III & REGINA SYDLIK 12120 HARFORD ROAD DEED: 13449/311 1700009412
ROBERT & KATHRYN TRAMTER 12124 HARFORD ROAD DEED: 5652/453 1700008413
ROBERT & EMILY NOTOO HARFORD ROAD DEED: 5632/185 1700008814
LEONARD & MILDRED HUTSCHENREITER 4136 HUSSEHENREITER LANE DEED: 37529/185 1700013466
BERNADETTE & CAMBRIDGE HEIMER 12041 HARFORD ROAD DEED: 34767/214 1700008911
BA TO 38TH 5206 BONAPARTE AVENUE DEED: 8717/352 1123400851
JOSE & MARIA SERRAN 5250 BONAPARTE AVENUE DEED: 17628/453 2000013013
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S30°30'W 216.00'
S30°27'W 221.00'
S31°36'W 222.00'
S34°50'W 176.00'
S31°39'W 233.00'
S35°37'W 139.00'
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N35°06'E 344.68'
N35°06'E 394.16'
N40°53'E 260.00'
N35°06'E 297.85'
EX. DRIVEWAY (CONCRETE & GRAVEL)
EX. BARN
EX. TENNIS COURT
PROP. PARKING (TYP.)
EX. DRIVE WAY (PAVED)
#12231 EX. 2 HIGH STORY BUILDING
EX. BRICK STONE WALL
EX. ROOT CELLAR
EX. SHED
EX. POOL
EX. WOODS
EX. STREAM (TYP.)
EX. GARAGE
EX. STREAM (TYP.)
EX. 2 STORY BRICK HOUSE
EX. 1 STORY BRICK HOUSE
EX. SHED
EX. GARAGE
EX. SHED
EX. SHED
EX. SHED

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 36568, p. 0389, MSA_CE62_36424. Date available 08/28/2015. Printed 09/12/2018.

SHA 63.11-27 3/1/90

Mailing Address:
Records and Research Section
707 North Calvert Street
Baltimore, Maryland 21202

DEED

TO
THE STATE OF MARYLAND
TO THE USE OF
STATE HIGHWAY ADMINISTRATION
OF THE
MARYLAND DEPARTMENT OF
TRANSPORTATION

Right of Way Item No. 105130

SHA Contract No. BA465A31

THIS DEED made this 11th day of August in the year 2015

From **KEVIN J. MCFALLS** and **JENNIFER L. MCFALLS,** his wife, Grantors, unto the STATE OF MARYLAND to the use of the STATE HIGHWAY ADMINISTRATION OF THE MARYLAND DEPARTMENT OF TRANSPORTATION, Grantee.

WHEREAS, the State Highway Administration of the Department of Transportation, acting for and on behalf of the State of Maryland, finds it necessary to acquire certain land, easements, rights and/or controls, in order to lay out, open, establish, construct, extend, widen, straighten, grade and improve as a part of the State Roads System of Maryland, a highway and/or bridge, together with the appurtenances thereto belonging, under its Contract Number BA4655187 and known as MD 147 (Harford Road) at Glen Arm Road/Mt. Vista Road Roundabout and to thereafter use, maintain and/or further improve said highway and/or bridge, as a part of the Maryland State Roads System; and

WHEREAS, the total payment per §10-912(b) of the Tax-General Article of the Annotated Code of Maryland is Five Hundred Fifty Thousand and 00/100 Dollars ($550,000.00); and

WHEREAS, the undersigned certify under the penalties of perjury that the following is true to the best of their knowledge, information and belief, that in accordance with §10-912(d)(1)(i) of the Tax-General Article of the Annotated Code of Maryland, they are residents of the State of Maryland.

WITNESSETH: That for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration paid by Grantee unto Grantors, the receipt whereof is hereby acknowledged, said Grantors do hereby give, grant, bargain and sell, release, convey and confirm unto the STATE OF MARYLAND TO THE USE OF THE STATE HIGHWAY ADMINISTRATION OF THE MARYLAND DEPARTMENT OF TRANSPORTATION, its successors and assigns, forever in fee simple,

ALL that lot or parcel of land, situate, lying and being in Baltimore County, Maryland, and being more particularly described as follows:

> BEGINNING FOR THE SAME at the center of Glen Arm Road with the northern right-of-way line of Maryland Route 147 (Harford Road - RW Plat No. 00-019-2); thence binding on said Right-of-way line (1) South 75 degrees 04 minutes 35 seconds West 76.87 feet and (2) South 68 degrees 49 minutes 32 seconds West 265.82 feet; thence binding on lot one of Bonaparte Acres (Baltimore County Minor Subdivision Project No. 97047M) (3) North 47 degrees 01 minutes 06 seconds West 282.70 feet to the right-of-way for Bonaparte Avenue (RW Plat No. 00-0190-3); thence binding on the right-of-way line of said Bonaparte Avenue the following four courses, viz: (4) North 44 degrees 02 minutes 30 seconds East, 34.30 feet (5) North 30 degrees 39 minutes 10 seconds East 65.91 feet; (6) South 64 degrees 04 minutes 12 seconds East 52.92 feet and (7) North 25 degrees 55 minutes 48 seconds East 50.00 feet; thence binding on lot three of said Bonaparte Acres (8)

REVIEWED SDAT
BY N. Crittiker DATE 8/21/15

Petitioner
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23

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 36568, p. 0390, MSA_CE62_36424. Date available 08/28/2015. Printed 09/12/2018.

South 67 degrees 23 minutes 00 seconds East 433.97 feet to the center of aforesaid Glen Arm Road; thence binding on said Glen Arm Road (9) South 06 degrees 17 minutes 29 seconds East 13.30 feet to the place of beginning, containing 1.772 acres of land, more or less. ALSO BEING KNOWN AND DESIGNATED as Lot No. 2, as shown on a Minor Subdivision Plat entitled, "MINOR SUBDIVISION PLAT, BONAPARTE ACRES," which said Minor Subdivision Plat is recorded with a Deed dated May 18, 2001 and recorded among the Land Records of Baltimore County, Maryland in Liber S.M. No. 0015311, folio 211. The improvements thereon being known as 6226 Bonaparte Avenue.

BEING ALL of the same property conveyed by a deed dated January 13, 2004 and recorded among the Land Records of Baltimore County, Maryland, in Liber No. 19792, folio 468, from Glen Arm Homes, L.L.C. unto Kevin J. McFalls and Jennifer L. McFalls.

TOGETHER with the buildings and improvements thereupon erected, made or being and all and every right, roads, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or anywise appertaining.

TO HAVE AND TO HOLD the land and premises above described and mentioned, and hereby intended to be conveyed, unto the proper use and benefit of the STATE OF MARYLAND TO THE USE OF THE STATE HIGHWAY ADMINISTRATION OF THE MARYLAND DEPARTMENT OF TRANSPORTATION, its successors and assigns, forever in fee simple.

AND Grantors covenant that they have neither done, nor suffered to be done, anything to encumber the property hereby conveyed and that they will execute such and further assurances of the same as may be requisite and will specially warrant the herein conveyed property.

The actual consideration paid by the Grantee unto Grantors is Five Hundred Fifty Thousand and 00/100 Dollars ($550,000.00).

IN WITNESS WHEREOF Grantors have hereunto set their hands and seals.

WITNESS _____ _____(Seal)
KEVIN J. MCFALLS

WITNESS _____ _____(Seal)
JENNIFER L. MCFALLS

STATE OF MARYLAND - COUNTY OF BALTIMORE

I hereby certify that, before me, the subscriber, a NOTARY PUBLIC of the STATE OF MARYLAND, in and for CARROLL County, personally appeared **Kevin J. McFalls** and **Jennifer L. McFalls**, his wife, known to me (or satisfactorily proven) to be the persons whose names appear herein and acknowledged the foregoing deed to be their act.

AS WITNESS MY HAND AND NOTARIAL SEAL this 11TH day of AUGUST in the year 2015

Roy Lee Lambert (Seal)
Notary Public

ROY LEE LAMBERT
CARROLL COUNTY MARYLAND
NOTARY PUBLIC

My Commission Expires: 6-7-2017

Return Recorded Deed to:
Chief, Records and Research
State Highway Administration
707 North Calvert Street
Baltimore, Maryland 21202

I HEREBY CERTIFY that this instrument was prepared under my supervision, an attorney admitted to practice by the Court of Appeals of Maryland.

Felicia Jackson Taylor
Assistant Attorney General

As a transfer of property to an agency of the State of Maryland, this instrument is not subject to recordation tax (pursuant to §12-108(a) of the Tax-Property Article of the Annotated Code of Maryland) and transfer tax (pursuant to §13-207(a)(1) of the Tax-Property Article of the Annotated Code of Maryland).

This instrument is being presented for recording by, or on behalf of, an agency of the State of Maryland, which is a party to this instrument. Therefore, for the reasons described in a letter from the Office of the Attorney General dated December 21, 2001, this instrument is to be recorded without charge for the recording fee and Real Property Records Improvement Fund surcharge which would otherwise be due pursuant to §3-601 of the Real Property Article and §13-604 of the Courts and Judicial Proceedings Article, respectively, of the Annotated Code of Maryland.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 36568, p. 0391, MSA_CE62_36424. Date available 08/28/2015. Printed 09/12/2018.

BOOK: 36568 PAGE: 392

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☒ County: Baltimore

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.)

(Type or Print in Black Ink Only—All Copies Must Be Legible)

Space Reserved for Circuit Court Clerk Recording Validation

LE 0001
AUG 21, 2015 11:56 am

1 Type(s) of Instruments (☐ Check Box if addendum Intake Form is Attached.)

☒ Deed	☐ Mortgage	☐ Other ____	☐ Other ____
☐ Deed or Trust	☐ Lease		

2 Conveyance Type Check Box

☐ Improved Sale Arms-Length [1]	☐ Unimproved Sale Arms-Length [2]	☐ Multiple Accounts Arms-Length [3]	☐ ~~Not an~~ Arms-Length Sale [9]

3 Tax Exemptions (if Applicable) Cite or Explain Authority

Recordation	State Government
State Transfer	
County Transfer	Renewed and will Change assessment.

4 Consideration and Tax Calculations

Consideration Amount		Finance Office Use Only — Transfer and Recordation Tax Consideration	
Purchase Price/Consideration	$ 550,000	Transfer Tax Consideration	$
Any New Mortgage	$	X ( ) % =	$
Balance of Existing Mortgage	$	Less Exemption Amount –	$
Other:	$	Total Transfer Tax =	$
Other:	$	Recordation Tax Consideration	$
		X ( ) per $500 =	$
Full Cash Value:	$ 550,000	TOTAL DUE	$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$	$
Surcharge	$	$
State Recordation Tax	$	$
State Transfer Tax	$	$
County Transfer Tax	$	$
Other	$	$
Other	$	$

Agent: [redacted] BP
Tax Bill: SAPO
C.B. Credit: —
Ag. Tax/Other: N—

6 Description of Property SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
11	23000/204	19792/468	54	607	☐ (5)

Subdivision Name	Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.	SqFt/Acreage (4)

Location/Address of Property Being Conveyed (2): 6228 Bonaparte Ave Glen Arm MD 21057

Other Property Identifiers (If applicable): | Water Meter Account No.:

Residential ☒ or Non-Residential ☐ | Fee Simple ☒ or Ground Rent ☐ Amount:

Partial Conveyance? ☐ Yes ☒ No | Description/Amt. of SqFt/Acreage Transferred:

If Partial Conveyance, List Improvements Conveyed:

7 Transferred From

Doc. 1 - Grantor(s) Name(s)	Doc. 2 - Grantor(s) Name(s)
Kevin J. McFalls	Jennifer L. McFalls
Doc. 1 - Owner(s) of Record, If Different from Grantor(s)	**Doc. 2 - Owner(s) of Record, If Different from Grantor(s)**

8 Transferred To

Doc. 1 - Grantee(s) Name(s)	Doc. 2 - Grantee(s) Name(s)
State Highway Administration	

New Owner's (Grantee) Mailing Address: 320 West Warren Rd Hunt Valley MD 21030

9 Other Names to Be Indexed

Doc. 1 - Additional Names to be Indexed (Optional)	Doc 2 - Additional Names to be Indexed (Optional)
3	

10 Contact/Mail Information

Instrument Submitted By or Contact Person

Name: Clara Robinson-El
Firm MD State Highway Administration
Address: 320 W. Warren Rd
Hunt Valley MD 21030 Phone: (410) 229-2404

☐ Return to Contact Person
☐ Hold for Pickup
☐ Return Address Provided

11 IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

Assessment Information

☐ Yes ☒ No Will the property being conveyed be the grantee's principal residence?
☐ Yes ☒ No Does transfer include personal property? If yes, identify: ____
☒ Yes ☐ No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Space Reserved for County Validation

Assessment Use Only - Do Not Write Below This Line

☐ Terminal Verification ☐ Agricultural Verification ☐ Whole ☐ Part ☐ Tran. Process Verification

Transfer Number: Date Received: Deed Reference: Assigned Property No.:

Year	20	20	Geo.	Map	Sub	Block
Land			Zoning	Grid	Plat	Lot
Buildings			Use	Parcel	Section	Occ. Cd.
Total			Town Cd.	Ex. Sl.	Ex. Cd.	

REMARKS:

Department of Budget & Finance
BALTIMORE COUNTY, MARYLAND

☒ COUNTY TRANSFER TAX Per Exempt Sec 33-139

☒ RECORDATION TAX Per Exempt

T.P. ART 12-105

Date 8-21-15

Distribution: White - Clerk's Office; Canary - SDAT; Pink - Office of Finance; Goldenrod - Preparer
AOC-CC-300 (6/95)

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 36568, p. 0392, MSA_CE62_36424. Date available 08/28/2015. Printed 09/12/2018.

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24

Real Property Data Search (w1)

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Tax Exempt: **Special Tax Recapture:**
Exempt Class: NONE

Account Identifier: **District -** 11 **Account Number -** 2300012014

Owner Information

Owner Name:	STATE HIGHWAY ADMINISTRATION OF MARYLAND DEPARTMENT OF TRANSPORTATION	**Use:** **Principal Residence:**	EXEMPT NO
Mailing Address:	320 WEST WARREN RD HUNT VALLEY MD 21030-	**Deed Reference:**	/36568/ 00389

Location & Structure Information

Premises Address:	6226 BONAPARTE AVE GLEN ARM 21057-	**Legal Description:**	1.772 AC 6226 BONAPARTE AVE SS 400 FT NE HARFORD RD

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	MS
0054	0015	0607		0000			2	2018	Plat Ref:	

Special Tax Areas: **Town:** NONE
Ad Valorem:
Tax Class:

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
2002	3,249 SF		1.7700 AC	01

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
2	YES	STANDARD UNIT	SIDING	2 full/ 1 half	1 Attached	

Value Information

	Base Value	Value As of 01/01/2018	Phase-in Assessments As of 07/01/2018	As of 07/01/2019
Land:	125,100	125,100		
Improvements	360,700	425,500		
Total:	485,800	550,600	507,400	529,000
Preferential Land:	0			0

Transfer Information

Seller: MCFALLS KEVIN J	**Date:** 08/21/2015	**Price:** $550,000
Type: ARMS LENGTH IMPROVED	**Deed1:** /36568/ 00389	**Deed2:**
Seller: GLEN ARM HOMES LLC	**Date:** 03/25/2004	**Price:** $440,000
Type: ARMS LENGTH IMPROVED	**Deed1:** /19792/ 00468	**Deed2:**
Seller: RIVERWATCH LLC	**Date:** 09/19/2001	**Price:** $125,000
Type: ARMS LENGTH VACANT	**Deed1:** /15577/ 00626	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2018	07/01/2019
County:	310	507,400.00	529,000.00
State:	310	507,400.00	529,000.00
Municipal:	310	0.00|0.00	0.00|0.00

Tax Exempt: **Special Tax Recapture:**
Exempt Class: NONE

Petition No 25

DONALD I. MOHLER III
County Executive

VINCENT J. GARDINA, *Director*
Department of Environmental Protection and Sustainability

October 3, 2018

Mr. Craig Rodgers
CRAIG CONSULTANTS LLC
7024 GREENBANK RD
BALTIMORE MD 21220

RE: Bonaparte Estates, 12231 Harford Road, Election District - 11

Dear Mr. Rodgers,

A representative of this office, Mia L. L. Lowery, L.E.H.S., conducted soil evaluations on 09/18/2018 regarding the above-referenced lot(s).

Based on the soil evaluations and the designated Master Plan dated 09/18/2018, **APPROVAL** will be granted for the installation of a private onsite sewage disposal system (OSDS) for the lot(s) specified above. Soil percolation tests will be ***valid for a period of five (5) years from the date of this letter, approval letter or record plat, whichever is most recent.*** At the expiration of this period of time, the results will become **VOID** and revalidation of this approval must be obtained in writing from the Approving Authority.

It should be noted, that septic reserve area(s) are depicted on the Master Plan for the installation of an initial OSDS and future repairs. Under no circumstance shall any easements, rights-of-way, buildings, any other permanent or physical structures above or below ground, be permitted within this area and it may not be disturbed by earth moving, compaction, tree removal or grading. Also, no underground electric lines, water pipes, gas lines, etc., shall be permitted in the septic reserve area.

Petitioner
CBA Exhibit
25

The following are comments that concern persons developing property:

- Where water wells are to be used as a source of water supply, the Baltimore County Code, (Title 35, Article 2, Sec. 35-41), requires that a well meeting the minimum recovery rate of one gallon per minute be drilled prior to issuance of a building permit.

- Water well yield test reports shall be valid for a period of three years from the date of the yield test. At the expiration of that period of time, a retest must be performed and the report submitted to this office prior to issuance of a building permit.

- In order to subdivide this property, the owner or developer will be required to comply with the subdivision regulations of the State of Maryland and Baltimore County. **PLEASE NOTE**: For subdivisions of 11 or more lots a Water Appropriation Permit application must be submitted for review. This permit must then be issued by the Maryland Department of the Environment, Water Management Administration before final approval of the subdivision. Questions regarding the subdivision process should be directed to the Development Coordination Section of DEPS at 410-887-5859.

Attached is a copy of the soil evaluation data for the above-referenced lots. If you have any questions regarding this matter, please contact me at 410-887-2762, or via email at mlowery@baltimorecountymd.gov.

Sincerely,

Mia Lowery

Mia L. Lowery, L.E.H.S.
Supervisor, Soil Evaluation Program
Ground Water Management

attachments

S:\EPS/GWM\GWM TEMPLATES\Approval Letters-without BAT\Bonaparte Estates,Harford Rd.,12231,10-3-18.doc

Baltimore County Department of Environmental Protection and Sustainability

Soil Percolation Test Results

Subdivision Name NEPALI AMER CULTURAL CENTER OF BALT
Address: 12231 HARFORD RD, GLEN ARM, MD 21057
Location Description: EAST SIDE, 1/4 MILE SOUTH OF MOUNT VISTA (21E9)

Facility Type Private
District: 11
Tax ID: 1700006067

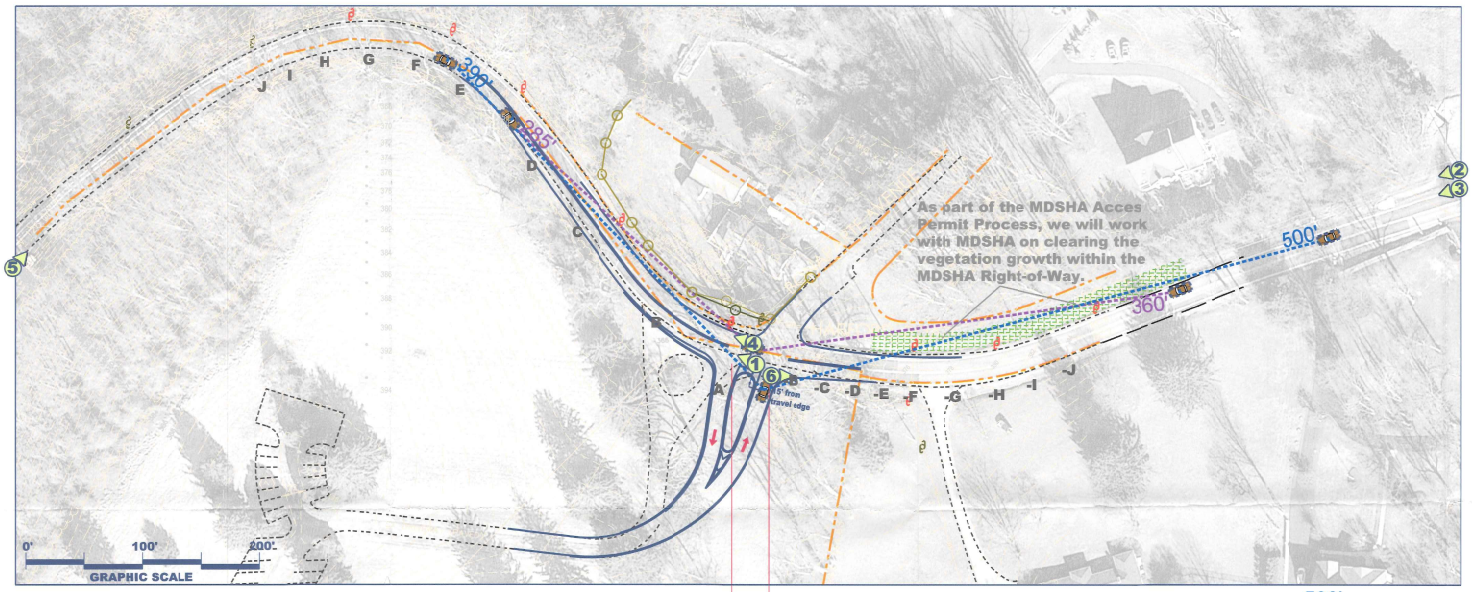
Lot #	Perc Hole	Test Date	Inspector	Depth (ft.)	Infiltration Rate (min.)	Soil Profile	Comments
	A	09/18/2018	Mia Lowery	2ft.	4	CLAY 0-2', LRS 2'-10', ROCK	LRS= LOCH RAVEN SCHIST
	B	09/18/2018	Mia Lowery			CLAY/ROCK 0-5.5', ROCK	
	C	09/18/2018	Mia Lowery	3ft.	7	CLAY 0-3', LRS 3'-12', ROCK	
	D	09/18/2018	Mia Lowery		7	CLAY 0-3', LRS 3'-10.5', ROCK	
	E	09/18/2018	Mia Lowery		7	CLAY 0-2', LRS 2'-11', ROCK	
	F	09/18/2018	Mia Lowery			CLAY 0-6', LRS 6'-9', ROCK	

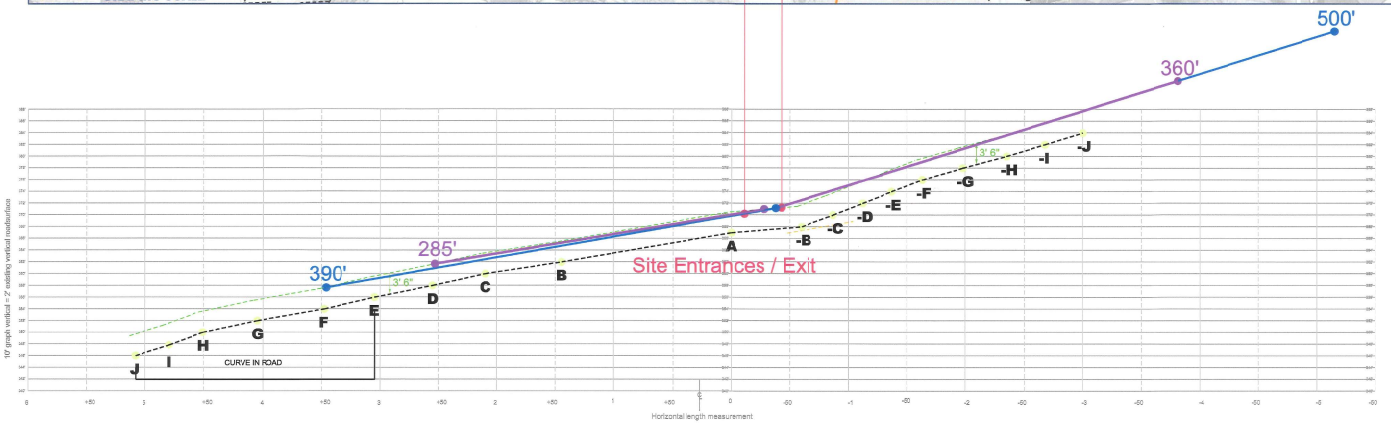
Overall Comments: THERE ARE 2 EXISTING WELL TO BE ABANDONED. THE MAIN STRUCTURE AND TENANT HOUSE WILL SHARE A SEPTIC SYSTEM WITH 2 SEPARATE TANKS BASED ON 1200 GPD. EXISTING SEPTIC SYSTEM FOR MAIN HOUSE IS NEAR EXISTING BARN.

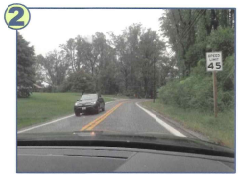
Total Number of Perc Holes: 6

Pet No 26

Petitioner
CBA Exhibit
26







NORTH

Sight Distance

#12231 Harford Road ALJ Decision (Nepali Temple)

The Traffic Group, Inc.

MARYLAND DEPARTMENT
OF TRANSPORTATION

STATE HIGHWAY
ADMINISTRATION

Larry Hogan
Governor

Boyd K. Rutherford
Lt. Governor

Pete K. Rahn
Secretary

Gregory Slater
Administrator

Pet. No 27

October 9, 2018

Mr. Joseph J. Caloggero, P.E., PTOE, PTP
The Traffic Group, Inc.
9900 Franklin Square Drive
Suite H
Baltimore, MD 21236

Dear Mr. Caloggero:

Thank you for the opportunity to review the trip description and concept plan for a new access to the proposed Nepali Temple on the property at 12231 Harford Road (MD 147) located on the east side of MD 147 south of Mt. Vista Road in Baltimore County. The Maryland Department of Transportation State Highway Administration (MDOT SHA) has reviewed the submittal listed below and is pleased to respond.

Nepali Temple - 12231 Harford Road
Trip Description & Concept Plan for new access
SHA Tracking No. 17APBA030XX
MD 147 (east side) 1000' south of Mt. Vista Road
Mile Post 8.10
Baltimore County

Based on the information mentioned above, and the field meeting that occurred on September 20, 2018, the MDOT SHA grants conceptual approval of the proposed access as depicted on the concept plan. An access permit will be required to construct this re-located entrance and all access related improvements taking place within the MDOT SHA right-of-way on MD 147.

To initiate the plan review cycle toward the issuance of the access permit the design engineer must submit nine (9) sets of plans reflecting the re-located entrance and related road improvements on MD 147. The plan submittal should include 1 set of hydraulic computations, and a CD containing plans and all supporting documentation to Wendy Wolcott at 320 West Warren Road, Hunt Valley, MD 21030 to the attention of Mr. Richard Zeller. Please utilize the SHA tracking number when making this submission.

All SHA Policies, Standards and Specifications must be followed when preparing the above plan submittal including but not limited to the following documents:

MDOT SHA Access Manual
MDOT SHA Business Standards and Specifications
MDOT SHA Bicycle Policy and Design Guidelines
MDOT SHA Accessibility Policy and Guidelines for Pedestrian Facilities

Petitioner
CBA Exhibit
27

The Access Management Plan Review Checklist must be utilized in drafting the SHA Improvement Plans. Please include a copy of the completed checklist when making this submittal. All of these documents along with additional guidance can be found on our web site at www.roads.maryland.gov under Business Center.

If there are any questions, please contact Mr. Richard Zeller at 410-229-2332 or toll free (in Maryland only), 1-866-998-0367 (x2332) or by email at (rzeller@sha.state.md.us).

Sincerely,

Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

cc: Little & Associates, Inc. / 1055 Taylor Avenue, Suite 307, Towson, MD 21286
Nepali American Cultural Center of Baltimore / 12231 Harford Road
Glen Arm, MD 21057
Mr. Jan M. Cook / 111 W. Chesapeake Avenue, Towson, MD 21204
Mr. Vishnu Desai / 111 W. Chesapeake Avenue, Towson, MD 21204
Mr. Donald Distance, SHA District 4 Traffic

Ref No 28

Joe Caloggero

From:	Joe Caloggero
Sent:	Tuesday, October 9, 2018 9:26 AM
To:	Erin Kuhn
Cc:	Richard Zeller; Donald Distance
Subject:	RE: Field Visit 7/16/2018
Attachments:	2018 MD 147 Southbound North of Bonaparte Avenue.pdf; 2018 MD 147 Northbound South of Bonaparte Avenue.pdf; Harford Rd SB 2.jpg; Harford Rd NB 1.jpg; Harford Rd SB 1.jpg; Harford Rd NB 2.jpg
Importance:	High

Hi Erin,

I wanted to share with you the results of our speed study that we conducted from 9/26 to 10/2/2018 and 10/3/2018... We captured over 16,000 cars in each direction during this time (about 1 week)... See attached for the results of the study. Attached are pictures of the location of the tubes. NB was captured toward the end of the turn before the existing access and SB was captured in the middle of the turn north of the access. Basically, the results are in line with the criteria for us to meet on the location of the Nepali Access...

- Minimum Intersection Sight Distance (ISD) for SB left turn to oncoming traffic of 285 feet, based on a speed of 35 mph
  - 85th Percentile Speed of 31 MPH
  - 95th Percentile Speed of 34 MPH

- Minimum Stopping Sight Distance (SSD) along SB MD 147 to stopped left turner of 360 feet, based on a speed of 45 mph
  - 85th Percentile Speed of 38 MPH
  - 95th Percentile Speed of 39 MPH

- Minimum ISD exiting driveway of 390 feet looking south, based on a speed of 35 mph
  - 85th Percentile Speed of 31 MPH
  - 95th Percentile Speed of 34 MPH

- Minimum ISD exiting driveway of 500 feet looking north, based on a speed of 45 mph
  - 85th Percentile Speed of 38 MPH
  - 95th Percentile Speed of 39 MPH

We hope you find this information helpful... let me know if you have any questions... Thanks!

Joe

From: Joe Caloggero
Sent: Wednesday, September 26, 2018 9:09 AM
To: 'Erin Kuhn' <EKuhn@sha.state.md.us>

Protestant
CBA Exhibit
28

MD 147 Northbound
South of Bonaparte Avenue
Baltimore County, Maryland

The Traffic Group, Inc.

(800) 583-8411
www.trafficgroup.com
Merging Innovation and Excellence

Northbound

Start Time	0 5	6 10	11 15	16 20	21 25	26 30	31 35	36 40	41 45	46 50	51 55	56 60	61 65	66 70	71 75	Total
09/26/18	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
01:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
02:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
03:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
04:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
05:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
06:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
07:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
08:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
09:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
10:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
11:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
12 PM	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
13:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
14:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
15:00	0	1	1	6	22	215	93	0	0	0	0	0	0	0	0	338
16:00	0	0	0	0	15	248	108	4	0	0	0	0	0	0	0	375
17:00	0	0	0	0	13	224	115	2	0	0	0	0	0	0	0	354
18:00	0	0	0	0	14	188	55	3	0	0	0	0	0	0	0	260
19:00	0	0	0	1	33	65	12	0	0	0	0	0	0	0	0	111
20:00	0	0	0	0	11	70	3	0	0	0	0	0	0	0	0	84
21:00	0	0	0	0	8	60	8	1	0	0	0	0	0	0	0	77
22:00	0	0	0	0	8	31	5	0	0	0	0	0	0	0	0	44
23:00	0	0	0	0	0	11	5	0	0	0	0	0	0	0	0	16
Total	0	1	1	7	124	1112	404	10	0	0	0	0	0	0	0	1659

MD 147 Northbound
South of Bonaparte Avenue
Baltimore County, Maryland

The Traffic Group, Inc.

(800) 583-8411
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Merging Innovation and Excellence

Northbound

Start Time	0 5	6 10	11 15	16 20	21 25	26 30	31 35	36 40	41 45	46 50	51 55	56 60	61 65	66 70	71 75	Total
09/27/18	0	0	0	0	0	5	0	0	0	0	0	0	0	0	0	5
01:00	0	0	0	0	2	2	1	0	0	0	0	0	0	0	0	5
02:00	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	2
03:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
04:00	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	1
05:00	0	0	0	0	1	11	4	1	0	0	0	0	0	0	0	17
06:00	0	0	0	0	3	43	27	1	0	0	0	0	0	0	0	74
07:00	0	0	0	0	15	74	41	4	0	0	0	0	0	0	0	134
08:00	0	0	0	0	6	84	49	1	0	0	0	0	0	0	0	140
09:00	0	0	0	1	4	64	29	1	0	0	0	0	0	0	0	99
10:00	0	0	0	0	10	78	25	1	0	0	0	0	0	0	0	114
11:00	0	0	6	3	8	69	31	0	0	0	0	0	0	0	0	117
12 PM	0	0	0	0	6	73	47	1	0	0	0	0	0	0	0	127
13:00	0	0	0	1	9	77	61	1	0	0	0	0	0	0	0	149
14:00	0	0	0	0	14	101	46	0	0	0	0	0	0	0	0	161
15:00	0	0	0	0	36	214	29	0	0	0	0	0	0	0	0	279
16:00	0	0	0	0	21	210	46	0	0	0	0	0	0	0	0	277
17:00	0	0	0	0	23	230	62	0	0	0	0	0	0	0	0	315
18:00	0	0	0	0	16	164	25	0	0	0	0	0	0	0	0	205
19:00	0	0	0	1	42	86	2	0	0	0	0	0	0	0	0	131
20:00	0	0	0	0	27	77	5	0	0	0	0	0	0	0	0	109
21:00	0	0	0	0	12	57	7	0	0	0	0	0	0	0	0	76
22:00	0	0	0	1	13	41	7	0	0	0	0	0	0	0	0	62
23:00	0	0	0	0	3	8	3	0	0	0	0	0	0	0	0	14
Total	0	0	6	7	271	1769	549	11	0	0	0	0	0	0	0	2613

MD 147 Northbound
South of Bonaparte Avenue
Baltimore County, Maryland

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Merging Innovation and Excellence

Northbound

Start Time	0 5	6 10	11 15	16 20	21 25	26 30	31 35	36 40	41 45	46 50	51 55	56 60	61 65	66 70	71 75	Total
09/28/18	0	0	0	0	2	8	2	0	0	0	0	0	0	0	0	12
01:00	0	0	0	0	1	6	1	0	0	0	0	0	0	0	0	8
02:00	0	0	0	0	1	3	0	0	0	0	0	0	0	0	0	4
03:00	0	0	0	0	2	4	0	0	0	0	0	0	0	0	0	6
04:00	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	1
05:00	0	0	0	0	0	13	4	0	0	0	0	0	0	0	0	17
06:00	0	0	0	0	7	49	12	1	0	0	0	0	0	0	0	69
07:00	0	0	0	0	8	101	21	0	0	0	0	0	0	0	0	130
08:00	0	0	0	0	10	89	42	0	0	0	0	0	0	0	0	141
09:00	0	0	0	0	10	82	21	0	0	0	0	0	0	0	0	113
10:00	0	0	0	2	12	81	37	0	0	0	0	0	0	0	0	132
11:00	0	0	0	0	16	91	36	1	0	0	0	0	0	0	0	144
12 PM	0	0	0	0	8	109	57	1	0	0	0	0	0	0	0	175
13:00	0	0	0	0	12	117	54	2	0	0	0	0	0	0	0	185
14:00	0	0	0	0	13	141	81	1	2	0	0	0	0	0	0	238
15:00	0	0	0	1	10	210	65	2	0	0	0	0	0	0	0	288
16:00	0	0	0	0	39	248	95	3	0	0	0	0	0	0	0	385
17:00	0	0	0	0	22	242	114	4	0	0	0	0	0	0	0	382
18:00	0	0	1	0	11	160	54	3	0	0	0	0	0	0	0	229
19:00	0	0	0	0	13	123	30	0	0	0	0	0	0	0	0	166
20:00	0	0	0	1	11	72	16	1	0	0	0	0	0	0	0	101
21:00	0	0	0	0	7	52	25	2	0	0	0	0	0	0	0	86
22:00	0	0	0	0	6	49	11	0	0	0	0	0	0	0	0	66
23:00	0	0	0	3	6	30	9	2	0	0	0	0	0	0	0	50
Total	0	0	1	7	227	2081	787	23	2	0	0	0	0	0	0	3128

MD 147 Northbound
South of Bonaparte Avenue
Baltimore County, Maryland

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Northbound

Start Time	0 5	6 10	11 15	16 20	21 25	26 30	31 35	36 40	41 45	46 50	51 55	56 60	61 65	66 70	71 75	Total
09/29/18	0	0	0	0	1	15	7	0	0	0	0	0	0	0	0	23
01:00	0	0	0	0	0	7	3	1	0	0	0	0	0	0	0	11
02:00	0	0	0	0	1	2	3	0	1	0	0	0	0	0	0	7
03:00	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1
04:00	0	0	0	0	0	3	1	0	0	0	0	0	0	0	0	4
05:00	0	0	0	0	0	8	1	0	0	0	0	0	0	0	0	9
06:00	0	0	0	0	0	29	3	2	0	0	0	0	0	0	0	34
07:00	0	0	0	0	2	41	30	0	0	0	0	0	0	0	0	73
08:00	0	0	0	0	9	70	27	1	0	0	0	0	0	0	0	107
09:00	0	0	0	0	6	104	52	2	0	0	0	0	0	0	0	164
10:00	0	0	0	1	28	118	29	1	0	0	0	0	0	0	0	177
11:00	0	0	0	0	17	173	39	3	0	0	0	0	0	0	0	232
12 PM	0	0	0	0	35	174	33	0	0	0	0	0	0	0	0	242
13:00	0	0	0	0	27	134	72	0	1	0	0	0	0	0	0	234
14:00	0	0	0	0	24	147	46	3	0	0	0	0	0	0	0	220
15:00	0	0	0	0	17	146	37	0	0	0	0	0	0	0	0	200
16:00	0	0	0	0	7	127	37	2	1	0	0	0	0	0	0	174
17:00	0	0	0	7	12	146	38	4	0	0	0	0	0	0	0	207
18:00	0	0	0	0	11	131	37	0	0	0	0	0	0	0	0	179
19:00	0	0	0	0	6	77	23	0	0	0	0	0	0	0	0	106
20:00	0	0	0	0	5	48	20	0	0	0	0	0	0	0	0	73
21:00	0	0	0	0	8	40	21	1	0	0	0	0	0	0	0	70
22:00	0	0	0	0	6	45	15	1	0	0	0	0	0	0	0	67
23:00	0	0	0	0	5	51	12	1	1	0	0	0	0	0	0	70
Total	0	0	0	8	227	1836	587	22	4	0	0	0	0	0	0	2684

MD 147 Northbound
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Northbound

Start Time	0 5	6 10	11 15	16 20	21 25	26 30	31 35	36 40	41 45	46 50	51 55	56 60	61 65	66 70	71 75	Total
09/30/18	0	0	0	0	5	20	8	0	0	0	0	0	0	0	0	33
01:00	0	0	0	0	2	9	1	0	0	0	0	0	0	0	0	12
02:00	0	0	0	0	0	4	5	0	0	0	0	0	0	0	0	9
03:00	0	0	0	0	1	6	1	1	0	0	0	0	0	0	0	9
04:00	0	0	0	0	1	3	0	0	0	0	0	0	0	0	0	4
05:00	0	0	0	0	1	6	0	0	0	0	0	0	0	0	0	7
06:00	0	0	0	0	1	13	2	0	0	0	0	0	0	0	0	16
07:00	0	0	0	1	4	21	11	1	0	0	0	0	0	0	0	38
08:00	0	0	0	0	10	60	20	1	0	0	0	0	0	0	0	91
09:00	0	0	0	0	10	101	21	3	0	0	0	0	0	0	0	135
10:00	0	0	0	0	19	90	33	0	0	0	0	0	0	0	0	142
11:00	0	0	0	0	5	118	46	1	0	0	0	0	0	0	0	170
12 PM	0	0	0	0	14	149	43	3	0	1	0	0	0	0	0	210
13:00	0	0	0	0	35	135	47	2	0	0	0	0	0	0	0	219
14:00	0	0	0	4	32	168	49	2	0	0	0	0	0	0	0	255
15:00	0	0	3	9	63	205	33	2	0	0	0	0	0	0	0	315
16:00	0	0	0	0	32	134	52	2	0	0	0	0	0	0	0	220
17:00	0	0	0	0	10	115	37	2	0	0	0	0	0	0	0	164
18:00	0	0	0	0	18	106	36	0	0	0	0	0	0	0	0	160
19:00	0	0	0	0	10	69	22	3	0	0	0	0	0	0	0	104
20:00	0	0	0	0	10	40	21	0	0	0	0	0	0	0	0	71
21:00	0	0	0	2	3	31	9	0	0	0	0	0	0	0	0	45
22:00	0	0	0	0	5	19	5	1	0	0	0	0	0	0	0	30
23:00	0	0	0	0	1	15	11	0	0	0	0	0	0	0	0	27
Total	0	0	3	16	292	1637	513	24	0	1	0	0	0	0	0	2486

MD 147 Northbound
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Northbound

Start	0	6	11	16	21	26	31	36	41	46	51	56	61	66	71	
Time	5	10	15	20	25	30	35	40	45	50	55	60	65	70	75	Total
10/01/18	0	0	0	0	0	10	1	0	0	0	0	0	0	0	0	11
01:00	0	0	0	0	0	0	4	0	0	0	0	0	0	0	0	4
02:00	0	0	1	0	0	2	2	0	0	0	0	0	0	0	0	5
03:00	0	0	0	0	1	3	0	0	0	0	0	0	0	0	0	4
04:00	0	0	0	0	2	5	3	1	0	0	0	0	0	0	0	11
05:00	0	0	0	0	1	16	7	0	0	0	0	0	0	0	0	24
06:00	0	0	0	1	20	56	13	0	0	0	0	0	0	0	0	90
07:00	0	0	0	0	27	83	23	0	0	0	0	0	0	0	0	133
08:00	0	0	0	0	8	96	40	1	0	0	0	0	0	0	0	145
09:00	0	0	0	0	22	77	24	0	0	0	0	0	0	0	0	123
10:00	0	0	0	0	14	66	30	2	0	0	0	0	0	0	0	112
11:00	0	0	0	0	10	75	27	0	0	0	0	0	0	0	0	112
12 PM	0	0	0	0	8	98	26	0	0	0	0	0	0	0	0	132
13:00	0	0	0	0	12	81	34	1	0	0	0	0	0	0	0	128
14:00	0	0	0	0	21	132	37	2	0	0	0	0	0	0	0	192
15:00	0	0	0	0	34	205	61	2	0	0	0	0	0	0	0	302
16:00	0	0	0	0	30	230	60	0	0	0	0	0	0	0	0	320
17:00	0	0	0	0	12	250	131	1	0	0	0	0	0	0	0	394
18:00	0	0	0	0	21	146	69	3	0	0	0	0	0	0	0	239
19:00	0	0	0	0	18	86	32	0	0	0	0	0	0	0	0	136
20:00	0	0	0	0	10	43	20	0	0	0	0	0	0	0	0	73
21:00	0	0	0	0	8	34	19	1	0	0	0	0	0	0	0	62
22:00	0	0	0	1	7	25	12	0	0	0	0	0	0	0	0	45
23:00	0	0	0	0	3	7	4	0	0	0	0	0	0	0	0	14
Total	0	0	1	2	289	1826	679	14	0	0	0	0	0	0	0	2811

MD 147 Northbound
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Northbound

Start Time	0 5	6 10	11 15	16 20	21 25	26 30	31 35	36 40	41 45	46 50	51 55	56 60	61 65	66 70	71 75	Total
10/02/18	0	0	0	1	1	6	3	0	0	0	0	0	0	0	0	11
01:00	0	0	0	1	0	4	0	0	0	0	0	0	0	0	0	5
02:00	0	0	0	0	0	1	0	1	1	0	0	0	0	0	0	3
03:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
04:00	0	0	0	0	1	3	0	0	0	0	0	0	0	0	0	4
05:00	0	0	0	0	1	17	3	0	0	0	0	0	0	0	0	21
06:00	0	0	0	0	16	40	17	0	0	0	0	0	0	0	0	73
07:00	0	0	0	0	18	76	37	0	2	0	0	0	0	0	0	133
08:00	0	0	0	0	11	107	30	3	0	0	0	0	0	0	0	151
09:00	0	0	0	0	10	80	29	1	0	0	0	0	0	0	0	120
10:00	0	0	0	0	10	72	23	0	0	0	0	0	0	0	0	105
11:00	0	0	0	0	9	87	37	2	0	0	0	0	0	0	0	135
12 PM	0	0	0	0	6	92	46	2	0	0	0	0	0	0	0	146
13:00	0	0	0	0	8	72	21	1	0	0	0	0	0	0	0	102
14:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
15:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
16:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
17:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
18:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
19:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
20:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
21:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
22:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
23:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Total	0	0	0	2	91	657	246	10	3	0	0	0	0	0	0	1009
Grand Total	0	1	12	49	1521	10918	3765	114	9	1	0	0	0	0	0	16390

Stats

15th Percentile :	25 MPH
50th Percentile :	28 MPH
85th Percentile :	31 MPH
95th Percentile :	34 MPH
Mean Speed(Average) :	29 MPH
10 MPH Pace Speed :	26-35 MPH
Number in Pace :	14683
Percent in Pace :	89.6%
Number of Vehicles > 30 MPH :	3889
Percent of Vehicles > 30 MPH :	23.7%

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Southbound

Start Time	0 5	6 10	11 15	16 20	21 25	26 30	31 35	36 40	41 45	46 50	51 55	56 60	61 65	66 70	71 75	Total
09/26/18	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
01:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
02:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
03:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
04:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
05:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
06:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
07:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
08:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
09:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
10:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
11:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
12 PM	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
13:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
14:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
15:00	0	0	0	1	6	15	89	49	4	0	0	0	0	0	0	164
16:00	0	0	0	1	7	27	95	45	6	1	0	0	0	0	0	182
17:00	0	0	0	1	1	16	95	62	9	0	0	0	0	0	0	184
18:00	0	0	0	2	1	13	63	52	0	0	0	0	0	0	0	131
19:00	0	0	0	2	5	24	30	2	0	0	0	0	0	0	0	63
20:00	0	0	1	0	1	25	34	10	0	0	0	0	0	0	0	71
21:00	0	0	0	0	2	8	28	9	0	0	0	0	0	0	0	47
22:00	0	0	0	0	0	3	7	3	1	0	0	0	0	0	0	14
23:00	0	0	0	0	2	1	10	7	0	0	0	0	0	0	0	20
Total	0	0	1	7	25	132	451	239	20	1	0	0	0	0	0	876

MD 147 Southbound
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Southbound Start Time	0 5	6 10	11 15	16 20	21 25	26 30	31 35	36 40	41 45	46 50	51 55	56 60	61 65	66 70	71 75	Total
09/27/18	0	0	0	0	0	0	4	1	0	0	0	0	0	0	0	5
01:00	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	2
02:00	0	0	0	0	0	2	0	0	1	0	0	0	0	0	0	3
03:00	0	0	0	0	0	0	3	1	0	0	0	0	0	0	0	4
04:00	0	0	0	0	0	0	8	17	1	0	0	0	0	0	0	26
05:00	0	0	0	0	0	3	12	36	7	0	0	0	0	0	0	58
06:00	0	0	0	0	1	9	91	96	7	1	0	0	0	0	0	205
07:00	0	0	2	3	1	22	190	227	22	1	0	0	0	0	0	468
08:00	0	0	0	6	9	15	126	101	11	0	0	0	0	0	0	268
09:00	0	0	0	1	8	15	57	50	2	1	0	0	0	0	0	134
10:00	0	0	0	1	3	17	56	37	2	0	0	0	0	0	0	116
11:00	0	0	0	0	2	16	70	24	2	0	0	0	0	0	0	114
12 PM	0	1	0	1	2	15	49	32	4	0	0	0	0	0	0	104
13:00	0	0	0	0	4	17	63	28	2	1	0	0	0	0	0	115
14:00	0	0	0	1	3	22	66	36	0	0	0	0	0	0	0	128
15:00	0	0	0	3	9	23	70	36	0	0	0	0	0	0	0	141
16:00	0	0	2	2	7	32	76	20	0	0	0	0	0	0	0	139
17:00	0	0	0	1	1	17	102	25	0	0	0	0	0	0	0	146
18:00	0	0	0	2	5	25	71	7	0	0	0	0	0	0	0	110
19:00	0	0	0	1	9	39	44	1	0	0	0	0	0	0	0	94
20:00	0	0	1	1	2	16	29	5	0	0	0	0	0	0	0	54
21:00	0	0	0	2	1	11	27	6	1	0	0	0	0	0	0	48
22:00	0	0	0	0	1	6	15	7	0	0	0	0	0	0	0	29
23:00	0	0	0	0	0	3	10	2	0	0	0	0	0	0	0	15
Total	0	1	5	25	68	325	1239	797	62	4	0	0	0	0	0	2526

MD 147 Southbound
North of Bonaparte Avenue
Baltimore County, Maryland

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Southbound

Start Time	0 5	6 10	11 15	16 20	21 25	26 30	31 35	36 40	41 45	46 50	51 55	56 60	61 65	66 70	71 75	Total
09/28/18	0	0	0	0	0	1	4	1	0	0	0	0	0	0	0	6
01:00	0	0	0	0	0	0	4	0	1	0	0	0	0	0	0	5
02:00	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	2
03:00	0	0	0	0	2	2	1	3	0	0	0	0	0	0	0	8
04:00	0	0	0	0	0	0	14	6	0	0	0	0	0	0	0	20
05:00	0	0	0	0	0	3	27	21	1	0	0	0	0	0	0	52
06:00	0	0	0	0	3	13	106	59	1	0	0	0	0	0	0	182
07:00	0	0	1	2	2	14	176	149	6	0	0	0	0	0	0	350
08:00	0	0	3	2	14	25	113	72	5	0	0	0	0	0	0	234
09:00	0	0	1	0	3	14	87	49	5	0	0	0	0	0	0	159
10:00	0	0	0	0	3	23	72	32	5	0	0	0	0	0	0	135
11:00	0	0	0	0	4	12	53	42	3	0	0	0	0	0	0	114
12 PM	0	0	0	0	1	7	94	32	3	0	0	0	0	0	0	137
13:00	0	0	0	1	5	25	72	34	3	0	0	0	0	0	0	140
14:00	0	0	1	3	3	11	79	51	4	1	1	0	0	0	0	154
15:00	0	0	1	1	2	11	81	58	3	1	0	0	0	0	0	158
16:00	0	0	0	0	6	16	88	64	4	0	0	0	0	0	0	178
17:00	0	0	0	1	7	18	110	65	5	0	0	0	0	0	0	206
18:00	0	0	0	4	7	22	69	36	3	0	0	0	0	0	0	141
19:00	0	0	0	2	1	11	57	34	5	0	0	0	0	0	0	110
20:00	0	0	0	1	1	16	45	22	5	0	0	0	0	0	0	90
21:00	0	0	0	0	0	17	30	17	3	0	0	0	0	0	0	67
22:00	0	0	0	1	2	6	21	17	1	0	0	0	0	0	0	48
23:00	0	0	0	1	1	4	14	10	3	0	0	0	0	0	0	33
Total	0	0	7	19	67	273	1417	874	69	2	1	0	0	0	0	2729

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Start Time	0 5	6 10	11 15	16 20	21 25	26 30	31 35	36 40	41 45	46 50	51 55	56 60	61 65	66 70	71 75	Total
09/29/18	0	0	0	1	0	1	13	7	0	1	0	0	0	0	0	23
01:00	0	0	0	0	0	1	4	5	1	0	0	0	0	0	0	11
02:00	0	0	0	0	0	0	4	3	2	1	0	0	0	0	0	10
03:00	0	0	0	0	1	0	2	2	0	0	0	0	0	0	0	5
04:00	0	0	0	0	0	1	2	4	1	0	0	0	0	0	0	8
05:00	0	0	0	0	0	1	8	12	1	0	0	0	0	0	0	22
06:00	0	0	0	0	0	3	22	13	3	0	0	0	0	0	0	41
07:00	0	0	0	0	0	7	35	25	7	0	0	0	0	0	0	74
08:00	0	0	0	1	0	16	52	36	4	0	0	0	0	0	0	109
09:00	0	0	0	0	8	20	81	25	5	1	0	0	0	0	0	140
10:00	0	0	0	0	2	18	96	59	1	0	0	0	0	0	0	176
11:00	0	0	1	1	6	15	100	37	2	0	0	0	0	0	0	162
12 PM	0	0	0	0	1	28	107	45	4	0	0	0	0	0	0	185
13:00	0	0	0	1	5	20	99	69	2	0	0	0	0	0	0	196
14:00	0	0	0	1	7	16	93	54	5	0	0	0	0	0	0	176
15:00	0	0	0	0	5	42	106	45	9	0	0	0	0	0	0	207
16:00	0	0	0	1	7	27	115	40	6	0	0	0	0	0	0	196
17:00	0	0	1	1	3	31	96	28	4	2	0	0	0	0	0	166
18:00	0	0	0	0	6	24	82	36	5	0	0	0	0	0	0	153
19:00	0	0	0	1	2	21	63	24	2	0	0	0	0	0	0	113
20:00	0	0	0	1	1	12	53	27	5	0	0	0	0	0	0	99
21:00	0	0	0	0	1	9	45	21	1	0	0	0	0	0	0	77
22:00	0	0	0	1	1	2	22	10	3	0	0	0	0	0	0	39
23:00	0	0	1	1	3	4	16	11	2	0	0	0	0	0	0	38
Total	0	0	3	11	59	319	1316	638	75	5	0	0	0	0	0	2426

MD 147 Southbound
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Southbound

Start Time	0 5	6 10	11 15	16 20	21 25	26 30	31 35	36 40	41 45	46 50	51 55	56 60	61 65	66 70	71 75	Total
09/30/18	0	0	0	0	0	1	12	6	2	0	0	0	0	0	0	21
01:00	0	0	0	0	0	3	8	4	1	0	0	0	0	0	0	16
02:00	0	0	0	0	0	1	3	5	2	1	0	0	0	0	0	12
03:00	0	0	0	0	0	2	1	1	1	0	0	0	0	0	0	5
04:00	0	0	0	0	0	0	5	0	0	0	0	0	0	0	0	5
05:00	0	0	0	0	0	0	3	6	2	0	0	0	0	0	0	11
06:00	0	0	0	0	1	3	6	8	1	0	0	0	0	0	0	19
07:00	0	0	0	2	1	5	18	4	2	0	0	0	0	0	0	32
08:00	0	0	1	2	4	12	39	26	2	0	0	0	0	0	0	86
09:00	0	0	0	0	0	11	65	37	3	0	0	0	0	0	0	116
10:00	0	0	0	0	5	22	62	43	3	0	0	0	0	0	0	135
11:00	0	0	1	1	4	27	85	35	5	1	0	0	0	0	0	159
12 PM	0	0	0	2	8	35	107	57	3	0	0	0	0	0	0	212
13:00	0	0	1	1	7	18	100	45	3	1	0	0	0	0	0	176
14:00	0	0	0	3	0	23	93	47	3	0	0	0	0	0	0	169
15:00	0	0	0	0	2	31	91	35	4	0	0	0	0	0	0	163
16:00	0	0	1	1	3	18	71	35	3	0	0	0	0	0	0	132
17:00	0	0	0	2	4	32	79	29	3	2	0	0	0	0	0	151
18:00	0	0	0	0	1	21	65	36	3	0	0	0	0	0	0	126
19:00	0	0	0	0	1	15	59	20	4	0	0	0	0	0	0	99
20:00	0	0	0	1	1	13	38	28	2	1	0	0	0	0	0	84
21:00	0	0	0	1	1	0	17	11	4	2	0	0	0	0	0	36
22:00	0	0	0	0	0	7	11	13	4	0	0	0	0	0	0	35
23:00	0	0	0	0	0	1	5	7	2	1	1	0	0	0	0	17
Total	0	0	4	16	43	301	1043	538	62	9	1	0	0	0	0	2017

MD 147 Southbound
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Start	0	6	11	16	21	26	31	36	41	46	51	56	61	66	71	
Time	5	10	15	20	25	30	35	40	45	50	55	60	65	70	75	Total
10/01/18	0	0	0	0	1	0	3	4	1	0	0	0	0	0	0	9
01:00	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1
02:00	0	0	0	0	0	1	0	2	0	0	0	0	0	0	0	3
03:00	0	0	0	0	0	1	6	0	1	0	0	0	0	0	0	8
04:00	0	0	0	0	1	2	9	12	3	0	0	0	0	0	0	27
05:00	0	0	0	0	0	1	22	36	6	0	0	0	0	0	0	65
06:00	0	0	0	0	2	14	111	86	4	0	0	0	0	0	0	217
07:00	0	0	1	2	0	23	186	171	18	1	0	0	0	0	0	402
08:00	0	1	1	7	5	14	123	103	5	0	0	0	0	0	0	259
09:00	0	0	0	0	3	9	79	53	3	0	0	0	0	0	0	147
10:00	0	0	0	0	0	14	67	38	4	0	0	0	0	0	0	123
11:00	0	0	0	0	5	16	62	19	7	1	0	0	0	0	0	110
12 PM	0	0	0	1	1	15	74	37	3	0	0	0	0	0	0	131
13:00	0	0	0	1	1	11	71	30	2	1	0	0	0	0	0	117
14:00	0	0	0	1	7	11	53	48	3	1	0	0	0	0	0	124
15:00	0	0	2	1	8	10	77	53	4	0	0	0	0	0	0	155
16:00	0	0	2	2	3	11	74	44	5	0	0	0	0	0	0	141
17:00	0	0	0	0	5	18	88	55	3	1	0	0	0	0	0	170
18:00	0	0	0	0	3	8	50	42	2	1	0	0	0	0	0	106
19:00	0	0	0	1	1	14	50	28	1	1	0	0	0	0	0	96
20:00	0	0	0	0	0	5	32	26	6	0	0	0	0	0	0	69
21:00	0	0	0	0	1	1	17	15	3	1	0	0	0	0	0	38
22:00	0	0	0	0	0	0	4	5	2	0	0	0	0	0	0	11
23:00	0	0	0	0	0	0	4	7	0	0	0	0	0	0	0	11
Total	0	1	6	16	47	199	1262	915	86	8	0	0	0	0	0	2540

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Start	0	6	11	16	21	26	31	36	41	46	51	56	61	66	71	
Time	5	10	15	20	25	30	35	40	45	50	55	60	65	70	75	Total
10/02/18	0	0	0	0	0	1	2	3	0	0	0	0	0	0	0	6
01:00	0	0	0	0	0	0	2	1	0	0	0	0	0	0	0	3
02:00	0	0	0	0	0	1	2	3	0	0	0	0	0	0	0	6
03:00	0	0	0	0	0	0	1	1	1	0	0	0	0	0	0	3
04:00	0	0	0	0	0	1	8	10	3	0	0	0	0	0	0	22
05:00	0	0	0	0	0	1	27	33	5	0	0	0	0	0	0	66
06:00	0	0	0	0	0	10	102	105	6	1	0	0	0	0	0	224
07:00	0	1	4	6	3	15	185	209	14	2	0	0	0	0	0	439
08:00	0	1	0	1	5	20	153	115	10	0	0	0	0	0	0	305
09:00	0	0	0	2	5	27	101	42	2	0	0	0	0	0	0	179
10:00	0	0	0	0	3	16	69	36	4	0	0	0	0	0	0	128
11:00	0	0	0	0	6	8	51	24	3	0	0	0	0	0	0	92
12 PM	0	0	0	0	5	7	48	30	6	0	0	0	0	0	0	96
13:00	0	0	0	1	7	8	56	29	2	0	0	0	0	0	0	103
14:00	0	0	0	1	3	10	52	40	3	0	0	0	0	0	0	109
15:00	0	0	0	0	3	22	65	42	4	0	0	0	0	0	0	136
16:00	0	0	0	1	7	23	76	39	1	0	0	0	0	0	0	147
17:00	0	2	1	1	12	12	111	51	5	0	0	0	0	0	0	195
18:00	0	1	2	4	6	14	97	33	4	0	0	0	0	0	0	161
19:00	0	0	0	1	2	14	56	24	2	0	0	0	0	0	0	99
20:00	0	0	0	1	0	6	31	25	2	0	0	0	0	0	0	65
21:00	0	0	0	0	1	7	31	18	4	0	0	0	0	0	0	61
22:00	0	0	0	0	1	2	11	12	4	0	0	0	0	0	0	30
23:00	0	0	0	0	0	0	3	4	1	0	0	0	0	0	0	8
Total	0	5	7	19	69	225	1340	929	86	3	0	0	0	0	0	2683

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Southbound Start Time	0 5	6 10	11 15	16 20	21 25	26 30	31 35	36 40	41 45	46 50	51 55	56 60	61 65	66 70	71 75	Total
10/03/18	0	0	0	0	0	0	5	3	0	0	0	0	0	0	0	8
01:00	0	0	0	0	0	1	2	0	0	0	0	0	0	0	0	3
02:00	0	0	0	0	0	2	0	0	1	0	0	0	0	0	0	3
03:00	0	0	0	0	0	0	1	2	0	0	0	0	0	0	0	3
04:00	0	0	0	0	0	2	7	20	0	1	0	0	0	0	0	30
05:00	0	0	0	0	0	3	23	30	6	0	0	0	0	0	0	62
06:00	0	0	0	0	3	9	86	98	6	0	0	0	0	0	0	202
07:00	0	0	2	6	2	18	182	196	22	0	0	0	0	0	0	428
08:00	0	0	1	2	0	19	143	90	10	0	0	0	0	0	0	265
09:00	0	0	0	6	7	6	88	55	2	0	0	0	0	0	0	164
10:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
11:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
12 PM	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
13:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
14:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
15:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
16:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
17:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
18:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
19:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
20:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
21:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
22:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
23:00	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Total	0	0	3	14	12	60	537	494	47	1	0	0	0	0	0	1168
Grand Total	0	7	36	127	390	1834	8605	5424	507	33	2	0	0	0	0	16965

Stats

15th Percentile :	30 MPH
50th Percentile :	33 MPH
85th Percentile :	38 MPH
95th Percentile :	39 MPH
Mean Speed(Average) :	34 MPH
10 MPH Pace Speed :	31-40 MPH
Number in Pace :	14029
Percent in Pace :	82.7%
Number of Vehicles > 30 MPH :	14571
Percent of Vehicles > 30 MPH :	85.9%

Pet No 29

RESULTS OF HCM HIGHWAY SEGMENT CAPACITY ANALYSIS

	EXISTING TRAFFIC - PEAK 15 MINUTES			
	WEEKDAY AM PEAK HOUR (9/27/18, 7-8 AM)	WEEKDAY PM PEAK HOUR (10/1/18, 5-6 PM)	SATURDAY PEAK HOUR (9/29/18, 12-1 PM)	SUNDAY PEAK HOUR (9/30/18, 3-4 PM)
Two-Lane Highway				
MD 147 (Between Glen Arm Rd/Mt Vista Rd & Hartley Mill Rd, 1.3 miles)				
Input Analysis Direction Volume:	468	388	240	317
Volume with PHF adjustment:	532	441	273	360
Capacity:	1700	1700	1700	1700
Volume to Capacity Ratio, V/C:	0.31	0.26	0.16	0.21

Input Data in the analysis

Lane Width:	9 feet
Shoulder Width:	0 feet
Highway Class:	Class II Highway
Terrain:	Rolling
Peak Hour Factor:	0.88
No-Passing Zone:	100%
% Trucks and Buses:	6%
% Recreational Vehicles:	4%
Access Points:	8 /mile
Speed:	45 mph

The Traffic Group

EXHIBIT 1
RESULTS OF HIGHWAY
SEGMENT CAPACITY ANALYSIS

Qt, 171207\INITIAL\LOS.XLS-Links, F10/09/18

Protestant
CBA Exhibit
29

CLV Methodology

MD 147 & Bonaparte Ave / Site Access	Total Traffic LOS / CLV
Weekday Evening Peak Hour Traffic (5 - 6 PM)	A / 407
Saturday Peak Hour Traffic (12 - 1 PM)	A / 400

HCM Unsignalized Intersection Methodology

MD 147 & Bonaparte Ave / Site Access	Total Traffic LOS / DELAY (sec.)
Weekday Evening Peak Hour Traffic (5 - 6 PM)	
Nothbound Site Access approach:	B / 14.0
Westbound MD 147 Left Turn:	A / 8.1
Saturday Peak Hour Traffic (12 - 1 PM)	
Nothbound Site Access approach:	B / 13.3
Westbound MD 147 Left Turn:	A / 8.3

Based on traffic counts on Friday, 9/28/2018 and Saturday, 9/29/2018.

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EXHIBIT 2

RESULTS OF INTERSECTION CAPACITY ANALYSES

2017-1207

MD 147
North of Bonaparte Avenue
Baltimore County, Maryland

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Start	24-Sep-18		Tue		Wed		Thu		Fri		Weekday Average		Sat		Sun	
Time	NB	SB	NB	SB	NB	SB	NB	SB	NB	SB	NB	SB	NB	SB	NB	SB
12:00 AM	*	*	*	*	*	*	5	5	12	6	8	6	23	23	33	21
01:00	*	*	*	*	*	*	4	2	8	5	6	4	11	11	12	16
02:00	*	*	*	*	*	*	2	3	4	2	3	2	7	10	9	12
03:00	*	*	*	*	*	*	0	4	6	8	3	6	1	5	9	5
04:00	*	*	*	*	*	*	1	26	1	20	1	23	4	8	4	5
05:00	*	*	*	*	*	*	18	58	17	52	18	55	9	22	7	11
06:00	*	*	*	*	*	*	74	205	69	182	72	194	34	41	16	19
07:00	*	*	*	*	*	*	135	**468**	127	**350**	131	**409**	74	74	39	32
08:00	*	*	*	*	*	*	**142**	268	142	234	**142**	251	107	109	92	86
09:00	*	*	*	*	*	*	101	134	116	159	108	146	167	140	134	116
10:00	*	*	*	*	*	*	113	116	134	135	124	126	179	**176**	146	135
11:00	*	*	*	*	*	*	121	114	**147**	114	134	114	**237**	162	**180**	**159**
12:00 PM	*	*	*	*	*	*	128	104	178	137	153	120	**240**	185	218	**212**
01:00	*	*	*	*	*	*	150	115	188	140	169	128	231	196	224	176
02:00	*	*	*	*	*	*	162	128	238	154	200	141	220	176	254	169
03:00	*	*	*	*	344	164	281	141	291	158	305	154	197	**207**	**317**	163
04:00	*	*	*	*	**376**	182	275	139	380	178	344	166	178	196	219	132
05:00	*	*	*	*	353	**184**	**313**	**146**	**386**	**206**	**351**	**179**	214	166	164	151
06:00	*	*	*	*	259	131	211	110	230	141	233	127	182	153	162	126
07:00	*	*	*	*	112	63	130	94	173	110	138	89	108	113	104	99
08:00	*	*	*	*	85	71	107	54	103	90	98	72	74	99	72	84
09:00	*	*	*	*	74	47	76	48	87	67	79	54	69	77	45	36
10:00	*	*	*	*	44	14	64	29	66	48	58	30	66	39	30	35
11:00	*	*	*	*	16	20	13	15	49	33	26	23	70	38	25	17
Total	0	0	0	0	1663	876	2626	2526	3152	2729	2904	2619	2702	2426	2515	2017
Day	0		0		2539		5152		5881		5523		5128		4532	
AM Peak	-	-	-	-	-	-	08:00	07:00	11:00	07:00	08:00	07:00	11:00	10:00	11:00	11:00
Vol.	-	-	-	-	-	-	142	468	147	350	142	409	237	176	180	159
PM Peak	-	-	-	-	16:00	17:00	17:00	17:00	17:00	17:00	17:00	17:00	12:00	15:00	15:00	12:00
Vol.	-	-	-	-	376	184	313	146	386	206	351	179	240	207	317	212

MD 147
North of Bonaparte Avenue
Baltimore County, Maryland

The Traffic Group, Inc.
(800) 583-8411
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Merging Innovation and Excellence

Start	01-Oct-18		Tue		Wed		Thu		Fri		Weekday Average		Sat		Sun	
Time	NB	SB	NB	SB	NB	SB	NB	SB	NB	SB	NB	SB	NB	SB	NB	SB
12:00 AM	10	9	11	6	12	8	*	*	*	*	11	8	*	*	*	*
01:00	5	1	5	3	9	3	*	*	*	*	6	2	*	*	*	*
02:00	5	3	3	6	5	3	*	*	*	*	4	4	*	*	*	*
03:00	4	8	0	3	1	3	*	*	*	*	2	5	*	*	*	*
04:00	11	27	4	22	6	30	*	*	*	*	7	26	*	*	*	*
05:00	25	65	21	66	21	62	*	*	*	*	22	64	*	*	*	*
06:00	90	217	73	224	75	202	*	*	*	*	79	214	*	*	*	*
07:00	136	**402**	134	**439**	**150**	**428**	*	*	*	*	140	**423**	*	*	*	*
08:00	**142**	259	**156**	305	142	265	*	*	*	*	**147**	276	*	*	*	*
09:00	125	147	125	179	115	164	*	*	*	*	122	163	*	*	*	*
10:00	115	123	107	128	*	*	*	*	*	*	111	126	*	*	*	*
11:00	111	110	135	92	*	*	*	*	*	*	123	101	*	*	*	*
12:00 PM	133	131	146	96	*	*	*	*	*	*	140	114	*	*	*	*
01:00	127	117	149	103	*	*	*	*	*	*	138	110	*	*	*	*
02:00	196	124	198	109	*	*	*	*	*	*	197	116	*	*	*	*
03:00	299	155	289	136	*	*	*	*	*	*	294	146	*	*	*	*
04:00	319	141	374	147	*	*	*	*	*	*	346	144	*	*	*	*
05:00	**388**	**170**	**386**	**195**	*	*	*	*	*	*	**387**	**182**	*	*	*	*
06:00	239	106	216	161	*	*	*	*	*	*	228	134	*	*	*	*
07:00	135	96	122	99	*	*	*	*	*	*	128	98	*	*	*	*
08:00	72	69	85	65	*	*	*	*	*	*	78	67	*	*	*	*
09:00	61	38	65	61	*	*	*	*	*	*	63	50	*	*	*	*
10:00	45	11	42	30	*	*	*	*	*	*	44	20	*	*	*	*
11:00	13	11	24	8	*	*	*	*	*	*	18	10	*	*	*	*
Total	2806	2540	2870	2683	536	1168	0	0	0	0	2835	2603	0	0	0	0
Day	5346		5553		1704		0		0		5438		0		0	
AM Peak	08:00	07:00	08:00	07:00	07:00	07:00	-	-	-	-	08:00	07:00	-	-	-	-
Vol.	142	402	156	439	150	428	-	-	-	-	147	423	-	-	-	-
PM Peak	17:00	17:00	17:00	17:00	-	-	-	-	-	-	17:00	17:00	-	-	-	-
Vol.	388	170	386	195	-	-	-	-	-	-	387	182	-	-	-	-

Comb. Total	5346	5553	4243	5152	5881	10961	5128	4532

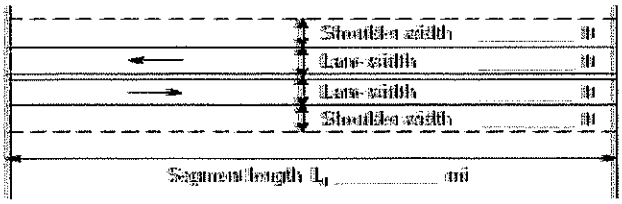
ADT ADT 5,339 AADT 5,339

DIRECTIONAL TWO-LANE HIGHWAY SEGMENT WORKSHEET

General Information		Site Information	
Analyst	QT	Highway / Direction of Travel	MD 147
Agency or Company	TTG, Inc.	From/To	Glen Arm Rd
Date Performed	10/9/2018	Jurisdiction	Hartley Mill Rd
Analysis Time Period	Weekday AM Peak Hour	Analysis Year	2018

Project Description: Nepali Temple

Input Data



☐ Class I highway ☑ Class II highway ☐ Class III highway

Terrain ☐ Level ☑ Rolling

Grade Length mi Up/down

Peak-hour factor, PHF 0.88

No-passing zone 100%

% Trucks and Buses , P_T 6 %

% Recreational vehicles, P_R 4%

Access points mi 8/mi

Analysis direction vol., V_d	468veh/h
Opposing direction vol., V_o	135veh/h
Shoulder width ft	0.0
Lane Width ft	9.0
Segment Length mi	1.3

Average Travel Speed

	Analysis Direction (d)	Opposing Direction (o)
Passenger-car equivalents for trucks, E_T (Exhibit 15-11 or 15-12)	1.8	2.5
Passenger-car equivalents for RVs, E_R (Exhibit 15-11 or 15-13)	1.1	1.1
Heavy-vehicle adjustment factor, $f_{HV,ATS}=1/(1+P_T(E_T-1)+P_R(E_R-1))$	0.951	0.914
Grade adjustment factor[1], $f_{g,ATS}$ (Exhibit 15-9)	0.96	0.71
Demand flow rate[2], v_i (pc/h) $v_i=V_i/(PHF*f_{g,ATS}*f_{HV,ATS})$	583	236

Free-Flow Speed from Field Measurement		Estimated Free-Flow Speed	
Mean speed of sample[3], S_{FM}		Base free-flow speed[4], BFFS	45.0 mi/h
Total demand flow rate, both directions, v		Adj. for lane and shoulder width,[4] f_{LS}(Exhibit 15-7)	6.4 mi/h
Free-flow speed, $FFS=S_{FM}+0.00776(v/f_{HV,ATS})$		Adj. for access points[4], f_A (Exhibit 15-8)	2.0 mi/h
Adj. for no-passing zones, $f_{np,ATS}$ (Exhibit 15-15)	3.8 mi/h	Free-flow speed, FFS (FSS=BFFS-f_{LS}-f_A)	36.6 mi/h
		Average travel speed, $ATS_d=FFS-0.00776(v_{d,ATS}+v_{o,ATS})-f_{np,ATS}$	26.5 mi/h
		Percent free flow speed, PFFS	72.3 %

Percent Time-Spent-Following

	Analysis Direction (d)	Opposing Direction (o)
Passenger-car equivalents for trucks, E_T(Exhibit 15-18 or 15-19)	1.2	1.8
Passenger-car equivalents for RVs, E_R (Exhibit 15-18 or 15-19)	1.0	1.0
Heavy-vehicle adjustment factor, $f_{HV}=1/(1+P_T(E_T-1)+P_R(E_R-1))$	0.988	0.954
Grade adjustment factor[1], $f_{g,PTSF}$ (Exhibit 15-16 or Ex 15-17)	0.96	0.77
Directional flow rate[2], v_i(pc/h) $v_i=V_i/(PHF*f_{HV,PTSF}*f_{g,PTSF})$	561	209
Base percent time-spent-following[4], $BPTSF_d(\%)=100(1-e^{av_d^b})$	48.0	
Adj. for no-passing zone, $f_{np,PTSF}$ (Exhibit 15-21)	32.8	
Percent time-spent-following, $PTSF_d(\%)=BPTSF_d+f_{np,PTSF}*(v_{d,PTSF}/v_{d,PTSF}+v_{o,PTSF})$	71.9	

Level of Service and Other Performance Measures

Level of service, LOS (Exhibit 15-3)	D
Volume to capacity ratio, v/c	0.31
Capacity, $C_{d,ATS}$ (Equation 15-12) veh/h	1663
Capacity, $C_{d,PTSF}$ (Equation 15-13) veh/h	1700

Percent Free-Flow Speed $PFFS_d$(Equation 15-11 - Class III only)	*72.3*
Bicycle Level of Service	
Directional demand flow rate in outside lane, v_{OL} (Eq. 15-24) veh/h	*531.8*
Effective width, Wv (Eq. 15-29) ft	*9.00*
Effective speed factor, S_t (Eq. 15-30)	*4.79*
Bicycle level of service score, BLOS (Eq. 15-31)	*6.84*
Bicycle level of service (Exhibit 15-4)	*F*
Notes	
1. Note that the adjustment factor for level terrain is 1.00,as level terrain is one of the base conditions. For the purpose of grade adjustment, specific downgrade segments are treated as level terrain. 2. If v_i(v_d or v_o) >=1,700 pc/h, terminate analysis--the LOS is F. 3. For the analysis direction only and for v>200 veh/h. 4. For the analysis direction only 5. Exhibit 15-20 provides coefficients a and b for Equation 15-10. 6. Use alternative Exhibit 15-14 if some trucks operate at crawl speeds on a specific downgrade.	

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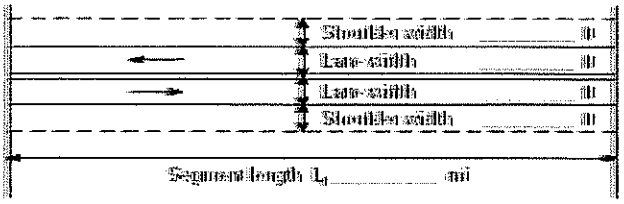
DIRECTIONAL TWO-LANE HIGHWAY SEGMENT WORKSHEET

General Information		Site Information	
Analyst	QT	Highway / Direction of Travel	MD 147
Agency or Company	TTG, Inc.	From/To	Glen Arm Rd
Date Performed	10/9/2018	Jurisdiction	Hartley Mill Rd
Analysis Time Period	Weekday PM Peak Hour	Analysis Year	2018

Project Description: *Nepali Temple*

Input Data



☐ Class I highway ☑ Class II highway ☐ Class III highway

Terrain ☐ Level ☑ Rolling

Grade Length mi Up/down

Peak-hour factor, PHF 0.88

No-passing zone 100%

% Trucks and Buses , P_T 6 %

% Recreational vehicles, P_R 4%

Access points *mi* 8/mi

Analysis direction vol., V_d 388veh/h

Opposing direction vol., V_o 170veh/h

Shoulder width ft 0.0

Lane Width ft 9.0

Segment Length mi 1.3

Average Travel Speed

	Analysis Direction (d)	Opposing Direction (o)
Passenger-car equivalents for trucks, E_T (Exhibit 15-11 or 15-12)	1.9	2.3
Passenger-car equivalents for RVs, E_R (Exhibit 15-11 or 15-13)	1.1	1.1
Heavy-vehicle adjustment factor, $f_{HV,ATS}=1/(1+P_T(E_T-1)+P_R(E_R-1))$	0.945	0.924
Grade adjustment factor[1], $f_{g,ATS}$ (Exhibit 15-9)	0.92	0.74
Demand flow rate[2], v_i (pc/h) $v_i=V_i/(PHF*f_{g,ATS}*f_{HV,ATS})$	507	283

Free-Flow Speed from Field Measurement		Estimated Free-Flow Speed	
Mean speed of sample[3], S_{FM}		Base free-flow speed[4], BFFS	45.0 mi/h
Total demand flow rate, both directions, *v*		Adj. for lane and shoulder width,[4] f_{LS}(Exhibit 15-7)	6.4 mi/h
Free-flow speed, $FFS=S_{FM}+0.00776(v/f_{HV,ATS})$		Adj. for access points[4], f_A (Exhibit 15-8)	2.0 mi/h
Adj. for no-passing zones, $f_{np,ATS}$ (Exhibit 15-15)	3.5 mi/h	Free-flow speed, FFS (FSS=BFFS-f_{LS}-f_A)	36.6 mi/h
		Average travel speed, $ATS_d=FFS-0.00776(v_{d,ATS}+v_{o,ATS})-f_{np,ATS}$	27.0 mi/h
		Percent free flow speed, PFFS	73.8 %

Percent Time-Spent-Following

	Analysis Direction (d)	Opposing Direction (o)
Passenger-car equivalents for trucks, E_T(Exhibit 15-18 or 15-19)	1.4	1.8
Passenger-car equivalents for RVs, E_R (Exhibit 15-18 or 15-19)	1.0	1.0
Heavy-vehicle adjustment factor, $f_{HV}=1/(1+P_T(E_T-1)+P_R(E_R-1))$	0.977	0.954
Grade adjustment factor[1], $f_{g,PTSF}$ (Exhibit 15-16 or Ex 15-17)	0.92	0.80
Directional flow rate[2], v_i(pc/h) $v_i=V/(PHF*f_{HV,PTSF}*f_{g,PTSF})$	491	253
Base percent time-spent-following[4], $BPTSF_d(\%)=100(1-e^{av_d^b})$	45.8	
Adj. for no-passing zone, $f_{np,PTSF}$ (Exhibit 15-21)	39.0	
Percent time-spent-following, $PTSF_d(\%)=BPTSF_d+f_{np,PTSF}*(v_{d,PTSF}/v_{d,PTSF}+v_{o,PTSF})$	71.5	

Level of Service and Other Performance Measures

Level of service, LOS (Exhibit 15-3)	D
Volume to capacity ratio, *v/c*	0.26
Capacity, $C_{d,ATS}$ (Equation 15-12) veh/h	1663
Capacity, $C_{d,PTSF}$ (Equation 15-13) veh/h	1700

Percent Free-Flow Speed $PFFS_d$(Equation 15-11 - Class III only)	*73.8*
Bicycle Level of Service	
Directional demand flow rate in outside lane, v_{OL} (Eq. 15-24) veh/h	*440.9*
Effective width, Ww (Eq. 15-29) ft	*9.00*
Effective speed factor, S_f (Eq. 15-30)	*4.79*
Bicycle level of service score, BLOS (Eq. 15-31)	*6.75*
Bicycle level of service (Exhibit 15-4)	*F*
Notes	
1. Note that the adjustment factor for level terrain is 1.00,as level terrain is one of the base conditions. For the purpose of grade adjustment, specific downgrade segments are treated as level terrain. 2. If v_i(v_d or v_o) >=1,700 pc/h, terminate analysis--the LOS is F. 3. For the analysis direction only and for v>200 veh/h. 4. For the analysis direction only 5. Exhibit 15-20 provides coefficients a and b for Equation 15-10. 6. Use alternative Exhibit 15-14 if some trucks operate at crawl speeds on a specific downgrade.	

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DIRECTIONAL TWO-LANE HIGHWAY SEGMENT WORKSHEET

General Information		Site Information	
Analyst	QT	Highway / Direction of Travel	MD 147
Agency or Company	TTG, Inc.	From/To	Glen Arm Rd
Date Performed	10/9/2018	Jurisdiction	Hartley Mill Rd
Analysis Time Period	Saturday Peak Hour	Analysis Year	2018

Project Description: *Nepali Temple*

Input Data

☐ Class I highway ☑ Class II highway ☐ Class III highway

Terrain ☐ Level ☑ Rolling

Grade Length mi Up/down

Peak-hour factor, PHF 0.88

No-passing zone 100%

% Trucks and Buses , P_T 6 %

% Recreational vehicles, P_R 4%

Access points *mi* 8/mi

Analysis direction vol., V_d 240veh/h

Opposing direction vol., V_o 185veh/h

Shoulder width ft 0.0

Lane Width ft 9.0

Segment Length mi 1.3

Average Travel Speed

	Analysis Direction (d)	Opposing Direction (o)
Passenger-car equivalents for trucks, E_T (Exhibit 15-11 or 15-12)	2.2	2.3
Passenger-car equivalents for RVs, E_R (Exhibit 15-11 or 15-13)	1.1	1.1
Heavy-vehicle adjustment factor, $f_{HV,ATS}=1/(1+P_T(E_T-1)+P_R(E_R-1))$	0.929	0.924
Grade adjustment factor[1], $f_{g,ATS}$ (Exhibit 15-9)	0.81	0.76
Demand flow rate[2], v_i (pc/h) $v_i=V_i/(PHF*f_{g,ATS}*f_{HV,ATS})$	362	299

Free-Flow Speed from Field Measurement		Estimated Free-Flow Speed	
Mean speed of sample[3], S_{FM}		Base free-flow speed[4], BFFS	45.0 mi/h
Total demand flow rate, both directions, *v*		Adj. for lane and shoulder width,[4] f_{LS}(Exhibit 15-7)	6.4 mi/h
Free-flow speed, $FFS=S_{FM}+0.00776(v/f_{HV,ATS})$		Adj. for access points[4], f_A (Exhibit 15-8)	2.0 mi/h
Adj. for no-passing zones, $f_{np,ATS}$ (Exhibit 15-15)	3.4 mi/h	Free-flow speed, FFS (FSS=BFFS-f_{LS}-f_A)	36.6 mi/h
		Average travel speed, $ATS_d=FFS-0.00776(v_{d,ATS}+v_{o,ATS})-f_{np,ATS}$	28.1 mi/h
		Percent free flow speed, PFFS	76.8 %

Percent Time-Spent-Following

	Analysis Direction (d)	Opposing Direction (o)
Passenger-car equivalents for trucks, E_T(Exhibit 15-18 or 15-19)	1.7	1.7
Passenger-car equivalents for RVs, E_R (Exhibit 15-18 or 15-19)	1.0	1.0
Heavy-vehicle adjustment factor, $f_{HV}=1/(1+P_T(E_T-1)+P_R(E_R-1))$	0.960	0.960
Grade adjustment factor[1], $f_{g,PTSF}$ (Exhibit 15-16 or Ex 15-17)	0.84	0.81
Directional flow rate[2], v_i(pc/h) $v_i=V_i/(PHF*f_{HV,PTSF}*f_{g,PTSF})$	338	270
Base percent time-spent-following[4], $BPTSF_d(\%)=100(1-e^{av_d^b})$	35.9	
Adj. for no-passing zone, $f_{np,PTSF}$ (Exhibit 15-21)	54.9	
Percent time-spent-following, $PTSF_d(\%)=BPTSF_d+f_{np,PTSF}*(v_{d,PTSF}/v_{d,PTSF}+v_{o,PTSF})$	66.4	

Level of Service and Other Performance Measures

Level of service, LOS (Exhibit 15-3)	C
Volume to capacity ratio, *v/c*	0.16
Capacity, $C_{d,ATS}$ (Equation 15-12) veh/h	1663
Capacity, $C_{d,PTSF}$ (Equation 15-13) veh/h	1700

Percent Free-Flow Speed $PFFS_d$(Equation 15-11 - Class III only)	*76.8*
Bicycle Level of Service	
Directional demand flow rate in outside lane, v_{OL} (Eq. 15-24) veh/h	*272.7*
Effective width, Ww (Eq. 15-29) ft	*9.00*
Effective speed factor, S_t (Eq. 15-30)	*4.79*
Bicycle level of service score, BLOS (Eq. 15-31)	*6.51*
Bicycle level of service (Exhibit 15-4)	*F*
Notes	
1. Note that the adjustment factor for level terrain is 1.00,as level terrain is one of the base conditions. For the purpose of grade adjustment, specific downgrade segments are treated as level terrain. 2. If v_i(v_d or v_o) >=1,700 pc/h, terminate analysis--the LOS is F. 3. For the analysis direction only and for v>200 veh/h. 4. For the analysis direction only 5. Exhibit 15-20 provides coefficients a and b for Equation 15-10. 6. Use alternative Exhibit 15-14 if some trucks operate at crawl speeds on a specific downgrade.	

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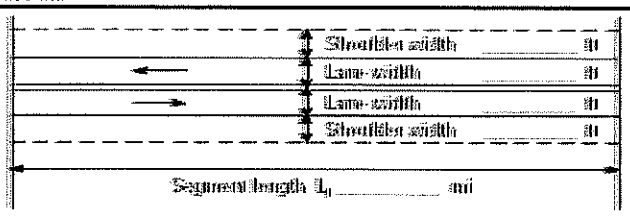
DIRECTIONAL TWO-LANE HIGHWAY SEGMENT WORKSHEET

General Information		Site Information	
Analyst	QT	Highway / Direction of Travel	MD 147
Agency or Company	TTG, Inc.	From/To	Glen Arm Rd
Date Performed	10/9/2018	Jurisdiction	Hartley Mill Rd
Analysis Time Period	Sunday Peak Hour	Analysis Year	2018

Project Description: Nepali Temple

Input Data



☐ Class I highway ☑ Class II highway ☐ Class III highway

Terrain ☐ Level ☑ Rolling

Grade Length mi Up/down

Peak-hour factor, PHF 0.88

No-passing zone 100%

% Trucks and Buses , P_T 6 %

% Recreational vehicles, P_R 4%

Access points mi 8/mi

Analysis direction vol., V_d	317veh/h
Opposing direction vol., V_o	163veh/h
Shoulder width ft	0.0
Lane Width ft	9.0
Segment Length mi	1.3

Average Travel Speed

	Analysis Direction (d)	Opposing Direction (o)
Passenger-car equivalents for trucks, E_T (Exhibit 15-11 or 15-12)	2.0	2.4
Passenger-car equivalents for RVs, E_R (Exhibit 15-11 or 15-13)	1.1	1.1
Heavy-vehicle adjustment factor, $f_{HV,ATS}=1/(1+P_T(E_T-1)+P_R(E_R-1))$	0.940	0.919
Grade adjustment factor[1], $f_{g,ATS}$ (Exhibit 15-9)	0.87	0.74
Demand flow rate[2], v_i (pc/h) $v_i=V_i/(PHF*f_{g,ATS}*f_{HV,ATS})$	440	272

Free-Flow Speed from Field Measurement		Estimated Free-Flow Speed	
Mean speed of sample[3], S_{FM}		Base free-flow speed[4], BFFS	45.0 mi/h
Total demand flow rate, both directions, v		Adj. for lane and shoulder width,[4] f_{LS}(Exhibit 15-7)	6.4 mi/h
Free-flow speed, $FFS=S_{FM}+0.00776(v/f_{HV,ATS})$		Adj. for access points[4], f_A (Exhibit 15-8)	2.0 mi/h
Adj. for no-passing zones, $f_{np,ATS}$ (Exhibit 15-15)	3.5 mi/h	Free-flow speed, FFS (FSS=BFFS-f_{LS}-f_A)	36.6 mi/h
		Average travel speed, $ATS_d=FFS-0.00776(v_{d,ATS}+v_{o,ATS})-f_{np,ATS}$	27.5 mi/h
		Percent free flow speed, PFFS	75.3 %

Percent Time-Spent-Following

	Analysis Direction (d)	Opposing Direction (o)
Passenger-car equivalents for trucks, E_T(Exhibit 15-18 or 15-19)	1.6	1.8
Passenger-car equivalents for RVs, E_R (Exhibit 15-18 or 15-19)	1.0	1.0
Heavy-vehicle adjustment factor, $f_{HV}=1/(1+P_T(E_T-1)+P_R(E_R-1))$	0.965	0.954
Grade adjustment factor[1], $f_{g,PTSF}$ (Exhibit 15-16 or Ex 15-17)	0.88	0.79
Directional flow rate[2], v_i(pc/h) $v_i=V_i/(PHF*f_{HV,PTSF}*f_{g,PTSF})$	424	246
Base percent time-spent-following[4], $BPTSF_d(\%)=100(1-e^{av_d^b})$	41.5	
Adj. for no-passing zone, $f_{np,PTSF}$ (Exhibit 15-21)	45.7	
Percent time-spent-following, $PTSF_d(\%)=BPTSF_d+f_{np,PTSF}*(v_{d,PTSF}/v_{d,PTSF}+v_{o,PTSF})$	70.4	

Level of Service and Other Performance Measures

Level of service, LOS (Exhibit 15-3)	D
Volume to capacity ratio, v/c	0.21
Capacity, $C_{d,ATS}$ (Equation 15-12) veh/h	1663
Capacity, $C_{d,PTSF}$ (Equation 15-13) veh/h	1700

Percent Free-Flow Speed $PFFS_d$(Equation 15-11 - Class III only)	*75.3*
Bicycle Level of Service	
Directional demand flow rate in outside lane, v_{OL} (Eq. 15-24) veh/h	*360.2*
Effective width, Ww (Eq. 15-29) ft	*9.00*
Effective speed factor, S_f (Eq. 15-30)	*4.79*
Bicycle level of service score, BLOS (Eq. 15-31)	*6.65*
Bicycle level of service (Exhibit 15-4)	*F*
Notes	
1. Note that the adjustment factor for level terrain is 1.00,as level terrain is one of the base conditions. For the purpose of grade adjustment, specific downgrade segments are treated as level terrain. 2. If v_i(v_d or v_o) >=1,700 pc/h, terminate analysis--the LOS is F. 3. For the analysis direction only and for v>200 veh/h. 4. For the analysis direction only 5. Exhibit 15-20 provides coefficients a and b for Equation 15-10. 6. Use alternative Exhibit 15-14 if some trucks operate at crawl speeds on a specific downgrade.	

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The third class addresses two-lane highways in *developed areas*. The analysis approach for these highways is a modification of the rural highway method and was developed by the Florida Department of Transportation (3). This modification has not been subjected to a national calibration study. It is presented here as an alternative procedure, since it is based entirely on Florida data. For clarity, the material is integrated into the overall method and is not discussed separately as an alternative procedure.

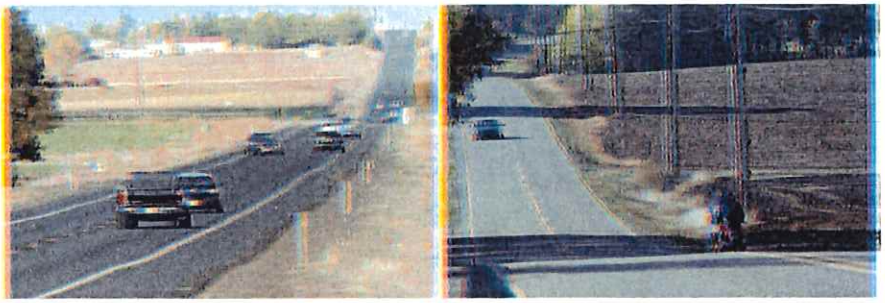
There are three classes of two-lane highways:

- *Class I, where motorists expect to travel at relatively high speeds;*
- *Class II, where motorists do not necessarily expect to travel at high speeds; and*
- *Class III, which are highways passing through moderately developed areas.*

The three classes of two-lane highways are defined as follows and illustrated in Exhibit 15-1:

- *Class I two-lane highways* are highways where motorists expect to travel at relatively high speeds. Two-lane highways that are major intercity routes, primary connectors of major traffic generators, daily commuter routes, or major links in state or national highway networks are generally assigned to Class I. These facilities serve mostly long-distance trips or provide the connections between facilities that serve long-distance trips.
- *Class II two-lane highways* are highways where motorists do not necessarily expect to travel at high speeds. Two-lane highways that are access routes to Class I facilities, that serve as scenic or recreational routes (and not as primary arterials), or that pass through rugged terrain (where high-speed operation would be impossible) are assigned to Class II. These facilities most often serve relatively short trips, the beginning or ending portions of longer trips, or trips for which sightseeing plays a significant role.
- *Class III two-lane highways* serve moderately developed areas. They may be portions of a Class I or Class II highway that pass through small towns or developed recreational areas. Local traffic often mixes with through traffic on these segments, and the number of unsignalized driveways and cross-streets is noticeably higher than in a purely rural area. Class III highways can include longer roadway segments passing through more spread-out recreational areas, also with increased roadside densities. Such segments are often accompanied by reduced speed limits that reflect the higher activity level.

The two-lane highway classes are defined on the basis of their function. Most rural two-lane arterials and trunk roads would be considered to be Class I highways, while most two-lane collectors and local roads would be considered to be Class II or Class III highways. However, the primary determinant of a facility's classification is the motorist's expectation, which might not agree with the route's overall functional category. For example, a major intercity route passing through a rugged mountainous area might be described as Class II if drivers recognize that high-speed operation is not feasible due to the terrain, but the route could still be considered to be in Class I.



(a) Examples of Class I Two-Lane Highways

(b) Examples of Class II Two-Lane Highways

(c) Examples of Class III Two-Lane Highways

Exhibit 15-1
Two-Lane Highway Classifications Illustrated

Base Conditions

The base conditions for two-lane highways are the absence of restrictive geometric, traffic, or environmental factors. Base conditions are not the same as typical or default conditions, both of which may reflect common restrictions. Base conditions are closer to what may be considered as ideal conditions (i.e., the best conditions that can be expected given normal design and operational practice). This chapter's methodology accounts for the effects of geometric, traffic, and environmental factors that are more restrictive than the base conditions. The base conditions for two-lane highways are as follows:

- Lane widths greater than or equal to 12 ft,
- Clear shoulders wider than or equal to 6 ft,
- No no-passing zones,
- All passenger cars (i.e., no trucks) in the traffic stream,

2. *PTSF* represents the freedom to maneuver and the comfort and convenience of travel. It is the average percentage of time that vehicles must travel in platoons behind slower vehicles due to the inability to pass. Because this characteristic is difficult to measure in the field, a surrogate measure is the percentage of vehicles traveling at headways of less than 3.0 s at a representative location within the highway segment. PTSF also represents the approximate percentage of vehicles traveling in platoons.
3. *Percent of free-flow speed* (*PFFS*) represents the ability of vehicles to travel at or near the posted speed limit. It is the ratio of ATS to FFS. The exact relationship between FFS and speed limit depends heavily on local policies on setting such limits and on enforcement practices.

On Class I two-lane highways, both average speed and delay experienced while waiting to pass are important to motorists. Therefore, LOS is defined in terms of both ATS and PTSF for these highways. On Class II highways, travel speed is not a significant issue to drivers; therefore, LOS is defined in terms of PTSF only. On Class III highways, high speeds are not expected, and passing restrictions are not a major concern due to the relatively short lengths of Class III segments. Instead, motorists would like to make steady progress at or near the speed limit. Therefore, PFFS is used to define LOS on Class III highways. Exhibit 15-3 presents the motorized vehicle LOS criteria for two-lane highways.

Exhibit 15-3
Motorized Vehicle LOS for Two-Lane Highways

LOS	Class I Highways		Class II Highways	Class III Highways
	ATS (mi/h)	PTSF (%)	PTSF (%)	PFFS (%)
A	>55	≤35	≤40	>91.7
B	>50–55	>35–50	>40–55	>83.3–91.7
C	>45–50	>50–65	>55–70	>75.0–83.3
D	>40–45	>65–80	>70–85	>66.7–75.0
E	≤40	>80	>85	≤66.7
F	Demand exceeds capacity			

Note: For Class I highways, LOS is determined by the worse of ATS-based LOS and PTSF-based LOS.

Because driver expectations and operating characteristics on the three classes of two-lane highways are different, a single definition of operating conditions at each LOS is difficult to provide.

Two characteristics, however, have a significant impact on actual operations and driver perceptions of service:

- *Passing capacity*: Since passing maneuvers on two-lane highways are made in the opposing direction of flow, the ability to pass is limited by the opposing flow rate and by the distribution of gaps in the opposing flow.
- *Passing demand*: As platooning and PTSF increase in a given direction, the demand for passing maneuvers increases. As more drivers are caught in a platoon behind a slow-moving vehicle, they will desire to make more passing maneuvers.

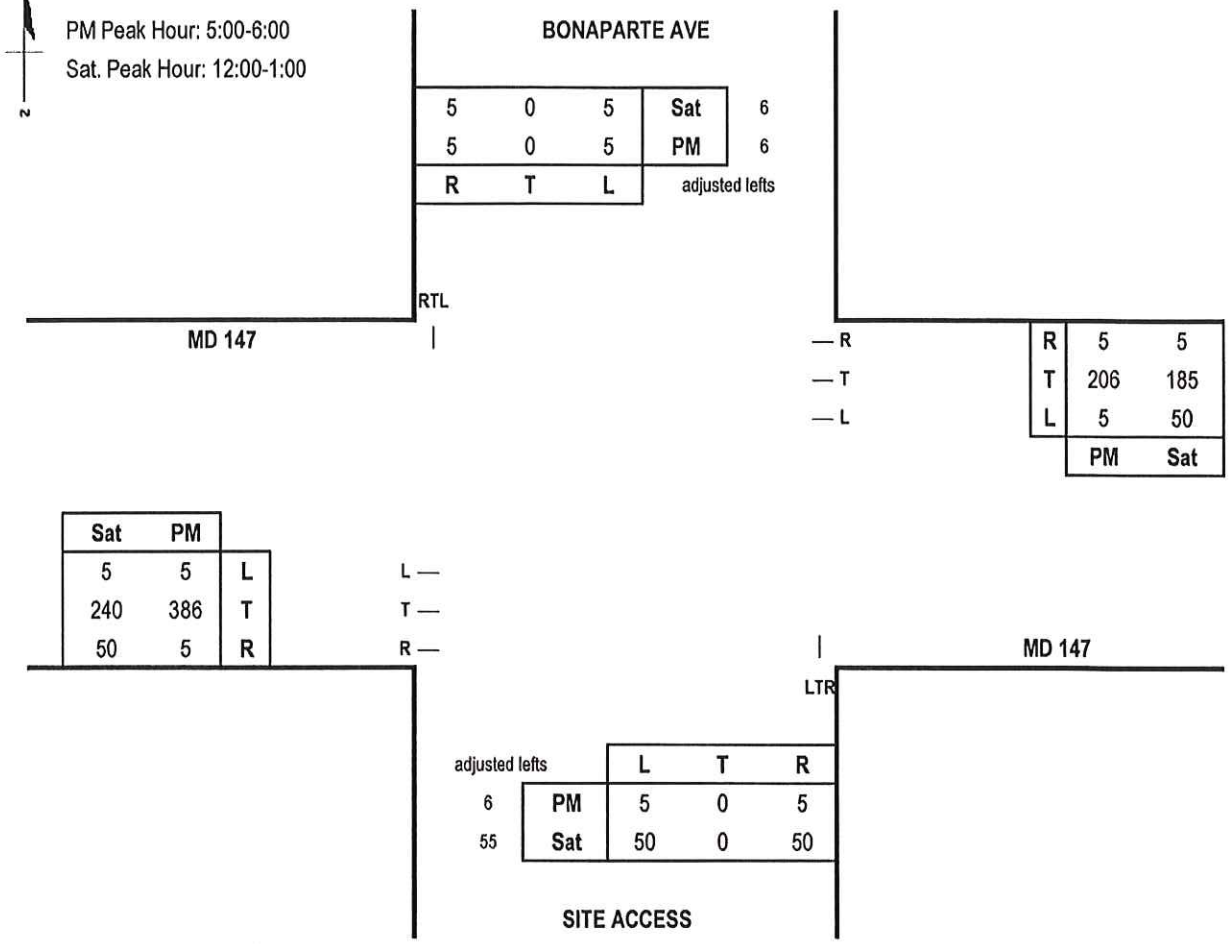
Both passing capacity and passing demand are related to flow rates. As flow in the travel direction increases, passing demand in the travel direction also increases. As flow in the opposing direction increases, passing capacity in the travel direction decreases.

CRITICAL LANE VOLUME (CLV) METHODOLOGY
for MSHA

E/W Road: MD 147
N/S Road: Bonaparte Ave/Site Acc
Conditions: Total Traffic

Date of Count: 9/28/18, 9/29
Day of Count: Friday, Saturday
Analyst: Qiang Tian

PM Peak Hour: 5:00-6:00
Sat. Peak Hour: 12:00-1:00



Capacity Analysis

Evening Peak Hour

	Thru Volumes			+ Opposing Lefts			PM
Dir	VOL	x LUF	= Total	VOL	x LUF	= Total	CLV
NB	11	1.00	11	5	1.00	5	16
SB	11	1.00	11	5	1.00	5	
EB	386	1.00	386	5	1.00	5	391
WB	206	1.00	206	5	1.00	5	
						CLV TOTAL=	407
						Level of Service (LOS)=	A

PM V/C =0.25

Sat. Midday Peak Hour

	Thru Volumes			+ Opposing Lefts			Sat
Dir	VOL	x LUF	= Total	VOL	x LUF	= Total	CLV
NB	105	1.00	105	5	1.00	5	110
SB	11	1.00	11	50	1.00	50	
EB	240	1.00	240	50	1.00	50	290
WB	185	1.00	185	5	1.00	5	
						CLV TOTAL=	400
						Level of Service (LOS)=	A

Sat V/C =0.25

HCS7 Two-Way Stop-Control Report

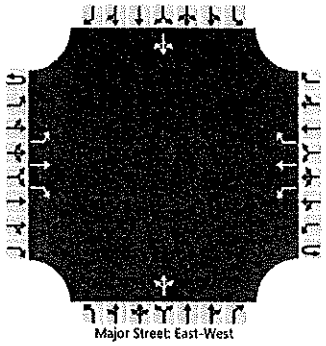
General Information

Analyst	QT
Agency/Co.	TTG, Inc.
Date Performed	10/9/2018
Analysis Year	2018
Time Analyzed	Total Sat. Peak Hour
Intersection Orientation	East-West
Project Description	Nepali Temple

Site Information

Intersection	MD 147 & Bonaparte Ave
Jurisdiction	Baltimore, MD
East/West Street	MD 147
North/South Street	Bonaparte Ave/Site Acc
Peak Hour Factor	0.88
Analysis Time Period (hrs)	0.25

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority	1U	1	2	3	4U	4	5	6		7	8	9		10	11	12
Number of Lanes	0	1	1	1	0	1	1	1		0	1	0		0	1	0
Configuration		L	T	R		L	T	R			LTR				LTR	
Volume (veh/h)		5	240	50		50	185	5		50	0	50		5	0	5
Percent Heavy Vehicles (%)		3				3				3	3	3		3	3	3
Proportion Time Blocked																
Percent Grade (%)										0				0		
Right Turn Channelized		No				No										
Median Type | Storage		Undivided														

Critical and Follow-up Headways

Base Critical Headway (sec)		4.1				4.1				7.1	6.5	6.2		7.1	6.5	6.2
Critical Headway (sec)		4.13				4.13				7.13	6.53	6.23		7.13	6.53	6.23
Base Follow-Up Headway (sec)		2.2				2.2				3.5	4.0	3.3		3.5	4.0	3.3
Follow-Up Headway (sec)		2.23				2.23				3.53	4.03	3.33		3.53	4.03	3.33

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)		6				57					114				11	
Capacity, c (veh/h)		1348				1224					512				473	
v/c Ratio		0.00				0.05					0.22				0.02	
95% Queue Length, Q_{95} (veh)		0.0				0.1					0.8				0.1	
Control Delay (s/veh)		7.7				8.1					14.0				12.8	
Level of Service (LOS)		A				A					B				B	
Approach Delay (s/veh)		0.1				1.7				14.0				12.8		
Approach LOS										B				B		

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HCS7 Two-Way Stop-Control Report

General Information

Analyst	QT
Agency/Co.	TTG, Inc.
Date Performed	10/9/2018
Analysis Year	2018
Time Analyzed	Total PM
Intersection Orientation	East-West
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East/West Street	MD 147
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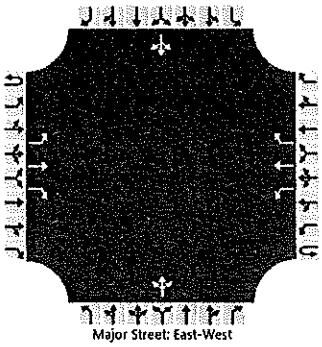
Analysis Time Period (hrs)	0.25

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority	1U	1	2	3	4U	4	5	6		7	8	9		10	11	12
Number of Lanes	0	1	1	1	0	1	1	1		0	1	0		0	1	0
Configuration		L	T	R		L	T	R			LTR				LTR	
Volume (veh/h)		5	386	5		5	206	5		5	0	5		5	0	5
Percent Heavy Vehicles (%)		3				3				3	3	3		3	3	3
Proportion Time Blocked																
Percent Grade (%)										0				0		
Right Turn Channelized		No				No										
Median Type | Storage		Undivided														

Critical and Follow-up Headways

Base Critical Headway (sec)		4.1				4.1				7.1	6.5	6.2		7.1	6.5	6.2
Critical Headway (sec)		4.13				4.13				7.13	6.53	6.23		7.13	6.53	6.23
Base Follow-Up Headway (sec)		2.2				2.2				3.5	4.0	3.3		3.5	4.0	3.3
Follow-Up Headway (sec)		2.23				2.23				3.53	4.03	3.33		3.53	4.03	3.33

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)		6				6					11				11	
Capacity, c (veh/h)		1321				1111					444				484	
v/c Ratio		0.00				0.01					0.03				0.02	
95% Queue Length, Q_{95} (veh)		0.0				0.0					0.1				0.1	
Control Delay (s/veh)		7.7				8.3					13.3				12.6	
Level of Service (LOS)		A				A					B				B	
Approach Delay (s/veh)		0.1				0.2					13.3				12.6	
Approach LOS											B				B	

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Pet No 30

Crash Summary

	2015	2016	2017	2018 (Q1)
MD 147 (Between Hutschenreuter Rd and Vista View Ct, 1.1 miles)				
Number of Crashes:	12	4	13	8
MD 147 (in Bonaparte Ave area, 1,000 feet)				
Number of Crashes:	2	2	4	2
Dry Surface	*2*	*1*	*3*	*0*
Wet Surface	*0*	*1*	*1*	*2*
Single Vehicle	*2*	*1*	*1*	*1*
Head On / Sideswipe	*0*	*1*	*2*	*1*
Rear End	*0*	*0*	*1*	*0*

Source: DATA.GOV - The home of the U.S. Government's open data. Data.gov is managed and hosted by the U.S. General Services Administration (GSA), Technology Transformation Service. (https://catalog.data.gov/organization/state-of-maryland)

The Traffic Group

EXHIBIT 3
RESULTS OF HIGHWAY
CRASH SUMMARY

Petitioner
CBA Exhibit
30

Crash Summary- 2015 Crashes

	COLLISION TYPE CODE	SURF COND CODE	REPORT NO	ACC DATE	ACC TIME	LOG MILE	MAINROAD NAME	DISTANCE	REFERENCE ROAD NAME	CONTI DIRECTION CODE	MOVEMENT CODE	GOING DIRECTION CODE
1	17. Single Vehicle	02.Dry	AE3568000S	Tue, 5/12/15	12:36:00	7.5 N	MD147: HARFORD RD	553 ft N	CO3893: HUTSCHENREUTER RD	N	01.Moving Constant Speed	N
2	17. Single Vehicle	02.Dry	AE4670000J	Fri, 5/15/15	13:52:00	7.5 N	MD147: HARFORD RD	400 ft N	CO3893: HUTSCHENREUTER RD	N	01.Moving Constant Speed	N
3	17. Single Vehicle	02.Dry	AE47270030	Mon, 7/6/15	17:03:00	7.5 N	MD147: HARFORD RD	200 ft N	CO3893: HUTSCHENREUTER RD	S	01.Moving Constant Speed	S
4	17. Single Vehicle	02.Dry	AE32510004	Sun, 2/1/15	00:26:00	8.09 N	MD147: HARFORD RD	250 ft N	CO3894: BONAPARTE AVE	N	03.Slowing or Stopping	N
5	17. Single Vehicle	02.Dry	AE5176000H	Fri, 10/23/15	23:37:00	8.09 N	MD147: HARFORD RD	0	CO3894: BONAPARTE AVE	S	01.Moving Constant Speed	S
6	17. Single Vehicle	04.Ice	AE4727001C	Mon, 1/12/15	08:02:00	8.29 N	MD147: HARFORD RD	25 mi N	CO6933: GLEN ARM RD E	E	01.Moving Constant Speed	E
7	17. Single Vehicle	04.Ice	AE47920007	Sun, 1/18/15	12:00:00	8.29 N	MD147: HARFORD RD	1 mi N	CO6933: GLEN ARM RD E	E	01.Moving Constant Speed	E
8	02. Head On LT	02.Dry	AE4727003R	Wed, 9/30/15	16:59:00	8.29 N	MD147: HARFORD RD	0	CO6933: GLEN ARM RD E	S	01.Moving Constant Speed	S
										N	12.Making Left Turn	E
9	11. Same Movement Angle	02.Dry	AE5419003P	Wed, 8/12/15	17:35:00	8.29 N	MD147: HARFORD RD	0	CO6933: GLEN ARM RD E	S	01.Moving Constant Speed	S
										E	12.Making Left Turn	E
10	11. Same Movement Angle	01.Wet	AE5419003M	Mon, 8/10/15	14:34:00	8.29 N	MD147: HARFORD RD	0	CO6933: GLEN ARM RD E	E	12.Making Left Turn	E
										S	01.Moving Constant Speed	S
11	11. Same Movement Angle	02.Dry	AE4045004V	Mon, 7/27/15	17:42:00	8.29 N	MD147: HARFORD RD	0	CO6933: GLEN ARM RD E	N	12.Making Left Turn	E
										S	01.Moving Constant Speed	S
12	11. Same Movement Angle	02.Dry	AE43790044	Wed, 7/8/15	07:54:00	8.29 N	MD147: HARFORD RD	0	CO6933: GLEN ARM RD E	S	01.Moving Constant Speed	S
										N	12.Making Left Turn	E

Source: DATA.GOV - The home of the U.S. Government's open data. Data.gov is managed and hosted by the U.S. General Services Administration (GSA), Technology Transformation Service. (https://catalog.data.gov/organization/state-of-maryland)

Crash Summary- 2016 Crashes

	COLLISION TYPE CODE	SURF COND CODE	REPORT NO	ACC DATE	ACC TIME	LOG MILE	MAINROAD NAME	DISTANCE	REFERENCE ROAD NAME	CONTI DIRECTION CODE	MOVEMENT CODE	GOING DIRECTION CODE
1	17. Single Vehicle	01.Wet	AE4670000W	Sun, 1/17/16	15:43:00	7.5 N	MD147: HARFORD RD	0	CO3893: HUTSCHENREUTER RD	S	01.Moving Constant Speed	S
2	06. Opposite Dir Sideswipe	01.Wet	AE4379008N	Tue, 5/17/16	12:03:00	8.09 N	MD147: HARFORD RD	0	CO3894: BONAPARTE AVE	S	01.Moving Constant Speed	S
										N	01.Moving Constant Speed	N
3	17. Single Vehicle	02.Dry	AE5821001T	Tue, 8/23/16	21:52:00	8.09 N	MD147: HARFORD RD	0	CO3894: BONAPARTE AVE	S	01.Moving Constant Speed	S
4	11. Same Movement Angle	01.Wet	AE35240009	Fri, 9/30/16	06:58:00	8.29 N	MD147: HARFORD RD	0	CO6933: GLEN ARM RD E	S	01.Moving Constant Speed	S
										N	12.Making Left Turn	E

Source: DATA.GOV - The home of the U.S. Government's open data. Data.gov is managed and hosted by the U.S. General Services Administration (GSA), Technology Transformation Service. (https://catalog.data.gov/organization/state-of-maryland)

Crash Summary- 2017 Crashes

	COLLISION TYPE CODE	SURF COND CODE	REPORT NO	ACC DATE	ACC TIME	LOG MILE	MAINROAD NAME	DISTANCE	REFERENCE ROAD NAME	CONTI DIRECTION CODE	MOVEMENT CODE	GOING DIRECTION CODE
1	17. Single Vehicle	2. Dry	AE5176001G	Wed, 8/9/17	23:21:00	7.5 N	MD147: HARFORD RD	800 ft N	CO3893: HUTSCHENREUTER RD	N	1.Moving Constant Speed	N
2	1. Head On	2. Dry	AE4816001G	Sat, 1/28/17	18:39:00	8.09 N	MD147: HARFORD RD	40 ft S	CO3894: BONAPARTE AVE	S	1.Moving Constant Speed	S
										N	1.Moving Constant Speed	N
3	3. Same Dir Rear End	2. Dry	AE4816001M	Thu, 3/2/17	11:08:00	8.09 N	MD147: HARFORD RD	100 ft S	CO3894: BONAPARTE AVE	N	3.Slowing or Stopping	N
										N	3.Slowing or Stopping	N
4	1. Head On	2. Dry	AE437900J2	Mon, 9/25/17	8:51:00	8.09 N	MD147: HARFORD RD	0.1 mi S	CO3894: BONAPARTE AVE	N	1.Moving Constant Speed	N
										S	1.Moving Constant Speed	S
5	17. Single Vehicle	3. Snow	AE3523001D	Wed, 12/13/17	22:30:00	8.09 N	MD147: HARFORD RD	50 ft N	CO3894: BONAPARTE AVE	S	1.Moving Constant Speed	S
6	11. Same Movement Angle	2. Dry	AE437900FB	Mon, 3/6/17	16:54:00	8.29 N	MD147: HARFORD RD	0	CO6933: GLEN ARM RD E	N	12.Making Left Turn	E
										S	1.Moving Constant Speed	S
7	17. Single Vehicle	2. Dry	AE35230014	Mon, 3//17	2:10:00	8.29 N	MD147: HARFORD RD	0	CO6933: GLEN ARM RD E	E	1.Moving Constant Speed	E
8	11. Same Movement Angle	2. Dry	AE5207002Z	Sun, 6/11/17	14:32:00	8.29 N	MD147: HARFORD RD	0	CO6933: GLEN ARM RD E	E	12.Making Left Turn	E
										S	3.Slowing or Stopping	S
9	11. Same Movement Angle	2. Dry	AE437900GG	Wed, 5/24/17	17:07:00	8.29 N	MD147: HARFORD RD	0	CO6933: GLEN ARM RD E	N	12.Making Left Turn	E
										S	1.Moving Constant Speed	S
10	11. Same Movement Angle	2. Dry	AE54210029	Mon, 8/28/17	19:10:00	8.29 N	MD147: HARFORD RD	0	CO3900: MT VISTA RD	N	3.Slowing or Stopping	N
										S	1.Moving Constant Speed	S
11	17. Single Vehicle	2. Dry	AE52070052	Wed, 11/15/17	12:15:00	8.29 N	MD147: HARFORD RD	0	CO6933: GLEN ARM RD E	S	1.Moving Constant Speed	S
12	11. Same Movement Angle	2. Dry	AE51010024	Thu, 11/23/17	21:25:00	8.29 N	MD147: HARFORD RD	0	CO6933: GLEN ARM RD E	S	20.03.Negotiating a Curve	S
										S	13.Making Right Turn	E
13	17. Single Vehicle	2. Dry	AE5785003C	Thu, 12/14/17	11:24:00	8.29 N	MD147: HARFORD RD	100 ft N	CO3900: MT VISTA RD	N	1.Moving Constant Speed	E

Source: DATA.GOV - The home of the U.S. Government's open data. Data.gov is managed and hosted by the U.S. General Services Administration (GSA), Technology Transformation Service. (https://catalog.data.gov/organization/state-of-maryland)

Crash Summary- 2018 (Q1) Crashes

	COLLISION TYPE CODE	SURF COND CODE	REPORT NO	ACC DATE	ACC TIME	LOG MILE	MAINROAD NAME	DISTANCE	REFERENCE ROAD NAME	CONTI DIRECTION CODE	MOVEMENT CODE	GOING DIRECTION CODE
1	88. Other	1. Wet	AE4763002Y	Thu, 01/04/18	20:18:00	7.5 N	MD 147: HARFORD RD	600 ft N	CO3893: HUTSCHENREUTER RD	N	1.Moving Constant Speed	N
2	17. Single Vehicle	4. Ice	AE5023001W	Tue, 01/16/18	5:48:00	7.5 N	MD 147: HARFORD RD	0.2 mi N	CO3893: HUTSCHENREUTER RD	N	1.Moving Constant Speed	N
3	15. Opposite Dir Both LT	4. Ice	AE472700C1	Fri, 02/09/18	7:32:00	8.09 N	MD 147: HARFORD RD	250 ft S	CO3894: BONAPARTE AVE	S	1.Moving Constant Speed	S
										N	1.Moving Constant Speed	N
4	17. Single Vehicle	1. Wet	AE5760003T	Sun, 02/25/18	9:27:00	8.09 N	MD 147: HARFORD RD	0 ft S	CO3894: BONAPARTE AVE	S	1.Moving Constant Speed	S
5	17. Single Vehicle	4. Ice	AE51850018	Tue, 01/16/18	5:19:00	8.29 N	MD 147: HARFORD RD	50 ft N	CO6933: GLEN ARM RD E	E	3.Slowing or Stopping	S
6	6. Opposite Dir Sideswipe	4. Ice	AE404500KJ	Tue, 01/16/18	8:34:00	8.57 N	MD 147: HARFORD RD	200 ft S	CO299: REGWOOD RD	N	16.Skidding	N
										S	1.Moving Constant Speed	S
7	88. Other	1. Wet	AE54950028	Wed, 01/10/18	1:59:00	8.62 N	MD 147: HARFORD RD	200 ft N	CO6273: VISTA VIEW CT	S	1.Moving Constant Speed	S
8	17. Single Vehicle	2. Dry	AE404500K7	Tue, 01/02/18	20:12:00	8.62 N	MD 147: HARFORD RD	400 ft N	CO6273: VISTA VIEW CT	N	1.Moving Constant Speed	N

Source: DATA.GOV - The home of the U.S. Government's open data. Data.gov is managed and hosted by the U.S. General Services Administration (GSA), Technology Transformation Service. (https://catalog.data.gov/organization/state-of-maryland)

Property Boundary + Existing Buildings + Tree Buffer

My Neighborhood Map

Created By
Baltimore County
My Neighborhood

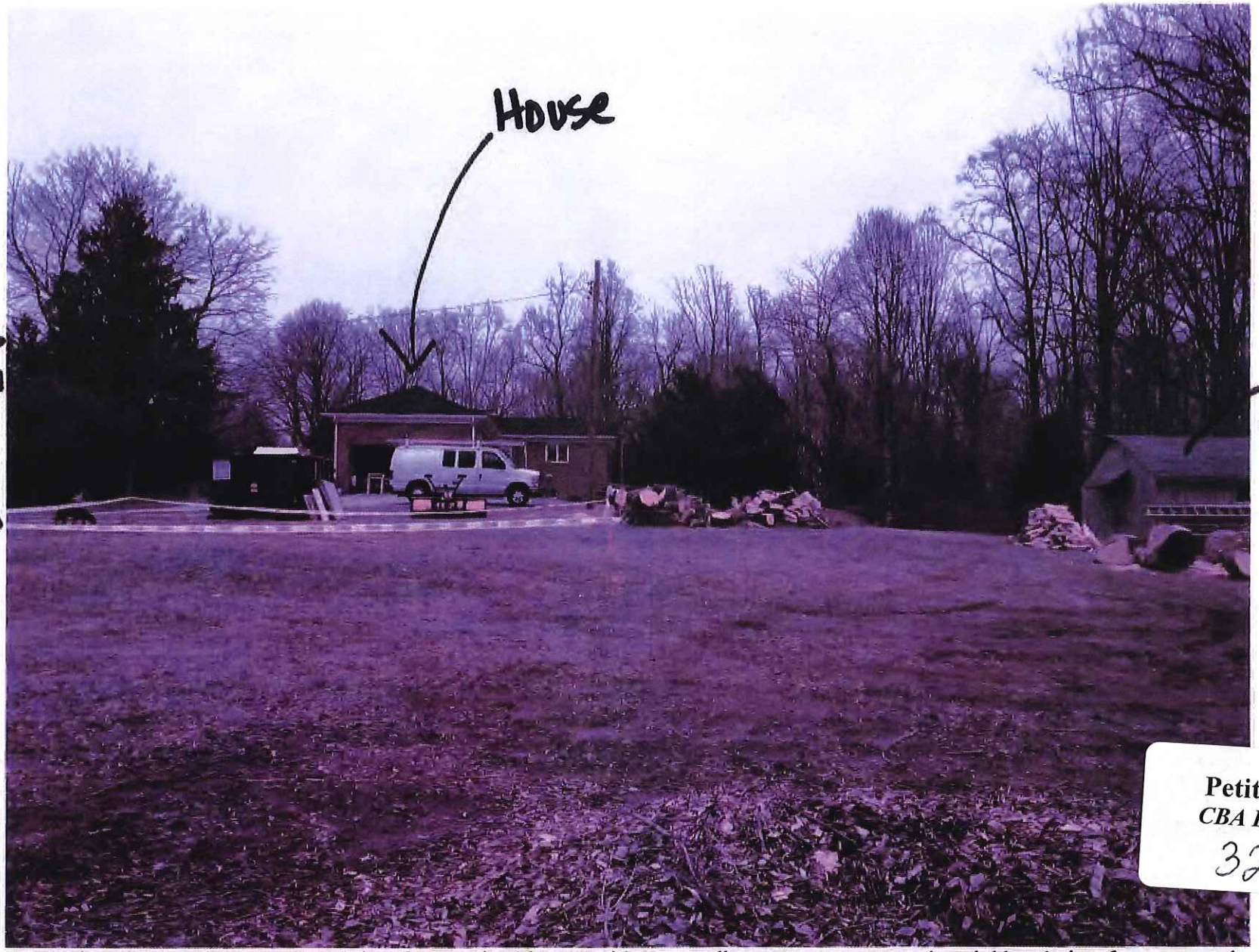
This data is only for general information purposes only. This data may be inaccurate or contain errors or omissions. Baltimore County, Maryland does not warrant the accuracy or reliability of the data and disclaims all warranties with regard to the data, including but not limited to, all warranties, express or implied, of merc particular purpose. Baltimore County and liability for damages, including bu indirect, and consequential damages, court costs incurred as a result of, aris use of or reliance upon this data.

Printed 3/14/17

Petitioner
CBA Exhibit
31

ADMINISTRATIVE VARIANCE - POEHLER PROPERTY 12241 HARFORD RD Glen Arm MD 21057

PHOTO ~~5~~ 1/3



Petitioner
CBA Exhibit
329

East facing view, depicting proposed site of garage in side yard with surrounding property, area not in neighbors' view from any angle

CASE 2014-0135-A

ADMINISTRATIVE VARIANCE · POEHLER PROPERTY 12241 HARFORD RD GLEN ARM, MD 21057

PHOTO ~~3/5~~ 2/3

CASE 2014-0135-A

Proposed garage site – picture taken from end of existing driveway

CAUTION TAPE OUTLINES AREA OF PROPOSED GARAGE

Petitioner
CBA Exhibit
32B

ADMINISTRATIVE VARIANCE POEHLER PROPERTY 12241 HARFORD RD GLEN ARM MD 21057

PHOTO #5 3/3

CASE 2014-0135-A

Picture from northwest corner of property depicting the slope of the property, noting view of only top of shed in background

Petitioner
CBA Exhibit
32C

POEHLER PROPERTY 12241 HARFORD RD GLEN ARM MD 21057
ADMINISTRATIVE ZONING PETITION
BERNADETTE T POEHLER CLARENCE D POEHLER

Based upon personal knowledge, the following are the facts which we base the request for an Administrative Variance

(1) Variance request to allow accessory structure to be located within the side yard in lieu of the required rear yard per section 400.1 of the BCZR.

The building placement in the rear would be unnecessarily burdensome due to the extremely steep grade of the property behind the home in the rear yard. Placement of the structure within the side yard reduces the need for grading the property and increases the distance between the structure and the tree line of the uniquely shaped property (please see photographs attached to application)

Permitting structure area to be along side the existing structure would give substantial relief to the property owners and the unique topography of the land which slopes toward the tree line behind the existing structure

Granting the relief of the area ordinance would not impact public safety or the welfare of the community and based on the curvature of the street, the area placement of the structure will not be noticeable to the community

(2) Variance request to allow the height of the accessory structure (garage) to be 25 feet in lieu of the required 15 feet per section 400.3 of the BCZR.

The allowance of the variance would provide for the peak to allow clearance of an RV and truck/plow to gain access to garage for storage and maintenance of vehicles

The property we are petitioning for a height variance is for a detached garage at our home and we desire to store our RV and personal vehicles on our property

The property currently has an attached garage that does not allow clearance of storage of an RV or our truck with snow plow attached.

Petitioner
CBA Exhibit
33

0135-A

TIMOTHY M. KOTROCO, Esq.
305 Washington Avenue, Suite 502
Towson, Maryland 21204
410-299-2943
Tkotroco@gmail.com

July 2, 2018

The Honorable John E. Beverungen
Administrative Law Judge for Baltimore County
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204

Re: Case No. 2018-0122-X, Petition for Special Exception
Request for Clarification of Your Order Dated January 22, 2018

Dear Judge Beverungen:

I write to you on behalf of my clients, the Nepali American Cultural Center and the zoning Order that you wrote approving the use of a building on their property for religious worship. The decision you wrote was dated the 22nd day of January, 2018 and a copy of that decision is attached hereto.

As you may know, some of the protestants who appeared at the hearing before you filed an appeal to the Board of Appeals and the case is currently pending before that agency. In the meantime, my clients have continued to repair the damage that has been done to the property by the local residents and continue to maintain the grounds, as they should.

At issue at this time is the language contained within your Order, specifically the seven restrictions located at the end of your approval. My clients have scheduled a fundraising event which is proposed to occur on the grounds of the subject property. These fundraising events are very important to the owners of the property as the repairs to fix the damage done to the property over the years has been extensive. This fundraising event is scheduled for July 29th to August 3rd, 2018.

I have attached to this letter a post that was taken from Facebook which advertises this event. As you are aware, social media, such as Facebook is an effective way to inform people of an event such as this fundraiser. Baltimore County Code Enforcement was provided a copy of that Facebook post by one of the protestants. Code Enforcement is attempting to assert that we cannot gather on our property because of the language of your restrictions contained within your Order. The fundraiser will be held outside on the property and not within the building. In fact, the building is not occupiable at this time as it still is not connected to water or sewer. It is however, anticipated that my clients will provide walking tours of the building to show the extensive improvements they have made to the property, of which they are very proud.

Petitioner
CBA Exhibit
34

Based upon this letter and the attachments hereto, I respectfully request your interpretation of your Order, specifically the restrictions contained therein as to whether it is appropriate for my clients to host this gathering event on the grounds of their property or whether such actions would violate the restriction you imposed upon them.

I have included a simple statement at the bottom of this letter for you to sign, should you deem it appropriate. Thank you for your time and consideration of this matter.

Very truly yours,

Timothy Kotroco

Timothy M. Kotroco

I understand the owners are proposing to host a gathering on the property July 29th through August 3rd, 2018. I also understand the Code Enforcement Bureau contends that the gathering would violate the terms and conditions of my January 22, 2018 Order granting special exception relief. I respectfully disagree and would note those conditions (as envisioned by BCZR section 502.2) related solely to the operations of a building for religious worship, which was the relief granted in the special exception case.

The owners are free to gather on their property so long as no religious activities are occurring within the subject building and all other permit requirements, if any, are satisfied. If this is the case, there is no violation of my Order. This owner should be treated no differently than any other citizen who wishes to host a party, a picnic or any other social event on their property.

7/3/2018
Date

John E. Beverungen, ALJ

TMK/mtk
Attachments

KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

January 22, 2018

Timothy M. Kotroco
305 Washington Avenue, Suite 502
Towson, Maryland 21204

RE: Petitions for Special Exception
Case No. 2018-0122-X
Property: 12231 Harford Road

Dear Mr. Kotroco:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: DeWitt Clark, 12150 Harford Road, Glen Arm, MD 21057
Morgan Miner, 11946 Harford Road, Glen Arm, MD 21057
Carol Shaw, 7 Country Hill Ct., Kingsville, MD 21087
Paul Koch, 12138 Harford Road, Glen Arm, MD 21057
Robin Beers, 12442 Jerusalem Road, Kingsville, MD 21087
Joyce Mason, 11813 Harford Road, Glen Arm, MD 21057

Darby Standiford & Ronald Standiford, 6415 Mt. Vista Road, Kingsville, MD 21087
Ginny Terhune, 404 W. Joppa Road, Towson, MD 21204
Stephen Brady, 6208 Banaparte Avenue, Glen Arm, MD 21057
Edward & Sharon Heimiller, 12702 Lee Ben Road, Kingsville, MD 21087
Peter Martin, 1954 Greenspring Drive, Timonium, MD 21093
Robert & Denise Smith, 6215 Bonaparte Avenue, Glen Arm, MD 21057
Ellen Hubbard, 7862 Oakdale Avenue, Rosedale, MD 21237
Mary C. Clark, 12150 Harford Road, Glen Arm, MD 21057
Philip Landefeld & David Hartman, 12513 Regwood Road, Hydes, MD 21084
Pat Garner, 12535 Merritt Avenue, Fork, MD 21051
TA Kneeshaw, 11 Kings Glen Ct., Kingsville, MD 21087
Joanne Foxworthy & Robert Shifflett, 6229 Bonaparte Avenue, Glen Arm, MD 21057
Joanne Marsh, 5714 Williams Road, Hydes, MD 21082
Patricia Foley, 6131 Glen Arm Road E, Glen Arm, MD 21057
Jeannette Kempske, 11748 Harford Road, Glen Arm, MD 21057
Barbara Yingling, 11744 Harford Road, Glen Arm, MD 21057
Rosemary Bronzert, 12517 Regwood Road, Hydes, MD 21082
Holly Hammond & Charles Bronzert, 10900 Harford Road, Glen Arm, MD 21057
Patti Thoorn, 6316 Hutschenreuter Road, Glen Arm, MD 21057
Ibby Fazzini, 12330 Long Green Pike, Glen Arm, MD 21057
Jim Shipley, 6801 Glen Arm Road East, Glen Arm, MD 21057
Joe Tiberi, 6041 Glen Arm Road East, Glen Arm, MD 21057
Dave Poehler, 12241 Harford Road, Glen Arm, MD 21057
Donna Carter, 5515 Williams Road, Hydes, MD 21082
Keith Reuling & Nancy Koerner, 12505 Regwood Road, Hydes, MD 21082
Mary Lou Wickham, 11752 Harford Road, Glen Arm, MD 21057
Lisa Vindiola, 11930 Harford Road, Glen Arm, MD 21057
Scott Striebinger, 18 Vista View Ct., Kingsville, MD 21047
Doug Honbarrier, 6219 Bonaparte Avenue, Glen Arm, MD 21057
Bernadette Poehler, 12241 Harford Road, Glen Arm, MD 21057
Donna Gillespie, 32 Edgemoor Road, Timonium, MD 21093

IN RE: PETITION FOR SPECIAL EXCEPTION (12231 Harford Road) 11th Election District 5th Council District Nepali American Cultural Center *Legal Owner*	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2018-0122-X

* * * * * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Exception filed on behalf of Nepali American Cultural Center, legal owner ("Petitioner"). The Special Exception was filed pursuant to the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow a church or other building for religious worship on property zoned RC-2.

Professional engineers John Motsco and Joe Caloggeri appeared in support of the petition. Timothy M. Kotroco, Esq. represented the Petitioner. Numerous citizens attended the hearing and objected to the request. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP), the Bureau of Development Plans Review (DPR), State Highway Administration (SHA) and the Department of Environmental Protection and Sustainability (DEPS). None of the reviewing agencies objected to the request.

The subject property is approximately 30.8 acres and is zoned RC-2. The property is improved with an historic single-family dwelling and several outbuildings. Petitioner purchased the property last year, at which time it was rundown and abandoned. Photographs submitted at the hearing reveal extensive vandalism to the property which occurred both before and after Petitioner purchased the property. Petitioner is in the process of renovating the property, and estimates that

at least 4-5 months of additional restoration work needs to be done before the property can be used by the congregation.

Special Exception

Doug Burgess, an attorney with a law office in the area, testified a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), wherein Maryland's highest court discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Mr. Motsco, a professional engineer accepted as an expert, explained the site plan in detail and said he has visited the property on several occasions. He testified the property is approximately 30.8 acres in size and is zoned RC-2. The witness noted the site has mature wooded buffers along all road frontages, and he testified Petitioner is not at this time proposing any new construction on the site. In conclusion, Mr. Motsco opined Petitioner satisfied each of the requirements set forth at B.C.Z.R. §502.1.

Several citizens testified in opposition to the proposal. Though each witness expressed concern with how the project may impact them individually, there were common themes in the testimony. Traffic conditions and roadway safety, and a concern for water wells and private sewage disposal, were the most frequently cited concerns. Many neighbors also complained about several events or gatherings at the site which generated a significant amount of noise. With the exception of the complaints about noise (which will be addressed in a condition included in the

final order), these concerns are inherent in the operation of a church or building for worship located in a rural area. In other words, most uses for which a special exception is required are regarded as "potentially troublesome because of noise, traffic, congestion...." *Montgomery County v. Butler*, 417 Md. 271, 297 (2010).

In rural zones especially roadways are often antiquated and overburdened, and water/sewer services are not provided by the County. Harford Road will be used to access the site, and as a state highway it is under the control and jurisdiction of the State Highway Administration (SHA). As Mr. Caloggeri (a professional engineer accepted as an expert) testified, the SHA, not Baltimore County, will examine the proposed access and determine whether improvements or other measures are necessary to ensure safe ingress/egress from the site.

As noted in the conditions below, Petitioner must obtain approval from Baltimore County for installation of well and septic systems for this property. Ronald Standiford, pastor of the adjacent Redeemer church, noted that the Christian school affiliated with the church has approximately 220 students and the well and septic system are sufficient. According to witnesses in Petitioner's case, far fewer people will visit this site on a daily basis, and thus there is no reason to believe the water supply and sewerage system would not be adequate.

THEREFORE, IT IS ORDERED this **22nd** day of **January, 2018,** by this Administrative Law Judge, that the Petition for Special Exception to allow a church or other building for religious worship on property zoned RC-2, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

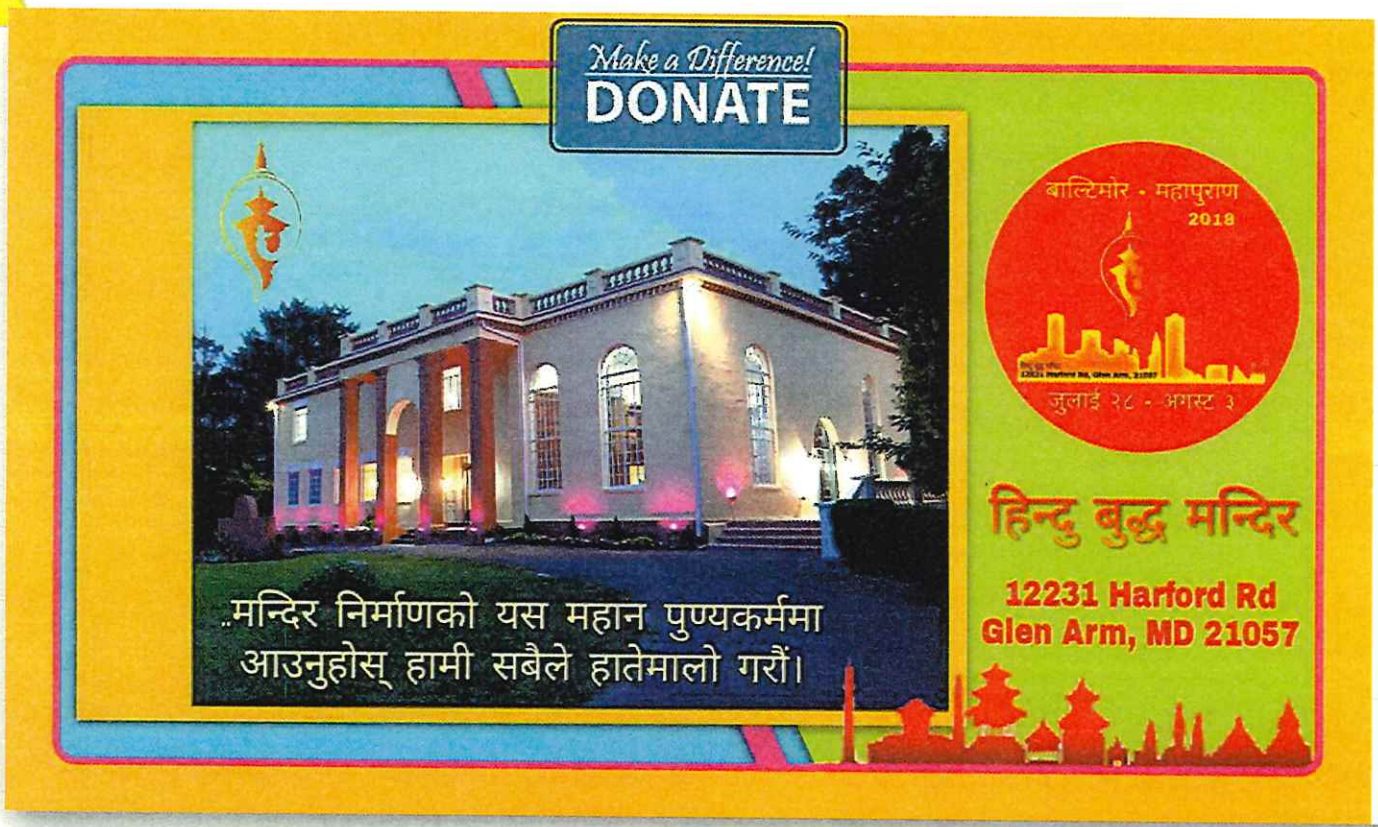
1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

2. Petitioner must submit for approval by Baltimore County landscape and lighting plans for the site.
3. Prior to operating a religious facility at the site Petitioner must install a sign at the Harford Road access point (in compliance with the B.C.Z.R. §450) containing the name of the facility and street address.
4. Prior to issuance of occupancy permits, Petitioner must demonstrate to DEPS that the well and septic system proposed will be sufficient to serve the facility.
5. Prior to issuance of permits Petitioner must comply with the ZAC comment of DEPS, a copy of which is attached hereto and incorporated herein.
6. Prior to issuance of permits Petitioner must obtain from SHA an access permit authorizing ingress and egress from the site via Harford Road.
7. Special events held at the site shall be limited to the hours of 10 a.m. to 10 p.m., and outdoor amplification of music or sound shall not be permitted.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln



Kris Ghimire
June 17 ·

Join us today at 6pm for the celebration! Two years later here is the transformation. Come and see for yourself...all the hard work our volunteers have put into it. The moment we have been waiting for 😀

Like Share

57

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Rajan Tripathi Thank you 🙏 volunteers!
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If you recently received a Final Forfeiture Letter from SDAT, with a mailing date of 10/16/2018, the correct date your entity will be forfeited will be 12/17/2018, with an effective date of 10/16/2018. Please see our FAQs for additional information HERE. We are sorry for any confusion the incorrect date may have caused.

HISTORIC TIMEKEEPERS, INC.: D03479847

General Information

Department ID Number:
D03479847

Business Name:
HISTORIC TIMEKEEPERS, INC.

Employer Identification Number:
52-1794563

Principal Office:
12150 HARFORD ROAD
GLEN ARM MD 21057

Petitioner
CBA Exhibit
35

Resident Agent:
CHRIS A. OWENS
16 EAST WILLOW AVENUE
TOWSON MD 21204

Status:
INCORPORATED

Good Standing:
THIS BUSINESS IS IN GOOD STANDING
» Order Certificate of Status

Business Type:
CORPORATION

Business Code:
03 ORDINARY BUSINESS - STOCK

Date of Formation/ Registration:
08/04/1992

State of Formation:
MD

Stock Status:
STOCK

Close Status:
NO

New Search Order Documents

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410-767-1184 | Outside the Baltimore Metro Area: 888-246-5941
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To see images full size right click and select "view image" or "view image in new tab" Depending on browser

Watchmaker Microscopes for Sale

HTI Main Page
Up

Below is selection of high resolution stereoscopic microscopes useful for watchmakers. You can see how I use microscopes in my business here. These all have good working distances for use at the WW lathe, Sherline mill and watchmaker drill presses. They are also extremely useful for checking jewels for defects, oiling escapements and checking the oil ring in capped jewels. You can extend the working distance (while reducing the total magnification) by acquiring an auxiliary objective (.7x or .5x). This will make it extremely practical at the bench for routine assembly and disassembly.

Popular Highlights

These microscopes were top of the line in the late 1990s and ran $1000 to $1500. They were used in universities and in quality control labs. These are now obsolete for those purposes since institutions are all using digital imaging systems instead of microscopes.

Notes for Young Watchmakers

HTI Approach to Service

Microscopes in Watchmaking

When only a watchmaker will do

The 37500 Contract Prototype

Restoration of Omega Jump Seconds Clock

Shop Tour

Photo Series Index Page

Warbird Clocks for Sale

Equipment for Sale

None of the scopes here were used in production where fumes could coat the optics. All have been checked by me for correct operation: they stay in focus when zoomed, the image stays centered when zoomed and the zoom is smooth. I relubed the zoom mechanisms with MolyKote. These mechanisms are very robust and easy to care for. Personally, I follow the general recommendations to not "clean" the internal optics; they are well sealed and there is the risk of throwing them out of alignment. Use Isopropol Alcohol (lab grade) to clean the external optics with a cotton swab.

Most of the microscopes come with a lighting source (not usually needed at the bench or lathe) and 2 sets of matched eyepieces (10X and 15X). These will provide magnification from 8x to over 60x depending on the scope. The American Optical and Reichert scopes have a zoom range from .7 to 4.2 and Nikon and Olympus scopes zoom from .8 to 4.0. Multiply that by the eyepiece magnification to get the total magnification.

I tend to work at about 20x which is real joy. You can really see and have your nose getting in the way! And at the lathe you can see what is happening at the graver! I even turn the lathe 90 degrees and use the microscope to cut female centers and drill small holes (20/100mm to 70/100mm).

All have been cleaned and lubricated with their optics checked to ensure that the image remains centered and focused when zoomed (if applicable). There is a procedure for balancing the eyepieces to your eyes, but once done it is done. Parfocal zooming is ensured by focusing at the highest magnification.

Compare these to prices on auctions sites. These are tested, cleaned and lubed. I make my name on service so if you are unhappy you send it back. I only picked up scopes (mainly from labs and quality control departments) that I knew were useable. Bad ones go to auctions.

Petitioner
CBA Exhibit
36

Bausch and Lomb StereoZoom 7 in Desk Stand with E-Arm for your boom

This is one of the finest optical stereo microscopes made. It is fully capable of delivering high resolution images at over 150 with an optional (hard to find) 2X auxiliary lens. This is this scope I use for inspection with my 15X B&L Ultras and a 2x lens.

This scope comes as shown: 10X B&L wide field eyepiece, desk stand and a ROTATING E-arm for mounting on your own boom. As you can see, both of these scopes came from biology labs and

were used as dissection scopes. They have been well cared for. You will see this scope is mounted on a boom. Not just any boom, it has the Bausch rotating holder made specifically for this scope. This is also very hard to find. The package also includes a desk stand with a non rotating holder.

Unlike the "normal" e-arm, this allows you to rotate the microscope 360 degrees in its mount. Extremely useful. You can use this with your existing micrcoscope boom and base.

One thing to note is that the Bausch system locks the scope pod in place so it cannot fall out accidentally.

As you can see, both of these scopes came from biology labs and were used as dissection scopes. They have been well cared for.

This mounting system allows you to adjust the scope to any possible working position. You can use the e arm in your boom over your lathe and the desk stand for inspection and lubrication work. Just undo two clips and put the pod into the other mount. It is that simple.

Like all the scopes I have sold, the focuser and zoom are lubricated and smooth, optics are unblemished, target remains centered across zoom range and the object remains focused (parfocal) when the eyepieces are properly adjusted.

Price: $475 plus shipping

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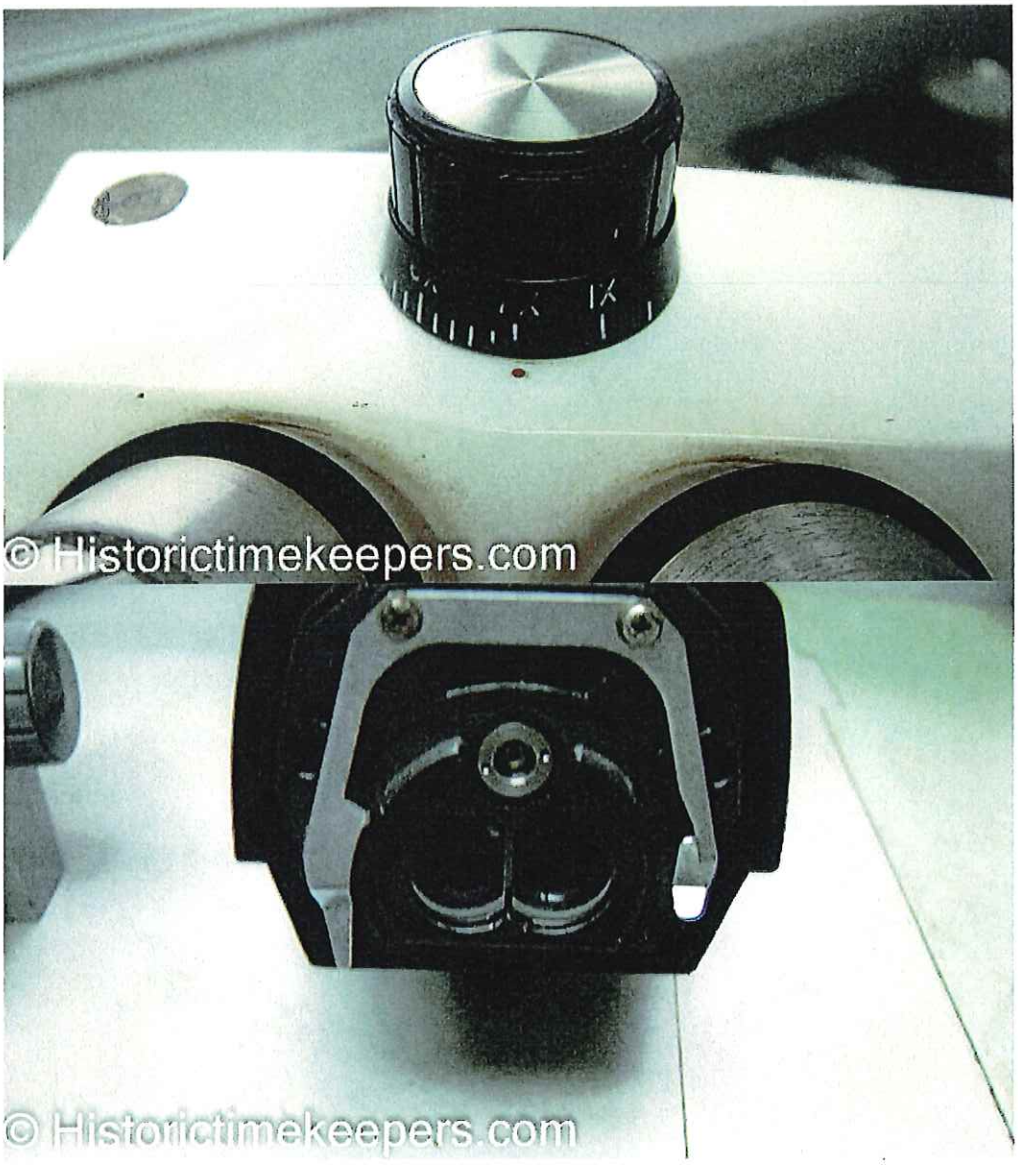
© Historictimekeepers.com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© Historictimekeepers.com

AMERICAN OPTICAL 570 on Base with direct and reflected lighting

No matter what scope you buy or from where, I highly recommend buying a light source that transmits light FROM UNDER the piece. This is essential when inspecting hole jewels and oiled pallets. There are LED light plates made just for this purpose.

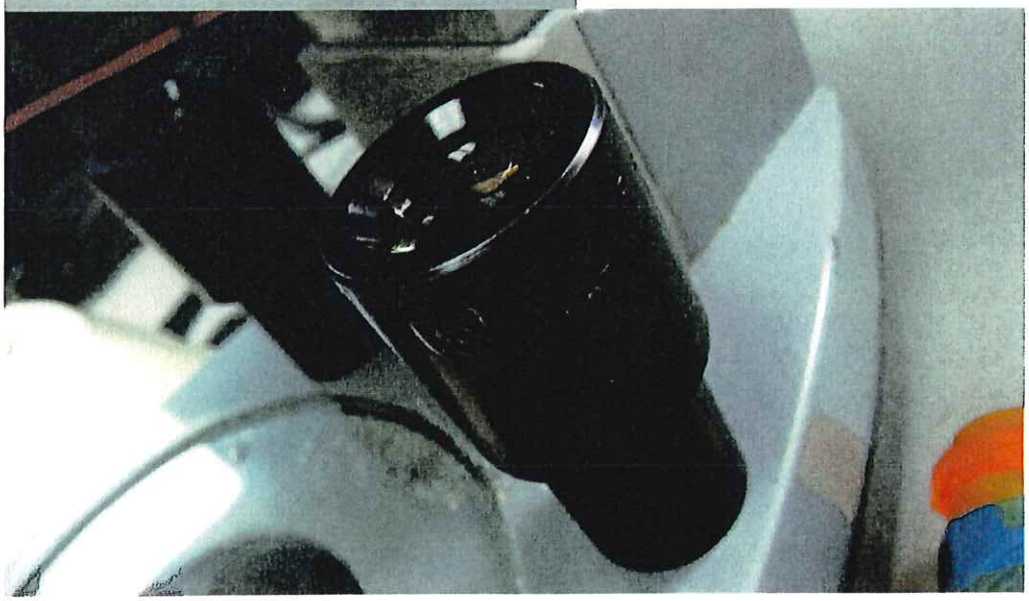
This AO 570 is mounted on a lab base that allows the included lamp to be used above the work or under the work. As presented here, it is useful for assembly, inspection and oiling. Once you buy a boom you have a very versatile system.

The AO 570 was AO's top of the line high resolution scope and should not be confused with the 569 (lower resolution) or the 571 (fixed magnification). They only ended production when industry shifted to digital imaging.

This is a great setup if you are a serious watchmaker but are not yet heavy into lathe work.

Since it IS an AO 570, you have a zoom factor of .7 to 4.2X. Comes with original AO 10X and 15X eyepieces which provide a max. magnification of over 60X.

AMERICAN
OPTICAL



PRICE: $285 shipped in USA

Archive of Sold Equipment

Bausch and Lomb StereoZoom 7 on Boom and with Desk stand

This is one of the finest optical stereo microscopes made. It is fully capable of delivering high resolution images at over 150 with an optional (hard to find) 2X auxiliary lens. I do have an extra pair of Bausch & Lomb 15X ultrawides that can be sold along with either of the the two StereoZoom 7s for an additional $375. These lenses sold for around $3K in the 1990s and I know for fact this was the combo used for photo analysis by government agencies. This is about as good as as it gets. This is this scope I use for inspection with my 15X B&L Ultras and a 2x lens.

These lenses are not available for separate sale. SOLD

This scope comes as shown: 10X Olympus wide field eyepieces, boom, rotating E-arm and the desk stand. As you can see, both of these scopes came from biology labs and were used as dissection scopes. They have been well cared for. You will see this scope is mounted on a boom with an articulating arm. Not just any boom, it has the Bausch rotating holder made specifically for this scope. This is also very hard to find. The package also includes a desk stand with a non rotating holder.

One thing to note is that the Bausch system locks the scope pod in place so it cannot fall out accidentally.

This mounting system allows you to adjust the scope to any possible working position. You can use the boom over your lathe and the desk stand for inspection and lubrication work. Just undo two clips and put the pod into the other mount. It is that simple.

Like all the scopes I have sold, the focuser and zoom are lubricated and smooth, optics are unblemished, target remains centered across zoom range and the object remains focused (parfocal) when the eyepieces are properly adjusted.

For the desk mount, I highly recommend one of the Chinese LED light plates. This makes lubrication and jewel inspection extremely simple.

Price: $525 plus shipping SOLD!!!

BAUSCH & LOMB
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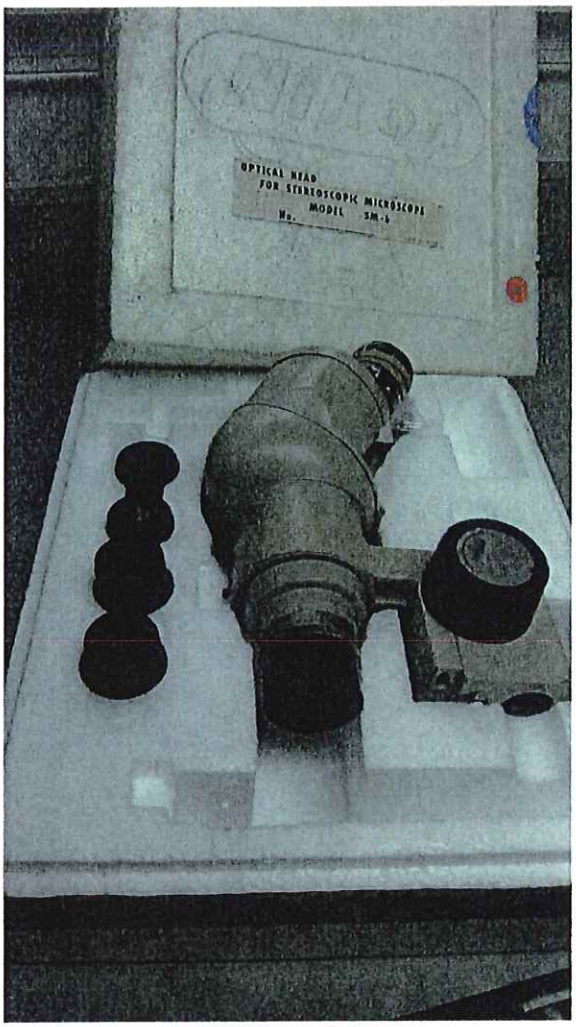
NIKON SM-6

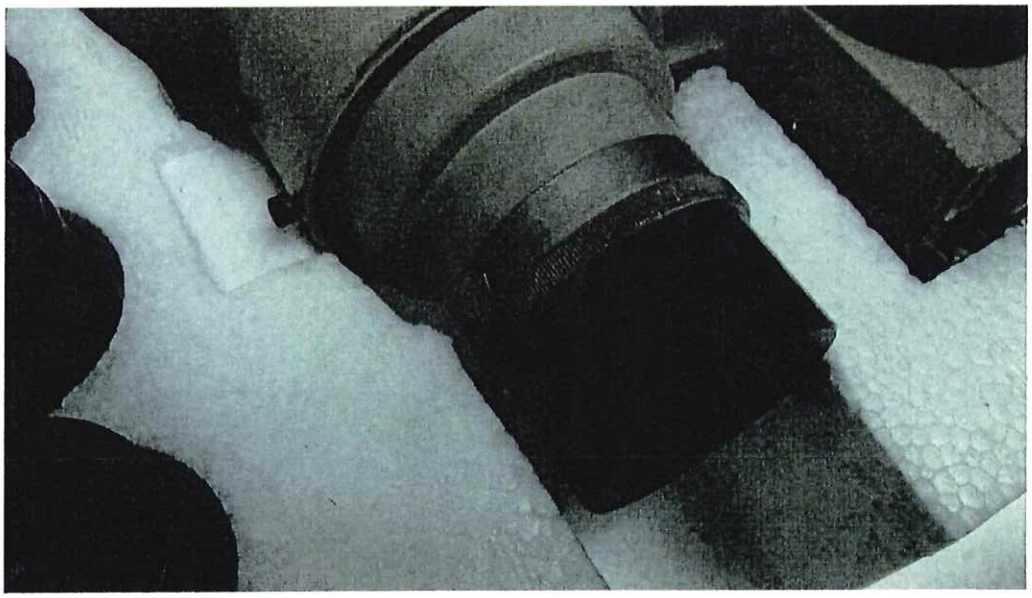
This is a FIXED magnification microscope that has a 2X objective. With the two pairs of Nikon eyepieces (10X and 15X) it provides magnifications of 20 and 30 powers. This is great for most applications and especially for working at the lathe. I have a provided a Nikon .7X auxiliary lens to increase working distance and decrease magnification.

This scope is about the least expensive option. While it lacks zoom, it is theoretically optically superior since there are fewer optical elements in the light path.

The focus block is included and you can either mount it on your own post and aluminum/hardboard base for inspection, assembly and oiling. This is also a great setup for adjusting escapements.

The microscope body rotates in its mount and has a capture screw to keep it from falling out of the mount.

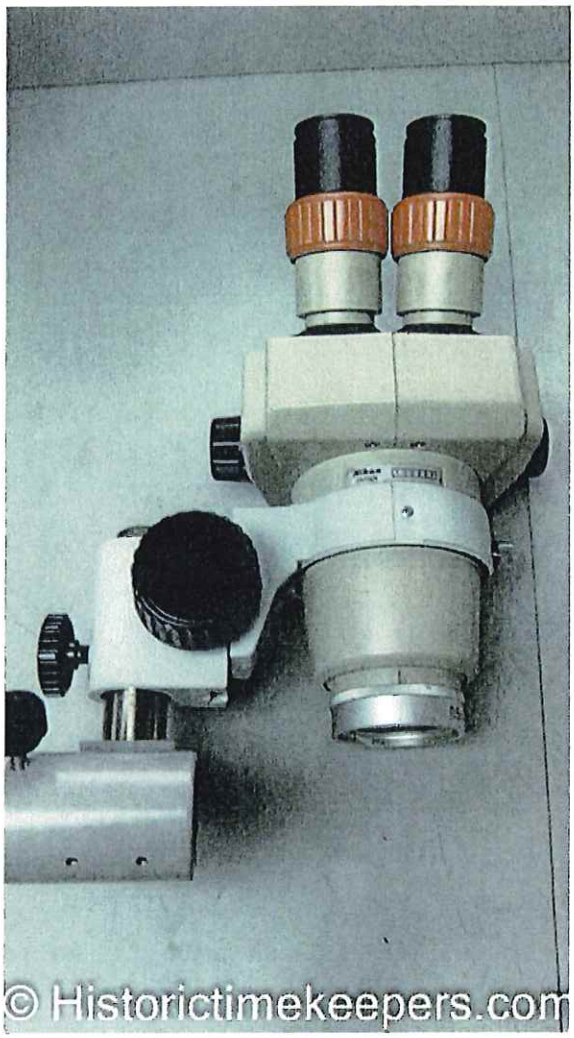




PRICE: $285 Shipped in USA SOLD!!!

Nikon SMZ 1 with Focuser Excellent zoom (7 to 40X with included Nikon 10 X 21 eyepieces). Excellent optical mechanical and cosmetic condition,

With a VERY adaptable Olympus focuser. Includes Nikon .5 X barlow to increase working distance.



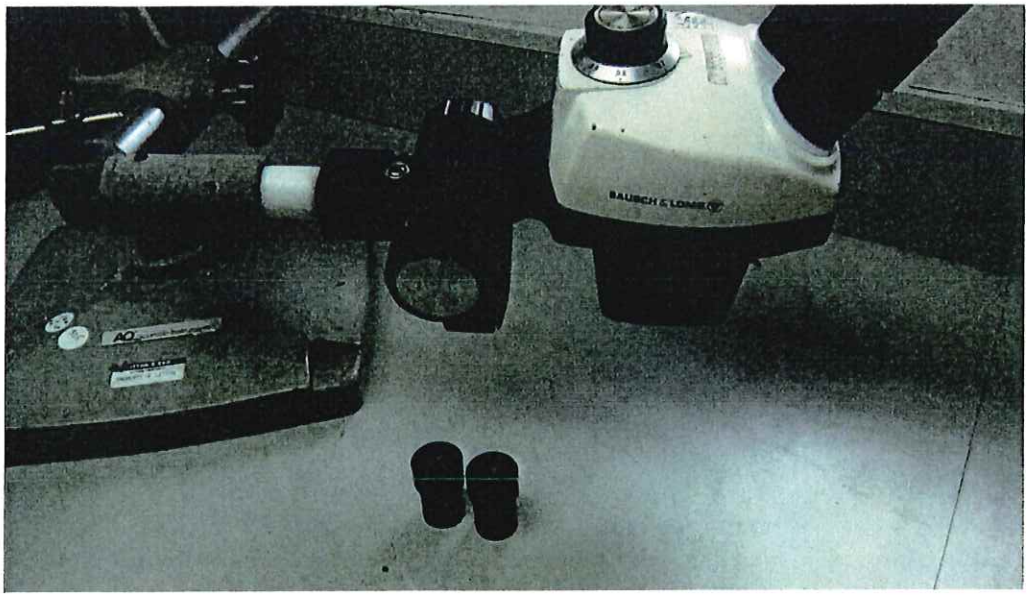
Price: $385 plus shipping SOLD!!!

BAUSCH AND LOMB STEREO ZOOM 4

This scope is excellent for all around utility work in the watchmaker shop. Its maximum zoom factor gives a max zoom of 45 power with the included unbranded 15X eyepieces. It comes with a pair of highly sought after Olympus 10X eyepieces. Again, it is great for working over a lathe, inspection, lubrication and assembly. It has the B&L high resolution optics, but a more limited zoom range (3X).

Comes with the American Optical boom stand as pictured and I left the focus mount post exposed so you can see I turned an adapter to fit it to the AO articulating arm (which does make things simpler in some setups).

FWIW, Leica purchased B&L and sold this same scope under their name.



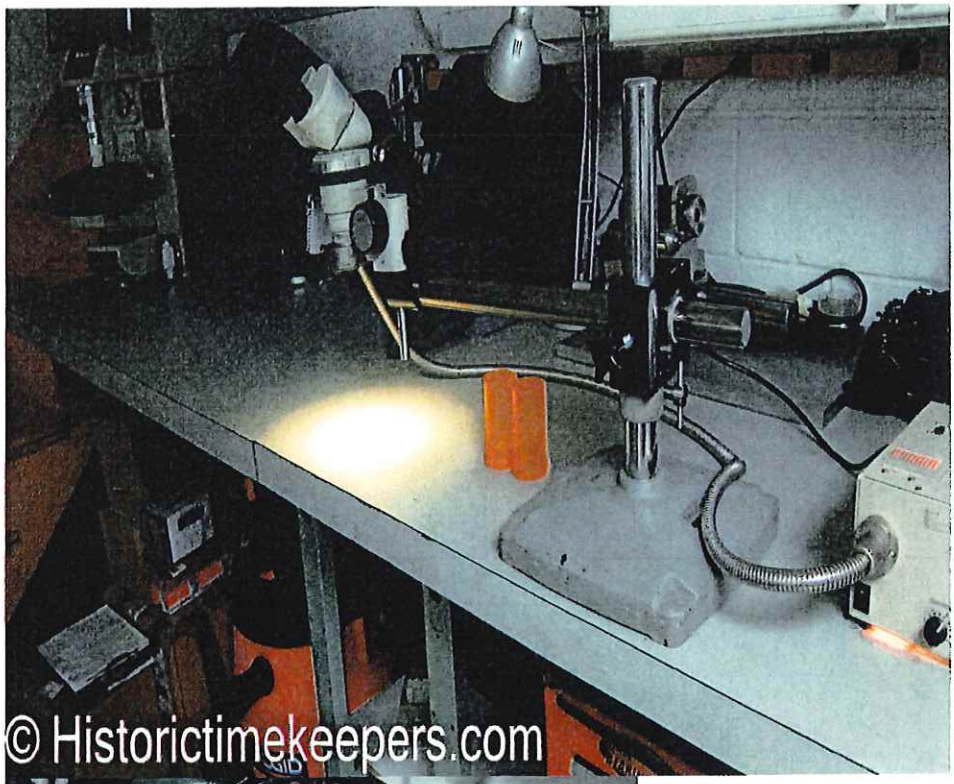
Price: $325 plus shipping SOLD!!

NIKON SM-2B With Fiber Optic Ring Light

This is a highly adaptable scope and set up. The Zoom is .8X to 4X giving a magnification of 8 to 40 power with the included Nikon 10X23 eyepieces which are the top of their line and deliver the brightest images. Included is a Nikon .7X barlow (magnification reducer) to increase working distance and field of view. Put a standard 10mm reticule in one eyepiece and measure your work while it is on the lathe. The included Fiber Optic ringlight provides ample illumination. The AO boom stand is readily configurable for the bench or at small machine tools (lathe, Sherline mill, drill press).

The .7 X barlow can be useful at the bench for larger pieces such as aircraft clocks while delivering mags of 5X to 28X. The boom on this is the longest one I have seen and makes use at any bench or machine tool very easy. At the machine tool, I use no barlows.

The microscope body rotates in its mount and has a capture screw to keep it from falling out of the mount.



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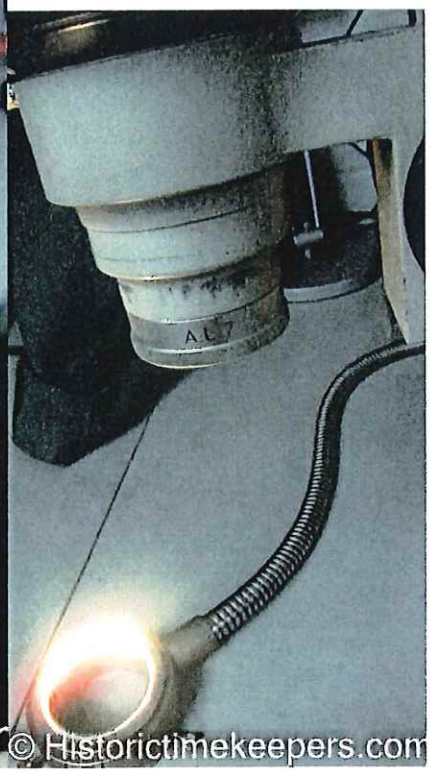

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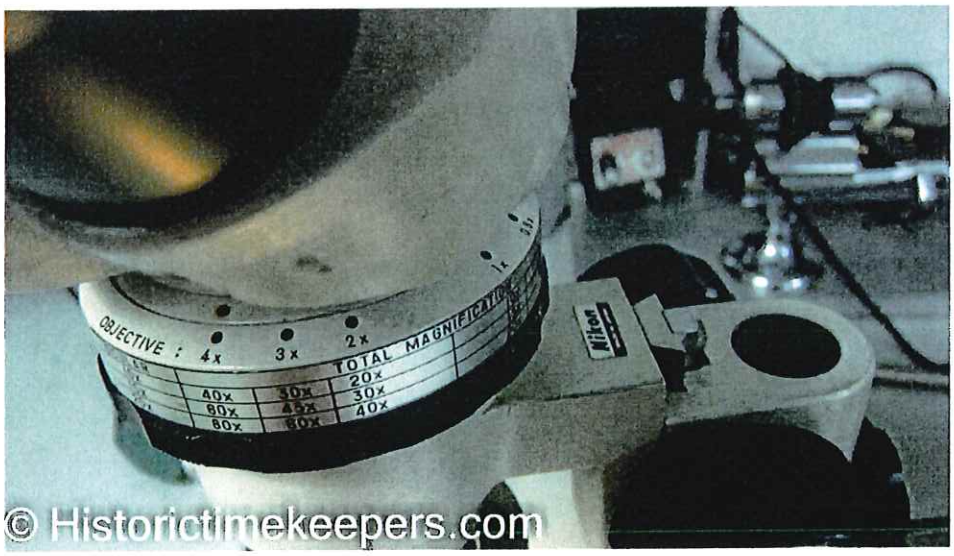

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SOLD: $435 Shipped in USA

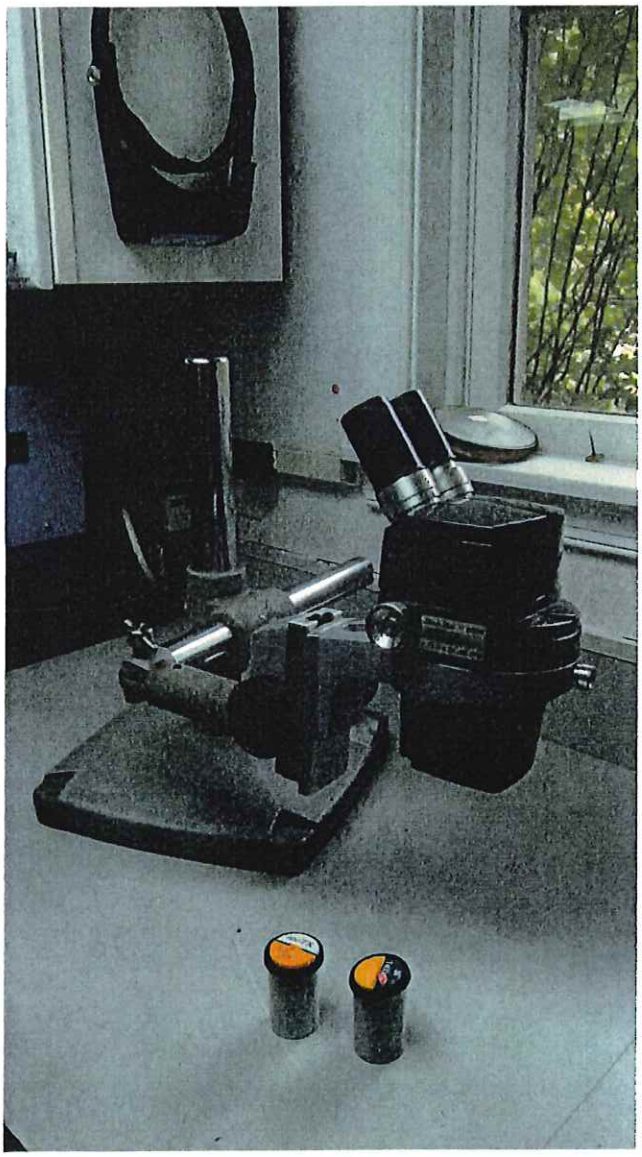
AMERICAN OPTICAL 570

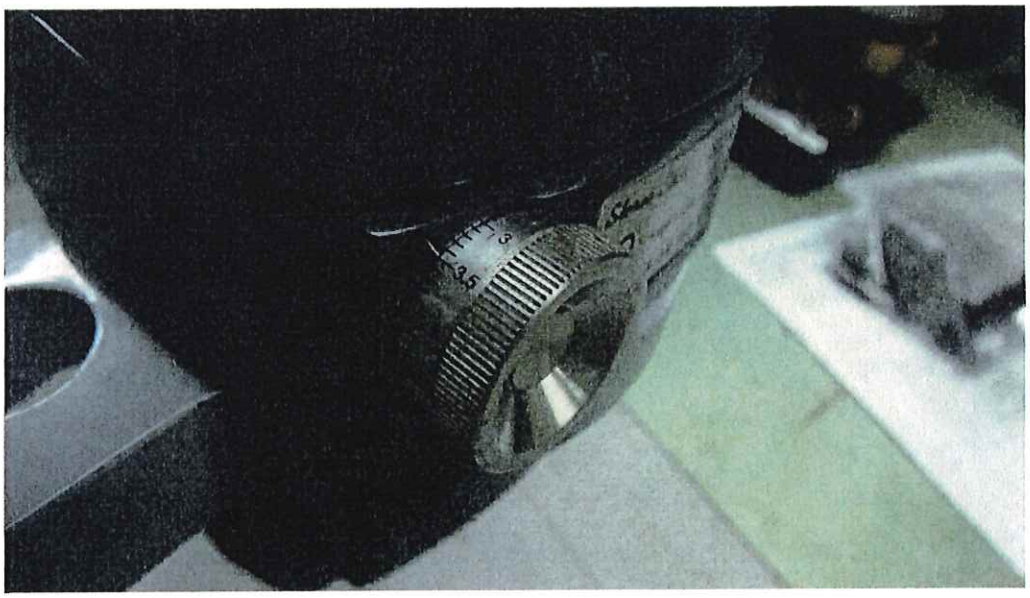
This scope is also highly adaptable for the bench or lathe. It comes with two American Optical Eyepieces (10X and 15X) and has a zoom range of .7X to 4.2X. Thus it gets you to over 60X

magnification if you need it. Again, auxiliary lenses are readily available. This works as is fantastically at the WW lathe or turns as you can see in other pics on my website. I use a .5X auxiliary on the Nikon used at my bench. But I use the 570 as is at the lathe.

The AO 570 was AO's top of the line high resolution scope and should not be confused with the 569 (lower resolution) or the 571 (fixed magnification). They only ended production when industry shifted to digital imaging.

The microscope body rotates in its mount and has a capture screw to keep it from falling out of the mount. AO articulating arm (which does make things simpler in some setups).





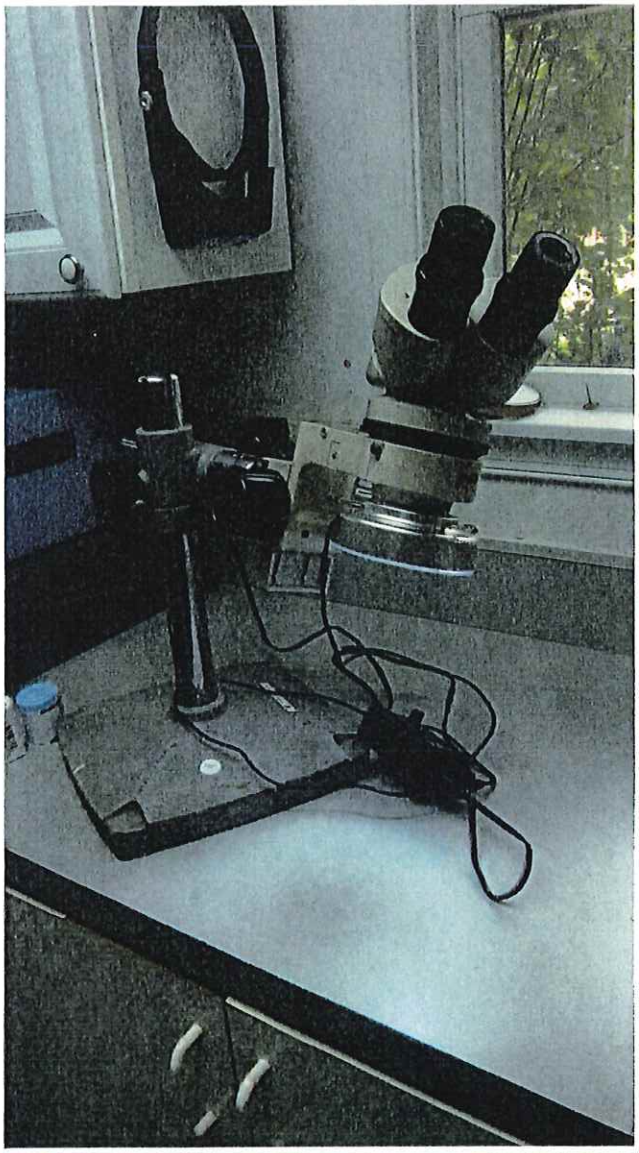
SOLD: $365 plus Shipping

NIKON SMZ-2B

This is a highly adaptable scope and set up. The Zoom is .8X to 4X giving a magnification of 8 to 40 power with the included Nikon 10X eyepieces. It is easy to locate auxiliary objectives for changing the working distance and total magnification. Put a standard 10mm reticule in one eyepiece and measure your work while it is on the lathe. The included LED ringlight provides ample illumination. The AO boom stand is readily configurable for the bench or at small machine tools (lathe, Sherline mill, drill press).

I use a .5X auxiliary lens for my Nikon at the bench, but this will work just like the AO 570 w/o the extra lens at the lathe.

The microscope body rotates in its mount and has a capture screw to keep it from falling out of the mount.



PRICE: $395 plus Shipping SOLD!!

OMEGA RECOGNIZED SERVICE PROVIDER **WOSTEP CERTIFIED**

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Email Contact: Historictimekeepers@gmail.com

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(Watch my hair go grey)

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For the Collector
Measurement instruments for sale
Levin Lathe Equipment For Sale
Watchmaker Microscopes for Sale

Watchmaking Equipment for Sale

Popular Highlights

Notes for Young Watchmakers

HTI Approach to Service

Microscopes in Watchmaking

When only a watchmaker will do

The 37500 Contract Prototype

Restoration of Omega Jump Seconds Clock

Shop Tour

Photo Series Index Page

Warbird Clocks for Sale

Equipment for Sale

This is equipment that I have acquired over the years or that I am selling for other watchmakers. It is in good useable condition and they are generally things that will not be found on ebay. Feel free to make offers but understand if I decline to accept your price. Scroll down to view timers, Levin attachments, WW collets cleaning machines and other important pieces for sale.

You can view the pictures full screen using a right click menu.

Link to items for the collector

Link to: Measurement Instruments for Machinists and Mechanics

MICROSCOPES

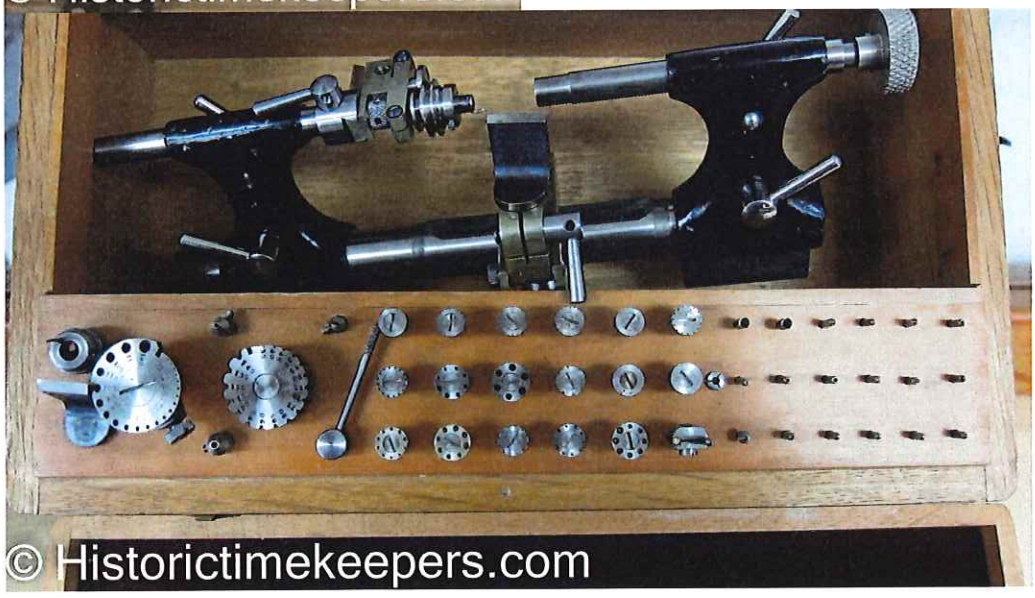
I have several microscopes that are well suited to the watchmaker's work, whether at the bench or the lathe. These include Nikon, American Optical and Bausch and Lomb. All have been verified for proper optical function and lubed by me. They often include both 10x and 15x eyepieces and a light source.

The scopes I have in stock can be found on my Microscopes for SALE Page

To see how I use microscopes in my work, go to my Microscopes in Watchmaking Page.

Petitioner
CBA Exhibit
37

Steiner / Horia Dead Center Lathe AND Horia Jacot Tool Package (use "view image" to see full size)



This is packaged as the boxed sets of the Steiner turns and Horia Jacot tool, but can be sold separately. Package price is $3500 USD. Less than 1/2 the cost new. Cheaper as a set because I want to avoid it sitting on a shelf. If you want to come to Baltimore, I will help you become familiar with how to use the turns. The use of both the turns and jacot

are essential units of instruction at WOSTEP Neuchatel. These tools are a pleasure to use and put you in the mood to do good work.

First is a complete Steiner (before M. Theobault sold to Horia) Dead Center Turns. It is COMPLETE.

- **All pivoting chucks (5mm) from .05mm to .50 mm,**
- **all five hollow cone on 5mm chucks (lantern chucks) for holding arbors by a shoulder (2 nickel silver, 3 steel) (hole range .22mm to 1.00mm)**
- **all 18 pivoting points for the eccentric headstock,**
- **2 centering points**
- **the 6mm eccentric point holder for the tailstock**
- **repivoting attachment with 3 drill holders on 5mm chuck**
- **jacot drum on 5mm chuck**
- **2 female cone centers for larger size male centers on the work piece**
- **2 sizes of T-rests**
- **2 driving pulleys**
- **2 chucks for holding the pivoting points**
- **two blank 5mm tailstock pivoting chucks to be finished to your needs. Or you can buy and replace the drums for about $41USD.**

This can driven by motor, but it is best used with a hand wheel. Slower speed and more control. You get used to it fairly quickly.

There are several features of this lathe that were dropped on the new ones. First and foremost, the castings are made correctly. The newer turns (mine) use a spring clamp at the bore for the runners. IF the clamp closes and the runner is not there, it WILL break. I have seen it done in class. In this version, there is no danger of that.

The second feature excluded on the Horia models is the rack and pinion operation of the driving pulley. On the Horia models you must change driving pins to reposition the driving dog. On THIS model, there is a rack and pinion system to adjust the driving pulley without removing the work piece.

I thought long and hard about keeping this set and selling mine. But mine came complete with all sorts of attachments that are no longer sold and I cannot break that set up.

As readers know, I rely on the Dead Center Turns. You can see how I use it for making balance staffs here.

As with all Steiner and Horia Jacots and Dead center lathes, you can order accessories from Horia.CH that will be perfect fits.

The reason I prefer to sell these two units as a set is because the Horia Jacot tool runners fit in the tailstocks of the Dead Center lathes. This means you can properly burnish the pivots of chronometer and clock wheels, especially balance staffs. The standard Jacot will not accommodate those parts!

If you go to www.horia.ch you will see the cost of a new set of turns is $4400 USD. The cost for a new Jacot is $2700 USD. Then there are shipping and customs duties to be paid!

The Horia Jacot is in excellent condition, with 4 runners. All notches and lanterns (including the two spares) are in perfect condition. This is an excellent tool for a WOSTEP graduate or a worker who wants to do precision timing. There is a waiting list at Horia for brand new sets at $3000.

The lantern runners on the Jacot are very useful on the turns.

Rack and Pinion *Solid clamp construction*

Horia Jacot Burnishing beds and lantern pinions used in turns

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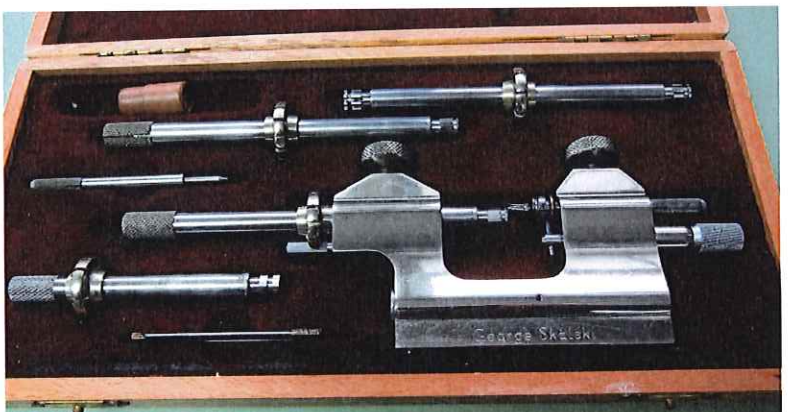
George Skelski
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Price for the set of Steiner Dead Center turns AND the Horia Jacot: $3500 USD

Watch Analysis Center: Vibrograf MU 700 Watch Analyzer; Elma TM 6000 Quartz Analyzer.

This is a complete center for servicing everything but the Omega Co-Axial. The Elma TM-6000 qualifies for all accounts that require a complete quartz watch analyzer. Even if you are kiosk owner, this will speed up your diagnosis and repairs allowing you to improve profits. Consumption, working voltage limit tests, acoustic, capacitive and inductive tests, coil tests, etc. Everything with easy to use push button operation. I got this while in Europe. It is 22ovAC but I have a power converter that comes with it. Full instructions (German) with my notes for how to set the unit for all the tests. Less than the cost of a Chinese clone of the Witschi Q Test!

The Vibrograf MU-700. I love these units! I sold my first one when I needed to by my Witschi for Omega. I gave up my account a couple years ago because of the increasing costs for casing equipment. I HATED the whole idea of changing having to scroll through screens just to get the settings I wanted. So I was quite happy when I found one of these to go back to.

The Vibrograf MU-700 is a very simple, accurate service center level machine. One lever changes from beat, amplitude and 3 different time scales. The lift angle is easily dialed in on the thumbwheels. It automatically determines beat count and does the high beat watches as well as 18,000 bph. While this machine reports timing of quartz watches, it does not report all the tests required to verify a quartz watch is serviced correctly.

This was a service center level instrument for 3 decades, it was really only superseded by the requirements needed to service Omega Co-Axial escapements. It reports rate (4 scales from plus/minus six minutes to plus or minus 2 sec/day), beat error and amplitude. At the time, it was the only instrument that accurately reported the amplitude of cased watches making it possible to verify the final performance of cased automatic watches.

Far more useful than the old paper based machines that require special paper and ink. Plus, it uses very easy to read selectable LED scasle without having to push buttons. Unlike the paper based machines, this also reports amplitude. It does not have the microphone for timing quartz watches, but then the Elma does that and more.

I prefer this instrument and I use one at my bench. The LED displays are much simpler to read than the Witschi Watch Expert. Plus it reports a wider range of beat error than the Watch Expert so you can more easily track changes as you move the balance spring collet. All functions work, microphones are original to this instrument and comes with a copy of the operating instructions. I have the original sales VibrografUSA sales contract for my MU-700 which show these units cost $2500 when new; that is about $4000 in today's dollars.

This is a service center level machine for not much more than the Chinese clones of the Witschi and these highly sought after by independent watchmakers.. No paper, no ink and no buttons or screens to scroll though! And less than the cost of every other seller!

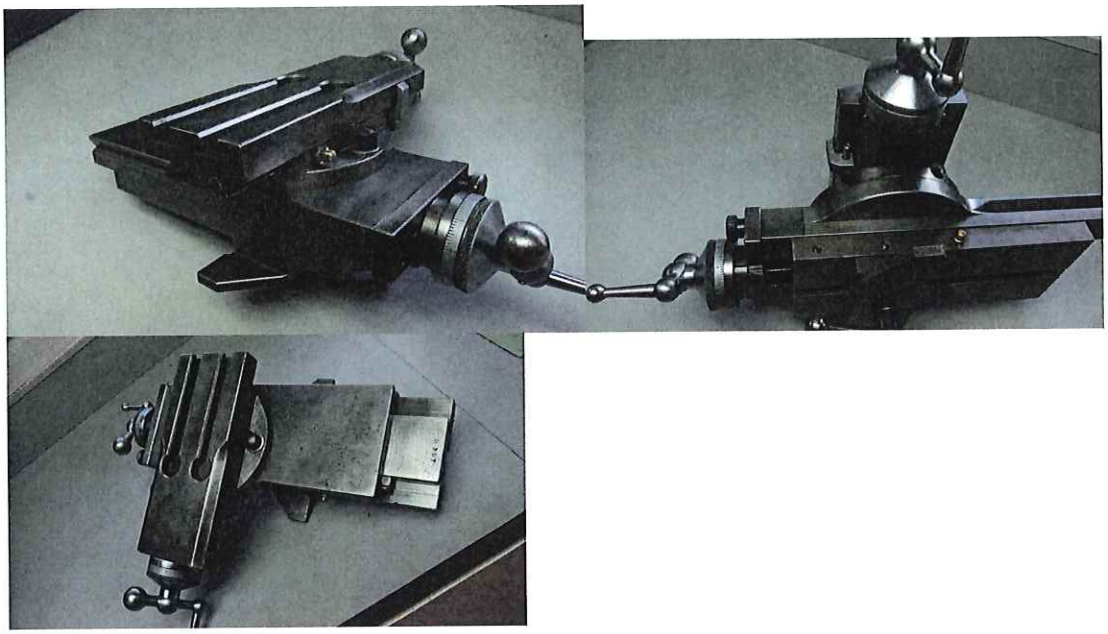
Price: $675 for the MU-700

$475 for the Elma TM-6000

$950 for Both instruments

Schaublin Slide Rest (102). **I have used this slide rest for over 15 years. It cuts reliably and accurately; I routinely turn to within .001 inches. I recently decided to keep a Double Slide Rest I had purchased for milling permanently on the lathe. This rare piece enables me to keep the milling attachment mounted on the back top slide while I use the front top slide for turning. I am very diligent about cleaning and oiling my equipment. The top slide has maybe 1/32 turn of backlash and the bottom slide has 1/8 turn backlash. One nice feature about this slide rest is that it is direct reading: the bottom slide scale indicates OUTSIDE DIAMETER removed; not radius. It is calibrated .01 inches. So 1/2 of .01 inches OD removed is .005 inches of slide rest movement. Very fine turning. This is why I used it for so long. Check out the pictures and ask questions.**

Price: $625 plus shipping

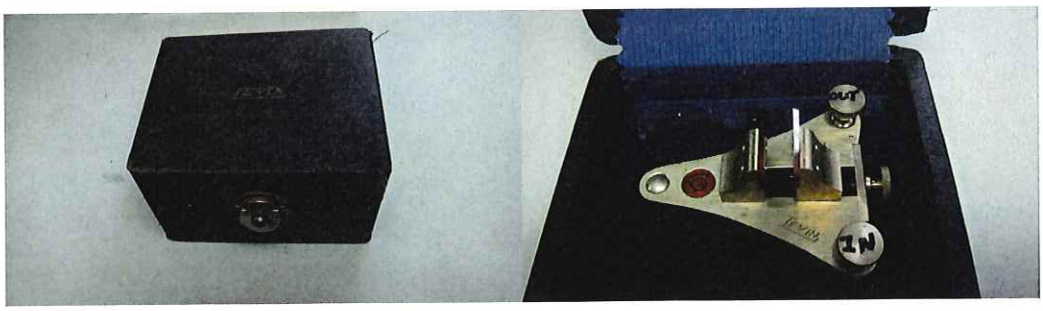


Boxed Set of WW 8mm collets. This came with a Horia dead center turns set I acquire years ago. These collets are not marked so they are not Starret (soft) or Schaublin (good hard collet). They are somewhere in between. No. 43 is missing but otherwise a ful run. Also the extras shown in another picture.

Price: $375 plus shipping

Levin Boxed Poising Tool. This is in perfect condition.

Price: $35 plus shipping



Bergeon Automatic Watch Tester. (Retired watchmaker) This is required for any Omega or Rolex account. It is used to test the autowind function of watches by running them on it for a specified period and then checking the amplitude (see MU 700 below). The labels indicates it is a Final Test (1rpm) but it is in fact 4 RPM

Cyclotest which is preferred for Omega accounts. Boxed and complete. (But Bergeon packing is like putting worms back into the can).

Price: $435

ARCHIVE of SOLD EQUIPMENT

Witschi Watch Expert II Watch Analyzer. (Retired watchmaker) This is the minimum instrument now required for ANY watch account. It is capable of reporting the performance of the Omega Co-Axial watches. Rate, beat amplitude all displayed at one time. Instructions and original shipping box included. In original box. Oh, and it works perfectly of course.

Price: $1650 **SOLD!!**

Vibrograf MU 700 Watch Analyzer. (Retired Watchmaker) This was a service center level instrument for 3 decades, it was really only superseded by the requirements needed to service Omega Co-Axial escapements. It reports rate (scales to plus or minus 2 sec/day), beat error and amplitude. At the time, it was the only instrument that accurately reported the amplitude of cased watches making it possible to verify the final performance of cased automatic watches. It also reports the rates of quartz and tuning fork watches.

Far more useful than the old paper based machines that require special paper and ink. Plus, it uses very easy to read selectable LED scasle without having to push buttons. Unlike the paper based machines, this also reports amplitude, And it does Accutron and Quartz timing!

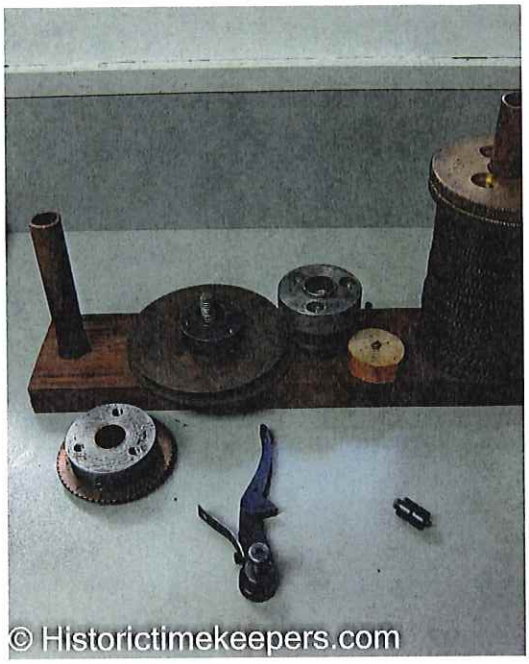
I prefer this instrument and I use one at my bench. The LED displays are much simpler to read than the Witschi Watch Expert. Plus it reports a wider range of beat error than the Watch Expert so you can more easily track changes as you move the balance spring collet. All functions work, microphones are original to this instrument and comes with a copy of the operating instructions. I have the original sales VibrografUSA sales contract for my MU-700 which show these units cost $2500 when new; that is about $4000 in today's dollars.

Price: $675 SOLD

Complete Set of Levin Index Plates (w/ Latch) for Cutting Gears and Pinions. **This includes several shop made latch plates to make some non standard parts. Hubs are bored for the Levin 10mm lathe spindle; but I do know they fit my Levin 8mm Ball Bearing headstock.; but you can sleeve them or make new ones for an 8mm lathe. Every original no. plus some I made: 300,240,200,158,156 100, 98, 96,92,90, (2),88,86,84,82,80,78,77,76,75,74,73,72,71,70,69,68,67,66,65,64,63,62,61,60,59-51. Levin spring latch and latch spring stop. This will fit ont ot the 10mm lathe with no modifications. May need to make a mount for other lathes.**

I used this set for years before I got the indexing attachment for my 102. Now I cut everything on that lathe. Used this on a Levin 10mm headstock mounted on the milling machine listed below.

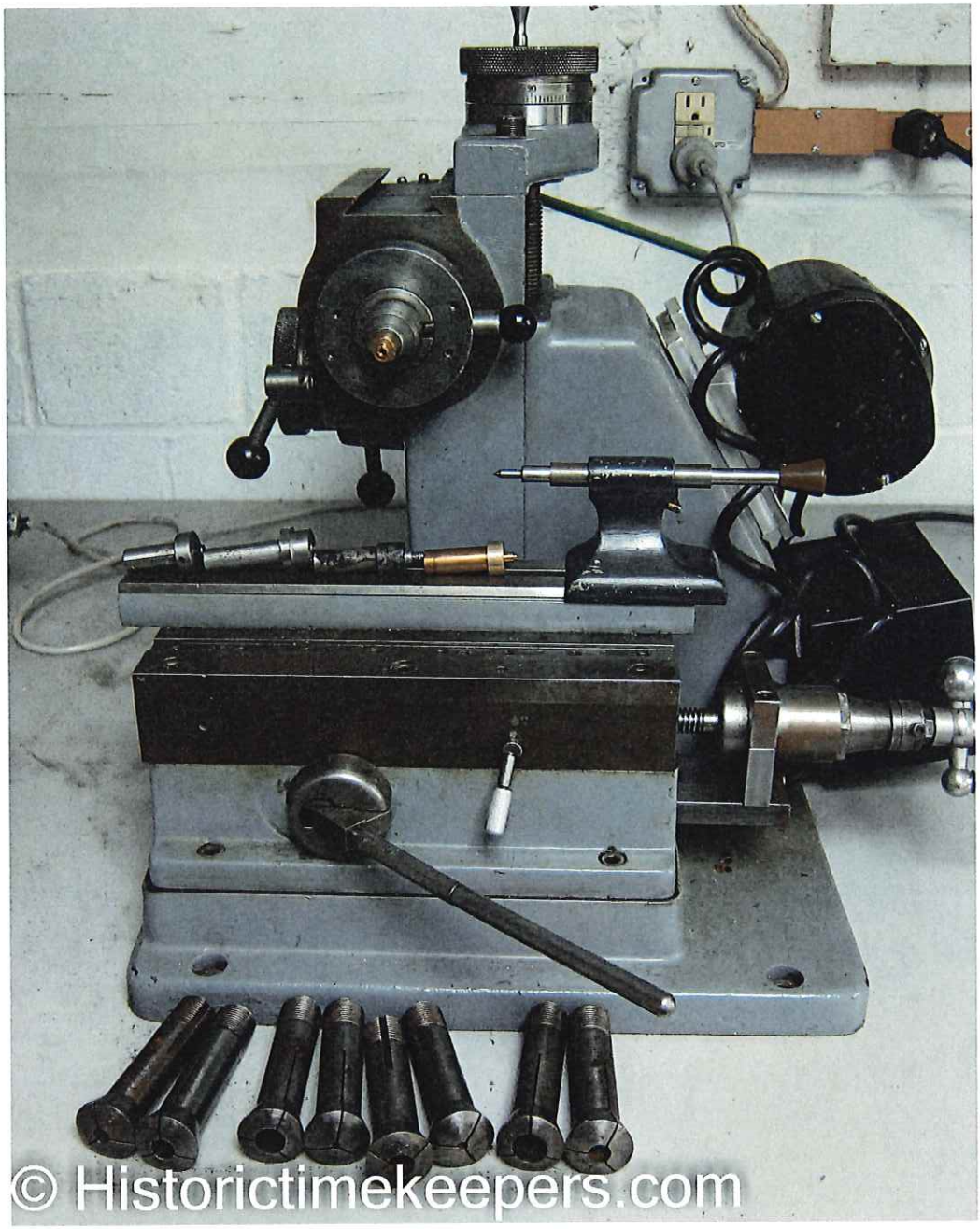
Price: $1100 **SOLD!**



Horizontal Mill for Gear and Pinion Cutting. **This was my gear cutting machine for years until I got everything I needed to do it conveniently on my 102. I have been hesitant to sell it because it is such a good machine; but that is silly. It is made in Germany by RJS. That is all I know. As you can see it has very substantial slides and the largest ball bearing headstock I have seen on any benchtop machine. Convenient oiling points. Set of collets and shop made cutter arbor adapter. No idea what series collets, they even stumped Dave Sobel who really liked this machine when he saw it. They are marked "Star" (I think this is the Japanese machine tool maker). Included is the PWM controller and DC motor. Lever table (for gear cutting) which can be converted to screw feed (old atlas lead screw) for pinion cutting. WW bed mounted on table for your WW headstock. It is very nice because you can move around on the bench to check your alignments. Footprint is 18 in X 18 in. Very small for what it is; The belt slot in the back indicates it was orignally pedestal mounted but it works great on a well built shop bench (I think it weighs around 200 pounds). I would prefer we meet within two hours drive of Baltimore to avoid shipping; this is very heavy and I would hate for it to be damaged in shipment. If desired, I will make a package deal of this and the Levin Indexing setup as long as the indexing setup is not sold.**

I never used the collets because of the arbor adapter; but: 1/8,5/32,9/32,11/32,38,7/16,1/2,9/16.

Price: $2200 SOLD!!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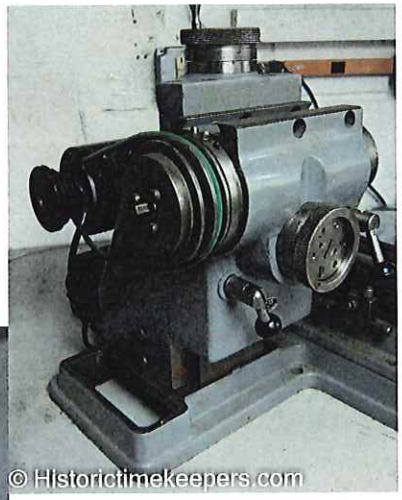
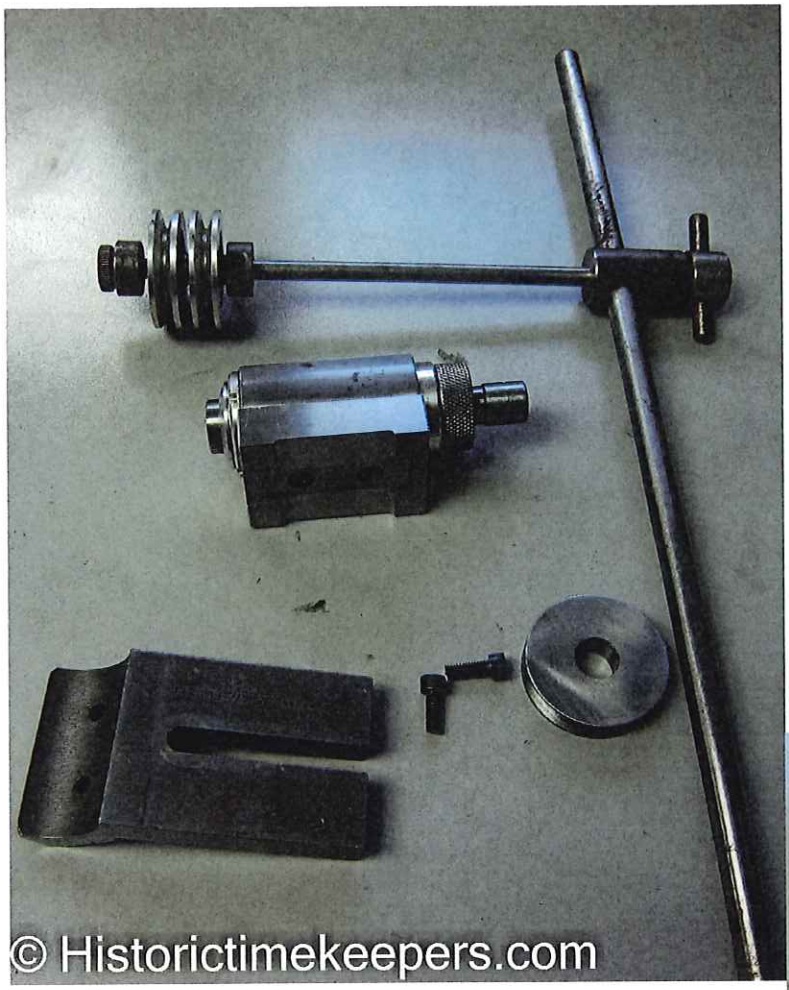


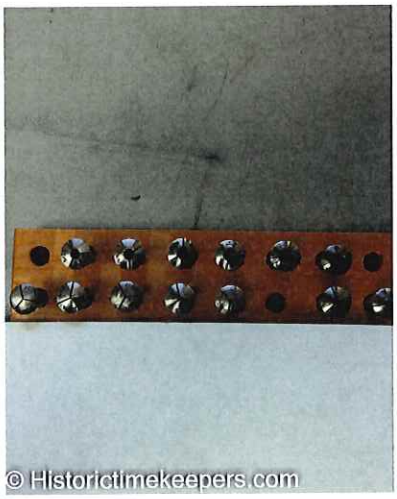
Levin WW 8mm Grinding/Milling Spindle. **(Retired Watchmaker) This spindle is in excellent condition. Ball bearings are smooth with no crunchiness. This has two bases; one is the original Levin grinding attachment base for mounting on the sliderest. The other base is a very nicely shop made base to use the spindle for precision grinding dowels and pins on a surface grinder (a poor man's centerless grinder). Comes with the pulley for setup as a grinding attachment and knurled knob for use as a spin fixture on its base. The base for spin grinding is a VERY nice piece of work.**

Price: $475 **SOLD**



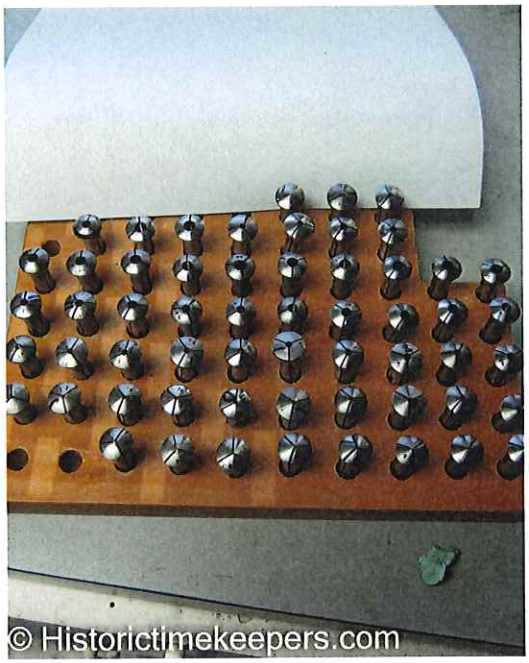
Levin WW 8mm Lathe Collets (Fractional). **Set of 13 Levin Fractional collets, incomplete but hard to find. 1/64 through 15/64 missing 9/64 and 3/8. The bores are all in excellent shape. These can be a lifesaver when stock will not fit a metric collet.**

Price: $140 SOLD!



Full Set of WW 8mm lathe collets. (Retired Watchmaker) Set of 48 metric collets from .3mm to 5.0 mm. All but two are hardened; the two soft collets (31 & 32) are Starret (two lines) Four are unmarked but hardened (single line), two are Schaublin (S), one is Deryshire (D) and the rest of the set is Peerless. These collets are used but not abused. The nice thing about Peerless collets is that their keyway is one of the deepest enabling them to fit most headstocks without modification. Collet tray included. The picture includes the fractional collets listed above; but there are NOT included; just the set in the bottom 7 rows (there are 3 extra collets).

Price: $525 SOLD!!



L&R Varimatic Ultrasonic Watch Cleaning Machine. This machine is perfectly good for all but final cleaning (for those with Swiss service accounts). It was the workhorse of the industry for 45 years. No leaks, synchronized with extra ultrasonic base and tubes. I used this for at lest 12 years and I no linger use it since I needed a 4 jar machine for my account. I would prefer to meet within 2 hours drive of Baltimore so we avoid the hassles of shipping. Jars, instructions and a basket included. I have an extra base and tube I kept for spares as well which are included.

Price: $325 SOLD!!!

Alina 90 mm 6 Jaw Scroll Chuck with Machinable jaws 10MM mount. Excellent Alina scroll chuck; used for holding round work (plates, wheels, bezels) for machining. Once you cut inside or outside jaws absolute truth on your lathe is ensured. Smooth scroll. This takes a standard mount and can be used on a Levin, Schaublin 70,

Schaublin 102 or even a machine that takes 5C collets. It is mounted on a 10mm arbor suitable for a Levin, Derbyshire or Pultra 10mm lathe.

Price: $475 plus shipping SOLD

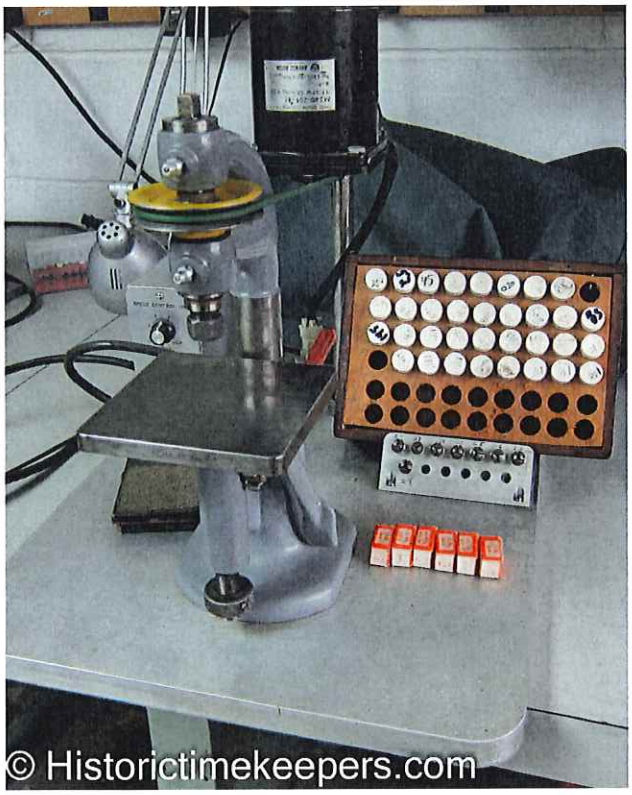
Schaublin Pump Oiler. **This is essential for oiling most Swiss Machines and are very hard to find. The nipples on Swiss machines and accessories are often confused as grease nipples; but they are for the pump oiler, Unscrew the top, fill with oil. place on the nipple and pump. The fitting seals against the nipple and forces open the ball which keeps dirt out of the machine's oil port.**

Price: $75 SOLD

Levin 10mm Lathe and Accessories. This is a setup I have not used in years. Time to sell it. I had new bearings installed about 8 years ago. If there are 200 hours on them I would be surprised. There is a complete set of collets that were in the individual tubes when I purchased them. Several chucks and all sorts of specialty collets. This is the lathe I used for for making pinions and wheels in conjunction with the Levin Index plates and RJS Horizontal mill listed below. Because of the number of pieces, I am giving this setup its own page: Levin 10mm Watchmaker Lathe for Sale

Schaublin Sensitive Drill Press Complete with Collets, Motor and Drills. In absolutely perfect condition. The drill presses are hard enough to find, but without the F collets (F7 for this model) they are useless. As you can see, I was able to buy the collets I needed when these were still "easy" to find. I have owned this for about 20 years and used it extensively. This is why it is mounted on an aluminum plate with variable speed AC motor footswitch and the collet rack. Might as well work like a gentleman. There is roughly a 5 inch maximum clearance between the collet nut and the table. Table has a micrometric screw for adjusting the depth of hole and the table rises smoothly with no discernable play. Includes drill in roughly .05mm increments form .30mm to 2.0mm. The drill shanks are standard sizes to which the collets are matched. **NO, this will not be broken up.**

Price: Sold



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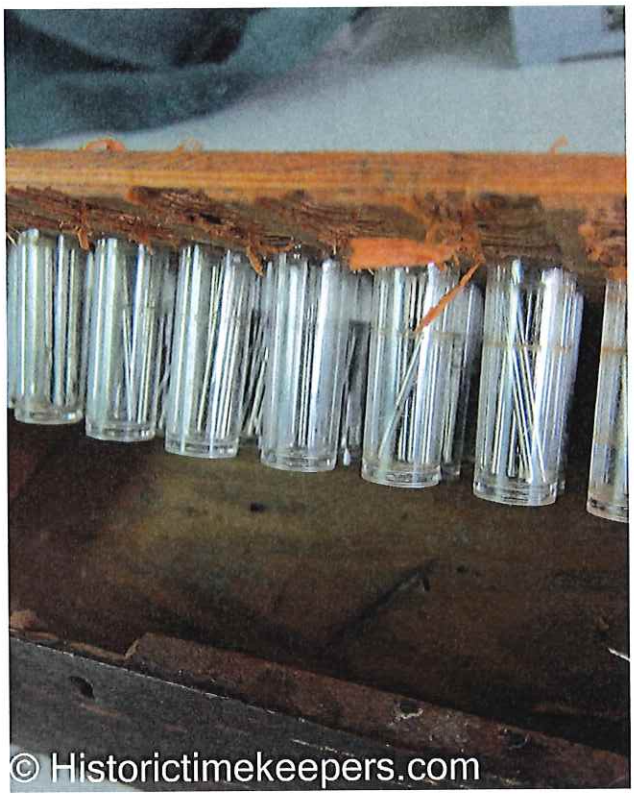
© Historictimekeepers.com

SPEED CONTROL UNIT
© Historictimekeepers.com

Levin 72 MM (JF Swiss) Self centering 3 jaw chuck with hardened, reversible jaws **Excellent condition; mounted on a 10mm chuck collet for use in a Levin, Derbyshire or Pultra 10 mm lathe. Can be remounted for use on other machines. Smooth scroll.**

Price: SOLD

Solid Carbide Twist Drills **These are REAL twist drills, not circuit board drills!! Circuit board drill are really made for use in CNC machines on plastics and phenolic (circuit board material). They have a fast twist which reduces their strength and rigidity. These solid carbide twist drills have the slow twist which increases the material in the drill web and makes them strong and rigid. Available from 50/100 mm to 2.00 mm by 10/100mm steps.**

Price: No Longer Available

Steiner Jacot Tool (Current Pattern) **This is a complete Steiner Jacot (tour de pivot) made by Mr. Thiebault in the late 1970s early 1980s before he sold the business to become Horia. Horia kept the castings and specifications of Mr. Thiebault and they will provide new runners, and accessories. This set also includes the spare lanterns (for finishing pivot ends) should either of the original lantern heads get damaged. Every runner and lantern is in perfect condition; this tool came from a watchmaker how to use it! Two pivot and lantern runners that cover 4/100mm to 36/100, a double ended runner for 35/100 mm to 1.20 mm, and the seconds pivot arbor from 15/100 mm to 35/100 mm. Two stationary runners (4 sizes) and a pivot gauge.**

These sets are getting very hard to find since the resurgence of classically trained watchmakers from schools run by Wostep, Patek Phillipe and Richemont. Much of the current production is now going to new schools, high end manufacturers such as Gruebel Forsey and recent graduates who are able to pay price for new sets (about $2300 USD).

Price: **SOLD**

Horia Jacot Tool **This is a complete Horia Jacot tool used to burnish (polish) pivots. It is complete and all runners and lanterns are in excellent condition. It also includes a burnisher. These are now over $2300 new from Horia and there is a waiting list.**

Price: **SOLD**

Schaublin 102 W20 Milling attachment complete with vertical slide **Mounts on a Schaublin or Habegger 102 lathe and is used for cutting gears and pinion as well as general milling tasks. The spindle is absolutely free and true. The collet bore is immaculate. This setup came from a job shop and the vertical slide has been drilled and tapped to take a fixture used to manufacture something. Two tapped holes and two dowel pin holes. These have NO impact on function and they are hidden when the spindle mounting plate is installed. The mounting plate has a tapped hole in the bottom that is not original. Again, does not impact function. There are two advantages to this. First, you can mount a vise on the slide and use an endmill in the lathe headstock. Second, since the vertical slide was used for a single operation, there is very little (none?) wear on the leadscrew and nut. Two pulleys, the round belt pulley and the a cogged belt pulley are included.**

Price: **SOLD**

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Swiss Mainspring Winders **Boxed set of 17 mainspring winders made in Switzerland for wristwatch to pocket watch mainsprings. Some extra barrels and arbors. Excellent condition.**

Price: SOLD

L & R Parts Dryer **At $400 new these are overpriced. But at $100 they are very useful. Large enough for clock parts to be dried after they have been cleaned and rinsed, it is small enough to be near the bench so that you can warm pallets and escape wheels to avoid rust from the rapid evaporation of the solvent when you apply epilame.**

Price: SOLD

Barkus Diamond Wheel and Barkus Gravers **Plenty of life left, the wheel fits your WW collet. Absolutely the best carbide for for hand turning. Lots of carbide left; various shapes and the slotting/parting cutter.**

Price: SOLD

OMEGA RECOGNIZED SERVICE PROVIDER **WOSTEP CERTIFIED**

For shipping or ordering information, contact:

Dewey Clark **410.592.9998**

Email Contact: Historictimekeepers@gmail.com

Site Created and Expanded since 1999!!

(Watch my hair go grey)

Explore Beachmont

(/corn-maze)

CORN MAZE (HTTP://WWW.BEACHMONT.ORG/CORN-MAZE/)

The Corn Maze is fun for the whole family! Learn more about one of our most popular activities.

Petitioner
CBA Exhibit
38

SUMMER DAY CAMP (HTTP://WWW.BEACHMONT.ORG/CAMP/)

Find out how your child can join the hundreds of children having fun each summer day at Beachmont Christian Camp!

(/dodgeball)

DODGEBALL (HTTP://WWW.BEACHMONT.ORG/DODGEBALL/)

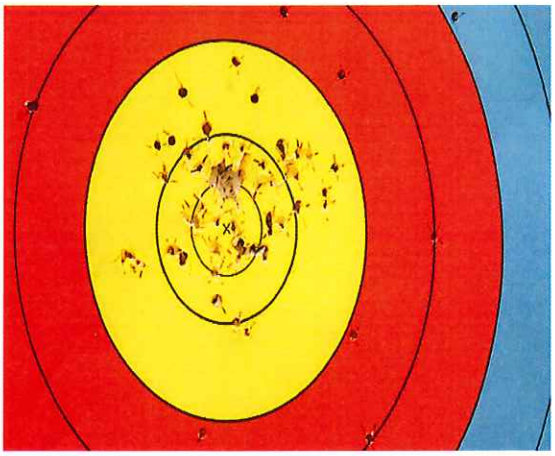
The best dodgeball games in Kingsville, Maryland happen at Beachmont. Find out how you can play.

(/flag-football)

(/golf-tournament)

FLAG FOOTBALL (HTTP://WWW.BEACHMONT.ORG/FLAG-FOOTBALL/)

Learn about the new 8-week program, beginning in spring, to teach students the basic skills of football.



(http://www.beachmont.org/archery/)

ARCHERY (HTTP://WWW.BEACHMONT.ORG/ARCHERY/)

Our 8-week program has now been broken into 3 different classes, providing a challenge for students of all skill levels.

GOLF TOURNAMENT (HTTP://WWW.BEACHMONT.ORG/GOLF-TOURNAMENT/)

The annual Beachmont Golf Tournament is much more than 18 holes of golf at one of Maryland's golf courses.

(http://www.beachmont.org/pe-program/)

HOMESCHOOL P.E. (HTTP://WWW.BEACHMONT.ORG/PE-PROGRAM/)

This is a once a week program designed to expose students who are educated at home to a variety of skills through activities, sports, and fitness exercises.

(/mens-softball)

(/swimming-lessons)

EASTER SUNRISE SERVICE (HTTP://WWW.BEACHMONT.ORG/EASTER-SUNRISE-SERVICE/)

Join us Easter morning at 6:30 a.m. to celebrate the rising of the Son!

SWIMMING LESSONS (HTTP://WWW.BEACHMONT.ORG/SWIMMING-LESSONS/)

Want your child to learn how to swim? Beachmont water swimming instructors can help.

SUMMER TEEN NIGHTS (HTTP://WWW.BEACHMONT.ORG/TEEN-NIGHT/)

SUMMER FAMILY NIGHTS (HTTP://WWW.BEACHMONT.ORG/SUMMER-FAMILY-NIGHTS/)

Gather your family and bring them to Beachmont on Friday evenings for food, fellowship, fun and a family flick.

Each Tuesday night during the summer, teens gather for fun, games, fellowship and worship on Teen Night.

BEACHMONT CHRISTIAN MINISTRIES, 6433 MT VISTA RD, KINGSVILLE, MD, 21087 (410) 592-3648 INFO@BEACHMONT.ORG (MAILTO:INFO@BEACHMONT.ORG)

Fall

CORN MAZE (/CORN-MAZE/)

ARCHERY (HTTP://WWW.BEACHMONT.ORG

FLAG FOOTBALL (HTTP://WWW.BEACHMONT.ORG FOOTBALL)

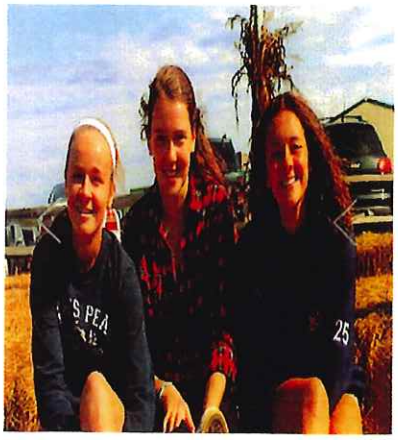
HOMESCHOOL P.E. (HTTP://WWW.BEACHMONT.ORG PROGRAM)

DODGEBALL (HTTP://WWW.BEACHMONT.ORG/

Corn Maze

2018 Theme ... Wild West !

The Beachmont Corn Maze is fun for the whole family! Get ready for an adventure in our 6-acre interactive corn maze with 2+ miles of pathways during the day, or join us for an



Petitioner
CBA Exhibit
39

adventure in the dark. Flashlight Nights are every Friday and Saturday night with celebrations around a blazing bonfire!

Afraid you might get lost? Maze Masters are along the pathways to quickly guide you back on track or take you to the nearest exit.

Pumpkins and concessions for sale!

CONCESSION MENU (/S/SMALL-MENU-2017.JPG)

Anyone 14 and under must be accompanied by an adult at all times.

No pets allowed.

OTHER ACTIVITIES ARE INCLUDED TOO!

Hayride, 60' Inflatable Obstacle Course, Skee

Ball, Giant Ball Slinger, Rubber Ducky Race, Tire Pyramid, Pebble Beach Play Box, Football Follies, Baseball Throw and Corn Bag Toss!

HOURS OF OPERATION

2018 Dates: September 12 - November 3

Wednesday-Friday: 9AM-3PM *(advanced reservations required)*

Saturday 11AM-10PM: ***(maze closes 5PM-6PM but all other activities remain open)***

Friday & Saturday Flashlight Night: 6PM-10PM

Public School Holidays: TBD

Sunday, Monday & Tuesday: CLOSED

NOTE: Schedule subject to change

ADMISSION

$11 for all participants ages 3 and over, while children 2 and under are admitted for free. Military and senior citizen discounts are available upon presentation of identification.

Anyone 14 and under must be accompanied by an

Anyone 14 and under must be accompanied by an adult at all times.

SCHOOL FIELD TRIPS

Teachers, call our office for our special field trip pricing and info! (410) 592-3648

GROUP RESERVATIONS

OUR CORN MAZE IS PERFECT FOR YOUR NEXT GROUP ACTIVITY

We recommend the maze for school field trips, scout troops, birthday parties, sports teams, churches, youth groups, homeschool groups, family & friends, cooperate team building activity, client appreciation parties, etc.

PRIVATE ROOMS

Are you hosting a party at the maze and you would like a private area? Ask us about renting a private party "room" in the corn! We have 2 "rooms" surrounded by corn located in the corn maze activity area for ease of access. Each room is equipped with an 8-foot serving table and the ability to seat 30 people! Availability is limited so contact us today! (410) 592-3648

Contact us today: (410) 592-5048

Interested in reserving a time for your group to participate in this fabulous activity?

SUBMIT GROUP RESERVATION REQUESTS BELOW:

Name *

First Name Last Name

Email Address *

Phone *

(###) ### ####

Alternate Phone *

(###) ### ####

Group Name *

Group Type *

Group Type

Birthday Party

Group Size (Approximate) *

Reservation Date *

MM DD YYYY

Rain Date *

Please select a rain date in the event of inclement weather.

MM DD YYYY

Arrival Time *

AM

Hour Minute Second

Departure Time *

AM

Hour Minute Second

Would you like the concession stand to be open during your visit? *

Yes

I am interested in renting a party room. *

Yes

I am interested in a pumpkin patch. (SCHOOL FIELD TRIPS ONLY) *

Has your group made a reservation at the Beachmont Corn Maze before? *

Special requests, comments or suggestions

How did you hear about us? *

- [ ] Billboard
- [ ] Brochure
- [ ] Social Media
- [ ] Website
- [ ] Friends
- [ ] Other

SUBMIT GROUP REQUEST

BEACHMONT CHRISTIAN MINISTRIES, 6433 MT VISTA RD, KINGSVILLE, MD, 21087 (410) 592-3648 INFO@BEACHMONT.ORG (MAILTO:INFO@BEACHMONT.ORG)

GRILL

Hot Dog *$1.50*

Hamburger *$3.00*

Cheeseburger *$3.25*

Bacon Cheeseburger *$3.75*

Double Cheeseburger *$5.75*

Bacon Dbl. Cheeseburger .. *$6.25*

Italian Sausage *$3.25*
Topped with fried peppers & onions

SIDES

Soup *$3.00*
Chicken 'n Dumplings, Maryland Crab

Nachos & Cheese *$3.00*

Soft Pretzel *$2.00*

Popcorn *$1.50*

Chips / Combos ..... *$ .75*

Apple ..... *$ .75*

SWEETS

Sliced Apples & Caramel *$2.50*

S'mores *$1.00*
Roast them over the bonfire!

Candy Bar / M&M's *$1.00*

Skittles / Airhead Xtremes ... *$1.00*

Fruit Snacks *$1.00*

Oreos ..... *$ .75*

Ring Pop ..... *$ .50*

DRINKS

Soda *$1.00*
Coke, Diet Coke, Mountain Dew, Sprite, Root Beer

Apple Cider (Hot or Cold) *$1.00*

Hot Chocolate *$1.00*

Juice *$1.00*
Apple, Orange/Pineapple/Apple, Grape

Water *$1.00*

Gatorade *$1.50*

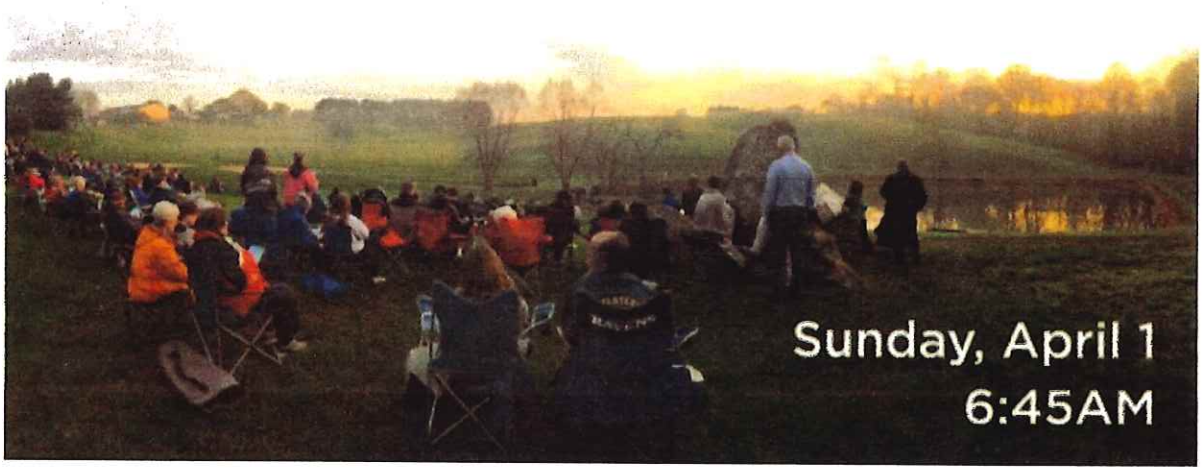
NOTE: Prices and menu items may vary or change

Easter Sunrise Service

1 message

Beachmont Christian Ministries <info@beachmont.org> Thu, Mar 22, 2018 at 11:45 AM
Reply-to: info@beachmont.org
To: tkotroco@gmail.com

Join us for our
Easter Sunrise Service!



Each year, Beachmont holds a non-denominational Easter Sunrise service. Hundreds of people from many different churches and communities attend to celebrate the resurrection of our Lord Jesus Christ. All are welcome! Dress warmly and come celebrate the "Rising of the Son!"

FREE coffee, hot chocolate, and donuts after the service!

Beachmont Christian Ministries | 6433 Mt. Vista Road, Kingsville, MD 21087

Unsubscribe tkotroco@gmail.com

Update Profile | About our service provider

Sent by info@beachmont.org in collaboration with

Constant Contact

Petitioner
CBA Exhibit
40

Over 20 years of challenging the mind, nurturing the soul, engaging God's world!

Shop RCCS Wear

Visit ParentsWeb

REDEEMER CLASSICAL CHRISTIAN SCHOOL

Petitioner
CBA Exhibit
41

About RCCS

- History of RCCS
- Mission Statement
- Philosophy of RCCS
- Statement of Faith

Is RCCS right for you?

Directions to RCCS

Faculty and Staff

Board of Directors

Alumni Quotes

Frequently Asked Questions

Employment Opportunities

Redeemer is a private Classical Christian School located in Baltimore County, celebrating our 21st year of ministry in Classical Christian Education.

Redeemer Classical Christian School (RCCS) is located in a rural setting in Baltimore County approximately 10 miles northeast of Baltimore City. The school offers a Pre-K through 12th grade college preparatory program utilizing the classical approach to education. The foundation of all instruction at RCCS is the truth as found in the Scriptures (see our Statement of Faith). The school, founded in 1996, currently has over 250 students.

Redeemer Classical Christian School is **accredited with the Middle States Association of Colleges and Schools**, and is a **member of both The Association of Classical and Christian Schools (ACCS) and the Association of Christian Schools International (ACSI).**

Our small class sizes guarantee personal attention for the students and an optimal learning experience. All RCCS students study Latin, Logic, Rhetoric and Economics. Students also receive Bible instruction in every grade. These courses, in addition to the advanced courses in language, math, science, etc., make for a very demanding and rigorous program. As a result, RCCS students perform approximately 3 years above their grade level on the standardized tests. Redeemer students' SAT scores also rank well above the national average, and 100% of our graduates pursue further education.

But RCCS is not all work and no play. An extensive extra-curricular program is part of the educational experience. These activities include: Band (2 bands), Choirs (2 choirs), Drama productions, Sports (soccer, volleyball, basketball), 19th Century Ball, annual Luau with Talent Show, school dances, homecoming games and events, grade-level field trips, Junior Ring Event, Upper School European Tour, Senior Formal, and more! In addition to these activities, students can take part in the annual Science Fair, Geography Bee, Spelling Bee, and numerous other opportunities through enrichment classes and clubs.

Challenging the Mind, Nurturing the Soul, Engaging God's World

[redacted]

Redeemer Classical Christian School

6415 Mt. Vista Road | Kingsville, MD | 21087 | Phone 410.592.9625 | info@rccs.org

RCCS is a private Christian School located in a beautiful rural setting on the border of Baltimore and Harford Counties.

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Over 20 years of challenging the mind, nurturing the soul, engaging God's world!

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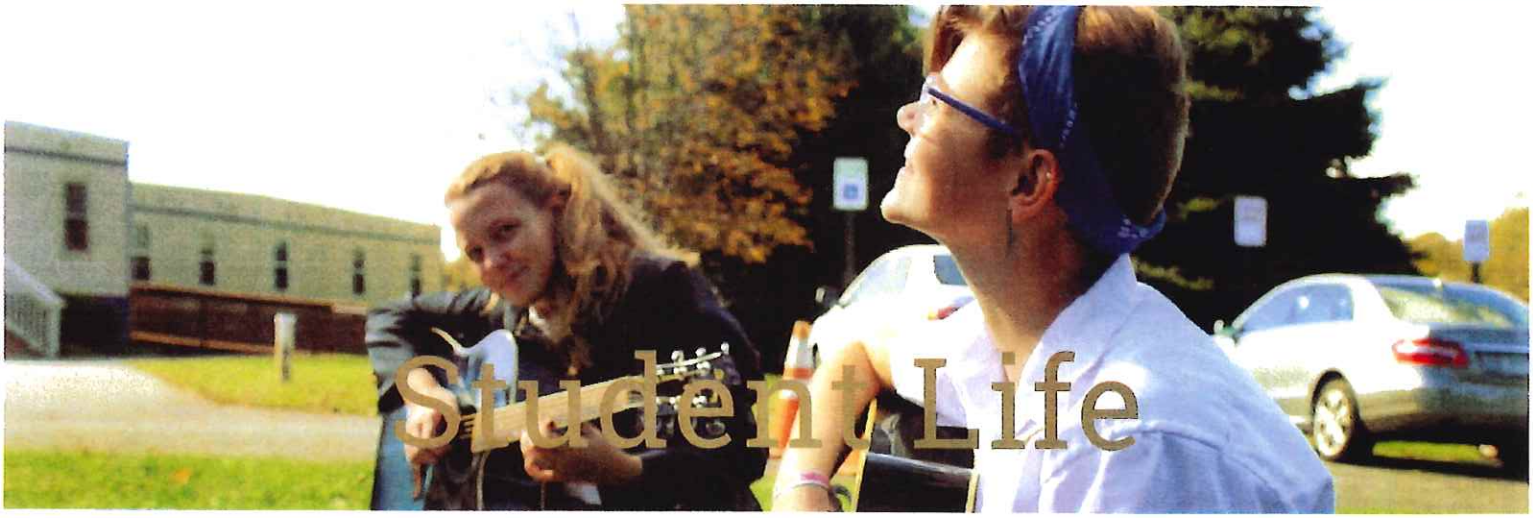
REDEEMER CLASSICAL CHRISTIAN SCHOOL



Petitioner
CBA Exhibit
42

Student Life

Student Government Association

Recent Events

The Royal House System

After School Technology Classes

Student Service Opportunities

Clubs

Arts

Summer Camps

School Uniforms

International Students

Calendar

Even with its reputation for academic excellence, it's not all work and no play at Redeemer. The academic calendar is highlighted by social events, which draw students together and allow them to enjoy being part of the RCCS community. Here is a sampling of the major events:

- **Spirit Week**- a week of themes and fun designed to build community
- **Homecoming**- a celebration of Alumni and present students in sports, socials, and family friendly fun
- **19th Century Ball; Junior Ring Cruise; Senior Formal**- a time for students to dress up, get out there and have fun building friendships
- **Luau**- a very special festive night to welcome the incoming 7th Grade class to the Upper School.
- **Annual Christmas concert** presented by the RCCS choirs at a local mall, where the praises of our students ring in the Holiday for local shoppers
- Spring **Mission Trips and outreaches** like Rice for the World, designed to teach students to think past themselves
- **Senior Trip to Europe**- all of the history that our students have learned comes to life as they walk the streets of what they have studied!

Redeemer students also have the opportunity to participate in many additional social activities including: a casual **winter dance, ice and roller skating events, Field Day, Race for Education, Capture the Present** and other fun events.

Things are happening at Redeemer!

We're sorry; there was a problem retreiving the Facebook feed. Please contact the website administrator if the problem persists.

Redeemer Classical Christian School

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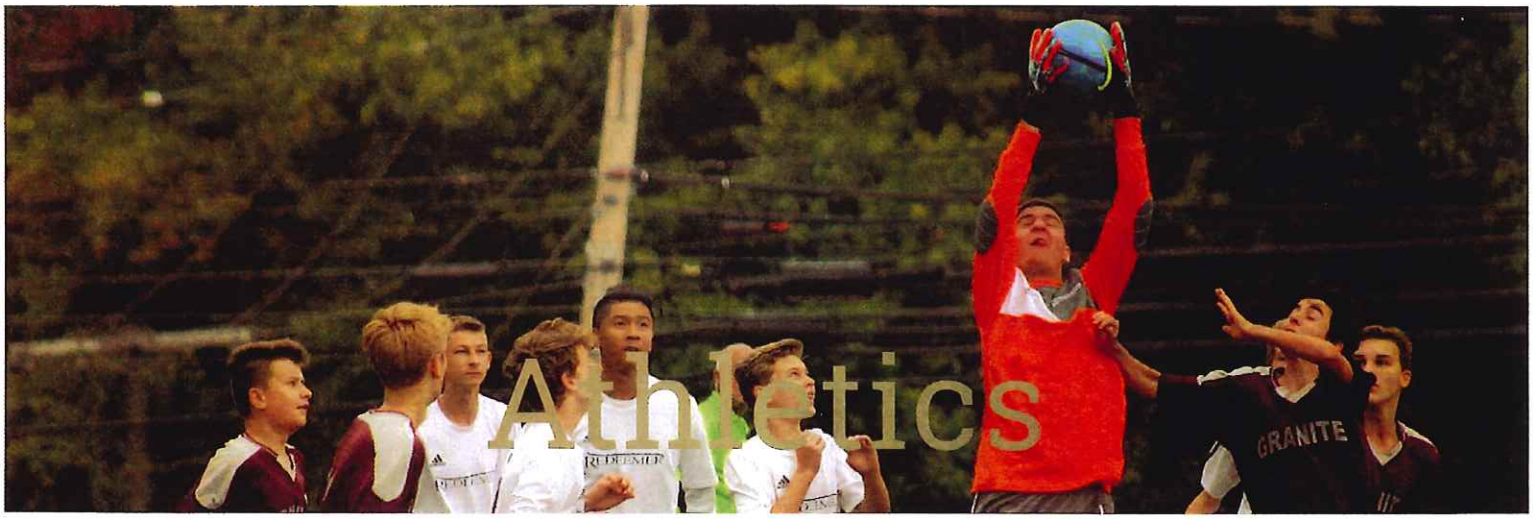
REDEEMER CLASSICAL CHRISTIAN SCHOOL



Athletics

Athletics Calendar

1 Corinthians 12:12

Just as a body, though one, has many parts, but all its many parts form one body, so it is with Christ.

Redeemer Classical Christian School in Kingsville, MD is a member of the Maryland Independent Athletic Conference (MIAC). RCCS considers athletic teams to be an integral part in the development of the whole person. Christ calls us to develop the mind, body and soul. While sports are typically thought of as developing the body, they also assist in the development of character. Participation in sports teaches accountability

Petitioner
CBA Exhibit
43

and responsibility to the student. In addition, it teaches reliance on one another much as Paul describes in I Corinthians 12–we are many parts, but one body. We each have differing gifts which are to be used for the good of the body. RCCS strives to provide a balance between athletics and academics. At Redeemer, we seek to run a professional athletic program with qualified coaches. Coaches are selected based on their character and ability to lead in a competitive environment. Our coaches are invested in the lives of our students, and all of our sports run off season programs to increase the skill level of our student athletes. Our Campus, conveniently located near the Baltimore and Harford County lines, and adjoining Beachmont grounds is host to multiple FCA sports. Our students are afforded the wonderful privilege of participating in these teams as part of their Redeemer sports experience. For more information about our partnership with this organization please visit their website http://www.nmdfca.org/registration or email us at info@rccs.org.

Redeemer Classical Christian School Athletics

Varsity Girls' Volleyball League Champions 2008, 2009, 2011, 2013

Varsity Girls' Volleyball 2012, 2013, 2014, 2015, 2016 Dig Pink Tournament Champions

Varsity Girls' Soccer 2017 MIAC Champions

Varsity Boys' Soccer 2014 MIAC Champions, 2004, 2005, 2007, 2008, 2009 Champions

Middle School Boys' Soccer 2014 MIAC Soccer Champions

Middle School Girl's Soccer 2014, 2016 MIAC Soccer Champions

Varsity Boys' Basketball 2014 League Champions

Sports available to RCCS students include:

Fall:

- Girls' Middle School and Varsity Volleyball
- Boys' Middle School and Varsity Soccer
- FCA Middle School/Junior Varsity/Varsity Football
- FCA Junior Varsity/Varsity Cheerleading

Winter:

- Girls' Middle School and Varsity Basketball
- Boys' Middle School and Varsity Basketball

Spring:

- Girls' Middle School and Varsity Soccer
- Boys' 6th-12th grade Club Cross Country
- FCA Girls' Varsity Lacrosse
- FCA Boys' Varsity Lacrosse
- FCA Boys' Varsity Baseball

Congratulations to all of our sports teams for a season, well-done!

Questions? Contact Our Athletic Director, Kristin Delpi, at kristindelpi@rccs.org.

Redeemer Classical Christian School

6415 Mt. Vista Road | Kingsville, MD | 21087 | Phone 410.592.9625 | info@rccs.org

RCCS is a private Christian School located in a beautiful rural setting on the border of Baltimore and Harford Counties.

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Petitioner
CBA Exhibit
44

BA-2188

47

[illegible] Department of Natural Resources
[illegible] Conservation and Recreation Service

National Register of Historic Places Inventory—Nomination Form

For HCRS use only
received
date entered 4/7

See instructions in *How to Complete National Register Forms*
Type all entries—complete applicable sections

1. Name

historic

and or common Long Green Valley Historic District

2. Location

street & number Glen Arm Road, Baldwin Mill Road, Manor Road and Harford Road areas N/A not for publication

city, town Glen Arm, Hydes, Baldwin · ___ vicinity of congressional district Second

state Maryland code 24 county Baltimore County code 005

3. Classification

Category	Ownership	Status	Present Use	
X district	___ public	X occupied	X agriculture	___ museum
___ building(s)	___ private	___ unoccupied	X commercial	___ park
___ structure	X both	___ work in progress	___ educational	X private residence
___ site	**Public Acquisition**	**Accessible**	___ entertainment	X religious
___ object	___ in process	___ yes: restricted	___ government	___ scientific
	___ being considered	X yes: unrestricted	___ industrial	___ transportation
	X N/A	___ no	___ military	___ other:

4. Owner of Property

name multiple public and private (more than 50)

street & number

city, town ___ vicinity of state

5. Location of Legal Description

courthouse, registry of deeds, etc. Baltimore County Courthouse

street & number 401 Bosley Avenue

city, town Towson state Maryland 21204

6. Representation in Existing Surveys

title Maryland Historical Trust Historic Sites Inventory has this property been determined elegible? ___ yes X no

date 1980-1981 ___ federal X state ___ county local

depository for survey records Maryland Historical Trust

Annapolis state Maryland

7. Description

BA-2188

Condition		Check one	Check one
___ xcellent	___ deteriorated	___ unaltered	X original site
X good	___ ruins	X altered	___ moved date _____
___ fair	___ unexposed		

Describe the present and original (if known) physical appearance

NOTE: See Continuation Sheets Numbers 11 through 15 for lists of contributive and non-contributive structures and objects in the district.

DESCRIPTION SUMMARY

The Long Green Valley Historic District is an approximately 6,066 acre rural agricultural area to the northeast of the city of Baltimore. The valley has a distinct physical unity created by gently rolling fields dotted with cross-roads villages such as Glen Arm and Baldwin and farm complexes. Its architecture covers the eighteenth, nineteenth, and early twentieth centuries and is generally conservative with most of the major architectural styles of these periods evident. In some examples, more than one style is found in the same building because of renovations. The majority of the structures are domestic or farm related such as barns and utility buildings. Commercial structures stand in the village areas. The older structures are generally of stone or brick construction with frame dominating the mid-nineteenth century to present era. The houses vary in scale, design, and craftsmanship depending on the history of the structure. Approximately 125 individual buildings, complexes, and objects stand in the district with the majority contributing to the significance of the district. The major intrusions or non-contributive elements are industrial complexes around Glen Arm and groupings of past 1930s houses.

GENERAL DESCRIPTION

The Long Green Valley is formed by Long Green Creek, a tributary of the Gunpowder Falls, and Haystack Branch which joins Long Green Creek just before the latter joins the Gunpowder. These streams flow in a southerly direction. The valleys are largely cleared, relatively broad farmlands and they are flanked by gentle but pronounced ridges. The Long Green Pike extends north through the length of the valley, an important old artery to the nearby city of Baltimore. A single milestone (mile 13) remains of a series once placed on this turnpike, as on most turnpikes, to guide travelers to their destination. Harford and Manor Roads, other old arteries into the City, flank the valley, and several roads cross it, including Glen Arm Road at the southerly end of the district, Long Green Road, Williams Road, Hydes Road, Patterson Road and finally Baldwin Mill Road at the northerly end of the district. The Maryland and Pennsylvania Railroad formerly extended north through the valley to link Baltimore and York, Pennsylvania; once an important commercial artery it remains but a memory today with a few stations adapted to other uses and a few cuts and fills.

No road is over two lanes in width, with minimal or no shoulders. They are curvey and hilly, far below the ideal late twentieth-century standard of road construction, but they are wholly compatible with the district and in their present state they are not adverse intrusions.

There are no bridges on public roads which pre-date the mid-twentieth century.

SEE CONTINUATION SHEET #1

GENERAL DESCRIPTION (Continued)

Approximately one hundred and twelve properties have been identified by their age as historic, contributing positively to the character of this district. Many are farm dwellings while the others are associated with rural villages, the dwellings of rural merchants, tradesmen, artisans and professionals. Almost all of these properties retain one or more of the outbuildings which were once required to support rural and village life. These structures date from the late eighteenth century to the early twentieth. The vast majority are conservative in their design but some contain details of great significance.

Villages developed at crossroads and mill sites. All mills are gone and with them the villages, but a few dwellings preserve some sense of a village at the site of Hartley Mill. Baldwin retains a few early structures as well as a few small unobtrusive modern commercial buildings to serve the community. Glen Arm has developed as the sole contemporary industrial center, the major intrusion, and a very small one it is by late twentieth-century standards. The early railroad station remains as well as several nineteenth-century commercial structures.

Intrusions

Three industries in Glen Arm are today's greatest intrusions in the historic scene but their concentration, low profile and non-air-polluting nature make their negative intrusion less of a threat than the spectre of massive residential development which might be expected so close to the City. Major developments, be they residential, commercial or industrial, will create the need for massive road building and utility projects which will destroy the existing ambience of the area.

Rural development (i.e. individually designed single family residences on lots exceeding one-half acre) has occurred, principally along Manor Road and in two areas on the floor of the valley. The Manor Road development, one lot in depth along the road, and along two roads leading into the district from Manor Road, is excluded from the proposed historic district but its presence at the very boundary is an intrusion. The developments within the district are on lots of about two acres or larger; the houses are individually designed, and landscaping helps alleviate their negative impact. There are, scattered throughout the district, individual non-historic houses on small lots. They are not concentrated, they are modest in size and scale and they are well maintained; their negative impact is minimal. Likewise, with the few small commercial structures at Baldwin and Glen Arm.

Another intrusion is a single set of power transmission lines extending in a northerly direction through the valley, a facility which has existed for over thirty years.

SEE CONTINUATION SHEET #2

GENERAL DESCRIPTION (Continued)

Architecture

With a few exceptions the architecture of the Long Green Valley is conservative. Traditional, utterly simple design persisted well into the late nineteenth century. Small architectural details, as well as technological details, relate these traditional structures to their period. The architecture of the Long Green Valley is closely related to that of other nearby areas of Baltimore and Harford Counties. Most of the earliest settlers migrated from tidewater Maryland, but there was a minor migration down from Pennsylvania and both influences may be seen. Nature and available building materials were stronger influences on design than the identifiable characteristics of either particular regional tradition. Stone and timber were abundant and free. Clay was scarce, and with few exceptions brick construction was limited to the thin walls of chimneys.

Abundant water power, one of the major early attractions, made sawmills an early industry, witnessed by the early use of mill-sawn timber and lumber, typical of all upland Maryland. The machine-cut nail replaced the wrought one beginning in the late eighteenth century. Trade routes were well developed by this time, and such major technological advances were not long in reaching this region.

The next major technological advance, in the mid-nineteenth century, was the use of the closed stove for heating and cooking rather than the open fireplace. This caused a radical change in the design of chimneys: a single small flue could serve several rooms in more than one story; no longer would chimneys have to be massive to enclose a separate flue for each room's fireplace.

Two home improvements which became commonplace in the twentieth century are central heating systems and the gas or electric cooking range. The absence of these features determined two basic features of the rural Maryland house: unless an overwhelmingly strong reason dictated otherwise, the dwelling was oriented with its longest and principal facade to the south; and the kitchen was a separately structured construction, generally attached to the dwelling, however, in this upland region. The southerly orientation was a basic passive solar consideration; aesthetically it is the most pleasant fron for a dwelling. The separately structured kitchen was a matter of basic fire protection; quite often the kitchen was of stone or log even if the dwelling was of frame. Seldom was the reverse true. Masonry and log are highly resistant to fire and rodents. Separate structuring was also cleaner; early cooking, especially before the advent of the closed kitchen range, was extremely dirty and smelly. A strong tradition persists at many dwellings that the kitchen predates the main dwelling, but the tradition probably stems from the kitchen's lower status and its correspondingly simpler and seemingly earlier detailing, lower ceiling

SEE CONTINUATION SHEET #3

GENERAL DESCRIPTION (Continued)

heights, smaller windows, etc. Kitchen wings are contemporary with the main dwellings as frequently as they predate or postdate them. Often, when the kitchen postdates the dwelling, the difference in construction sequence seems to have been related to the presence of an earlier dwelling which served as the kitchen for the newer and present dwelling until a more up-to-date replacement kitchen could be erected. In other cases smaller dwellings served as combined kitchens and dwellings; later a kitchen would be added and the earlier structure would be updated with added detailing and finishes.

The Eighteenth Century

The earliest houses which have survived to our day are the substantial ones, those whose owners have, through the years, considered worthy to retain. The 1798 Federal Direct Tax records indicate that the vast majority of houses then standing were small, one story in height, most of log or frame construction. As owners could afford better, these earliest dwellings were replaced by more substantial ones.

Four houses standing today have been identified in the 1798 Federal Direct Tax records; all date from the late eighteenth century. They are PROSPECT HILL, the HOMESTEAD, GLEN MEADOWS and the GITTINGS-BALDWIN HOUSE. PROSPECT HILL is of brick, originally stuccoed, and it is unquestionably the most sophisticated of the earliest dwellings, its porches and its interior detailing among the finest late eighteenth-century details in America. The other three of this earliest group are of stone. Stone was - and is - an abundant material in the region; it was permanent, fireproof, rodent-proof, highly weather-resistant, and no one had to be paid for its manufacture. These stone houses are conservative in their designs. The HOMESTEAD retains interior detailing from the English pattern books of the day, equal to any in tidewater Maryland. GLEN MEADOWS and the GITTINGS-BALDWIN HOUSE are less elaborate but no less interesting in their detailing and each has important features. The HOMESTEAD and GLEN MEADOWS received important additions early in the nineteenth century and GLEN MEADOWS retains most of its ancillary structures which were necessary to support rural life in past centuries.

HAYSTACK FARM may, in part, be a fifth house identified in the 1798 Federal Direct Tax records. Also of stone, with unique (in this district) vaulted cellar, it received additions in the early neneteenth century and alterations in the early twentieth.

AVONDELL has not been identified in the 1798 Federal Direct Tax records but it was described carefully in an earlier record, a description fitting the present west wing, a structure retaining the form and technological details of eighteenth-century construction. It is the unique frame survivor from the eighteenth century and its log kitchen may be contemporary with the dwelling house.

SEE CONTINUATION SHEET #4

GENERAL DESCRIPTION (Continued)

1800 - 1820

The surviving dwellings dating from the first two decades of the nineteenth century are conservative in design, closely related, architecturally, to their counterparts on the earlier side of that turn-of-the-centuries. Only their machine-cut nails, their smallest details - and their absence from that most important of all documents in architectural research of this period, the 1798 Federal Tax records - indicate their nineteenth century construction. Most of the surviving dwellings dating from the first two dedades of the nineteenth century are stone: SERENDIPITY, LIMESPRING, the YODER house, the NORMAN house, MERRYLAND and important additions to GLEN MEADOWS. While conservative externally, these houses received elegant detailing in such principal features as staircases and mantels. SERENDIPITY, with its several early nineteenth-century additions, is one of the most picturesque masses of early America.

The CARTER house, of frame and log, may be the only wooden survivor identified as of this period. At first a very samll, plain house, it received modest additions later in the century.

1820 - 1840

The second quarter of the nineteenth century was the period of the Greek Revival, but its impact in the Long Green Valley is barely seen. Stucco was the preferred exterior finish in that period, simulating cut stone. HOMESTEAD received a west wing of traditional design, and the two-story gallery across the principal front of the newly stuccoed eighteenth-century house is the sole known outward reference to the Greek Revival in this district, other than small details such as an entrance portico or mantel. Though conservative externally, the LONG GREEN FARM (GITTINGS' CHOICE) is a house of major importance and it retains a wealth of interior plaster and wood detailing of the early Greek Revival period. The LANG-DIETZ house is a large but conservative example of the period. Traditional in design, of stone construction, are the JOHN FOARD house and the small oversears' houses of MERRYLAND and HAYSTACK farms.

Several log houses survive from this period - though with log construction one cannot be precise about dating - including the SMITHWICK house, the HERSHFIELD house, the HAILE house, the DAWSON house and DUBLIN. Log construction was once a most commonplace building material but survivors are rare today. In the past log construction was not considered especially permanent and most log houses are small; hence most were replaced as something bigger and more stylish was affordable.

SEE CONTINUATION SHEET #5

GENERAL DESCRIPTION (Continued)

1840 - 1860

During the middle two decades of the nineteenth century the Greek Revival continued to flourish and other architectural revivals developed including the Italianate and the Gothic. Traditional construction continued in popularity, particularly in this district. The west wing of LIMESPRING provided stylish double parlors for the earlier dwelling; externally it was an extension of the original stone construction, all newly stuccoed, deliberately conservative, seemingly deliberately compatible with the original. A small portico at the original entrance provided a subtle reference to the Greek Revival. The CHURCH of ST. JOHN THE EVANGELIST is one of the state's earlier and more academic examples of Early English Gothic Revival. With its spectacular tower and other details MONTROSE is one of the state's most important but least known examples of the Italianate-villa style.

WINNAFORD is a large brick house of this period, very traditional in design, conservative in detail, with some mid-twentieth-century alterations to disguise its mid-nineteenth-century origins. Earlier AVONDELL received a modest addition in this period to provide a stylish stairhall and parlor. OVERLAND and the KOLK farm are unusual in their brick construction; their traditionalism is related to the Mennonite religion of their builders. The CARTER and MORRISON houses belong to the same tradition and they may, at least in part, be earlier. The MANOR HILL FARM and the DENISCH house probably date from this same period, though the latter was much altered in the twentieth century.

Developing villages at such corssroads as Glen Arm, and at such industrial sites as Hartley Mill, saw the construction of modest houses for workers and tradesmen. The MILLER'S HOUSE and the RANDALL house at Hartley Mill are such structures.

GOD'S GRACE, the HERTZGAARD house and BRINTON WOODS have small wings which may be their earlier sections, probably of log construction and probably dating from the first half of the nineteenth century. The westerly CURRENS house and the DALTON house, both of log, probably date from this period as does the FRANCE house.

1860 - 1880

The revivals of antiquity continued: this period saw, nationally, the end of the Greek Revival; the Italianate flourished early in this period, and the Gothic Revival continued, especially in ecclesiastical architecture, and in the late nineteenth century it led to other picturesque styles largely based on medieval forms.

INGLEWOOD and PLEASANT VIEW are dwellings of traditional form having modest touches of the Italianate style. They date from the opening years of this period, or at the very end of the previous one.

SEE CONTINUATION SHEET #6

GENERAL DESCRIPTION (Continued)

The OVERSEER'S HOUSE on Long Green Farm, and SUNNY KNOLL, a former tenant house of the same farm, have Gothic details seldom used on residential structures, including label lintels over the windows of the former (as well as a steep gable above its principal facade) and an enclosed entrance porch on the latter. With its pair of gables and jig-sawn verge boards, ELLENDALE is in the manner of a Downing picturesque villa. The AMBROSE and PRIGEL houses are of one and one-half stories, nearly square, with important gables in all facades. The AMBROSE house formerly had jig-sawn verge boards furthering its Gothic Revival statement.

RIDGEVIEW, MANOR HILL, the ST. JOHN'S RECTORY and the LEONARD FOARD houses are dwellings of traditional form but with pronounced gables above their principal facades linking them with the Gothic Revival tradition. The RECTORY has a projecting central bay and jig-sawn verge boards as well. The central gable is a feature which became almost inevitable on country and village houses in the late nineteenth century, in this district and elsewhere throughout Maryland. The earlier NORMAN house received such an addition in this period.

The LONG GREEN SCHOOL/I.O.O.F. LODGE is a structure of utter simplicity, purely functional, indicative of those built for and by the newly-freed Black communities following the Civil War. This building burned to the ground in the spring of 1981 as the research for this project progressed.

1880 - 1900

The pronounced center gable above the principal facade gave that facade greater importance, it emphasized symmetry, it provided increased light and headroom in the upper story. It first appeared in America in the most sophisticated of eighteenth-century houses, the classical pediment of renaissance design. It became a favorite element of the Gothic Revival and its use continued throughout the late nineteenth century and into the early twentieth. It is often the single detail of an otherwise traditional house which links it to a particular style: the GUNNARSSON house (and several others in its immediate vicinity), BRINTON WOODS, ADY TAVERN, DIMMIT'S DELIGHT, EHRHARDT house and the SOLTER house, among others, are in this category. The KNOEBEL house, the DAY house and the MOORE house are totally traditional in form, lacking this gable. Gables were added to earlier GLEN MEADOWS and the JOHN FOARD house in this period, updating style and providing the practical advantages as well.

The extra bays in the length of ADY TAVERN bespeak its original function as a combined dwelling-commercial structure. This same feature at the KNOEBEL house indicates a similar origin.

GREENLEA had a gable, originally, but its roof was altered later in the Colonial Revival period. GREENLEA was built as the dwelling of a rural doctor and the adjacent DOCTOR'S OFFICE is an important document in understanding the practice of medicine in early rural America. With its characteristic mansard roof the GREENLEA WINDPUMP TOWER is an excellent example (and in this district

SEE CONTINUATION SHEET #7

GENERAL DESCRIPTION (Continued)

a unique example) of the Second Empire style, applied to a utilitarian ancillary structure.

The Maryland and Pennsylvania Railroad (as it has been known since 1901) was extended through the Long Green Valley in this period. Never more than a single track and known for its winding and picturesque right-of-way, this line is now defunct. Engineering structures related to it have all but vanished like the railroad itself; only a few cuts and fills remain. Four stations remain: GLEN ARM, HYDES, LONG GREEN and the OLD LONG GREEN STATION. The GLEN ARM and both LONG GREEN stations are in the mainstream of American railroad station design, being of the picturesque school; but the HYDES STATION is more in the tradition of the early nineteenth-century inn with its two stories of galleries. Adjacent to it is the TOOL HOUSE. At the Long Green Station is an early WAREHOUSE associated with the railroad and the TOOL HOUSE is relocated to an adjacent property.

The UNFRIED house and the MACALUSO house are modest ventures in the Queen Anne style, as are the HINDER house, the easterly CURRENS house and the slightly later GLEN ARM SCHOOL. Several features most notably the low arched dormers, place an enlarged GOD'S GRACE in this style.

1900 - 1920

The opening years of the twentieth century saw a continuation of the picturesque late nineteenth-century styles. SHANKLIN'S STORE has the central gable in the picturesque tradition above an otherwise simple structure. The pointed entrance door and gable window of the CHURCH of the BRETHERN place this very simple structure in the Gothic Revival tradition.

The Colonial Revival, which started with the Centennial period of 1876, emerged as the dominant style of the early twentieth century. An early twentieth-century form is a very simple two-story cube or short rectangle with a pyramidal or short-ridged hipped roof such as the WEDGE and the KEMPSKE house. The PAGE house is the same form made slightly more picturesque and given a medieval flavor with vertical elements to simulate half timering. REMEMBRANCE is a highly developed example of the Colonial Revival, complete with orders and a wealth of other eighteenth-century details. The gambrel roofs of largish New England houses were popular with the Colonial-revivalists and older GREENLEA received one in this period. AVONDELL received something in almost every period; its Colonial Revival details include a pair of large dormers, each with a Palladian window. WESTON, built between the two World Wars, continues the Colonial Revival tradition well into the twentieth century.

SEE CONTINUATION SHEET #8

GENERAL DESCRIPTION (Continued)

Not all structures can be placed in a particular "style" of course and the ROBERT'S STORE, the GLEN ARM I.O.O.F. LODGE and the CHARLES HOTEL are all utilitarian structures to serve their intended purpose with pure contemporary functionalism. The display bay window of ROBERT'S STORE is a rare surviving detail of its original function.

1920 - 1940

The bungalow and cottage styles of suburban and village America are the historic styles of these decades. Two good examples of cottages are the BOTZLER house and the FRANK FOARD house; an excellent bungalow is the FISCHER house.

Outbuildings

Outbuildings were required at every property, before the advent of modern utilities and machinery, to support rural and village life. The Long Green Valley retains many original outbuildings: barns, corn houses; those smaller structures associated with the preservation of food: smoke or meat houses, spring or dairy houses, ice houses and root cellars; and the smallest of outbuildings associated with civilized life, be it urban or rural, the necessary or privy house. Outbuildings are a rapidly-vanishing class, especially the larger ones which require expensive maintenance in the late twentieth century - barns and corn houses. Among the smaller structures those which are the least adaptable to twentieth-century needs are the rarest - ice houses and privies.

Several farms retain a remarkable number of their outbuildings including LONG GREEN FARM, LIMESPRING, GLEN MEADOWS, AVONDELL, GITTINGS-BALDWIN and ELLENDALE. Outbuildings in the Long Green Valley generally had no ornamental features to place them in a particular "style" but those of LONG GREEN FARM and ELLENDALE are exceptions where ornamental cupolas and gables place them in the Gothic Revival tradition.

Great barns are associated with rural upland Maryland. Functionally obsolete today their high maintenance costs and high susceptibility to fire are causing their rapid disappearance. The barns recorded in the 1798 Federal Direct Tax are generally small and none have survived in this area. The small stone barn or carriage house at LONG GREEN FARM, now adapted as a dwelling, may be the oldest barn in the district. The oldest of the great bank barns date from the first half of the nineteenth century. Hewn timber braced framing persisted well into the second half of the nineteenth century and braced framing techniques with circular-sawn timber and lumber persisted into

SEE CONTINUATION SHEET #9

GENERAL DESCRIPTION (Continued)

the twentieth century for barn construction. Four early barns are of stone construction: GLEN MEADOWS, HAYSTACK, LONG GREEN FARM and LIMESPRING with its unique (in this district) hipped roof. The pent roof across the gable end sheltering the lower story wall is a characteristic feature of barns in this district, including some of these stone barns, and of the early frame HAILE and MANOR HILL barns as well. Other notable frame barns include HOMESTEAD, GITTINGS-BALDWIN, SMITHWICK, GITTINGS MILL, MORRISON, YODER, SERENDIPITY, McCOMAS, INGLEWOOD, PLEASANT VIEW, ELLENDALE, MONTROSE, DIMMIT'S DELIGHT, two at WINNAFORD and the octagonal barn made from older timbers at HOMESTEAD. Another small barn at LONG GREEN has Gothic Revival gables and cupola.

The typical corn house of this region - Harford and Baltimore Counties - was a two story braced-frame structure having corn cribs on one or both sides of a driveway with a loft above. Now functionally obsolete and highly susceptible to decay these structures are rare. Excellent examples of this type survive at HAYSTACK, HOMESTEAD, ELLENDALE, YODER, MANOR HILL, KOLK, GITTINGS-BALDWIN and GLEN MEADOWS. Early corn houses also survive at LIMESPRING and LONG GREEN FARM, the latter with Gothic Revival gable and cupola.

Early shops and sheds survive at GLEN MEADOWS, LONG GREEN FARM, GITTINGS-BALDWIN and the YODER farm. Early carriage houses survive at ELLENDALE, YODER and the NORMAN house.

Smoke or meat houses are the most adaptable of the smaller outbuildings. By their very nature they were usually made fireproof - masonry or log - and their enclosed design has made them resistant to the elements. Stone smoke houses survive at LIMESPRING, HOMESTEAD, GLEN MEADOWS, AVONDELL, the NORMAN house, DUBLIN and at the CARTER house, the last being octogonal in shape. MERRYLAND'S stone smoke house has a unique stone floor supported on log jousts above a cellar. The JOHN FOARD house retains a brick smoke house and the smoke houses of HAYSTACK, KOLK, MONTROSE and the HAILE farms are of frame.

Spring or dairy houses, by their location, had to be highly resistant to decay and they were generally of stone. Remaining examples of stone include LIMESPRING, GLEN MEADOWS, AVONDELL, WINNAFORD, SMITHWICK, LEONARD FOARD house, REMEMBRANCE and MANOR HILL. HOMESTEAD has a round spring house (rapidly falling into ruins) with a very interesting roof structure and Gothic Revival pointed-arched windows and doors. The spring house of the LONG GREEN FARM is exceptionally large with several rooms and a utilitarian fireplace for convenience. ELLENDALE has a frame spring house of unusually large size.

The underground stone-vaulted root cellars, seen with some frequency in northern Baltimore County, are not found in tidewater Maryland. Four remain in this district including the HAILE farm, AVONDELL, YODER and DENISCH farms. AVONDELL'S root cellar is interesting in that it shares an entrance with the adjacent spring house. HAYSTACK has a vaulted cellar beneath the dwelling.

SEE CONTINUATION SHEET #10

GENERAL DESCRIPTION (Continued)

Ice houses were deeply excavated structures and they, too, had to be resistant to decay as well as heat-proof. The deep pit renders them unadaptable to contemporary use and they are quite rare. Two remain: LIMESPRING and LONG GREEN FARM.

Privies could be of any material but by their unadaptable small size and all-too-prosaic nature they were razed in most cases as soon as plumbing was installed. Rare two-compartment (for ladies and gentlemen) privies remain at LONG GREEN FARM and ST. JOHN'S CHURCH. The HAILE farm retains its privy while the privy at ELLENDALE is moved to an adjacent property where it serves as a tool house. The outline of a stone privy remains on the back wall of the stone smoke house at GLEN MEADOWS.

Separate kitchens were not the rule in this northerly climate but two, often known in this region as summer kitchens, remain: a log example at AVONDELL and a stone one at the YODER farm, the latter with decorative sponge painting on its palstered interior walls.

Slave quarters have vanished, like slavery itself, but some may remain which were adapted to other uses following the Civil War. At REMEMBRANCE is a stone structure with a cellar, said to have been a quarter. At LONG GREEN FARM is a stone structure which may have been a quarter. An early frame quarter remains at the PRIGEL FARM.

Canning was an important industry in late nineteenth and early twentieth-century rural Maryland and small canning houses once were prolific. Generally of simple, often almost hasty construction, only one remains, relocated and adapted as a shop, at the HAILE farm.

At LONG GREEN FARM is a frame chicken house with ornamental Gothic Revival verge boards.

ELLENDALE has the distinction of having the only historic engineering structure, a bridge, a single arch of stone masonry carrying a farm lane over a small spring branch.

The garage was a new outbuilding which made its appearance with the advent of the automobile. Earlier, barns and carriage houses were adaptable for this purpose, but early automobile garages of significance include those at WESTON and at DIMMIT'S DELIGHT.

Not to be overlooked in recording early twentieth-century history are two early gasoline pumps, one at LONG GREEN FARM and one at the HOMESTEAD.

SEE CONTINUATION SHEET #11

GENERAL DESCRIPTION (Continued)

Private cemeteries on farms were commonplace in early Maryland when the distance to the church was often great. The GITTINGS CEMETERY at the LONG GREEN FARM (GITTINGS' CHOICE) contains eighteenth and early nineteenth-century graves including a group of table tombstones seldom found in small private cemeteries. The WILSON CEMETERY remotely located between MANOR HILL and the YODER farm is but a ruined stone wall, all graves, presumably, having been moved.

Church cemeteries are at ST. JOHN'S and the LONG GREEN CHURCH of the BRETHERN. The stone-walled MENNONITE CEMETERY is not associated with a standing church and the graves from the original site of ST JOHN'S CHURCH have, presumably, been moved to the present location.

Non-Contributing Structures and Objects

Map #	Location	Description
1C	Glen Arm Road Glen Arm village	6 small houses, Long Green Florist Lyons and Lyons Supply
2C	SW corner Glen Arm Rd. & Long Green Pike, adj. to 9B and 10B	5 small houses
3C	Long Green Pike Glen Arm village	Glen Arm Post Office
4C	Hillrise Road	10 houses, modest, including 3 farms
5C	NW corner Glen Arm & Williams Road behind 27A	10 houses, substantial, set back off roads
6C	Williams Road crest of ridge	8 houses, substantial, set back, both sides
8C	Hydes Road	Hydes Post Office
9C	S side Patterson Road E of 63B	4 new houses, substantial
10C	Long Green Pike Baldwin, both sides	11 houses, older modest, newer substantial & set back, Long Green Market, Peterson's Store
11C	Long Green Pike Baldwin	Baldwin Post Office

SEE CONTINUATION SHEET #12

GENERAL DESCRIPTION (Continued)

Non-Contributing Structures and Objects

Map #	Location	Description
1D	crosses Glen Arm, Long Green, & Hydes Roads	power line
2D	Glen Arm Road, corner, village, opp. 6B	Koppers Corp.
3D	Glen Arm Road village	Prosser Corp. office on road, shed behind
4D	Long Green Pike village	Glen Arm Lumber, Long Concrete Block
5D	E & W side Long Green Pike, village	E side - new Grumman Aeorspace W side - old Grumman
6D	W side Pike	Fischer Homes, modest
7D	W side Pike	Imperial Industries, modest, empty

Contributing Structures

Name of Building	Map No.
Ady Tavern	49
Ambrose House	48
Avondell	74
Botzler house (Glen Arm village)	10C
Brinton Woods	37
Bunker Hill	75
Carter House	80
Charles Hotel	58
Church of the Brethern	77
Craven house (Glen Arm village)	17
E. Currens house	77a
J. Currens house	78

SEE CONTINUATION SHEET #13

GENERAL DESCRIPTION (Continued)

Contributing Structures (Continued)

Name of Building	Map No.
Dalton house	78a
Dawson house	10e
Day house	59
Dean house (Glen Arm village)	10
Denisch house	94
Devlin house (Glen Arm village)	15
Dietz tenant	19
Dietz tenant	20
Dietz farm	21
Dimmit's Delight	64
Dovecote Farm	80
Dublin Farm	91
Ehrhardt house	62a
Ellendale	55
Fischer house	10d
John Foard farm	30
Leonard Foard farm	50
Robert Foard house	28
France house	41a
Gittings Choice	46
Gittings-Baldwin house	62
Glen Arm R. R. Station	6
Glen Arm School	11
Glen Meadows	27
God's Grace Farm	61
Greenlea	73
Grumman (gable) (Glen Arm village)	10b
Grumman (gambrel) Glen Arm village)	12
Gunnarsson house (Glen Arm village)	13
Gwynn house	23
Haile farm	69
Haystack farm	29
Hershfield house	26
Hertsgaard house	36
Hinder house	79
Hooper house (Glen Arm village)	5
Homestead	22
Hunter House	42
Hydes R. R. Station	65

SEE CONTINUATION SHEET #14

GENERAL DESCRIPTION (Continued)

Contrubuting Structures (Continued)

Name of Building	Map No.
Inglewood farm	45
Kempske house (Glen Arm village)	9
Knoebel house	90
Kolk farm	92
Lang-Dietz farm	21
Limespring	18
Long Green Farm	46
Long Green Farm Miller's house	70
Long Green School	83
Long Green R. R. Station 71	
Macaluso house (Glen Arm village)	8
Manor Hill Farm	96
Mast house (R. Foard)	28
McComas house	41
Mennonite Cemetery	86
Merryland Farm tenant	34
Merryland Farm overseer's	35
Miller's house, Long Green farm	70
Miller's house, Hartley Mill	25
Montrose	56
Moore house (Glen Arm village)	10a
Morrison house	72
Mumma House	43
Norman House	88
Nowowieski house (Glen Arm village)	16
Odd Fellows Hall, Glen Arm	40
Odd Fellows Hall, Long Green	83
Overalnd Farm	89
Page house (Glen Arm Village	4
Pleasant View farm	52
Prigel house	76
Prospect Hill	85
Randall house	24
Remembrance Farm	51
Ridgeview Farm	47
Roberts Store (Glen Arm village)	39

SEE CONTINUATION SHEET #15

GENERAL DESCRIPTION (Continued)

Contributing Structures (Continued)

Name of Building	Map No.
St. John's Church	53
St. John's Rectory	54
Sandler house	57
Serendipity	2
Shanklin's Store (Glen Arm village)	3
Smithwick house	68
Solter house	1
Spencer house	38
Spencer house (Glen Arm village)	14
Sunny Knoll	32
Unfried house (Glen Arm village)	7
Wade house	33
Watkins Tavern	58
Wedge	67
Welsh house	25
Weston	44
White tenant	66
Winnaford farm	63
Yellott house	47
Yoder farm	81

8. Significance

BA-2188

Period	Areas of Significance—Check and justify below				
___ prehistoric	___ archeology-prehistoric	___ community planning	___ landscape architecture	___ religion	
___ 1400–1499	___ archeology-historic	___ conservation	___ law	___ science	
___ 1500–1599	X agriculture	___ economics	___ literature	___ sculpture	
___ 1600–1699	X architecture	___ education	___ military	___ social/ humanitarian	
___ 1700–1799	___ art	___ engineering	___ music	___ theater	
X 1800–1899	___ commerce	___ exploration/settlement	___ philosophy	___ transportation	
X 1900–	___ communications	___ industry	___ politics/government	___ other (specify)	
		___ invention			

Specific dates N/A **Builder/Architect** N/A

Statement of Significance (in one paragraph) Applicable Criteria: A and C

SIGNIFICANCE SUMMARY

The significance of the Long Green Valley Historic District derives from the collection of eighteenth, nineteenth and early twentieth century buildings that are situated in a rural agricultural setting. The buildings, primarily houses and farm structures, embody the distinctive design characteristics of the major architectural styles popular in the United States from the Neoclassical of the 1700s to the Georgian Revival of the pre 1935 period. The buildings range from modest to elaborate in size and exhibit varying degrees of craftsmanship as well as a record of changes in construction techniques in Baltimore County. The buildings also are evidence of the productive agricultural nature of the valley since it was settled in the 1720s thus recording ways of life that have disappeared in other regions surrounding metropolitan Baltimore.

HISTORY AND SUPPORT

Long Green Valley is a product of geological upheavals and millenia of erosion. The valley floor is underlain by marble, and the hills surrounding the valley are composed of mica schist. Geologists call the valley floor "Cockeysville Marble," and the hills "Wissahickon Formation." The marble underlies several other valleys in Baltimore County – Green Spring, Worthington and Dulaney, to name a few. Marble makes good building stone, and, when burned in a limekiln, makes agricultural lime and whitewash.

Valleys, being relatively flat, make prime agricultural land. The first settlers in Long Green Valley prospered by raising tobacco. Most of the settlers had formerly farmed the shores of Chesapeake Bay, and, moving inland, they were glad to find virgin soil that had not been exhausted by tobacco culture.

Today, most of Long Green Valley is still farmed intensively, but corn, small grains, and hay are produced instead of tobacco. Some farmers grow vegetables for market, and some grow grapes for wine. Considerable pasture land has been reserved for grazing horses, cattle and sheep. Steep slopes are generally wooded.

The origin of the name "Long Green" is something of a mystery. The stream that runs through the valley was called "Long Green" in court records as early as 1736, so it is not surprising that the valley is given the same name. Later, a farm, a post office, a railroad station, a village, two roads, churches and schools were named Long Green. There are four hamlets in England named Long Green, according to a gazetteer of the British Isles. James Gittings

SEE CONTINUATION SHEET #16

HISTORY AND SUPPORT (Continued)

named his plantation "Long Green Farm", so it is plausible that the Gittings family has roots in one of these English hamlets.

Long Green Creek is a tributary of Big Gunpowder Falls between Loch Raven and tidewater. As noted above, this creek drains Long Green Valley. Its headwaters are near Carroll Manor School. Descending into the marble valley, it passes near Hyde Station and Long Green Station. Next, it cuts through a low ridge of mica schist, and then it crosses a smaller marble valley before emptying into the gorge occupied by Hartley Mill Road. The smaller marble valley is a separate part of Long Green Valley. The eastern end of this smaller valley is drained by Haystack Branch, a tributary of Long Green Creek, so sometimes that area is called Haystack Valley, although it is called Long Green in old documents.

To introduce the history of Long Green Valley, it should be noted that Indians hunted in the area for some ten thousand years before the coming of the white man. Arrowheads or points and other evidences of Indians have been found and are still being found throughout the area. No indications of permanent camps or settlements have been discovered. Schoolboys of half a century ago delighted in exploring the overhanging rocks called "Indian Caves" along Hartley Mill Road.

It may be presumed that the first white men to set foot in the valley were game hunters in the 1600s. However, the recorded history begins with the first surveys made in 1683, about 300 years ago. "Cullens Lot," 300 acres, was surveyed for James Cullen of St. Mary's County on June 17, 1683. "His Lordship's Manor," 7031 acres adjoining Cullens Lot was surveyed for Charles Calvert, the third Lord Baltimore, on June 28, 1683. "Land of Promises," 2000 acres adjoining the manor, was surveyed for Henry Darnall, one of Lord Baltimore's high-ranking officials, in the year 1683. Cullens Lot, and an addition called "Cullens Addition", 500 acres, include most of the smaller Long Green Valley. The manor, and a small part of Land of Promise, include the main part of Long Green Valley.

Lord Baltimore had a number of manors in the province, two of which were in Baltimore County. He gave one of these to his fourth wife, Lady Margaret, called My Lady's Manor." He retained the other one for his own use. In official documents, it is called "His Lordship's Manor in the Forks of the Gunpowder," or just "His Lordship's Manor." The latter name is still used in legal description of property adjoining the manor boundary line. A short name for the manor is "Gunpowder Manor."

Neither Lord Baltimore nor Lady Baltimore intended to live on their manors in Baltimore County. Their main interest was to produce income. Immigrants to Maryland seldom had capital to purchase land, so they were glad to rent it. Some landlords accepted produce, especially tobacco, in lieu of hard currency, which was very scarce in the colony.

SEE CONTINUATION SHEET #17

HISTORY AND SUPPORT (Continued)

James Cullen and his heirs may have rented Cullens Lot and Addition, but records are lacking. Thomas Tolley bought this land in 1725 and named it "Tolley's Purchase." He had an overseer and 6 taxable slaves working on the farm in 1737. After Thomas died, part of the land escheated to the Lord Proprietary. Walter Tolley bought it back and renamed it "Tolley's Double Purchase." (The old-timers had a sense of humor.)

In 1757, the surveyor recorded that Tolley had one rotten clapboard dwelling house 16 feet by 15 feet, of no value except to burn for nails., 4 tobacco houses described as quite rotten, 2 corn houses 25 X 12 feet made of round logs, and 5 small negro quarters made of round logs.

In 1773, the tax assessor reported that Walter Tolley had an overseer and 4 taxable slaves, and Walter Tolley, Jr. had 4 servants and 3 slaves. In 1783, Walter Tolley willed his land, after the death of his wife, to his daughter Ann, who was the wife of Aquila Hall, a prominent attorney and landholder in Harford County. Aquila bought some adjoining property at Fork Church, at Glen Arm, and at Hartley's Mill, so that in the 1798 assessment, he was charged with 1421 acres, 39 slaves, a stone mansion, 2 tenant houses, 5 log negro quarters, 15 farm buildings, and a stone grist mill (later called Hartley's mill.)

This, then, is the description of the development of farmland in the smaller section of Long Green Valley in the eighteenth century.

In the main part of Long Green Valley, in the manor, it appears that Thomas Gittings, John Fuller and William Demmitt were living there in 1721, which is the year in which a surveyor marked off the boundaries fo their farms. In 1737, the tax assessor listed the following names:

John fuller, 2 sons (3 taxables)
Thomas Giddens (sic), 2 servants, 8 slaves (11 taxables)
John Fuller, Jr., 2 servants (3 taxables)
William Demmitt, 1 servant (2 taxables)
William Demmitt, Jr., 1 slave (2 taxables)
James Demmitt, (1 taxable)
George Elliott, 3 servants, 13 slaves (17 taxables)

George's lease is dated September 30, 1736, but he may have been there earlier, and 1736 may be the date of a new lease.

Thomas Gittings acquired more land during his lifetime, both inside and outside the manor. The Fuller family moved to Carolina, and MichaelJenkins became the tenant. The Demmitt family stayed. George Elliott died and John Chamberlain (son-in-law of Thomas Gittings) became the tenant. By 1767, the principal lease-holders in the valley within the manor were James Gittings, John Chamberlain, James Demmitt, Michael Jenkins, and Benjamin Kidd Wilson.

SEE CONTINUATION SHEET #18

HISTORY AND SUPPORT (Continued)

The last-named leaseholder had inherited his farm from his father, William, whose lease was dated 1746. As of 1767, most houses in the manor were log houses, some were frame, none was brick or stone.

In 1773, the tax assessor listed the following names:

James Gittings, 9 servants, 14 slaves (24 taxables)
John Chamberlain, 2 sons, 1 servant, 7 slaves (11 taxables)
Samuel Chamberlain, 2 servants (3 taxables)
James Dimmett (sic), 2 servants (3 taxables)
Michael Jenkins, 5 slaves (6 taxables)
Jonathan Jenkins, 2 servants, 2 slaves (5 taxables)
Benkid Wilson, 8 slaves (9 taxables)

John Chamberlain died, and his lands were acquired by James Gittings. The Demmitt property was sold. Gittings, Jenkins and Wilson increased their holdings, so that in 1798, we find that James Gittings had 2005 acres, 50 slaves, a stone mansion, a stone mill, a log house for negroes, and 6 farm buildings. His son Thomas had 731 acres, 14 slaves, a stone mansion, 3 smaller houses, and 8 farm buildings. James Gittings, Jr. had 5 slaves, an old frame house, and a new stone house under construction. Michael Jenkins had 489 acres, 13 slaves, a frame house, 3 small houses, and 5 farm buildings. Benjamin Wilson had 198 acres, 11 slaves, and 1 house. His brother Henry had 481 acres, 22 slaves, a frame house, a log quarter house, and 6 farm buildings.

This completes the description of the principal landowners in Long Green Valley at the close of the eighteenth century. The statistics contain some approximations - for example, part of James Gittings' land was east of the Harford Road and therefore outside of Long Green Valley. Some smaller landowners have been omitted, but the statistics give a broad picture of the expansion of agricultural activity in the area from the early 1700s when Maryland was a colony of Great Britain, to 1798 when Maryland was struggling as a state in the newly formed republic.

A majority of the valley buildings standing today date from the nineteenth century. Descendants of Gittings, Jenkins, Wilson, and other families continued as valley residents in houses of their own (see notes on houses below). A new influence was an influx of Mennonites from Lancaster County, Pennsylvania, beginning around 1849. They settled in a broad arc from Carroll Manor School to the village of Long Green, thence to Hartley's Mill, Haystack Valley and almost to Fork Church. Christian Hertzler bought 90 acres on Manor Road in 1853. His brother-in-law, John Smoker (Schumucker) bought 90 acres adjoining on the same date. Justice Eicholtz bought 33 acres adjoining between 1858 and 1867. Jacob Hertzler bought 125 acres on Manor Road adjoining Christian in 1853. Daniel Nafzinger bought 100 acres on Manor Road adjoining Jacob Hertzler in 1850. Moses Miller bought Prospect Hill 263 acres on Kanes Road

SEE CONTINUATION SHEET #19

HISTORY AND SUPPORT (Continued)

adjoining Nafzinger in 1850. Moses was born in Germany, but his wife and children were born in Pennsylvania. In 1863, he sold the mansion with 135 acres to James Kane (born in Ireland). In 1864, he sold back acreage, 61 acres to Andrew Miller and 58 acres to David Warfel, with right-of-way through Prospect Hill to Kanes Road (Hydes Road was non-existent at that time). John Neuhauser bought 114 acres adjoining Prospect Hill in 1859. Andrew Miller bought 40 acres containing Gittings' mill and miller's house in 1862. Isaac Hertzler bought 309 acres (former Wilson estate). He sold 36 acres to Samuel Kennel in 1868 (BA521), and 111 acres to Solomon Yoder in 1854. He retained the balance. South of Hertzler is 166 acres (former Wilson estate) bought by Peter Nafzinger in 1851. The Wilson cemetery at the end of Briedenbaugh Lane was excluded in the sale to Nafzinger. The Mennonite cemetery on Kanes Road was excluded in the sale of Prospect Hill to James Kane in 1863. A lot for the Mennonite church on Kanes Road was bought in 1894. After the church burned, the lot was sold and a dwelling stands on the foundation. John and Christian Kennel bought 33 acres in 1851 (later called Hartley's mill, now razed). John Mast bought Haystack Farm 435 acres in 1850. Benjamin Foard and his descendants have farmed in Haystack Valley for several generations since the Mast family departed.

Limespring was built by Robert Hall circa 1820. This house has had many owners and has been the subject of many court-ordered sales. The War Between the States was the direct cause of one foreclosure. Joshua Price sold his farm in Virginia and bought Limespring just before the outbreak of hostilities. The purchaser of the Virginia farm had deposited the money in a Virginia bank, and the funds were frozen. At the close of the war, the Confederate dollars in the Virginia bank were unacceptable to the mortgage-holder of Limespring, so the property had to be sold.

There was great excitement in the valley at one point during the war. Harry Gilmor's raiders passed through enroute to burn the railroad bridge on the Baltimore and Philadelphia line. One of Joshua Price's sons was in Gilmor's party, so he invited Gilmor to spend the night at Limespring, which he did. It was the following morning that Gilmor lost one of his scouts who was shot by Ishmael Day when he attempted to take down Day's flag on Sunshine Avenue.

Adjoining Limespring on the east is the Judson Duckett farm (BA-1920) purchased from the widow of Aquila Hall in 1824. The house was probably built in the 1820s.

Serendipity is on Land of Promise, originally patented by Henry Darnall. Francis Darnall sold 140 acres (including the site of Serendipity) to Benjamin Wilson in 1796. The tax assessment of 1798 does not reflect the existence of the house, so it is assumed that Benjamin or Benjamin's son, Benjamin, built the house, which has been enlarged later. H. C. Forman described the house as an old Wilson house of the eighteenth and nineteenth centuries. A picture of the house is in Forman's Tidewater Maryland: Architecture and Gardens.

SEE CONTINUATION SHEET #20

HISTORY AND SUPPORT (Continued)

The main house on the Long Green Farm is on the tract called Gittings Choice, surveyed in 1721 for Thomas Gittings. As of 1767, the main house was a frame building 40 feet by 35 feet with brick chimneys. According to family tradition; this house burned and was replaced by a stone house as recorded in the 1798 tax list. The present house is also constructed of stone, apparently built in the 1820s. James Gittings (1735-1823) was quite a gentleman. Besides being the owner of 2000 acres and 50 slaves, he served as Justice, Baltimore County Court, for seven years, and as a Lieut. Col., Gunpowder Battalion, Baltimore County melitia during the Revolution. He advertised his stud horse in the Baltimore American in 1792. A large painting of his family by Charles Willson Peale was executed in 1791. Peale recorded in his diary that the "seat of Mr. Gittings is situated in a rich valley where he has all the blessings that a country life can afford." Richard Parkinson, who visited the farm in 1798, wrote that Mr. Gittings had the finest timothy meadows in America.

The Jenkins homestead was on the tract called Fullers Forest, surveyed in 1721 for John Fuller. As of 1767, the house was frame 16 feet by 24 feet. By 1798, dormers had been added and the house lengthened to 38 feet. William Armour Jenkins replaced this house with a new one in 1906.

The Demmitt homestead was on the tract called Demmitt's Delight, surveyed in 1721 for William Demmitt. As of 1767, the house was frame 20 feet by 24 feet. In 1798, it was described as frame 18 feet by 28 feet (2 stories) with log kitchen 18 by 14 feet. An advertisement in 1880 listed the house part frame, part stone 20 feet by 60 feet, part 3 stories. The present house is still larger and may be on a new site.

Transportation was the very life-blood of the early farmer. His cash crop was tobacco, and to get it to tidewater for export, it was necessary to build rolling roads for rolling hogsheads of tobacco to a landing. One such road was called the Manor to Joppa Road, from My Lady's Manor to Sweet Air, thence to Baldwin via Patterson Road, and on to Fork and Joppa.

Another important road was the Great Road. From Bel Air, it entered Baltimore County via Pleasantville Road, through Baldwin and Glen Arm to Cromwell's Bridge, Cub Hill Road and Old Harford Road.

A third important road was the Old York Road which followed Manor Road from My Lady's Manor through Sweet Air to Knoebel's Tavern and thence to Towson.

The Joppa Road lost its importance with the decline of Joppa and abandonment of tobacco culture just before the Revolution. The Great Road and the Old York Road were overshadowed by the construction of the Baltimore and Harford Turnpike, respectively.

SEE CONTINUATION SHEET #21

HISTORY AND SUPPORT (Continued)

The turnpikes in turn were outmoded by the railroads. In 1883, the Maryland Central (later Maryland and Pennsylvania) was built through the valley, connecting Baltimore with Bel Air, and eventually with York, Pennsylvania. Four stations were established in the valley: Baldwin, Hyde, Long Green, and Glen Arm. The last-named three stationhouses are still standing (BA-861 and 863). Although it was only a single-track line, the Maryland and Pennsylvania did a booming business in the early 1900s. For example, in 1914 there were 15 regularly scheduled passenger trains plus freight trains every weekday serving the valley. There were ten trains on Sunday. Transportation of milk and cream was important for the farmers in the valley. The milk train carried the milk to Baltimore every morning, and an evening train brought back the empty cans. Four trains were designated mail trains. Before the advent of school buses, children rode the train to and from high school and college. During the summer, some Baltimoreans "beat the heat" by moving their families to the country. If they did not have a country home, they boarded at one of the farmhouses in the valley. The first commuters to Baltimore were these summer residents who worked in the city and slept in the country. The Maryland and Pennsylvania never operated with automatic signals, but employed train orders. However, a former station agent, Charles Adler, Jr. is credited with installing what is considered to be the first automatic crossing signal in the United States. It was a stop sign that turned at right angles to the road 20 seconds before the arrival of a train. It was used to replace the watchman at the blind crossing on "watchbox hill" just north of Glen Arm.

Unfortunately for the railroad, its glory years came to an end with the advent of the motor age and hard-surfaced roads. Passenger service ended in 1954 and freight service died out four years later. Public roads in the valley were paved with concrete or asphalt, but they remained narrow (two lanes with little or no shoulders to accomodate disabled vehicles). There are no interstate or state highways crossing the valley. The nearest state highway is Harford Road which borders the valley on the east. Nearly all bridges have been replaced with modern structures in recent years. One notable exception is the Long Green Pike bridge over Long Green Creek, which is dangerously narrow, and is subject to flooding when Long Green Creek is high. It may be stated that, although some roads are winding and narrow, all are passable for school buses, fire trucks and commercial vehicles.

Before the Revolution, the principal occupation was farming. Supporting occupations included the innkeeper, the blacksmith, the miller, and the tanner. Jeremiah Chance opened an inn on the Old York Road in 1762. The 1767 inventory listed Mr. Gittings with a blacksmith shop built of logs 18 X 16 feet, and it listed George Hunter with a tan house 45 X 18 feet of logs. There were two mills in operation in 1867. Long Green Creek furnished the water power. Lucas' Mill (later Hartley's) was on the left bank between Glen Arm and Harford Road. Gittings' mill (later Miller's) was on the right bank just north of Long Green Road. Both mills are gone.

SEE CONTINUATION SHEET #22

HISTORY AND SUPPORT (Continued)

After the Revolution, many taverns existed along the main arteries to Baltimore. In the 1800s, there was Watkins Hotel, Ady's Tavern and Greenwood Hotel on Long Green Pike, formerly the West Branch of the Baltimore and Harford Turnpike. Also, there was Webb's Tavern and Knoebel's, formerly Patterson's Tavern on Manor Road, formerly the Old York Road.

The development of educational facilities is an interesting story. Before the creation of the county system, a group of neighbors would band together and elect trustees to build a schoolhouse, hire a teacher, and charge tuition. One such school is mentioned in a deed dated 1812 as the "old" schoolhouse near the intersection of Williams Road and Glen Arm Road.

In the 1840s Wilson Carey operated a school for young ladies. He employed two teachers who taught French, Italian, German and music (piano, guitar, and voice). The advertisement located the school on Haystack Farm.

St. John's Roman Catholic Church opened a school in about 1858. There were no county schools until 1887, when the county built Hydes School. This school was sold in 1920, and the building has been razed. The county built Glen Arm school in 1900. It is now a residence. The school was closed in 1935 when Carroll Manor School was opened and school buses carried the children to the consolidated school.

Baltimore County operated separate schools for colored children, usually in facilities furnished by the neighborhood. One such school was on Kanes Road, Long Green. It occupied the first floor of an I.O.O.F. Hall built by the lodge. This building was used as a school from 1873 to 1927, when the county built a new school nearby. The latter school was converted to a dwelling after the races were integrated in 1951. The lodge hall, vacant for many years, was burned in 1981.

The first church in the valley was St. John's Catholic Church built in 1855, successor to St. John's on the Ridge which burned earlier that same year. As already noted, the Mennonites built a church on Kanes Road circa 1895. The church was not rebuilt after a fire in 1914. The Church of the Brethern built a church on Long Green Road in 1908.

The construction of the railroad through the valley in 1883 resulted in the development of two large commercial enterprises. The Hyde cannery on Hydes Road was a major private enterprise between 1882 and 1906. Its "Sweet Egyptian Corn" was marketed in the United States and Europe. Mr. Samuel Hyde was a shrewd promoter. It is recorded that he served hot corn to members of the Baltimore City Council and a party of 100 persons in 1883 when the railroad was opened. He escorted the party on a tour of his cannery. Today, the cannery is gone and the land has been returned to farming. The other enterprise was the F. X. Hooper Company on Glen Arm Road. Mr. Hooper came from Baltimore and built a plant for making containers and printing labels. Today the plant

SEE CONTINUATION SHEET #23

HISTORY AND SUPPORT (Continued)

is part of the Koppers Company, and is famous for the manufacture of container machinery.

Some other enterprises spawned by the railroad were stores, post offices, a coal yard, and a steam laundry. They have since disappeared or the buildings converted to other uses.

Today, the population of Long Green Valley is more heterogeneous than in the past. There are some working farms of several hundred acres in size, and there are small residential lots scattered throughout the valley. Residents include farmers, lawyers, doctors, teachers, businessmen, artisans, and tradesmen. There are two black communities, each of which had a one-room school in the past. One community is on Kanes Road, and the other is near Hartley Mill. There are two small food markets and an auto shop at Baldwin. Glen Arm is a major village, where there is a florist shop, a feed and grain supply, a hardware store, and two small contracting establishments. The major employers of non-local labor are located at Glen Arm: Koppers Company (container machinery), Grumman Aerospace Corporation (airplane parts), and the smaller Prosser Company (consulting engineers, fiberglass). All three are low profile in terms of noise, traffic, roof-line, and pollution. Koppers has an interesting history, having taken over the F. X. Hooper Company as already mentioned. Mr. Hooper purchased the site of his Glen Arm plant in 1893. Grumman is relatively new, having come to Glen Arm in 1967. Originally on the west side of Long Green Pike, it has recently expanded to the east side of the road where it has taken over agricultural land. The Long Green Valley Association has entered into a covenant with Grumman to prevent furtner expansion into agricultural land.

Other intrusions are minimal, although residential development along Manor, Sweet Air and Harford Roads threatens to drop down into the valley. It is to minimize these threats and to preserve the farmland with its many significant buildings that the establishment of the Long Green Valley Historic District is proposed.

BOUNDARY DESCRIPTION

The proposed Long Green Valley Historic District is a succinct geographical and historical unit. Boundaries have been drawn largely on a visual and topographical basis. The broad floor of the limestone valley extends east and west from the notth-south course of Long Green Creek. Ridges rise on the west toward Manor and Sweet Air Roads, and on the east toward Harford Road. An irregular transverse ridge in the south divides Long Green Valley from Haystack Valley, and central Long Green from the southern or Glen Arm section. Ribbon residential developments along Manor Road and Harford Road have been excluded. Scattered new residences within the boundaries are mostly traditional in design and are not considered offensive. The only serious intrusion is industry (Koppers, Prosser, Grumman) in Glen Arm, near the intersection of Glen Arm Road and Long Green Pike. It is impossible to exclude these industries from the district as they abut on several important houses, as well as on Glen Arm village which contains some twenty worthy vernacular structures. The farms included along the boundary edges all look into the valley and are considered an integral part of it.

GEOGRAPHICAL DATA, UTM REFERENCES

A. 18 / 374060 / 4373520
B. 18 / 375090 / 4370140
C. 18 / 374500 / 4368320
D. 18 / 372500 / 4367080
E. 18 / 371020 / 4367400
F. 18 / 368990 / 4368560
G. 18 / 368800 / 4372580
H. 18 / 370600 / 4373460

9. Major Bibliographical References

BA-2198

Baltimore County Land Records, Courthouse, Towson, MD
Maryland Historical Trust Historic Sites Inventory: Baltimore County, multiple sites

10. Geographical Data

Acreage of nominated property 6066 acres

Quadrangle name Phoenix, Md; Jarrettsville, Md. Towson, Md.; White Marsh, Md.

Quadrangle scale 1:24000

UMT References

SEE CONTINUATION SHEET #24 for UTM

	Zone	Easting	Northing
A			
B			
C			
D			
E			
F			
G			
H			

Verbal boundary description and justification

The district boundaries are delineated on the attached map.
The boundary description is given on Continuation Sheet No. 24

List all states and counties for properties overlapping state or county boundaries

state N/A code county code

state code county code

11. Form Prepared By

name/title James T. Wollon, Jr., A.I.A.; Elmer R. Haile, Jr.; Julia Randall

organization Historic Long Green Valley, Inc. date August 3, 1981

street & number c/o Julia Randall 5539 Hillrise telephone 301-592-2629

city or town Glen Arm state Maryland 21057

12. State Historic Preservation Officer Certification

The evaluated significance of this property within the state is:

___ national ___ state X local

As the designated State Historic Preservation Officer for the National Historic Preservation Act of 1966 (Public Law 89-665), I hereby nominate this property for inclusion in the National Register and certify that it has been evaluated according to the criteria and procedures set forth by the Heritage Conservation and Recreation Service.

State Historic Preservation Officer signature J. Mitchell 11-8-82

title STATE HISTORIC PRESERVATION OFFICER date

For HCRS use only

I hereby certify that this property is included in the National Register

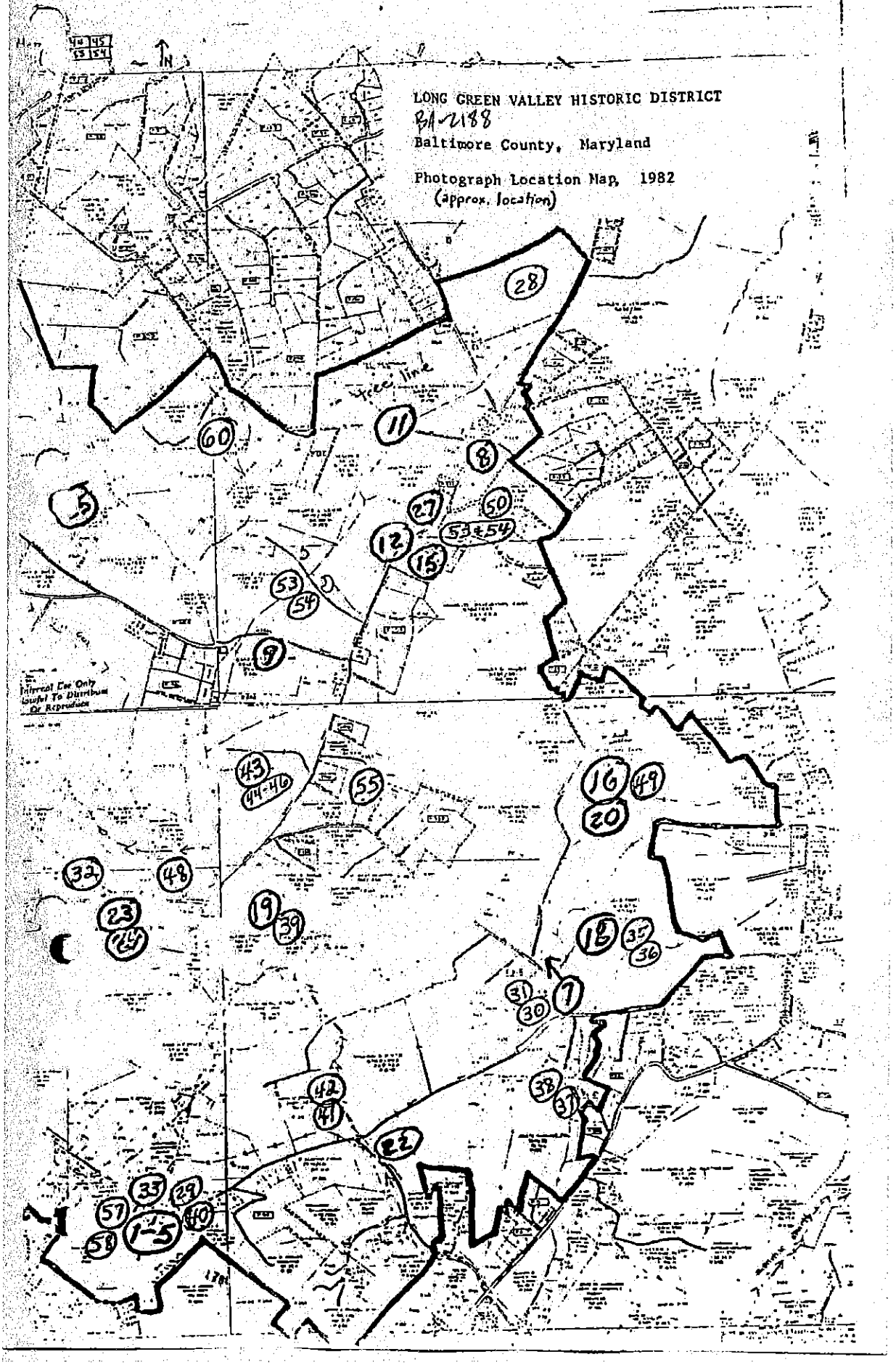
date

Keeper of the National Register

Attest: date

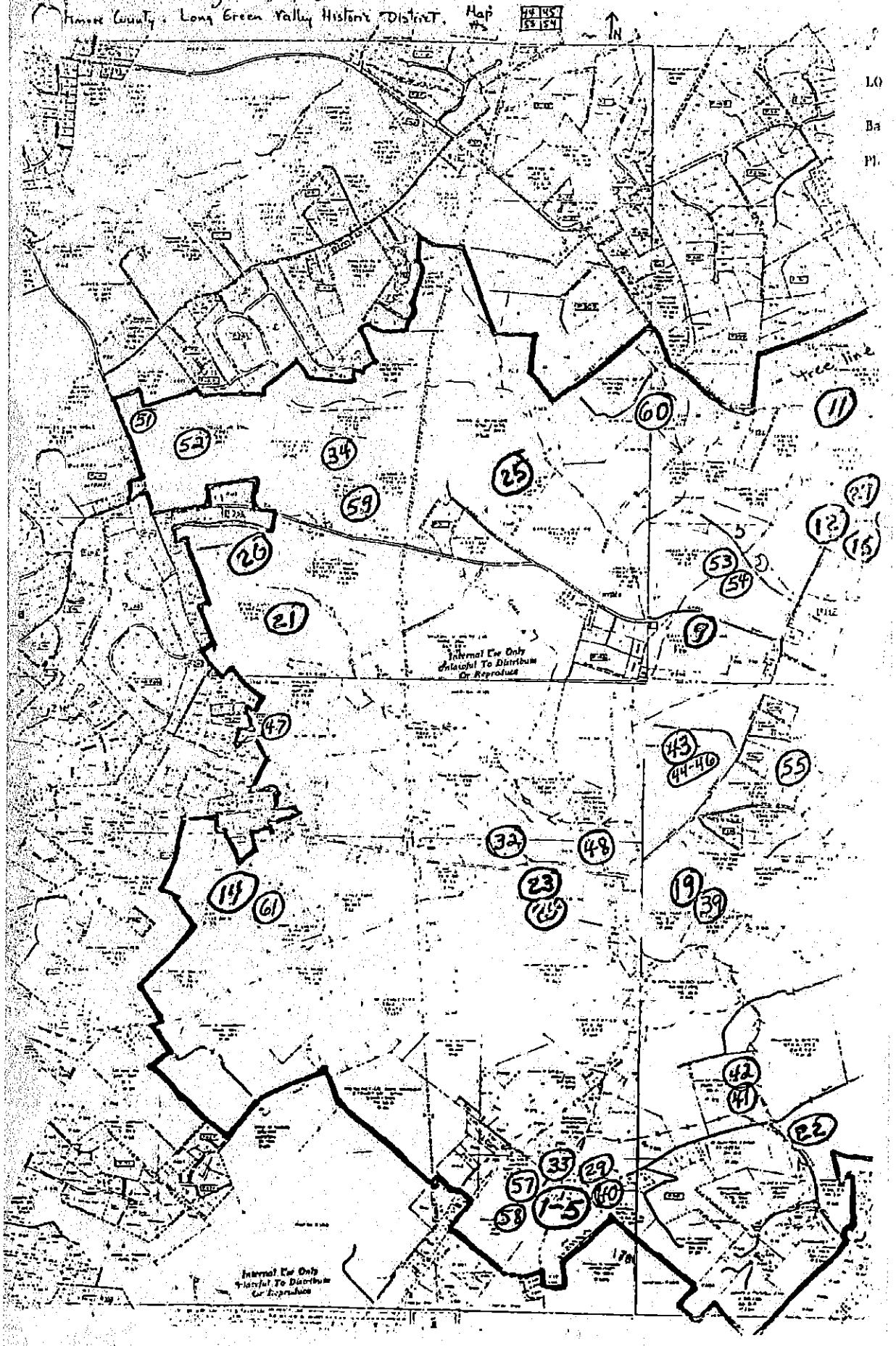
Chief of Registration

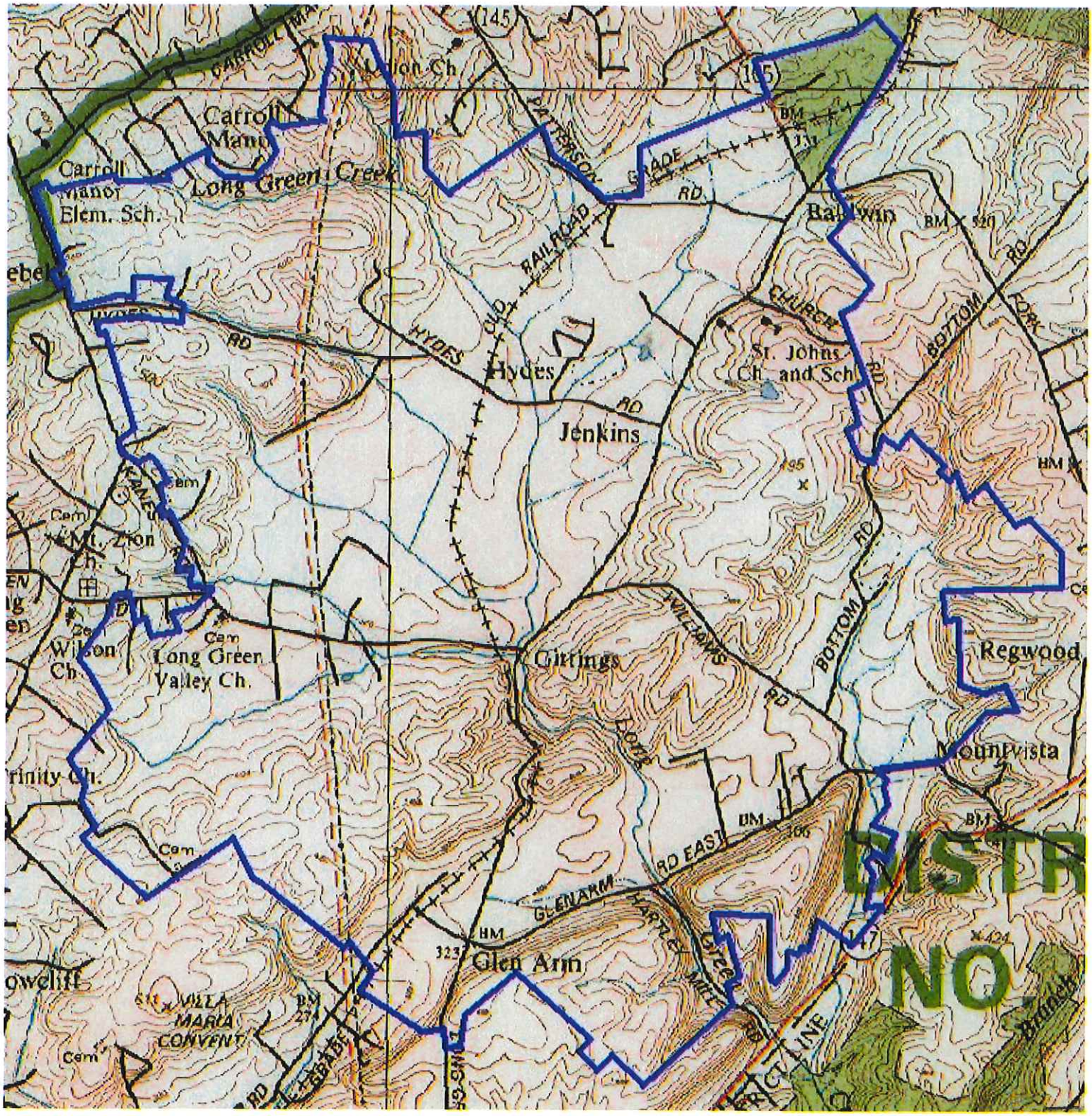
GPO


LONG GREEN VALLEY HISTORIC DISTRICT
BA-2188
Baltimore County, Maryland
Photograph Location Map, 1982
(approx. location)
N
tree line
Official Use Only
Lawful To Distribute
Or Reproduce

BA-2188

Hanover County: Long Green Valley Historic District. Map #s 44 45 53 54





Petitioner
CBA Exhibit
45

• Baltimore County • Focus on Community •

GREATER KINGSVILLE AREA COMMUNITY PLAN

Petitioner
CBA Exhibit
46

As adopted by the Baltimore County Council
July 1, 1996

Baltimore County
Planning Board

401 Bosley Avenue
Towson, Maryland 21204
(410) 887-3495
Fax: (410) 887-5862

RESOLUTION
Adopting and Recommending
the
GREATER KINGSVILLE AREA COMMUNITY PLAN

WHEREAS the Baltimore County Master Plan 1989-2000 recognized the need for a plan for the Greater Kingsville community; and

WHEREAS the Master Plan also specifies that plans prepared by community associations should be evaluated for possible adoption by the Planning Board and County Council; and

WHEREAS a committee of residents in the Greater Kingsville area, working under the auspices of the Greater Kingsville Community Association, and with the assistance of County staff, has prepared a Greater Kingsville Area Community Plan; and

WHEREAS the draft Plan thoroughly documents existing conditions and issues in the Greater Kingsville community, which is a logical unit for planning within Baltimore County, and proposes reasonable actions for protecting and improving the community in accord with the principles adopted in the Master Plan; and

WHEREAS the draft of the community plan, as submitted on October 5, 1995, was the subject of a public hearing on November 2, 1995, and was discussed in the committee meeting of October 5, 1995 and the Board meeting of January 18, 1996;

NOW, THEREFORE, BE IT RESOLVED, pursuant to Section 26-81 of the Baltimore County Code, 1988, that the Baltimore County Planning Board hereby adopts the Greater Kingsville Area Community Plan, December 1994, as modified by the January 3, 1996 revisions, to constitute a part of and an amendment to the Baltimore County Master Plan 1989-2000, and

BE IT FURTHER RESOLVED, that the Greater Kingsville Area Community Plan shall be transmitted to the Baltimore County Council for adoption in accordance with Section 523(a) of the Baltimore County Charter.

DULY ADOPTED by vote of the Planning Board this 18th day of January, 1996

Arnold F. "Pat" Keller, III
Secretary to the Planning Board

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COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1996, Legislative Day No. 14

Resolution No. 48-96

Mr. Vincent J. Gardina, Councilman

By the County Council, July 1, 1996

A RESOLUTION of the Baltimore County Council to adopt the Greater Kingsville Area Community Plan as part of the Baltimore County Master Plan 1989-2000.

WHEREAS, the Baltimore County Council adopted the Baltimore County Master Plan 1989-2000 on February 5, 1990; and

WHEREAS, the Master Plan advocates the implementation of actions and policies for the conservation and enhancement of the County's older established communities, including the preparation of detailed local plans for certain designated areas; and

WHEREAS, an advisory group composed of local citizens, working under the auspices of the Greater Kingsville Community Association, with the assistance of County staff, prepared the Greater Kingsville Area Community Plan; and

WHEREAS, the Plan identifies particular goals concerning the preservation, enhancement and development of the Greater Kingsville Area and recommends actions for achieving those goals; and

WHEREAS, by Resolution adopted January 18, 1996, the Baltimore County Planning Board adopted the Greater Kingsville Area Community Plan to constitute part of and an amendment to the Master Plan; and

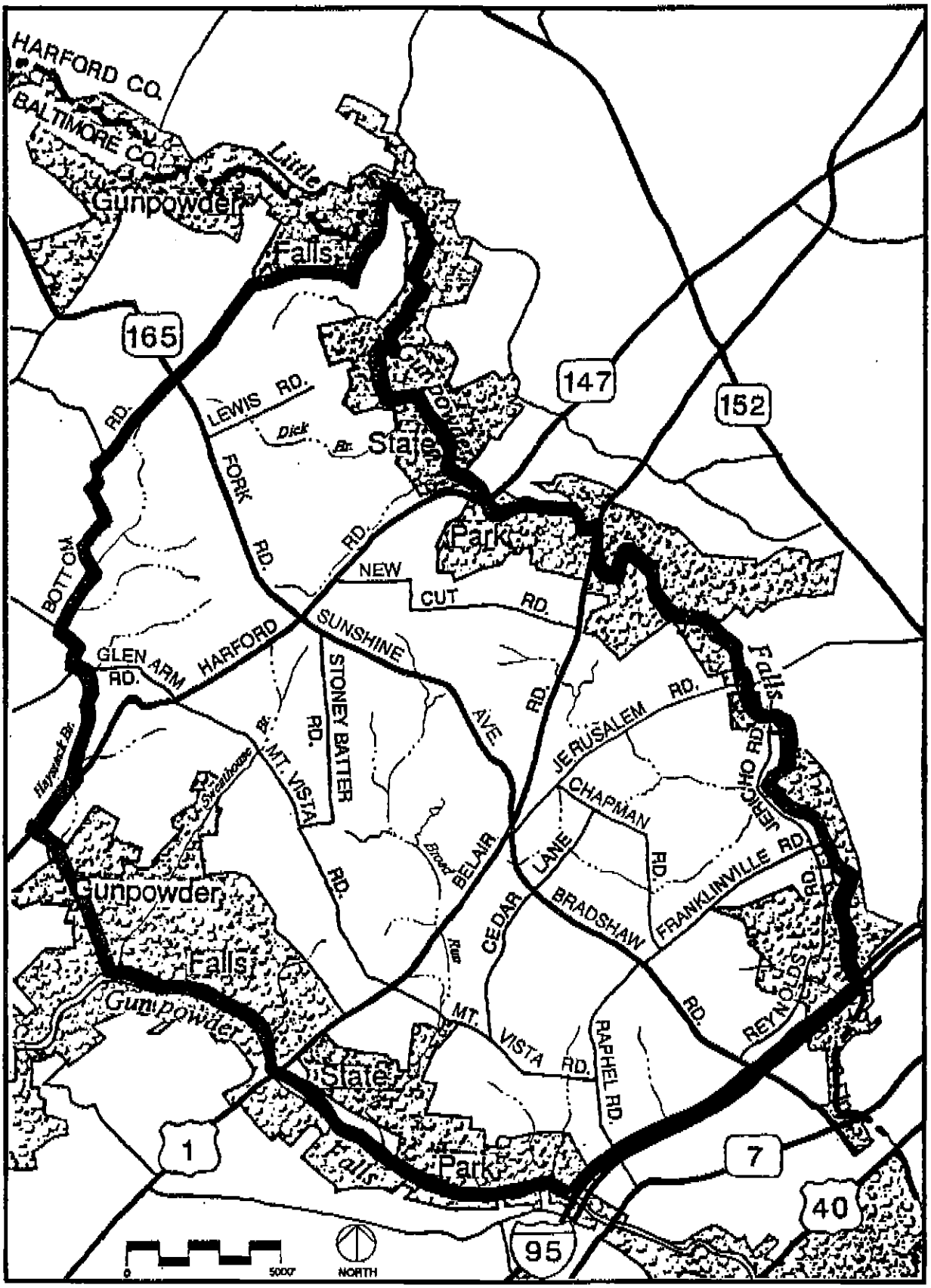
WHEREAS, the County Council held a public hearing on the recommended Greater Kingsville Area Community Plan on May 20, 1996.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the Greater Kingsville Community Plan, a copy of which is attached hereto and made a part hereof, be and it is hereby adopted and incorporated into the Baltimore County Master Plan 1989-2000 to be a guide for development of the Greater Kingsville Area, subject to such further modifications as deemed advisable by the County Council.

R04896

The Greater Kingsville Area Community Plan

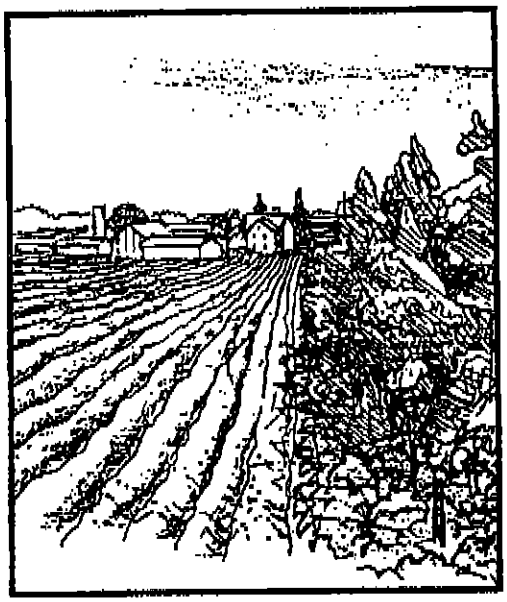
As adopted by
the Baltimore County Council
July 1, 1996



Study Area Boundaries
Greater Kingsville Area

Map 1

INTRODUCTION



In January, 1991 an advisory group was formed in response to the designation in the 1989 - 2000 Master Plan for Baltimore County of the Kingsville area as a priority planning area. The group of citizens was intended to be representative of the Community and of various religious, social and economic constituencies within the Community.

The group was divided into sub-committees augmented by individuals with special knowledge of the subject matter. The sub-committees formed were as follows: Infrastructure, Agriculture, Historic Preservation, Commercial, Design, and Conservation and Development. The group itself met in monthly meetings with presentations from various State and County departments.

The study area for the Plan is based around the village communities of Kingsville, Fork, Upper Falls and part of the Bradshaw community. The study area is bounded by the Little Gunpowder River on the north, Interstate 95 on the east, the Big Gunpowder River on the south, and by courses following Bottom Road, Williams Road, Haystack Branch, Harford Road and Long Green Creek on the west (See Map 1). The study area was chosen in part because of the close intertwining of the villages historically, geographically and socially.

The subject area frequently has been likened to an island surrounded by a sea of development. The Community is unique in Baltimore County in that its borders are comprised in major part by the largest state park system in a United States metropolitan area. Just on the other side of the park, both to the North and to the South, are large, rapidly growing, residential communities (See Map 2). While these communities are not part of the study area, their impact on the Kingsville - Fork - Upper Falls area can not be over-estimated.

Goals

The goals of the group were as follows:

1. To develop a plan that delineates limits of growth and serves the basic needs of the community;
2. To maintain the rural character of the area by encouraging agriculture, afforestation/reforestation and wildlife management;
3. To maintain and enhance the commercial centers in the study area for the rural residential and commercial community;
4. To concentrate geographically any future business growth, and to minimize strip commercial

growth and spot commercial zoning;
5.To preserve and protect the historic resources of the communities in the design area;
6.To utilize design standards so that future development or redevelopment minimizes intrusion into open space areas, preserves scenic vistas and is integrated into the rural concept of the community;
7.To seek sensitive development and enhancement of the existing Kingsville core

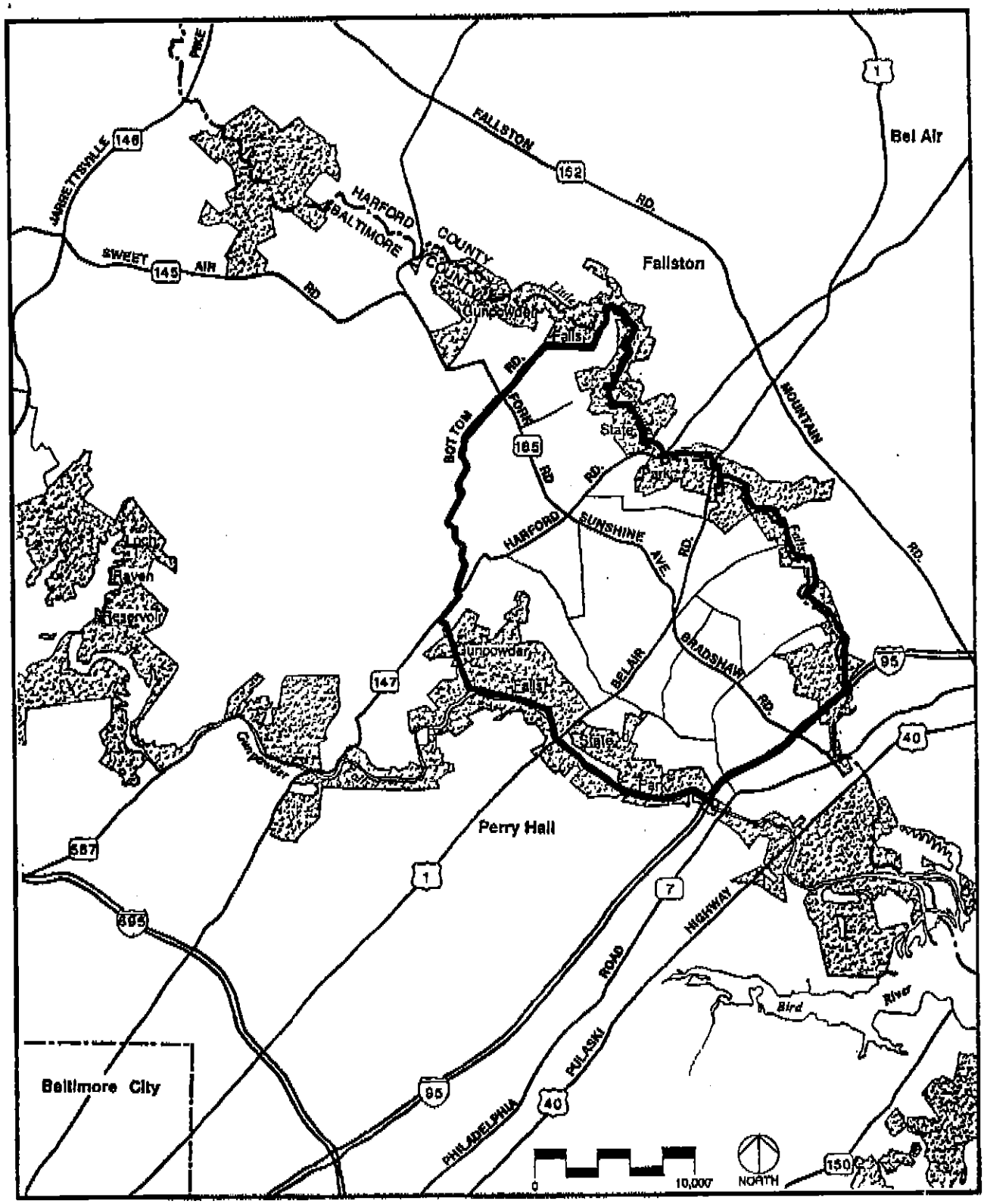
ENVIRONMENTAL CONSIDERATIONS

The Greater Kingsville area is dependent upon private wells and septic systems, and its way of life is built around its forests and streams. These varying systems must all work in harmony, yet the fragility of each of the systems often bring them into conflict with development in the Community.

Baltimore County has strict standards for septic systems. Unfortunately, these standards are comparatively recent. When much of the construction in the area occurred, much less stringent regulation was in place. Consequently, in the center of Kingsville as well as in other areas of the Community there may be septic systems failing into groundwater and local streams. These problems could worsen, for the land is not always available on individual lots to accommodate replacement systems. Baltimore County should take an active role in seeking possible solutions to address any failing systems with the active participation of local residents.

Soil conditions currently are the major factor in the location of development. The soils maps indicate that much of Kingsville has a clay-based soil structure, which is not conducive to adequate percolation. Percolation improves markedly going from East to West, and the maximum yield for development usually will be found only toward the Harford Road area. This land also has been designated as being the most productive for agriculture.

Well capacity and recharge are major Community concerns. Studies by the Department of Environmental Protection and Resource Management have indicated that generally there are sufficient water supplies in the Community. Because of the characteristics of well recharging, most new residential communities withdraw less water from underground storage area than is replenished by rainfall. As long as undue stress, such as the filling of swimming pools and heavy water use during drought, does not occur, current development regulations requiring deep wells, low impervious area for adequate drainage, and larger lots should protect against well failure. Golf courses and farm irrigation can place the most strain on well systems.



Study Area Location
Greater Kingsville Area

Map 2

Well failure also occurs most often in the older areas of the Community, where hand-dug wells and shallow wells are still prevalent. The dwellings and businesses typically are close together, and there is a higher ratio of impervious area than in newly developed areas. These factors, combined with rock and soil structure, create many of the well problems in the area. Baltimore County's well yield law on the resale of houses impacts most on these older homes.

The local schools are probably the heaviest users of water in the area. The St. Stephen school has had numerous well replacements, and Kingsville Elementary has had water storage facilities installed. Geology studies indicate that the Harford Road area and the land west of it have the most promising rock formations for large quantities of water and recharge capacity.

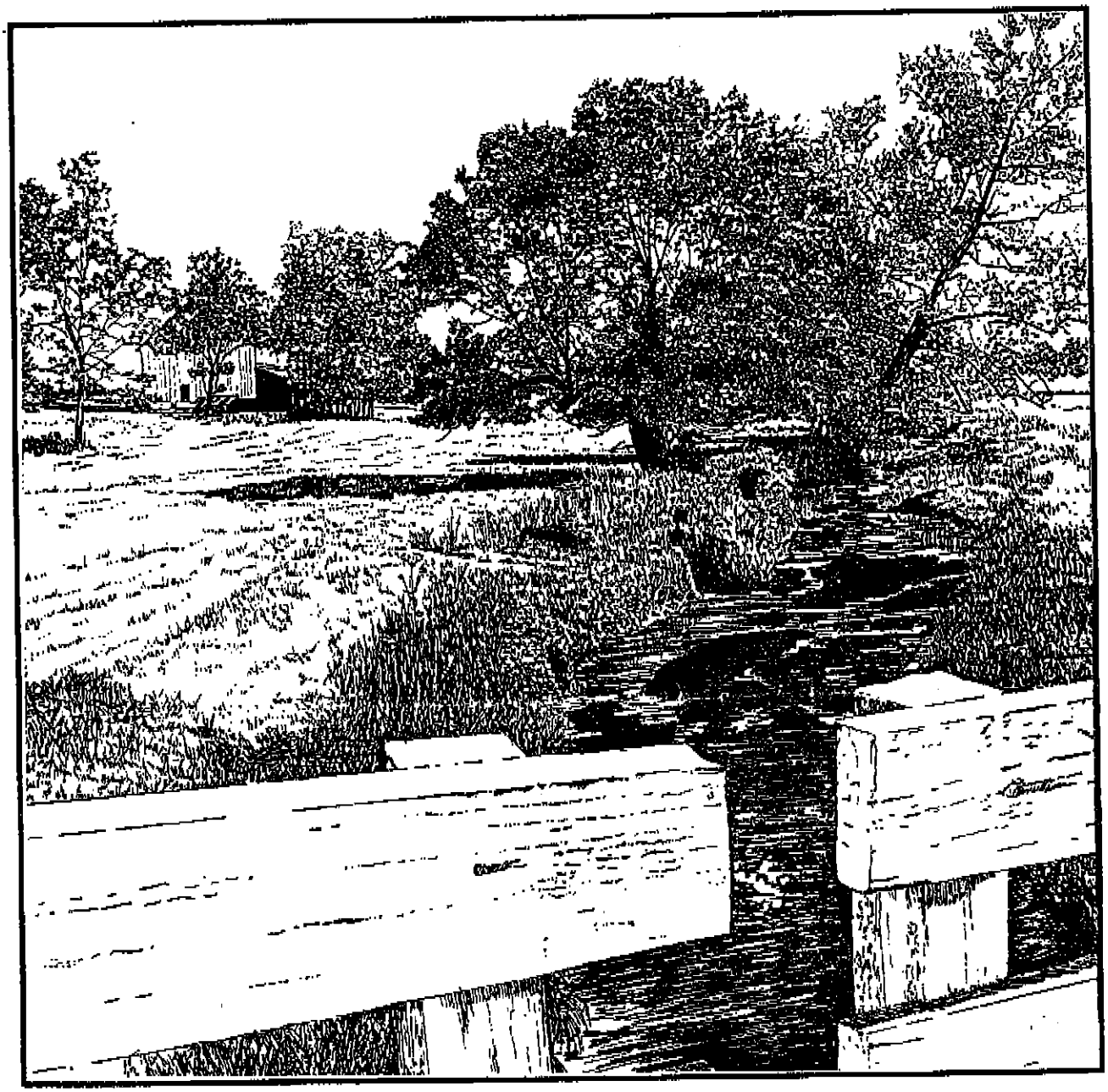
Because the community is totally dependent upon well water, the large number of underground fuel oil and gasoline tanks is a matter of concern. The County Department of Environmental Protection and Resource Management has identified the leakage from underground storage tanks as the number one environmental problem of the next decade. Many of the rural homes and businesses are served by fuel oil. The presence of many underground fuel tanks in the area creates the possibility of tank failure and of contamination of the soil and ground water. Both central Kingsville and Fork have problems with ground water contamination from leaking gasoline tanks at old, now closed, service stations. Identification of existing tanks by fuel companies, and private, residential reporting is necessary as well as education of the general public of the hazards of leaking, privately owned tanks.

The local network of streams and wetland areas is vital to the Community. There are numerous tributaries to the Gunpowder River throughout the Plan Area. The stream valleys and adjacent areas provide habitat and connecting trails between the Park systems for a varied wildlife. Today, buffer areas protect streams and wetlands from encroachment, but such buffers did not exist when much of the Community was built. Central Kingsville is built around a stream and floodplain. There are no buffers. A few homes in the Community still draw their water from springs. Farm animals generally have open access to streams and ponds, which causes erosion, siltation, and higher water temperatures. This access also creates problems for aquatic life necessary to the maintenance of water quality. In addition, the widespread use of chemicals in the treatment of lawns and farm crops also has caused problems in local streams.

Enforcement of buffer regulations on new construction only addresses a small portion of the problem. The quantity and quality of storm water runoff from uncontrolled and unmanaged agricultural use also contribute to the problem. Existing farms should be encouraged, if not required over time, to join soil conservation programs, and incentives for joining these programs should be given.

An educational program of the benefits of buffer areas in protecting water quality and in providing habitat for wildlife should involve both the residential and agricultural communities.

The Greening of Kingsville Committee should address the needs of the Community in this area. Stewardship programs from the Resource Conservation Service of the Maryland Department of Natural Resources and other incentive programs for the planting of buffers should be presented the Community to emphasize the need and the advantages of suitable buffers.



"The local network of streams and wetlands are vital to the Community."

RECOMMENDATIONS:

1. THAT BALTIMORE COUNTY UNDERTAKE A STUDY TO DETERMINE THE SCOPE AND NATURE OF FAILING SEPTIC SYSTEMS AND RECOMMEND POSSIBLE SOLUTIONS.

Both residential and commercial septic systems may be failing into streams and ground water in the center of Kingsville, along Mount Vista Road south of Belair Road, and in Franklinville. The solutions to particular situations may vary depending on the nature and scope of the problems detected, but doing nothing presents a losing situation for all concerned.

2. THAT BALTIMORE COUNTY INSTITUTE A PROGRAM REQUIRING NOTIFICATION AND IDENTIFICATION OF THE EXISTENCE OF UNDERGROUND FUEL STORAGE TANKS AND REGULAR, PERIODIC TESTING OF TANKS IN RURAL AREAS.

The County should require reporting of underground fuel tanks from all fuel suppliers in the County. A notification also should be sent to all homeowners in the County through the tax bills seeking notification of underground tanks. The County should require periodic testing of underground tanks to identify hazardous conditions, particularly in the rural, well-dependent areas. The County might be able to recommend a range of solutions to any discovered problems. Cooperative efforts between local government and property owners may be needed to avoid undue hardship connected with replacement or repair.

3. THAT FARMERS FILE SOIL CONSERVATION PLANS.

The County now requires farmers in the Chesapeake Bay Critical Area to file soil conservation plans. Such a requirement now should be considered for all farmers in Baltimore County. Incentives should be given farmers in local tax credits to implement the program.

4. THAT INFORMATION BE PROVIDED THE COMMUNITY ABOUT THE BENEFITS OF BUFFER SYSTEMS TO THE ENVIRONMENT AND THE INCENTIVE PROGRAMS NOW AVAILABLE FOR COMMUNITY INVOLVEMENT.

Numerous incentive programs now exist offering skilled assistance by State foresters and seedlings and trees for planting. A local stewardship committee, the Greening of Kingsville

Committee, should take the lead in disseminating information about the programs to the Community, formulating a Community plan, and coordinating its implementation.

RECREATION AND PARKS

The Community is fortunate in the park land surrounding it. The Gunpowder Falls State Park is undeveloped in the Plan Area except for hiking and riding trails. Recreation such as hiking, fishing, and canoeing are provided along both the Little and the Big Gunpowder Falls. The name for the falls, in fact, derives from the fall-off from the Piedmont area to the tidal area, which occurs in the Community boundary. Some of the best trout fishing in the State is in the Little Gunpowder east and west of Harford Road. The Big Gunpowder is nationally recognized for its canoeing and kayaking, especially in spring. The Smithsonian museum has selected a portion of the woodland along the Big Gunpowder east of Harford Road as the finest example of upland hardwood trees in the mid-Atlantic. The Natural Heritage Program has documented several sites of rare and endangered plant species within the Park. The Park truly is a unique resource.

A Master Plan was adopted for the Park in the early 1980's and called for several improvements in the area. A nature study center is planned for the Park east of Harford Road and south of Mount Vista Road. This area also is being considered for a National Wildlife Area, which would preclude any such use. This designation, if adopted, should cause an amendment to the Master Plan. Parking lots also are planned along some of the major arterial roadways for access into the Park.

Since the adoption of the Master Plan a major change has occurred in Park planning affecting the community. The Park headquarters has been moved to the Jerusalem Mill site on Jerusalem Road across the Little Gunpowder in Harford County. Primary access to the facility is from Belair Road through Kingsville. The location of the facility includes the restoration of the Mill, a historic structure, and a centerpiece of the Community. The location of the headquarters in Kingsville will provide the area with additional personnel and supervision as well as provide the Community with an important historical and educational resource.

In addition to the State Park, Kingsville also has substantial recreational facilities such as tennis courts and ball fields located at the Kingsville Athletic Fields off of Franklinville Road in Upper Falls. Although the location of the facility is off of local roads, it provides a major resource to the youth leagues as well as picnic facilities for families. Additional recreational facilities are located at the Kingsville Elementary School Recreation Center. A soccer field also is provided at St. Stephen's Church near Upper Falls. Merryland Farm Park, located at 12901 Bottom road, is a 159 acre county park acquired via donation. It is dedicated primarily to equestrian activities.

RECOMMENDATION:

5. THAT THE COUNTY WORK IN CONJUNCTION WITH THE STATE DEPARTMENT OF NATURAL RESOURCES AND THE COMMUNITY IN THE IMPLEMENTATION OF THE GUNPOWDER STATE PARK MASTER PLAN.

The State, the County and the Community should work together to prevent duplication of service in recreation and parks. Baltimore County should also plan for adequate facilities in areas where Park projects are planned. Since the local residents are the ones most affected by park plans, it would be appropriate for the State and the County to seek input from the affected community, including the Gunpowder Valley Conservancy and the Greater Kingsville Civic Association.

"...hiking, fishing and canoeing are provided along both the Little and the Big Gunpowder Falls."

GREENWAY AREAS

Baltimore County's Master Plan proposes three (3) greenways in the plan area (See Map 3). Greenways are corridors of open space that link parks, stream valleys, historic sites and natural areas for a variety of uses from protected wildlife corridors to hiking, bicycling and horseback trails. Greenways which are open to the general public frequently are close to major roadways and parking areas.

One proposed greenway parallels Harford Road south along an unnamed tributary of the Little Gunpowder south from the Little Gunpowder until it crosses Sunshine Avenue. The path system would connect with a tributary of the Big Gunpowder, called Sweathouse Branch, and follow it to the Big Gunpowder.

Another proposed Greenway already has been acquired in part by the County. It will follow Broad Run north from the Big Gunpowder, cross Belair Road and proceed to Sunshine Avenue. The greenway then utilizes the right-of-way of Sunshine Avenue as a connector to Harford Road. At that point, the greenway will follow the same unnamed tributary mentioned in the preceding paragraph and continue to the Little Gunpowder.

The Master Plan identifies a third greenway located between Jerusalem Road and the Little Gunpowder river. Following the course of two unnamed tributaries of the Little Gunpowder, the proposed greenway would establish a trail circuit by using Jerusalem road as a connector on the west and Jericho road on the east. Based on a more detailed review of this proposal, the Kingsville Plan amends the route of this Master Plan greenway. The amendment removes the northern tributary from the trail circuit and recommends instead, that the trail stay within the Gunpowder State park to its junction with Jerusalem Road. The trail then utilizes the right-of-way of Jerusalem Road to its junction with the stream valley trail immediately south of Chapman Road (See Map 3).

The primary means of acquiring greenways is through the development process. As properties seek development approval, open space regulations require in-fee greenway dedications to Baltimore County. An alternative to in-fee greenway dedications would be the granting of a greenway easement.

Allowing the development process to serve as an acquisition strategy is a reactive approach. A proactive approach is the purchase of greenway easements along priority segments of designated greenways. This approach would be useful when development projects are not imminent. The Baltimore County Department of Recreation and Parks has established a Capital Budget Category for this purpose.

Greenways open to the public must be of sufficient width to permit people, with no degradation to the environment including resident wildlife and stream valley buffers. The Community greenways follow the courses of several streams, and consideration must be given to the impact of the public on the areas. The three proposed greenways would be low impact systems. Greenways operate as shared systems for wildlife habitat as well as human relaxation. Greenways for the purpose of providing wildlife corridors with little or no public access may be more attractive to property owners from whom easements are sought. In a very real sense the greenways already exist. The need is to protect the areas and to foster a community sense of appreciation for the resources and their contributions to our quality of life.

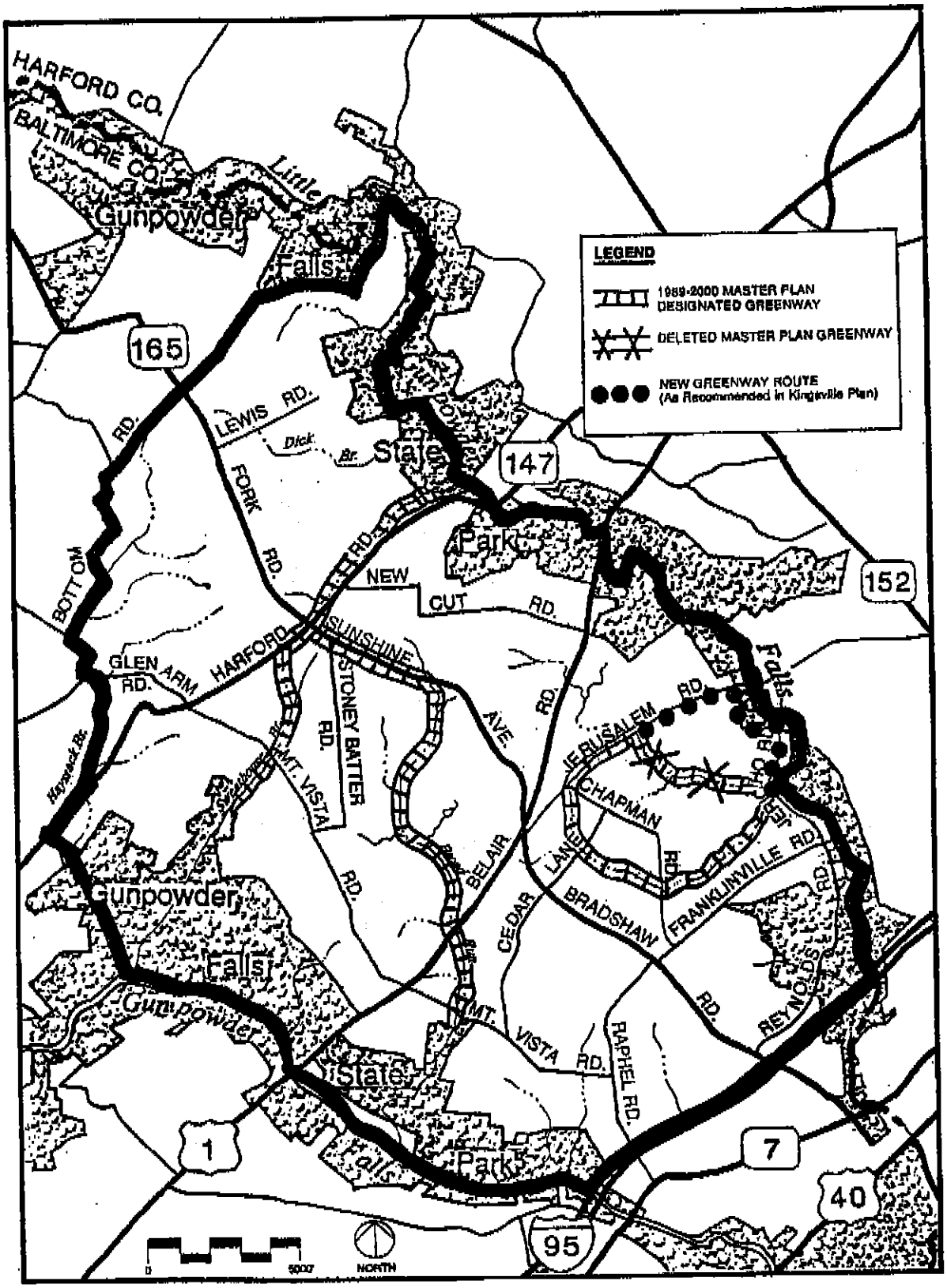
Maintenance of the greenway system is a major issue. Greenways are public easements acting as right of ways. Public resources to maintain the greenway system, however, are very limited. Failure to properly maintain the system could cause harm to the fragile stream valley environment as well as cause hardship on adjacent property owners. Adoption of segments of the Greenway system by local groups assisted by County personnel may be one alternative. In the study area many of the streams are part of the "Adopt a Stream" program and are maintained by individuals or by groups. Local churches and scouting groups as well as the Gunpowder Valley Conservancy membership are ready sources of volunteers.

The interests of the adjacent property owners also must not be ignored. Permitting the general public access for recreational use to areas adjacent to residences and farms may cause problems. The concept of unlimited public access may hinder acquisition of easements for the greenways as will the structuring of the right-of-ways to be required. Rather than stating that areas of specified width be acquired, a preferable alternative may be to acquire property with individual segment width based on that segment's characteristics.

RECOMMENDATIONS:

6. THAT THE COUNTY PROCEED WITH THE RESERVATION OF THE GREENWAY AREAS LOCATED WITHIN THE COMMUNITY AS DESIGNATED IN THE 1989-2000 BALTIMORE COUNTY MASTER PLAN AND AS AMENDED BY THE KINGSVILLE PLAN.

Greenways will serve to enhance the natural resources of forests and stream valleys not just for local residents, but for all County residents.



Greenways
Greater Kingsville Area

Map 3

7. THAT THE COUNTY PARTICIPATE IN PROGRAMS WITH COMMUNITY GROUPS FOR THE MAINTENANCE OF GREENWAY AREAS.

The County should work with local Community groups and school organizations to provide for volunteer maintenance of the greenway system. A greenway system without proper maintenance could lead to a far worse impact on the environment and neighborhood than the lack of greenways altogether

"The proposed greenways would be low impact systems".

ROADS AND TRAFFIC

Three (3) major arterial roadways consisting of Harford Road, Belair Road and Interstate 95 cross the study area bringing an immense flow of traffic through the Community. Interstate 95 is an eight (8) lane roadway from Emmorton Road (Route 24) in Harford County to the Baltimore Beltway interchange. Belair Road is the subject of a State Highway Administration project calling for road widening. In the Kingsville area a project as shown on Appendix A is proposed. The project will not only change the most heavily used intersection in the Community, but also will have the effect of radically changing the character of that portion of the Community along Belair Road in Kingsville.

One impact of road improvements in the Kingsville community is the isolation of the triangular area bounded by Bradshaw, Belair and Jerusalem Roads. The site formerly was occupied by a drug store, hair stylist and service station. Landscaping and planting has occurred as part of a cooperative effort between the community and the State Highway Administration. Its continued environmental and aesthetic improvement is one of the most necessary items on the Community's agenda.

The increased use of the major Community arteries has put stress on the small, rural County roads. These roads are characterized by their narrow, winding ways. There is no desire on the part of the Community to change their essential character. A priority list of stressed bridges is attached as Appendix B. Concern over possible bridge improvements needs to be further researched, but no decisions should be made without community involvement. A number of solutions such as diversion of through truck traffic away from the rural roads and improvement to existing east-west roads in communities to the north and to the south may divert east-west commuter traffic off the local, rural roads in the Community.

A design study should be undertaken by Baltimore County to determine what solutions, if any, can be found to safety concerns. The issue is one of balancing safety concerns with a preservation of rural character. Curb and gutter or galvanized barriers are not appropriate treatments. Creative solutions from other rural communities nationwide should be studied for resolution to the situation. The County should be flexible in its rural design requirements and accepting of solutions that are sensitive to the rural quality of the area as well as concerned with public safety.

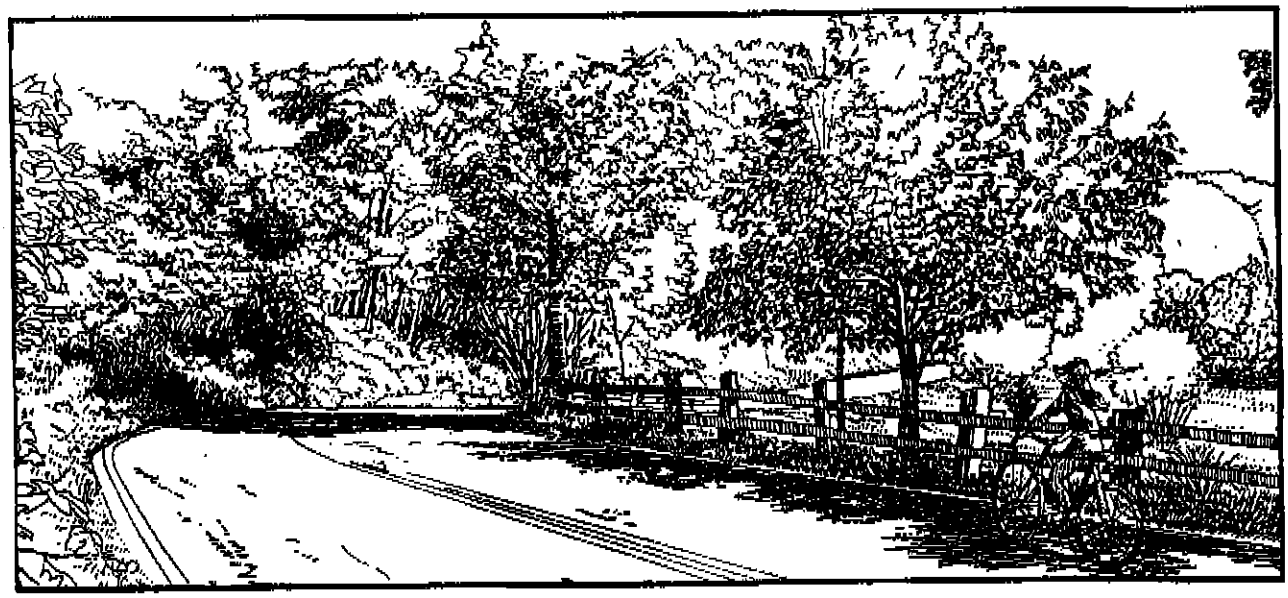
It has been suggested that the Community might seek to create bike and walking paths along some of the more heavily traveled roads. A primary concern is the destruction of the character of the area. Such paths might necessitate removal of existing trees and other rural features such as stone walls. In the event that pathways are ever considered, they should not be constructed of concrete or asphalt, but simply should be mulched.

Maintenance work on bridges in the Community also is necessary to accommodate current traffic needs, especially on Mount Vista at Broad Run and at Sweathouse Branch and on the iron truss bridge at Vinegar Hill Road. These bridges have been classified in need of repair to carry fire trucks and other heavy vehicles. Work performed on these bridges should serve as a model of the creative approach necessary in balancing safety needs with maintaining rural character of the structures. Natural materials or natural appearing materials should be used when possible to blend the bridges into the rural environment. Before doing such work community input should be sought.

RECOMMENDATIONS:

8. THAT THE COUNTY WORK IN CONJUNCTION WITH THE STATE TO EXPEDITE REMEDIATION OF THE UNDERGROUND STORAGE TANK CONTAMINATION AT THE KINGSVILLE TRIANGLE AND IMPROVEMENT GENERALLY TO THE ROAD NETWORK

Although the State has the primary responsibility for improvement of the triangle, the County through its Department of Environmental Protection and Resource Management should monitor the progress of the remediation of the underground tank leakage and expedite any local reviews necessary as well as coordinate with the State any eventual improvements to the road network at the triangle.



Rural roads are important to the scenic character of the area.

9. THAT THE COUNTY CONTINUE WITH CAPITAL IMPROVEMENT PROGRAMS FOR THE RECONSTRUCTION OF SUBSTANDARD BRIDGES IN THE COMMUNITY.

The County has identified several bridges of narrow and hazardous width (See Appendix B). Although some of the bridges have been improved, other sites remain to be repaired.

10. THAT A STUDY BE UNDERTAKEN BY BALTIMORE COUNTY TO ADDRESS SAFETY ISSUES ON THE RURAL ROADS DUE TO INCREASED TRAFFIC AS WELL AS CYCLING AND HIKING USE.

The County should study the roadways to determine methods of diverting commuter traffic from the rural roads and of enhancing their safe use.

SCHOOLS

There is one public school in the area, Kingsville Elementary School. There are two (2) parochial elementary schools, St. Paul's Lutheran School and St. Stephen's Roman Catholic School. There are no secondary schools. The Board of Education initially projected that Kingsville Elementary would not be at capacity for the next several years. That projection has proven to be falsely optimistic, and the Kingsville Elementary school has been operating over capacity since the fall of 1991. In the fall of 1993, the school was nine percent (9%) over capacity.

The Community is justly proud of the local schools. Kingsville Elementary consistently is ranked as one of the best elementary schools in the County. Portable classrooms clearly are not an appropriate alternative to expand capacity.

RECOMMENDATIONS:

11.THAT THE PARENTS AND SCHOOL ADMINISTRATION SHOULD BEGIN A LONG RANGE PLAN FOR NEEDED IMPROVEMENTS TO THE SCHOOL OVER THE NEXT TEN (10) YEARS SO THAT EFFORTS CAN BEGIN WITHIN THE SYSTEM TO SEE THAT THE NEEDS OF THE SCHOOL ARE MET AS THEY ARISE.

AGRICULTURE

Agriculture historically has been the foundation of the Plan area. The extensive farmland in the Community enhances the area's rural character and quality of life, preserves valuable open space, and furnishes the community with local produce. Moreover, it provides a way of life for generation after generation of area residents.

Truck farming was the primary means of agriculture up through the turn of the century. As markets for truck farming declined, the agricultural base grew more diversified. Today, horse farms exist next to nurseries. Small orchards and truck farms serve the local community. A few large grain and cattle farms still exist in the area. Numerous agricultural operations exist as part-time businesses for their owners, who are active in other enterprises.

Agriculture in the area suffers from several problems brought on by its proximity to urban areas and the increased population within the community. In many instances the farms have become obscured by the developments to a point that their individual existence has become unappreciated, while at the same time the generic concept of rural farmland is the single, most attractive feature of the Community.

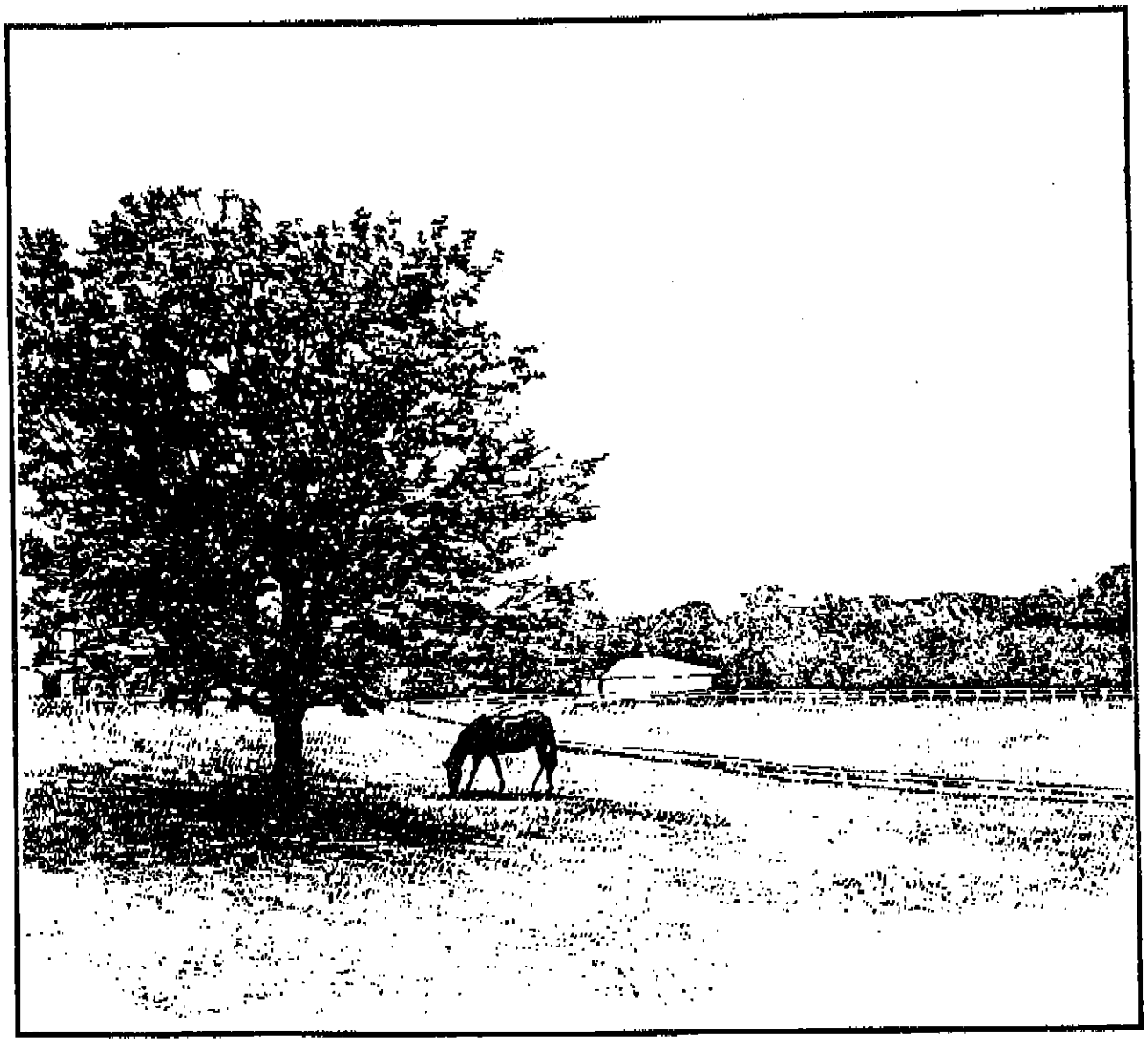
The lifestyles of non-farming residents and farmers are incompatible in many cases. This incompatibility is usually due to ignorance rather than malice. Commuting residents have little patience for the noise, smell or operations of a farm. Many people moving into the community have little idea of the true nature of farming; many are not aware of how prevalent farming is within the community.

As farms gave way to development over the last thirty (30) years, the base of support of farming as a primary occupation also eroded. Because land is expensive to purchase for farming and profit margins are low, in order to be profitable it is necessary to have large farm operations.

As the population of farmers in the area ages, farms as land use entities become more difficult to sustain. The governments tax farms in estates at market value irrespective of actual use, and as the older generations pass on, the farms are sold. The market value of land for development in the subject area is high, but the land is the farmer's savings. Smaller acreage farms have become the rule rather than the exception.

It must be recognized that for farming to continue in the community, its basic foundation must be seen as changed. The concept of the farm as providing the primary source of income can no longer exist except in rare situations. Farming can, however, be maintained in the small orchards, in the nurseries, and in the livestock farms.

It is critical that the residential community be educated about the importance of working farms to the total community environment. The rights of farmers to peaceably work their land should be emphasized. New residents, especially, should be made aware of the demands of rural life as well as its benefits through educational programs.



"...rural farmland is the single, most attractive feature of the Community".

RECOMMENDATIONS:

12. THAT RECOGNITION OF EXISTING FARMS BE IMPROVED.

A symbol, designating a Community farm, should be designed, and a sign with the name of the farm and the symbol placed on the adjacent roadways. Signs could be purchased by the Community through various service organizations and donated to farmers.

13. THAT THE RESIDENTIAL COMMUNITY SHOULD BE EDUCATED ABOUT THE CHARACTERISTICS OF AGRICULTURE IN THE AREA.

A videotape tour of Community farms should be produced, copied and made widely available. It should include different types of farming in the area: truck, nursery, livestock, tree. stewardship, etc. The film could demonstrate the mechanics of farming and stress the need for mutual respect between the farming and residential communities. Money to produce the tape would be sought through grants. It also is recommended that agriculture basics be provided in the curricula of area schools.

14. BALTIMORE COUNTY SHOULD ADOPT AND ENFORCE A RIGHT TO FARM LAW.

New residents, especially, should be encouraged to understand that one of the most attractive incentives for moving into the area must not be impeded from functioning smoothly and profitably.

15. THAT ANIMAL CONTROL LAWS BE STRICTLY ENFORCED.

There are laws already enacted to protect farmers and their livestock from the depredations of loose pets, but many residents and enforcement personnel in the increasing urban environment are unaware of the strictures of the laws.

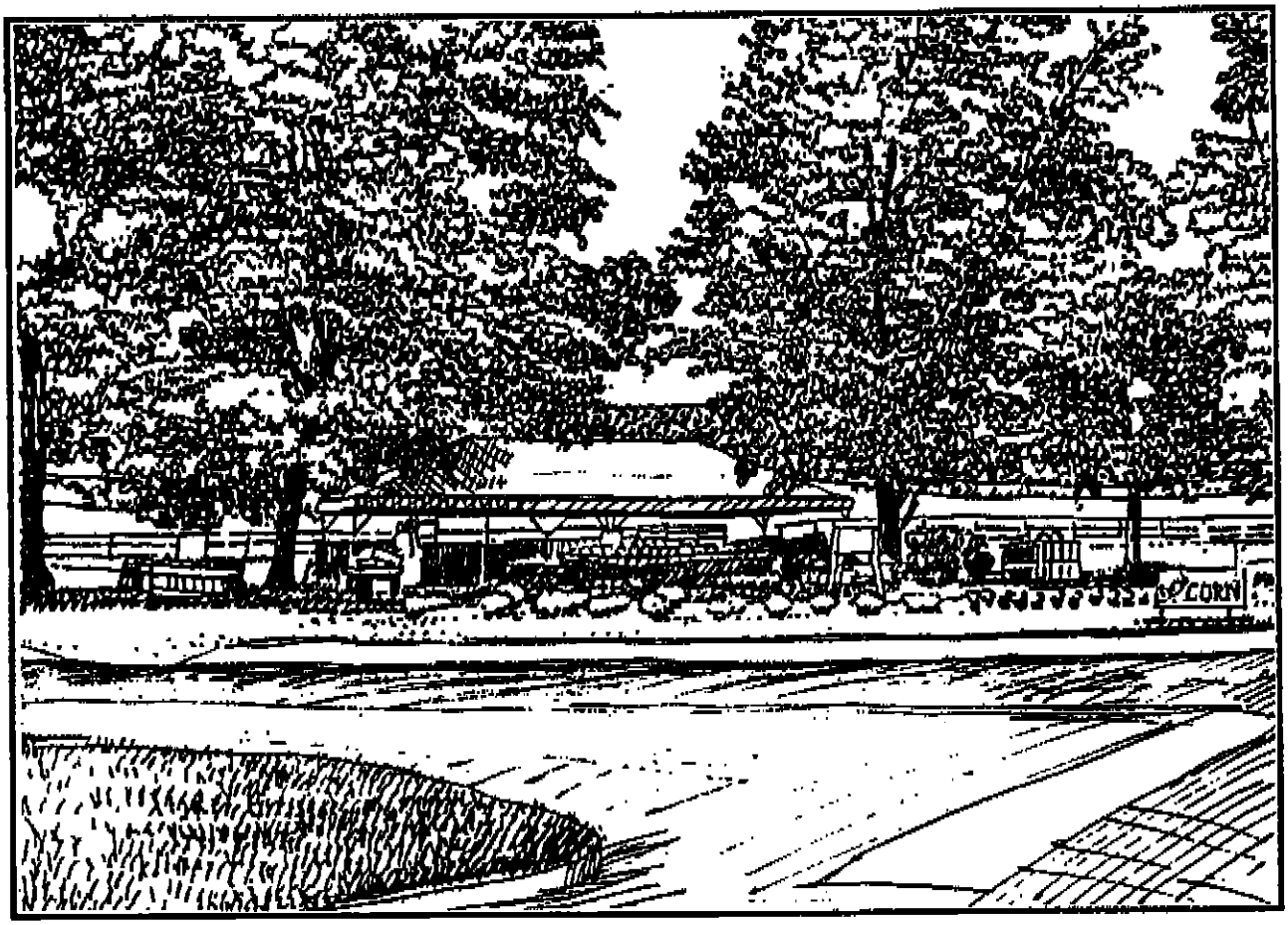
16. THAT A FARMER'S MARKET FOR AREA FARMERS BE ESTABLISHED.

An area market does not now exist in the Community. Such a market would enable the small, local farmers to display and market their produce in an economic fashion and would aid in bringing attention to this important part of the community. Criteria for a market site would include zoning to permit the sale of produce, baked goods, flowers and crafts, access to primary

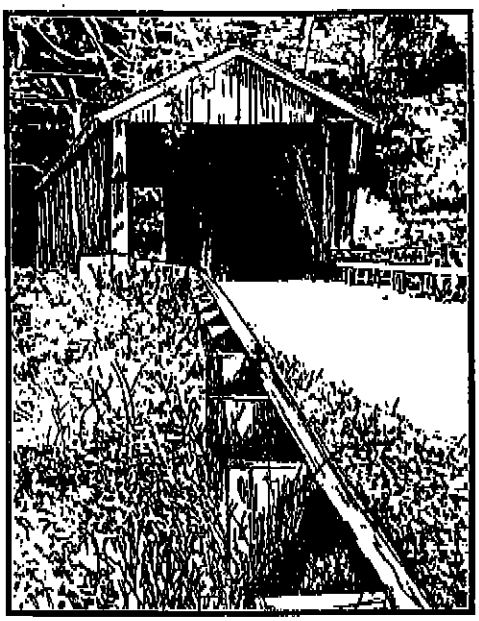
roads, size to permit necessary on-site parking and buffers from neighboring tracts in order not to interfere with established residential communities. A possible site is the commercially zoned lot at the southeast corner of Harford and Sunshine roads in Fork. The site has several development constraints but has good access, and little or no demand would be placed on water or septic service.

17. THAT LOCAL FOOD MARKETS BE ENCOURAGED TO DISPLAY AND SELL LOCAL PRODUCE.

A label could be authorized to be available to all local farmers indicating the produce as local in origin. Such marketing would be introduced to local grocers again to emphasize the importance the Community gives farming in its structure.



Farm Stands display and sell local produce.



HISTORIC PRESERVATION

The Community is well-recognized for its historic resources. The major north-south roads for the East Coast have long passed through Kingsville. Its farms and industry have supported local towns, troops and government since prior to the Revolutionary War. Several of the homes in the area are still owned by families who trace their ownership back to original land grants from the English Crown. Efforts are continuing to heighten awareness of historic structures in the Community and to seek their preservation.

The Community can be viewed as comprised of small villages linked by roadways and farmland. Historically, these villages were vital commercial centers serving the surrounding agricultural community as well as travelers through the area and the larger outside community. The preservation of the historic villages and structures within the Community is essential to preservation of the character of the area.

Franklinville and Upper Falls

The historic sites of the Villages of Franklinville and Upper Falls have been studied and mapped as possible historic districts to consider establishing these villages as local historic districts and National Register Historic Districts. Franklinville was accepted as an historic district by the County Council on July 3, 1995 (see Appendix G). Also, that part of the Little Gunpowder Falls from Franklinville Village to the covered bridge on Jericho Road has been submitted as a scenic area.

The Mill Race Ruins north of the Belco Corporation property have been declared an archaeological site by the State Archaeologist. The steel bridge at Vinegar Hill in Franklinville is one of seven (7) such structures in the County planned for refurbishment. Dotted throughout the area are several other historic resources, which are being researched for individual listing. Also being researched are such structures as the old Upper Falls Academy, Round Robin Barn, Casino Hall and the Franklinville Presbyterian Church.

Adaptive reuse and restoration of older buildings is being encouraged by the Community. The existence of these structures within the setting of the villages enhances the quality of life for the residents of the entire County.

The villages need protection from modern rural development. Development both within the villages and adjacent to them should occur only in harmony with the preservation of the rural, historic character of the villages. Open space or tree/forested areas should border the villages as much as possible to preserve their rural character. New structures within the villages should be respectful of the architecture of existing buildings to preserve the historic integrity of the setting.

The Belco Corporation property in Franklinville is an 1883 cotton factory and presents a unique situation of a long-standing manufacturing business within a rural, historic community. There is a need for greater involvement by the business within the community so that contact is not strictly made on a complaint basis. Recently, the company agreed to fund a village historic sign. There obviously is the potential for conflict over the needs of the business and the community, but there also should be the opportunity for active involvement of the Corporation within the life of the community to their mutual benefit. At some point, perhaps within the period covered by the Plan, adaptive reuse of the Belco property will become an issue. That issue should be addressed now among the representatives of the owners, the Community and the County.

RECOMMENDATIONS:

18. THAT THE VILLAGE OF UPPER FALLS BE ESTABLISHED AS A BALTIMORE COUNTY HISTORIC DISTRICT.

The application for the designation already has been prepared, and extensive volunteer work has occurred to document the significant, historic structures within the area.

19. THAT FUTURE DEVELOPMENT ADJACENT TO THE HISTORIC VILLAGES OR STRUCTURES BE GRANTED ONLY WITH APPROPRIATE OPEN SPACE BUFFERS TO PRESERVE THE INTEGRITY OF THE VILLAGE UNITS.

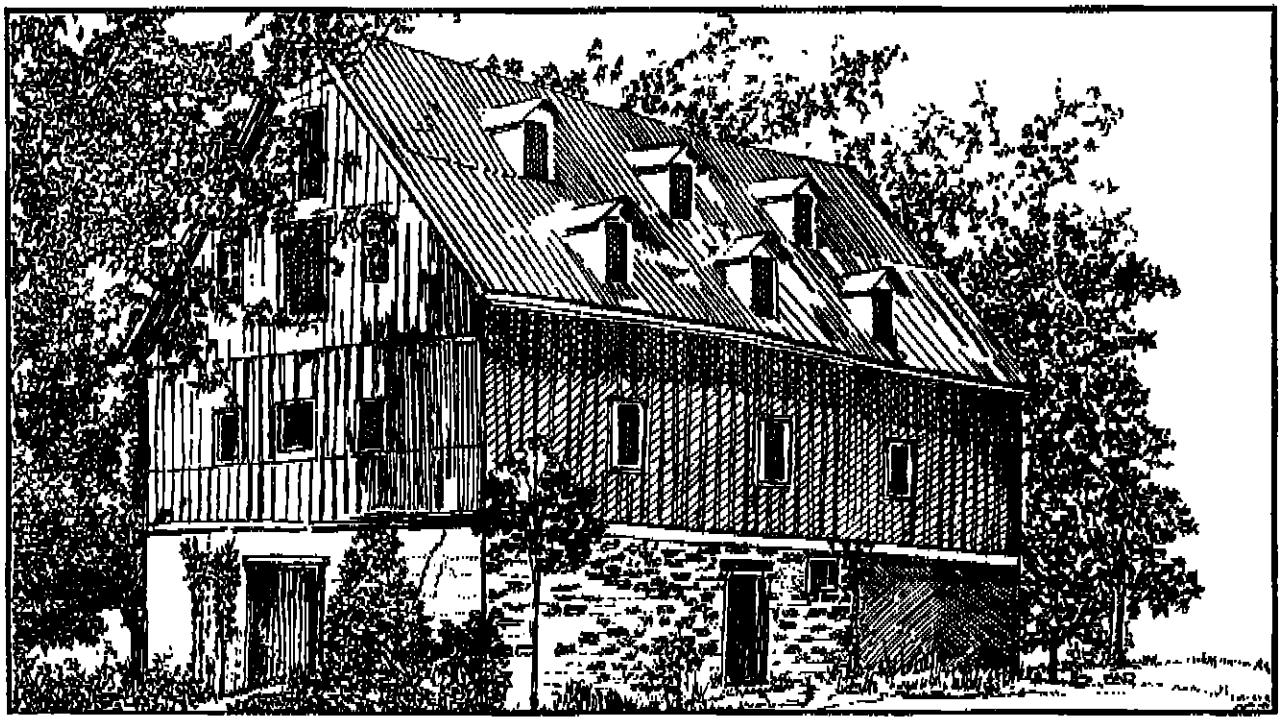
Modern residential development adjacent to historic communities and structures should be buffered to preserve the character of the village or structure. These buffers could be in the form of fields, meadows or woodland, to the extent practicable. New construction should conform to the Historic Design Guidelines published by the Landmarks Preservation Commission.

20. THAT THE COUNTY IDENTIFY BY APPROPRIATE SIGNAGE THE HISTORIC COMMUNITIES.

The County has taken extensive measures to identify for visitors scenic and historic areas. The identification of historic villages will heighten awareness of these valuable resources within the County. Traditional State of Maryland historic roadside markers are recommended, such as the one planned for Franklinville or small wooden markers such as used in Glyndon.

Historic Places

The County has officially noted numerous historic structures and locations within the Community. A list of those sites is attached as Appendix C. Volunteer organizations within the Community have sought to make the residents more aware of their heritage through publications describing some of the sites. A video tape has been produced and has been well received. A tour of historic homes has been undertaken as a fund-raising venture for local community organizations. A folklore project is underway to compile both oral and documentary history. These measures all serve the need of raising the awareness of residents of the value of the local heritage and enhance the feeling of community among the residents.



Numerous structures, however, have deteriorated through neglect or have disappeared altogether due to a lack of awareness of their value to the Community. Residents of the area should become aware of the advantages and incentives offered to owners of historic structures who seek their preservation. Further incentives should be given property owners who seek to preserve the historic character of valuable structures. Suitable reuse should be encouraged including appropriate commercial uses such as bed and breakfast establishments.

RECOMMENDATIONS:

21. THAT THE ZONING AND DEVELOPMENT REGULATIONS BE REVIEWED TO PERMIT APPROPRIATE REUSE OF HISTORIC STRUCTURES EITHER COMMERCIALLY OR AS RESIDENCES.

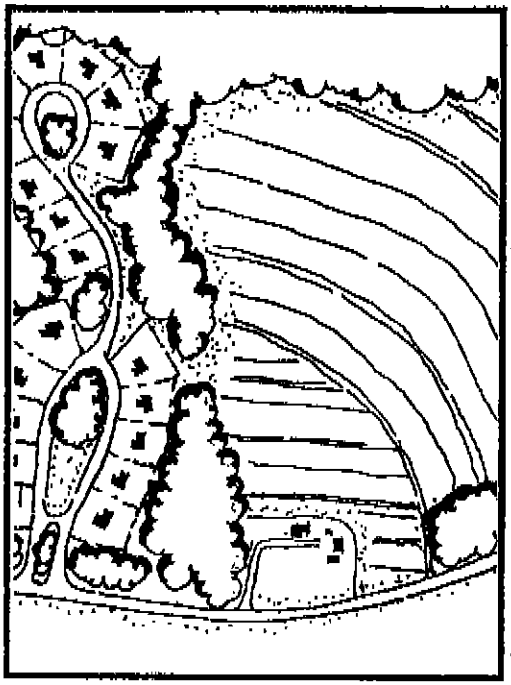
The zoning regulations to some extent permit adaptive reuse. Through a special exception process and an overlay district pertaining exclusively to historic structures both the Community and the property owners could benefit by reuse compatible with the village characteristics. Reuse should conform to the Historic Design Guidelines of the Landmarks Preservation Commission.

22. THAT SCENIC ROUTES AND VIEWS BE ENHANCED AND PROTECTED.

Scenic and historic roads such as Jericho Road and the Vinegar Hill iron truss bridge need special attention for the preservation of their character and contribution to the Community. The County should work with the Community to adopt and effectuate a plan for the preservation and enhancement of these areas.

23. THAT A RURAL HERITAGE SOCIETY BE ESTABLISHED TO WORK WITH OWNERS OF HISTORIC PROPERTIES FOR THEIR PRESERVATION AND RESTORATION.

An advisory board comprised of members of the Community should be formed to work with local property owners and with both the Landmarks Preservation Commission and the Baltimore County Historical Trust on means to aid property owners in the restoration of historic properties and on finding additional historic resources. The Board would assist in providing information about restoration programs to property owners, and it would assist Community groups, property owners and the County with projects that require review.



LAND USE ANALYSIS

Historic Growth

Kingsville, Fork and Upper Falls each have somewhat distinct historic antecedents and development patterns. All of the villages are rural in character and are primarily based in a rural and agricultural setting, yet their growth patterns reflect their proximity to travelways and rivers. Fork and Kingsville reflect the impact of the major state roadways through their centers. Upper Falls reflects to some extent its proximity to mills along the Little Gunpowder and proximity to the once busy port of Joppa. Bradshaw is even more impacted by its location along Old Philadelphia Road, Pulaski Highway and especially the CSX railroad along the northeast corridor.

Historically, the center of Fork was more developed than it is at present. Fork had its own public school, a hotel, the first phone exchange in the area, a funeral home, feed store and bowling alley in addition to some of the development that is present today. All of the commercial development centered around the intersection and Sunshine and Fork Roads with Harford Road. The community surrounding the intersection was almost exclusively devoted to agriculture in large parcels. There were several fine estates of prominent County citizens. Fork was mentioned in the Baltimore American as early as May 6, 1807. The Fork Meeting House Post Office was established in 1839.

Kingsville grew along the Belair Road both north and south of the intersection of Bradshaw Road and Sunshine Avenue with Belair Road. The King's Tavern Post Office was established in 1828 and renamed Kingsville in 1830. Part of the building occupied by the Lassahn Funeral Home was built in the early 18th century as the home of Nicholas Day, Jr. and became a restaurant only in 1920, continuing until 1969 when the Lassahns began their service. Many of the current businesses in Kingsville have been established for decades, but such uses as a tannery, hardware store, and more recently a pharmacy have all disappeared. No large scale residential development occurred until the middle of this century. At first, homes were clustered around the center of the village while large farms and estates surrounded the cluster of dwellings. The first subdivision development really did not occur until the 1950's.

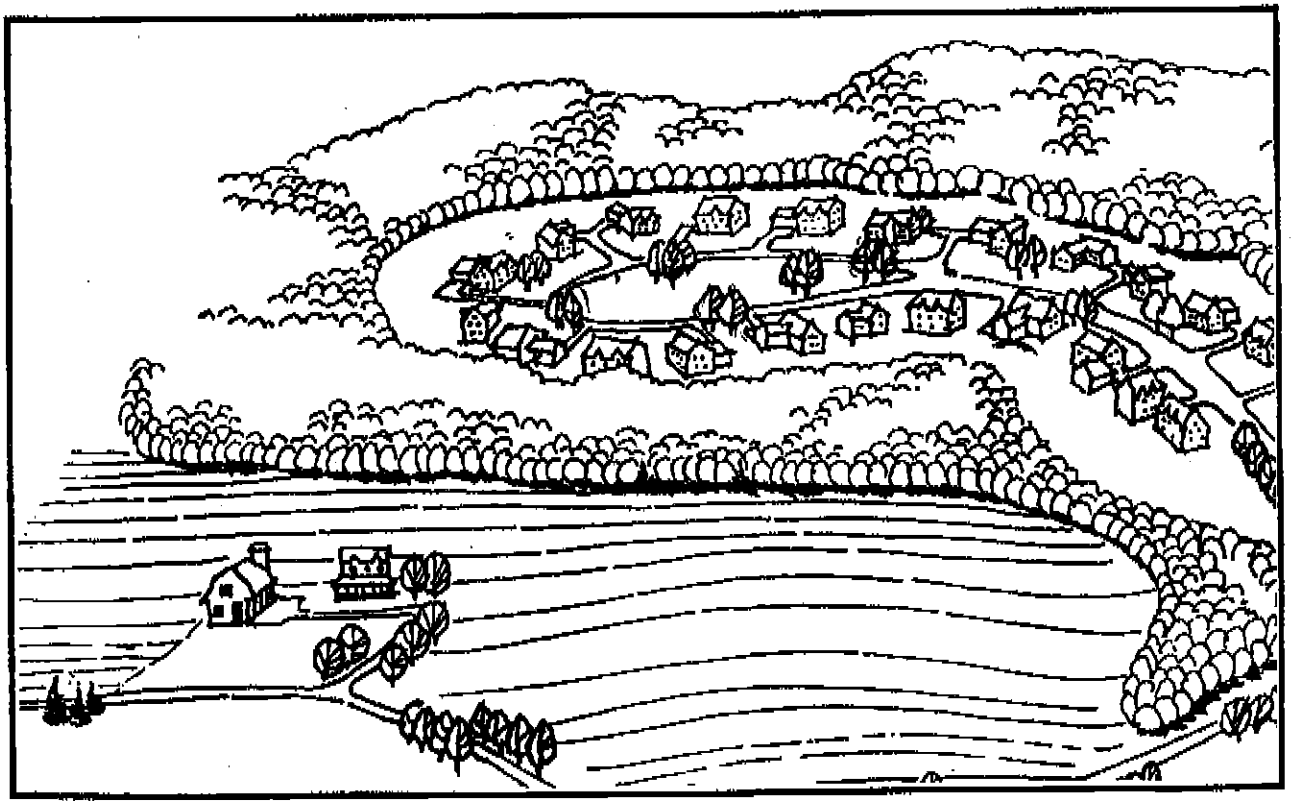
Upper Falls, the smallest of the villages, was built at a cross-road near a small store, not far from the mills along the Little Gunpowder and large farms along Bradshaw and Raphael Roads. Some families in the area trace their roots back centuries on the same land. The place had been called McCubbinsville about 1800 and also was called Starr's Corner. The community is

oriented in many ways historically to the development along the Old Philadelphia Road, Maryland Route 7, to the East. In that area are homes dating back to the earliest settlement of the County.

Most of the residential growth within the Community occurred in the 1960's and 1970's. United States Census data indicate that between 1980 and 1990 there was an increase of 533 housing units and that in 1990 the population in the plan area was approximately 5,284.

The impact of growth is magnified by increased traffic and population increases to the north and to the south. Both the Perry Hall and Fallston communities have been among the most rapidly growing areas in the State. By means of comparison an area in Perry Hall, census tract 4113.04, less than half the size of the plan area, has 5,220 residents and grew by more than forty-five percent (45%) in the last decade.

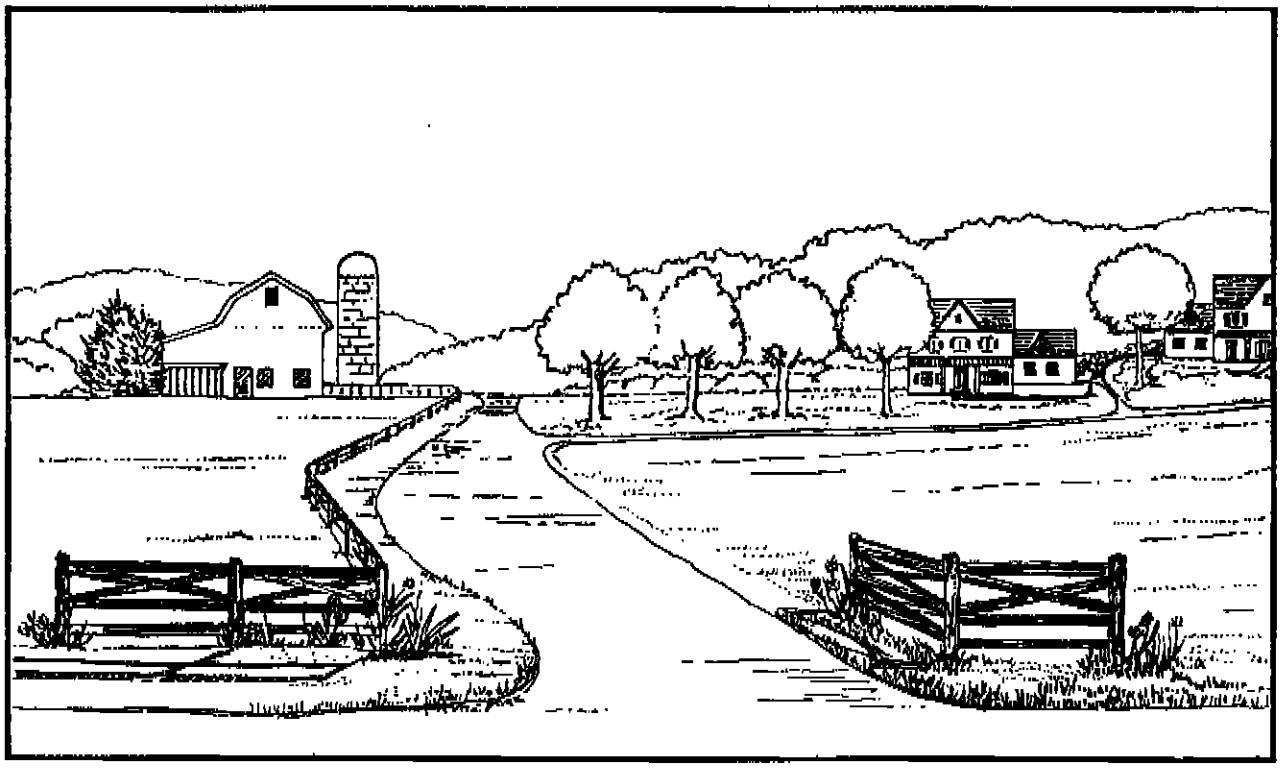
The character of the Community has been further impacted by the sprawl which has occurred. Not until the mid-1980's did Baltimore County adopt comprehensive development regulations which mandated consideration of numerous planning and development factors in a public forum. Mismanaged growth in the past has created suburbanization. Tighter development controls and requirements of compatibility should lead to improved development patterns. Concerns over new growth due to the character of the previous patterns nonetheless are justified.



There has been little additional commercial zoning in the Community in the last decade. There has been little commercial development in any of the villages. The demand for many services now is met outside the community in the commercial centers to the north and south. The commercial center of Kingsville has declined in use and in appearance as environmental and economic constraints have precluded improvement of existing structures. Commercial development in Fork consisted mainly of the replacement and enlargement of a local hardware store and incorporating it into a strip shopping center. The addition of a single bed and breakfast and conversion of a grocery store to a cleaners has been the new development in Upper Falls.

Almost all of the existing housing is in the form of individual, single family dwellings. Approximately sixty percent (60%) of the population is over the age of 35. The increasing age of the population is reflected in the small growth in the elementary school age population. Only about twenty percent (20%) of the population is under twenty (20) years of age.

Although older existing houses sell for approximately $135,000 - $150,000, newer homes on lots are much more costly. Building lot prices escalated in the 1980's from $30,000 to $90,000 over the course of the decade. New homes on lots have similarly escalated in cost. The increasing cost of lots and houses in the Community also is consistent with the aging of the population and their ability to afford the more expensive housing.



No recent development has achieved the maximum density permitted under the R.C. 5 zoning. This is due in large part to the failure of the soils to percolate. Wetland buffers, forest buffers, and zoning, well and septic area setbacks also contribute to the lack of zoning density. Much of the area in the Harford Road area is zoned R.C. 2, which precludes substantial, residential development. Although there are numerous houses along the roadsides and several subdivisions in the R.C. 2 area, this construction and development predated the imposition of the more restrictive zoning in the 1976 zoning maps.

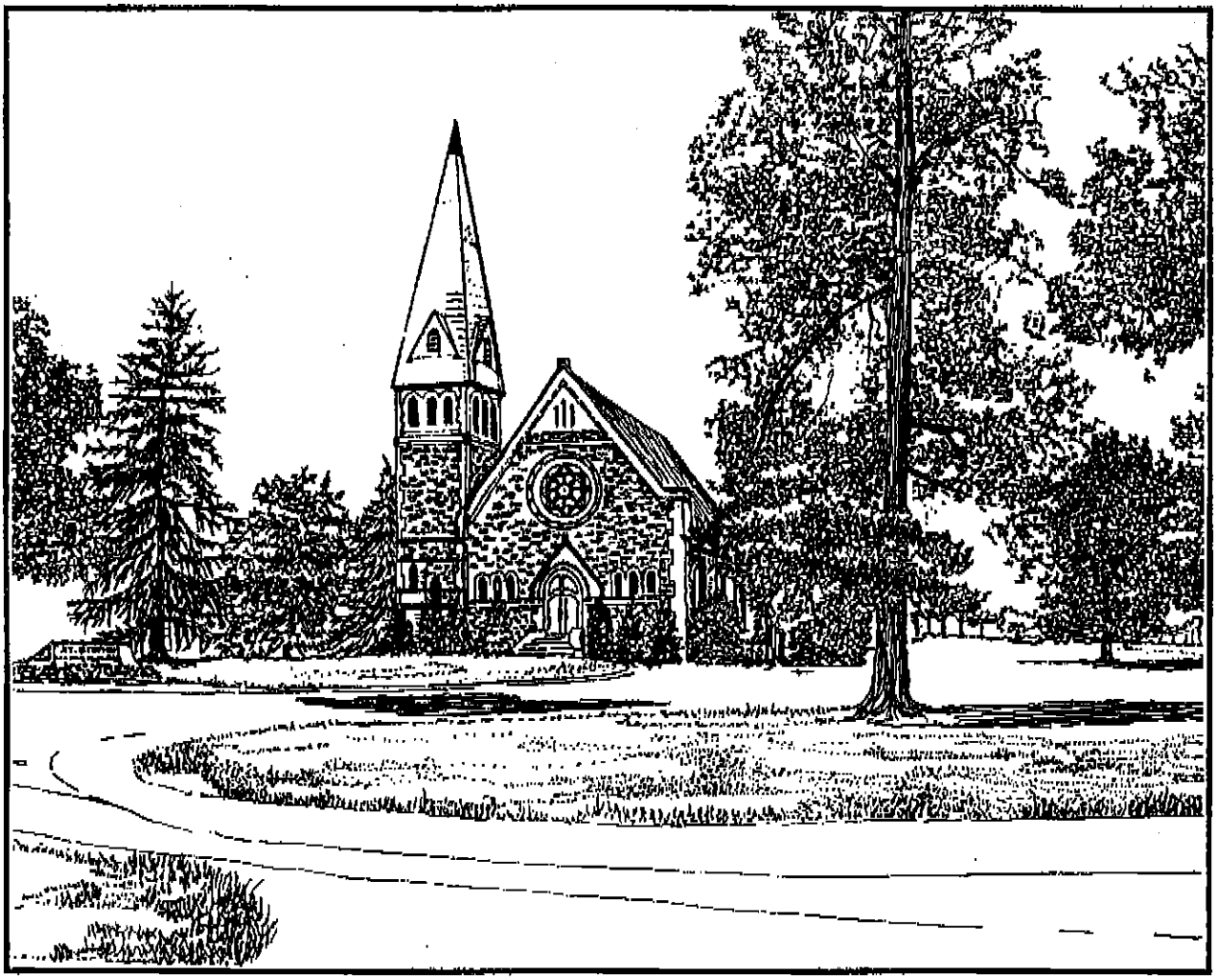
Special Development

With the growth of the Community in the last several decades, there has been a demand for special kinds of development such as churches, community centers and recreational facilities. These developments have significant impact on traffic, septic use and water use. New construction of these special forms of development should be directed to areas served by adequate roads and be located on tracts of land sufficient to yield adequate water without endangering the wells of neighboring residents. Because of the more intense usage of the land compared to dwellings, special restrictions should be imposed to protect sensitive environmental features such as streams, forests and wetlands. Design standards for the construction of new facilities should require blending of the new facilities into the adjacent area as much as possible.

RECOMMENDATIONS:

24. THAT SPECIAL FORMS OF DEVELOPMENT SUCH AS CHURCHES AND RECREATIONAL FACILITIES, WHILE BENEFICIAL TO THE RESIDENTS, SHOULD BE LOCATED IN CLOSE PROXIMITY TO MAJOR ROADWAYS SUCH AS HARFORD AND BELAIR ROADS, AND PROVIDE A SUITABLE BUFFER COMMENSURATE WITH SIZE AND USAGE FROM NEIGHBORING PROPERTIES.

> *Special forms of development such as churches, day camps and recreational facilities are permitted by right or by special exception in some rural conservation areas. The demands of these developments on the infrastructure may be more extensive than most commercial enterprises. Due to the fragility of the rural environment and to the characteristics of the rural community special consideration should be given to the access to the development and to the protection of adjacent environmental features and of neighboring properties.*



" Structures supporting the special forms of development should be architecturally designed to be compatible with neighboring uses ".

25. THAT DESIGN REQUIREMENTS FOR SPECIAL FORMS OF DEVELOPMENT SHOULD CONSIDER THE UNIQUE PURPOSE OF THE SITE AND ANY STRUCTURES AND REQUIRE COMPATIBILITY WITH THE SURROUNDING NEIGHBORHOOD.

> *Structures supporting the special forms of development should be architecturally designed to be compatible with neighboring uses. This requirement of compatibility should extend to fencing and significant landscaping including reforestation/afforestation.*

Commercial Development

Some commercial enterprises in Kingsville and Fork suffer from the inability to expand or improve due to physical constraints, and from the inability to attract new or replacement uses to the few appropriately zoned parcels of land with development potential. The fact that expanded commercial centers now exist in adjacent communities must also be considered. It is apparent that the environmental constraints imposed by the lack of public water and sewer have diminished the desirability of commercial development both from business and community standpoints. The need for certain basic services within the local community, however, is apparent.

Two separate commercial concepts need to be addressed. The first is the redevelopment and expansion of existing business. The second concept is the provision for new business. There currently is little demand for new business. Environmental constraints and projected traffic access indicate that in the future new business, if any, should be directed toward the area between the two divided portions of Belair Road north of Kingsville. Strip zoning is unacceptable. A survey should be undertaken by the County in conjunction with the local business and residential organizations to determine what is the actual usage of commercial land in the Community, and to determine whether there is a need for additional commercial zoning to replace the parcels of land zoned commercial but unusable due to physical constraints.

The need for existing business to improve and expand requires a creative approach. The existing businesses are vital to the Community. Their vitality not only serves the needs of the local residents, but they are as much of a component of the Community environment as the houses and farms. The deterioration of appearance of existing buildings, the lack of conformity of newer structures to older structures all detract from the overall Community.

The Baltimore County zoning regulations contain various tools for dealing with a rural community's ability to promote expansion of existing businesses and to enhance the ability of needed services to locate within the community. In the Community more extensive use of the Resource Conservation Commercial (RCC) zone and of the Commercial - Rural (CR) district must be encouraged. These zoning tools when coupled with the County's development requirements should serve both the commercial and residential communities. The commercial uses permitted by the rural zone and district were designed to be compatible with the rural nature of communities such as Kingsville - Fork - Upper Falls. The requirement of compatibility will raise important issues even on expansion of existing businesses.

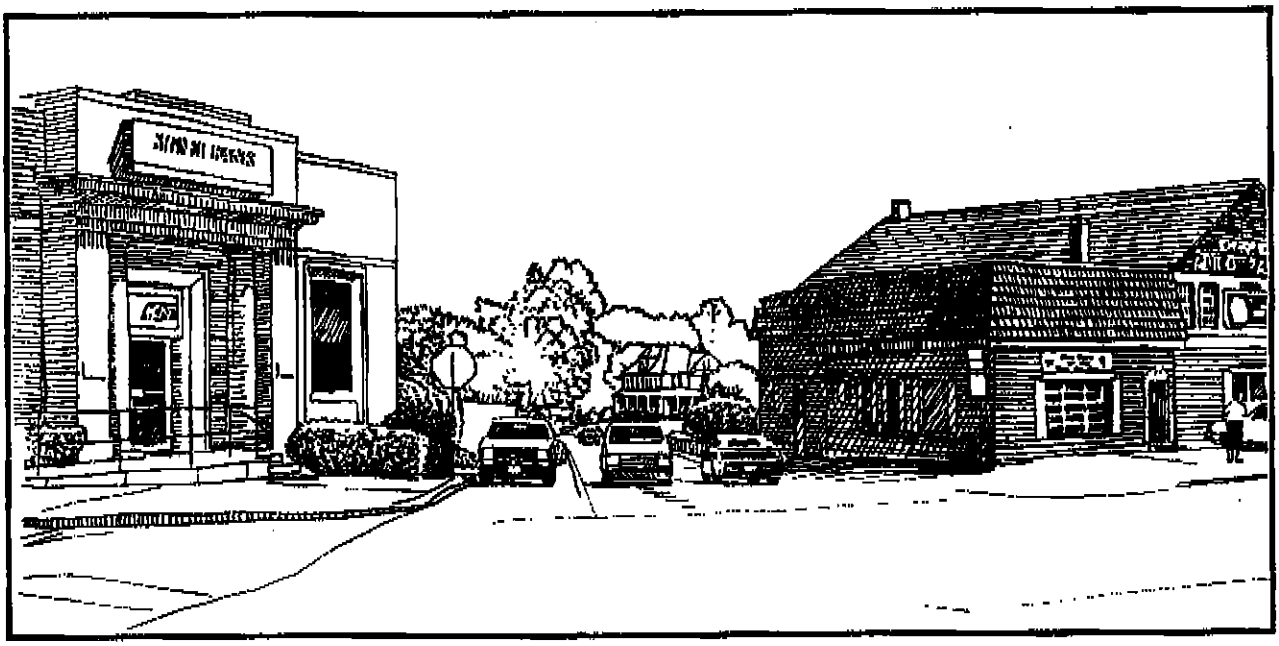
Techniques to permit community-based commercial development and yet maintain the open areas are paramount to good planning. Studies by the Department of Environmental Protection and Resource Management of failing septic systems in the Community will be important in determining what options are available to local businesses to improve and possibly to expand.

RECOMMENDATIONS:

26. THAT AN EXTENSIVE INVENTORY OF EXISTING COMMERCIAL PROPERTY, BOTH OCCUPIED AND VACANT, BE CONDUCTED TO DETERMINE THE EXISTING AREA ZONED AND AVAILABLE FOR COMMERCIAL DEVELOPMENT BASED ON PHYSICAL CONSTRAINTS.

> *Until a detailed inventory of commercially available property is taken, it is impossible to determine whether there is sufficient commercial inventory or too much or too little. The zoning lines do not indicate whether adjacent rural conservation property is included in existing commercial businesses or whether environmental constraints preclude additional or any development. These determinations should be made with the cooperation of local business and property owners to determine the actual, usable inventory as well as the demand for expansion before substantial commercial rezoning is granted.*

27. THAT THE CR DISTRICT OVERLAY OR THE RCC ZONE BE MAINTAINED ON COMMERCIAL PROPERTIES AND BE PLACED ON PROPERTIES WHICH MAY OBTAIN COMMERCIAL ZONING IN THE FUTURE AND THAT COMMERCIAL ENTERPRISES WORK CLOSELY WITH THE COMMUNITY, ADDRESSING ITS



"The need for existing business to improve and expand requires a creative approach."

Residential Land Use

It is anticipated that future residential growth will occur at approximately the same pace as in the past decade. The rate of growth is due in part to the high cost of land and of land development. Furthermore, much of the land currently zoned for residential development has physical constraints precluding the desirability of development.

The key issues with future residential development in the Community concern the design of the development. Current development requirements spread lots and houses over large tracts of land. The usual lot sizes are from one (1) to ten (10) acres. There is no provision for open space in current regulations nor for the acquisition of land for buffer areas, Greenways, etc. While there are concerns over the density of development, physical constraints historically have precluded density of the amount permitted by law. Actual densities are usually fifty percent (50%) of that permitted by current regulations. The fact that the density is spread out over a tract, however, gives a suburbanized image of the property incompatible with the rural character. Suburban sprawl also has been shown to have a negative impact on the environment.

Future residential subdivision design should above all be sensitive to environmental features. Stream buffers and woodland areas should not just be protected but conserved. Conservation includes not only preservation of the asset but management, enhancement and improvement under approved management plans.

Forests cover a large part of the Plan area. They provide habitat for wildlife, protect endangered species, improve water quality and account for much of the rural charm of the Community. Management of forest resources should be encouraged. Preservation of existing vegetation is not enough. Maintenance or enhancement by shrub or tree planting and control of noxious weeds or aggressive, non-native species may be required. Forest harvesting is a technique encouraged by the State Department of Natural Resources for the conserving and renewal of forest resources. A draft Forests and Wildlife plan for the Community is attached in Appendix D.

On forested properties subject to development, an overall plan, based on the State Forest Conservation Act of 1991 should be developed to guide afforestation, reforestation and forest management. This concept plan adopted with the development of the property should identify problems and propose solutions.

Stream buffer areas similarly should be conserved by property owners. Although the County has stringent stream buffer regulations, enhancement of stream buffers by developers is a concept which should be examined with the active involvement of the Gunpowder Valley Conservancy and the Greater Kingsville Civic Association. Stream buffers left unmanaged may

actually deteriorate through the invasion of pest vegetation prevalent, although not native, in the area. New plantings should be encouraged through an incentive program.

The protection of open space is a primary Community concern. The Community is characterized by open fields, woodlands, and the mixture of residences and farmland. The provision for open space can be accomplished through legislation and through design techniques. For the purposes of this Master Plan the term "open space" means areas unimproved by non-agricultural structures containing five (5) contiguous acres or more. Clustering of homes, that is a grouping of single family homes on one portion of a property to allow for preservation of substantial open space on the remainder of the property, would permit larger parcels to maintain farmland or woodland and would counter the tendency toward suburban sprawl over the countryside. Clustering would not permit more homes than now permitted, nor is it intended to result in any more housing than currently permitted or available on a tract of land by current development techniques or by percolation, but it would permit large fields and forests to remain and would promote agricultural use.

Clustering of houses also would be more compatible with the older residential community than more modern development. Many of the houses in the Community are built on small lots of less than an acre in size. Houses in the immediate vicinity of Kingsville's center are built on half acre lots. The Community has retained its rural character because those clustered homes are surrounded by open fields and farmlands.

If clustering is adopted, open space availability is much improved, but all development of significant scope should have an area set aside either on individual lots or in single ownership where additional non-agricultural construction is not permitted. The location of the open space would depend on environmental sensitivity, protection of neighboring agriculture, visual impact, and compatibility of the proposed development with neighboring properties. The quantity of open space would depend on the acreage involved, the maintenance of the rural character of the area, and the sensitivity of the property. Open space use would be passive in nature, except that some non-intensive, agricultural uses would be permitted. Construction in open space would be limited to barns, livestock sheds and fencing to be approved on an individual basis based on design and location. Open space areas should be protected and maintained by covenants and/or by easements placed on the land.

Not all open space, however, is of equal quality. Provision should be made for development to fund the acquisition of open space and of Greenways and buffer easements. This acquisition can be accomplished if payments from developers are sought in lieu of open space requirements on individual developments. Much of the acreage in the Plan Area is in tracts of less than fifty (50) acres. Many of the parcels are less than ten (10) acres. Open space requirements applied uniformly to such parcels may not yield the visual, environmental and compatibility enhancement sought in the requirement. The County in working with the residents and

developer should have the flexibility to require funding contributions in lieu of open space requirements so that buffer areas can be provided in sensitive areas or so that Greenway easements can be acquired. By appropriate application of various development options both the developer, the proposed residents and the existing residents should benefit from the results of well-planned and designed development.

Because of the need to preserve the farming area of the Community, it is important that the R.C. 2 zoned property not be reclassified to R.C. 5 to permit the development of additional residential housing. The primary purpose of the R.C. 2 zone indicated in the zoning regulations is "to foster conditions favorable to a continued agricultural use of the productive agricultural areas of Baltimore County." This purpose is no less important to the Plan Area. Although several residential developments have been grandfathered in the R.C. 2 zoned area, thereby indicating a larger agricultural area than actually exists, this diminution of acreage actually devoted to agriculture makes the remaining acreage so zoned all the more valuable to the Community.

RECOMMENDATIONS:

28. THAT FOREST CONSERVATION PLANS BE REQUIRED AS PART OF ANY PLAN OF RESIDENTIAL DEVELOPMENT OF THREE LOTS OR MORE.

The Forest Conservation Act of 1991 requires new development to comply with certain criteria, concerning management of existing woodland, afforestation/reforestation. The County should enact criteria, which require developers to file as part of their submittal, plans pertaining to woodlands on the site and their conservation.

29. THAT REPLANTING OF VEGETATION BE ENCOURAGED AS PART OF STREAM BUFFER AND FOREST BUFFER EASEMENT PROGRAMS.

Currently, stream buffer requirements only prohibit intrusion. They do not address remediation of conditions occurring prior to development such as the intrusion of unwanted, foreign species of vegetation, which do nothing to enhance water quality. Developers should be given incentives to improve water quality by planting within the buffer and providing for maintenance of selected species of vegetation.

30. THAT PLANS FOR DEVELOPMENT SHOULD MAKE PROVISION FOR OPEN SPACE OR FOR PAYMENT INTO OPEN SPACE ACQUISITION FUNDS ADMINISTERED BY THE COUNTY.

Rural open space would serve a different purpose than local open space programs in the urbanized areas of the County. While passive recreation may be a component of open space, the real purpose of the open space would be to provide buffers and to protect environmental areas and Community character.

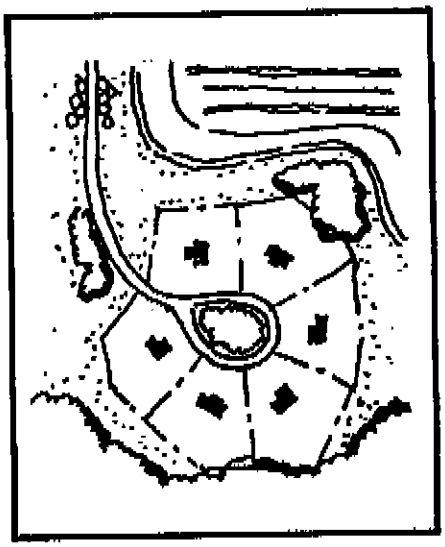
31. THAT THE COUNTY ADOPT A COMPREHENSIVE SCHEME OF REGULATIONS PERMITTING THE CLUSTERING OF HOMES IN RESIDENTIAL SUBDIVISIONS.

Clustering is considered to be the location of single family, detached houses in a designated area or areas within a site in order to provide areas of open space. Clustering of houses is not unanimously favored, but from the standpoint of protecting open areas and preserving vistas, meadows and forests, it is far superior to the sprawl encouraged by current zoning and development regulations. Issues pertaining to overall density need to be addressed, but if clustering were adopted in conjunction with open space requirements and an overall density formula, then the potential for improvement in new rural development would outweigh potential problems. The regulations also will need to address significant concerns over the long term management and protection of the open space.

32. THAT THE EXISTING R.C. 2 ZONED LAND WITHIN THE COMMUNITY NOT BE REZONED TO R.C. 5 TO PERMIT THE DEVELOPMENT OF ADDITIONAL RESIDENTIAL HOUSING.

It is important that the farming land within the Community be preserved, and accordingly, the R.C. 2 zoned land should not be reclassified to permit additional housing to intrude on the prime farming areas within the Community.

DEVELOPMENT DESIGN

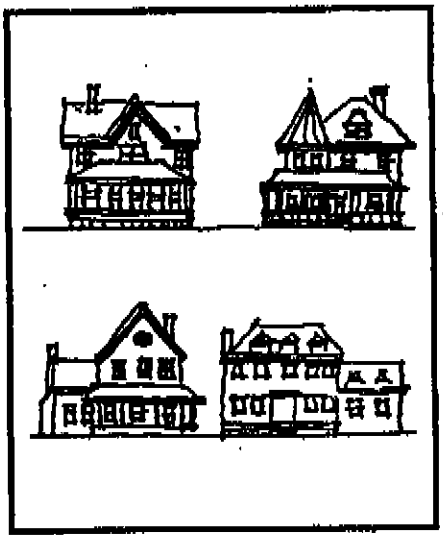


Site Design

Site design for future development is extremely important in preserving the character of the neighboring area. Techniques discussed under Land Use Analysis are important in preserving vistas of open meadows and dense woodland. The development itself, however, must be sensitive to the land on which it is built. In particular, landscaping, afforestation/reforestation, should be required to meld the development into the surrounding community. Scenic vistas and views of significance to the Community should be protected. The Community should be encouraged to work with developers to review designs and offer suggestions on appropriate landscaping, reforestation, and architectural design.

Landscape buffers soften the visual impact of new houses. Houses should not back up to existing roads, and where physical constraints require the configuration, appropriate landscaping should be used as a buffer. Landscaping too should meld into the natural environment and provide wildlife corridors and habitat. Scenic vistas and views should be enhanced by landscaping and not be blocked by development.

There are numerous properties, which contain views of buildings or of fields and hillsides, which really are definitive of the character of the Community. Care should be taken in future development to preserve and enhance those views to the extent practicable. A list of suggested properties is attached as Appendix E, but the community in conjunction with property owners and representatives of the Landmarks Preservation Commission should put together a list for use by the County in its review of proposed development so that issues pertaining to the character of these properties may be addressed.



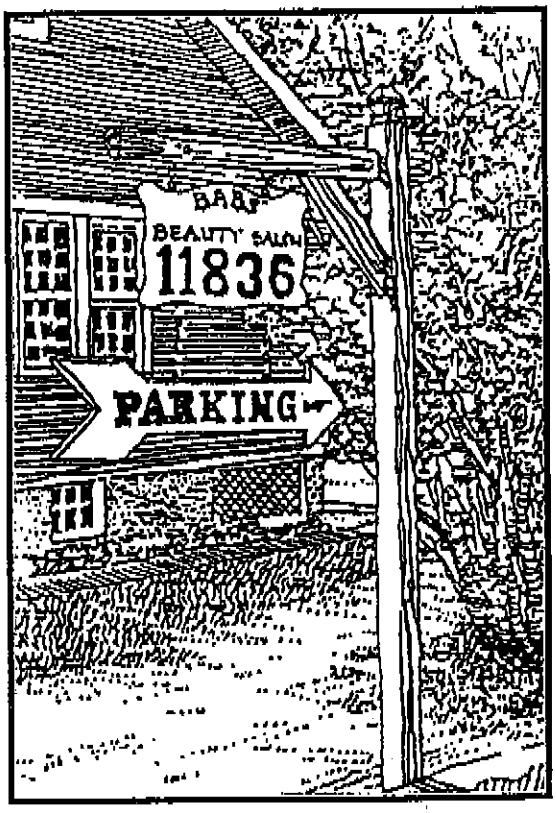
Architecture

Some architectural styles, particularly for commercial buildings, simply are not sensitive to a rural character. Inappropriate architecture increases the perception of change in character of the area and of the extent of the construction. Buildings which have details which echo Victorian, farm, or colonial styles should be encouraged. New construction

should follow the spirit of the Historic Design Guidelines published by the Landmarks Preservation Commission. Shopping center construction as exists in the suburban areas of the County or even in the rural town centers is not appropriate for the small villages comprising the Community. The restoration guidelines contained in the Hereford Master Plan are excellent guidelines equally applicable to similar development in the Community.

Signage

Signs can be a major source of visual pollution. There is no consistent style of signage in the Plan area. Signs usually must be adapted for the particular use and location of the facility. A sign that might be appropriate for Belair Road in size and configuration might be wholly inappropriate in Upper Falls. As with architectural styling, however, suburban and urbanized characteristics do not fit in with the character of the Plan area. Plastic and back lit signs as occur in Perry Hall are not indicative of a rural character. The CR zoning district contains appropriate signage guidelines which should be supported throughout the Community.



Permanent signage in residential developments is not appropriate. The object of new development should be to blend in with the adjacent neighborhood, not to stand out apart from the Community. The quality of the development should speak for itself, and signs advertising particular developments should be discouraged as not in keeping with the established Community.

RECOMMENDATIONS

33. THAT A DESIGN REVIEW COMMITTEE BE ESTABLISHED TO WORK WITH THE COUNTY AND WITH DEVELOPERS TO ENCOURAGE COMPATIBLE DEVELOPMENT DESIGN.

> *Each development has its own particular needs and configuration, and each development project will meld in a unique way with adjacent properties. Developers have to be made aware of concerns with respect to compatibility and should be assisted in configuring the proposed development, large or small, in such a way as it enhances the rural character of the Community.*

34. LANDSCAPING SHOULD BE USED TO COINCIDE WITH THE NATURAL ENVIRONMENT.

Landscaping should be a required component of development in the Community. Buffers and landscaping which emulate naturally occurring landscaping will enhance a development and lessen the environmental impact and improve and maintain the rural environment.

35. SCENIC VISTAS AND VIEWS OF SIGNIFICANT STRUCTURES IN THE COMMUNITY SHOULD BE A CONSIDERATION IN THE REVIEW OF ANY DEVELOPMENT PROJECT.

The 1989-2000 Master Plan for Baltimore County indicated the importance of scenic vistas. The concept of the importance of visual impact extends to far more, however, than natural hillsides or flowing streams. History is a part of the Community's fabric, and significant structures, emblematic of the Community's history and character, need to have their visual relationship to the Community conserved. A proposed chart of historic and important properties and structures is attached (see Appendix E). The chart breaks the properties down into categories of significance for guidance purposes only. It does not attempt to rank historic significance or importance but only impact from a visual and community sense of impact of the site.

36.COMMERCIAL ARCHITECTURE AND SIGNAGE IN THE PLAN AREA SHOULD BE REFLECTIVE OF THE COMMUNITY'S CHARACTER.

Guidelines for design of commercial structures in rural villages should be adopted. Community groups should work together with developers to encourage design compatible with the rural character. New sign guidelines for rural areas should be adopted, and planners should be able to demonstrate to developers the advantages of blending signage and architectural design in ways which enhance the proposed project.

37. THAT THE DESIGN REVIEW COMMITTEE REFERENCED IN RECOMMENDATION 33 PREPARE DESIGN GUIDELINES TO PROMOTE COMPATIBLE DEVELOPMENT DESIGN.

The design guidelines should be submitted to the County and officially adopted into the Greater Kingsville Area Community Plan by the Planning Board and by the County Council.

GREATER KINGSVILLE AREA COMMUNITY PLAN

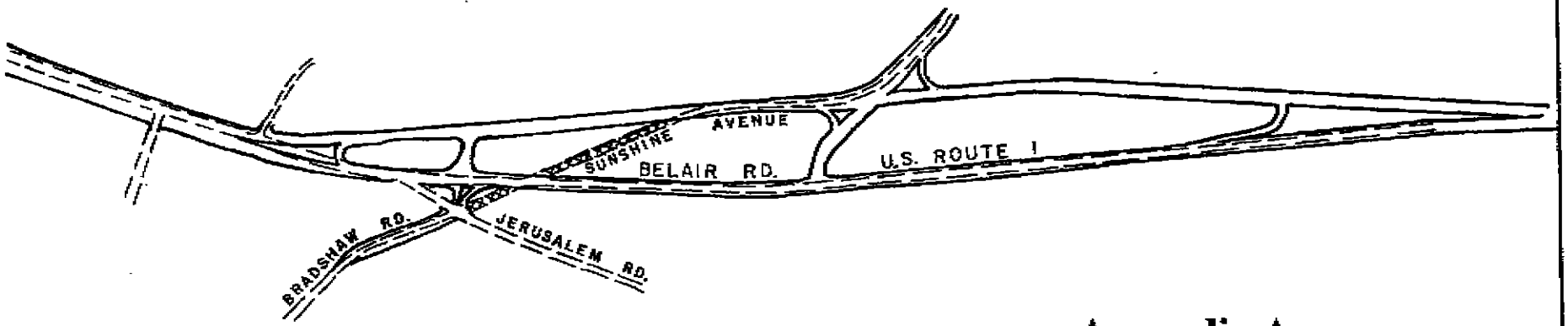
Appendices

LEGEND

EXISTING ROADWAY

PROPOSED ROADWAY

PAVEMENT TO BE REMOVED



Appendix A

ALTERNATIVE U.S. ROUTE 1 DESIGN SELECTED FOR KINGSVILLE

Appendix B

BRIDGES

In the Kingsville-Fork-Upper Falls area are eight (8) bridges. Of these bridges three (3) currently are in need of repair. These include:

Bridge #1: Vinegar Hill Road (at Harford County Line)

Bridge #5: Jerusalem Road (at Harford County Line)

Bridge #224: Mount Vista Road (near Charlund Road)

Appendix C

KINGSVILLE HISTORICAL LIST

	Historic Description	Location
00132	St John's Church	Belair Rd @ Kingsville
00133	Ishmael Day House	Sunshine Ave - Fork
00134	Jubilee	12235 Jericho Rd
00135	Jericho Farm	12230 Jericho Rd
00140	Glen Meadows (Hill's Forest)	8017 Williams Rd At Glen Arm Rd
00236	Green Oak Farm	N.E. Corner Cedar Lane & Mt Vista
00237	Buck Hill (Bauers)	12310 Jerusalem Rd (West Side Of Rd)
00238	Heathcote	7027 Mt Vista Rd West Of Belair Rd
00239	Freedman's Bureau	11807 Belair Rd South Of Kingsville
00240	Gruppy Hollow (Millers Studio)	West Side Of Belair Rd Near Kingsville
00241	Walnut Hill	11819 Redstone Rd, Kingsville
00242	Batterbrook Farm	Mt Vista Rd
00243	Day-Deans-King House	11750 Belair, (Kingsville Inn), Lassahn Home
00244	Fluharty's Folly	Jerusalem Road Near Kingsville
00245	Orwell (Built By Onion's)	11805 Franklinville Rd Franklinville
00246	Swarthmore	11808 Franklinville Rd
00247	Wrights Hotels	W Corner Harford Rd & Regwood Rd
00248	Gunpowder Copper Works	10910 Harford Rd (Great Gunpowder Falls)
00249	Dampman's Hotel	Harford Rd & Sunshine Ave, Fork
00250	Roslyn	7640 Bradshaw Upper Falls
00251	Chilham House	Jones Road, Bradshaw
00252	Mount Peru	Jones Road, Bradshaw
00253	Woodbine	11300 Raphael R .3 Miles W Of Bradshaw Rd

00279	Pork Forest	Stone Farm House 12 Acres 1 Mile N of Fork
00359	Ormor Heights	1 Mile N.E. of Bradshaw Rd West of US 40
00360	Onion-Rawl House	11314 Reynolds Rd .4 Mile N. of Bradshaw Rd
00361	Jericho Covered Bridge	Jericho Road & Little Gunpowder Falls
00362	Bellvue	North Side of Bradshaw .5Mi. West of US 40
00363	Baker-Gorsuch House	12717 Fork Rd .4 Mi W of Fork Crossroads
00364	Fork Methodist Church	12800 Fork Rd
00365	John E Healey House	South Side of Fork Rd opposite Cherry Hill Rd
00385	William L Wilson House	10900 Harford .2 Mi NE of Factory Rd
00386	Homestead (Bonaparte's)	12130 Harford Rd .5 Mi S of Mt Vista
00525	Lone Pine Retreat	East Side of Harford Rd .9 Mi N of Factory
00525	Foard-Hurchenreuter House	East Side of Harford Rd. .6 Mi N. Hartley Mill
00526	Burton-Twining House	.5 Mi East of Harford Rd 1.2 Mi S Hartley Mill
00530	Beachmont Farm (Foard's)	S Side of Mt Vista, .3 Mi E. of Harford Rd
00539	Belle Vista Site	.5 Mi S of Mt Vista, E Side of Harford Rd
00599	Gunpowder Iron Works	Dam Abutments-Banks of Falls, Upstream I-95
00600	Robert Howard's Gristmill Sites	Bank Falls 30' Upstream of Power Line
00914	McCloskey House	7221 New Cut Road, Fork
00961	Bottom Road Iron Bridge	Over Little Gunpowder Falls
00962	Vinegar Hill Iron Bridge	Over L. Gunpowder Falls, .2 Mi SE of Franklinville
01181	Franklinville United Pres Church	11846 Franklinville Rd
01182	St Paul's Evangelical Lutheran	10022 Jerusalem Road
01183	St Stephen's Catholic Church	8030 Bradshaw Road
01184	Casino (Upper Falls Lodge)	S.E. Corner Bradshaw & Raphael

01335	McKnight House	12801 Harford Rd Opposite Pork Forest Rd
01516	Orignial Fork Christian Church	E Angle Between Stoney Batter & Sunshine
01517	Fork School	6740 Sunshine, Just W Of Stoney Batter
01528	Pastoral Residence, Bradshaw	1st Structure W Of St Stephen's Church
01529	Manse, Franklinville	11823 Reynolds Rd, E Of Franklinville Rd
01702	Brintonwood Farm	6410 Brinton Lane, Fork
01881	Day House	13575 Fork Rd (Lot 1 Of Pleasantville Manor)
01889	Baldwin School	13411 Fork Road (Now A Dwelling)
01891	Hetsgard House (2 Story)	13009 Bottom Road (Log Wing)
01892	Merryland Farm	12901 Bottom Road
01893	Merryland Farm, Tenant House	12701 Bottom Road
02077	Dr. Gorsuch House	12641 Fork Road
02217	Hooper House	11122 Pfeffer Road, Bradshaw
02218	Leedy House	11921 Maple Drive, Franklinville
02219	Slaughter-Shockley House	11927 Maple Drive, Franklinville
02220	Howard Leedy House	11902 Woodberry Drive, Franklinville
02221	Lawrence Cornes House	11904 Woodberry Drive, Franklinville
02222	Peter Meade House	11927 Maple Drive, Franklinville
02223	Old Franklinville School	11922 Jericho Road (Talbot House)
02303	Gorsuch-Wilson House	11501 Belair Road, Kingsville
02309	Quinlan School House	11427 Belair Road
02408	Franklinville Cotton Factory (Belko)	11935 Jericho Road
02500	Crossmore-Shepperd Store	11501 Franklinville Road
02545	Franklinville Company Store	11908 Jericho Road

Appendix D

FORESTS AND WILDLIFE

A. GOALS

1. Manage and enhance forest land.
2. Improve wildlife habitat.
3. Protect water and air quality.
4. Enhance scenic rural character of the area.

B. STRATEGY

1. Adopt an plan to guide voluntary actions of private land owners, including developers, in directions that improve the environmental quality with the passing of time.
2. Build the plan around a local concept for implementing the Maryland Forest Conservation Act of 1991, which achieves the four GOALS.
3. Keep the plan at the concept level identifying types of problems to be remedied and opportunities for building on our environmental strengths. Do NOT plan for any specific actions on any specific properties; leave that to the initiative of individual property owners.
4. The plan should identify resources available to help property owners in implementing this plan. Also, having an officially approved plan will be useful to community and conservation groups in drawing financial support from foundations and government agencies to assist land owners.

C. FORESTS AND WILDLIFE

1. These are major environmental assets of our community which account for much of our "rural charm". See the Forest Cover Map. This plan calls for improving the forest cover and create high quality habitat for birds, animals, and fish.
2. Vegetate all stream sides as buffers to provide shade, promote infiltration, and stabilize against erosion. Sediment and water overheated by summer sun are dangerous to fish and other aquatic life. By selecting desirable habitat species, these improvements in vegetated stream buffers will enhance forest and habitat quality providing corridors for wildlife movement. The buffers should be widened into forest corridors wherever possible. The soils map shows that much land in the vicinity of streams is poorly suited for development due to severe drainage limitations or steep slopes.
3. This land has high value for habitat and forest cover and may support productive forests providing multiple benefits to its owner.
4. Vegetated corridors are needed to provide escape and nesting cover.

5. Similarly, islands of woods need to be connected to the forest network by vegetated corridors to reduce excessive predation. Such islands may be seen on the forest cover map; the committee has more detailed data in aerial photographs of the plan area.
6. Gunpowder Falls State Park anchors the habitat and forest cover of the plan area. When possible, forest corridors along streams and connection between them over land should strive to create continuous forest corridors between the two wings of the Park which lie along the Big Gunpowder Falls and the Little Gunpowder Falls.
7. Diversity of species:
   a. Too many of the same tree promotes spread of diseases.
   b. Identify species once abundant in our area which have declined and deserve replanting (hickory was suggested as a possible example).
   c. Encourage species diversity by planting a species mix appropriate to localities and soil types.
8. A living plan:
   a. Preserved forests decline in health and stagnate. Proper management of these forests would improve forest health, productivity, and groundwater infiltration capacity.
   b. The forest cover can be managed by its owner, however, habitat maintenance should be part of the plan.
   c. Meadows are an important part of the forest cover plan. There is an important natural progression of meadows which is defeated by grazing or mowing, however, some maintenance is needed to control pest plants. Where desirable, new meadows suitable for wildlife habitat may be created.
   d. Owners of all properties in the plan area which are of at least one acre, are encouraged to seek advice on afforestation design, sources of assistance, and financial incentives at 665-5820 which provides a clearing house and referral service to County and State advisors.

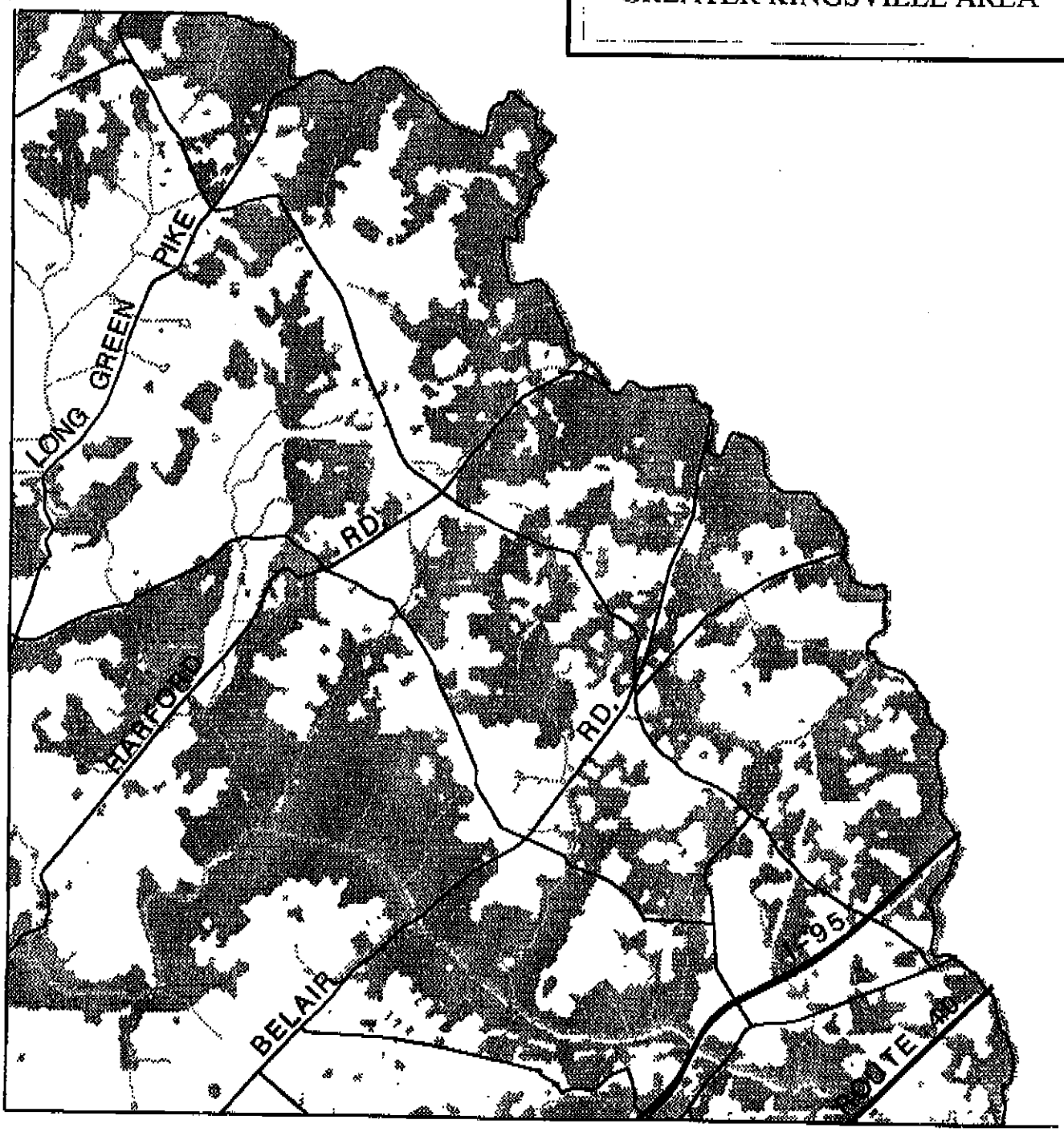
D. SUMMARY OF RECOMMENDED ACTIONS

1. Seek advice on afforestation design for your property, sources of assistance, and financial incentives from 665-5820 which provides a clearing house to County and State advisors. Form a Greening Committee to coordinate community efforts.
2. Plant trees and useful habitat shrubs along streams to form wildlife corridors and promote water quality for aquatic species.
3. Plant corridors to "forest islands" to include them in the connected habitat network.
4. Seek to establish continuous forested corridors connecting the two wings of Gunpowder Falls State Park.

Appendix D

FOREST COVER

GREATER KINGSVILLE AREA



Appendix E

SCENIC VISTAS
and
SIGNIFICANT STRUCTURES

A:

Belle Vista Site	
Merryland Farms	12901 Bottom Road
McKnight House	12801 Harford Road
Mentzer Farm	Sunshine Avenue
St. John's Church	Belair Road Kingsville
Langenfelder Farm	Belair Road Kingsville
Day-Deans-King House	11750 Belair Road
Elray Farm	Belair Road Kingsville
Manjemoy	Bradshaw Road Kingsville
Bellvue	Northside Of Bradshaw .5 East Of Belair
Jericho Covered Bridge	Jericho Road At Little Gunpowder

B:

Batter Brook	6940 Mount Vista Road
Beachmont And Foard House	S. Side Mt. Vista .3 Mi. E. Of Harford
Glen Meadows	6017 Williams Road At Glen Arm Road
Lewis Farm	N.W. Corner Fork And Lewis Road
Fork Methodist Church	12800 Fork Road
St. Paul's Lutheran Church	Jerusalem Road Nr. Kingsville
Fluharty's Folly	Jerusalem Road Nr. Kingsville
White's Estate	Bradshaw Road
St. Stephen's Church	Bradshaw Road
Walnut Hill	11819 Redstone Road
Green Oak Farm	N.E. Corner Of Cedar Lane And Mt. Vista

APPENDIX F

ADDENDUM CONCERNING OFF SITE WELL AND SEPTIC

"Off site well and septic is not a desirable solution for commercial properties that have problems, or will have, with their current systems. However; in an effort to support those commercial enterprises that have become an important part of the community we would suggest the following policy:

"An existing commercial enterprise, that has been actively doing business on site during the previous year, and that has a failing septic system or well may petition the County to use an off site system. However, it should be made clear that this is allowable only if the following conditions are met:

1. The existing parcel of commercial land will not support additional septic or well requirements.
2. The property that is to contain the system is owned by the petitioner and is immediately adjacent to the existing business.
3. The current system can no longer support the needs of the business and is jeopardizing the continued operation of the business.
4. The petitioner files for a Resource Allocation. (This process is intended to mirror the Chesapeake Bay Growth Allocation process. Guidelines would have to be developed for this process that would provide for a review of the request by the following: Office of Planning, DEPRM, Planning Board and finally County Council. It is our intent to satisfy the need for community input with a level of accountability within the County. At the same time this would hopefully avoid having to use the Comprehensive Zoning Map Process which would only increase the commercial inventory of undevelopable properties-those used solely for off site well and septic.)
5. A more intense use of transfer of density if prohibited.
6. Improvements may not take place until appropriate approval is granted for the proposed site.
7. Sufficient storm water management facilities exist on current business site.

This is in no way intended to provide for the opportunity for expansion or renovation of an existing business with sufficient well and septic facilities to meet their current needs. Rather it is intended to provide relief for those businesses that are in jeopardy due to failing systems with no on site solution. The County should be diligent in their monitoring of petitioners of off site systems so that the relief given will not be abused.

In regards to a commercially zoned parcel that is currently undeveloped - well and septic must be provided for on the existing lot. Off site systems will not be allowed in order to make a currently undevelopable site viable."

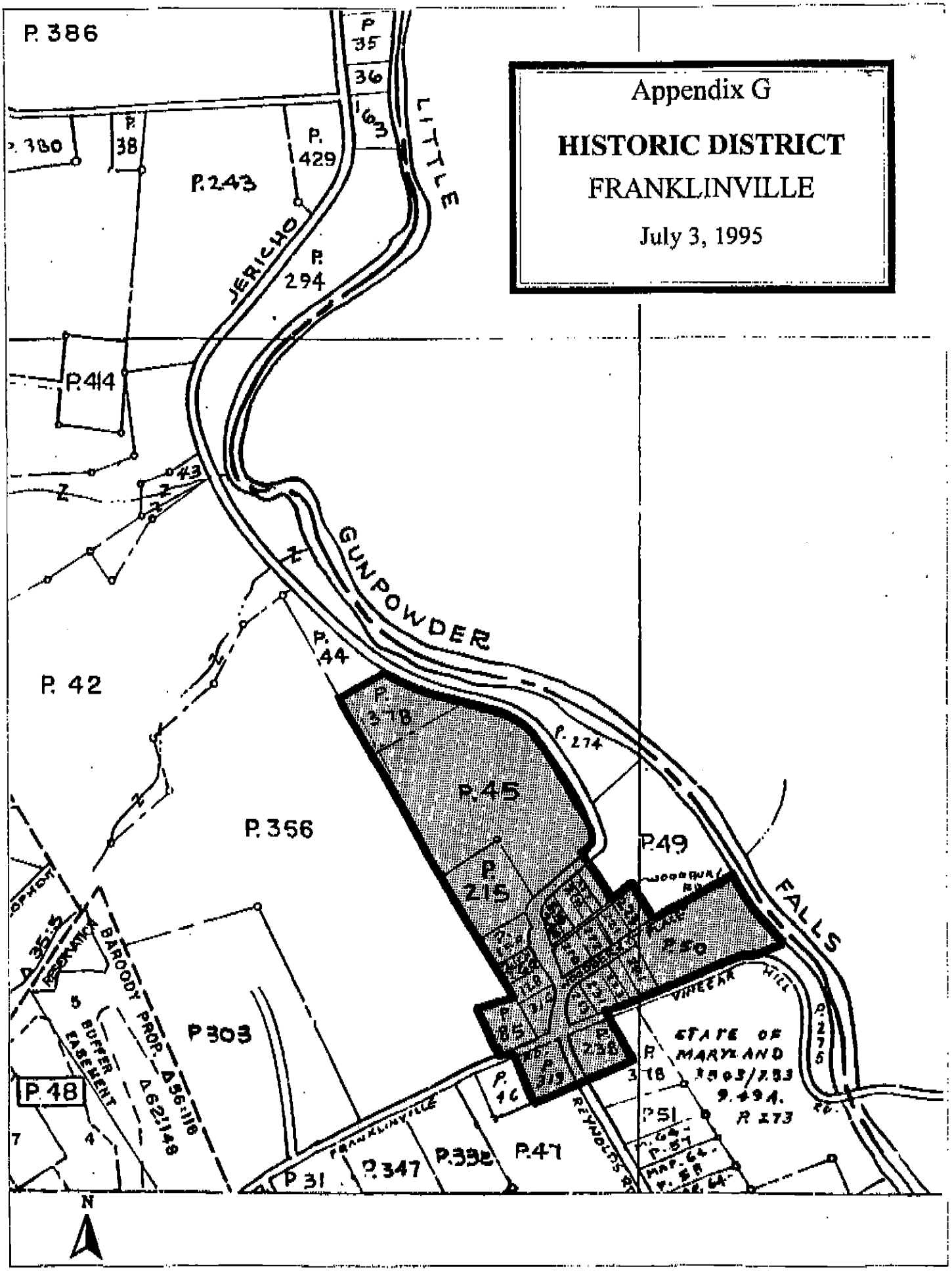
A great deal of concern was also expressed about the ramifications this policy may have on residential properties. While this issue was not discussed in as much depth it is still a concern. Off site well and septic cannot be supported by the community for undeveloped properties that do not perk. However, we would ask that the County and DEPRM continue to work with the community and seek ways to solve current and potential problems without involving an off site solution.

Appendix G

HISTORIC DISTRICT

FRANKLINVILLE

July 3, 1995



CITIZEN ADVISORY COMMITTEE

Howard Alderman, Kingsville-at-large
Angelo Bianca, Environmentalist
Tina Biance, Kingsville PTA
Doug Behr, Greater Kingsville Civic Association
Dr. John Brooks, Northeastern Baltimore County Business Association
John Gontrum, Chairperson
Mel Noland, Forester
Steve Marquette, Kingsville Recreation Council
Margaret Peeling, Agricultural Community, Education
Lucien Peters, Kingsville-at-large
Ralph Quinn, Business Community, Agricultural Community
Marlene Rollins, Historic Preservation, Rotary Club
Mary Frances Shepperd, Kingsville-at-large
Wendy Stallings, Gunpowder Valley Conservancy
Karen Stuebing, Gunpowder Valley Conservancy

ADVISORS

Mary Emerick, Baltimore County Office of Community Conservation
Dorothy Foos, Greater Kingsville Civic Association
Elizabeth Healey, Greater Kingsville Civic Association
Wally Lippincott, Baltimore County Department of Environmental Protection & Resource Management
Ruth Mascari, Baltimore County Historic Landmarks Preservation Commission
Joan Morrissey Ward, Baltimore County Office of Planning
Dennis Wertz, Baltimore County Office of Planning

The following also contributed:

Robin Beers, Kingsville-at-large
Vernon Brown, Agricultural Community
Mike Gaudreau, Historic Preservation
Henry Fischer, Agricultural Community
Susan Peeling, Fork-at-large
Chris Scovill, Historic Preservation
Ellwood Sinsky, Development Community
Mary Jo Button

Baltimore County
Office of Planning
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Board of Appeals

Case No: 18-122-X Case Name: Nepali

Exhibit List

Party: Protestants. Date: 7/19/18

KC 7/20/18

Exhibit No:	Description:
✓ 1	Protestants Sign In Sheet.
✓ 2	Protestants Preliminary Motion
	VERIFIED BY _____ DATE:_____

Day 2

Board of Appeals

Case No: 18-122-X Case Name: Negali

Exhibit List

Party: Protestants Date: 9/6/18

Exhibit No:	Description:
✓ 3	Little + Associates Plan Draft.
✓ 4	Aerial Photo of Site
✓ 5	Preliminary conceptual. Landscape Plan - 7/25/18
	VERIFIED BY KC DATE: 9/7/18

today.

Day 3

Board of Appeals

Case No: 18-172-X Case Name: Nepali

Exhibit List

Party: Protestants Date: 9/12/18

Exhibit No:	Description:
✓ 6	Greater Kingsville Civic Assoc. letter 9/3/18.
✓ 7a-c	Photos of Harford Rd. Google Images
✓ 8	1/10/18 Letter from Caloggero to Kotroko
✓ 9	3/23/18 and 3/28/18 Email to SHA from Caloggero
✓ 10	Traffic Crashes Balto Cty Police 1/1/16 - 4/1/18
✓ 11	Aerial Photo St. Joe Church Bel Air Rd
✓ 12	SHA Access Management Submissin Checklist
	VERIFIED BY KC DATE: 9/13/18

Id Only

Id Only

Id Only.

Day 4

Board of Appeals

Case No: 18-122-Y Case Name: Nepali

Exhibit List

Party: Protestants Date: 10/11/18

Jay 10/12/18

Exhibit No:	Description:
13	Video. 7/28/18
14	Aerial Photo. 7/28/18.
	VERIFIED BY _____ DATE: _____

Day 5

Board of Appeals

Case No: 18-122-X Case Name: Nepali

Exhibit List

Party: Protestants Date: 10/23/18

Exhibit No:	Description:
✓ 15	Aerial Photo Neighborhood
[illegible] ✓ 16	Photo Joyce Mason Car 9/14/18
Id Only ✓ 17	Photo 10/18/18 dashcam Dr. Mary Chalk
✓ 18	Small Photo of Prot 15 Aerial Photo.
Id Only ✓ 19	Photo. of Bonaparte Home
✓ 20	Photo from Dave Poeler property
Id Only ✓ 21	Photo - Drone of Site
Id Only ✓ 22	B. County Police Report 1/28/18
Id Only ✓ 23	B. County Police Report 1/29/18.
✓ 24	7/2017 Fundraiser Flyer
✓ 25	Facebook Shyam Karki 12/21/17
~~Id Only~~ ~~26~~	~~Videos A-F~~ WITHDRAWN
✓ 27	Facebook Entry. 8/1/18.
✓ 28	Gunpowder Falls Watershed Rule 8 Payers
	VERIFIED BY KC DATE: 10/24/18

Day 6

Board of Appeals

Case No: 18-122-X Case Name: Nepali

Exhibit List

Party: Protestants Date: 11/1/18

Exhibit No:	Description:
✓ 29	Short Video clips - CDS
✓ 30	Library of Videos - CDS
✓ 31	List of URLs and Movie Segment files
✓ 32	Video File Contents.- Library
✓ 33	Screen Shot list of Short Video clips
✓ 34	USB Drive
✓ 35a	Photo Car leave Site
✓ 35b	" " " "
✓ 35c	Photo of Car at Entrance
✓ 36a	Photo same as Prot 7a
✓ 36b	Photo of Harford Rd.
✓ 36c	Photo same as Prot 7b
✓ 37	Code Enforcement Correction Notice 8/27/18
✓ 38	Close Up Pet Site Plan in Ex. 37
	VERIFIED BY KC DATE: 11/2/18

Day 6

Board of Appeals

Case No: 18-122-X Case Name: Nepali

Exhibit List

Party: Protestants Date: 11/1/18

Exhibit No:	Description:
✓ 39	MD National Register Properties.
✓ 40	Photo Mile marker - Harford.
✓ 41	Photo Mile Marker
✓ 42	Photo MD State Road Commission Marker
✓ 43	Emails 7/2/18 — 7/5/18 from Clark to SHA
✓ 44	Shyam Karki Facebook May 19
✓ 45	Sano sansar Hamrosansar Facebook 7/10/18
✓ 46A	Photo ~~[illegible]~~ on 2906 Taylor Ave.
✓ 46B/C	Information on 2906 Taylor Ave.
✓ 47	Website NACCBaltimore.org
✓ 48	Greater Kingsville Civic Association, Inc.
✓ 49	Letter from Doctor Clarke.
✓ 50	3 Pages - Excerpts from ~~your Kingsville~~ Next Door Kingsville. NOT Sam response
✓ 51	VIDEO Control Sheet
	VERIFIED BY KC DATE: 11/2/18

Id Only

Id Only

Id Only

KC 1/31/19

Board of Appeals

Case No: 18-122-X Case Name: Nepali

Exhibit List

Party: Protestants Date: 1-29-19

Exhibit No:	Description:
✓ 52	Sources of videos - URL listing
Duplicate ✓ 53	E-Mails from Richard Zeller to HTI: GMML dated 7/5/18
✓ 54	Letter from Clark to Jackson (State Highway ADM) dated 7-11-18
✓ 55	HTI Mail to Kevin Weis - MDE dated 7-8-18
✓ 56	Sign-in Sheets 11-1 to 1-17-18
✓ 57	Area Covered by Greater Kingsville Area. (2 pages)
✓ 58	Two pictures of Road with pedestrian
✓ 59	Two pictures of cyclists
✓ 60	Two pictures of tractor Trailer
✓ 61	Two pictures of pick-up truck
✓ 62	Nighttime picture of Road and truck.
IP only ✓ 63(a-g)	Pictures of Lens and text
✓ 64	A Copy of Site Plan for Sign permit
✓ 65	1 Picture with Wood fence + White Railing
	VERIFIED BY KC DATE: 1/31/19

2

Board of Appeals

Case No: 18-122-X Case Name: Mepali

Exhibit List

Party: Protestants Date: 1-29-19

	Exhibit No:	Description:
ID only	✓ 66	Summary of sign-in sheets by Location
ID only	✓ 67	Affidavit of Joanne Foxworthy
ID only	✓ 68 (a-e)	Affidavits ~~from~~ that were attached to original motion
ID only	✓ 69	Affidavit Morgan Miller
	✓ 70	Wilderness Act
ID only	✓ 71	Affidavits from multiple people Kneeshaw, Poehler, Miner, Beard Skudgen
~~ID only~~	✓ 72	Affidavits from Carol Shaw
	✓ 73	DVD - Appendix "New" from Fox 57
	✓ 74	2 Pictures of Fire under the tent
	✓ 75	Police Report - State of MD Motor Vehicle Crash Report Dated 9-25-17
	✓ 76	Police Report - State of MD Motor Vehicle Crash Report dated 11-6-17
~~ID only~~ ID only	✓ 77 (a-d)	Facebook Postings - 6-19 on first Page
	✓ 78	BALT. County Zoning Commission Office of Planning Grace Cornell 7-20-98
	✓ 79	Petition for Special Hearing - Beachmont, Inc. 16433 Mt. Vista Road
		VERIFIED BY KC DATE: 1/31/19

Board of Appeals

Case No: 18-122-X Case Name: Nepali

Exhibit List

Party: Protestants Date: 1-29-19

Exhibit No:	Description:
✓ 80 (A-K)	Photographs from Facebook Oct 6 at 10:18.
✓ 81	Facebook Posting · Belmont Volleyball group · 11-4
✓ 82	Facebook Page - 7-27-17 -
✓ 83	Volleyball Dates (20)
✓ 84 (a-d)	Facebook Pages of Volleyball group. July 23,
✓ 85 (a-c)	Volleyball Tournament 7-23 · 2017
✓ 86 (a-d)	Facebook · E Nepalese · 4th of July celebration 7-4 7
✓ 87 (a-c)	Facebook - E Nepalese facebook picture of estate
✓ 88	Facebook - E Nepalese 7-11 - picture of cars
✓ 89	Facebook Post - BALT. Hindu Bumha Mandir [Cancelled] 4-19-22-18 event
✓ 90	Picture of Women and Pottery
ID only → ✓ 91	Letter dated 10-14 of Appreciation - BALT. Nepalese Community Center (BNCC)
✓ 92	Email from Jason W. Goorevitz dated 7-6 some already IN. Issue 1 Oct 2014
ID only ✓ 93	Connected to Ex 46 - 2906 Taylor Ave Listing of Property from Zillis
	VERIFIED BY KC DATE: 1/31/19

Board of Appeals

Case No: 18-122-X Case Name: Nepali

Exhibit List

Party: Protestants Date: 1-29-19

Exhibit No:	Description:
✓ 94	Letter dated 11-15-17 - from Dommelman to Hindu Buddha Temple
✓ 95	5 Pages of Return Receipt 6-27-2018
✓ 96	ALJ Transcript 1-17-2018 [Waiting for full transcript
✓ 97(a-b)	Affidavit - Carol Shaw p 1 - Mary Clark p. 2
✓ 98(a-b)	Same as by 72 Affidavit, Carol Shaw & Mary Clark
✓ 99	Christopher N. Jakubiak, AICP.
✓ 100	BALT County - My Neighborhood Geographer Map
✓ 101	BALT County - My Neighborhood - closer scale - same of 101 Zoom In of 100
✓ 102	Google Earth - Aerial View of Site
✓ 103	Google Earth - Zoomed in - Hanford Rd & Drive way
✓ 104	Google Earth Distance to Nearby Houses Drive way of 500
✓ 105(a-b)	BALT County - My Neighborhood
✓ 106	Mr. Bonaparte's Farms - History Trails Article
✓ 107	Picture - The Country House Bella Vista
	VERIFIED BY KC DATE: 1/31/19

as amended

KC 2/6/19

Board of Appeals

Case No: 18-122-Y Case Name: Nepali

Exhibit List

Party: Protestants Date: ~~1-22-19~~ 2/5/19

Exhibit No:	Description:
✓108	~~Before the~~ Affidavit of Ila Christenbury
✓109	DVD "New Disc" 1-29-19 May be the same as 73
✓110	Proffer of Materials for Exhaustion of Administrative Remedies
✓111	Proposed List of Conditions for Operation of a Prayer
	a House of Worship at 12231 Hartford Road
✓112	Affidavits for Drone - Authenticity - Ex 4, 14, 21
✓113	Affidavits for Authenticity of Ex 19
✓114	Search Results for Nextdoor. Authenticity Ex 50 Part 1
✓115	Bonaparte Property - Meeland grant Ex 50 Part 2
✓116	Corrected Carol Shaw - Affidavit - Ex 72 + 98
	VERIFIED BY _____ DATE: _____

ID only

KC 2/6/19

Protestant
CBA Exhibit
1

Gunpowder Falls Watershed Preservation Assoc.
7/14/18

FIRST NAME	LAST NAME	STREET ADDRESS	TOWN	ZIPCODE
Christian	Allinson	12020 Brooknoll Rd	Kingsville	21087
Mary	Ambrose	5460 Hillrise Rd	Glen Arm	21057
John	Bass	6200 E GlenArm Rd	Hydes	21082
Judith	Beard	11904 Jericho Road	Upper Falls	21156
Jon	Beard	13329 Fork Rd	Baldwin	21013
Robin	Beers	12442 Jerusalem Rd	Kingsville	21087
Jill	Breysse	11963 Harford Rd	Glen Arm	21057
Rosemar	Bronzert	12517 Regwood Rd	Hydes	21082
Frank & Dorothy	Bucharewicz	2 Upperfield Ct	Kingsville	21087
Robert	Bush	13525 Fork Rd	Baldwin	21013
Richard	Buterbaugh	1 Country Hill Ct	Kingsville	21087
Donna	Carlton	7000 New Cut Rd	Kingsville	21087
Donna	Carter	5515 Williams Rd	Hydes	21082
Phyllis	Carter	12419 Stoney Batter Rd	Kingsville	21087
Derrick & Donna	Chaudron	12335 Harford Rd	Kingsville	21087
Dewey & Mary	Clark	12150 Harford Rd	Glen Arm	21057
Christian	Collison	12501 Regwood Rd	Hydes	21082
Pete & Rozanne	Constantino	11503 Wallace Dr	Glen Arm	21057
Rick	Danaher	13111 Sanfield Rd	Baldwin	21013
Rosanne & Mario	DiFonzo	9 Country Hill Ct	Kingsville	21087
Amy & Glenn	Doering	6201 Hutschenreuter Rd	Glen Arm	21057
Stuart	Epstein	12420 Regwood Rd	Hydes	21082
Rudy	Fischer	12234 Long Green Pike	Glen Arm	21057
Pat	Foley	6131 Glen Arm Rd	Glen Arm	21057
Joanne	Foxworthy	6229 Bonaparte Ave	Glen Arm	21087
Pat	Garner	12535 Merritt Ave	Fork	21051
Ed & Judith	Glebas	13817 Bottom Rd	Hydes	21082
Eileen	Griswold	12528 Harford Rd	Hydes	21082
Michael	Habersack	15 Vista View Court	Kingsville	21087
Mike & Gerry	Harris	12351 Long Green Pike	Glen Arm	21057
David	Hartman	12513 Regwood Rd	Hydes	21082
Paul	Heckel	12146 Harford Rd	Glen Arm	21057
Sharon & Edward	Heimiller	12702 Lee Ben Rd	Kingsville	21087
Connie	Hess	6511 Brinton Rd	Fork	21051
Paula	Hoffman	5611 Sharon Dr	Glen Arm	21057
Douglas	Honbarrier	6219 Bonaparte Ave	Glen Arm	21057
Susan	Hough	5700 Sharon Dr	Glen Arm	21057
Scott	Hunsicker	6 Batterbrook Ct	Kingsville	21087
Sean	Johnson	6600 Mt Vista Rd	Kingsville	21087
Tim	Jones			
Jeannette	Kempske	11748 Harford Road	Glen Arm	21057
Tom	Kneeshaw	11 Kings Glen Court	Kingsville	21087
Paul	Koch	12138 Harford Rd	Glen Arm	21057
Nancy	Koerner	12505 Regwood Rd	Hydes	21082
Albert & Louise	Lacey	5520 Hillrise Rd	Glen Arm	21057
Raymond & Mariann	L'Altrelli	6805 New Cut Rd	Kingsville	21087

Richard & Celeste	Walter	PO Box 44	Baldwin	21013
Richard	Watson	12318 Long Green Pike	Glen Arm	21057
Mary Lou	Wickham	11752 Harford Road	Glen Arm	21057
Carol	Willinghan	12509 Regwood Rd	Hydes	21082
David	Witthauser	11837 Gontrum Rd	Kingsville	21087
Jack	Woodward	11810 Harford Rd	Glen Arm	21057
Bob	Wright	11920 Hartley Mill Rd	Glen Arm	21057
Dennis	Wrightson	12521 Regwood Rd	Hydes	21082
James & Diane	Young	12641 Fork Rd	Fork	21051

PLEASE PRINT CLEARLY

CASE NAME
CASE NUMBER
DATE

CITIZEN'S SIGN - IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
Patricia J Foley	6131 Glen Arm Rd E	Glen Arm, MD 21057	patricia.foley@verizon.net
Robert Shifflett	6229 Bonaparte Ave	Glen Arm MD	
Jeannette Kempske	11748 Harford Rd	Glen Arm, MD 21057	LorComics@aol.com
Barbara Yingling	11744 Harford Rd	Glen Arm, MD 21057	jbyingling@comcast.net
ROSEMARY BRONZERT	12517 REGWOOD RD	HYDES, MD 21082	NERF12517@VERIZON.NET
HOLLY L. HAMMOND	10900 HARFORD RD	GLEN ARM, MD 21057	berries301@hotmail.com
CHARLES BRONZERT	" " "	" " "	CBRONZERT@Arm.com
PATTI THORN	6316 Hutschenreuter Rd	Glen Arm 21057	pattithorn7@gmail.com
Ibby Fazzini	12330 Long Green Pike	Glen Arm 21057	ibby@homesale.com
JIM SHIPLEY	6101 GLEN ARM RD EAST	GLEN ARM 21057	jimshipley1950@GMAIL.COM
JOE TIBERI	6041 GLEN ARM RD E	GLEN ARM, MD 21057	jtiberi@ackcontracting.com
Dave Poehler	12241 Harford rd	Glen Arm, MD 21057	Poehler.e@gmail.com
Donna Carter	5515 Williams Rd	Hydes Md 21082	talisman254@gmail.com
Keith Reuling & Nancy Koerner	12505 Regwood Rd.	Hydes, Md. 21082	NKOERNER1@COMCAST.COM
MARY LOU WICKHAM	11752 HARFORD ROAD	GLEN ARM, MD 21057	mlwickham@gmail.com
Lisa Vindiola	11930 Harford Rd	Glen Arm, MD 21057	lisa.m.vindiola@gmail.com
SCOTT STRIEBINGER	18 VISTA VIEW CT	KINGSVILLE MD 21047	with Greater Mt Vista Association
Doug Honbarrier	6219 Bonaparte Ave	Glen Arm. MD 21057	doughonbarrier@comcast.net
BERNADETTE POEHLER	12241 HARFORD RD	Glen Arm MD 21057	POEHLER.E@gmail.com
Donna Gillespie	32 Edgemoor RD	Timonium, MD 21093	dmgillespie@verizon.net

PLEASE PRINT CLEARLY

CASE NAME
CASE NUMBER
DATE

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
Timothy M. Kotroco	305 Washington Avenue, Suite 502	Towson, MD 21204	Tkotroco@gmail.com
Deepak Sharma	4325 Pepo Ave	Nottingham MD 21236	
INDRA THAPACHHETRI	4614 Ridge R	" " "	THAPAIBT@Hotmail.com
Tarun Poudel	2620 Joppa Terrace	Parkville MD	tarunpoudel55@yahoo.com
Dhruba Onta	610 Gouchet Blvd	Towson MD 21286	dhrubaonta@gmail.com
Paras M Shrestha	9510 Hickory Falls Way	Nottingham MD 21236	
Ram Chandra Adhikari	1216 Longford Rd	Lutherville MD	readhekari17@yahoo.com
Sukeem Pokhrel	14010A Cuba Road	Hunt Valley MD	Pokhrelsukeem@yahoo.com
Angela Lykos	1129 Dulaney Gate Circle	Cockeysville MD 21030	ptoangela@yahoo.com
Bikram Pokhrel	14010A Cuba Road	Hunt Valley MD	Pokhrelbikram10@yahoo.com
Binod Upreti	332 Stevenson Lane	Towson MD	binod1515@hotmail.com
BIKRANT CHRESTHA	2621 LONG MEADOW DR	ABINGDON MD	bikrantshrestha@gmail.com
PREM R. MAHAT	515 Walker Ave	Baltimore MD 21212	premrasa@hotmail.com
Shrijana Khanal	332 Stevenson Ln, #B5 Towson MD 21204	TOWSON, MD 21204	nehawins2003@hotmail.com
Bishnu Ghimire	1004 Broderick Ct Crofton	Crofton, MD 21114	bishnugh@gmail.com
Khagendra Chhantha	6238 Winters Lane	Hanover MD 21076	Kbc3179@gmail.com
Diwash Pokhrel	8812 Dove Dr	Perry Hall, MD 21128	diwash@gmail.com
Diwakar Gyawali	3247 Sonia Trl Elliott City MD 21043	Elliott City MD 21043	diwakar_gyawali@yahoo.com
Sushil Kaphle	6 Ecoway Ct #3D	Towson, MD 21286	suspens_2k@yahoo.com
Sujan Karki	1 Casheri Ct Nottingham	MD 21236	Sujan.kumar.karki@gmail
Kamal Bhandari	4706 Beaconsfield Dr	MD 21236	Kamal Bhandari USACG Corp
[illegible]	[illegible]		

PLEASE PRINT CLEARLY

CASE NAME 2018-122-X
CASE NUMBER
DATE 1-17-2018

CITIZEN'S SIGN - IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
DeWitt Clark	12150 Harford Rd	Glen Arm, MD, 21057	Historictimekeepers@gmail
Morgan Miner	11946 Harford Rd	Glen Arm, MD 21057	miner.morgan13@gmail.com
CAROL SHAW	7 Country Hill Ct	Kingsville MD 21087	carolnshaw@comcast.net
PAUL KOCH	12138 HARFORD Rd	GLEN ARM MD 21057	BGP KOCH@AOL.CO
ROBIN BEERS	12442 JERUSALEM RD.	KINGSVILLE, MD. 21087	robinwbb@hotmail.com
Joyce Mason	11813 Harford ROAD	Glen Arm, MD 21057	JOYCE.A.MASON@comcast.net
Darby Standiford	6415 MT. Vista Rd	Kingsville, MD 21087	darbystandiford@gmail.co
Ginny Terhune	404 W. Joppa	Towson 21204	terhunevirginia@gmail.com
Stephen Brady	6208 Bonaparte Avenue	Glen Arm, MD 21057	sm.brady1@yahoo.com
Sharon Heimiller	12702 Lee Ben Rd	Kingsville MD 21087	sharonhei@comcast.net
Edward Heimiller	12702 Lee Ben Rd	Kingsville MD 21087	Heimiller2@comcast.net
Peter Martin	1954 Greenspring Drive	Timonium MD 21093	Peter@cactassky.com
Ronald D. Standiford	6415 MT. VISTA RD	KINGSVILLE, MD 21087	Classicdadman@yahoo.com
Denise B. Smith	6215 Bonaparte Avenue	Glen Arm, MD 21057	denisesmith@comcast.net
Robert Smith	6215 Bonaparte Avenue	Glen Arm, MD 21057	bob.smith@rmf.com
ELLEN HUBBARD	7862 OAKDALE AVE	ROSEDALE MD 21237	MEHUBBARD50@VERIZON.NET
Mary C. Clark	12150 Harford Road	Glen Arm MD 21057	maryc421@gmail.com
Philip Landefeld	12513 Regwood Rd.	Hydes, MD 21082	0011@comcast.net
DAVID HARTMAN	12513 REGWOOD ROAD	HYDES MD 21082	DHARTMAN@STA-BALTO.COM
PAT GARNER	12535 MERRITT AVE	FORK MD 21051	pgarner@bcpl.net
T A KNEESHAW	11 KINGS GLEN CT	KINGSVILLE, MD 21087	
Joanne M Foxwordly	6229 Bonaparte Ave	Glen Arm, MD 21057	joanne.foxwordly@gmail.com
Joanne MARSH	5714 Williams Rd	Hydes, MD 21082	Joduke19@gmail.com

Protestant
CBA Exhibit
2

IN THE MATTER OF:

NEPALI AMERICAN CULTURAL CENTER

BALTIMORE COUNTY BOARD OF APPEALS
Case No.: 18-122-X

PROTESTANTS PRELIMINARY MOTION FOR THE BOARD

IN THE MATTER OF: NEPALI AMERICAN CULTURAL CENTER 12231 Harford Road 11th Election District 5th Councilmanic District	*	BEFORE THE BOARD OF APPEALS FOR BALTIMORE COUNTY
RE: PETITION FOR SPECIAL EXCEPTION	*	Case No.: 18-122-X

* * * * * * * * * * * * *

PROTESTANTS PRELIMINARY MOTION FOR THE BOARD TO REQUIRE APPLICANT'S COMPLIANCE WITH BALTIMORE COUNTY ZONING AND STATE ENVIRONMENTAL LAWS; TO REQUIRE APPLICANT TO COMPLY WITH ITS SUBMITTED SITE PLAN PRESENTED BELOW; TO COMPLY WITH CONDITIONS SET FORTH IN THE ALJ'S GRANT OF APPROVAL

Protestants request in this Preliminary Motion for the Board to require Applicants to comply with Baltimore County Zoning and Environmental Laws; to require Applicant to comply with its submitted Site Plan presented below; to comply with conditions set forth in the Administrative Law Judge's Grant of Approval ***before proceeding*** with the Hearing and says:

I.

Synopsis of Issues Related to Community Health, Safety and Welfare

A. ***Improvements without building permits.***

1. Plumbing.
2. Electric.

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
FAX: (410) 825-4923

B. ***Public Safety.***

1. Police reports from road accidents at or near entrance.
2. Area road map from Hartley Mill to Mount Vista.

C. ***Events held without application to and approval from Fire Marshal.***

D. ***Events held without required approvals and permits.***

1. Gathering.
2. State Road.

E. ***Events held without new well and septic systems installed.***

1. No record of potable water.
2. No record of disposal of human waste.
3. No approval of water quality by health department for public place.

F. ***Asbestos exposure.***

G. ***Noise.***

H. ***Failure to satisfy RTA Requirements.***

II.

FACTS TO SUPPORT THE MOTION

Issue A: ***Improvements Without Building Permits.***

In Special Exception hearing on January 17, 2018 before Judge Beverungen, Page 55 of Mr. Ghimire testimony:

Appendix 1: In March of 2017, when property purchased, copper pipes were gone, there was no water, and the water piping had not been installed as of Special Exception hearing.

In conversation with Permits Department where Dewey Clark and Carol Shaw were told no permits had been issued for that address since acquired by the Petitioner in the last eighteen (18) months.

Appendix 2: County has not issued any construction related permits including plumbing to 12231 Harford Road in the last eighteen (18) months per affidavits attached.

Printed Permits Report July 16 2018.

Functioning electric without permit in video taken from Facebook for an event held on June 24, 2018:

Appendix 3: ***Video (DSC 5006 - 8:50-8:58)*** there is functioning electric in this changed building use. Yet the County per Affidavit in Appendix b above states no permit was issued by the County to approve any electric for this changed use.

NOTE: USB Drive contains Appendix #3, 20 and 22.

Appendix 4: Photograph of signage, which installed on May 15, 2018 without any permit per Affidavit 2 above.

Appendix 5: Statement of Dr. Karki posted on Next Door, acknowledging, well, sewage, road access and sign need to be done, and that their organization are "following the order of the court, playing by the book. We have respect for the rules of the County and the Country and are going to abide by them."

Ghimire Invitation to Feb 25 Open House; attached comments from Karki.

Issue B: ***Public Safety.***

The road at 12231 Harford Road is noted as a safety concern due to the present police reports, because of the curves and slope.

Appendix 6: ***Police accident reports from Hartley Mill to Mt. Vista in the last three (3) years.***

Appendix 7: Pictures of the most recent accident in June 2018.

Appendix 8: Aerial map of Harford Road from Hartley Mill Road to Mount Vista Road showing the sharp curves.

Issue C: ***Improvements without application to and approval from Fire Marshal.***

Fire Marshal, nor his representative, has not been present to see if proper fire codes have been met for this changed use, including any fire rated doors and construction, and emergency and exit interior signage and lighting.

Appendix 9: Affidavit of Dewey Clark and Carol Shaw in conversation with the Baltimore County Fire Department, where they were told there was no contact with the Fire Marshall.

Issue D: ***Events held without required approvals or permits.***

No gathering permit was sought nor granted for previous events over two hundred (200) persons.

Appendix 10: Affidavit of Dewey Clark and Carol Shaw in conversation with the Permits and Licenses Dept.

The State Highway Administration will not approve the entrance as it is.

Appendix 11: E-mail from Richard Zeller, Regional Engineer for District 4 of the State Highway Administration to Dewey Clark dated July 5, 2018 stating that the SHA has not approved the existing entrance for this use, and this site should not be operating at all.

Events in spite of Cease and Desist order.

Appendix 12: Compliance order dated 7-30-2017 from Code Enforcement of Baltimore County for operating a church or building for religious worship, and holding public entertainment or gathering without obtaining a gathering permit. Warning Order – 11/15/17.

Appendix 13: Dr. Karki noted that their New Year Celebration would be moved to Mount Everest Restaurant on Bel Air Road.

Appendix 14: Affidavit from Dewey Clark, Tom and Carol of conversation with Arnold Jablon, Head of Code Enforcement that the Cease and Desist order "vacates" the special exception granted with conditions to be met.

Appendix 14A: A. Jablon's subsequent Order reversed his decision and affirmed that the conditions imposed by the ALJ were binding.

Appendix 15: Publicity from Facebook for Event held on July 4 2018.

Appendix 16: Meeting the Neighbors Event on February 25, 2018 at 3:00 p.m. invitation posted on Next Door February 18, 2018.

Appendix 17: Photo of crowd at the Meet the Neighbors event which had over 200 in attendance.

Appendix 18: Invitation posted by Mr. Kris Ghimire to see the Bonaparte mansion lit up in red, white and blue at 8:30 p.m. on July 4, 2018.

Appendix 19: Shayam Karki and others announcing multistate event for fundraising posted on Facebook June 8, 2018.

Various postings including from Nepal!!!

Appendix 20: Video showing event for a religious ceremony at and in the mansion, with over 200 in attendance. (See USB Drive, App. 3).

Appendix 21: Dr. Karki announcing the multistate multiday event for July 28-August 3, 2018 for fundraising posted on June 8, 2018.

Appendix 19.

Appendix 22: Prayer gathering partially videoed (need date). (See CD, App. #3).

Issue E: ***Events held without new well and septic systems installed.***

1. No record of proper handling of human waste.
2. No record of potable water.
3. No approval of water quality by Health Dept. for the public.
4. No record of indoor plumbing.

Mr. John Motsco, a project engineer with Little & Associates, representing the Petitioner, stated that there is no record of where the septic system is, and they do not know where it is, and that it must be replaced.

Appendix 23: ***ALJ Testimony of Mr. Motsco pages 36 and 37.***

Appendix 24: Affidavit of Protestants for no spot a pots present at the event to meet the neighbors on February 25, 2018, where 200 people were in attendance.

Affidavits no sanitation facility.

Appendix 25: Affidavit of Joanne Foxworthy observing a workman relieving himself on the property while the sign was being installed at the entrance.

Appendix 26: Testimony of Mr. Ghimire and Motsco that no plumbing, no well and no septic are on site.

Appendix 27: *Affidavit of Dewey Clark and Carol Shaw in conversation with DEPS* that no well and no septic have been dug.

No record of water being tested for the safe consumption by the public

Appendix 28: No certification or report of water quality tested for safe consumption.

Appendix 29: No permits pulled since that time by Dewey Clark and Carol Shaw.

Affidavits Dewey Carol and July 16, 2018 permit report.

ISSUE F: ***Exposure to asbestos.***

At the meet and greet held on February 25, 2018, asbestos was noted in the area of the boiler with no warning given to attendees.

Appendix 30: ***Affidavit of Dave Poehler.***

Appendix 31: ***Affidavit of David Hartman.***

Appendix 31A: ***Affidavit Ellen Hubbard.***

Issue G: Events held without consideration of noise to neighbors.

Amplified singing and speaking during events.

Appendix 32: ***Mr. Ghimire's testimony at ALJ, page 54*** and ALJ decision, page 4, item 7.

Appendix 33: ***Affidavits Joanne, David and Bernadette Poehler.***

Issue H: **Failure to satisfy RTA Requirements**

Appendix 34: ***Mr. Ghimire's ALJ Testimony, Page 46, "not having anybody in or near proximity."***

Appendix 35: ***Map showing proximity of houses across Harford Road within six hundred feet (600').***

III.

FAILED TO MEET THE ALJ'S REQUIREMENTS TO USE THE PROPERTY

The NACCB, Inc. has failed to comply with the requirements specified in the ALJ Decision by Judge Beverungen on January 19, 2018 for any use of the property located at 12231 Harford Road, Glen Arm, Maryland 20157. They failed to comply with six (6) of the seven (7) conditions of the Special Exception granted by Judge Beverungen in his Decision of the ALJ Hearing Case No.: 2018-0122-X on January 22, 2018.

Specifically, the NACCB, Inc.:

- Failed to apply for necessary permits and licenses to operate the property as specified in Condition 1 in the ALJ decision.
- Failed to install a sign in COMPLIANCE with Baltimore County Zoning regulations and the SHA signage requirements as specified in Condition 3 in the ALJ decision.

- Failed to demonstrate to the Baltimore County Department of Environmental Protection and Sustainability that they proposed a well and septic system sufficient to serve the property as specified in Condition 4 in the ALJ decision.
- Failed to comply with ZAC and DEPS comments as specified in Condition 5 in the ALJ decision.
- Failed to obtain an SHA Highway Access Permit authorizing ingress and egress from the site via Harford Road as specified by Condition 6 in the ALJ decision.
- Failed to comply with the requirement of Condition 7 of the ALJ decision which prohibits the use of outdoor amplification of music or sound.

IV.
CONCLUSION

For all of the above reasons based upon protecting the safety, health and welfare of the neighboring community ***and that of the visiting members of the Applicant***, the Hearing should be postponed and continued until all health and safety requirements are satisfied.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
J. CARROLL HOLZER, P.A.
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
jcholzer38@gmail.com
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of July, 2018, a copy of the foregoing Protestants Preliminary Motion was hand-delivered to the following:

Timothy M. Kotroco, Esquire
305 Washington Avenue
Suite 502
Towson, Maryland 21204

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, Maryland 21204

J. CARROLL HOLZER, Esquire

C:\My Docs\Motions 2018\Clark – Nepali – Prot Mot - 7/18/18

Appendix 1

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Dewey Clark

I, Dewey Clark do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On June 22, 2018 I observed the following:

   Carol Shaw and I visited the Baltimore County Inspection Department located at 111 West Chesapeake Avenue, Towson, MD 21204.

   The purpose of this visit was to determine the status of permits issued to NACCB, Inc. for the property located at 12231 Harford Road, Glen Arm, MD--specifically, electrical permits, since we had just obtained photos of the exterior and interior lighting of the above property.

   We spoke with Mr. Edward Riesner, Chief Inspector, Electrical and Mr. Matt Gawel, Acting Chief, Building Inspections. Upon reviewing the record of permits issued to the property in the last 18 months, both Mr. Riesner and Mr. Gawel confirmed that no permits had been issued for the property located at 12231 Harford Road, Glen Arm, MD.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Dewey Clark 7/17/2018

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRIC	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Carol N. Shaw

I, Carol N. Shaw do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On June 22, 2018, I observed the following:

   Dewey Clark and I met with Matt Gawel, Acting Chief Building Inspector for Baltimore County Department of Permits, Applications and Inspections and Ed Riesner, Electrical Inspections Supervisor for Baltimore County Department of Permits, Applications and Inspections to check whether any permits had been issued to the Nepali American Cultural Center for 12231 Harford Road, Glen Arm, MD 21057.

   Mr. Riesner said that there had not been any electrical permits issued. Mr. Gawel, the Building Inspector had pulled up the address of 12231 Harford Road on his PC to show any permits issued. In response to my question of "So there have been no permits issued?", he replied "Not in the past 18 months" to which I replied "They haven't even owned it that long".

I HEREBY SWEAR AN AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Carol N. Shaw 7/12/18

MR. KOTROCO: Well, let me clear one thing up. You haven't had any religious services whatsoever at this property, is that right?

MR. GIMORY: None.

MR. KOTROCO: Nothing?

MR. GIMORY: No.

MR. KOTROCO: The buildings not even occupiable at this point? It was freezing cold the other day when I was in there. You don't have heat?

MR. GIMORY: No.

MR. KOTROCO: Because you don't have water?

MR. GIMORY: No water.

MR. KOTROCO: And, and it's a hot water boiler system. So, if you don't have water you don't have heat?

MR. GIMORY: That's correct.

MR. KOTROCO: The water hasn't been connected up yet?

MR. GIMORY: No.

MR. KOTROCO: When you bought the property the neighbors or vandals or somebody went in and they cut all the copper pipes out and stole them all?

MR. GIMORY: (Inaudible)--

MR. KOTROCO: So, you don't have any water?

MR. GIMORY: Yeah. It was in bad shape. Yes.

MR. KOTROCO: In bad shape. I'm going to get to

MR. MOTSCO: No.

MR. CLARK: So, they are currently operating a house of worship without the benefit of, of proper permission?

MR. KOTROCO: Objection Your Honor. He's assuming facts not in evidence. As a matter of fact, there's no heat, no water, nobody using that building at this time.

MR. CLARK: Your Honor, he testified that he saw the, he saw the house of worship.

MR. KOTROCO: The area, what's going to be the area that they worship--

JUDGE BEVERUNGEN: Hold on a second. I, I, people aren't going to be yelling back and forth.

MR. CLARK: Right.

JUDGE BEVERUNGEN: We're not going to do that. The witness said, he observed an open two story space that would be used for worship I thought is, is what he said. You now want to ask him if worship is taking place?

MR. CLARK: No. He, I, if it is zoned for worship? If it is currently zoned for worship?

JUDGE BEVERUNGEN: Well, we know that it's because we're here today (inaudible)--

MR. CLARK: That's right. That's, that's my point Your Honor.

JUDGE BEVERUNGEN: (Inaudible)--

MR. CLARK: Yes sir. Yes sir.

JUDGE BEVERUNGEN: Okay.

MR. CLARK: Now, you, you were in the building, right?

MR. MOTSCO: Yes sir.

MR. CLARK: You, you examined the building head to toe?

MR. MOTSCO: I examined the majority of the rooms (inaudible)--

MR. CLARK: Okay. Do they have adequate toilet facilities for 150 people?

MR. MOTSCO: I do not know. That was not (inaudible)--

MR. CLARK: You do not know that? Okay. Fine.

UNIDENTIFIED SPEAKER: He wouldn't be able to to know that.

MR. CLARK: When you visited the property, and on your site plan I don't see the location of the septic system. Do you know where the septic system is?

MR. MOTSCO: It will be--

MR. CLARK: No. Do you know where the septic system is now?

MR. MOTSCO: No.

MR. CLARK: No. For all we know the, the prop.- now, I do know, behind the house Your Honor is a wetland. So, I know the septic systems not back there. For all we

know, the proposed parking is right over the septic system, okay.

JUDGE BEVERUNGEN: Is that a question?

MR. CLARK: That's a statement, you know.

JUDGE BEVERUNGEN: Okay. Well, you need to just ask him a question.

MR. CLARK: Okay. What, is it possible-- thank you Your Honor. Is it possible that that parking spaces are over the existing septic system?

MR. MOTSCO: There--

MR. CLARK: Is it possible?

MR. MOTSCO: There's no record of where the septic--

MR. CLARK: Is it possible?

MR. MOTSCO: Can I finish the statement?

JUDGE BEVERUNGEN: Yeah. Go ahead.

MR. MOTSCO: There's no record of the septic system. And if this Special Exception is granted the Petitioners intend to replace the septic system with a current system and to install a new (inaudible).

MR. CLARK: So, why is that not on the, on the site plan?

MR. MOTSCO: Because that work has not been initiated (inaudible).

MR. CLARK: So, so, in fact, there are other plans

for this site other than the parking lot?

MR. MOTSCO: There's a replacement of a well and septic.

MR. CLARK: There are other, there are other plans for development other than this parking lot?

MR. MOTSCO: Replacing the well and septic for an existing structure (inaudible).

MR. CLARK: Okay. Another question. You testified that there are, there are no ecological or habitat disturbance. Are you qualified to answer that question? Do you have a degree in Forestry?

MR. MOTSCO: I'm qualified to observe (inaudible). (Inaudible) is the area that will be disturbed.

MR. CLARK: Do you, do you, do you, no, but you testified that the, the forest and the other areas will not, will not be impacted. Do you have a degree in Forestry?

MR. MOTSCO: I can (inaudible) the limits of the disturbance (inaudible).

MR. CLARK: That is not what you testified to.

MR. MOTSCO: (Inaudible)--

MR. CLARK: That is not what you testified to.

MR. MOTSCO: We have no proposed impacts (inaudible)--

MR. CLARK: That is not what you testified to. You testified that there was no impact to the forest. Do you

Appendix 2

TIME: 11:20:04 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 03/13/2018
DATE: 07/16/2018 GENERAL PERMIT APPLICATION DATA TG 16:03:13

PERMIT #: B945288 PROPERTY ADDRESS
RECEIPT #: A773220 12231 HARFORD RD
CONTROL #: C-F SUBDIV: 650FT N HUTCHENREUTER RD
XREF #: B945288 TAX ACCOUNT #: 1700006067 DISTRICT/PRECINCT 11 01

OWNERS INFORMATION (LAST, FIRST)

FEE: 75.00 NAME: NEPALI AMERICAN CULTURAL
PAID: 75.00 ADDR: 12231 HARFORD ROAD,GLEN ARM MD 21057
PAID BY: APPL

DATES

APPLIED: 03/13/2018
ISSUED: 03/13/2018
OCCPNCY:
FINAL INSPECT:
INSPECTOR: 11C

APPLICANT INFORMATION

NAME: RAJAN DHAKAL
COMPANY: NEPALI AMERICAN CULTURAL
ADDR1: 12231 HARFORD ROAD
ADDR2: GLEN ARM MD 21057
PHONE #: LICENSE #:

NOTES: TG

PASSWORD :

ENTER - PERMIT DETAIL PF3 - INSPECTIONS PF7 - DELETE PF9 - SAVE
PF2 - APPROVALS PF4 - ISSUE PERMIT PF8 - NEXT PERMIT PF10 - INQRY

PANEL BP1004M

TIME: 11:22:16 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 03/13/2018
DATE: 07/16/2018 BUILDING DETAIL 1 TG 14:46:47

DRC#

PERMIT # B945288 PLANS: CONST 00 PLOT 0 PLAT 0 DATA 0 EL 2 PL 2

TENANT

BUILDING CODE: CONTR:
IMPRV ENGNR:
USE SELLR:

FOUNDATION BASE WORK: INSTALL 18LF OF 6' HIGH ALUMINUM GATE ON FRONT PROPERTY OF EX CHURCH PER PLANS.

CONSTRUC FUEL SEWAGE WATER

CENTRAL AIR
ESTIMATED COST

PROPOSED USE: CHURCH AND FENCE GATE
OWNERSHIP: EXISTING USE: CHURCH
RESIDENTIAL CAT:
#EFF: #1BED: #2BED: #3BED: TOT BED: TOT APTS:
1 FAMILY BEDROOMS: PASSWORD:

ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE
PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU

Appendix 3

See Attached USB Drive

Tangible Item

USB Drive
Case No. 18-122-X
Appendices 3, 20, 22

Appendix 4

4

Search Nextdoor

Home
Long Green Valley
Map

Neighborhood
Recommendations
For Sale & Free
Events
Real Estate
Crime & Safety
Lost & Found
Documents
General

Interests
All Interests Hot

Directories
Neighbors
Pets
Public Agencies

Groups
Browse all 5 groups

Help Guidelines Privacy About Jobs Press Blog

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Post in General

William Smith, Long Green Valley · 4

Bonaparte Property

The last correspondance on the Bonaparte Property that I received was on 4/23 which pertained to the postponement of the Board of Appeals hearing that was scheduled for 4/26. Some time last week a large wedge shape Hindu Buddha Temple, Nepali American Cultural Center sign was erected at the entrance of the property (17231 Harford Rd , Glen Arm) There is also a new metal chained gate and a wooden fence under construction

Can Dewey Clark or one of the Gunpower Falls Watershed Preservation Association officers update us on the status of the hearing,keeping us informed?

3d ago · Long Green Valley in General

Thank · Reply · 5 · 9

Morgan Miner, Long Green Valley · 5d ago
William, we are currently waiting for updates on what the new scheduled dates will be. We'll let everyone know when we have that information to share.
As far as the sign or gate, I don't have any information in regards to that.
4 Thanks

John Kirkner, Long Green Valley · 4d ago
We are having a graduation party for my son's girlfriend his weekend at our house in Hydes. She has a Nepali background and is a graduate of Towson High and University of Baltimore and I consider her my daughter. I'm still waiting for anyone who dislikes this group to show me they fought Redeemer on the expansion. America is great because it's a melting pot. There's children getting murdered in schools, officers being killed in the line of duty, pick a fight worth fighting and let a peaceful community who has always been a friend to the US resurrect a property that had fallen into disrepair by a coke head embezzler.
17 Thanks

Richard Liddick, Long Green Valley · 4d ago
How about you get over it and get a life
3 Thanks

Richard Liddick, Long Green Valley · 4d ago
Some people can't live and let live. My post was reported. So much for freedom of speech. Nextdoor Nazi.
3 Thanks

Kathy Mchenry, Long Green Valley · Edited 4d ago
I wish that you people could stop focusing on this property in a negative way and focus on what's important in life. We have children bringing guns to school, police officers being shot and children being bullied and all you care about is someone trying to fix up a run down property and make it useful again.
6 Thanks

Pete Thomas, Silvergate-Pinedale Woods · 4d ago
1 Thank

Bruce Morgan, Kingsville · 4d ago
Kathy,
If you had heard the stories from the negatively impacted neighbors you wouldn't be asking that question. Also we shouldn't be ignoring one problem simply because there are other problems to address as well.

The posting of the sign at the entrance is yet another miscalculation on the part of the buyers / organizers of this group. They still fail to recognize that the neighbors have legitimate concerns that have yet to be weighed in a legal forum. The erection of the sign is just instigating further concern and is simply another "poke at the bees nest".
What folks seem to continue to misunderstand about the situation is that residents who live adjacent to the property all settled there with the Bonaparte property being single family, agriculturally zoned. The exception creates a publicly accessed "cultural center" with all the associated issues of traffic, noise, stress on water tables, sewage handling etc. These are legitimate concerns that the neighbors want satisfactory addressed.
5 Thanks

Mike Habersack, Long Green Valley · 4d ago
Does the sign of this size and nature require a permit?
1 Thank

Myrna Evans, Kingsville · 4d ago
Regarding the sign and the door at what was known formerly as the Bonaparte Property, the sign was posted and the iron door was installed after obtaining permits. Let me remind that the decision after the Hearing was in favor of approving exception to start a place of worship after
a. A well is dug to take care of water needs
b. Sewage disposal is taken care of properly
c. Access to road is obtained from State Highway department.
d. Opening times were specified

So we are following the decision of the Hearing Court and have posted the sign and installed the door after obtaining the permits. We have started work on renovation of the building. We are finalizing the contract with the Engineering firms for the well and sewage. We have approached the State Highway Department for access to the road. In other words, we are following the order of the court, we are playing by the book. We have respect for the rules and regulation of the county and the country and we are going to abide by them.
In the mean time, we had invited our neighbors, given them a tour and told them our plans. We are very open to any legitimate concerns of our neighbors and ready to accommodate them.
But we are not going to drop our plans just because some of the neighbors don't live us and don't want us to use the place as our place of worship on flimsy reasons. We are very aware of how many new houses were built and how many expansions of other religious institutions were made in the last three years within a mile of our property. Right now, there are lots for new buildings for sale. Won't the people who live in those houses use water and roads? Won't the expanded church facility mean more cars and more use of water? We just want the same standards to be used for us as were used in other cases. This is fairness and to demand it is our right and we aren't going to walk away from this no matter how much pro vocations are made and how many challenges we have to go through. This is what our team of attorneys has told us and being lawful, peaceful citizens, we will take their advice. We strongly believe that it is our constitutional right to demand the same treatment as accorded to others and if needed, we will fight for our right to be treated equally and fairly, and every legal means to achieve it.
11 Thanks

4 Minutes

① acknowledgment of well, sewage, road acc Sign -
② states ~~going~~ playing by the book
(but no permits issued acc. to County.

6 Thanks

Kate Thomas, Silvergate-Pinedale Woods · 4d ago

□□□□□□

1 Thank

Bruce Morgan, Kingsville · 4d ago

Kathy,
If you had heard the stories from the negatively impacted neighbors you wouldn't be asking that question. Also we shouldn't be ignoring one problem simply because there are other problems to address as well.

The posting of the sign at the entrance is yet another miscalculation on the part of the buyers / organizers of this group. They still fail to recognize that the neighbors have legitimate concerns that have yet to be weighed in a legal forum. The erection of the sign is just instigating further concern and is simply another "poke at the bees nest".
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5 Thanks

Mike Habersack, Long Green Valley · 4d ago

Does the sign of this size and nature require
a permit?

1 Thank

Shyam Karki, Kingsville · 4d ago

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a. A well is dug to take care of water needs.
b. Sewage disposal is taken care of properly
c. Access to road is obtained from State Highway department.
d. Opening times were specified

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In the mean time, we had invited our neighbors, given them a tour and told them our plans. We are very open to any legitimate concerns of our neighbors and ready to accommodate them.
But we are not going to drop our plans just because some of the neighbors don't like us and don't want us to use the place as our place of worship on flimsy reasons. We are very aware of how many new houses were built and how many expansions of other religious institutions were made in the last three years within a mile of our property. Right now, there are lots for new buildings for sale. Won't the people who live in those houses use water and roads? Won't the expanded church facility mean more cars and more use of water? We just want the same standards to be used for us as were used in other cases. This is fairness and to demand it is our right and we aren't going to walk away from this no matter how much provocations are made and how many challenges we have to go through. This is what our team of attorneys has told us and being lawful, peaceful citizens, we will take their advice. We strongly believe that it is our constitutional right to demand the same treatment as accorded to others and if needed, we will fight for our right to be treated equally and fairly, and every legal means to achieve it.

11 Thanks

Add a reply...

Appendix 5

Invitation to the Bonaparte Mansion Open House

Dear neighbors and friends,

We have not had an opportunity to meet all of you in person. We are your new neighbors. We met some of you at our property last year. The Greater Kingsville Civic Association helped us with two of these meetings last fall. This is the only civic organization we knew in the area at that time. We also came to find out about the Gunpowder Falls Watershed Preservation Association led by Mr. Dewey Clark at the hearing. We have then spoken with Mr. Clark a few times via e-mail and phone calls. We were also scheduled to meet with Mr. Clark on Feb 21st at our property but later received an email from Mr. Clark cancelling the meeting with no reason provided.

We think it is only appropriate to speak with our neighbors directly as some of the misinformation about of our temple, Nepali American Cultural Center (NACC) and our future plans are spreading on social media and other community forums. We have been respectful of people's comments and opinions however some of the comments here are very disheartening and not factual. We have always welcomed an opportunity to discuss some of the concerns raised in this discussion forum and we like to do more so, preferably in person to person. Some of you, we have not met have reached out to us with your love and support, we can't thank you enough. It means the world to us, specially knowing that we're welcome in your neighborhood. We will be a great neighbor and will preserve and protect the area as you would.

The vast majority of our members live only 5 to 10 miles away, right here in Perry Hall. Some of our children go to the same schools and many of us in the area know each other either through a church,

Originals to Board
+ 6 Copies

local businesses or from workplaces, so we are not strangers. Our temple will be open not only to Hindus and Buddhists but also to people from all faiths or even to people with no religious affiliations to join us in some of our community activities like meditation and yoga. Once we get a chance to speak with you and share our future plans for this site, we are quite sure, you will appreciate our plans for what once a vacant/abandoned mansion soon to become a place of worship.

Knowing this home with a historic importance to our nation, former residence of the US Attorney General and Secretary of the Navy, will be used for a religious purpose instead of other possible commercial usages or even potential developments, the neighbors, we hope, will take comfort in it.

We would like to invite you to our "Meeting the Neighbors" event on **Sunday, February 25th, at 3pm, right at our property (12231 Harford Road).** We have done quite a bit of cleaning up and maintenance of the property and would love to give you a tour. Please come and visit us next Sunday. We look forward to your love and support in the coming days.

Thank you,

Kris Ghimire, On Behalf of Nepali American Cultural Center (NACC)

Note: For more information on us and our project, I have enclosed our previous postings on Next door Kingsville by our board member Dr. Shyam Karki

STATEMENT FROM DR. SHYAM KARKI

Dear Friends,

I am Dr. Shyam Karki, an active member of the Nepali American Cultural Center (NACC) that has purchased the Bonaparte property and intends to initiate a Hindu Buddha Temple. I have lived in the USA for more than forty years. I currently live in the Longfield Estates neighborhood in Kinville. I have lived in Kingsville since 2004. My daughter lives in nearby Belair. The primary attraction of where we live is that it's a rural community with promise of little or no further development. We enjoy it because of its tranquil nature. I enjoy seeing deer and geese from my deck. I have great fun taking my grandson to the pond to feed the geese. It's like a nature resort, away from the noise and crowd of the city.

Bonaparte property is located within 5 miles of my house and I may be the Nepali living nearest to it. I will also be very much concerned about what is happening to the property. None of us wanted to see this beautiful mansion torn down and a developer rezoning the property to allow many houses to be built in its place. We believe the neighborhood is better served by keeping the property the way it always has been.

At the same time, let us remember what the condition of the property was before we purchased it. It was an abandoned property needing major repairs. The bank had taken it back and it was being auctioned off. Since it was in a very private location, it was used by the local youth to have wild parties with plenty of alcohol and drugs. We experienced this as the building was vandalized repeatedly and some of our property was stolen. Local residents routinely rode motorcycles and ATV's on the property, broke out most of the windows of the mansion, cut out and stole the copper water pipes, painted graffiti and racist words on the interior walls and generally ransacked the property. We had to warn strangers coming onto the property in pick-up trucks that we were the new owners and that we did not want any intruders coming on our property and that we would take action to prosecute them.

We installed locks at the gates and motion detector cameras around the building. We started renovating the building, which is almost now complete. Work is already under way for installing a new sewage system and a new well for drinking water. We have also hired a traffic consultant to study the traffic patterns so that safety for our visitors and neighbors would not be compromised. Our goal is to change this property from a community blight to a community showpiece that everyone can be proud of. We have started doing this and won't rest until we accomplish our goal.

One thing we know for sure is this. The Bonaparte Mansion and its 30 acres are way too much house and property for any single family to take care of. The cost to heat it in these winter months and to cool it in the summer months is too expensive for any one family. The cost of upkeep to the property and grounds is overwhelming for one family. Many of us have been working for many months and we still have not made the property habitable. This beautiful Mansion and property was falling into ruin. No one seemed to care! It requires a group of families such as ours to take the property over and restore it to its former glory. We were the only ones willing to put up our own money to restore this property.

Second, it's natural to be curious about who are the people buying the property and what do they want to do with it.

We are Nepalis who have moved to this country and live in and around the northern suburbs of Baltimore. We live in Kingsville, Belair, Towson, Perry Hall, White Marsh and the Parkville areas. We are no different from any of your other neighbors; we are nurses, doctors, teachers, engineers, army soldiers, police men, government employees, small business owners and employees working for others. We go to the same stores, malls, schools, restaurant places and gyms. We want better schools, safer roads, and all the things everyone else wants. Our children go to local schools, colleges and universities. They play sports in their schools and colleges. They are friends with your children and have adapted very well to this country. In other words, we are not different at all from the families next door. We are your neighbors.

Lastly, what do we want to do at the property?

We are mostly from Nepal. Nepal is a unique country where two major religions (Hinduism and Buddhism) have coexisted for centuries. You will find Hindu and Buddhist temples side by side and followers of both faiths go to each of these places to worship the same deities. There are different temples dedicated to different gods at different places. People also go to the temples during certain festivals. Nepali American (we like to call our community) is a new

communit / and we don't have our [1]own place of worship. We have realized that it's time for us to have our own place of worship v here we can celebrate our religious festivals and pass our cultura[2]l heritage to our children. It's happening in many ma jor cities in the US, (New York, Boston, Dallas, Los Angeles, Raleigh etc.) where there is a large Nepali American community. It's very similar to the movement seen by the such Korean and Chinese communities and other immigrant communities who have built their places of worship in Baltimore County.

Now it's important to note some major differences between Nepali temples and churches. Churches have their own parishioners and all of them go to the same church at the very same time. Christian Churches also have a leader or lecturer such as a priest or a pastor who will deliver a message during services. Nepalis do not have a priest or lecturer. Nepalis go to temple on major religious festivals at different times so that there is not a large gathering of people at any one time.

Churches have their parishioners and they go to the same church every Sunday. Nepalis don't have their own temple. We go to different temples for different festivals at different times. So, based on our experience in other Hindu temples (Indian temples), there will be less than 20 people coming to the temple on weekdays and less than 100 people coming on weekends. There are seven major religious festivals each year when 300-500 people may come to the temple, but they will visit at different times during the festival so that the number of people will not pose a problem. They will arrive at different times in the morning, daytime and evening. There is no set time as such.

We are familiar with Christian services as most of us have at least one member of our family who is married to a Christian and we have celebrated Christian religious holidays with them. We are very familiar with the church operations. Thus, park ing and traffic are not major issues with our Temples as compared to what we see with Christian churches. The oper: tions are very different from one another.

The mor ent we saw the Bonaparte property, we were mesmerized by it. The hills and the serpentine roads remind us of our homeland back in Kathmandu. Kathmandu is a valley surrounded by the hills and most of the temples are in the hills. The Bonaparte property is a very large property (30 acres). It is peaceful, away from the crowd and noise. Furthermore, it commands a wonderful view of the surrounding area just like the famous Swyambhu Hills of Kathmandu where temples are typically found. It is hard for us to believe that people would allow this house and property to fall into ruin.

We just fell in love with this place and we plan to use it as a place of worship and a place where we can teach our children about our religious heritage. We will provide language classes where people from our area of the world can learn to speak English. We will like to collaborate with the other religious organizations in the area, mobilize our resources to improve the quality of life in the community. We will like to work with them for organizing free meal programs during the Thanksgiving and Christmas Holidays and to provide for families who are not as fortunate as ours. We will welcome all of our neighbors who would like to learn more about us.

All summer we have worked very hard in bringing the grounds to shape, renovating the building and trying to bring this place to its old glory. We fully realize that it will take us years to accomplish our goal as we are limited by financial resources. However, we are very encouraged by the support we have received from Nepalis far away in different cities and other countries.

We want to work closely with our neighbors and have met with the neighborhood associations multiple times. We have welcomed our neighbors into our programs that we have organized in showing off the property to our community members. We want to work with them so that all of us will be happy. We have every intention of fulfilling all of the requirem :nts of Baltimore County. We have retained the services of an attorney, an engineer, a traffic expert and a water and sew : company to ensure that we have covered all aspects of our use and to comply with all County requirements. We are confident that we will be a very good neighbor to all and pledge to take care of this property and keep it properly maintained and to make this a place of community pride.

1

2

Appendix 6

TABLE 1

TRAFFIC CRASHES
REPORTED TO THE BALTIMORE COUNTY POLICE DEPARTMENT
ON HARFORD ROAD BETWEEN HARTLEY MILL AND GLEN ARM ROADS

JANUARY 1, 2016 => APRIL 1, 2018

Situation Found Code	Literal Definition	Year			Total
		2016	2017	2018ytd	
C1	Auto Accident - Property Damage	10	18	5	**33**
C2	Auto Accident - Personal Injury	1	3	1	**5**
C7	Hit & Run Accident - Property Damage		2	1	**3**
Total		**11**	**23**	**7**	**41**

Source: Calls for Service Module of the InPursuit Records Management System

TABLE 2

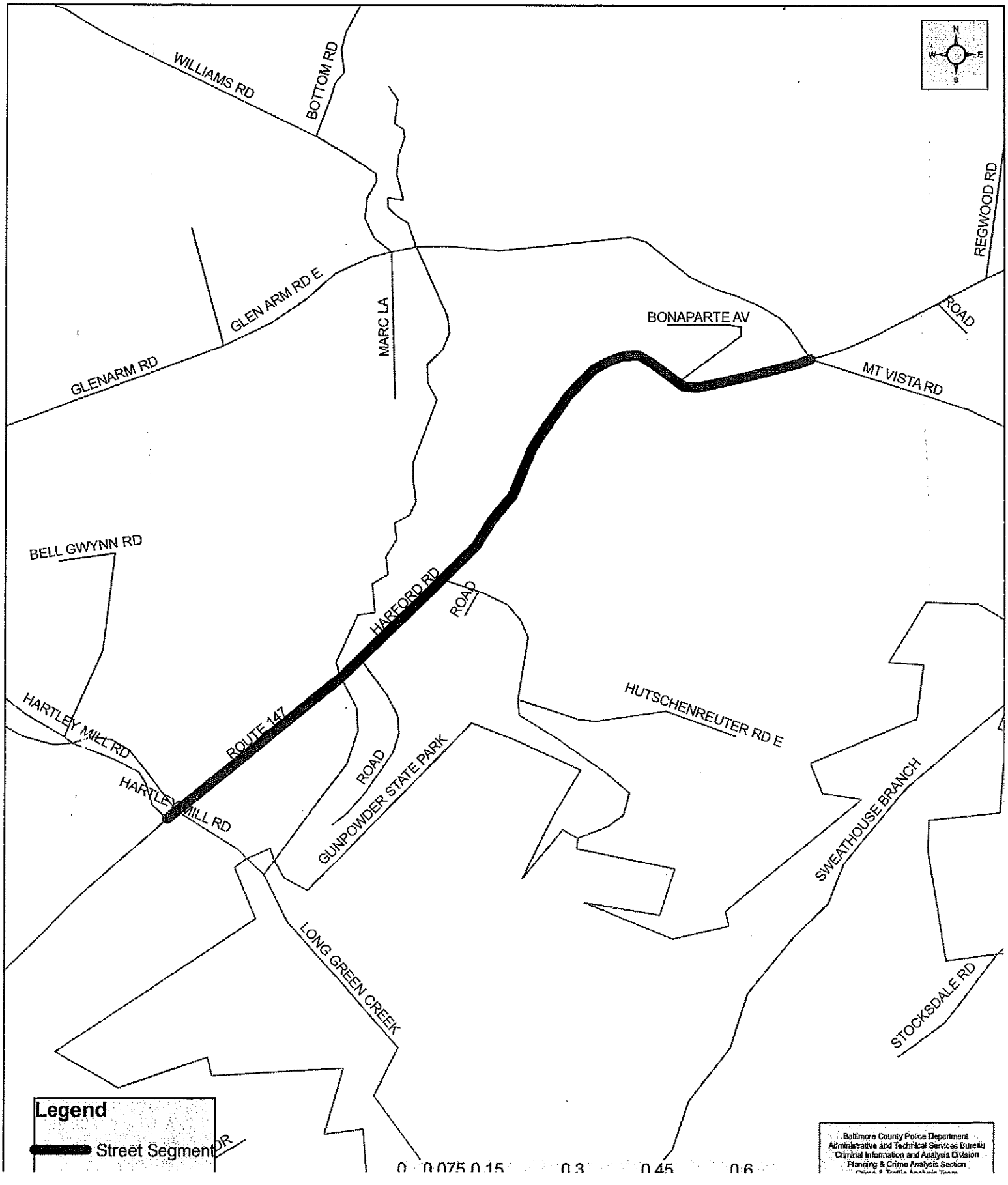
CALLS FOR SERVICE REPORTED TO THE BALTIMORE COUNTY POLICE DEPARTMENT GENERATED FROM OR DIRECTED TO 7927 BELAIR ROAD BY YEAR JANUARY 1, 2016 => APRIL 1, 2018

SF CODE	LITERAL DEFINITION	2016	2017	2018*	TOTAL
INVESTIGATIVE		**7**	**10**	**2**	**19**
A11	*Destruction Of Property*		1		1
A12	*Disturbance*	3	3	2	8
A37	*Suspicious Subject*	1	1		2
A40	*Unknown Trouble*		1		1
A44	*Overdose*		3		3
A53	*Narcotics, Officer Initiated*	1			1
A58	*Alarm, Cancel En Route*	1			1
AB1	*Alarm Business-Accidental*		1		1
AB2	*Alarm Business-Faulty*	1			1
DOMESTIC		**4**	**1**	**0**	**5**
B03	*Child Abuse*		1		1
B07	*Juvenile Complaint*	1			1
B20	*Protective Order Service*	3			3
ACCIDENT		**5**	**7**	**3**	**15**
C01	*Auto Accident - Property Damage*	3	6	2	11
C07	*Hit & Run Accident - Property Damage*	2	1	1	4
CRIME SCENE PROCESSING		**2**	**1**	**0**	**3**
CSP	*Crime Scene Processing*	2	1		3
TRAFFIC		**3**	**2**	**1**	**6**
D02	*Parking Complaint*			1	1
D03	*Suspicious Vehicle*	1	1		2
D04	*Stored Vehicle*	1			1
D08	*Traffic Complaint - Other*	1	1		2
ASSIST		**37**	**35**	**23**	**95**
E03	*Assistance Request*	7	3	1	11
E04	*Check On Subject*	4	6		10
E05	*Check On Location*	26	26	22	74
MISCELLANEOUS		**5**	**13**	**1**	**19**
F07	*Found Property*		1		1
F08	*Lost Or Stolen Property*	1	2		3
F11	*Warrant/Summons Service*	1			1
F13	*Traffic Stops*		1		1
F16	*Duplicate Call*	3	3	1	7
F18	*Added Information*		1		1
F20	*Sick or Injured Subject*		5		5
SEXUAL RELATED		**0**	**1**	**0**	**1**
G01	*Indecent Exposure*		1		1
THEFT		**4**	**10**	**4**	**18**
H01	*Altered Money/ Counterfeiting*		2		2
H02	*Burglary - Attempt*		1		1
H07	*Failure To Pay*		1		1
H09	*Theft - Motor Vehicle*		1		1
H11	*Theft - Other*	2	1	2	5
H12	*Theft - From Motor Vehicle*		1	1	2
H14	*Theft - Shoplifting*	1	2		3
H32	*Burglary, 2nd Degree*	1	1	1	3
VIOLENCE		**1**	**0**	**1**	**2**
J01	Robbery, Armed	1			1
J04	*2nd Degree Assault (Not Domestic Abuse)*			1	1
BIAS INCIDENTS		**0**	**0**	**0**	**0**
	TOTAL	**68**	**80**	**35**	**183**

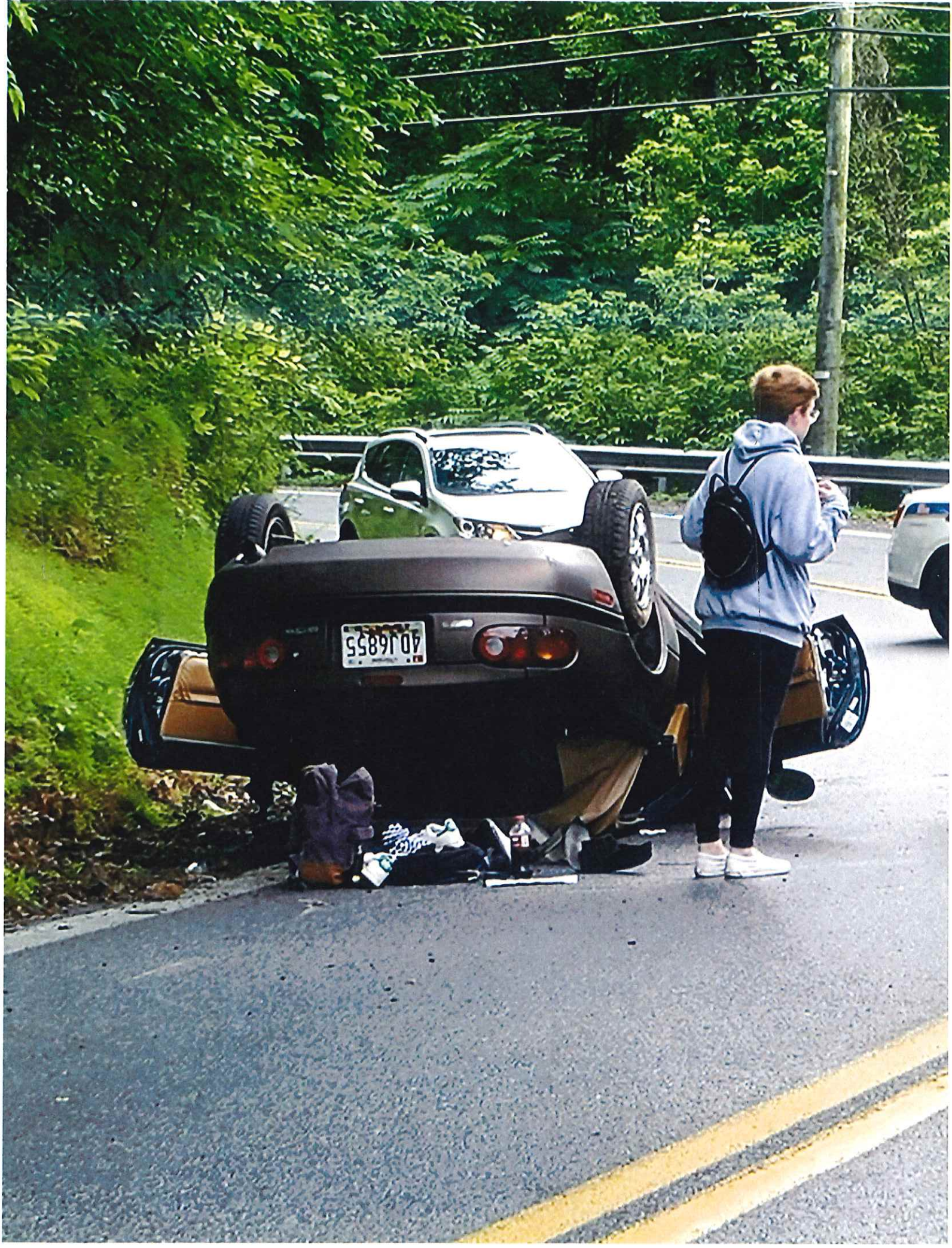
Source: Calls for Service Module of the InPursuit Records Management System

* 2018 data includes information provided from January 1, 2018 to April 1, 2018

SELECTED HARFORD ROAD BETWEEN HARTLEY MILL ROAD AND GLEN ARM ROAD



Appendix 7


40168S5

Appendix 8

Glen Arm Rd
Harley Mill Rd
Hillrise Ave
Glen Arm
Sharon Dr
Harford Rd
Hannibal Rd
147

Glen Arm Rd
Marc Ln
Harford/Mt. Vista (Round a
Bonaparte Tract Entrance
147
Bell Gunpowder Rd
Harford Rd
Hutschenreuter Rd
W Hutschenreuter Rd
Hartley Mill Rd
Hartley Mill

Appendix 9

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRIC	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * *

AFFIDAVIT OF Carol N. Shaw

I, Carol N. Shaw do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On June 22, 2018 , I observed the following:

   Dewey Clark and I met with Lieutenant Gretchen Yingling, Director of Recruitment for the Baltimore County Fire Department in the lobby of the Public Safety Building at 700 E. Joppa Road, Towson, MD 21204. We had asked to speak with a fire marshall and were under the impression that she was with the Fire Marshall's Office. At some point in the conversation, she said all of the fire marshalls were out of the building so she was asked to come down and speak with us. We took that to mean that she was a lieutenant in the Fire Marshall's Office.

   Since we were under the impression that we were talking to someone with the Fire Marshall's Office, we gave her our information regarding the public safety and fire hazard problems that exist at the house owned by the Nepali American Cultural Center at 12231 Harford Road, Glen Arm, 21057. We brought this up in connection with the very large festival/fundraiser that was advertised to be held at the Center the end of July 2018. She took notes and said she would follow up.

I HEREBY SWEAR AN AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Carol N. Shaw 7/12/18

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Dewey Clark

I, Dewey Clark do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On June 22, 2018 I observed the following:

   Carol Shaw and I met with Lt. Gretchen Yingling at the Public Safety Building at the Public Safety building located at 700 East Joppa Road in Towson, MD 21204. The purpose of our visit was to file a complaint with the Fire Marshall's Office about the use of the single-family residence located at 12231 Harford Road, Glen Arm, MD as a commercial venue without proper inspection and approval of the structure for life safety requirements by the Fire Marshall's Office.

   We filed our complaint in the lobby of the Public Safety Building with Lt. Gretchen Yingling. We understood (apparently mistakenly) that Lt. Yingling represented the Baltimore County Fire Marshall' Office. She took our complaint and told us she would forward it to the appropriate Fire Marshall, and that we would be contacted within several days.

   I was never contacted by anyone at the County Fire Marshall's Office about this matter.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Dewey Clark 7/17/2018

Appendix 10

10

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * *

AFFIDAVIT OF Dewey Clark

I, Dewey Clark do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On June 22, 2018 I observed the following:

I met with Philbert Christian and Ms. Donna Kilduff at the office of Baltimore County Health and Human Services, Department of Health, Environmental Health Services, located at 6401 York Road, Baltimore, MD 21212.

The purpose of the meeting was to discuss concerns about the use of the single-residence property located at 12231 Harford Road, Glen Arm, MD as a commercial venue for large groups, without adequate sanitary facilities.

Ms. Kilduff informed me that her office enforces sanitary requirements for the handling of food. She was surprised to learn and seemed dismayed as a professional by the evidence of large crowds at the above property, without any apparent means to handle human waste.

I asked Ms. Kilduff about the record of gathering permits issued for this property and she could recall none. I asked her and subsequently repeated my request in writing, for a record of all gathering permits issued to the owners of the property located at 12231 Harford Road, Glen Arm, MD.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Dewey Clark 7/17/2018

10

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETTTIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Dewey Clark

I, Dewey Clark do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On June 22, 2018 I observed the following:

Carol Shaw and I visited the Baltimore County Inspection Department located at 111 West Chesapeake Avenue, Towson, MD 21204.

The purpose of this visit was to determine the status of permits issued to NACCB, Inc. for the property located at 12231 Harford Road, Glen Arm, MD--specifically, electrical permits, since we had just obtained photos of the exterior and interior lighting of the above property.

We spoke with Mr. Edward Riesner, Chief Inspector, Electrical and Mr. Matt Gawel, Acting Chief, Building Inspections. Upon reviewing the record of permits issued to the property in the last 18 months, both Mr. Riesner and Mr. Gawel confirmed that no permits had been issued for the property located at 12231 Harford Road, Glen Arm, MD.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Dewey Clark 7/17/2018

10

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRIC	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Carol N. Shaw

I, Carol N. Shaw do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On June 22, 2018, I observed the following:

   Dewey Clark and I met with Matt Gawel, Acting Chief Building Inspector for Baltimore County Department of Permits, Applications and Inspections and Ed Riesner, Electrical Inspections Supervisor for Baltimore County Department of Permits, Applications and Inspections to check whether any permits had been issued to the Nepali American Cultural Center for 12231 Harford Road, Glen Arm, MD 21057.

   Mr. Riesner said that there had not been any electrical permits issued. Mr. Gawel, the Building Inspector had pulled up the address of 12231 Harford Road on his PC to show any permits issued. In response to my question of "So there have been no permits issued?", he replied "Not in the past 18 months" to which I replied "They haven't even owned it that long".

I HEREBY SWEAR AN AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Carol N. Shaw 7/12/18

Appendix 11

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRIC	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Thomas A Kneeshaw

I, Thomas A Kneeshaw, do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On May 3, 2018, I observed the following:

   Dewey Clark and I met with Richard Zeller, State Highway Administration Highway Access and Permits at his office at 320 W Warren Rd, Hunt Valley, MD 21030 regarding the property at 12231 Harford Rd, Glen Arm, MD 21057.

   Mr Zeller indicated to us that neither had a Highway Access Permit been applied for, nor had one been granted for the property.

I HEREBY SWEAR AN AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

7.17.2018

PANEL BP1003M

TIME: 11:20:04 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 03/13/2018
DATE: 07/16/2018 GENERAL PERMIT APPLICATION DATA TG 16:03:13

PERMIT #: B945288 PROPERTY ADDRESS
RECEIPT #: A773220 12231 HARFORD RD
CONTROL #: C-F SUBDIV: 650FT N HUTCHENREUTER RD
XREF #: B945288 TAX ACCOUNT #: 1700006067 DISTRICT/PRECINCT 11 01

OWNERS INFORMATION (LAST, FIRST)

FEE: 75.00 NAME: NEPALI AMERICAN CULTURAL
PAID: 75.00 ADDR: 12231 HARFORD ROAD,GLEN ARM MD 21057
PAID BY: APPL

DATES APPLICANT INFORMATION

APPLIED: 03/13/2018 NAME: RAJAN DHAKAL
ISSUED: 03/13/2018 COMPANY: NEPALI AMERICAN CULTURAL
OCCPNCY: ADDR1: 12231 HARFORD ROAD
FINAL INSPECT: ADDR2: GLEN ARM MD 21057
INSPECTOR: 11C PHONE #: LICENSE #:
NOTES: TG

PASSWORD :

ENTER - PERMIT DETAIL PF3 - INSPECTIONS PF7 - DELETE PF9 - SAVE
PF2 - APPROVALS PF4 - ISSUE PERMIT PF8 - NEXT PERMIT PF10 - INQRY

PANEL BP1004M

TIME: 11:22:16 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 03/13/2018
DATE: 07/16/2018 BUILDING DETAIL 1/ TG 14:46:47

DRC#

PERMIT # B945288 PLANS: CONST 00 PLOT 0 PLAT 0 DATA 0 EL 2 PL 2

TENANT

BUILDING CODE: CONTR:

IMPRV ENGNR:

USE SELLR:

FOUNDATION BASE WORK: INSTALL 18LF OF 6' HIGH ALUMINUM GATE ON FRONT PROPERTY OF EX CHURCH PER PLANS.

CONSTRUC FUEL SEWAGE WATER

CENTRAL AIR

ESTIMATED COST

PROPOSED USE: CHURCH AND FENCE GATE

OWNERSHIP: EXISTING USE: CHURCH

RESIDENTIAL CAT:

#EFF: #1BED: #2BED: #3BED: TOT BED: TOT APTS:

1 FAMILY BEDROOMS: PASSWORD:

ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE

PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Dewey Clark

I, Dewey Clark do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On May 3, 2018 I observed the following:

   Tom Kneeshaw and I visited Mr. Richard Zeller, State Highway Administration (SHA) Highway Access and Permits, at his office located at 320 West Warren Road, Hunt Valley, MD. The topic of discussion was the status of NACCB, Inc.'s progress in applying for a highway access permit for the property located at 12231 Harford Road, Glen Arm, MD.

   Mr. Zeller informed us that NACCB, Inc. had not yet responded to the November XXX, 2017 letter from District Engineer Wendy Wolcott detailing the requirements that needed to be met for an SHA State Highway Access permit.

   Mr. Zeller seemed dismayed at the NACCB, Inc.'s use of the property given they lacked this State Highway Access permit. He was surprised to learn the volume of use was much greater than he had been led to believe.

   When Mr. Zeller explained that NACCB, Inc. had been unable to generate a traffic pattern analysis, since NACCB, Inc.'s use would be so unique, we shared with Mr. Zeller a number of area temples that were presented at the ALJ hearing of Jan. 19, 2018 by Mr. Kotroco and Mr. Ghimire.

   Mr. Zeller stated that he needed to discuss this matter with his staff and the District Engineer.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

7/17/2018

11

Subject: Re: Follow up

From: historictimekeepers@gmail.com
To: RZeller@sha.state.md.us; jcholzer38@gmail.com; rcclark@baltimomrecounty.md.gov; ajablon@baltimorecountymd.gov
Date: Thursday, July 05, 2018 12:38:25 PM

Mr. Zeller,

Thank you for getting back to me. I do not know if Baltimore County plans to act on the July 29-Aug 3 event. I have included Mr. Jablon (Dept Director County Permits and Zoning) and Robin Clark (Asst. Dir. County Zoning Enforcement) and our attorney, Carroll Holzer.

Dewey Clark, President,
Gunowder Falls Watershed Preservation Association

Regards,

Dewey Clark
Club Naturalist
Co-District Manager (PA)
Potomac Appalachian Trail Club
Maryland Master Naturalist
On 7/5/2018 8:54 AM, Richard Zeller wrote:

Mr. Clark,

It is my understanding that the county has not approved this site for the proposed use (Temple). The SHA has not approved the existing entrance for this use. From the SHA perspective this site should not be operating at all. Will the county be shutting them down?

Rich Zeller

From: HTI Gmail [mailto:historictimekeepers@gmail.com]
Sent: Monday, July 02, 2018 9:12 AM
To: Richard Zeller <RZeller@sha.state.md.us>
Subject: Follow up

Mr. Zeller

This is in reference to the matter about which I wrote on June 21 2018. This concerns the use of a single property residence at 12231 Harford Rd. Glen Arm, MD as a commercial without a State Highway Access Permit and their internet advertising for a major fund raiser July 29-Aug 30, 2018.

MARYLAND DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ADMINISTRATION

Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
Pete K. Rahn
Secretary
Gregory Slater
Administrator

November 30, 2017

Ms. Kristen Lewis
Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 109
Towson, Maryland 21204

Dear Ms. Lewis:

Thank you for the opportunity to review the site plan to accompany the petition for special exception, for a proposed church on the property at 12231 Harford Road (MD 147) located on the east side of MD 147 south of Mt. Vista Road in Baltimore County. The Maryland Department of Transportation State Highway Administration (MDOT SHA) has reviewed the submittal listed below and is pleased to respond.

12231 Harford Road
Site Plan Review for Special Exception
Case No. 2018-0122-X
SHA Tracking No. 17APBA030XX
MD 147 (east side) 1000' south of Mt. Vista Road
Mile Post 8.10
Baltimore County

The MDOT SHA requests the opportunity to review a trip generation analysis for this proposed development to determine the extent of road improvements needed to mitigate the traffic impact. This analysis should be sent to the District 4 Office, Ms. Wendy Wolcott, 320 West Warren Road, Hunt Valley, MD 21030 to the attention of Richard Zeller. Please utilize the above SHA tracking number when making this submission.

The MDOT SHA notes that the sight distance at the existing entrance on MD 147 when looking south is inadequate, and therefore recommends that the developer investigate the possibility of constructing a new access along the property frontage on MD 147 to accommodate this new development, where adequate sight distance could be achieved.

Whether a new access will be constructed, or safety improvements to the existing entrance (acceleration/deceleration lanes), an access permit will be required from the Access Management Office to construct the improvements.

If there are any questions, please contact Mr. Richard Zeller at 410-229-2332 or toll free (in Maryland only), 1-866-998-0367 (x2332) or by email at (rzeller@sha.state.md.us).

Sincerely,

Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

cc: Little & Associates, Inc. / 1055 Taylor Avenue, Suite 307, Towson, MD 21286
Nepali American Cultural Center of Baltimore / 12231 Harford Road
Glen Arm, MD 21057
Mr. Jan M. Cook / 111 W. Chesapeake Avenue, Towson, MD 21204
Mr. Vishnu Desai / 111 W. Chesapeake Avenue, Towson, MD 21204
Mr. Donald Distance, SHA District 4 Traffic

Appendix 12

12

Permits, Approvals, and Inspections
Code Inspections & Enforcement
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson , Maryland 21204
www.baltimorecountymd.gov/Agencies/permits/

Code Enforcement 410-887-3351
Electrical Inspection 410-887-3960
Plumbing Inspection 410-887-3620
Building Inspection 410-887-3953

CODE ENFORCEMENT CORRECTION NOTICE

CASE NUMBER	PROP.TAX ID
CC1708607	17-00-006067

VIOLATION ADDRESS
12231 HARFORD RD
GLEN ARM, MD 21057-9329

NEPALI AMERICAN CULTURAL CENTER OF
BALTIMORE
12231 HARFORD ROAD
GLEN ARM, MD 21057-9329

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY CODES AND/OR REGULATIONS:

County Codes/Regulations	Inspector's Comments
Other Violation(s)	B.C.Z.R- 1A01.2(C) -OPERATING A CHURCH OR BUILDING FOR RELIGOUS WORSHIP IN A RC2 ZONE WITHOUT OBTAING A SPECIAL EXCEPTION. B.C.C- 21-9-104(B)- HOLDING A PUBLIC ENTERTAINMENT OR GATHERING WITHOUT OBTAINING A GATHERING PERMIT. ALL ACTIVITIES MUST CEASE IMMEDIATLEY.

Failure to comply with this correction notice, may result in a $200.00 fine/penalty per day, per violation pursuant to BCC: 1-2-217, 32-3-602 and/or the County sending a contractor to correct the violation(s) at your expense. Call the inspector for more information and details.

COMPLIANCE DATE: 08/04/2017	INSPECTOR ID: 122
	ISSUED DATE: 07/30/2017

IMPORTANT INFORMATION TO THE PERSON'S CHARGED

1. It is important that you read this document carefully, as it charges you with the commission of a crime.
2. If you fail to correct the violations noted by the date dictated, a citation may be issued, and a trial scheduled at which you may be penalized by a fine, imprisonment, or both.
3. If the County is required to bring your property into compliance, all costs and fines shall become a lien and shall be collectible in the manner provided for collection of real estate taxes; or may be collected in the same manner as any civil money judgment or debt collected.
4. A lawyer can give important assistance to you:
   (a) on how to correct the violation(s) in order to avoid trial or
   (b) at trial, if you failed to correct the violation(s) noted. Assistance may be provided to determine whether there are any defenses to the charges against you or any circumstances helpful to you that should be brought to the trial. A lawyer can help you by developing and presenting information, which could effect how you correct the violation(s).
5. A conviction for each violation will subject you to potential fines of $200, $500, $1000 per day per violation, depending on the violation, or 90 days in jail, or both Baltimore County Code section 1-2-217 and 32-3-602.
6. It is your responsibility to obtain any required permit(s) to correct the cited violation(s). All repairs must be in accordance with applicable laws, Code of Baltimore County Regulations, and standards.
7. Upon correction of these violation(s), contact the inspector for re-inspection. If you have any questions contact the inspector promptly.

12

MARYLAND BUSINESSEXPRESS

Maryland Business Express

Home | Log In / Create Account

Business Entity Search, Certificate of Status & Document Order

NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE: D17700022

Order Documents

General Information | Filing History | Personal Property

General Information

Department ID Number:
D17700022

Business Name:
NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE

Principal Office:
8030 BELAIR RD., STE 200
NOTTINGHAM MD 21236

Resident Agent:
KRIS GHIMIRE
5048 SPRINGHOUSE CIRCLE
ROSEDALE MD 21237

Status:
INCORPORATED

Good Standing:
THIS BUSINESS IS IN GOOD STANDING
» Order Certificate of Status

Department of Permits,
Approvals, and Inspections
www.baltimorecountymd.gov/Agencies/permits/

Code Enforcement & Inspections
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC1708607

Property Address: 12231 HARFORD RD 21057-9329

Date of Photographs 08/03/2017

Photo Information for CC1708607:

File Name: 20170803092218609.jpg	**Category:** Photos	**Document Group:** CODE ENFORCEMENT
Size: 522.15 KB	**Type:**	**Entity Type:** CAP
Source: ADS	**Department:** BALTCO/PAI/CODE/SUPER/COMNTY	**Document Status:** Uploaded
Uploaded On: 8/3/2017 9:22:47AM	**Uploaded By:** 130	
Description:		

Appendix 13

Search Dewey Home Find Friends 85

Shyam Karki is with Sharmila KC and 45 others.
May 1 at 2:37pm

Thank you friends, thank you so much.

Our friends and supporters of the Hindu Buddha Mandir did it again. It's almost a year now since we bought the Bonaparte property with high hopes of changing the mansion to the temple. As a part of the process, we applied for exception to start worship services. We were expecting it a mere formality.

However, we were surprised to find that some members of the neighborhood were at the hearing to oppose our application citing its potential adverse (?) impact on the water resources and the traffic. We were surprised because there are 5 churches in the area, new houses are still being built and one of the churches had recently made a huge expansion.

Nevertheless, we had retained the services of a highly renowned lawyer, traffic and water resource experts. With their expert testimony and excellent legal arguments, our application, was approved and we started planning for resolving the issues of well, sewer and traffic entrance.

We were elated as we thought, finally we can start our project again. In the meantime, those who were opposed to the idea had a time period (30 days) to appeal the process. We had started preparation to bring the mansion back to shape so we could get certificate of occupancy. We invited our neighbors as a part of "Meet and Greet". More than 200 of them came and expressed their support and were glad that someone was taking care of the old mansion which was falling to pieces and this will put a stop to the site being used by some youths for drinking and doing drugs.

As we met our attorney, we got word that those opposed to our Mandir had appealed the decision and there will be another hearing and if we win this time, it can be appealed again. Thus the process can drag on for a long time; 2-4 years. He also mentioned that in light of the recent similar legal cases, we may need to hire constitutional expert lawyers. This will cost us money; money we had raised for changing the mansion to the Temple.

So naturally, it was a tense and nervous moment. We took time, met many community members, had discussions among us and our group of supporters. We were told that this site is so beautiful and it's so much like the Mandir sites back in Nepal, we need to build the Mandir at this site, no matter how long the legal battle will ensue and no matter how much expensive it will be.

So we planned an informal meeting in my house and more than $150,000 was pledged. Then we had New Year Celebrations at the Mt. Everest Restaurant for our volunteers and supporters as show of thankfulness and gratitude. Originally, we had planned to get a special gathering permit and do it at our temple. But because of the limitation imposed by the Court and we had not completed our renovation, we moved it to an offsite.

A group of 15-20 people went to the site and had a prayer meeting outside the building asking the gods and goddesses for their blessings and forgiveness that we had to move the New Year celebrations to off site. Incidentally, we saw two people at the gate within our property boundaries, checking on us and taking photos. Many of us found it very intimidating. We are exploring responses to such intimidating actions including 24 hour video surveillance, calling police and taking legal actions.

Evening started with a New Year greeting, songs and dances. Local artists joined by specially invited singer and dancer from Nepal performed to the delight of the gathering. Then we gave a brief update and raised funds. To our surprise, we collected more than $200,000.00. This was a symbol of the community's firm determination to have the temple at the same site and it was their way of saying, you go on and no matter what kind of issues, put a legal fight and we will back you up.

We are so glad that the community is resolute and determined to have the temple and will fight the court battle. Because we think that it is no more than prejudice, a barrier placed by a small group of people who don't seem to be not tolerant of any diversity and are using some nonexistent issues as pretexts for protracted legal fight hoping that it will discourage us and we will give up and leave.

Knowledge of gathering permit & admission of unpermitted/ Uninspected Improvement

Friend Requests See All
Lee Fischbach
Bruce Munro
English (US) · Español · Portugués (Brasil) · Français (France) · Deutsch
Privacy · Terms · Advertising · Ad Choices · Cookies · More
Facebook © 2018
Chat

Appendix 14

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRIC	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * *

AFFIDAVIT OF_Carol N. Shaw

I, Carol N. Shaw do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On May 3, 2018 , I observed the following:

   Dewey Clark, Robin Beers, Tom Kneeshaw and I met with Arnold Jablon, Director of Permits, Applications and Inspections for Baltimore County, Maryland in his office in the County Office Building, located in Suite 105 at 111 W. Chesapeake Avenue, Towson, MD. 21204. Among the topics discussed was the current status of the Nepali American Cultural Center located at 12231 Harford Road, Glen Arm, MD 21057.

   Mr. Jablon told us that the Cease and Desist Order issued through a code enforcement correction notice against the NACC on July 30, 2017 with a compliance date of August 4, 2017 (case # cc1708607) was back in effect since there was an Appeal to the Baltimore County Board of Appeals with regard to the Special Exception granted subsequent to the January 17, 2018 hearing heard by Administrative Law Judge Beverungen.

I HEREBY SWEAR AN AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Carol N. Shaw 7/12/18

14

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * *

AFFIDAVIT OF Dewey Clark

I, Dewey Clark do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On May 3, 2018, I observed the following:

   Carol Shaw, Robin Beers, Tom Kneeshaw and I met with Arnold Jablon, Director of Baltimore County Permits, Applications, and Inspections at his office located in suite 105 at 111 West Chesapeake Avenue in Towson, Maryland. The topic discussed was the status of NACCB, Inc.'s applications for the property located at 12231 Harford Road, Glen Arm, MD.

   Mr. Jablon informed us that our appeal vacated the Jan. 19, 2018 ALJ decision by Judge Beverungen (Case Number CC 1708607) granting NACCB, Inc. a Special Exception for the property located at 12231 Harford Road, Glen Arm, MD. He emphasized that the Cease and Desist Order of August 4, 2017 was in effect as a result.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

7/17/2017

Appendix 14 A

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRIC	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * *

AFFIDAVIT OF THOMAS A KNEESHAW

I, Thomas A Kneeshaw, do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On May 3, 2018, I observed the following:

   Myself, Dewey Clark, Carol Shaw and Robin Beers attend a meeting with Arnold Jablon, Director of Permits, Applications and Inspection for Baltimore County, at his office at 111 W Chesapeake Ave, Towson, MD 21204. The discussion centered around the NACCB property located at 12231 Harford Rd, Glen Arm, MD 21057.

   Mr. Jablon expressed his opinion that since the ALJ Special Exception decision was under appeal that the previously issued Cease and Desist Order (CC1708607), issued on July 30, 2017, was still in force.

I HEREBY SWEAR AN AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

7.17.2018

14;

Subject: FW: 12231 Harford Road
From: Vincent Gardina <vgardina@baltimorecountymd.gov>
Date: 7/10/2018 10:26 AM
To: "historictimekeepers@gmail.com" <historictimekeepers@gmail.com>

Here is the latest letter sent. Disregard the previous one which was a old draft.

Vincent J. Gardina, LEED AP
Director
Baltimore County Department of Environmental Protection and Sustainability
111 W. Chesapeake Avenue
Towson, MD 21204
410-887-3776

From: Lionel Van Dommelen
Sent: Tuesday, July 10, 2018 10:24 AM
To: Vincent Gardina <vgardina@baltimorecountymd.gov>; Arnold Jablon <ajablon@baltimorecountymd.gov>
Subject: RE: 12231 Harford Road

This is the correct letter.

Mr. Kris Ghimire, Resident Agent
Nepali American Cultural Center of Baltimore, Inc.
8030 Belair Rd., Nottingham, MD 21236

July 1, 2018

Re: 12231 Harford Road

Mr. Ghimire,

It has come to our attention that there have been advertisements for an event at your property located at 12231 Harford Rd. to be held from July 29 to August 3. There have also been allegations of health code violations, including photos, submitted to us by concerned neighbors.

I am aware of the hearing before the Administrative Law Judge, and notwithstanding the approval Judge Beverungen granted, there has been no compliance with the terms and conditions as set out in that decision. Because these terms have not been met, any event such as that which is being advertised will constitute a violation of that order and a violation of the zoning regulations, as well as possible violations of the health code. If your organization holds this scheduled event, an immediate citation will be issued.

Sincerely,

Lionel van Dommelen, Chief

Appendix 15

Ramesh Bhatta Nepali Choro

Message

Timeline About Friends Photos More

DID YOU KNOW NEPALI CHORO?

1 you know Nepali Choro, send him a message.

Intro

A simple Nepali Guy

Owner Operator at Fix N Go Cellphone & Tablet Repairs

Studied Information System Managment at Wilmington University

Studied Bachelor of Business Management at Dakota Wesleyan University

Went to Himalayan White House Int'l College

Went to amrit secondary boarding school

Lives in Baltimore, Maryland

From Gorkha, Nepal

Joined August 2008

Photos

Ramesh Bhatta Nepali Choro shared a post.
7 hrs ·

Please come and join ! Sometime you have to witness the progress with your own eyes to believe! #HinduBuddhaMandir

Kris Ghimire
8 hrs

Join us today at 6pm for the celebration! Two years later here is the transformation. Come and see for yourself...all the hard work our volunteers have put into it. The moment we have been waiting for

Like Comment Share

8

1 Share

Write a comment...

Ramesh Bhatta Nepali Choro shared a photo.
21 hrs ·

Please come to Hindu Buddha Mandir tomorrow 6 PM

Chat (2)

Post in General

Kris Glumire, Long Green Valley

Bonaparte Mansion in RED, WHITE & BLUE in honor of our Independence Day

We will be celebrating the 4th of July by lighting our building RED, WHITE & BLUE this evening at 8:30 pm. If you have not already made plans please stop by for a few minutes to see our newly renovated building that would illuminate in red, white and blue in the honor of brave men & women who protect us from harm. We would love to have you join us.

God Bless America!

Edited 1d ago · 47 neighborhoods in General

Thank · Reply · 18 · 9

Jason Adelung, My Lady's Manor · 1d ago
Looks great! What is the address?

1 Thank

Beth Rambart, My Lady's Manor · 1d ago
12231 Harford Road
Glen Arm , 21057
Not far from here at all. The site has much Maryland history.

1 Thanks

Wayne Schaumburg, Perry Hall · 22h ago
Wish I had seen this earlier today. I certainly would have come by. Wayne Schaumburg

1 Thanks

Jeff Cochran, My Lady's Manor · 10h ago
Very nice.

1 Thank

Gay Ayyagari, Laurel Brook · 9h ago
Didn't realize who email was from. Sorry we missed it.

Karin Bright, Redcoat · 8h ago
could not find much on this place online. is the mansion ever open to the public?

Patty Burgess, Brandywine Farms · 8h ago
A very nice honor. Thank you.

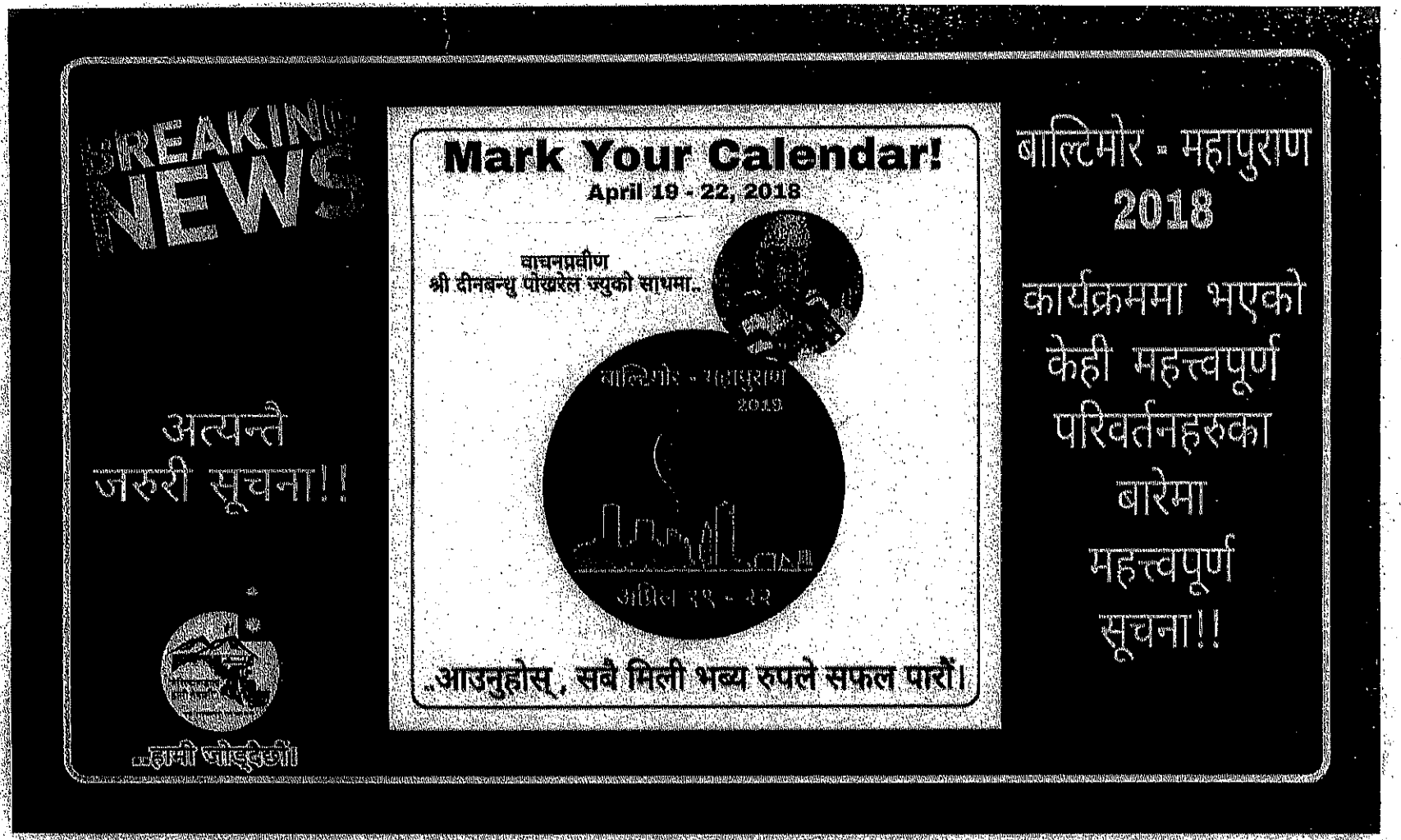
Linda Hatel, Salyr Hill · 6h ago
Looks beautiful!

Ida Thompson, Long Green Valley · 3h ago
Thank you. It's beautiful.

Add a reply...

Home
Long Green Valley
Map
Neighborhood
Recommendations
For Sale & Free
Events
Real Estate
Crime & Safety
Lost & Found
Documents
General
Interests
All Interests
Directories
Neighbors
Pets
Public Agencies
Groups
Browse all 5 groups
Help · Guidelines · Privacy
About · Jobs · Press · Blog
© 2018 Nextdoor

Appendix 16


BREAKING NEWS
अत्यन्तै जरुरी सूचना!!
हामी जोड्दैछौं
Mark Your Calendar!
April 19 - 22, 2018
वाचनप्रवीण
श्री दीनबन्धु पोखरेल ज्युको साथमा..
बाल्टिमोर - महापुराण
2019
अप्रिल १९ - २२
..आउनुहोस्, सबै मिली भव्य रुपले सफल पारौं।
बाल्टिमोर - महापुराण
2018
कार्यक्रममा भएको
केही महत्त्वपूर्ण
परिवर्तनहरुका
बारेमा
महत्त्वपूर्ण
सूचना!!

Nepali American, Long Green Valley

Bonaparte Property - Meet and greet with our new neighbors

Dear neighbors and friends,

We have not had an opportunity to meet all of you in person. We are your new neighbors. We met some of you at our property last year. The Greater Kingsville Civic Association helped us with two of these meetings last fall. This is the only civic organization we knew in the area at that time. We also came to find out about the Gunpowder Falls Watershed Preservation Association led by Mr. Dewey Clark at the hearing. We have then spoken with Mr. Clark a few times via e-mail and phone calls.

We think it is only appropriate to speak with our neighbors directly as some of the misinformation about of our temple (Nepali American Cultural Center) and our future plans are spreading in this and other forums. We have been respectful of people's comments and opinions however some of the comments here are very disheartening and not factual. We have always welcomed an opportunity to discuss some of the concerns raised in this discussion forum and we like to do more so, preferably in person to person. Some of you, we have not met have reached out to us with your love and support, we can't thank you enough. It means the world to us, specially knowing that we're welcome in your neighborhood. We will be a great neighbor and will preserve and protect the area as you would.

The vast majority of our members live only 5 to 10 miles away, right here in Perry Hall. Some of our children go to the same schools and many of us in the area know each other either through a church, local businesses or from workplaces, so we are not strangers. Our temple will be open not only to Hindus and Buddhists but also to people from all faiths or even to people with no religious affiliations to join us in some of our community activities like meditation and yoga. Once we get a chance to speak with you and share our future plans for this site, we are quite sure, you will appreciate our plans for what once a vacant/abandoned mansion soon to become a place of worship.

Knowing this home with a historic importance to our nation, former residence of the US Attorney General and Secretary of the Navy, will be used for a religious purpose instead of other possible commercial usages or even potential developments, the neighbors, we hope, will take comfort in it. We'll separately post how the day to day operations will run once it opens or we can share it with you in person.

We would like to invite you to our "Meeting the Neighbors" event on Sunday, February 25th, at 3 pm. Address is 12231 Harford rd. We have done quite a bit of cleaning up and maintenance of the property and would love to give you a tour. Please come and visit us next Sunday. We look forward to your love and support in the coming days.

Thank you,

Nepali American Cultural Center (NACC)

A.K.A. Hindu Buddha Mandir (Note "Mandir" means a temple)

Edited 23h ago · 44 neighborhoods in General

Thanked! Reply 26 Thanks · 45 Replies

Mike Rollins, Long Green Valley · 1d ago

2 Thanks

Anna Kirkley, Blenfield · Edited 3h ago
Dew, I was not living here at the time. In fact, I was only 18. But I'm not disagreeing with your points, nor do I wish for anything other than an amicable outcome. The zoning board made their decision, and as with any other decision of that matter, there is an avenue for you to appeal--which you are doing.

To be clear, I have no dog in this fight. But whatever the outcome of the appeal, you will be neighbors regardless and unless you want tension indefinitely, maybe everyone should just handle this in accordance with the county's process and work together from there.

Thank 1 Thank Ida Thompson, Long Green Valley · 2h ago
Unlike many of these folks here, we live right down Harford Rd from your new place of meditation and community and we welcome you. Contrary to the rumors that are circulating, we haven't heard any loud music and cavorting into the late evening nor have we been any more inconvenienced by traffic jams than we are when Redeemer kids are going to and leaving school or when St. John is having church, school or other functions. We are excited to come up and visit and meet our new neighbors. We will be at your open house and hope to come to future events. This is a simple case of NIMBY.

Thank 9 Thanks Mike Habersack, Long Green Valley · 2h ago
Dew- boards like this tend to devolve into lobbing shots and are all heat with no light. Tom, Morgan, myself were the first locals at the initial meeting in August as were David M and Chris M. The Bonaparte folks and their lawyer were there and focused solely on renovations to the old building and paint. We toured the building and I left wondering how 500+ visitors used the one jon I saw. They wanted to reach out to the community back then and it appears they will be doing that next week. They even discussed signing a covenant with the neighbors that no more than 20 people would be there a ever. A few weeks later, they had an event with more than 200 guests.

Odd timing for a warm and fuzzy open house- they would have been smarter to do it last fall, but now see that there is considerable opposition and are late with any olive branch. After the first meeting, their Facebook went dark (so much for openness) but we have all archived images online prior to going dark that prove they have no intention on staying small. I have their donor list and amounts, and they're not as poor as the GoFundMe they offer for public consumption.

Also- research FB to see who supports whom; follow the money,and you will learn who supports this and who does not. Focus on events, dinners, donors, who is there. We're watching, and the internet never forgets.

Thanked! 3 Thanks Dew Clark, Long Green Valley · 1h ago
Mike,

It is all ok with me. This is America and everyone is entitled to their views until it conflicts with someone else's rights. And that is what the Courts are for. It is a shame someone seems to have removed Kris Ghimirie from the equation. We were really trying to find common ground. To quote Kurt Vonnegut "So it goes".

As do you, we require more than fine words. And the Court will force that issue. Please introduce yourself on the 28th!

1 Thank

Nepali American, Long Green Valley · 42m ago

Dewey,

No one has replaced Kris, we work as a team. And as always we are open to discuss and find common ground. Kris will call you Monday.

Thank Dew Clark, Long Green Valley · Just now New

Good to hear. He has my number.

Add a reply...

Appendix 17

Appendix 18

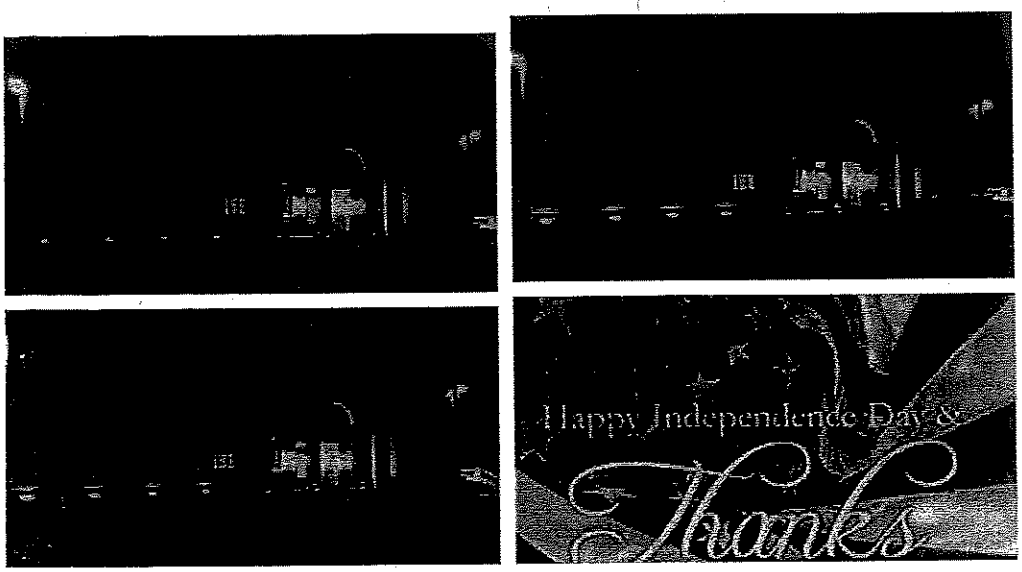
Post in General

Kris Ghimire, Long Green Valley

Bonaparte Mansion in RED, WHITE & BLUE in honor of our Independence Day

We will be celebrating the 4th of July by lighting our building RED, WHITE & BLUE this evening at 8:30 pm. If you have not already made plans please stop by for a few minutes to see our newly renovated building that would illuminate in red, white and blue in the honor of brave men & women who protect us from harm. We would love to have you join us.

God Bless America!



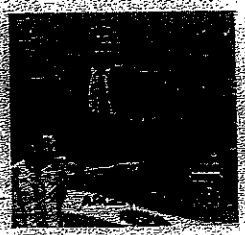
Edited 5h ago · 47 neighborhoods in General

Thank Reply 6 3

Jason Adelung, My Lady's Manor · 5h ago
Looks great! What is the address?

Beth Rembert, My Lady's Manor · 4h ago
12231 Harford Road
Glen Arm , 21057
Not far from here at all. The site has much Maryland history

1 Thank Mitch Erauth, Brandywine Farms · 1h ago
Hey Kris...lighting looks great ! Good job. Question, are the lights LED or jell floods ?



Ramesh Bhatta Nepali Choro

Message

Timeline About Friends Photos More

DO YOU KNOW NEPALI CHORO?

If you know Nepali Choro, send him a message.

Intro

A simple Nepali Guy

Owner Operator at Fix N Go Cellphone & Tablet Repairs

Studied Information System Managment at Wilmington University

Studied Bachelor of Business Management at Dakota Wesleyan University

Went to Himalayan White House Int'l College

Went to amrit secondary boarding school

Lives in Baltimore, Maryland

From Gorkha, Nepal

Joined August 2008

Photos

Ramesh Bhatta Nepali Choro shared a post.
7 hrs ·

Please come and join ! Sometime you have to witness the progress with your own eyes to believe! #HinduBuddhaMandir

Kris Chimire
8 hrs

Join us today at 6pm for the celebration! Two years later here is the transformation. Come and see for yourself...all the hard work our volunteers have put into it. The moment we have been waiting for

Like Comment Share

8

1 Share

Write a comment...

Ramesh Bhatta Nepali Choro shared a photo.
21 hrs ·

Please come to Hindu Buddha Mandir tomorrow 6 PM

Chat (2)

Appendix 19

10

Sanosansar Hamrosansar

Dewey Home Find Friends 85

Sanosansar Hamrosansar

Add Friend Message

Timeline About Friends Photos More

DO YOU KNOW SANOSANSAR?

To see what he shares with friends, send him a friend request.

Intro

Lives in Kathmandu, Nepal

From Kathmandu, Nepal

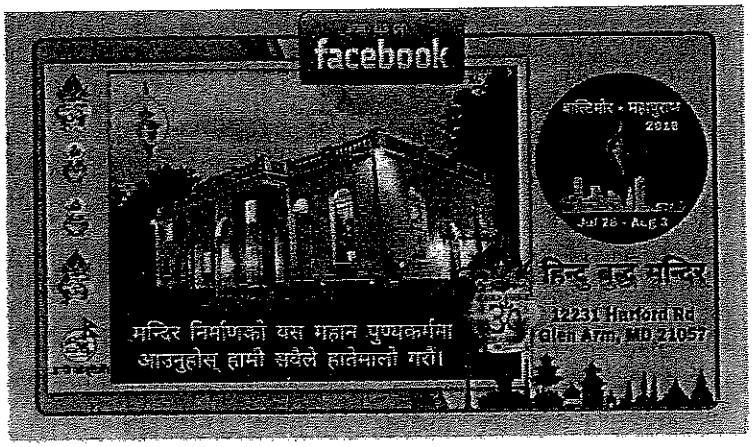
Manages मेरिल्याण्डका हामी नेपाली" "Maryland Ka Hami Nepali"

Photos

Sanosansar Hamrosansar updated his cover photo.
4 hrs ·

#बिशेष_आकर्षण : कलश यात्रा!!!
#बाल्टिमोर_महापुराण2018 को एक विशेष आकर्षणका रुपमा रहेको #कलश_यात्रा मा बाल्टिमोर र यस वरपर क्षेत्रमा बसोबास गर्ने हाम्रा चेलिवेटी, दिदीबहिनीहरु एवं आमाहरु द्वारा एक विशेष पुजाआजा गरि कलश यात्रा गरि मन्दिर र वरपरका क्षेत्र परिक्रमा गरि यस महायज्ञको पहिलो दिनको शुरुआत गरिने जानकारी प्राप्त भएको छ।

बाल्टिमोर मेरिल्याण्ड तथा यस वरपरका बस्नुहुने दिदीबहिनीहरु एवं आमाहरुको स्वयंसेवक एक विशेष समुहले यस कलश यात्राको भब्य तयारी गरिरहनु भएको छ भने हाल सम्म...
See More
See Translation



Share

23

5 Shares

Sachchi Mainali अहिले नगरे कहिले गर्ने ? बाल्टिमोरबासिले नगरे कसले गर्ने ?
See Translation · 1w 3

Shreekrishna ReGmi replied · 2 Replies

Chat (2)

Shyam Karki

Dewey Home Find Friends 81

Shyam Karki

Follow Message

Timeline About Friends Photos More

DO YOU KNOW SHYAM?

Follow Shyam to get his public posts in your News Feed.

Intro

Associate Professor at Howard university School of Pharmacy

Former Pharmacy Director at Adventist Rehabilitation Hospital of Maryland

Former Director, Department of Pharmacy at Specialty Hospital of Washington DC, Capitol

Former Director, Pharmacy Department at Union Hospital Of Cecil County Health System

Former Pharmacy Director at Monroe Community Hospital

Former Clinical pharmacist at Rochester Psychiatric Center, Rochester, NY

Studied Pharmacy at School of Pharmacy, SUNY at Buffalo

Studied Economics at Tribhuvan University

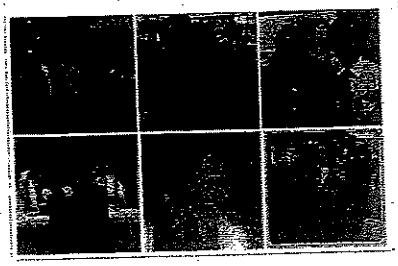
Studied Pharmacy at American University of Beirut (AUB)

Went to Vishwa Niketan High School

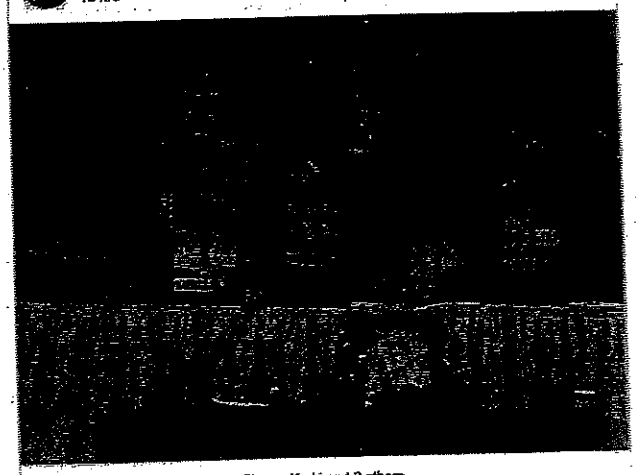
Lives in Kingsville, Maryland

From Baltimore, Maryland

Followed by 899 people



Shyam Karki shared a photo.
16 hrs



Padam Bishwokarma is with Shyam Karki and 2 others.
June 8, 2016.

Like Comment Share

1

Write a comment...

Shyam Karki
June 8 at 5:07pm

Dear Friends,

Mark your calendar, July 28- Aug 3 and keep as many days free as posible during the week so that you can join all of your friends to celebrate the Mahapuran Saptah at the Hindu Buddha Mandir campus. You will be mesmerized by the green vista of the 31 acre campus and feel the serenity of the atmosphere.

You will feel proud of what our community has accomplished in preserving the cultural and religious heritage and where we can bring our children to share and learn our heritage.

Friends, all this has been posible only through your generousity, unrelenting hard work of many dedicated volunteers and the trust and confidence you have palced in all of us in making it happen.

So come and join us. Invite your out of state friends and family members to show this jewel of the community to which you have common ownership. It's the Cultural Center and the Mandir of all Baltimore Nepali American Community members and it belongs to all of us. Make sure that you come and sign your name at the Owner's Book. Imagine how your grandhildren will feel 50 years from now when they read your names on the book.

CONTACT PAGES SEE ALL

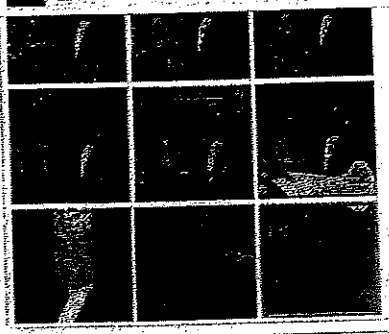
CONTACTS

Lauren Clark
Jessica Lalita ... 41m
Alan Consorte 1h
Kathy Kadow 1m
Frederik Schle 14m
Andrea Accolla 4h
Alastair Westgarth
Bruce Munro
Stefania Alegna
Matteo Manella
Curtis Thomson 20h
Massao Koto
Kaloyan Stoyanov 19h
Aaron Sarauer 11h

GROUP CONVERSATIONS

Create New Group

Search



Look forward to see all of you with your friends and family mebers in rejoicing this day of accomplishment and celebrations.

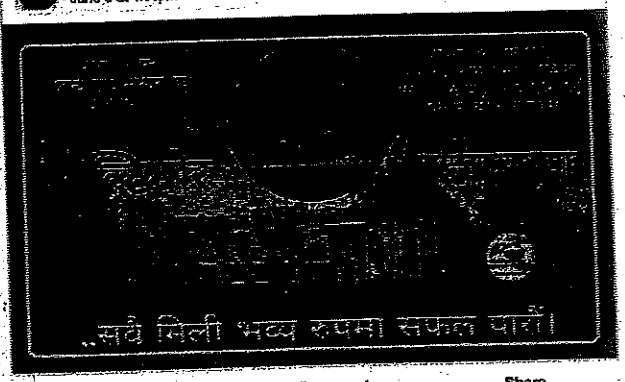
Like Comment Share

33

1 Share

Write a comment...

Shyam Karki updated his cover photo.
June 8 at 4:55pm



Like Comment Share

26

2 Shares

View 1 more comment

Shyam Karki Excellent suggestion, we awill add it
Like · Reply · 1d

Bandana Koirala Great program Daju
Like · Reply · 18h
Shyam Karki replied · 1 Reply

Gita Khatri Great
Like · Reply · 17h
Shyam Karki replied · 1 Reply

Krishna Dhakal Great
Like · Reply · 5h

Write a comment...

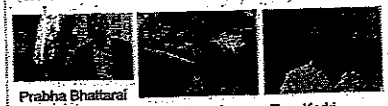
Shyam Karki
June 8 at 4:41pm

Young lady at the center is my niece Minu (granddaughter of my Thulo Mama and daughter of Sandal) and was very nice to drive Dinesh and his family to our house. I still remember many fun times I had spent with Sandal in Jawalakhel talking about so many interesting stories.

Friends · 4,997

Daya Dixit Harry Bhandari Raj Allan

Kris Shimire Budhathoki Kamu Shailesh Shrestha



Prabha Bhattarai Deuja Apar Shrestha Ram Karki

See what you have in common with Shyam's friends.

View

English (US) · Español · Português (Brasil) · Français (France) · Deutsch

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Facebook © 2018

CONTACT PAGES SEE ALL

CONTACTS

Lauren Clark
Jessica Lalita ... 41m
Alan Consorte 1h
Kathy Kadow 1m
Frederik Schile 14m
Andrea Accolla 4h
Alastair Westgarth
Bruce Munro
Stefania Alagna
Matteo Manella
Curtis Thomson 20h
Masseo Koto
Kaloyan Stoyanov 19h
Aaron Sarauer 11h

GROUP CONVERSATIONS

Create New Group

Appendix 20

See USB Drive

Located at Appendix 3

Appendix 21

See Appendix 19

Appendix 22

See USB Drive

Located at Appendix 3

Appendix 23

know, the proposed parking is right over the septic system, okay.

JUDGE BEVERUNGEN: Is that a question?

MR. CLARK: That's a statement, you know.

JUDGE BEVERUNGEN: Okay. Well, you need to just ask him a question.

MR. CLARK: Okay. What, is it possible-- thank you Your Honor. Is it possible that that parking spaces are over the existing septic system?

MR. MOTSCO: There--

MR. CLARK: Is it possible?

MR. MOTSCO: There's no record of where the septic--

MR. CLARK: Is it possible?

MR. MOTSCO: Can I finish the statement?

JUDGE BEVERUNGEN: Yeah. Go ahead.

MR. MOTSCO: There's no record of the septic system. And if this Special Exception is granted the Petitioners intend to replace the septic system with a current system and to install a new (inaudible).

MR. CLARK: So, why is that not on the, on the site plan?

MR. MOTSCO: Because that work has not been initiated (inaudible).

MR. CLARK: So, so, in fact, there are other plans

for this site other than the parking lot?

MR. MOTSCO: There's a replacement of a well and septic.

MR. CLARK: There are other, there are other plans for development other than this parking lot?

MR. MOTSCO: Replacing the well and septic for an existing structure (inaudible).

MR. CLARK: Okay. Another question. You testified that there are, there are no ecological or habitat disturbance. Are you qualified to answer that question? Do you have a degree in Forestry?

MR. MOTSCO: I'm qualified to observe (inaudible). (Inaudible) is the area that will be disturbed.

MR. CLARK: Do you, do you, do you, no, but you testified that the, the forest and the other areas will not, will not be impacted. Do you have a degree in Forestry?

MR. MOTSCO: I can (inaudible) the limits of the disturbance (inaudible).

MR. CLARK: That is not what you testified to.

MR. MOTSCO: (Inaudible)--

MR. CLARK: That is not what you testified to.

MR. MOTSCO: We have no proposed impacts (inaudible)--

MR. CLARK: That is not what you testified to. You testified that there was no impact to the forest. Do you

Appendix 24

24

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRIC	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * *

AFFIDAVIT OF THOMAS A KNEESHAW

I, Thomas A Kneeshaw, do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On February 25, 2018, I observed the following:

   I attended a "meet and greet" session sponsored by the NACCB, at their facility located at 12231 Harford Rd, Glen Arm, MD 21057.

   I estimate that there were between 150 and 200 people attending the event.

   I did not see any toilet facilities, "spot-a-pots" or hand washing facilities anywhere on the property.

   Light refreshments were being served in the gazebo on the property.

I HEREBY SWEAR AN AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

7.17.2018

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * *

AFFIDAVIT OF JUDITH A. BOARD

I, JUDITH A BOARD do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.
2. On 2/25/18, I observed the following:

While attending an open house at 12231 Harford Rd, a/k walking the property and house. I noticed there were no bathroom facilities available for the gathering in attendance for a large group of people. Neither were portable toilets on the site

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Judith A Board

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRIC	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * *

AFFIDAVIT OF_Ronald Standiford and Darby Standiford, his wife.

We, Ronald and Darby Standiford do hereby make oath in due form of law and state as follows:

1. We are over 18 years of age and competent to testify in this matter.
2. On a Sunday afternoon in late Spring of 2017, we observed the following:

Four Nepalese persons were walking on the property of Redeemer Presbyterian Church, where we reside at 6415 Mount Vista Road, Kingsville, MD 21087; consisting of an older man and woman, who had come to this county within the month from Nepal and were in Nepalese native dress, along with their son with his wife in Americanized dress. We approached and greeted them. They stated they were originally from Nepal and we understood came to see the Hindu Mandir property. They had driven their car to our place where they were looking for a bathroom. Since we were near the church building, we unlocked the door for them to use the bathroom. Then we said our goodbyes.

WE HEREBY SWEAR AN AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Darby Standiford Ronald Standiford

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Morgan Miner

I, Morgan Miner do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.
2. On February 25, 2018 , I observed the following:

A lack of toilet facilities/port-a-pots available for those attending the open house, along with a lack of hand washing facilities, despite the fact that food was being served at this event. There were also exposed electrical wires and partially chipped up tiles in the upstairs hallways which posed a safety hazard for those in attendance.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE,

Morgan J Miner

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF CLARENCE D. POEHLER

I, Clarence D. Poehler, do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.
2. On February 25th, 2018, I observed the following:

   While I was attending an Open House of 12231 Harford Road, Glen Arm, Maryland 21057 I observed no working bathrooms and no running water.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Clarence D. Poehler

Appendix 25

25

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * *

AFFIDAVIT OF Joanne Foxworthy

I, Joanne Foxworthy, do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.
2. On May 15, 2018 , I observed the following:
3. around 12 noon two young men were working on putting up a sign at 12231 Harford Rd. One of the guy was using the urinating for all of Harford Rd traffic anyone to see. Later that day he went to the mailbox and was urinating.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE A FOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Joanne Foxworthy 7/17/18

Appendix 26

Original

IN THE MATTER OF:

PETITIONS FOR SPECIAL EXCEPTION
CASE NO. 2018-0122-X
PROPERTY: 12231 HARFORD ROAD

Hearing Date: January 17, 2018

Pursuant to Notice, the above-entitled hearing was held before the Administrative Law Judge for Baltimore County at the Administrative Law Building, 11101 Gilroy Road, Hunt Valley, Maryland 21031, commencing at 1:20 P.M.

JUDGE BEVERUNGEN, PRECIDING

PRESENT ON BEHALF OF THE PARTIES:

ON BEHALF OF THE APPELLEES/PETITIONERS:

TIMOTHY KOTROCO, ESQUIRE

ON BEHALF OF THE APPELLANT/PROTESTANTS:

DeWITT CLARK, (PRO SE)

Debbie H. Eichner
8101 Bletzer Road
Baltimore, Maryland 21222

MR. KOTROCO: Well, let me clear one thing up. You haven't had any religious services whatsoever at this property, is that right?

MR. GIMORY: None.

MR. KOTROCO: Nothing?

MR. GIMORY: No.

MR. KOTROCO: The buildings not even occupiable at this point? It was freezing cold the other day when I was in there. You don't have heat?

MR. GIMORY: No.

MR. KOTROCO: Because you don't have water?

MR. GIMORY: No water.

MR. KOTROCO: And, and it's a hot water boiler system. So, if you don't have water you don't have heat?

MR. GIMORY: That's correct.

MR. KOTROCO: The water hasn't been connected up yet?

MR. GIMORY: No.

MR. KOTROCO: When you bought the property the neighbors or vandals or somebody went in and they cut all the copper pipes out and stole them all?

MR. GIMORY: (Inaudible)--

MR. KOTROCO: So, you don't have any water?

MR. GIMORY: Yeah. It was in bad shape. Yes.

MR. KOTROCO: In bad shape. I'm going to get

MR. MOTSCO: No.

MR. CLARK: So, they are currently operating a house of worship without the benefit of, of proper permission?

MR. KOTROCO: Objection Your Honor. He's assuming facts not in evidence. As a matter of fact, there's no heat, no water, nobody using that building at this time.

MR. CLARK: Your Honor, he testified that he saw the, he saw the house of worship.

MR. KOTROCO: The area, what's going to be the area that they worship--

JUDGE BEVERUNGEN: Hold on a second. I, I, people aren't going to be yelling back and forth.

MR. CLARK: Right.

JUDGE BEVERUNGEN: We're not going to do that. The witness said, he observed an open two story space that would be used for worship I thought is, is what he said. You now want to ask him if worship is taking place?

MR. CLARK: No. He, I, if it is zoned for worship? If it is currently zoned for worship?

JUDGE BEVERUNGEN: Well, we know that it's because we're here today (inaudible)--

MR. CLARK: That's right. That's, that's my poir Your Honor.

JUDGE BEVERUNGEN: (Inaudible)--

MR. CLARK: Yes sir. Yes sir.

JUDGE BEVERUNGEN: Okay.

MR. CLARK: Now, you, you were in the building, right?

MR. MOTSCO: Yes sir.

MR. CLARK: You, you examined the building head to toe?

MR. MOTSCO: I examined the majority of the rooms (inaudible)--

MR. CLARK: Okay. Do they have adequate toilet facilities for 150 people?

MR. MOTSCO: I do not know. That was not (inaudible)--

MR. CLARK: You do not know that? Okay. Fine.

UNIDENTIFIED SPEAKER: He wouldn't be able to to know that.

Septic

MR. CLARK: When you visited the property, and on your site plan I don't see the location of the septic system. Do you know where the septic system is?

MR. MOTSCO: It will be--

MR. CLARK: No. Do you know where the septic system is now?

MR. MOTSCO: No.

MR. CLARK: No. For all we know the, the prop-- now, I do know, behind the house Your Honor is a wetland. So, I know the septic systems not back there. For all we

know, the proposed parking is right over the septic system, okay.

JUDGE BEVERUNGEN: Is that a question?

MR. CLARK: That's a statement, you know.

JUDGE BEVERUNGEN: Okay. Well, you need to just ask him a question.

MR. CLARK: Okay. What, is it possible-- thank you Your Honor. Is it possible that that parking spaces are over the existing septic system?

MR. MOTSCO: There--

MR. CLARK: Is it possible?

MR. MOTSCO: There's no record of where the septic--

Septic

MR. CLARK: Is it possible?

MR. MOTSCO: Can I finish the statement?

JUDGE BEVERUNGEN: Yeah. Go ahead.

MR. MOTSCO: There's no record of the septic system. And if this Special Exception is granted the Petitioners intend to replace the septic system with a current system and to install a new (inaudible).

MR. CLARK: So, why is that not on the, on the site plan?

MR. MOTSCO: Because that work has not been initiated (inaudible).

MR. CLARK: So, so, in fact, there are other plans

for this site other than the parking lot?

MR. MOTSCO: There's a replacement of a well and septic.

MR. CLARK: There are other, there are other plans for development other than this parking lot?

MR. MOTSCO: Replacing the well and septic for an existing structure (inaudible).

MR. CLARK: Okay. Another question. You testified that there are, there are no ecological or habitat disturbance. Are you qualified to answer that question? Do you have a degree in Forestry?

MR. MOTSCO: I'm qualified to observe (inaudible). (Inaudible) is the area that will be disturbed.

MR. CLARK: Do you, do you, do you, no, but you testified that the, the forest and the other areas will not, will not be impacted. Do you have a degree in Forestry?

MR. MOTSCO: I can (inaudible) the limits of the disturbance (inaudible).

MR. CLARK: That is not what you testified to.

MR. MOTSCO: (Inaudible)--

MR. CLARK: That is not what you testified to.

MR. MOTSCO: We have no proposed impacts (inaudible)--

MR. CLARK: That is not what you testified to. You testified that there was no impact to the forest. Do you

Appendix 27

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Dewey Clark

I, Dewey Clark do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On July 9, 2018 I observed the following:

   On the advice of Mr. Kevin Weis, Chief, Baltimore Division, Maryland Dept. of the Environment I met with Mr. Vincent Gardina, Director, Dept. of Environmental Protection and Sustainability, Baltimore County, located at 111 West Chesapeake Avenue, Towon, MD 21204.

   Mr. Gardina saw me immediately and already had my letters of concern on his desk. We discussed the threat to the degradation to the Gunpowder Watershed and the threat to the community health posed by improper handling of human waste at the single-resident property located at 12231 Harford Road, Glen Arm, MD.

   I informed Mr. Gardina that this property is being used by NACCB, Inc. as a commercial event venue hosting large groups. I showed Mr. Gardina some of our evidence. Our conversation included the testimony provided by NACCB, Inc. at the ALJ hearing before Judge Beverungen on January 19, 2018, which stated the property had no working septic, no potable water, and the plumbing had been stripped out of the building.

   Carol Shaw joined the meeting with Mr. Gardina and me after Mr. Gardina and I had been talking for about 30 minutes.

   Mr. Gardina confirmed that no permits had been issued for well or septic installations.

   On July 10, 2018 Mr. Gardina provided me an email copy of the enforcement order issued by Mr. Van Dommelen to the NACCB, Inc. on July 1, 2018 regarding their use of the property without any of the required permits.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Dewey Clark 7/17/2018

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRIC	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Carol N. Shaw

I, Carol N. Shaw do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On July 9, 2018, I observed the following:

   Dewey Clark and I met with Vincent Gardina, Director, Department of Environmental Protection and Sustainability, Baltimore County, Maryland in his office located at 111 West Chesapeake Avenue, Suite 319, Towson, MD. 21204.

   Dewey Clark and Vince Gardina had been talking for some time before I entered the office. While I was in attendance at the meeting, we discussed with Mr. Gardina some of the testimony provided by NACCB at the Administrative Law Judge hearing before Judge Beverungen on January 19, 2018 including the fact that they admitted they had no working well or septic and that the copper pipes had been taken from the building.

   We informed Mr. Gardina that we could find no evidence of permits issued for a well or septic which Mr. Gardina confirmed.

I HEREBY SWEAR AN AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Carol N. Shaw 7/17/18

Appendix 28

MR. KOTROCO: Well, let me clear one thing up. You haven't had any religious services whatsoever at this property, is that right?

MR. GIMORY: None.

MR. KOTROCO: Nothing?

MR. GIMORY: No.

MR. KOTROCO: The buildings not even occupiable at this point? It was freezing cold the other day when I was in there. You don't have heat?

MR. GIMORY: No.

MR. KOTROCO: Because you don't have water?

MR. GIMORY: No water.

MR. KOTROCO: And, and it's a hot water boiler system. So, if you don't have water you don't have heat?

MR. GIMORY: That's correct.

MR. KOTROCO: The water hasn't been connected up yet?

MR. GIMORY: No.

MR. KOTROCO: When you bought the property the neighbors or vandals or somebody went in and they cut all the copper pipes out and stole them all?

MR. GIMORY: (Inaudible)--

MR. KOTROCO: So, you don't have any water?

MR. GIMORY: Yeah. It was in bad shape. Yes.

MR. KOTROCO: In bad shape. I'm going to get

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Dewey Clark

I, Dewey Clark do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On June 22, 2018 I observed the following:

I met with Philbert Christian and Ms. Donna Kilduff at the office of Baltimore County Health and Human Services, Department of Health, Environmental Health Services, located at 6401 York Road, Baltimore, MD 21212.

The purpose of the meeting was to discuss concerns about the use of the single-residence property located at 12231 Harford Road, Glen Arm, MD as a commercial venue for large groups, without adequate sanitary facilities.

Ms. Kilduff informed me that her office enforces sanitary requirements for the handling of food. She was surprised to learn and seemed dismayed as a professional by the evidence of large crowds at the above property, without any apparent means to handle human waste.

I asked Ms. Kilduff about the record of gathering permits issued for this property and she could recall none. I asked her and subsequently repeated my request in writing, for a record of all gathering permits issued to the owners of the property located at 12231 Harford Road, Glen Arm, MD.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Dewey Clark 7/17/2018

Appendix 29

29

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRIC	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Carol N. Shaw

I, Carol N. Shaw do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On July 16, 2018, I observed the following:

   Dewey Clark and I again went to the Baltimore County Office Building, 111 West Chesapeake Avenue, Towson, MD. 21204 to visit with Matt Gawel, Acting Chief Building Inspector who is located in G-21.

   The purpose of the visit was to determine whether or not any permits had been issued to NACCB for 12231 Harford Road, Glen Arm, MD. 21057. I then met with Matt Gawel to determine permit status.

   After inputting the address into his PC, Matt Gawel showed me where he had located 12231 Harford Road and showed me that the only permit issued in the last 18 months had been for a gate. He stated that his computer records only go back for 18 months and that any permits issued before that would have to be requested from the archive. I told him that the current owner had not even owned the property for 18 months so what was shown on his PC was sufficient.

   I then asked him if I could have a copy of the two-page record for 12231 Harford Road, Glen Arm, MD. 21057 which showed that the only permit issued in the last 18 months was the one for the gate. He said that was possible if I filled out a Freedom of Information Act request form which I did and returned to him. He then provided me with the record.

I HEREBY SWEAR AN AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Carol N. Shaw 7/17/18

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETTTIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * *

AFFIDAVIT OF Dewey Clark

I, Dewey Clark do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.
2. On July 16, 2018 I observed the following:

Carol Shaw and I visited the Baltimore County Inspection Department located at 111 West Chesapeake Avenue, Towson, MD 21204.

The purpose of this visit was to determine the status of permits issued to NACCB, Inc. for the property located at 12231 Harford Road, Glen Arm, MD.

Carol Shaw met with Mr. Matt Gawel to determine if any permits had been issued to NACCB, Inc. for the property located at 12231 Harford Road, Glen Arm, MD.

Upon reviewing the record of permits issued to the property in the last 18 months, Mr. Gawel confirmed that no permits had been issued for the property located at 12231 Harford Road, Glen Arm, MD.

Mr. Gawel provided Carol Shaw with a copy of the record for all permits issued to the above property owner in the last 18 months.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Dewey Clark 7/17/2018

PANEL BP1003M

TIME: 11:20:04 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 03/13/2018
DATE: 07/16/2018 GENERAL PERMIT APPLICATION DATA TG 16:03:13

PERMIT #: B945288 PROPERTY ADDRESS
RECEIPT #: A773220 12231 HARFORD RD
CONTROL #: C-F SUBDIV: 650FT N HUTCHENREUTER RD
XREF #: B945288 TAX ACCOUNT #: 1700006067 DISTRICT/PRECINCT 11 01
OWNERS INFORMATION (LAST, FIRST)
FEE: 75.00 NAME: NEPALI AMERICAN CULTURAL
PAID: 75.00 ADDR: 12231 HARFORD ROAD,GLEN ARM MD 21057
PAID BY: APPL

DATES APPLICANT INFORMATION
APPLIED: 03/13/2018 NAME: RAJAN DHAKAL
ISSUED: 03/13/2018 COMPANY: NEPALI AMERICAN CULTURAL
OCCPNCY: ADDR1: 12231 HARFORD ROAD
FINAL INSPECT: ADDR2: GLEN ARM MD 21057
INSPECTOR: 11C PHONE #: LICENSE #:
NOTES: TG

PASSWORD :

ENTER - PERMIT DETAIL PF3 - INSPECTIONS PF7 - DELETE PF9 - SAVE
PF2 - APPROVALS PF4 - ISSUE PERMIT PF8 - NEXT PERMIT PF10 - INQRY

PANEL BP1004M

TIME: 11:22:16 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 03/13/2018
DATE: 07/16/2018 BUILDING DETAIL 1 TG 14:46:47

DRC#

PERMIT # B945288 PLANS: CONST 00 PLOT 0 PLAT 0 DATA 0 EL 2 PL 2

TENANT

BUILDING CODE: CONTR:

IMPRV ENGNR:

USE SELLR:

FOUNDATION BASE WORK: INSTALL 18LF OF 6' HIGH ALUMINUM GATE ON FRONT PROPERTY OF EX CHURCH PER PLANS.

CONSTRUC FUEL SEWAGE WATER

CENTRAL AIR

ESTIMATED COST

PROPOSED USE: CHURCH AND FENCE GATE

OWNERSHIP: EXISTING USE: CHURCH

RESIDENTIAL CAT:

#EFF: #1BED: #2BED: #3BED: TOT BED: TOT APTS:

1 FAMILY BEDROOMS: PASSWORD:

ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE

PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU

Appendix 30

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF CLARENCE D. POEHLER

I, Clarence D. Poehler, do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.
2. On February 25th, 2018, I observed the following:

   While I was attending an Open House of 12231 Harford Road, Glen Arm, Maryland 21057 I observed what appeared to be deteriorating asbestos insulation on heating pipes in basement.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Clarence D. Poehler

_____

Appendix 31

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF DAVID P. HARTMAN

I, David P. Hartman, do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.
2. On either Saturday February 11th or Saturday February 25th, 2017, I observed the following:

   While in the basement of the former Bonaparte mansion located at 12231 Harford Road, Glen Arm, Maryland 21057 I noticed a white plaster-like substance which appeared very old and in a deteriorating condition, covering pipes leading to and from the boiler.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

David P. Hartman 7/17/18

Appendix 31A

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF ELLEN HUBBARD

I, Ellen Hubbard, do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. In mid-February 2017, I observed the following:

   While touring the Bonaparte mansion with a real estate representative, I noticed a white plaster-like covering on the pipes in the boiler/furnace room. They appeared in deteriorating condition.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Ellen Hubbard 07-17-18

Appendix 32

MR. KOTROCO: Okay. And you make it more complicated because you follow the lunar calendar, right?

MR. GIMORY: Yes. Right.

MR. KOTROCO: I got you. So, on those days then, now, are those held inside or outside? Those festivals?

MR. GIMORY: Those festival, they, I mean, it's, it's, it can be, it can be done outside.

MR. KOTROCO: Uh-huh.

MR. GIMORY: Yeah.

MR. KOTROCO: Weather permitting or--

MR. GIMORY: Weather permitting.

MR. KOTROCO: --if it's raining you might go inside?

MR. GIMORY: More like a festival. (Inaudible) could have that (inaudible).

MR. KOTROCO: Well, I guess they're concerned about noise. How much noise do you make at one of these festivals? Is there music?

MR. GIMORY: We could have music. We could, you know, the music could be, the buildings, it's (inaudible). And once it's all done everything is. The microphone (inaudible) will be stationed inside the building. So it, not necessarily the mike will be stationed outside (inaudible).

MR. KOTROCO: Okay.

MR. GIMORY: Outside the (inaudible).

KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

January 22, 2018

Timothy M. Kotroco
305 Washington Avenue, Suite 502
Towson, Maryland 21204

RE: Petitions for Special Exception
Case No. 2018-0122-X
Property: 12231 Harford Road

Dear Mr. Kotroco:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: DeWitt Clark, 12150 Harford Road, Glen Arm, MD 21057
Morgan Miner, 11946 Harford Road, Glen Arm, MD 21057
Carol Shaw, 7 Country Hill Ct., Kingsville, MD 21087
Paul Koch, 12138 Harford Road, Glen Arm, MD 21057
Robin Beers, 12442 Jerusalem Road, Kingsville, MD 21087
Joyce Mason, 11813 Harford Road, Glen Arm, MD 21057

Darby Standiford & Ronald Standiford, 6415 Mt. Vista Road, Kingsville, MD 21087
Ginny Terhune, 404 W. Joppa Road, Towson, MD 21204
Stephen Brady, 6208 Banaparte Avenue, Glen Arm, MD 21057
Edward & Sharon Heimiller, 12702 Lee Ben Road, Kingsville, MD 21087
Peter Martin, 1954 Greenspring Drive, Timonium, MD 21093
Robert & Denise Smith, 6215 Bonaparte Avenue, Glen Arm, MD 21057
Ellen Hubbard, 7862 Oakdale Avenue, Rosedale, MD 21237
Mary C. Clark, 12150 Harford Road, Glen Arm, MD 21057
Philip Landefeld & David Hartman, 12513 Regwood Road, Hydes, MD 21084
Pat Garner, 12535 Merritt Avenue, Fork, MD 21051
TA Kneeshaw, 11 Kings Glen Ct., Kingsville, MD 21087
Joanne Foxworthy & Robert Shifflett, 6229 Bonaparte Avenue, Glen Arm, MD 21057
Joanne Marsh, 5714 Williams Road, Hydes, MD 21082
Patricia Foley, 6131 Glen Arm Road E, Glen Arm, MD 21057
Jeannette Kempske, 11748 Harford Road, Glen Arm, MD 21057
Barbara Yingling, 11744 Harford Road, Glen Arm, MD 21057
Rosemary Bronzert, 12517 Regwood Road, Hydes, MD 21082
Holly Hammond & Charles Bronzert, 10900 Harford Road, Glen Arm, MD 21057
Patti Thoorn, 6316 Hutschenreuter Road, Glen Arm, MD 21057
Ibby Fazzini, 12330 Long Green Pike, Glen Arm, MD 21057
Jim Shipley, 6801 Glen Arm Road East, Glen Arm, MD 21057
Joe Tiberi, 6041 Glen Arm Road East, Glen Arm, MD 21057
Dave Poehler, 12241 Harford Road, Glen Arm, MD 21057
Donna Carter, 5515 Williams Road, Hydes, MD 21082
Keith Reuling & Nancy Koerner, 12505 Regwood Road, Hydes, MD 21082
Mary Lou Wickham, 11752 Harford Road, Glen Arm, MD 21057
Lisa Vindiola, 11930 Harford Road, Glen Arm, MD 21057
Scott Striebinger, 18 Vista View Ct., Kingsville, MD 21047
Doug Honbarrier, 6219 Bonaparte Avenue, Glen Arm, MD 21057
Bernadette Poehler, 12241 Harford Road, Glen Arm, MD 21057
Donna Gillespie, 32 Edgemoor Road, Timonium, MD 21093

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
(12231 Harford Road)
11th Election District * OFFICE OF
5th Council District
Nepali American Cultural Center * ADMINISTRATIVE HEARINGS
Legal Owner

* FOR BALTIMORE COUNTY

Petitioner * Case No. 2018-0122-X

* * * * * * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Exception filed on behalf of Nepali American Cultural Center, legal owner ("Petitioner"). The Special Exception was filed pursuant to the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow a church or other building for religious worship on property zoned RC-2.

Professional engineers John Motsco and Joe Caloggeri appeared in support of the petition. Timothy M. Kotroco, Esq. represented the Petitioner. Numerous citizens attended the hearing and objected to the request. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP), the Bureau of Development Plans Review (DPR), State Highway Administration (SHA) and the Department of Environmental Protection and Sustainability (DEPS). None of the reviewing agencies objected to the request.

The subject property is approximately 30.8 acres and is zoned RC-2. The property is improved with an historic single-family dwelling and several outbuildings. Petitioner purchased the property last year, at which time it was rundown and abandoned. Photographs submitted at the hearing reveal extensive vandalism to the property which occurred both before and after Petitioner purchased the property. Petitioner is in the process of renovating the property, and estimates that

at least 4-5 months of additional restoration work needs to be done before the property can be used by the congregation.

Special Exception

Doug Burgess, an attorney with a law office in the area, testified a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), wherein Maryland's highest court discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Mr. Motsco, a professional engineer accepted as an expert, explained the site plan in detail and said he has visited the property on several occasions. He testified the property is approximately 30.8 acres in size and is zoned RC-2. The witness noted the site has mature wooded buffers along all road frontages, and he testified Petitioner is not at this time proposing any new construction on the site. In conclusion, Mr. Motsco opined Petitioner satisfied each of the requirements set forth at B.C.Z.R. §502.1.

Several citizens testified in opposition to the proposal. Though each witness expressed concern with how the project may impact them individually, there were common themes in the testimony. Traffic conditions and roadway safety, and a concern for water wells and private sewage disposal, were the most frequently cited concerns. Many neighbors also complained about several events or gatherings at the site which generated a significant amount of noise. With the exception of the complaints about noise (which will be addressed in a condition included in the

final order), these concerns are inherent in the operation of a church or building for worship located in a rural area. In other words, most uses for which a special exception is required are regarded as "potentially troublesome because of noise, traffic, congestion…." *Montgomery County v. Butler*, 417 Md. 271, 297 (2010).

In rural zones especially roadways are often antiquated and overburdened, and water/sewer services are not provided by the County. Harford Road will be used to access the site, and as a state highway it is under the control and jurisdiction of the State Highway Administration (SHA). As Mr. Caloggeri (a professional engineer accepted as an expert) testified, the SHA, not Baltimore County, will examine the proposed access and determine whether improvements or other measures are necessary to ensure safe ingress/egress from the site.

As noted in the conditions below, Petitioner must obtain approval from Baltimore County for installation of well and septic systems for this property. Ronald Standiford, pastor of the adjacent Redeemer church, noted that the Christian school affiliated with the church has approximately 220 students and the well and septic system are sufficient. According to witnesses in Petitioner's case, far fewer people will visit this site on a daily basis, and thus there is no reason to believe the water supply and sewerage system would not be adequate.

THEREFORE, IT IS ORDERED this **22nd** day of **January, 2018**, by this Administrative Law Judge, that the Petition for Special Exception to allow a church or other building for religious worship on property zoned RC-2, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

2. Petitioner must submit for approval by Baltimore County landscape and lighting plans for the site.
3. Prior to operating a religious facility at the site Petitioner must install a sign at the Harford Road access point (in compliance with the B.C.Z.R. §450) containing the name of the facility and street address.
4. Prior to issuance of occupancy permits, Petitioner must demonstrate to DEPS that the well and septic system proposed will be sufficient to serve the facility.
5. Prior to issuance of permits Petitioner must comply with the ZAC comment of DEPS, a copy of which is attached hereto and incorporated herein.
6. Prior to issuance of permits Petitioner must obtain from SHA an access permit authorizing ingress and egress from the site via Harford Road.
7. Special events held at the site shall be limited to the hours of 10 a.m. to 10 p.m., and outdoor amplification of music or sound shall not be permitted.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln

Appendix 33

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * *

AFFIDAVIT OF Joanne Foxworthy

I, Joanne Foxworthy, do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.
2. On April 9, 2017 , I observed the following:
3. A lot of cars entering 12231 Harford Rd. Some sort of party. They had very loud voices and music coming across to our backyard all day and into the evening. They had some sort of loudspeakers. It was so loud that went inside my home and closed the windows and it was like they were still in my living room.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE A FOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

7/17/18

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Robert Shifflett

I, Robert Shifflett, do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.
2. On April 9, 2017 , I observed the following:
3. A lot of cars entering 12231 Harford Rd. Some sort of party. They had very loud voices and music coming across to our backyard all day and into the evening. They had some sort of loudspeakers. It was so loud that went inside the home and it was just as loud in the home.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE A FOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

7/17/18

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

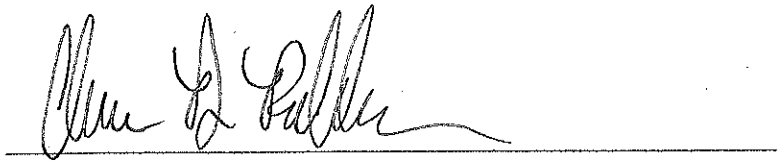
AFFIDAVIT OF CLARENCE D. POEHLER

I, Clarence D. Poehler, do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.
2. On June 17th, June 21st and July 4th, 2018, I observed the following:

   While on my property, I heard excessive amplified music and heard crowds of people cheering.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.



Appendix 34

they charged you with that responsibility?

MR. GIMORY: That, that is correct. (Inaudible) -- most of them are tasked with this, you know, with this job. So, we were looking around. Couldn't find a suitable property for what we're trying to do. Especially I can't, if I, if I may give you a little bit of background?

MR. KOTROCO: Go ahead.

MR. GIMORY: A temple in Nepal, and, and also in India, (inaudible) is above the hill, like in kind of quiet place. You know, it's like a (inaudible) style. It doesn't really have a lot of seatings. People could come and go and visit and go back. You know, but it's not like you have a mas (inaudible). So, when we saw this property sitting on top of hill with thirty acres, not having any, anybody in near proximity, and we thought this is the perfect location (inaudible) we could, we could find.

MR. KOTROCO: Well, how did you find it? Wer you just driving by one day and saw --

MR. GIMORY: Oh, no. We, you know, (inaudibl on a multiple listing in--

MR. KOTROCO: On your computer in your offic you--

MR. GIMORY: Yeah. In my office.

MR. KOTROCO: Okay. Okay.

MR. GIMORY: And it came on the market. The

we proposing to build any new buildings on the property?

MR. MOTSCO: No.

MR. KOTROCO: And the Applicant is just simply going to use what's there, is that right?

MR. MOTSCO: (Inaudible)--

MR. KOTROCO: No additions or anything of that nature?

MR. MOTSCO: That is correct.

MR. KOTROCO: And the religious activity, the worshiping will occur in the mansion part, which is the forme estate home of the property?

MR. MOTSCO: Yes.

MR. KOTROCO: Okay. If you are able to, if you would, you drew distance lines from the mansion and the othe buildings. I want to go over the buildings that you located o the property. So, can you start with the, with the former homes that I'll call it, the mansion? What are the distances from that to the edges of the property sir?

MR. MOTSCO: The existing house is right here. And in the direction of Harford Road, at the driveway entran it is 650 feet from the property line. And Harford Road to tl west is 340 feet away. And to the rear of the property line, down in the hill is the excess of 1,000 feet. And that's just a stream and a neighbor. And then more to the east, the property is a little oddly shaped there, but it is around 400

feet to the property line.

MR. KOTROCO: So, as far as R.T.A. requirements, Residential Transition Areas, none apply here because of the distances?

MR. MOTSCO: Right. It's well beyond the distances required.

MR. KOTROCO: Okay. How about the other, the other structures on the property? You mentioned the mansion, the former home. What other types of improvements are there on the property?

MR. MOTSCO: What we have, what is (inaudible) on the plan is the, of course the driveway we discussed is, thi is a tennis court, pool, it's a shed, a pool-house. There's an existing caretaker's house. And then there is a, it's marked (inaudible) property.

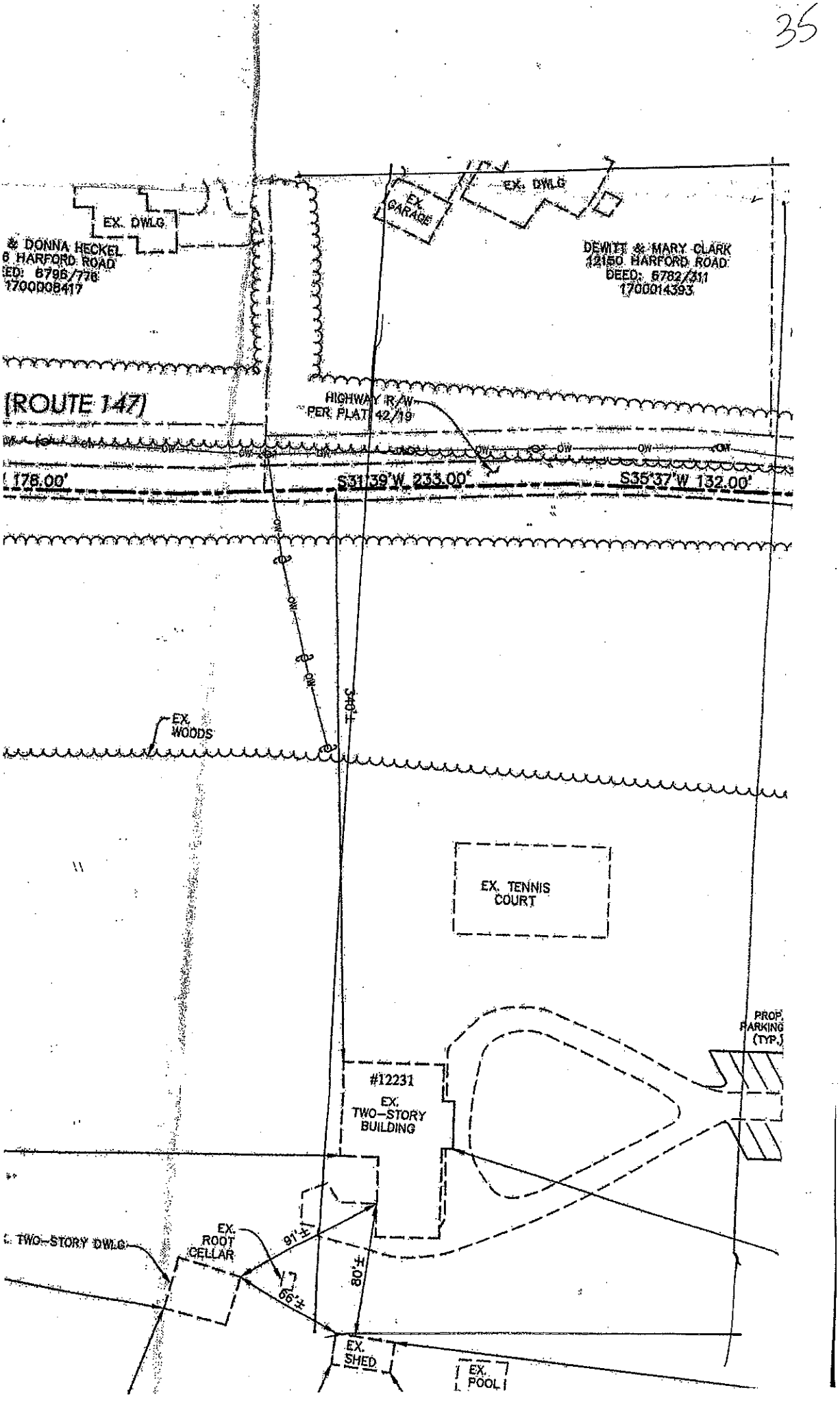
MR. KOTROCO: Okay. Did you walk the propert and see all that?

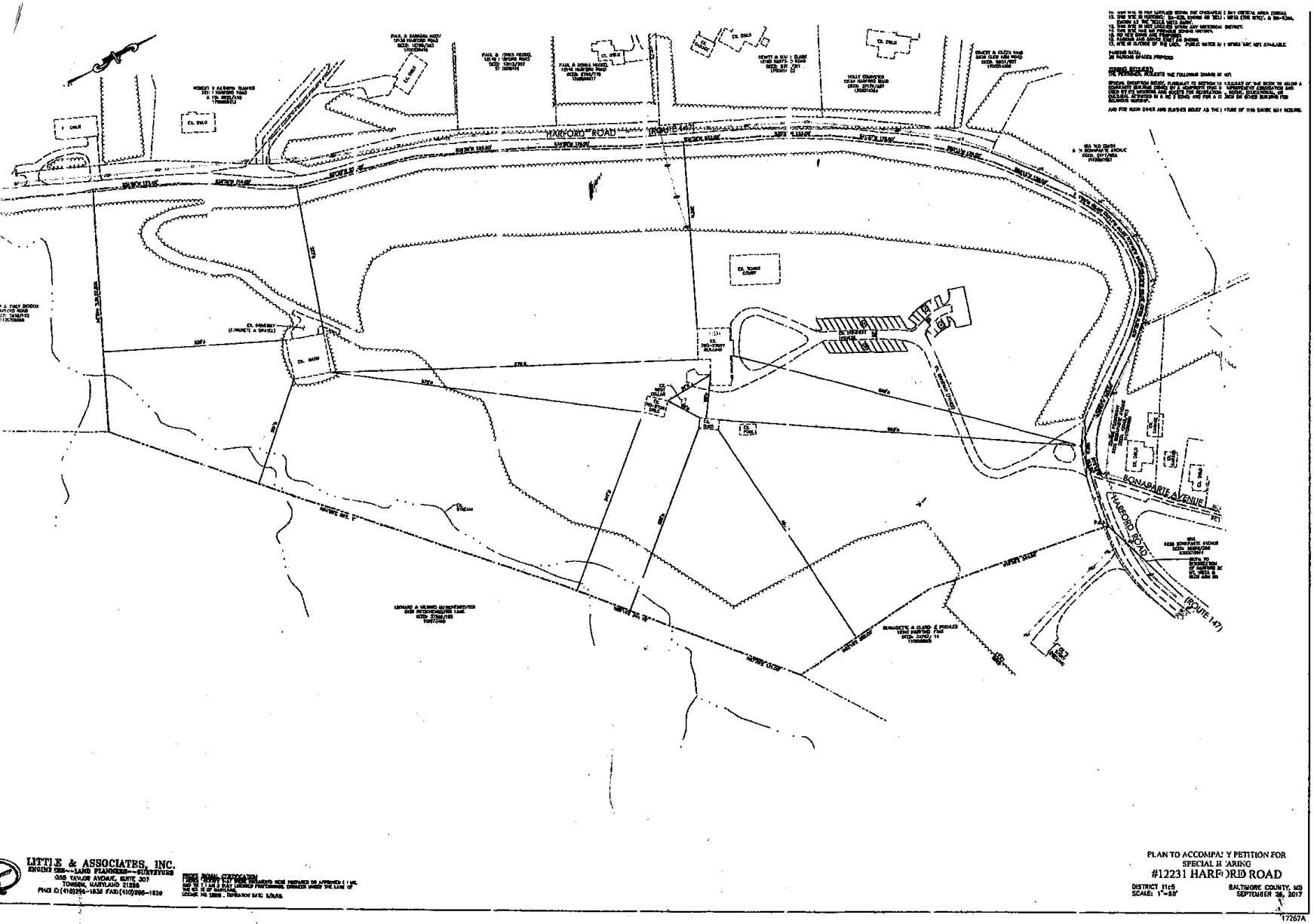
MR. MOTSCO: Yes, I have.

MR. KOTROCO: Okay. Aside from the entrance on Harford Road at the northern part of the property there's also an entrance or a former entrance I guess down on the lower part, is that right?

MR. MOTSCO: There is a, there is a, this used driveway that accesses Harford Road. (Inaudible) the plan shows a clearing through the trees, but the driveway snakes

Appendix 35


EX. DWLG.
& DONNA HECKEL
6 HARFORD ROAD
ED: 6796/776
1700908417
EX. GARAGE
EX. DWLG
DEWITT & MARY CLARK
12150 HARFORD ROAD
DEED: 6782/311
1700014393
(ROUTE 147)
HIGHWAY R/W
PER PLAT 42/19
176.00'
S31°39'W 233.00'
S35°37'W 132.00'
EX. WOODS
EX. TENNIS COURT
PROP. PARKING (TYP.)
#12231
EX. TWO-STORY BUILDING
EX. TWO-STORY DWLG.
EX. ROOT CELLAR
±1.18
±2.99
±1.08
EX. SHED
EX. POOL



LITTLE & ASSOCIATES, INC.
ENGINEERS — LAND PLANNERS — SURVEYORS
305 TAYLOR AVENUE, SUITE 307
TOWSON, MARYLAND 21286
PHONE (410)494-1838 FAX (410)666-1839

PLAN TO ACCOMPANY PETITION FOR
SPECIAL HEARING
#12231 HARFORD ROAD
DISTRICT 11c5 BALTIMORE COUNTY, MD
SCALE: 1"=50' SEPTEMBER 28, 2017

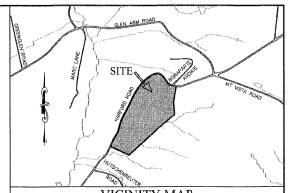
17267A

Protestant
CBA Exhibit
3

Protestant
CBA Exhibit
4

LANDSCAPE REQUIREMENTS / TABULATIONS		
A.	INTERIOR ROAD @ 1 PU/20 LF 475 LF X 1 PU/20 LF = 23.75	24 PU
B.	PARKING LOT 40 PS X 1 PU/12 PS = 3.33	3.5 PU
	TOTAL REQUIRED 27.5 PU TOTAL PROVIDED 27.5 PU	

LANDSCAPE MANUAL TABULATION			
SYMBOL	TYPE	QTY	P.U.
	PROPOSED MAJOR DECIDUOUS TREE	12	12
	PROPOSED MINOR DECIDUOUS TREE	11	5.5
	EXISTING DECIDUOUS TREE	5	5
	EXISTING EVERGREEN TREE	10	5
		TOTAL:	27.5



VICINITY MAP

GENERAL NOTES

1. OWNER
NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE
12231 HARFORD ROAD
GLEN ARM, MD 21057
2. TAX ACCOUNT #: 1700006067
3. DEED REF: 38868/455
4. SITE AREA: 30.85 AC. (1,341,648 S.F.)
5. ZONING: RC-2 & RC-5
6. ZONING MAP: 57-4B2 & 57-4B3
7. ELECTION DISTRICT: 11 COUNCILMANIC DISTRICT: 5
8. THIS SITE HAS NO KNOWN PREVIOUS COMMERCIAL PERMITS.
9. THIS SITE IS NOT LOCATED WITHIN ANY DEFICIENT AREAS BASED ON THE 2017 WATER, SEWER, AND TRANSPORTATION EVASC SERVICES MAPS, PURSUANT TO SECTION 4A02.
10. NO KNOWN 100 YEAR FLOODPLAINS ARE LOCATED ON THE SITE (FEMA MAP #24013C0280F).
11. THIS SITE IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA (CBCA).
12. THIS SITE IS LISTED IN THE MARYLAND INVENTORY OF HISTORIC PROPERTIES AS BA-539, KNOWN AS TELLA VISTA (SITE), & BA-539A, KNOWN AS THE TELLA VISTA BARN.
13. THIS SITE IS NOT LOCATED WITHIN ANY HISTORICAL DISTRICT.
14. THIS SITE HAS NO PREVIOUS ZONING HISTORY.
15. NO NEW SIGNS ARE PROPOSED.
16. DRIVEWAY AND PARKING ARE AS SHOWN.
17. SITE IS OUTSIDE OF THE URDL. PUBLIC WATER AND SEWER ARE NOT AVAILABLE. THE SITE IS SERVED BY PRIVATE WELL AND SEPTIC.

PARKING DATA:
PARKING REQUIRED: 1 SPOT PER 4 SEATS. 38 PARKING SPACES PROVIDED.

HARFORD ROAD (ROUTE 147)
HIGHWAY R/W PER PLAT 42/19
HIGHWAY R/W PER PLAT 40/43
S31°09'W 233.00'
S36°37'W 132.00'
S41°37'W 175.00'
S30°05'W 126.00'
S29°19'W 98.00'
S31°36'W 222.00'
S31°50'W 178.00'
S31°06'W 157.45'
S36°30'W 216.00'
S31°22'W 221.00'
S69°06'W 65.00'
S83°17'W 60.00'
N79°48'W 60.00'
N54°31'W 60.00'
N35°57'W 60.00'
N19°04'W 60.00'
N14°58'W 60.00'
N10°53'W 60.00'
N06°48'W 60.00'
N02°43'W 60.00'
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N32°58'W 60.00'
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N303°13'W 60.00'
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N358°03'W 60.00'
N01°58'W 60.00'
N05°53'W 60.00'
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N13°43'W 60.00'
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N21°33'W 60.00'
N25°28'W 60.00'
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N33°18'W 60.00'
N37°13'W 60.00'
N41°08'W 60.00'
N45°03'W 60.00'
N48°58'W 60.00'
N52°53'W 60.00'
N56°48'W 60.00'
N60°43'W 60.00'
N64°38'W 60.00'
N68°33'W 60.00'
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N76°23'W 60.00'
N80°18'W 60.00'
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N88°08'W 60.00'
N92°03'W 60.00'
N95°58'W 60.00'
N99°53'W 60.00'
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N107°43'W 60.00'
N111°38'W 60.00'
N115°33'W 60.00'
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The Greater Kingsville Civic Association, Inc.
P.O. Box 221
KINGSVILLE, MARYLAND 21087

September 3, 2018

J. Carroll Holzer, Esquire
508 Fairmont Ave
Towson, MD 21286

Dear Mr. Holzer,

The Greater Kingsville Civic Association, Inc. wishes to join the Gunpowder Falls Watershed Preservation Association as Protestants in the matter of Nepali American Cultural Center of Baltimore petition for Special Exception before the Board of Appeals for Baltimore County - Case No.: 2018-122-X.

The GKCA asks that you for represent the Association in this matter.

The Association's Rule 8 forms have been completed.

Sincerely,

Dorothy E. Foos

Dorothy E. Foos
President

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6

WITNESS COPY

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70

The Traffic Group

A SERVICE DISABLED VETERAN-OWNED SMALL BUSINESS

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January 10, 2018

Mr. Timothy M. Kotroco, Esquire
305 Washington Avenue, Suite 502
Towson, Maryland 21204

RE: Nepali Temple – Harford Road
Baltimore County, Maryland
Our Job No.: 2017-1207

Dear Mr. Kotroco:

As requested, we have prepared a Traffic Engineering Study for the proposed Nepali Temple on the Bonaparte Property located along the east side of Harford Road, just south of Mt. Vista Road/Glen Arm Road, in Baltimore County, Maryland. This property consists of a single family home that will be renovated to create a Nepali Temple with approximately 38 parking spaces. It is our understanding that there will be a caretaker on the grounds of the property.

This development is located north of the designated Urban area based on the 2017 Basic Services Map produced by the Baltimore County Department of Public Works. As such, it is our understanding that there is adequate and available transportation services in this area.

Based on our understanding of this Temple, there will be less than 20 people coming to the Temple on weekdays and less than 100 people coming on weekends. This Temple is much different than other religious venues. Most other venues have a leader or lecturer who will deliver a message during services at an established service time. This Temple will not have a leader or lecturer; therefore worshipers will arrive at different times in the morning, daytime, and evening during the weekday and weekends.

Sight distance measurements were taken at the existing/proposed access point to this site. When looking to the north, there is approximately 420 feet of sight distance and when looking to the south, there is approximately 355 feet of sight distance. Vehicles traveling in both directions have to navigate the access area with many curves and turns and the SHA warning signs are suggesting that drivers travel this portion of the road at 30 mph (the speed limit along Harford Road is 45 mph). The sight distance required for 30 mph is 335 feet which is met in both directions based on the conditions of the road suggested traveling speed. Based on the speed limit of 45 mph, the sight distance required is 500 feet. However, based on 420 and 355 feet of sight distance, the stopping sight distance is good for vehicles traveling around 50 mph and 45 mph respectively which is the minimum requirement for obtaining safe sight distance.

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8

Therefore, based on these result, it is our opinion that this development can be accommodated on the surrounding area roadway network and meets the standards for approval based on Baltimore County Zoning Regulations.

Sincerely,

Joseph J. Caloggero, P.E., PTOE, PTP
Vice President

JJC:mlj

(F:\2017\2017-1207_Nepali Temple\DOCS\CORRESP\ANALYST\Ltr_Kotroco.docx)

From: Joe Caloggero [mailto:jcaloggero@trafficgroup.com]
Sent: Wednesday, March 28, 2018 2:15 PM
To: Donald Distance <DDistance@sha.state.md.us>
Cc: Richard Zeller <RZeller@sha.state.md.us>; Steven Kohan <SKohan@sha.state.md.us>
Subject: RE: Nepali Temple
Importance: High

Hi Donald,

We reviewed the ITE Trip Generation, but they didn't have trip generation based on parking spaces as we discussed. Therefore, we utilized the Church Land Use Code (560) from the 10th Edition of ITE for 3,500 SF which is the SF of the entire first floor of the Nepali Temple. Please see the attached First Floor Diagram. The "Hall" would be the area of worship which is approximately 1,000 SF and that will not have chairs/pews. Again, this Temple will operate much differently than a typically church...

ITE Trip Generation, 10th Edition	**AM**			**PM**			**SAT**		
			DAILY						
	In	Out	Total	In	Out	Total	In	Out	Total
Church (ksf, ITE-560)									
3,500 sq.ft.	1	0	1	1	1	2			
	6	4	10	24					

I hope this information is helpful... please let me know if you have any questions. Again, I would like to meet with you and Rich in the field to discuss the access because of the challenges of this area... Thanks!

Joe

Joe Caloggero, P.E, PTOE, PTP
Vice President
The Traffic Group, Inc.
9900 Franklin Square Dr. - Suite H
Baltimore, MD 21236
T 410.931.6600
Cell 410.446.0618
F 410.931.6601
jcaloggero@trafficgroup.com
www.trafficgroup.com

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From: Donald Distance [mailto:DDistance@sha.state.md.us]
Sent: Friday, March 23, 2018 10:40 AM
To: Joe Caloggero <jcaloggero@trafficgroup.com>
Cc: Richard Zeller <RZeller@sha.state.md.us>; Steven Kohan <SKohan@sha.state.md.us>
Subject: RE: Nepali Temple

Joe:

Please send us trip data in the format of an ITE trip generation report.

Thanks,
Donald

TABLE 1

TRAFFIC CRASHES
REPORTED TO THE BALTIMORE COUNTY POLICE DEPARTMENT
ON HARFORD ROAD BETWEEN HARTLEY MILL AND GLEN ARM ROADS

JANUARY 1, 2016 => APRIL 1, 2018

Situation Found Code	Literal Definition	Year			Total
		2016	2017	2018ytd	
C1	Auto Accident - Property Damage	10	18	5	33
C2	Auto Accident - Personal Injury	1	3	1	5
C7	Hit & Run Accident - Property Damage		2	1	3
Total		11	23	7	41

Source: Calls for Service Module of the InPursuit Records Management System

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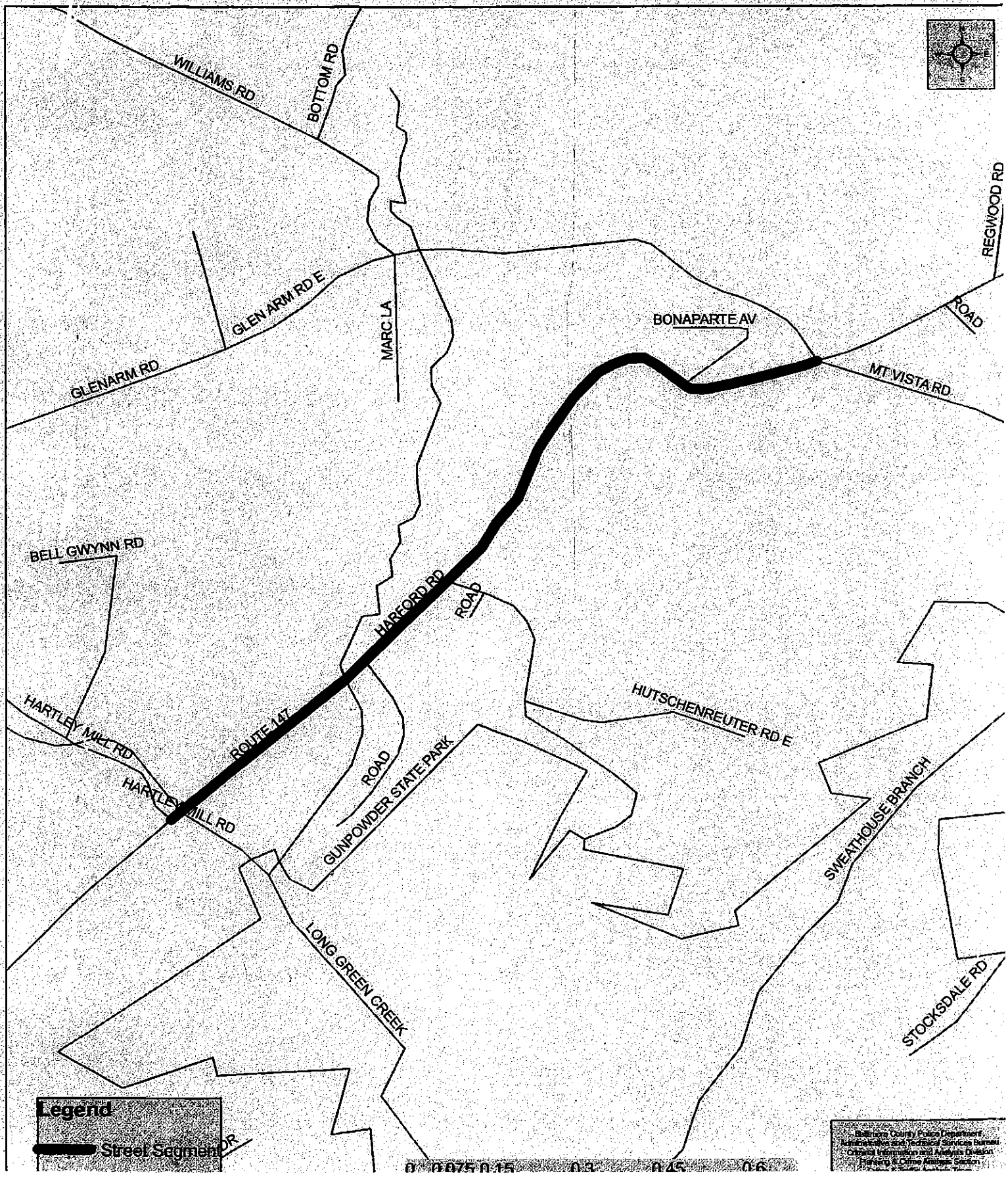
10

SELECTED HARFORD ROAD BETWEEN HARTLEY MILL ROAD AND GLEN ARM ROAD



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1

Access Management Division Plan Submission Checklist

SHA Tracking No.: 12APPG037XX

- ☐ North Arrow
- ☐ Location Map of 1"=2000'
- ☐ Plan dimension of 22" x 34"
- **Scale of Drawing:**
  - ☐ Between 1" = 10' to 1" = 50'
  - ☐ 1" = 30' (preferred)
- ☐ Plans sealed and signed by a Professional Engineer (With PE Certification Note) or Professional Land Surveyor (as their licensing permits). This information must be shown on each sheet.
- ☐ Legend on the plan to indicate all symbols
- ☐ All plan revisions noted in the revision block and plan view, with date and symbol
- ☐ Type of existing roadway:
- ☐ Posted speed limit:
- ☐ Show and label existing and proposed right of way line and easements, include right of way plat numbers. Provide access control data (Right of Way line of Through Highway or Denial of Vehicular Access) if applicable.
- ☐ Show centerline of existing highway
- ☐ Show dimension of property in bearings and distances
- ☐ Show location and dimension of existing and proposed buildings, as indicated on the approved site plan
- ☐ Identify limit of work on plans
- ☐ Show elevations/contours existing and proposed
- ☐ Provide dimensions on all proposed improvements whenever typical section changes
- ☐ Identify lane assignments and widths
- ☐ Show limit of disturbance / top of cut / toe of fill
- ☐ Typical sections provided on plan showing existing and proposed conditions.
- ☐ Show all existing and relocated utility locations
- ☐ Show all existing entrances, public or private streets on adjacent properties and on opposite side of the roadway (this includes medians, crossover location, and median break if applicable)
- ☐ Show all existing & proposed curb and gutter/edge of paving
- ☐ Show all existing and proposed storm drain structures
- ☐ Show all ditches with flow directional arrows
- ☐ Roadside safety grading is 4:1 or flatter for appropriate distance
- ☐ Grading for curb backing is per AASHTO Roadside Design Guidelines
- ☐ Show all traffic signs, signal equipment and street lighting
- ☐ Show all existing and proposed traffic barrier (reference appropriate end treatment)
- ☐ Show all existing and proposed landscaping
- ☐ Show all topography
- ☐ Provide ADA compliant pedestrian ramps and sidewalk (5 FT Minimum Width)
- ☐ Provide pedestrian & ADA mobility during construction
- ☐ Reference appropriate SHA standard numbers on plan
- ☐ Show SHA paving specifications
- ☐ Clearly identify full depth paving, saw cuts, milling, overlays and wedge/leveling on typical sections and plan view
- ☐ Provide shoulder slope transitions

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12

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☐ Provide pavement core analysis (if applicable)
☐ Provide cross sections every 25'
☐ Historical, cultural and Archeological impacts (**check if "Yes"**)

Traffic Impact Study
☐ Required
☐ Not Required
☐ Submitted

Traffic Signal
☐ Existing
☐ Proposed
☐ Not applicable

Roundabout Analysis
☐ Required
☐ Not Required
☐ Submitted

☐ Streetscape or landscaping proposed (**check if "Yes"**)
☐ Structures: retaining walls, structure fills, supporting slopes, etc.
☐ All retaining walls are located outside SHA right-of-way
☐ Sight distance profile (Required on all projects)

Type of commercial entrance:
☐ Radius type
☐ Depressed type
☐ Full movement
☐ Directional
☐ One-way
☐ Stabilized construction entrance
☐ Other:

Type of Street Connection:
☐ Public
☐ Private
☐ Monumental

Frontage improvement:
☐ Deceleration lane *Length:* *Width:*
☐ Acceleration lane *Length:* *Width:*
☐ Left turn lane *Length:* *Width:*
☐ By-pass lane *Length:* *Width:*
☐ Channelization type: ☐A ☐B ☐C

Roadway Improvement:
☐ Widening along a normal section
☐ Widening along super-elevated section
☐ Shifted centerline on travel lanes
☐ Typical closed section
☐ Typical open section

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14

Prot. 15

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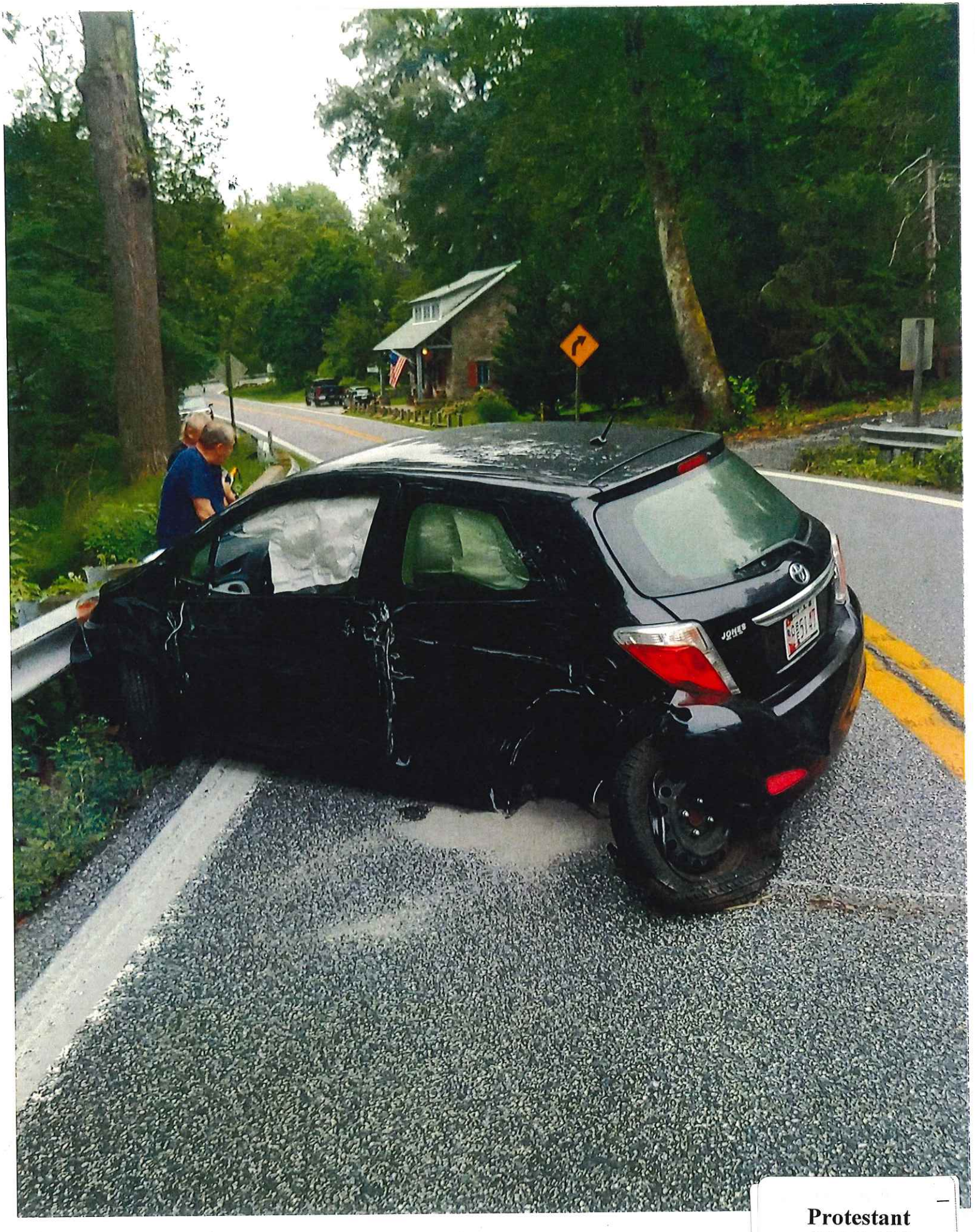

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17

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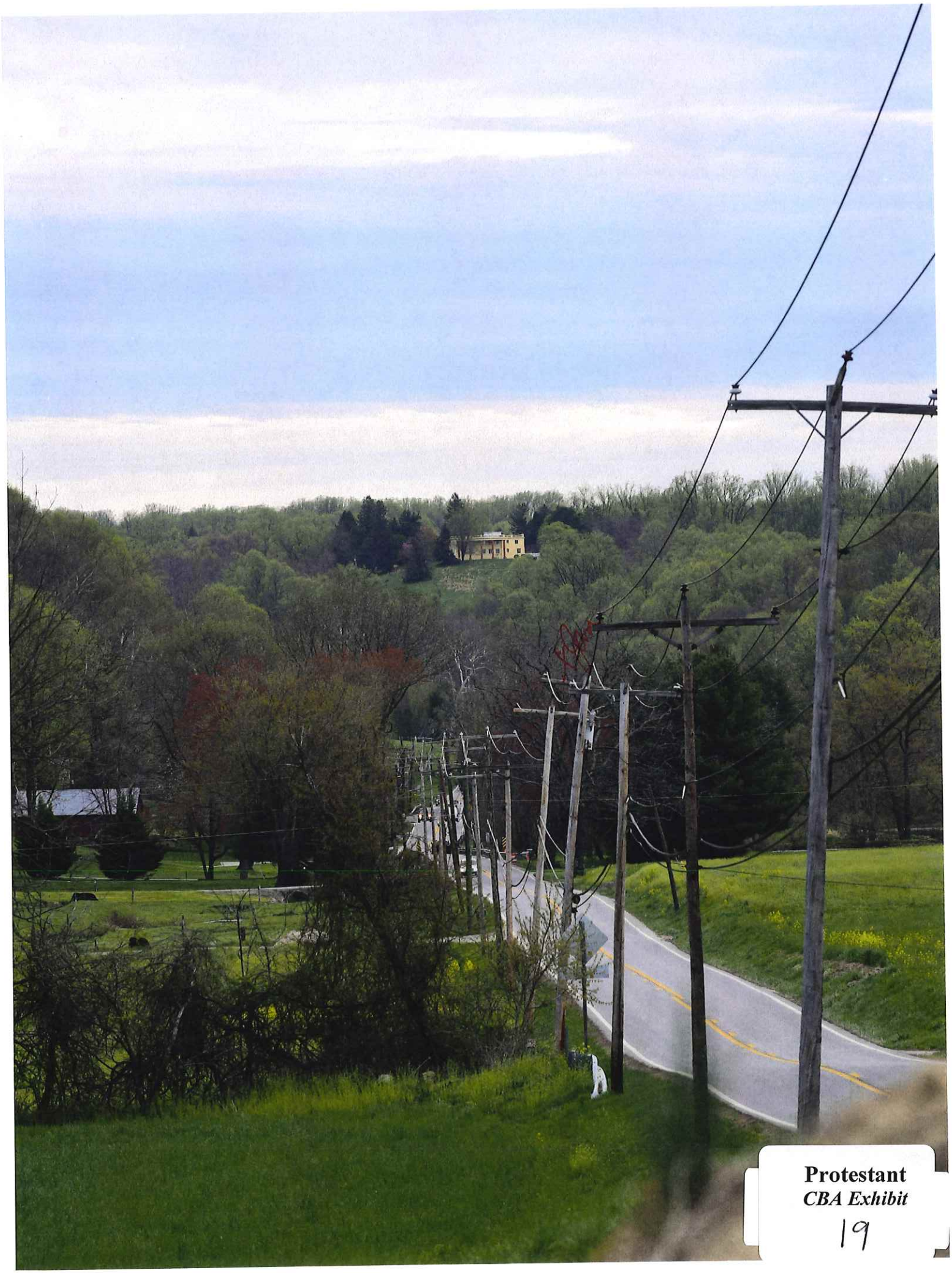
18



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21

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ST. JOE'S

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82

"Integrity...Fairness...Service"

BALTIMORE COUNTY POLICE DEPARTMENT

REQUEST FOR COPY OF POLICE REPORT
(Submit a separate application for each report requested.)

INSTRUCTIONS:

1. Information must be typed or printed. Incomplete information **may** result in the return of your application.
2. Include a check or money order for **$15** payable to Baltimore County, Maryland. **(THIS FEE IS NOT REFUNDABLE. PLEASE DO NOT SEND CASH. EXCEPTION: CRIME VICTIMS DO NOT HAVE TO PAY FOR COPIES OF THEIR REPORTS.)**
3. Enclose a **stamped, self-addressed envelope.**
4. Mail to: Information & Records Management Unit – Records Requests 410 887 2544
   Baltimore County Police Department
   700 E. Joppa Road
   Towson, Maryland 21286-5501
5. Your cancelled check will be your receipt.
   (Any questions, please call Records Requests at 410-887-2390.)

TYPE OF RECORD DESIRED:

Incident Report ☑	
Date and time of report	1/28/18 ~~APPROX~~ 2200
Report number	180281800
Location occurred	8416 OR 8420 BELAIR RD 21236
Name(s) of subject(s) involved	
Name(s) of suspect(s)	
Other name(s) involved	

Motor Vehicle Accident Report ☐	
Date and time of report	
Report number	
Location occurred	
Name(s) of vehicle owner(s)	
Name(s) of other vehicle driver(s)	
Other passenger(s) involved	

RECEIVED
FEB 21 2018
BY:

Check item below that best describes your interest in this case.

- ☐ Victim of crime (NOTE: A copy of your incident report will be provided free of charge).
- ☐ Driver of vehicle or person involved in accident/incident.
- ☐ Executor or administrator of the estate or next of kin (in case of death).
- ☐ Parent or guardian of person injured in motor vehicle accident.
- ☐ Insurance company.
- ☐ Attorney for (name): _____
- ☒ Other (please specify): CONCERNED CITIZEN
- ☐ Refused.

I CERTIFY THAT MY INTEREST IN THIS INCIDENT IS AS INDICATED ABOVE: _____
(Signature)

Name: THOMAS A KNEESHAW Address: 11 KINGS GLEN CT, KINGSVILLE, MD 21087

NOTE: While an incident may have occurred and a police report written of the incident, these reports go through a recording process before they are available for distribution and will be made available to you as quickly as possible. Requests for reports from the Baltimore County Police Department are processed in accordance with the Maryland Public Information Act (MPIA), as defined in the Maryland Annotated Code, Md. Gen. Provis. §§ 4-101 through 4-601. Thank you.

NAME AND ADDRESS TO WHOM REPORT IS TO BE MAILED:

Name: THOMAS A KNEESHAW
Address: 11 KINGS GLEN CT
Address: KINGSVILLE, MD 21087

Form 338 (Rev. 01/2018)

BALTIMORE COUNTY POLICE DEPARTMENT
Incident Report

"Integrity...Fairness...Service"

INCIDENT NUMBER	180281800
Report Type	Incident Report
Page	1 of 4
Date / Time Occurred	1/28/2018 22:39 to 1/28/2018 22:39
Date / Time Reported	1/28/2018 22:39

Arrested Suspects	Known Suspects	Unknown Suspects	Victims	Other Persons	Vehicles	Items	LEOKA Count	Related CC#
1	0		1				1	

☐ Arson Related — Arson Code — Damage Value

☐ Bias Related — Motivation — Cargo Theft: NO

☐ Confidential ☐ Firearm Related ☐ Workplace Violence Related ☐ Repeat Offender Related ☐ Domestic Related ☐ School Related
☐ Witness Intimidation Related ☐ Gang Related ☐ Homeland Security Related ☐ CDS Related ☐ Assets Seized ☐ Sick/Injured Report Completed (Form 273)
☑ Use of Force Completed (Form 253) ☑ Officer Video

Incident Details

UCR Disposition	Situation Found	Case Status
E - ADULT ARREST	J 4 - ASSAULT, 2ND DEGREE (NOT DOMSTIC A	EX-CLEAR

Location of Incident

Street Address	Unit Type	Unit Number
8420 BELAIR RD		

City	State	Zip	Precinct	Reporting Area
NOTTINGHAM	Maryland	21236	08 - PARKVILLE	080920

Administrative Info

Investigating Officer	ID	Assignment	Sub Assignment
KESTERSON, R	3341	OPERATIONS SUPPORT	PLATOON 2

Investigative Interview Conducted	Warrant/Summons/Protective Order Explained	MD Crime Victim/Witness Brochure Issued	Security Survey Information
☐ Yes ☑ No	☐ Yes ☑ No	☐ Yes ☑ No	

Approving Supervisor	Approving Supervisor ID	Reviewed Date / Time
MOROZ, S	4628	1/30/2018 23:21

Approving Shift/Unit Commander	Approving Shift/Unit Commander ID	Approval Date / Time
SCHERBA, S	3497	1/31/2018 10:04

Distribute To 1	Distribute To 2	Distribute To 3	Distribute To 4
CRIMINAL INTELLIGENCE	OPERATIONS SUPPORT		
Distribute To 5	**Distribute To 6**	**Distribute To 7**	**Distribute To 8**
Distribute To 9	**Distribute To 10**	☐ Incident Summary Completed	

OFFENSE — ☑ Most Serious Offense

Offense Code	Offense Code Value	Attempted/Completed	Premise	Domestic Related Circumstances
ASSAULT 2ND DEGREE SIMPLE ON POLICE	12462	COMPLETED	PARKING LOT, CHURCH	

Drug Activity — Drug Type

MO Panel

Entry Type	Method of Attack	Point Of Attack
Exit Point	**Target Area**	**Time of Day**
Burglary MO Used 1	**Burglary MO Used 2**	**Burglary MO Used 3**
Robbery MO Used 1	**Robbery MO Used 2**	**Robbery MO Used 3**

Weapon	Firearm Description	Arson
PHYSICAL FORCE		

Instrument Used

Additional Offense MO Comments

OFFENSE — ☐ Most Serious Offense

Offense Code	Offense Code Value	Attempted/Completed	Premise	Domestic Related Circumstances
DISTURBANCE OF THE PEACE	12938	COMPLETED	PARKING LOT, CHURCH	

Drug Activity — Drug Type

MO Panel

Entry Type	Method of Attack	Point Of Attack
Exit Point	**Target Area**	**Time of Day**
Burglary MO Used 1	**Burglary MO Used 2**	**Burglary MO Used 3**
Robbery MO Used 1	**Robbery MO Used 2**	**Robbery MO Used 3**

Weapon	Firearm Description	Arson
Instrument Used		
Additional Offense MO Comments		

OFFENSE ☐ Most Serious Offense

Offense Code	Offense Code Value	Attempted/Completed	Premise	Domestic Related Circumstances
RESISTING ARREST	12907	COMPLETED	PARKING LOT, CHURCH	

Drug Activity | Drug Type

MO Panel

Entry Type	Method of Attack	Point Of Attack
Exit Point	Target Area	Time of Day
Burglary MO Used 1	Burglary MO Used 2	Burglary MO Used 3
Robbery MO Used 1	Robbery MO Used 2	Robbery MO Used 3
Weapon	Firearm Description	Arson
Instrument Used		
Additional Offense MO Comments		

SUSPECT ☑ Known ☐ Unknown ☑ Arrested

Last Name	First Name	Middle Name	Suffix
SARKI	SHREE	MAN	

Nickname	Race	Sex	SSN	Date of Birth	Age	Age Range	Juvenile
	ASIAN	MALE	[redacted]	01/18/1996	22	to	☐

Height	Weight	Driver's License #	DL State	UID #	Booking #	JID #
5'05"	135	[redacted]	Virginia	[redacted]	[redacted]	

Contact #	FBI #	SID #	Ethnicity
		[redacted]	ASIAN

Preferred	Home Phone	Cell Phone	Email Address
CELL PHONE		[redacted]	

Suspect Home Address

Street Address	Unit Type	Unit Number
[redacted]		

City	State	Zip
HENRICO	Virginia	[redacted]

Suspect Employment Information

Student	Employer / School	Occupation	Work Phone	Hours of Employment
☑	NCI	CONSTRUCTION WORKER		

Details

Hair Color	Hair Length	Glasses	Eye Color	Build	Facial Hair
BLACK	COLLAR LENGTH		BROWN	MEDIUM	MUSTACHE

Facial Hair Color	Teeth Descriptor	Speech	General Appearance	Complexion
BLACK		ACCENT (DESCRIBE IN NARRATIVE)		MEDIUM

Shirt	Jacket	Pants	Shoes	Hat	Hat/Cap Description
GRAY	BLACK	BLUE	BROWN	☐	

Mask | Gloves/Socks On Hands ☐

Clothing Description

Other Description

Miscellaneous at Time: NEPALI ACCENT

Injury: INJURED

MO Panel

Weapon	Firearm Description

Additional Suspect MO Comments

Associated Offenses

Offense: ASSAULT 2ND DEGREE SIMPLE ON POLICE — ☑ Associated With Suspect
Offense: DISTURBANCE OF THE PEACE — ☑ Associated With Suspect
Offense: RESISTING ARREST — ☑ Associated With Suspect

VICTIM

Victim Type: PERSON ☐ Shielding Requested

Last Name	First Name	Middle Name	Suffix
KESTERSON	R		

Nickname	Race	Sex	Date of Birth	Age	Age Range to	Juvenile
3341						☐

Infant Type	Driver's License #	DL State

Ethnicity	Preferred	Home Phone	Cell Phone	Email Address

Victim Home Address

Street Address	Unit Type	Unit Number
700 E JOPPA RD		

City	State	Zip
TOWSON	Maryland	21286

Employment Information

☐ Student	Employer / School	Occupation

College Name	Work Phone	Hours of Employment

Details

Injury	Injury Description	Victim Condition

Hospital Facility	Under Influence Alcohol?	Under Influence Drugs?	Cohabitant
☐ Victim Hospitalized	☐ Yes ☑ No ☐ Unknown	☐ Yes ☑ No ☐ Unknown	☐ Yes ☑ No

Associated Offenses

Offense: ASSAULT 2ND DEGREE SIMPLE ON POLICE — ☑ Associated With Victim
Offense: DISTURBANCE OF THE PEACE — ☐ Associated With Victim
Offense: RESISTING ARREST — ☑ Associated With Victim

LEOKA

Activity	Assignment	Assault Time
RESPONDING TO DISTURBANCE CALLS	ONE OFFICER VEHICLE ALONE	22:41

Weapon	Firearm Description	Injury	Cleared
HANDS, FISTS, FEET		NOT INJURED	☐

Officer	ORI
KESTERSON,R	MD0030100

Associated Offenses

Offense: ASSAULT 2ND DEGREE SIMPLE ON POLICE — ☐ Associated With Leoka
Offense: DISTURBANCE OF THE PEACE — ☐ Associated With Leoka
Offense: RESISTING ARREST — ☑ Associated With Leoka

Narrative Information

On 1/28/18 at 2239 hours, I responded to St. Joseph's Church at 8420 Belair Rd. for a call of a fight. The caller advised several persons were fighting at the location. Upon my arrival at 2240 hours (in a marked Baltimore County Police car with activated emergency lights and siren and wearing a Baltimore County Police uniform), several persons pointed me towards the north side of the parking lot. I made my way towards where they were pointing. I observed a male on top of another Asian male (who was lying on his back). The male on top was striking the grounded male with closed fists. The male on top was later identified by a VA driver's license as

Suspect Shree Man Sarki. I ran to the two fighting subjects. I yelled for them to stop. Suspect Sarki continued to strike the grounded male with closed fists. I attempted to pull Suspect Sarki off. This did not work, and I began to punch Suspect Sarki in his sides in an attempt to gain compliance. This was not working. I had my flashlight with me. I struck Suspect Sarki in his right side with the flashlight in an attempt to gain compliance. He continued to roll on top of the grounded male. I yelled several times for him to stop. I was able to pull him away from the grounded male after several strikes. As I pulled him away, Suspect Sarki swung elbows back towards me striking me at least twice in my torso. I did not sustain any injury. As we rolled to my left, I was briefly on my back with Suspect Sarki above me. Suspect Sarki cocked his right arm back as if to strike me, but I was able to strike his left side. I was able to stand myself and stand Suspect Sarki up in an attempt to arrest him for the witnessed assault on the grounded male. Prior to that scuffle, several persons' attention was directed to the fight and they gathered around at the yelling and fighting between the male and the grounded male. Some even began recording with cell phones. After standing up with the male I observed striking the grounded male (who had since fled the area), I was confronted by a crowd closing in on me. I ordered them back, and removed my OC spray container from my belt. No OC spray was deployed. As I was attempting to move the crowd back, Suspect Sarki began to pull away from me in an attempt to flee. I grabbed his collar and was able to hold him. He continued to pull away from my grasp. I pushed him to the ground. I ordered him several times to put his arms behind his back. After several commands, he did so. He was arrested. Again, members of a crowd surrounded me and I ordered them back. Several persons' attention was drawn to Suspect Sarki and me, and again were recording with cell phones. Backup officers from PC8 and PC9 arrived to my location on the parking lot. Suspect Sarki was then taken to a waiting Police car by Cpl. R. Pabon #4550 (BCOPD/PC8). While attempting to disperse the crowd which remained at the parking lot, several Corona beer bottles and liquor bottles were littered across the parking lot. Several persons there laughed when ordered by myself and several other officers to disperse.

Suspect Sarki was transported to PC8 for processing.

The male that I saw being assaulted by Suspect Sarki left the area. This male was not identified. I could only observe that he was an Asian male wearing dark clothing.

Form 253 completed.

BWC footage obtained.

OFC T. Benson #4245 (Forensic Services) responded to PC8 and photographed Suspect Sarki. While talking to Suspect Sarki, He stated that abrasions around his eyes and face were caused by a guy that he tried to get off of his friend. I never struck Suspect Sarki in the head with either a fist or my flashlight. Any blows landed were on his torso. Suspect Sarki was asked if he had pain anywhere in his sides. He said he did not.

Sgt. S. Moroz #4628 (Crash Team) responded to the scene.

BCoPD Event 180281800 - St Joseph Catholic Church, 8420 Belair Rd, Nottingham, MD 21236

Date	Time	Unit	Description	
01/28/18	22:39:36	812	Enroute	
01/28/18	22:40:59	1407	Arrived	
01/28/18	22:42:14	813	Arrived	
01/28/18	22:42:37	827	Arrived	
01/28/18	22:44:47	930	Arrived	
01/28/18	22:46:00	810	Arrived	
01/28/18	22:47:20	1406	Arrived	
01/28/18	22:47:56	825	Arrived	
01/28/18	22:49:14	1408	Arrived	
01/28/18	22:50:41	828	Arrived	
01/28/18	22:57:05	1533	Arrived	
01/28/18	23:40:28	3142	Arrived	Crime Scene Processing
		12 cars		

Baltimore County 911 Center
401 Bosley Avenue
MS 3007
Towson, Maryland 21204
Office: 410-307-2006 Fax: 410-307-2039
E-mail: 911records@baltimorecountymd.gov

CERTIFICATION

I do hereby certify and solemnly affirm under the penalties of perjury, that to the best of my knowledge, information, and belief, the enclosed compact disc recording of Incident # 190281800 and/or telephone call(s) made to the Baltimore County 9-1-1 Center on 1-28-19 (date) is a true copy from the Master Logging Recorder. I further certify that I am the Custodian of said records.

Ref. Case: 8420 Belair Rd

Tammy Price
Chief, 9-1-1 Center
Custodian of Records

The enclosed compact disc consists of 1 call(s) to the Baltimore County 911 Center.

Call # 1 was recorded over operator position E519

This call began at 10:35:37 pm

This call ended at 10:39:19 PM

Call # _____ was recorded over operator position _____

This call began at _____

This call ended at _____

Call # _____ was recorded over operator position _____

This call began at _____

This call ended at _____

Call # _____ was recorded over operator position _____

This call began at _____

This call ended at _____

Date 07/02/18 Time 07:25:50 Universal Event 180281800

cc# 180281800.01 01/28/18 ES19 HRH80 ct 22:36:29 ea 22:37:37 ra 080920 fb 008-17
loc 8420 BELAIR RD # src 911
typ CARD113 ser P pri 1 h N nam CHAROLETTE see N pho (410)903-3541
rem ST JOSEPH CATHOLIC CHURCH, INSIDE CHURCH HALL, PEOPLE FIGHTING, THROWING BOTTLES ms
ali 8400 DUNFIELD RD DIRECTION: 13 ani 410-903-3541 sub WIRELESS-VERIZON (
pc PAR fr FIR int 28-K9 : KLOSTERMAN AV*PLUMER AV d sf

au

dt 00:00:00

at 00:00:00
ru 828 812 813 811 827 d sf s
rc 911
cc# 180281800.01Cct 22:36:29 ea 22:37:37 HRH80 ES19 pc post 828 ra 080920
loc 8420 BELAIR RD # hz fb 008-1
7
nam CHAROLETTE see N pho (410)903-3541 typ CARD113 h N ser P p
ri 1
rem ST JOSEPH CATHOLIC CHURCH, INSIDE CHURCH HALL, PEOPLE FIGHTING, THROWING BOT
TLES ms
int 28-K9 : KLOSTERMAN AV*PLUMER AV title DISTURBANCE
ali 8400 DUNFIELD RD DIRECTION: 13 ani 410-903-3541 sub WIRELESS-VERIZON
(

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au 1529/C 810/C 1533/C 930/C 1407/ET 812/C 827/C 1408/C 1406/C 811/C 825/C 828/C
813/C

dt 22:39:01

at 22:40:59
ru 828 812 813 811 827 d 1 sf J4 s
rc 911
cc# 180281800.02Cct 22:36:29 ea 22:37:37 HRH80 ES19 pc post 828 ra 080920
loc 8420 BELAIR RD # hz fb 008-1
7
nam CHAROLETTE see N pho (410)903-3541 typ 113D1FIGHTLG h N ser P p
ri 1
rem ST JOSEPH CATHOLIC CHURCH, INSIDE CHURCH HALL, PEOPLE FIGHTING, THROWING BOT
TLES ms N
int 28-K9 : KLOSTERMAN AV*PLUMER AV title PHYSICAL DISTURB LG GRP
ali 8400 DUNFIELD RD DIRECTION: 13 ani 410-903-3541 sub WIRELESS-VERIZON
(

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cc# 180281800.01 22:37 ES19 typ CARD113 ser P loc 8420 BELAIR RD

remarks ADDED REMARK SENT BY PROQA EMD# P602320
pg: 1 ST JOSEPH CATHOLIC CHURCH, INSIDE CHURCH HALL, PEOPLE FIGHTING, THROWI
of: 11 NG BOTTLES

cc# 180281800.02 22:38 ES19 typ 113D1FIGHTLG ser P loc 8420 BELAIR RD

remarks ADDED REMARK SENT BY PROQA EMD# P602320
pg: 2 PHYSICAL (LARGE GROUP)
of: 11
VICT CALLER ON SCENE.
UNK IF WPNS INVOLVED.
DISTURBANCE
IN PROGRESS.
LARGE GROUP INVL.
PHYSICAL DISTURBANCE.

cc# 180281800.02 22:38 ES19 typ 113D1FIGHTLG ser P loc 8420 BELAIR RD

remarks ADDED REMARK SENT BY PROQA EMD# P602320
pg: 3
of: 11
SUSP ON SCENE: HEADED OUTSIDE OVER 100 PEOPLE
*** PERSON (1) INFORMATON ***
TYPE-DESC:(SUSPECT) RACE:(INDIAN)

cc# 180281800.02 22:38 ES19 typ 113D1FIGHTLG ser P loc 8420 BELAIR RD

remarks ADDED REMARK SENT BY PROQA EMD# P602320
pg: 4 _
of: 11

SUSP DESC:
UNK IF SUSP ARRIVED IN VEH.
ALCOHOL/DRUGS INVL: ALL DRINKING
NO MEDICAL NEEDED.

cc# 180281800.02 22:39 ES19 typ 113D1FIGHTLG ser P loc 8420 BELAIR RD

remarks COMPLETE SENT BY PROQA EMD# P602320
pg: 5 **** SESSION FINISHED! *****
of: 11

cc# 180281800.02 22:42 PD08 typ 113D1FIGHTLG ser P loc 8420 BELAIR RD

remarks SIG 13 2242
pg: 6
of: 11

cc# 180281800.02 22:43 PD08 typ 113D1FIGHTLG ser P loc 8420 BELAIR RD

remarks NORTH END OF PARKING LOT
pg: 7
of: 11

cc# 180281800.02 22:46 PD08 typ 113D1FIGHTLG ser P loc 8420 BELAIR RD

remarks 1407 95 @ 2241
pg: 8
of: 11

cc# 180281800.02 22:57 PD08 typ 113D1FIGHTLG ser P loc 8420 BELAIR RD

remarks ALSO CC 1710 MANUAL CARD
pg: 9
of: 11

cc# 180281800.02 22:59 PD08 typ 113D1FIGHTLG ser P loc 8420 BELAIR RD

remarks USE OF FORCE USED
pg: 10
of: 11

cc# 180281800.02 23:02 PD08 typ 113D1FIGHTLG ser P loc 8420 BELAIR RD

remarks CL CC 1823
pg: 11
of: 11

DATE	TIME	POS	OP ID	TRANS	UNIT	DESCRIPTION
01/29/18	01:04:23	3407	3341	AVAILABL	1407	
01/29/18	01:04:23	3407	3341	CLEARED	1407	1407
01/29/18	01:04:23	PD08	PJE11	CLOSED		
01/28/18	23:11:37	4813	5399	AVAILABL	813	
01/28/18	23:11:37	4813	5399	CLEARED	813	813
01/28/18	23:11:27	4828	5023	AVAILABL	828	
01/28/18	23:11:27	4828	5023	CLEARED	828	828
01/28/18	23:09:37	PD08	PJE11	AVAILABL	825	
01/28/18	23:09:37	PD08	PJE11	CLEARED	825	825
01/28/18	23:09:26	4811	5185	AVAILABL	811	
01/28/18	23:09:26	4811	5185	CLEARED	811	811
01/28/18	23:08:53	PD08	PJE11	AVAILABL	1406	
01/28/18	23:08:53	PD08	PJE11	CLEARED	1406	1406
01/28/18	23:06:32	PD08	PJE11	AVAILABL	1408	
01/28/18	23:06:32	PD08	PJE11	CLEARED	1408	1408
01/28/18	23:06:23	4827	4090	AVAILABL	827	
01/28/18	23:06:23	4827	4090	CLEARED	827	827
01/28/18	23:05:41	4881	5495	AVAILABL	812	
01/28/18	23:05:41	4881	5495	CLEARED	812	812
01/28/18	23:05:32	PD08	PJE11	ET	1407	PERPETUAL TIME EXTENSION
01/28/18	23:03:46	PD08	PJE11	UL	1407	PC8 95
01/28/18	23:02:47	PD08	PJE11	ARA		ADDED REMARK TO EVENT 180281800
01/28/18	23:01:51	PD08	PJE11	ET	1407	PERPETUAL TIME EXTENSION
01/28/18	23:01:51	PD08	PJE11	ET	827	PERPETUAL TIME EXTENSION
01/28/18	23:01:43	PD08	PJE11	X	827	X UNIT 827 AND UNIT 1407
01/28/18	23:00:20	4930	5828	AVAILABL	930	
01/28/18	23:00:20	4930	5828	CLEARED	930	930
01/28/18	23:00:17	3533	4485	AVAILABL	1533	
01/28/18	23:00:17	3533	4485	CLEARED	1533	1533
01/28/18	23:00:05	PD08	PJE11	A->C	1533	TIMER LAPSED
01/28/18	23:00:03	PD08	PJE11	AVAILABL	810	
01/28/18	23:00:03	PD08	PJE11	CLEARED	810	810
01/28/18	22:59:29	PD08	PJE11	ARA		ADDED REMARK TO EVENT 180281800
01/28/18	22:59:15	PD08	PJE11	UL	1407	76 PC8
01/28/18	22:57:05	3533	4485	A	1533	ARRIVED,
01/28/18	22:57:02	PD08	PJE11	ARA		ADDED REMARK TO EVENT 180281800
01/28/18	22:56:14	PD08	PJE11	ET	828	EXTENDED BY 99 MINUTES
01/28/18	22:53:41	PD08	PJE11	A->C	828	TIMER LAPSED
01/28/18	22:52:57	PD08	PJE11	UL	1408	TRAFFIC LIGHT
01/28/18	22:52:50	PD08	PJE11	ET	813	PERPETUAL TIME EXTENSION
01/28/18	22:52:47	PD08	PJE11	ET	1406	PERPETUAL TIME EXTENSION
01/28/18	22:52:47	PD08	PJE11	ET	1407	PERPETUAL TIME EXTENSION
01/28/18	22:52:47	PD08	PJE11	ET	1408	PERPETUAL TIME EXTENSION
01/28/18	22:52:47	PD08	PJE11	ET	810	PERPETUAL TIME EXTENSION
01/28/18	22:52:47	PD08	PJE11	ET	825	PERPETUAL TIME EXTENSION
01/28/18	22:52:47	PD08	PJE11	ET	827	PERPETUAL TIME EXTENSION
01/28/18	22:52:47	PD08	PJE11	ET	930	PERPETUAL TIME EXTENSION
01/28/18	22:52:14	PD08	PJE11	A->C	1408	TIMER LAPSED
01/28/18	22:52:08	PD08	PJE11	UL	828	TRAFFIC LIGHT
01/28/18	22:51:08	3529	5691	AVAILABL	1529	
01/28/18	22:51:08	3529	5691	CLEARED	1529	1529
01/28/18	22:50:56	PD08	PJE11	A->C	825	TIMER LAPSED
01/28/18	22:50:41	PD08	PJE11	A	828	ARRIVED,
01/28/18	22:50:39	PD08	PJE11	AU.E	828	ENROUTE TO 8420 BELAIR RD

01/28/18 22:50:20	PD08	PJE11	A->C	1406	TIMER LAPSED
01/28/18 22:49:45	PD08	PJE11	AU.E	1533	ENROUTE TO 8420 BELAIR RD
01/28/18 22:49:17	PD08	PJE11	UL	1408	IN BACK
01/28/18 22:49:14	PD08	PJE11	AU.A	1408	ARRIVED AT 8420 BELAIR RD
01/28/18 22:49:00	PD08	PJE11	A->C	810	TIMER LAPSED
01/28/18 22:48:15	PD08	PJE11	E	1529	ENROUTE

01/28/18 22:48:00	PD08	PJE11	CLEARED	1533	1533
01/28/18 22:47:56	PD08	PJE11	AU.A	825	ARRIVED AT 8420 BELAIR RD
01/28/18 22:47:50	PD08	PJE11	UL	810	76 PC W/95
01/28/18 22:47:47	PD08	PJE11	A->C	930	TIMER LAPSED
01/28/18 22:47:20	PD08	PJE11	AU.A	1406	ARRIVED AT 8420 BELAIR RD
01/28/18 22:46:16	PD08	PJE11	ARA		ADDED REMARK TO EVENT 180281800
01/28/18 22:46:00	PD08	PJE11	A	810	ARRIVED,
01/28/18 22:45:37	PD08	PJE11	A->C	827	TIMER LAPSED
01/28/18 22:45:34	PD08	PJE11	D	1529	UNIT DISPATCH
01/28/18 22:45:31	PD08	PJE11	AU.E	1533	ENROUTE TO 8420 BELAIR RD
01/28/18 22:45:14	PD08	PJE11	A->C	813	TIMER LAPSED
01/28/18 22:44:47	PD08	PJE11	A	930	ARRIVED,
01/28/18 22:44:13	PD08	PJE11	A->C	1407	TIMER LAPSED
01/28/18 22:43:59	PD08	PJE11	AU.E	810	ENROUTE TO 8420 BELAIR RD
01/28/18 22:43:24	PD08	PJE11	ARA		ADDED REMARK TO EVENT 180281800
01/28/18 22:42:37	PD08	PJE11	A	827	ARRIVED,
01/28/18 22:42:24	PD08	PJE11	ARA		ADDED REMARK TO EVENT 180281800
01/28/18 22:42:14	PD08	PJE11	A	813	ARRIVED,
01/28/18 22:42:08	PD08	PJE11	E	930	ENROUTE
01/28/18 22:42:07	PD08	PJE11	D	930	UNIT DISPATCH
01/28/18 22:41:13	PD08	PJE11	A	1407	ARRIVED,
01/28/18 22:40:59	3407	3341	A	1407	ARRIVED,
01/28/18 22:39:36	PD08	PJE11	AU.E	1407	ENROUTE TO 8420 BELAIR RD
01/28/18 22:39:36	PD08	PJE11	AU.E	812	ENROUTE TO 8420 BELAIR RD
01/28/18 22:39:21	PD08	PJE11	E	811	ENROUTE
01/28/18 22:39:18	ES19	HRH80	ARA		ADDED REMARK TO EVENT 180281800
01/28/18 22:39:16	PD08	PJE11	D	811	UNIT DISPATCH
01/28/18 22:39:08	PD08	PJE11	E	813	ENROUTE
01/28/18 22:39:08	PD08	PJE11	E	827	ENROUTE
01/28/18 22:39:01	PD08	PJE11	D	813	UNIT DISPATCH
01/28/18 22:39:01	PD08	PJE11	D	827	UNIT DISPATCH
01/28/18 22:38:57	ES19	HRH80	ARA		ADDED REMARK TO EVENT 180281800
01/28/18 22:38:32	ES19	HRH80	ARA		ADDED REMARK TO EVENT 180281800
01/28/18 22:38:06	ES19	HRH80	ARA		ADDED REMARK TO EVENT 180281800
01/28/18 22:38:03	ES19	HRH80	EVU		EVENT 180281800.2 UPDATED
01/28/18 22:37:45	ES19	HRH80	ARA		ADDED REMARK TO EVENT 180281800
01/28/18 22:37:37	ES19	HRH80	EVA		CREATED

"Integrity...Fairness...Service"

BALTIMORE COUNTY POLICE DEPARTMENT

REQUEST FOR COPY OF POLICE REPORT
(Submit a separate application for each report requested.)

INSTRUCTIONS:

1. Information must be typed or printed. Incomplete information **may** result in the return of your application.
2. Include a check or money order for **$15** payable to Baltimore County, Maryland. **(THIS FEE IS NOT REFUNDABLE. PLEASE DO NOT SEND CASH. EXCEPTION: CRIME VICTIMS DO NOT HAVE TO PAY FOR COPIES OF THEIR REPORTS.)**
3. Enclose a **stamped, self-addressed envelope.**
4. Mail to: Information & Records Management Unit – Records Requests
   Baltimore County Police Department
   700 E. Joppa Road
   Towson, Maryland 21286-5501
5. Your cancelled check will be your receipt.
   (Any questions, please call Records Requests at 410-887-2390.)

TYPE OF RECORD DESIRED:

Incident Report ☒	
Date and time of report	01/29/2018 0059 HOURS
Report number	180290075
Location occurred	7900 Block BELAIR RD
Name(s) of subject(s) involved	
Name(s) of suspect(s)	
Other name(s) involved	

Motor Vehicle Accident Report ☐	
Date and time of report	
Report number	
Location occurred	
Name(s) of vehicle owner(s)	
Name(s) of other vehicle driver(s)	
Other passenger(s) involved	

RECEIVED
FEB 21 2018
BY:

Check item below that best describes your interest in this case.

- ☐ Victim of crime (NOTE: A copy of your incident report will be provided free of charge).
- ☐ Driver of vehicle or person involved in accident/incident.
- ☐ Executor or administrator of the estate or next of kin (in case of death).
- ☐ Parent or guardian of person injured in motor vehicle accident.
- ☐ Insurance company.
- ☐ Attorney for (name):
- ☒ Other (please specify): CONCERNED CITIZEN
- ☐ Refused.

I CERTIFY THAT MY INTEREST IN THIS INCIDENT IS AS INDICATED ABOVE:

(Signature)

Name: THOMAS A KNEESHAW Address: 11 KINGS GLEN CT, KINGSVILLE, MD 21087

NOTE: While an incident may have occurred and a police report written of the incident, these reports go through a recording process before they are available for distribution and will be made available to you as quickly as possible. Requests for reports from the Baltimore County Police Department are processed in accordance with the Maryland Public Information Act (MPIA), as defined in the Maryland Annotated Code, Md. Gen. Provis. §§ 4-101 through 4-601. Thank you.

NAME AND ADDRESS TO WHOM REPORT IS TO BE MAILED:

Name: THOMAS A KNEESHAW
Address: 11 KINGS GLEN CT
Address: KINGSVILLE, MD 21087

Form 338 (Rev. 01/2018)

Pi

Protestant
CBA Exhibit
23

BALTIMORE COUNTY POLICE DEPARTMENT
Incident Report

"Integrity...Fairness...Service"

INCIDENT NUMBER		
180290075		
Report Type: Incident Report		Page 1 of 3
Date / Time Occurred: 1/29/2018 00:50 to 1/29/2018 00:59		Date / Time Reported: 1/29/2018 00:59

Arrested Suspects	Known Suspects	Unknown Suspects	Victims	Other Persons	Vehicles	Items	LEOKA Count	Related CC#
		1	1					

☐ Arson Related — Arson Code — Damage Value

☐ Bias Related — Motivation — Cargo Theft: NO

☐ Confidential ☐ Firearm Related ☐ Workplace Violence Related ☐ Repeat Offender Related ☐ Domestic Related ☐ School Related
☐ Witness Intimidation Related ☐ Gang Related ☐ Homeland Security Related ☐ CDS Related ☐ Assets Seized ☐ Sick/Injured Report Completed (Form 273)
☐ Use of Force Completed (Form 253) ☑ Officer Video

Incident Details

UCR Disposition	Situation Found	Case Status
H - OPEN/SUSPENDED	J 4 - ASSAULT, 2ND DEGREE (NOT DOMSTIC A	SUSPENDED

Location of Incident

Street Address	Unit Type	Unit Number
7927 BELAIR RD		

City	State	Zip	Precinct	Reporting Area
NOTTINGHAM	Maryland	21237	09 - WHITE MARSH	090050

Administrative Info

Investigating Officer	ID	Assignment	Sub Assignment
BOUTHNER, K	4967	PRECINCT 09 WHITE MARSH	PLATOON 1

Investigative Interview Conducted	Warrant/Summons/Protective Order Explained	MD Crime Victim/Witness Brochure Issued	Security Survey Information
☑ Yes ☐ No	☐ Yes ☑ No	☑ Yes ☐ No	

Approving Supervisor	Approving Supervisor ID	Reviewed Date / Time
MOREHOUSE, T	4204	1/30/2018 02:43

Approving Shift/Unit Commander	Approving Shift/Unit Commander ID	Approval Date / Time
SNYDER, M	4635	1/31/2018 00:14

Distribute To 1	Distribute To 2	Distribute To 3	Distribute To 4
PC09 INVESTIGATIVE SERVICES			
Distribute To 5	**Distribute To 6**	**Distribute To 7**	**Distribute To 8**
Distribute To 9	**Distribute To 10**	☐ Incident Summary Completed	

OFFENSE

☑ Most Serious Offense — Offense Code: ASSAULT 2ND DEGREE AGGRAVATED

Offense Code Value	Attempted/Completed	Premise	Domestic Related Circumstances
12412	COMPLETED	PARKING LOT, SHOPPING CENTER	

Drug Activity — Drug Type

MO Panel

Entry Type	Method of Attack	Point Of Attack
Exit Point	**Target Area**	**Time of Day**
Burglary MO Used 1	**Burglary MO Used 2**	**Burglary MO Used 3**
Robbery MO Used 1	**Robbery MO Used 2**	**Robbery MO Used 3**

Weapon	Firearm Description	Arson
OTHER DANGEROUS WEAPON		

Instrument Used

Additional Offense MO Comments

SUSPECT

☐ Known ☑ Unknown ☐ Arrested

Last Name	First Name	Middle Name	Suffix

Nickname	Race	Sex	SSN	Date of Birth	Age	Age Range	Juvenile
	OTHER	MALE				20 to 30	☐

Height	Weight	Driver's License #	DL State	UID #	Booking #	JID #
5'07"	150					

Contact #	FBI #	SID #	Ethnicity
			UNKNOWN

Preferred	Home Phone	Cell Phone	Email Address

Suspect Home Address

Street Address	Unit Type	Unit Number

BALTIMORE COUNTY POLICE DEPARTMENT
Incident Report

"Integrity...Fairness...Service"

INCIDENT NUMBER		
180290075		
Report Type: Incident Report		Page 2 of 3
Date / Time Occurred: 1/29/2018 00:50	to 1/29/2018 00:59	Date / Time Reported: 1/29/2018 00:59

City	State	Zip

Suspect Employment Information

☐ Student	Employer / School	Occupation	Work Phone	Hours of Employment

Details

Hair Color	Hair Length	Glasses	Eye Color	Build	Facial Hair
BLACK					

Facial Hair Color	Teeth Descriptor	Speech	General Appearance	Complexion

Shirt	Jacket	Pants	Shoes	Hat ☐	Hat/Cap Description

Mask | Gloves/Socks On Hands ☐

Clothing Description

Other Description

Miscellaneous at Time

Injury

MO Panel
Weapon | Firearm Description

Additional Unknown Suspect MO Comments

Associated Offenses

Offense	☑ Associated With Suspect
ASSAULT 2ND DEGREE AGGRAVATED	

VICTIM — Victim Type: PERSON — ☐ Shielding Requested

Last Name	First Name	Middle Name	Suffix
TAMANG	BUDHA	SINGH	

Nickname	Race	Sex	Date of Birth	Age	Age Range	☐ Juvenile
	UNKNOWN	MALE	05/01/1996	21	to	

Infant Type	Driver's License #	DL State
	[redacted]	Pennsylvania

Ethnicity	Preferred	Home Phone	Cell Phone	Email Address
UNKNOWN				

Victim Home Address

Street Address	Unit Type	Unit Number
[redacted]	FLOOR	[redacted]

City	State	Zip
PHILADELPHIA	Pennsylvania	[redacted]

Employment Information

☐ Student	Employer / School	Occupation

College Name	Work Phone	Hours of Employment

Details

Injury	Injury Description	Victim Condition
INJURED	[redacted]	SERIOUS

☑ Victim Hospitalized	Hospital Facility	Under Influence Alcohol?	Under Influence Drugs?	Cohabitant
	UNIV OF MD - SHOCK TRAUMA	☑ Yes ☐ No ☐ Unknown	☐ Yes ☐ No ☑ Unknown	☐ Yes ☑ No

Associated Offenses

Offense	☑ Associated With Victim
ASSAULT 2ND DEGREE AGGRAVATED	

Narrative Information

On 1/29/18 at 0059 hours, I was dispatched to the area around 7927 Belair Rd in reference to a possible fight. Upon arrival, a large crowd was present, but no one was advising what had happened. It should be noted that this group of people were of Indian decent and there was a strong language barrier.

We were able to find victim, Budha Tamang, sitting in the parking lot. He was bleeding from his mouth and head. While trying to speak with victim Budha Tamang, he did not know who attacked him and did not want to provide us with any information. Medics arrived and after observing the injuries, they believed that the victim had a broken jaw. The victim and his friends did not want the Police help or the medics help and wanted to drive home to Philadelphia. The medics were able to convince the victim to go to the hospital for his injuries. Victim Budha Tamang still continued to not have any information for us about who attacked him and with what.

Some of the victim's friends advised that they saw the suspect but could not provide any further. They did not want to give us any information about themselves. They advised that they just wanted to go home to Philadelphia.

BCoPD Event 180290075 - Mt Everest Restaurant, 7927 Belair Rd, Nottingham, MD 21236

Date	Time	Unit	Description
01/29/18	01:02:04	1533	Arrived
01/29/18	01:02:08	1405	Arrived
01/29/18	01:02:17	1522	Arrived
01/29/18	01:04:28	910	Arrived
01/29/18	01:04:57	1406	Arrived
01/29/18	01:05:12	930	Arrived
01/29/18	01:05:36	928	Arrived
01/29/18	01:06:02	925	Arrived
01/29/18	01:06:15	825	Arrived
01/29/18	01:06:20	811	Arrived
01/29/18	01:07:24	1408	Arrived
		11 cars	
01/29/18	01:11:01	Engine 8	Arrived
01/29/18	01:11:03	Medic 8	Arrived
01/29/18	01:38:41	Medic 8	Enroute to Hospital

Baltimore County 911 Center
401 Bosley Avenue
MS 3007
Towson, Maryland 21204
Office: 410-307-2006 Fax: 410-307-2039
E-mail: 911records@baltimorecountymd.gov

CERTIFICATION

I do hereby certify and solemnly affirm under the penalties of perjury, that to the best of my knowledge, information, and belief, the enclosed compact disc recording of Incident # 180290075 and/or telephone call(s) made to the Baltimore County 9-1-1 Center on 1-29-18 (date) is a true copy from the Master Logging Recorder. I further certify that I am the Custodian of said records.

Ref. Case: 7947 Belair Rd

Tammy Price
Chief, 9-1-1 Center
Custodian of Records

The enclosed compact disc consists of 3 call(s) to the Baltimore County 911 Center.

Call # 1 was recorded over operator position ES03

This call began at 12:58:39AM

This call ended at 01:00:48AM

Call # 2 was recorded over operator position ES19

This call began at 01:00:26AM

This call ended at 01:04:48AM

Call # 3 was recorded over operator position ES19

This call began at 01:05:32AM

This call ended at 01:05:07AM

Call # _____ was recorded over operator position _____

This call began at _____

This call ended at _____

Date 07/02/18 Time 07:28:21 Universal Event 180290075

cc# 180290075.01 01/29/18 ES03 RRN46 ct 00:58:43 ea 00:59:49 ra 090061 fb 008-09
loc 7947 BELAIR RD # src 911
typ CARD113 ser P pri 1 h N nam ANON see N pho ( ) -

rem MT EVEREST: SUBSJ FIGHTING OUTSIDE, MORE THAN 20 PEOPLE
ms
ali 7621 FITCH LN DIRECTION: 0 ani 443-540-8672 sub WIRELESS-AT&T MO
B
pc WHI fr FIR int 28-H11: GRAPEHILL AV*KLEIN AV d sf

Date 07/02/18 Time 07:28:21 Police Event 180290075 Page no 1

au

dt 00:00:00
 at 00:00:00
ru 914 911 930 928 926 927 d sf s
rc 911
cc# 180290075.01Cct 00:58:43 ea 00:59:49 RRN46 ES03 pc post 912 ra 090061
loc 7947 BELAIR RD # hz fb 008-0
9
nam ANON see N pho ( ) - typ CARD113 h N ser P p
ri 1
rem MT EVEREST: SUBSJ FIGHTING OUTSIDE, MORE THAN 20 PEOPLE
ms
int 28-H11: GRAPEHILL AV*KLEIN AV title DISTURBANCE
ali 7621 FITCH LN DIRECTION: 0 ani 443-540-8672 sub WIRELESS-AT&T MO
B

---

au

dt 01:00:28
 at 01:02:04
ru 914 911 930 928 926 927 d sf s
rc 911
cc# 180290075.02Cct 00:58:43 ea 00:59:49 RRN46 ES03 pc post 912 ra 090061
loc 7947 BELAIR RD # hz fb 008-0
9
nam ANON see N pho ( ) - typ 113D1FIGHTLGK h N ser P p
ri 1
rem MT EVEREST: SUBSJ FIGHTING OUTSIDE, MORE THAN 20 PEOPLE
ms N
int 28-H11: GRAPEHILL AV*KLEIN AV title PHYS FIGHT LRG GRP KNIFE
ali 7621 FITCH LN DIRECTION: 0 ani 443-540-8672 sub WIRELESS-AT&T MO
B

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au 928/C 811/C 910/C 1533/C 1522/C 1405/C 1406/C 1408/C 925/C 930/C 911/C 914/C

dt 01:00:28
 at 01:02:04
ru 914 911 930 928 926 927 d 1 sf J4 s
rc 911
cc# 180290075.03Cct 00:58:43 ea 00:59:49 PJE11 PD08 pc post 912 ra 090050
loc 7927 BELAIR RD # hz fb 008-0
9
nam ANON see N pho ( ) - typ 4A2ASLT h N ser PA p
ri 4
rem MT EVEREST: SUBSJ FIGHTING OUTSIDE, MORE THAN 20 PEOPLE **** SUBJ HIT IN FAC
E ***
ms N
int 28-H11: LINCOLN AV*ROSSVILLE BL title ASSAULT W/INJURY
ali 7621 FITCH LN DIRECTION: 0 ani 443-540-8672 sub WIRELESS-AT&T MO
B

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cc# 180290075.01 00:59 ES03 typ CARD113 ser P loc 7947 BELAIR RD

remarks ADDED REMARK SENT BY PROQA EMD# P602369
pg: 1 MT EVEREST: SUBSJ FIGHTING OUTSIDE, MORE THAN 20 PEOPLE
of: 11

cc# 180290075.02 01:00 ES03 typ 113D1FIGHTLGK ser P loc 7947 BELAIR RD

remarks ADDED REMARK SENT BY PROQA EMD# P602369
pg: 2 PHYSICAL (LARGE GROUP)
of: 11
2ND PTY CALLER ON SCENE.
KNIFE INVL: LARGE KNIFE
WPNS LOC UNK.
DISTURBANCE
IN PROGRESS.
LARGE GROUP INVL.
PHYSICAL DISTURBANCE.

cc# 180290075.02 01:01 ES03 typ 113D1FIGHTLGK ser P loc 7947 BELAIR RD

remarks POSS LANG BARRIER, CLR HAD HARD TIME UNDERSTANDING 911
pg: 3
of: 11 D/C. ATT CB

cc# 180290075.02 01:01 ES03 typ 113D1FIGHTLGK ser P loc 7947 BELAIR RD

remarks CLR SAID MORE THAN 25 SUBJS INVOLVED
pg: 4
of: 11

cc# 180290075.02 01:02 ES03 typ 113D1FIGHTLGK ser P loc 7947 BELAIR RD

remarks ADDED REMARK SENT BY PROQA EMD# P602369
pg: 5
of: 11
SUSP ON SCENE: IFO LOC

cc# 180290075.02 01:02 ES03 typ 113D1FIGHTLGK ser P loc 7947 BELAIR RD

remarks COMPLETE SENT BY PROQA EMD# P602369
pg: 6 **** SESSION FINISHED! *****
of: 11

cc# 180290075.02 01:02 ES03 typ 113D1FIGHTLGK ser P loc 7947 BELAIR RD

remarks NO CONTACT ON CB'S
pg: 7
of: 11

cc# 180290075.03 01:07 PD08 typ 4A2ASLT ser PA loc 7927 BELAIR RD

remarks CC 77
pg: 8
of: 11

cc# 180290075.03 01:08 FD03 typ 4A2ASLT ser PA loc 7927 BELAIR RD

remarks M8 STAGING AT STATION UNTIL PD ADV FURTHER
pg: 9
of: 11

cc# 180290075.03 01:08 ES19 typ 4A2ASLT ser PA loc 7927 BELAIR RD

remarks MALE SPEAKING NEPOLI ADV HE WAS HIT IN FACE D/C WITH 911, RECD VOICEMA
pg: 10 IL ON CB X2
of: 11

WIRELESS CALL
267-370-3216 01/29 01:00:52
WIRELESS-AT&T MOBILITY(COMT
7621 FITCH LN DIRECTION: 0

NOTTINGHAM MD

cc# 180290075.03 01:08 PD08 typ 4A2ASLT ser PA loc 7927 BELAIR RD

remarks M8 GO IN , CENTER ROAD BEHIND THE IHOP
pg: 11
of: 11

DATE	TIME	POS	OP ID	TRANS	UNIT	DESCRIPTION
01/29/18	02:35:18	FD03	MAM48	CLOSED		
01/29/18	01:43:56	4914	5288	AVAILABL	914	
01/29/18	01:43:56	4914	5288	CLEARED	914	914
01/29/18	01:43:20	4911	4967	AVAILABL	911	
01/29/18	01:43:20	4911	4967	CLEARED	911	911
01/29/18	01:42:30	4930	5828	AVAILABL	930	
01/29/18	01:42:30	4930	5828	CLEARED	930	930
01/29/18	01:36:31	PD08	PMM02	A->C	930	TIMER LAPSED
01/29/18	01:32:23	4825	4507	AVAILABL	825	
01/29/18	01:32:23	4825	4507	CLEARED	825	825
01/29/18	01:28:08	4925	5010	AVAILABL	925	
01/29/18	01:28:08	4925	5010	CLEARED	925	925
01/29/18	01:26:31	4930	5828	A	930	ARRIVED,
01/29/18	01:26:30	4930	5828	A	930	ARRIVED,
01/29/18	01:25:36	3408	4428	AVAILABL	1408	
01/29/18	01:25:36	3408	4428	CLEARED	1408	1408
01/29/18	01:24:50	3406	4320	AVAILABL	1406	
01/29/18	01:24:50	3406	4320	CLEARED	1406	1406
01/29/18	01:24:32	PD08	PJE11	AVAILABL	1405	
01/29/18	01:24:32	PD08	PJE11	CLEARED	1405	1405
01/29/18	01:23:06	3522	3653	AVAILABL	1522	
01/29/18	01:23:06	3522	3653	CLEARED	1522	1522
01/29/18	01:22:48	3533	4485	AVAILABL	1533	
01/29/18	01:22:48	3533	4485	CLEARED	1533	1533
01/29/18	01:22:07	4910	4204	AVAILABL	910	
01/29/18	01:22:07	4910	4204	CLEARED	910	910
01/29/18	01:21:23	4811	5185	AVAILABL	811	
01/29/18	01:21:23	4811	5185	CLEARED	811	811
01/29/18	01:18:59	PD08	PJE11	AVAILABL	928	
01/29/18	01:18:59	PD08	PJE11	CLEARED	928	928
01/29/18	01:18:01	PD08	PJE11	ET	811	EXTENDED BY 30 MINUTES
01/29/18	01:18:01	PD08	PJE11	ET	825	EXTENDED BY 30 MINUTES
01/29/18	01:17:46	PD08	PJE11	ET	925	PERPETUAL TIME EXTENSION
01/29/18	01:17:46	PD08	PJE11	ET	928	PERPETUAL TIME EXTENSION
01/29/18	01:17:40	PD08	PJE11	ET	1408	PERPETUAL TIME EXTENSION
01/29/18	01:17:24	PD08	PJE11	A->C	1408	TIMER LAPSED
01/29/18	01:16:20	PD08	PJE11	A->C	811	TIMER LAPSED
01/29/18	01:16:15	PD08	PJE11	A->C	825	TIMER LAPSED
01/29/18	01:16:02	PD08	PJE11	A->C	925	TIMER LAPSED
01/29/18	01:15:36	PD08	PJE11	A->C	928	TIMER LAPSED
01/29/18	01:14:33	PD08	PJE11	ET	911	PERPETUAL TIME EXTENSION
01/29/18	01:14:33	PD08	PJE11	ET	914	PERPETUAL TIME EXTENSION
01/29/18	01:14:26	PD08	PJE11	X	914	X UNIT 914 AND UNIT 911
01/29/18	01:09:21	PD08	PJE11	ET	1406	EXTENDED BY 30 MINUTES
01/29/18	01:09:21	PD08	PJE11	ET	930	EXTENDED BY 30 MINUTES
01/29/18	01:08:45	PD08	PJE11	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:08:35	ES19	HRH80	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:08:12	PD08	PJE11	A->C	930	TIMER LAPSED
01/29/18	01:08:06	FD03	MAM48	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:08:02	PD08	PJE11	A->C	1406	TIMER LAPSED
01/29/18	01:07:44	PD08	PJE11	ET	910	EXTENDED BY 99 MINUTES
01/29/18	01:07:30	PD08	PJE11	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:07:28	PD08	PJE11	A->C	910	TIMER LAPSED
01/29/18	01:07:24	PD08	PJE11	AU.A	1408	ARRIVED AT 7927 BELAIR RD

01/29/18	01:07:18	PD08	PJE11	ET	1405	EXTENDED BY 99 MINUTES
01/29/18	01:07:18	PD08	PJE11	ET	1522	EXTENDED BY 99 MINUTES
01/29/18	01:07:18	PD08	PJE11	ET	1533	EXTENDED BY 99 MINUTES
01/29/18	01:06:20	PD08	PJE11	AU.A	811	ARRIVED AT 7927 BELAIR RD
01/29/18	01:06:15	PD08	PJE11	AU.A	825	ARRIVED AT 7927 BELAIR RD
01/29/18	01:06:02	PD08	PJE11	AU.A	925	ARRIVED AT 7927 BELAIR RD

01/29/18 01:05:36	PD08	PJE11	AU.A	928	ARRIVED AT 7927 BELAIR RD
01/29/18 01:05:28	PD08	PJE11	EVU		EVENT 180290075.3 UPDATED
01/29/18 01:05:17	PD08	PJE11	A->C	1522	TIMER LAPSED
01/29/18 01:05:12	4930	5828	A	930	ARRIVED,
01/29/18 01:05:08	PD08	PJE11	A->C	1405	TIMER LAPSED
01/29/18 01:05:04	PD08	PJE11	A->C	1533	TIMER LAPSED
01/29/18 01:05:02	3406	4320	A	1406	ARRIVED,
01/29/18 01:04:57	3406	4320	A	1406	ARRIVED,
01/29/18 01:04:28	4910	4204	A	910	ARRIVED,
01/29/18 01:02:21	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18 01:02:17	PD08	PJE11	A	1522	ARRIVED,
01/29/18 01:02:16	PD08	PJE11	E	1522	ENROUTE
01/29/18 01:02:15	PD08	PJE11	D	1522	UNIT DISPATCH
01/29/18 01:02:12	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18 01:02:08	PD08	PJE11	AU.A	1405	ARRIVED AT 7947 BELAIR RD
01/29/18 01:02:08	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18 01:02:04	PD08	PJE11	AU.A	1533	ARRIVED AT 7947 BELAIR RD
01/29/18 01:01:30	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18 01:01:17	PD08	PJE11	AU.E	1406	ENROUTE TO 7947 BELAIR RD
01/29/18 01:01:17	PD08	PJE11	AU.E	910	ENROUTE TO 7947 BELAIR RD
01/29/18 01:01:11	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18 01:01:01	PD08	PJE11	E	911	ENROUTE
01/29/18 01:01:01	PD08	PJE11	E	914	ENROUTE
01/29/18 01:01:01	PD08	PJE11	E	930	ENROUTE
01/29/18 01:00:56	PD08	PJE11	D	930	UNIT DISPATCH
01/29/18 01:00:54	PD08	PJE11	P	910	
01/29/18 01:00:52	PD08	PJE11	D	910	UNIT DISPATCH
01/29/18 01:00:52	PD08	PJE11	D	911	UNIT DISPATCH
01/29/18 01:00:28	PD08	PJE11	D	914	UNIT DISPATCH
01/29/18 01:00:26	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18 01:00:23	ES03	RRN46	EVU		EVENT 180290075.2 UPDATED
01/29/18 00:59:57	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18 00:59:49	ES03	RRN46	EVA		CREATED

Date 07/02/18 Time 07:28:21 Fire Event 180290075 Page no 1

fb 008-09 title DISTURBANCE pri 1 fr FIR pra 090061 pc WHI
loc 7947 BELAIR RD # ser P
int 28-H11: GRAPEHILL AV*KLEIN AV
rem MT EVEREST: SUBSJ FIGHTING OUTSIDE, MORE THAN 20 PEOPLE
ms
nam ANON pho ( ) - src 911 term ES03 op RRN46
ali 7621 FITCH LN DIRECTION: 0 ani 443-540-8672 sub WIRELESS-AT&T MO
B
cc# 180290075.01 date 01/29/18 ct 00:58:43 lv 00:58:50 ea 00:59:49 dt 00:00:00
pftg aftg typ CARD113 sf d
hc
au

---

fb 008-09 title PHYS FIGHT LRG GRP KNIFE pri 1 fr FIR pra 090061 pc WHI
loc 7947 BELAIR RD # ser P
int 28-H11: GRAPEHILL AV*KLEIN AV
rem MT EVEREST: SUBSJ FIGHTING OUTSIDE, MORE THAN 20 PEOPLE
ms N
nam ANON pho ( ) - src 911 term ES03 op RRN46
ali 7621 FITCH LN DIRECTION: 0 ani 443-540-8672 sub WIRELESS-AT&T MO
B
cc# 180290075.02 date 01/29/18 ct 00:58:43 lv 00:58:50 ea 00:59:49 dt 00:00:00
pftg aftg typ 113D1FIGHTLGK sf d
hc
au

---

fb 008-09 title ASSAULT W/INJURY pri 3 fr FDE pra 090050 pc WHI
loc 7927 BELAIR RD # ser PA
int 28-H11: LINCOLN AV*ROSSVILLE BL
rem MT EVEREST: SUBSJ FIGHTING OUTSIDE, MORE THAN 20 PEOPLE **** SUBJ HIT IN FAC
E ***
ms N
nam ANON pho ( ) - src 911 term PD08 op PJE11
ali 7621 FITCH LN DIRECTION: 0 ani 443-540-8672 sub WIRELESS-AT&T MO
B
cc# 180290075.03Cdate 01/29/18 ct 00:58:43 lv 00:58:50 ea 00:59:49 dt 01:06:00
pftg aftg typ 4A2ASLT sf J4 d 1
hc 634
au

---

cc# 180290075.03 01:07 PD08 typ 4A2ASLT ser PA loc 7927 BELAIR RD

remarks CC 77
pg: 1
of: 4

cc# 180290075.03 01:08 FD03 typ 4A2ASLT ser PA loc 7927 BELAIR RD

remarks M8 STAGING AT STATION UNTIL PD ADV FURTHER
pg: 2
of: 4

cc# 180290075.03 01:08 ES19 typ 4A2ASLT ser PA loc 7927 BELAIR RD

remarks MALE SPEAKING NEPOLI ADV HE WAS HIT IN FACE D/C WITH 911, RECD VOICEMA
pg: 3 IL ON CB X2
of: 4

WIRELESS CALL
267-370-3216 01/29 01:00:52
WIRELESS-AT&T MOBILITY(COMT
7621 FITCH LN DIRECTION: 0

NOTTINGHAM MD

cc# 180290075.03 01:08 PD08 typ 4A2ASLT ser PA loc 7927 BELAIR RD

remarks M8 GO IN , CENTER ROAD BEHIND THE IHOP
pg: 4
of: 4

Date 07/02/18 Time 07:28:21 Event History for Fire Event 180290075 Page no 1

DATE	TIME	POS	OP ID	TRANS	UNIT	DESCRIPTION
01/29/18	02:35:18	FD03	MAM48	AVAILABL	M8	
01/29/18	02:35:18	FD03	MAM48	CLEARED	M8	M8
01/29/18	02:35:18	FD03	MAM48	CLOSED		
01/29/18	01:54:46	1008		H	M8	ARRIVED AT HOSPITAL,
01/29/18	01:42:00	FD03	MAM48	AVAILABL	E8	
01/29/18	01:42:00	FD03	MAM48	CLEARED	E8	E8
01/29/18	01:38:41	FD03	MAM48	T	M8	ENROUTE TO HOSP 634.
01/29/18	01:37:32	1008		T	M8	ENROUTE TO HOSP 634.
01/29/18	01:11:03	FD03	MAM48	A	M8	ARRIVED,
01/29/18	01:11:01	FD03	MAM48	A	E8	ARRIVED,
01/29/18	01:08:45	PD08	PJE11	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:08:35	ES19	HRH80	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:08:10	FD03	MAM48	AU.E	E8	ENROUTE TO 7927 BELAIR RD
01/29/18	01:08:06	FD03	MAM48	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:07:30	PD08	PJE11	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:06:26	FD03	MAM48	E	M8	ENROUTE
01/29/18	01:06:02	FD01	MNB91	RR		REROUTED FROM FIR TO FDE
01/29/18	01:06:00	FD01	MNB91	D	M8	UNIT DISPATCH
01/29/18	01:05:28	PD08	PJE11	EVU		EVENT 180290075.3 UPDATED
01/29/18	01:02:21	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:02:12	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:02:08	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:01:30	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:01:11	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:00:26	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	01:00:23	ES03	RRN46	EVU		EVENT 180290075.2 UPDATED
01/29/18	00:59:57	ES03	RRN46	ARA		ADDED REMARK TO EVENT 180290075
01/29/18	00:59:49	ES03	RRN46	EVA		CREATED

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CBA Exhibit
24

Facebook | मेरिल्याण्डका हामी नेपाली" | Secure | https://www.facebook.com/585340861628536/photos/a.593163910846231.1073741828.585340861628536/825317457630874/?type=3&theater

मेरिल्याण्डका हामी नेपाली" "Maryland Ka Hami Nepali"
Page Liked · July 17 · Edited ·

..पहिलो एन. ए. सि. सि. गृष्मकालिन पारिवारिक महोत्सवमा आयोजना गरिन लागेको "खुल्ला मैत्रीपुर्ण भलिबल प्रतियोगिता" मा सहभागी हुन चाहनु हुने DMV एरिया लगायत यस वरपरका सम्पुर्ण इच्छुक भलिबल टिमका साथीहरूलाई यथासिघ्र सम्पर्क गर्न हुन हामी हार्दिक अनुरोध गर्दछौं।

1st NACC Summer Family Fun Festival : 2017
स्थान: हिन्दु बुद्ध मन्दिर, Baltimore, Maryland
मिति: जुलाई २९ र ३० तारिख, (शनिबार र आइतबार)...
See More — with Bishh R Shrestha, Cla Ad Sharma, Babita Pradhan Shrestha, Rajane Gurung, Daman Bikram Shah, Aakash Shrestha, Bina Joshi, Bijay Gaudel, Chandra Saud, Bimala Senchuri, डी. एस्. मगर and Rashmi N Gopal Gurung at Hindu Buddha Mandir.

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8/15/2017

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Shyam Karki
December 21, 2017 at 7:15 PM ·

My view on the Mahapuran By Nepali American Cultural Center (NACC):

(These are my personal views and don't reflect the official position of the NACC)

Nepali Ameriacn Cultural Center (NACC) has made a public announcement that it has decided to hold a Mahapuran Bachan by Pandit Deenbadhu Pokhrel on April 16-22. Pandit Deenbandhu Pokrel is reknowned for his recitation of Mahapauran and raising funds for building Mandir in many cities in the US; Boston, Los Angeles, New York, North Carolina and currently in Melbourne, Australia. He is scheduled to preside over similar programs in Denver and Dallas also in 2018. It has been reported that he was able to raise from $1 million to $1.5 million at different cities. Target for Baltimore has been set at $1.5 million. So these are very exciting times and everyone at the NACC is very excited and jubiliant.

There is very good reason for excitment and optimism. It has been estimated that there are 15,000 Nepali and people of Nepali origin in Baltimore. The growth of population of Nepalis in Baltimore has been phenomenal in the last decade. What was barely a thousand, a decade ago has mushroomed to more than 15,000. This growth can be seen everywhere; number of Nepali restaurants, businesses owned by Nepalis, Nepalis in every profession, and the number of Nepali ownd homes has also increased from less than a hundred a decade ago to more than a thousand now. This growth parrelles the growth in other major cities in the US as well.

Similarly, with the growth in population and upward economic mobility, everyone was feeling a need for a Cultural Center with a place of worship to celebrate traditional religious/cultural festivals, preserve the rich cultural heritage and pass it on to the next generation. This need was felt and was a topic in many gatherings. Then sometime around October last year, a group of young social activists came with the idea of NACC and started raising funds. It was like the dam had burst, in a matter of less than six months almost half a million was raised, a property with more than 30 acres of land and a mansion was purchased, renovations started and a formal porocess to make it a place of worship initiated. So this expected fund will come very handy at the righ time.
Now the question comes what will this fund be used for.

Again, these are my perosnal ideas how this fund should be used and the final decision will be taken by the NACC Board of Trustees. However this will be a good start of the public discussion and for the public to get engaged. Incidentally NACC is one of the few organizations in Baltimore without any ethnic/geographical affiliation and without any tainting of political affiliation. Here all the volunteers are focussed on giving their, time, skills,resources and money to make it happen.

1. NACC being a brand new, not for profit organization and havig no credit history, had to botrrow money to buy the property in the private market and is paying the interest at a rate of 12 percent. So first priority should be to pay the private loan and save a lot in monthly payments.

2. NACC is very sensitive to the voices of the neighborhood as regards to the traffic, and water resources. Like all Nepalis are very good neigbors, NACC needs to be a very good neighbor and do everything to preserve the quality of life of the neighborhood. So the next point of big expense may be to upgrade the roads entering the Mandir and the water and sanitation facilities of the compond.

3. Since NACC has decided to go the formal way of converting the property to the place of worship, it has to fulfill many requirements of the county, like traffic survey, sewage and water resources needs survey. It has retained the services of a law firm, engineering company and other professional contractors. Paying their fees and for the work done by them will be quite a chunk of money which can be taken care of by this money.

4. The mansion and other buildings have been vacant for a long time, They are old buildings. They need to be brought to meet today's safety standards. All public buildings have to meet "The Americans with the Diasabilities Act (ADA)"
.

5. The grounds and the other buildings need to be updated and it takes a lot of money.

6. Instllation of Murtis; All Murtis (totaling approximately $40,000) have been donated and are at different stages of carving in Nepal. Once they arrive, they need to be installed. Platform and pedestals have to be constructed. Permits and materials need to be paid for. Work and design may be volunteered by local professionals and organizations.

All these are very important "must steps" before Mandir can be oficially started. So I am looking forward to this Mahapauran with a lot of interest and expectations. Generous donations by all will go a long way to give concrete shape to the Mandir and make it financially stable. So it's very important for the public to know how th money raised will be spent and it will be very productive to take them into confidence and get them engaged in the process.

After the Mandir is initaited, it will have regualr source of income which can meet routine expenses. Second we need to look beyond Pujas and initiate programs and services like Health Camps, Yoga, Interfaith Collaboration in the area Soup kitchen and contribute to the overall well bing of the neighborhood. We must be responsible citizens and good neighbors. We need to make all these programs and services available to all of our neighbors whether they are nembers of the Temple or not.

n my personal view, there are many more activities we need to do but the first million raised will be well spent in the above areas to initiate the Mandir and make it a very vibrant place with a bright future

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Protestal
25

Mero Matribhumi - My Motherland /मेरो मातृभूमी/Sachchi

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#LIVE!!
#ऐतिहासिक बाल्टिमोर महापुराण 2018 को
आज पहलो दिन!! अगस्ट १ तारिख, बुधबार !!
..आउनुहोस् हामी सबै मिली यस महायज्ञ र मन्दिर निर्माणलाई अभियानलाई भव्य रुपम...
See More

#LIVE!!
#Aita Ihāsika Baltimore Mahapurana 2018
Today 1TH DAY!! August 1th, Wednesday!!
.. come on all of us at this great yagya and temple building made grand success.

#बाल्टिमोर_महापुराण2018
Date: July 28-August 3
Location: Hindu Buddha Temple, Baltimore
12231 Harford Rd
Glen Arm Maryland 21057
Puja / bhajan kirtan / story speech time:
Every day from 2:00 pm to 8:00 pm only.

(Note: the door of the temple will remain closed before 1:00 pm.)
- Nepali American Cultural Center of Baltimore (NCC) family
· Rate this translation

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5 out of 5 · Based on the opinio

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CBA Exhibit
27

Gunpowder Falls Watershed Preservation Association

RESOLVED: That the position of the Gunpowder Falls Watershed Preservation Association at the membership meeting of June 28, 2018 as adopted by the Board of Directors on the zoning matter knows as:

Case No. 2018-0122-X
Bonaparte Property/Proposed Nepali American Cultural Center
(12231 Harford Road)

Is that:

The Gunpowder Falls Watershed Preservation Association (GFWPA) is opposed to changing the use of the 30-acre property located at 12231 Harford Road in Glen Arm, formerly owned by Charles J. Bonaparte, from residential and agricultural use to a more intensive use such as a recreational center, cultural center or house of worship.

AS WITNESS OUR HANDS THIS 28th day of June, 2018.

ATTEST: **Gunpowder Falls Watershed Preservation Association**

Secretary

President

Protestant
CBA Exhibit
28

AFFIDAVIT

STATE OF MARYLAND
BALTIMORE COUNTY

TO WIT:

I hereby swear upon penalty of perjury that I am currently a duly elected member of the Board of Directors of the Gunpowder Falls Watershed Preservation Association.

ATTEST: **Gunpowder Falls Watershed Preservation Association**

Secretary

President

DATE: June 28, 2018

Gunpowder Falls Watershed Preservation Association

RESOLVED: That at the membership meeting of the Gunpowder Falls Watershed Preservation Association held on June 28, 2018, it was decided by the Association that responsibility for review and action on all zoning matters for the period June 28, 2018 – June 28, 2020 be placed in the Board of Directors consisting of the following members, each of whom is hereby authorized to testify on behalf of the Association before the County Board of Appeals or other duly constituted zoning agency, body, or commission:

Dewey Clark, President
David Hartman, Vice President
Morgan Miner, Secretary
Carol Shaw, Communications
Joanne Foxworthy, Membership
David Poehler, Member-At-Large
Robert Shifflett, Member-At-Large

AS WITNESS OUR HANDS THIS 28th day of June, 2018.

ATTEST: **Gunpowder Falls Watershed Preservation Association**

Secretary

President

URLs and Movie Segement Files

Protestant
CBA Exhibit
31

https://www.facebook.com/enepalese/videos/1668703509883269/ open house
DSC_6978

https://www.facebook.com/enepalese/videos/1678333158920304/

https://www.facebook.com/enepalese/videos/1780824352004517/ June 10Last minute shows meadow
DSC_6983
DSC_6984

https://www.facebook.com/enepalese/videos/1739100506176902/ April 30
DSC_6980
DSC_6981

https://www.facebook.com/enepalese/videos/1819879991432286/ July 4
DSC_6985

https://www.facebook.com/enepalese/videos/1829555243798094/ July 11
DSC_6986

https://www.facebook.com/enepalese/videos/1856605667759718/ july 28
DSC_6988
DSC_6989

https://www.facebook.com/enepalese/videos/2948958544528l7/ October 6
DSC_6990
DSC_6991

https://www.facebook.com/enepalese/videos/1853491774737774/ July 26 promo
DSC_6994

https://www.facebook.com/enepalese/videos/1852302804856671/ July 25 panel
DSC_6995
DSC_6996

https://www.facebook.com/enepalese/videos/1858521860901432/ July 29 House Tour
DSC_6997
DSC_6998

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DSC_7002

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DSC_7045

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DSC_7019

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DSC_7016

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DSC_7028
DSC_7029
DSC_7030

DSC_7031
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DSC_7047
DSC_7049
DSC_7050

https://www.facebook.com/enepalese/videos/1856791174407834/
DSC_7052

Video File Contents

BI VIDS 1:

- Cam10.20180728_115501
- Cam10.20180728_120001
- Cam10.20180728_122001
- Cam10.20180728_122501
- Cam10.20180728_123511
- Cam10.20180728_124501
- Cam10.20180728_125001
- Cam10.20180728_130501
- Cam10.20180728_131001
- Cam10.20180728_132001
- Cam10.20180728_132501
- Cam10.20180728_134501
- Cam10.20180728_135001
- Cam10.20180728_135501
- Cam10.20180728_141514
- Cam10.20180728_142001
- Cam10.20180728_142511
- Cam10.20180728_143001
- Cam10.20180728_145000
- Cam10.20180728_145502
- Cam10.20180728_150521
- Cam10.20180728_151000
- Cam10.20180728_153500
- Cam10.20180728_154000
- Cam10.20180728_154500
- Cam10.20180728_161000
- Cam10.20180728_164001
- Cam10.20180728_171007
- Cam10.20180728_174000

BI VIDS 2:

- Cam10.20180728_111954
- Cam10.20180728_112001
- Cam10.20180728_112501
- Cam10.20180728_113001
- Cam10.20180728_113501
- Cam10.20180728_114001
- Cam10.20180728_114501
- Cam10.20180728_115001
- Cam10.20180728_120501
- Cam10.20180728_121501
- Cam10.20180728_123001
- Cam10.20180728_124024
- Cam10.20180728_125501
- Cam10.20180728_130001
- Cam10.20180728_133001
- Cam10.20180728_133501
- Cam10.20180728_140501
- Cam10.20180728_143500
- Cam10.20180728_144000
- Cam10.20180728_150000
- Cam10.20180728_151500
- Cam10.20180728_155500
- Cam10.20180728_160000
- Cam10.20180728_163000
- Cam10.20180728_165000
- Cam10.20180728_170500
- Cam10.20180728_174500
- Cam10.20180728_074143
- Cam10.20180728_081003
- Cam10.20180728_084002
- Cam10.20180728_091002

Protestant
CBA Exhibit
32

To accompany Protestant's Exhibit ___ Library

Video File Contents

BI VIDS 3:

- Cam10.20180728_121001
- Cam10.20180728_134001
- Cam10.20180728_140001
- Cam10.20180728_144500
- Cam10.20180728_152500
- Cam10.20180728_153000
- Cam10.20180728_155000
- Cam10.20180728_162017
- Cam10.20180728_163500
- Cam10.20180728_164500
- Cam10.20180728_170000
- Cam10.20180728_172000
- Cam10.20180728_175004
- Cam10.20180728_175500
- Cam10.20180728_180500
- Cam10.20180728_073514
- Cam10.20180728_075012
- Cam10.20180728_080019
- Cam10.20180728_082031
- Cam10.20180728_082547
- Cam10.20180728_090031
- Cam10.20180728_090502
- Cam10.20180728_092003
- Cam10.20180728_093502
- Cam10.20180728_094508
- Cam10.20180728_100502
- Cam10.20180728_102002
- Cam10.20180728_103502
- Cam10.20180728_110502
- Cam10.20180728_111002
- Cam10.20180728_113519
- Cam10.20180728_120002
- Cam10.20180728_124002
- Cam10.20180728_132002

BI VIDS 4:

- Cam10.20180728_152000
- Cam10.20180728_160500
- Cam10.20180728_161500
- Cam10.20180728_162500
- Cam10.20180728_171500
- Cam10.20180728_172512
- Cam10.20180728_173000
- Cam10.20180728_180000
- Cam10.20180729_074502
- Cam10.20180729_080520
- Cam10.20180729_083039
- Cam10.20180729_083529
- Cam10.20180729_084506
- Cam10.20180729_085037
- Cam10.20180729_092502
- Cam10.20180729_093002
- Cam10.20180729_100002
- Cam10.20180729_101005
- Cam10.20180729_101502
- Cam10.20180729_104502
- Cam10.20180729_105502
- Cam10.20180729_111502
- Cam10.20180729_112002
- Cam10.20180729_114002
- Cam10.20180729_115502
- Cam10.20180729_121023
- Cam10.20180729_121502
- Cam10.20180729_125002
- Cam10.20180729_125502
- Cam10.20180729_130502
- Cam10.20180729_132502

Video File Contents

BI VIDS 5:

- Cam10.20180728_111501
- Cam10.20180728_131501
- Cam10.20180728_141001
- Cam10.20180728_165500
- Cam10.20180728_173500
- Cam10.20180729_075504
- Cam10.20180729_081502
- Cam10.20180729_085502
- Cam10.20180729_091505
- Cam10.20180729_094010
- Cam10.20180729_095002
- Cam10.20180729_095502
- Cam10.20180729_102503
- Cam10.20180729_103026
- Cam10.20180729_104002
- Cam10.20180729_105002
- Cam10.20180729_110002
- Cam10.20180729_112502
- Cam10.20180729_113002
- Cam10.20180729_114502
- Cam10.20180729_115002
- Cam10.20180729_120513
- Cam10.20180729_122002
- Cam10.20180729_123018
- Cam10.20180729_123502
- Cam10.20180729_124502
- Cam10.20180729_130002
- Cam10.20180729_131002
- Cam10.20180729_131502
- Cam10.20180729_133002
- Cam10.20180729_133502
- Cam10.20180729_133959

Video File Contents

Dash cam 1:

- Dashcam Harford Glen Arm Mt Vista
- From deck Sept. 10 820 pm

FB VIDS 1:

- DSC_6975
- DSC_6983
- DSC_6988
- DSC_6989

FB VIDS 2:

- DSC_6980
- DSC_6990
- DSC_6995

FB VIDS 3:

- DSC_6974
- DSC_6978
- DSC_6984
- DSC_7006
- DSC_7015
- DSC_7030
- DSC_7052

FB VIDS 4:

- DSC_6979
- DSC_6981
- DSC_7016
- DSC_7020
- DSC_7021

FB VIDS: 5

- DSC_6985
- DSC_6986
- DSC_7004
- DSC_7017
- DSC_7029

FB VIDS: 6

- DSC_6992
- DSC_6994
- DSC_7002
- DSC_7003
- DSC_7050

FB VIDS 7:

- DSC_6996
- DSC_6997
- DSC_7027
- DSC_7028
- DSC_7042

FB VIDS 8:

- DSC_6998
- DSC_6999
- DSC_7031

FB VIDS 9:

- DSC_7000
- DSC_7001
- DSC_7035

FB VIDS 10:

- DSC_7040
- DSC_7041
- DSC_7043

FB VIDS 11:

- DSC_7025
- DSC_7045
- DSC_7047

FB VIDS 12:

- DSC_7018
- DSC_7019
- DSC_7049

FB VIDS 13:

- DSC_7026
- DSC_7032
- DSC_7034

FB VIDS 14:

- DSC_7022
- DSC_7023
- DSC_7024

FB VIDS 15:

- DSC_7033
- DSC_7038
- DSC_7044

Video File Contents

REC CTR 1:

- April 22. 7:45 am
- DSC_4933
- DSC_4992
- DSC_5006

REC CTR 2:

- dashcamA
- Driveway
- DSC_4952
- DSC_4953
- DSC_4963
- DSC_4964
- DSC_4981

REC CTR 3:

- Circle to Mt. Vista Ct.
- DSC_4954
- DSC_4960
- DSC_4961
- DSC_4979

REC CTR 4:

- DSC_4955
- DSC_4956
- DSC_4957
- DSC_4974
- DSC_4977
- DSC_7010

REC CTR 5:

- DSC_4958
- DSC_4959
- Harford Rd South
- Line Cross 2 Short
- M4450A
- MD 94

REC CTR 6:

- 2015_0109_06094_4_006
- 2020_0328_10534_4_001
- Curves North
- Dashcam A
- DSC_4962
- DSC_4967
- LoBoy
- M0596A
- Solitude

REC CTR 7:

- 2015_0109_05574 4_002
- 2015_0109_06004 4_003
- 2015_0109_06124 4_007
- DSC_4968
- DSC_4980
- N. of Westminster

REC CTR 8:

- Cam10.20180728_111501
- Cam10.20180728_115001
- DSC_4970
- DSC_4971
- DSC_4982
- DSC_4983
- Line Cross

REC CTR 9:

- DSC_4972
- DSC_4973
- Line Cross 2 shorta
- M4388A
- M4444A
- Mary Dash
- Night Semi GlenArm

REC CTR 10:

- 2015_0109_055443_001
- 2015_0109_060344_004
- DSC_4975
- To append
- Truck crossing
- UNsafeexits
- Volleybal3A
- Volleyball 1A

REC CTR 11:

- DSC_4984
- DSC_4985
- M4386A
- Rural Road Walker

REC CTR 12:

- 2020_0328_105845_002
- 2020_0328_110345_003
- 2020_0414_081656_017
- DSC_4995
- DSC_5005

Video File Contents

REC CTR 13:

- 2015_0109_060644_005
- DSC_4969
- DSC_4978
- Volleyball 2

REC CTR 14:

- Line cross
- Rural Road Walker
- Volleyball 1B
- VolleyBall 1C

New Open Select

Search Shipits DVD

Name		Date	Type	Siz
Amplified Drum.mp4	??	10/30/2018 5:43 PM	MP4 File	
Cam10.20180728_111501.mp4	A3	10/16/2018 10:31 AM	MP4 File	
Cam10.20180728_115001.mp4	A3	10/16/2018 10:35 AM	MP4 File	
Circle to Mt. Vista Ct.mp4	A2	10/22/2018 10:01 PM	MP4 File	
Dash Cam A line cross.mp4	A2	6/23/2018 2:07 PM	MP4 File	
Dash Cam B LoBoy.MOV	A2	4/19/2020 11:09 AM	MOV File	
Dash Cam C Truck crossing.mp4	A2	10/22/2018 12:14 PM	MP4 File	
Dash Cam DNight Semi GlenArm.mp4	A2	6/28/2018 9:29 PM	MP4 File	
Dash Cam E Rural Road Walker.MOV	A2	10/14/2018 3:57 PM	MOV File	
Dash cam F Harford Rd South.mp4	A2	10/22/2018 10:07 PM	MP4 File	
Da[illegible] cam G.MOV	A2	1/9/2015 1:00 AM	MOV File	
Dash cam H.MOV	A2	1/9/2015 1:03 AM	MOV File	
Dash cam Harford Glen Arm Mt vista.mp4	A2	4/10/2018 8:53 PM	MP4 File	5,[illegible]
Dash Cam I North to Mt vista Ct.mp4	A2	10/22/2018 12:12 PM	MP4 File	
DSC_4933.MOV	A3	4/28/2018 8:24 AM	MOV File	3,[illegible]
DSC_5006.MOV	A3	6/24/2018 5:34 AM	MOV File	2,[illegible]
DSC_6978.MOV	A3	10/16/2018 10:48 AM	MOV File	
DSC_6985 July 4.mp4	A3	10/30/2018 2:22 PM	MP4 File	
DSC_6986July 11 Promo.MOV	A3	10/17/2018 6:17 AM	MOV File	
DSC_6988 Outside.mp4	A3	10/30/2018 2:34 PM	MP4 File	
DSC_6989 Opening Day.mp4	A3	10/30/2018 2:29 PM	MP4 File	
DSC_6990 Md. Dept Sec. State Oct 6.mp4	A3	10/30/2018 2:14 PM	MP4 File	
DSC_6994 Promo.MOV	A3	10/17/2018 8:51 AM	MOV File	
DSC_7010.MOV	A3	10/23/2018 4:57 PM	MOV File	
DSC_7016 gate open.mp4	A3	10/30/2018 3:47 PM	MP4 File	
DSC_7040 Amplification.mp4	A4	10/30/2018 3:55 PM	MP4 File	
[illegible]		[illegible]	[illegible]	
DS[illegible]_7040 Buildng open.mp4	A4	10/30/2018 4:03 PM	MP4 File	
DSC_7040 Is he deaf.mp4	A4	10/30/2018 4:05 PM	MP4 File	
DSC_7042Grass Dirt Open Mikes.mp4	A4	10/30/2018 2:41 PM	MP4 File	
DSC_7045Expression of Faith.mp4	A4	10/30/2018 5:49 PM	MP4 File	
DSC_7047 DrumS.mp4	A4	10/30/2018 2:46 PM	MP4 File	
DSC_7057.MOV	A4 Neral: Idol	10/30/2018 11:30 AM	MOV File	
From deck Sept. 10 820 pm.wav	A4	10/27/2018 10:40 AM	WAV File	
Gunpowder Park to Circle.mp4	A4	10/30/2018 1:35 PM	MP4 File	1,[illegible]
MD 94.mp4	A4	10/22/2018 9:38 PM	MP4 File	
Rural Road Walker.mp4	A4	10/22/2018 9:41 PM	MP4 File	

Solitude A4

4992 A1
5005 A1
5006 A1

make 1 more

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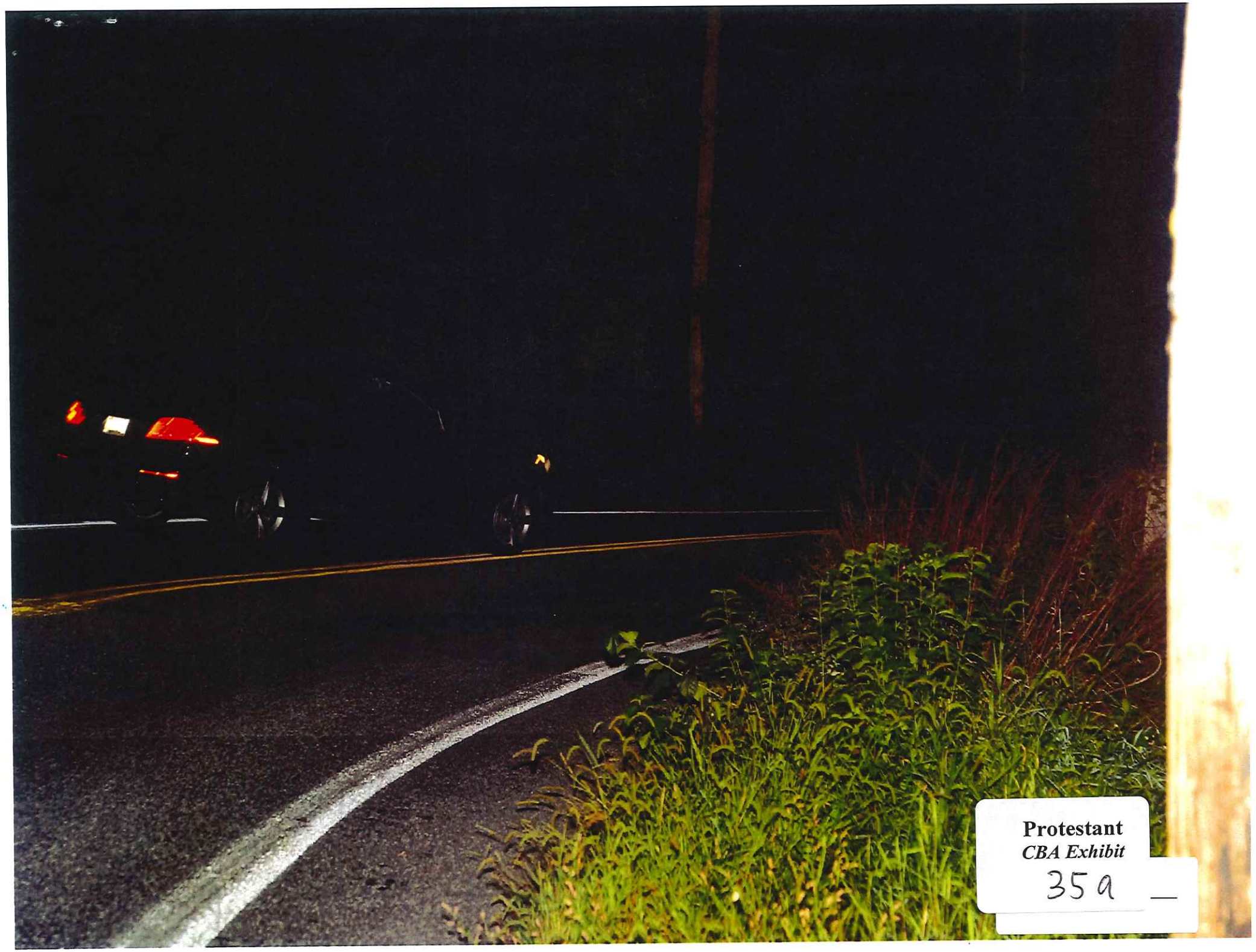
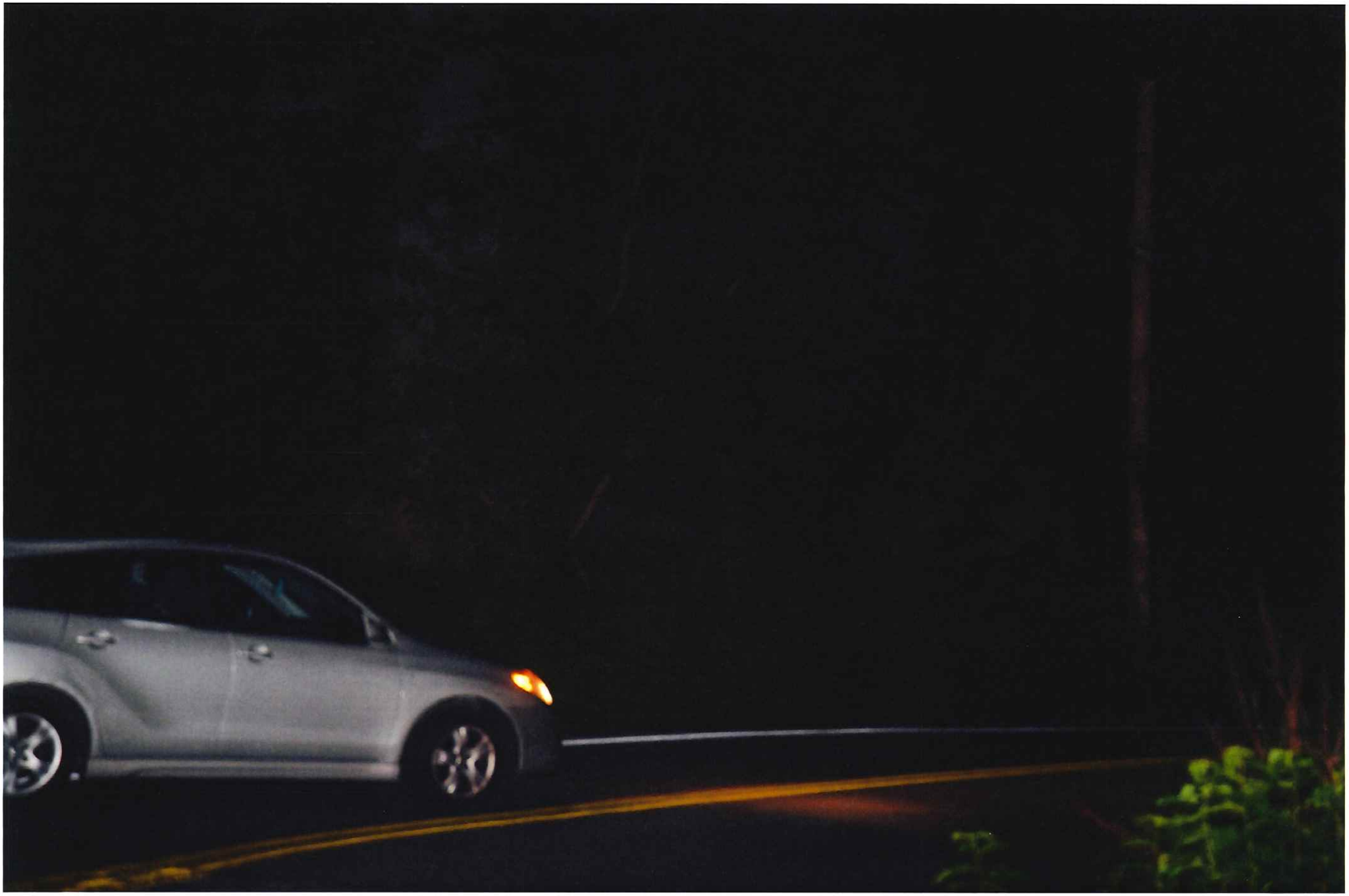
CBA Exhibit
33

Protestant
CBA Exhibit
34

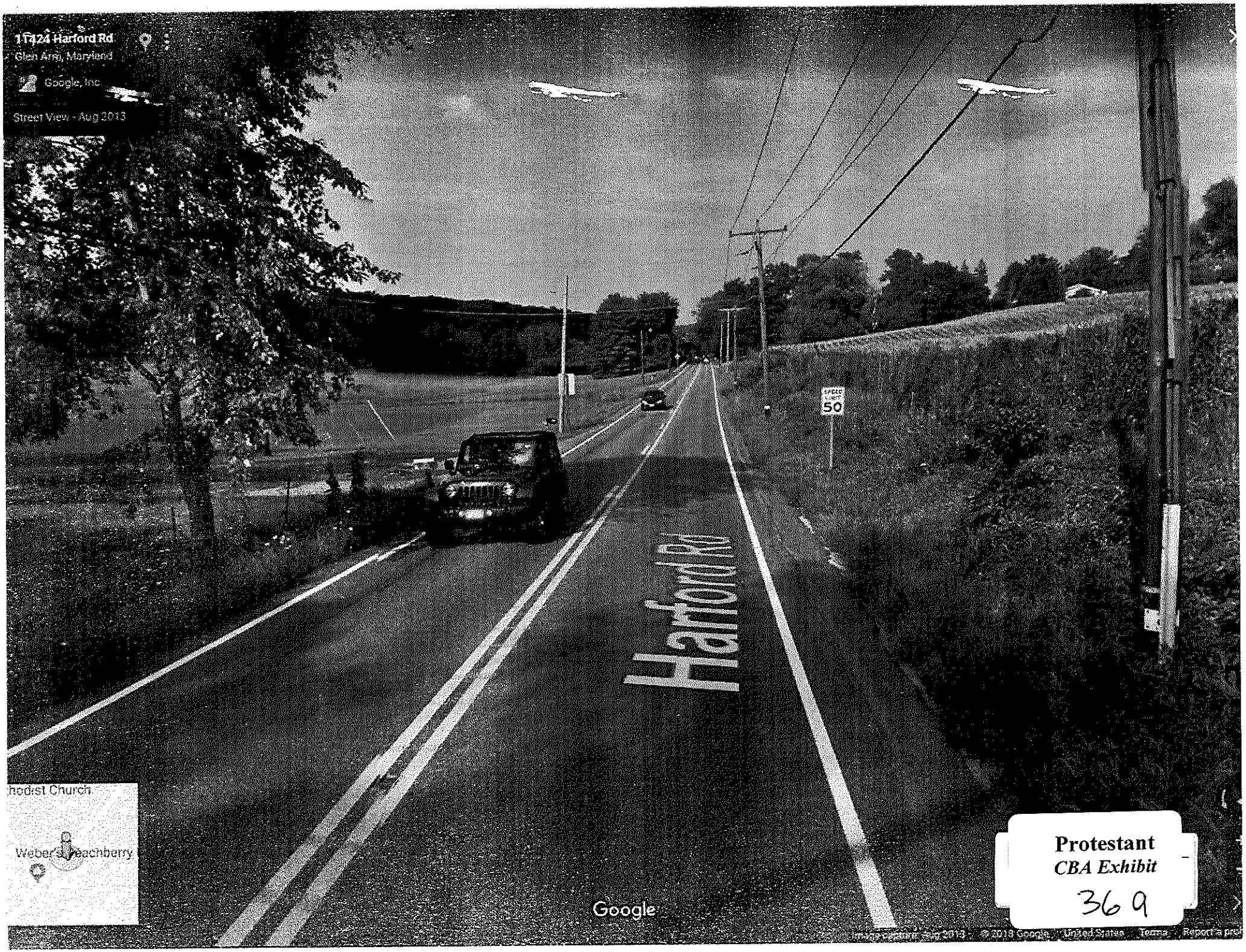
USB Drive
Case No. 18-122-X
Appendices 3, 20, 22


Protestant
CBA Exhibit
35a



Prot 35B

Prot 35C


11424 Harford Rd
Glen Arm, Maryland
Google, Inc
Street View - Aug 2013
50
Harford Rd
hodist Church
Weber's Peachberry
Google
Protestant
CBA Exhibit
369

Phot
36 B

Prot
36C

Protestant Exhibit _____

Permits, Approvals, and Inspections
Code Inspections & Enforcement
County Office Building, Rm. 213
111 W · it Chesapeake Ave
Towson, Maryland 21204
www.baltimorecountymd.gov/Agencies/permits/

Code Enforcement 410-887-3351
Electrical Inspection 410-887-3960
Plumbing Inspection 410-887-3620
Building Inspection 410-887-3953

CODE ENFORCEMENT CORRECTION NOTICE

CASE NUMBER	PROP.TAX ID
CC1811890	17-00-006067
VIOLATION ADDRESS	
12231 HARFORD RD GLEN ARM, MD 21057-9329	

NEPALI AMERICAN CULTURAL CENTER OF
BALTIMORE
12231 HARFORD ROAD
GLEN ARM, MD 21057-9329

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY CODES AND/OR REGULATIONS:

County Codee/Regulations	Inspector's Comments
B.C.Z.R 450: Non permitted sign(s)	The sign has a permit but it is not built and installed according to the permit. You're only allowed to have one sign less than 25 ft.² and it can be no taller than 6 feet from ground level. Correct the sign or remove the sign.

Failure to comply with this correction notice, may result in a $200.00 fine/penalty per day, per violation pursuant to BCC: 1-2-217; 32-3-602 and/or the County sending a contractor to correct the violation(s) at your expense. Call the Inspector for more information and details.

COMPLIANCE DATE: 09/06/2018	INSPECTOR ID: 79
	ISSUED DATE: 08/27/2018

IMPORTANT INFORMATION TO THE PERSON'S CHARGED

1. It is important that you read this document carefully, as it charges you with the commission of a crime.
2. If you fail to correct the violations noted by the date dictated, a citation may be issued, and a trial scheduled at which you may be penalized by a fine, imprisonment, or both.
3. If the County is required to bring your property into compliance, all costs and fines shall become a lien and shall be collectible in the manner provided for collection of real estate taxes; or may be collected in the same manner as any civil money judgment or debt collected.
4. A lawyer can give important assistance to you:
   (a. on how to correct the violation(s) in order to avoid trial or
   (b. at trial, if you failed to correct the violation(s) noted. Assistance may be provided to determine whether there are any defenses to the charges against you or any circumstances helpful to you that should be brought to the trial. A lawyer can help you by developing and presenting information, which could effect how you correct the violation(s).
5. A conviction for each violation will subject you to potential fines of $200, $500, $1000 per day per violation, depending on the violation, or 90 days in jail, or both Baltimore County Code section 1-2-217 and 32-3-602.
6. It is your responsibility to obtain any required permit(s) to correct the cited violation(s). All repairs must be in accordance with applicable laws, Code of Baltimore County Regulations, and standards.
7. Upon correction of these violation(s), contact the inspector for re-inspection. If you have any questions contact the inspector promptly.

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37

100.00

BALTIMORE COUNTY
DEPARTMENT OF PERMITS, APPROVALS & INSPECTIONS
111 WEST CHESAPEAKE AVENUE
TOWSON, MD 21204
410-887-3391

B _____
A 771358

The applicant is authorized to affirm that there are no current violations at this site pursuant to Section 112.7 BCC
Initials KA

SIGN USE PERMIT

Permit Fees are Non-Refundable; Make Check Payable to "Baltimore County, Maryland"

PROPERTY ADDRESS 12231 Harford Road, Glen Arm MD ZIP CODE 21057

BUSINESS NAME NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE ZONING RC-2

OWNER'S NAME Nepali American Cultural Center of Baltimore PHONE NO. _____ HISTORIC DISTRICT ☐ Yes ☒ No

MAILING ADDRESS 12231 Harford Road, Glen Arm, MD 21057

APPLICANT/OWNER'S AGENT Keshav Acharya PHONE NO. 703-958-0491

SIGN COMPANY NAME _____ PHONE NO. _____

TYPE OF SIGN: ☐ Window Sign TAX ACCOUNT NO. 170,000,6067

☐ Temporary- Including Real Estate/Construction/Event Temporary Signs in the Last Year: ☐ Yes ☐ No

☒ Permanent ☐ Changeable Copy ☐ Wall ☐ Face Change Only ☐ Non-Illuminated

☒ Freestanding ☐ Pylon ☐ Monument ☐ Illuminated (separate electrical permit required)

Size: 3 feet x 5 feet = 15 square feet Height: 5 feet (freestanding signs)

Property Line/Street Right-of-Way Setbacks: front _____, sides _____ and _____, and rear _____.

NOTE: A construction plan, drawn to scale and clearly showing that all requirements have been met, must be attached; a site plan also must be attached for freestanding signs.

Table of Sign Regulations: 450.4.Attachment 1, 1.- An Electronic Changeable Copy Sign may only have a maximum Frequency of one instantaneous message change per 15 second cycle.

450.6.B.3 Changeable copy signs must operate at a constant intensity and not give the appearance of movement by flashing, blinking, strobing, scrolling, oscillating, or alternating lights.

PROHIBITIONS: including roof signs (Sections 450.5.B.7 and 450.6.A, Baltimore County Zoning Regulations):

1. Signs cannot impair motorist's clear view of traffic or government signs. All signs are subject to Section 102.5, BCZR.
2. Signs cannot imitate or resemble government signs, except for private traffic control and notice signs.
3. Signs cannot be placed in or project into or above street right of way or governmental property.
4. Sign or framework cannot obstruct window or opening for light and air or access to building, fire hydrant, or stand pipe.
5. Vehicle cannot be parked for the purpose of displaying an attached sign.
6. Except for flags exempted, flags, pennants, ribbons, streamers, tethered balloons, laser projections, and similar objects are prohibited.
7. Portable signs are prohibited, except for A-frame and sandwich board signs issued a use permit in B.M. – C.T. zones.
8. There can be no display or simulation of moving parts or message, except for an outdoor advertising sign with tri-vision, a changeable copy sign, or a thermometer, barometer, weather vane, barber pole, or clock.
9. No sign may emit sound

Work Description (including number of signs, special conditions, materials, locations and size):
APPLICANT PROCEEDING AT OWN RISK PENDING OUTCOME OF BOARD OF APPEALS CASE IF DECISION IS REVERSED, SIGN MUST BE REMOVED WITHIN 2 CALENDAR DAYS OF APPEAL, NON-APPEALABLE ORDER
KA 2018-0122-X on Appeal
CORNER LOT ☐

OWNER/AGENT CERTIFICATION Case Heard 1/17/18

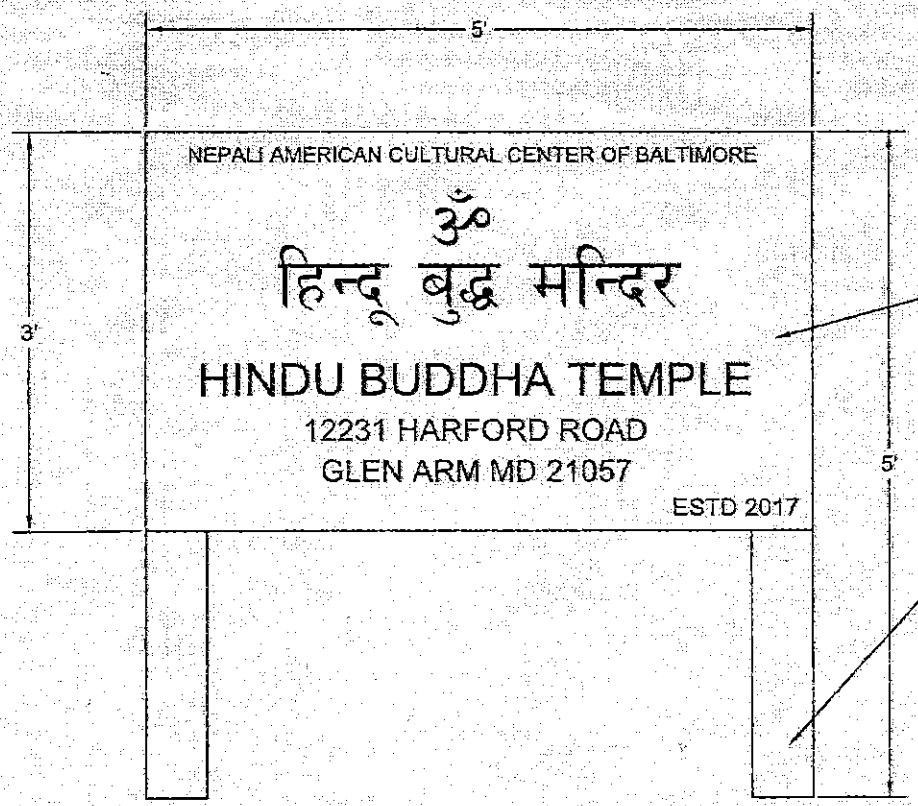
I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the above are true and further agree to locate the proposed sign such that it will not violate Baltimore County laws and regulations.

Signature _____ Date 03/13/2018 Print/Type Name Keshav Acharya

☐ Require Planning Signature _____ Date _____

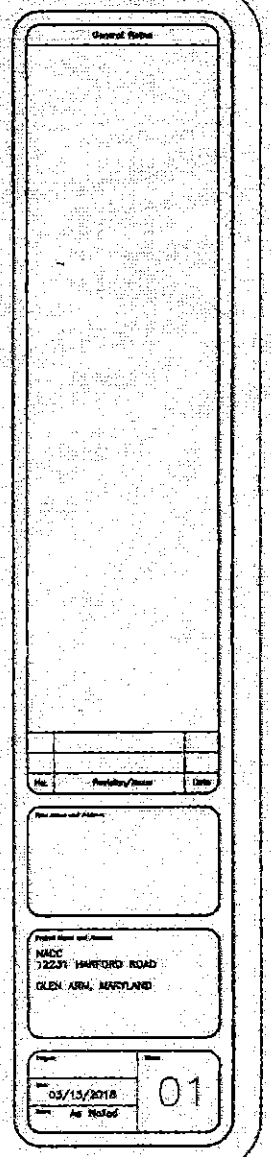
Copies: White-Office; Yellow- Applicant (keep this Copy for your permanent records)
REV 10/14

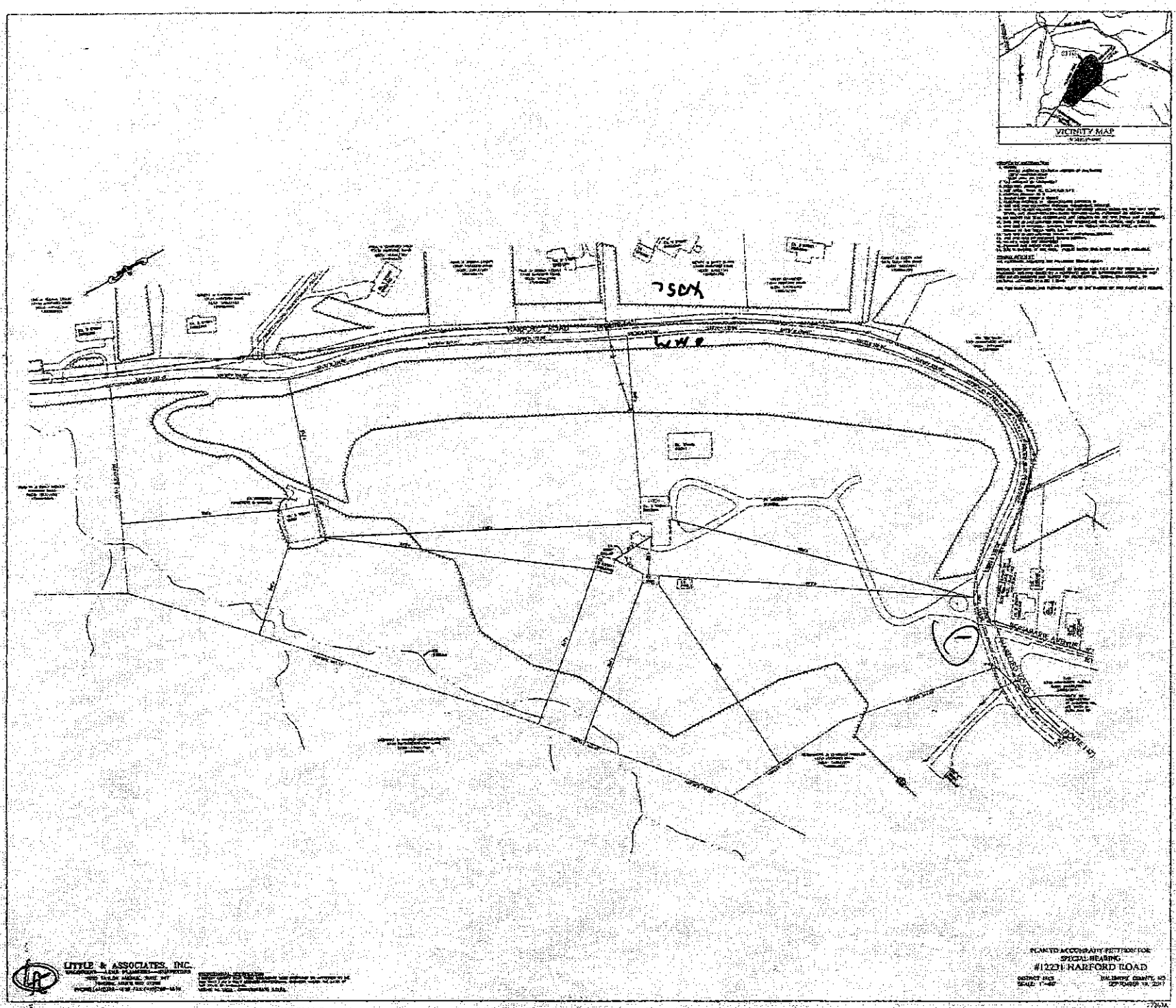
Authority under Section 500.4, BCZR (OFFICE USE ONLY)
Signature _____ Initials _____ Date 3/13/18



METAL SHEET SIGH ATTACHED
TO $\frac{3}{4}$" PRESSURE TREATED PLYWOOD

4X4 PRESSURE TREATED WOOD
POST 5' HIGH FROM GROUND




VICINITY MAP
HARFORD ROAD
LITTLE & ASSOCIATES, INC.
PLAN TO ACCOMPANY PETITION FOR
SPECIAL HEARING
#12231 HARFORD ROAD

Permits, Approvals & Inspections

111W. Chesapeake Avenue
Towson, MD 21204

Report Generated On:
3/13/2018

Permit Processing Residential Permit & Development Report

Property Information

Tax Account Number: 1700006067

Election District: 11

Owner Name(s): NEPALI AMERICAN CULTURAL and CENTER OF BALTIMORE

Address: 12231 HARFORD ROAD
GLEN ARM,MD. 21057

Premise Address: 12231 HARFORD RD

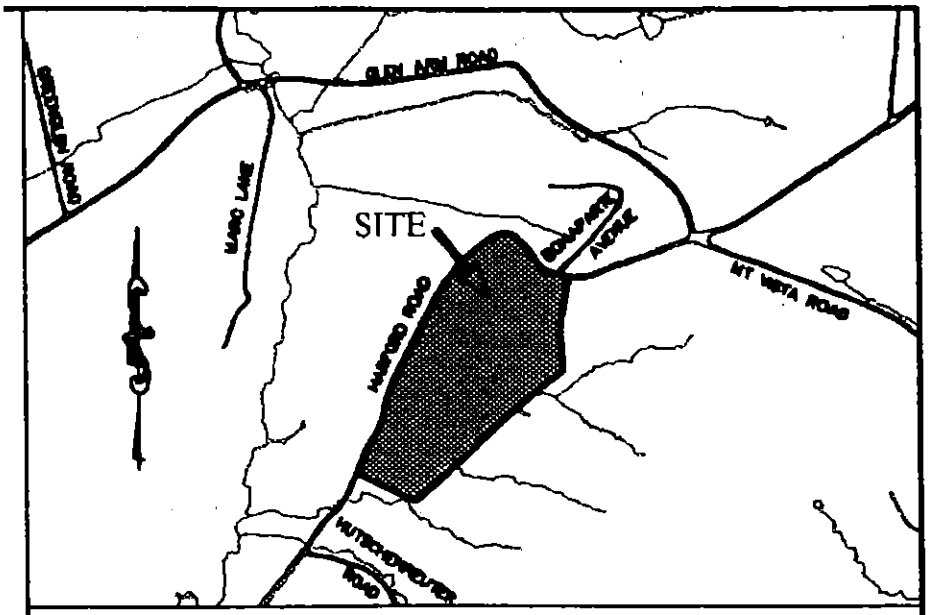
PDM # :

Zoning District(s): RC 2

Elevation Range: 232ft - 398ft

Affected Overlays / Contact Agency	Instructions: Begin review process with Zoning Review, Room 111 **Potential Overlay Issues** **Growth Tier 4:** No New Subdivisions of 4 or More Additional Lots	New Homes	Internal Alts.	Add / Ext. Alts.	Access. Struct.	Open Decks	Piers/Pilings	Grading/SW	Tanks	Ret.Walls/Bulk	Razing	Elec. & Plumb	Agency Acknowledgment Initial & Date
PAI HOLD Layer	**Do NOT Issue Permits For This Property** **See Lionel Van Dommelen, CoEn For Details.** **Hold-Date:1/25/2018** **Comments: Needs Public Hearing Before ALJ - See Lionel in Code Enforcement**												
PAI-Public Services County Office Building Room 119 Phone: 410-887-3751	InFill Lot Review	X											OK To File
Zoning Review County Office Building Room 111 Phone: 410-887-3391	Zoning Cases: 2014-0135-A, 2018-0122-X	X		X	X	X	X						
Dev. Management County Office Building Room 123 Phone: 410-887-3321	Growth Tier 4 - (No New Subdivisions of 4 or More Additional Lots)	X											

Notice: This report is not inclusive as additional issues may arise which would affect the ability to obtain a building permit. This Report is solely for Departmental use and nothing herein creates any right which would accrue to the applicant.



VICINITY MAP

SCALE: 1"=1000'

PROPERTY INFORMATION

1. OWNER:
   NEPALI AMERICAN CULTURAL CENTER OF BALTIMORE
   12231 HARFORD ROAD
   GLEN ARM, MD 21057
2. TAX ACCOUNT #: 1700006087
3. DEED REF: 38696/85
4. SITE AREA: 30.84 AC. (1,341,646 S.F.)
5. EXISTING ZONING: RC 2
6. ZONING MAP: 05482 & 05483
7. ELECTION DISTRICT: 11 COUNCILMANIC DISTRICT: 5
8. THIS SITE HAS NO KNOWN PREVIOUS COMMERCIAL PERMITS.
9. THIS SITE IS NOT LOCATED WITHIN ANY DEFICIENT AREAS BASED ON THE 2017 WATER, SEWER, AND TRANSPORTATION BASIC SERVICES MAPS, PURSUANT TO SECTION 4A02.
10. NO KNOWN 100 YEAR FLOODPLAINS ARE LOCATED ON THE SITE (FEMA MAP 24005C0260F)
11. THIS SITE IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA (CBCA).
12. THIS SITE IS HISTORIC. BA-538, KNOWN AS "BELLA VISTA (THE SITE)", & BA-538A, KNOWN AS THE "BELLA VISTA BARN".
13. THIS SITE IS NOT LOCATED WITHIN ANY HISTORICAL DISTRICT.
14. THIS SITE HAS NO PREVIOUS ZONING HISTORY.
15. NO NEW SIGNS ARE PROPOSED.
16. PARKING AND DRIVES EXIST AS SHOWN.
17. SITE IS OUTSIDE OF THE URDL. PUBLIC WATER AND SEWER ARE NOT AVAILABLE.

PARKING DATA:
38 PARKING SPACES PROVIDED

ZONING REQUEST:
THE PETITIONER, REQUESTS THE FOLLOWING ZONING RELIEF:

SPECIAL EXCEPTION RELIEF, PURSUANT TO SECTION 1A01.2.C.6&7 OF THE BCZR TO ALLOW A COMMUNITY BUILDING OWNED BY A NONPROFIT CIVIC OR IMPROVEMENT ASSOCIATION AND USED BY ITS MEMBERS AND GUESTS FOR RECREATIONAL, SOCIAL, EDUCATIONAL, OR CULTURAL ACTIVITIES IN A RC 2 ZONE; AND FOR A CHURCH OR OTHER BUILDING FOR RELIGIOUS WORSHIP.

AND FOR SUCH OTHER AND FURTHER RELIEF AS THE NATURE OF THIS CAUSE MAY REQUIRE.

SMITH
TE AVENUE
7/852
1851

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38

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CBA Exhibit
39

Maryland's National Register Properties

Photo credit: K. Tyler, 06/1981

Long Green Valley Historic District

Inventory No. **BA-2188**
Date Listed: **12/30/1982**
Location: **Baltimore County**
Category: **District**
Period/Date of Construction: **18th - early 20th centuries**
Resources: **135 (100 contributing, 23 non-contributing)**

Open National Register Form

Open in Medusa...

Description: The Long Green Valley Historic District is an approximately 6,066 acre rural agricultural area to the northeast of the city of Baltimore. The valley has a distinct physical unity created by gently rolling fields dotted with crossroads villages such as Glen Arm and Baldwin, and farm complexes. Its architecture covers the 18th, 19th, and early 20th centuries and is generally conservative with most of the major architectural styles of these periods evident. In some examples, more than one style is found in the same building because of renovations. The majority of the structures are domestic or farm related such as barns and utility buildings. Commercial structures stand in the village areas. The older structures are generally of stone or brick construction with frame dominating the mid 19th-century to present era. The houses vary in scale, design, and craftsmanship depending on the history of the structure. Approximately 125 individual buildings, complexes, and objects stand in the district with the majority contributing to the significance of the district. The major intrusions or non-obtrusive elements are industrial complexes around Glen Arm and groupings of post-1930s houses.

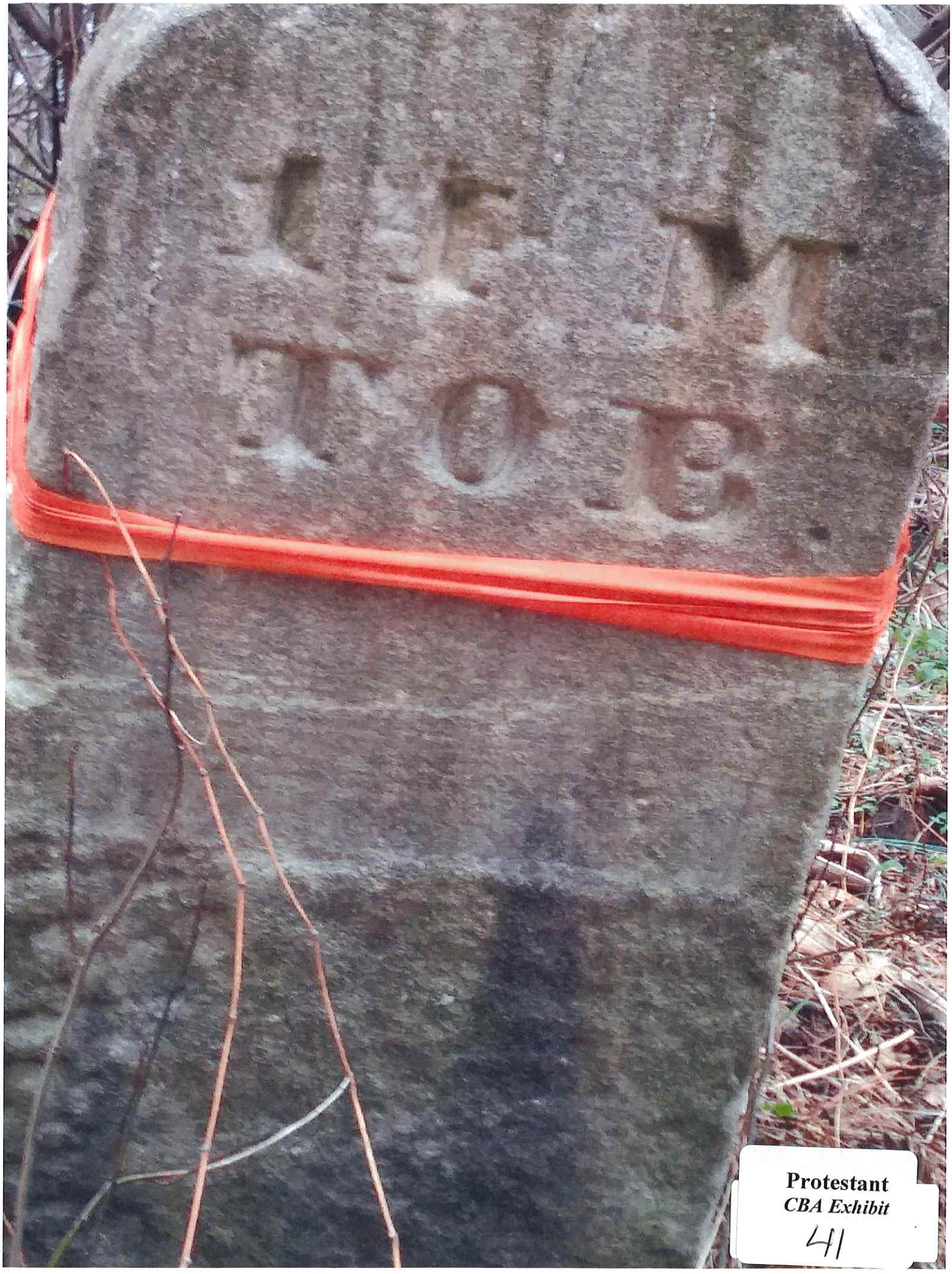
Significance: The significance of the Long Green Valley Historic District derives from the collection of 18th, 19th, and early 20th century buildings that are situated in a rural agricultural setting. The buildings, primarily houses and farm structures, embody the distinctive design characteristics of the major architectural styles popular in the United States from the Neoclassical of the 1700s to the Georgian Revival of the pre 1935 period. The buildings range from modest to elaborate in size and exhibit varying degrees of craftsmanship as well as a record of changes in construction techniques in Baltimore County. The buildings also are evidence in the productive agricultural nature of the valley since it was settled in the 1720s thus recording ways of life that have disappeared in other regions surrounding metropolitan Baltimore.

District Resources (135) (100 contributing, 23 non-contributing)

*From associated listing in National Register nomination form. **C = Contributing, NC = non-contributing, blank = not evaluated.***

Address	Status	Resource Name and MIHP (if any)

Protestant
CBA Exhibit
40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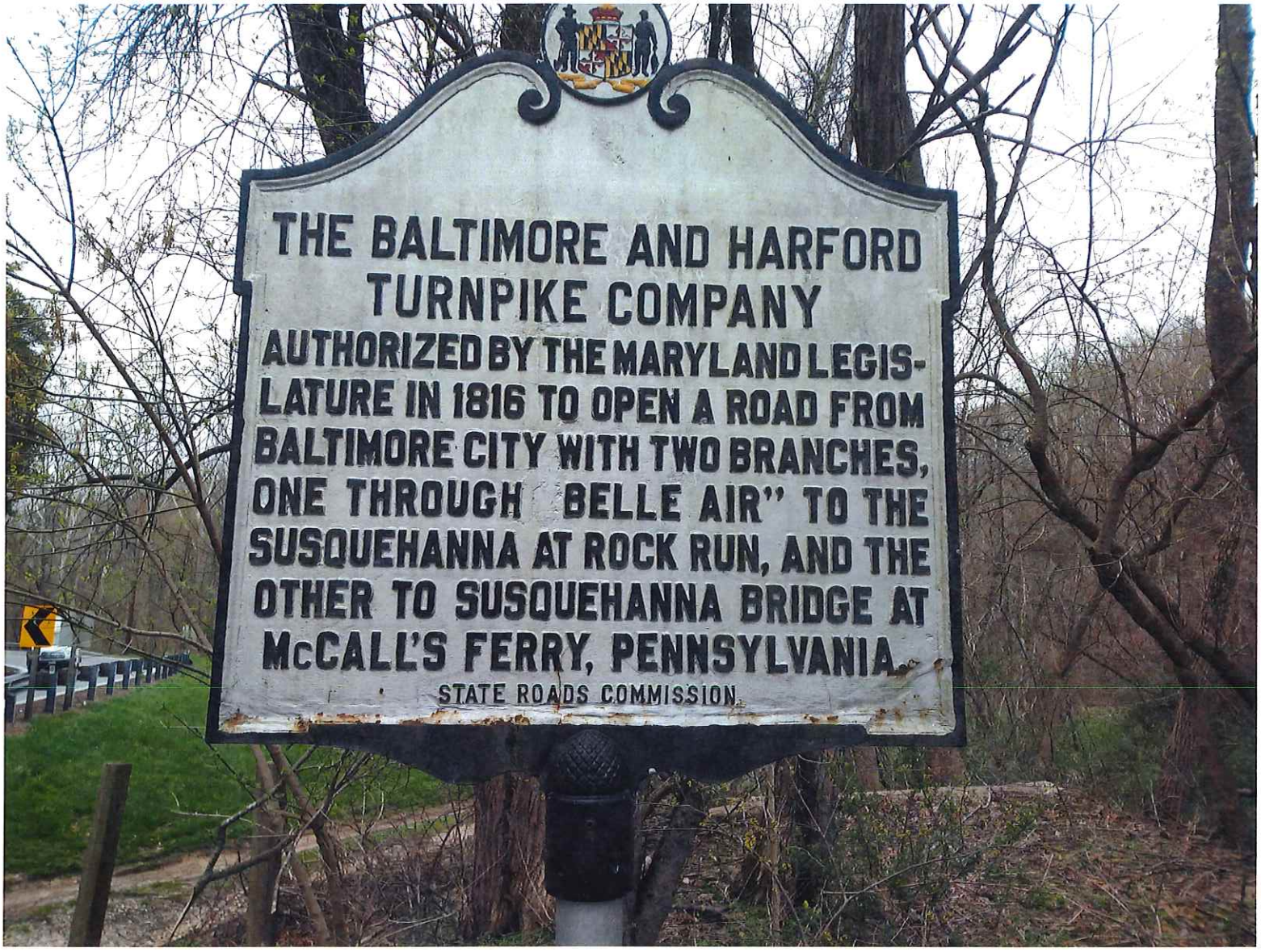
CBA Exhibit
41



Protestant
CBA Exhibit
42

Subject: RE: Follow up
From: Richard Zeller <RZeller@sha.state.md.us>
Date: 7/5/2018 8:54 AM
To: "'HTI Gmail'" <historictimekeepers@gmail.com>

Mr. Clark,

It is my understanding that the county has not approved this site for the proposed use (Temple). The SHA has not approved the existing entrance for this use. From the SHA perspective this site should not be operating at all. Will the county be shutting them down?

Rich Zeller

From: HTI Gmail [mailto:historictimekeepers@gmail.com]
Sent: Monday, July 02, 2018 9:12 AM
To: Richard Zeller <RZeller@sha.state.md.us>
Subject: Follow up
Mr. Zeller

This is in reference to the matter about which I wrote on June 21 2018. This concerns the use of a single property residence at 12231 Harford Rd. Glen Arm, MD as a commercial without a State Highway Access Permit and their internet advertising for a major fund raiser July 29-Aug 30, 2018.
It is important to note that our concerns are about community health (disposal of human waste), degradation of the watershed and major traffic problems they **testified** they created at last year's even.
In order to relieve alleviate any doubt about the situation regarding 12231 Harford Rd, Glen Arm MD, 21057, I have include the direct testimony of the NACCB,Inc. at the hearing January 17, 2018.
Included are the statements about traffic and infrastructure made under oath by the property owners and their expert witnesses. As you will see, the owners testified there is no water onsite (fire sprinklers for commercial venue) and they testify about the problems they caused on Harford Road at the fund raiser last year. **The one to be held on July 29-Aug 3 2018 is advertised as even larger.**
I included the pages that identify the hearing, date and the speakers. Mr. Kotroco represented the owners of 12231 Harford Rd, I am the representative for those opposed to this use of the property, Mr. Ghimire (misspelled Gimory) is the resident agent for the owner and Mr. Motsco is the Civil Engineer acting as the expert witness for the owner.
Pages 31-33 are the testimony about projected use
Pages 35-55 are the testimony of existing infrastructure
Pages 68 -70 are Mr. Ghimire's description of the fundraiser of July 2017 which resulted in the Cease and Desist order
Pages 71-73 are Mr. Ghimire's direct testimony about the lack of any sanitation facilities; no well and unusable septic.
For your convenience, I highlighted the relevant portions of testimony.
Please feel free to call me at 410.592.9998 if there is anything else you need.
This will be followed by a letter with a paper copy of the attached transcript.
--
Regards,

Dewey Clark,
http://www.historictimekeepers.com
Omega Recognized Service Provider
WOSTEP (Neuchatel) Certified After Sales Service of Current Watches
WOSTEP (Neuchatel) Certified Micromechanics
Restoration of Vintage Timepieces
Precision Timing Specialist
Micromachining

Protestant
CBA Exhibit
43

SDAT: Real Property Sea | Nepali American Culture | Shyam Karki | Search for Charities

www.facebook.com/shyam.karki

Shyam Karki | Morgan | Home 9

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Shyam Karki updated his status

May 19

As usual I go to our Mandir site to check how renovation is progressing, at least once a week. There were 6 people working very hard even in today's heat. They have almost completed wiring for the lights for the outside walls. Repairs of outside walls have also been completed. Moldings were also done and are planned to be up tomorrow.

As I was ready to leave I called Bickramji to inform him that I was there and very impressed with the pace of the repairs. He told me he is on the way and will be there in 5 minutes. Sure enough, he was there in 5 minutes and he took me on a tour of the building showing work completed and plans for the next two weeks. Main door, all window glasses, lights and most of the exterior walls will be completed and then he will focus on the inside. He is full of energy and Mandir renovation has become his passion. We have found a great match for the job. Thank God for the gift

Then we took a walk to the barn. Walking through tall grasses, knee deep at some places, was a problem and we were afraid that we may encounter snakes. So we took two large sticks, just in case. It was almost a 15 minute walk. Barn is huge and may accomodate up to 1,000 people. However all the wooden walls are rotten and the whole structure may need to be rebuilt. It may be a good project for a large auditorium, hall, Community Center and what not for 2022. We started discussing the possibility of building Home for the Elderly just like the Indian community is building one next to the Shiva Bishnu Temple. Our imagination was working at full speed. Having 31 acres of land, and an imaginative mind can be a mind boggling experience.

Then we started talking about Umesh KC's idea of organizing a 5-K race for fund raising and involving youth. It is a Great Idea. In the middle of our discussion of the idea, both of us got excited and said at the same time why not do it here in our own property. Let us make a trail around the periphery of our property and we are sure it will be more than 2.5 K and we can have a 5 K trail in our own property. It will take one up and down the hill, streams and wonderful scenery. We can build some benches for resting along the trail. We can later on even build Drinking Fountains at rest areas. We can go for a morning walk in the weekend mornings, meet our friends, and discuss various plans. What a great idea!

So we call on Umesh to consider this idea seriously and use our Volunteer Corps to build a trail. It may take few weekends of labor and I am sure it can be done. Umesh, here is the chance to build on your idea and may be we can name it "Umesh Trail". Gather about a dozen friends and raise a couple of thousands and there we will have Umesh Trail. A Great Idea, a Doable Idea, Umesh. It's your idea and you have earned the first shot at it. When do you want to start?

Like Comment Share

35

Umesh KC Nice idea to have walking trail on our own mandir property and it is feasible. We volunteers are excited to make it happen. We can decide on name later once job is complete, possibly something that represents the volunteers dedication..

Protestant
CBA Exhibit
44

Sanosansar Hamrosansar shared a post — with Shyam Karki and 47 others at Hindu Buddha Mandir.
July 10 at 10:31 AM · Glen Arm, MD ·

#BALTIMORE MAHAPURAN 2018
(July 28 to August 3)

Dear Friends,
With the start of the hot summer season, the schools are closed and the families are making plans for vacations. In the meantime, a group of volunteers at the Hindu Buddha Mandir has been working for months to make Shreemad Bhagwat Mahapuran Saptah a reality. It's scheduled from July 28 to August 3. So, it's less than 20 days to go. Please schedule your vacation, out of town visits and work days so that you can attend the event. It's a unique event of its own type to be staged at the Hindu Buddha Mandir site, the largest Nepali Mandir site anywhere in the world outside Nepal. Its site is so beautiful and it's so significant that many people have already started calling it a Dham (Sacred pilgrim site).

Most of the details have already been worked out and the plans are in final stages of implementation. Glimpses of some important programs are provided below.

The event will start with the Kalas Yatra on its first day at 10 am. A large group of ladies wearing saris of different colors will carry Kalas filled with water from the holy rivers of Nepal and will walk around the temple. The original target for the number of women was 108. By this time, the number has already passed 150 and there is still more coming in. We appeal to all friends to make sure that all ladies from your household are registered in this event. Registration fee for Kalas Yatra is $51.00 only and you get to keep the Kalas after the end of the Saptah. You can keep it in your Puja Kotha as a memory from the history making Saptah and it will be the Kalas you will be passing as heirloom to your children and grandchildren as the memory of the day you took a step in ensuring the preservation of our cultural heritage by establishing a place of worship and meditation of our own. There will be Pandits chanting mantras, musicians playing devotional music and everyone chanting "Dharmako Jaya Hos" etc, children showering flowers, it will have its own enchanting ambient. I am sure there will be live broadcast and movies filmed of the event.
So, its history in making and you want to be there. If you haven't yet registered for Kalas Yatra, please do so as soon as possible, You can contact Shalina Sharma, Jasmine Dawadi, Sharmila KC, @Shashi Chhetri for registering for the Kalas yatra. You have our guarantee that no matter how many are registered, everyone willing to register will have their chance in being a part of the history.

Kalas Yatra will be followed by Hom and prayers to all the Gods starting with Ganesh, Navagraha (nine planets) and different Gods and Goddesses. Guru Deenbandhu Pokhrel of International fame will be officiating the event and will be assisted by two gurus (Guru Sapkota and Guru Koirala). Finally, Guru Deenbandhu will start reciting the Puran with Bhajans in between. @Purushottam Shrestha who is the director of music and bhajan at Milljull Bhajan and Satsang Parivar is managing the Bhajan program and has already convinced many renowned area bhajan singers and musicians to join the program. Puruji as we fondly like to call him is not only an accomplished singer and musician, he enjoys to teach bhajan and music to anyone eager to learn. So, if you are an accomplished singer or a musician, and want to participate at the event, please contact Puruji or me. Even if you are a complete novice and yet you are interested in singing Bhajan, Puruji will train you and instill enough confidence to make you to be able to sing at the event. The earlier, you contact him, the better.

In days 2-6, Program will run from 2 pm to 9 pm and will have recitation of verses from the sacred books and discourses on them by Guru Deenbandhu with Bhajans interspersed between them. Evening will have more storytelling and Bhajans.

In day #7, it will be the Sangyhya and the last day. In addition to routine pujas and recitations, Guruji will perform Bratbandha of young men, if you have young men in your family, please Tarun Poudel and he will provide all the details.

Friend Requests See All

Liz Clark
Lauren Clark is a mutual friend.
Confirm Friend

Lee Fischbach
Confirm Friend

Bruce Munro
Confirm Friend

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Protestant
CBA Exhibit
45

raffic, parking, greeting the
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babysitting, entertaining the
ext day. So, we need lots and
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your event. Come and make it
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epal, invitations to all your
and then be hosts (because

celebrate this event together.

NACC family.

ıakal, Jyoti Ranabhat, Bikram
awadi, Shalina Sharma, Bishnu
Ramesh Bhatta, Khagendra
, Bheem Kattel, Man Kumar
Mainali, Prakash Shrestha,
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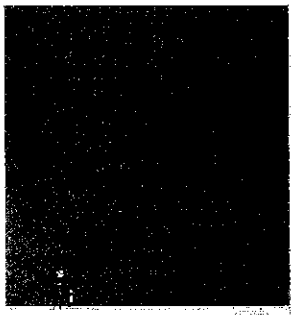
and Ka Hami Nepali"



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ıd 48 others.

अभियानलाई भव्य रुपमा सफल बनाऔं।

nt Shrestha, Amy E B Shrestha,
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Bheem Kattel, Shreekrishna ReGmi,
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Sharma, Rajan Tripathi, Dhirendra
Bhandari, Ammar Chhantyal,

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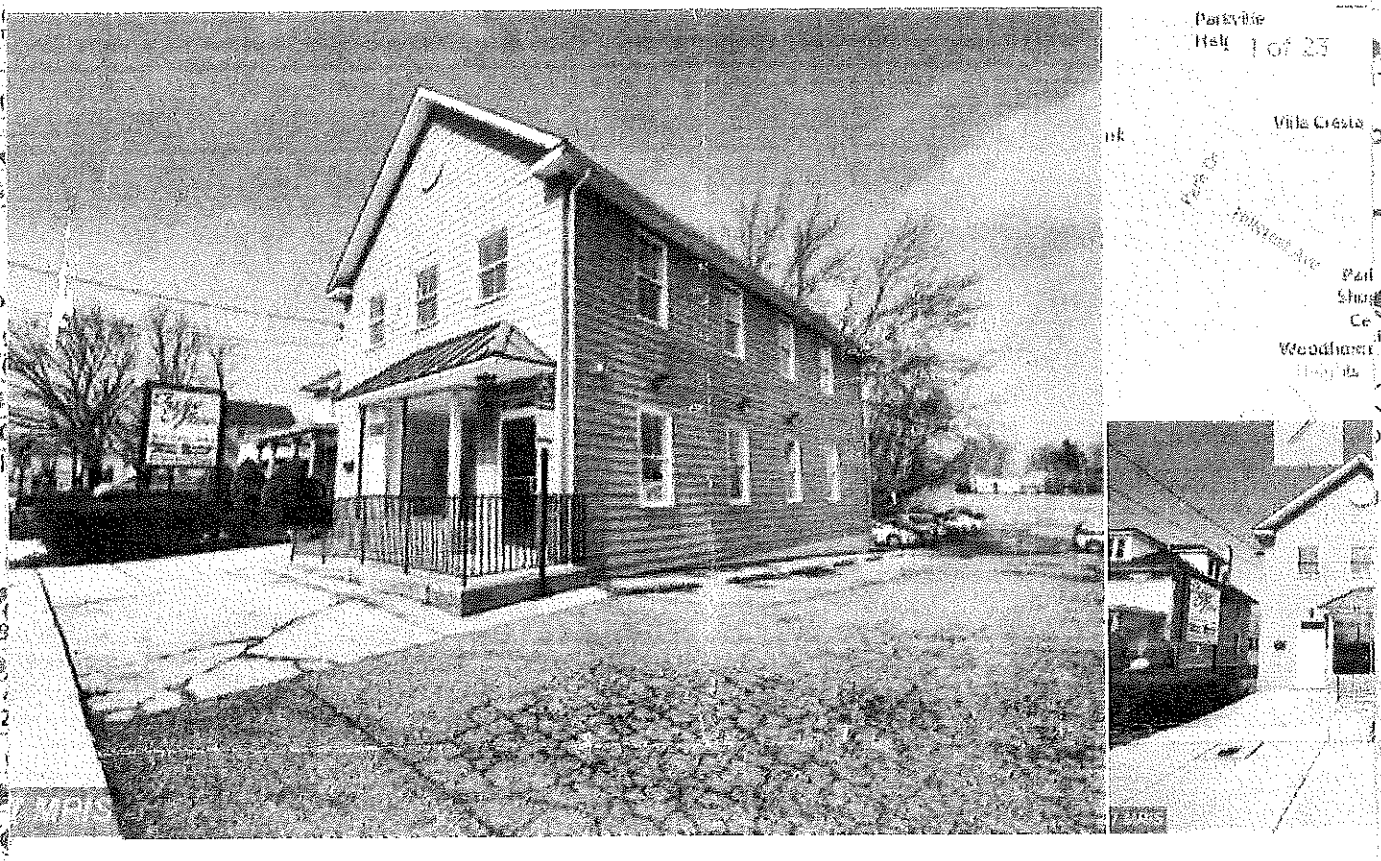
Share

Chat (1)

Protestant
CBA Exhibit
46A

CORRECT HOME FACTS ♡ SAVE ✉ SHARE MORE ▾ EXPAND ✕ CLOSE

Public View Owner View Maryland · Parkville · 21234 · 2906 Taylor Ave



2906 Taylor Ave Baltimore, MD 21234

-- sqft

SOLD:
$298,000
Sold on
12/15/17

EST. REFI PAYMENT
Est. Refi Payment: $1,224/mo

See current r

See current rate

Note: This property is not currently for sale or for rent. The description below may be from a

Home Shoppers are Waiting

Ask an agent about market conditions in your neighborhood.

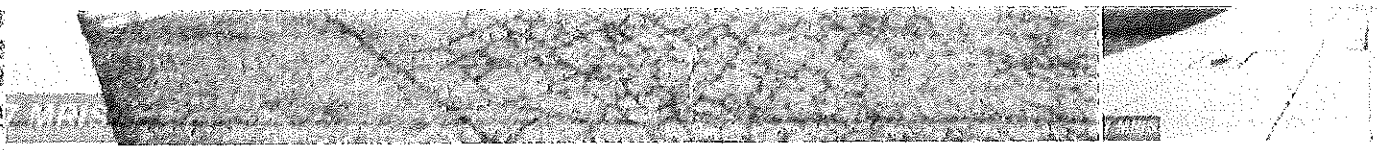
Your name

Phone

Email

I own this home and would like to ask an agent about selling 2906 Taylor Ave, Baltimore, MD 21234.

CORRECT HOME FACTS ♡ SAVE ✉ SHARE MORE ▾ EXPAND ✕ CLOSE



2906 Taylor Ave Baltimore, MD 21234

-- sqft

SOLD:
$298,000
Sold on
12/15/17

EST. REFI PAYMENT
Est. Refi Payment:
$1,224/mo

See current r

See current rate

Note: This property is not currently for sale or for rent. The description below may be from a previous listing.

Great opportunity to own a building in high traffic area. 1/2 Bath on 1st and 2nd level, both have wood floors. First floor has front and back entrance and is 49 x 23. Second level is 49 x 23. Dual Zoned HVAC, heat & water heater are gas, 2 (150 amp) breaker panels, alarm system, 9 parking spots. Architectural shingles 8 years old, Exterior features maintenance free Hardiplank siding.

Home Shoppers are Waiting

Ask an agent about market conditions in your neighborhood.

Your name

Phone

Email

I own this home and would like to ask an agent about selling 2906 Taylor Ave, Baltimore, MD 21234.

Contact Agent

Or call 410-304-6401 for more info

46C

Protestant Exhibit _____

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www.naccbaltimore.org/uncategorized/home/

हिन्दू धर्म मन्दिर

HOME DONATION BOARD MEMBERS AND COMMITTEES TEMPLE DEITIES DONOR LIST

Who are we?

Spontaneous Group wholesale nfl jerseys of Volunteers

m

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PROPOSED SITE | SERVICES | PARKING

Big acreage with open front and back yards, playgrounds, parking space for numerous vehicles makes this property a perfect venue for performing religious and cultural programs such as:

- Daily Worships/ (Pujas)
- Satsangs, Prabachans and Bhajans
- Religious and Spiritual Retreat
- Religious/Cultural Classes
- Yoga /Meditation Classes
- Nepali Language Classes
- Nepali Dance and Music Classes
- Lifecycle Ceremonies (Chaiti, Nwaraan, Pasni, Bratabanda, Bibaha, Suddhyodhan, etc....)

Volunteer Opportunities

All interested individuals and families who believe in such faiths, traditions and culture can unconditionally join us or contribute from anywhere around the globe either by mail or by clicking 'Membership' or 'Donation' icons in our website above.

Activate Windows
Go to Settings to activate Windows.

s.google.com/spreadsheets/d/13pGEv43UoSnghbrqv0wtT97tNS0lufNRQWCA5M5-WZk/edit

9:17 PM 5/1/2017

Protestant
CBA Exhibit
47

1

ORIGINAL

Greater Kingsville Civic Association, Inc.

P.O. Box 221, Kingsville, Maryland 21087

October 10, 2018

Re: Board position regarding Case No. 2018-0122X ('Bonaparte Property' / Proposed Nepali American Cultural Center at 12231 Harford Road)

Attached is the vote of the GKCA board from April 4 of this year

Protestant Exhibit 48

Greater Kingsville Civic Association, Inc.
P.O. Box 221, Kingsville, Maryland 21087

RESOLVED: That the position of the Greater Kingsville Civic Association, Incorporated as adopted by the Board of Directors and the zoning committee on the zoning matter known as Case No. 2018-0122-X 'Bonaparte property'/Proposed Nepali American Cultural Center (12231 Harford Road)

is that:

"To oppose the Bonaparte property being used for a large scale, excessive use such as a cultural center and/or a religious facility which would create unsafe traffic conditions, excessive noise, unsafe runoff, and would threaten public health, safety and welfare, through over taxation of our well and septic resources as well as negatively impacting the rural character of the area."

AS WITNESS OUR HANDS AND SEAL THIS 4th day of April, 2018

ATTEST: Greater Kingsville Civic Association, Inc.

Patricia L Farrar — *Secretary*

Dorothy E. Foos — *President*

cherishing our rural heritage since 1974

Protestant Exhibit 49

Dear Friends,

As you know, we are eagerly awaiting our hearing to approve our special exception to use the Bonaparte property as a place of worship. Our hearing date is approaching and we are hearing concerns among some of our neighbors. As always, some comments are very welcoming, some indifferent and some very concerned. Having some concerns is natural.

I have lived in the USA for more than forty years. I currently live in the Longfield Estates neighborhood in Kingsville. I have lived in Kingsville since 2004. My daughter lives in nearby Belair. The primary attraction of where we live is that it's a rural community with promise of little to no further development we enjoy it because of its tranquil nature. I enjoy seeing deer and geese from my deck. I have great fun taking my grandson to the pond to feed the geese. It's like a nature resort, away from the noise and crowd of the city.

Bonaparte property is located within 5 miles of my house and I may be the Nepali living nearest to it. I will also be very much concerned about what is happening to the property. None of us wanted to see this beautiful mansion torn down and a developer rezoning the property to allow many houses to be built in its place. We believe the neighborhood is better served by keeping the property the way it always has been.

At the same time, let us remember what the condition of the property was before we purchased it. It was an abandoned property needing major repairs. The bank had taken it back and it was being auctioned off. Since it was in a very private location, it was used by the local youth to have wild parties with plenty of alcohol and drugs. We experienced this as the building was vandalized repeatedly and some of our property was stolen. Local residents routinely road motorcycles and ATV 's on the property, broke out most of the windows of the mansion, cut out and stole the copper water pipes, painted graffiti and racist words on the interior walls and generally ransacked the property. We had to warn strangers coming onto the property in pick-up trucks that we were the new owners and that we did not want any intruders coming on our property and that we would take action to prosecute them.

We installed locks at the gates and motion detector cameras around the building. We started renovating the building, which is almost now complete. Work is already under way for installing a new sewage system and a new well for drinking water. We have also hired a traffic consultant to study the traffic patterns so that safety for our visitors and neighbors would not be compromised. Our goal is to change this property from a community blight to a community showpiece that everyone can be proud of. We have started doing this and won't rest until we accomplish our goal.

One thing we know for sure is this. The Bonaparte Mansion and its 30 acres are way too much house and property for any single family to take care of. The cost to heat it in these winter months and to cool it in the summer months is too expensive for any one family. The cost of upkeep to the property and grounds is overwhelming for one family. Many of us have been working for many months and we still have not made the property habitable. This beautiful

Mansion and property was falling into ruin. No one seemed to care! It requires a group of families such as ours to take the property over and restore it to its former glory. We were the only ones willing to put up our own money to restore this property.

Second, it's natural to be curious about who are the people buying the property and what do they want to do with it.

We are Nepalis who have moved to this country and live in and around the northern suburbs of Baltimore. We live in Kingsville, Belair, Towson, Perry Hall, White Marsh and the Parkville areas. We are no different from any of your other neighbors; we are nurses, doctors, teachers, engineers, army soldiers, police men, government employees, small business owners and employees working for others. We go to the same stores, malls, schools, restaurant places and gyms. We want better schools, safer roads, and all the things everyone else wants. Our children go to local schools, colleges and universities. They play sports in their schools and colleges. They are friends with your children and have adapted very well to this country. In other words, we are not different at all from the families next door. We are your neighbors.

Lastly, what do we want to do at the property?

We are mostly from Nepal. Nepal is a unique country where two major religions (Hinduism and Buddhism) have coexisted for centuries. You will find Hindu and Buddhist temples side by side and followers of both faiths go to each of these places to worship the same deities. There are different temples dedicated to different gods at different places. People also go to the temples during certain festivals. Nepali American (we like to call our community) is a new community and we don't have our own place of worship. We have realized that it's time for us to have our own place of worship where we can celebrate our religious festivals and pass our cultural heritage to our children. It's happening in many major cities in the US, (New York, Boston, Dallas, Los Angeles, Raleigh etc.) where there is a large Nepali American community. It's very similar to the movement seen by the such Korean and Chinese communities and other immigrant communities who have built their places of worship in Baltimore County.

Now it's important to note some major differences between Nepali temples and churches. Churches have their own parishioners and all of them go to the same church at the very same time. Christian Churches also have a leader or lecturer such as a priest or a pastor who will deliver a message during services. Nepalis do not have a priest or lecturer. Nepalis go to temple on major religious festivals at different times so that there is not a large gathering of people at any one time.

Churches have their parishioners and they go to the same church every Sunday. Nepalis don't have their own temple. We go to different temples for different festivals at different times. So, based on our experience in other Hindu temples (Indian temples), there will be less than 20

people coming to the temple on weekdays and less than 100 people coming on weekends. There are seven major religious festivals each year when 300-500 people may come to the temple, but they will visit at different times during the festival so that the number of people will not pose a problem. They will arrive at different times in the morning, daytime and evening. There is no set time as such.

We are familiar with Christian services as most of us have at least one member of our family who is married to a Christian and we have celebrated Christian religious holidays with them. We are very familiar with the church operations. Thus, parking and traffic are not major issues with our Temples as compared to what we see with Christian churches. The operations are very different from one another.

The moment we saw the Bonaparte property, we were mesmerized by it. The hills and the serpentine roads remind us of our homeland back in Kathmandu. Kathmandu is a valley surrounded by the hills and most of the temples are in the hills. The Bonaparte property is a very large property (30 acres). It is peaceful, away from the crowd and noise. Furthermore, it commands a wonderful view of the surrounding area just like the famous Swyambhu Hills of Kathmandu where temples are typically found. It is hard for us to believe that people would allow this house and property to fall into ruin.

We just fell in love with this place and we plan to use it as a place of worship and a place where we can teach our children about our religious heritage. We will provide language classes where people from our area of the world can learn to speak English. We will like to collaborate with the other religious organizations in the area, mobilize our resources to improve the quality of life in the community. We will like to work with them for organizing free meal programs during the Thanksgiving and Christmas Holidays and to provide for families who are not as fortunate as ours. We will welcome all of our neighbors who would like to learn more about us.

All summer we have worked very hard in bringing the grounds to shape, renovating the building and trying to bring this place to its old glory. We fully realize that it will take us years to accomplish our goal as we are limited by financial resources. However, we are very encouraged by the support we have received from Nepalis far away in different cities and other countries.

We want to work closely with our neighbors and have met with the neighborhood associations multiple times. We have welcomed our neighbors into our programs that we have organized in showing off the property to our community members. We want to work with them so that all of us will be happy. We have every intention of fulfilling all of the requirements of Baltimore County. We have retained the services of an attorney, an engineer, a traffic expert and a water and sewer company to ensure that we have covered all aspects of our use and to comply with all County requirements.

We are confident that we will be a very good neighbor to all and pledge to take care of this property and keep it properly maintained and to make this a place of community pride.

(Dr. Shyam Karki is a member of the Nepali American Community which has purchased the property and has applied to use this property as a place of worship)

Hindu Buddha Temple, Long Green Valley · 26 Jul

Bruce,

I am one of the representative of NACC. First of all, you are so called trying to understand the issue and not on any side..well your posts tell which side you are and that is okay. You have whole time in the world to write negative and false things about us and you live in KINGSVILLE, not sure what your intentions are ??? You never tried to contact us and understand what we are trying to do. You are spreading lies to neighbors who are trying to understand what the issue is. Please STOP. You shouldn't even be writing on this as you are NOT our neighbor ????

Bruce Morgan, Kingsville · 26 Jul

Kris,

Wow, where do I start?

Our previous back and forth was what convinced me what position I would take. I didn't go into this with any conclusion that was predetermined. After listening to you, (as you and Karki have spent significant time on this forum with posts and comments), I felt I understood your intentions fairly well. The past behavior at the site I also considered as well as the continual missteps by your organization regarding the use of the property and the sign erection.

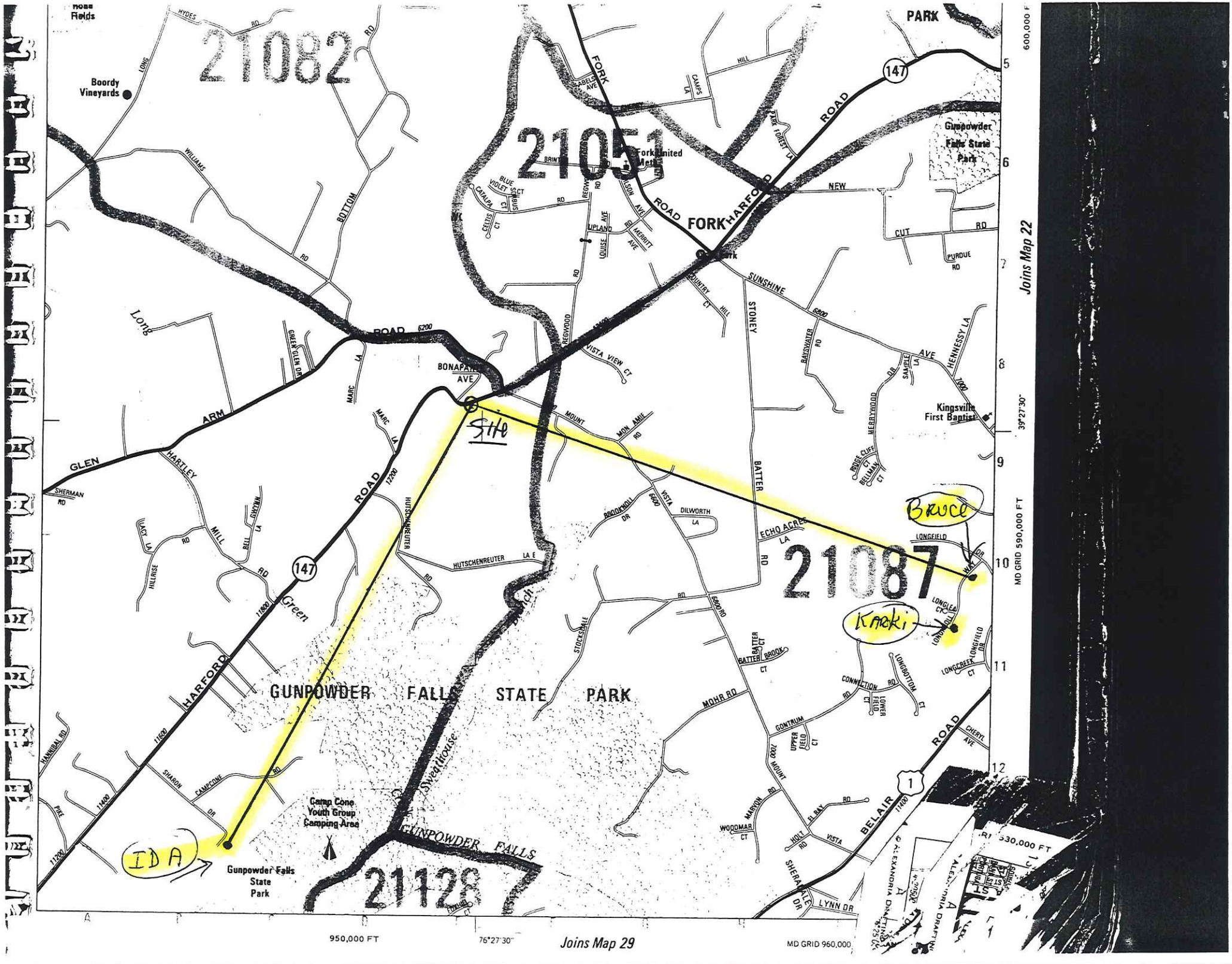
I believe you have created this mess yourself by not doing more preliminary work before purchasing the property and then crossing your fingers that everything would go your way. Property rights go both ways and if what you do there negativity affects the neighbors they should not have their rights infringed upon or compromised.

Since I live in Baltimore county anything that happens here affects me one way or another. I noticed your legal team had no problem putting witnesses on that had supporting opinions, but living miles from your location.

Your comment itself is yet another misstep in that it attempts to shut down conversation rather that talk about facts.

If you want to cite a specific example where I am in error please point it out so I may be corrected.

Protestant
CBA Exhibit
50 BD only



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Site
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Karki
IDA
Boordy Vineyards
Gunpowder Falls State Park
Kingsville First Baptist
Camp Cone Youth Group Camping Area
GUNPOWDER FALLS STATE PARK
GUNPOWDER FALLS
Sweathouse
Long
Green
Branch
FORK ROAD
HARFORD ROAD
GLEN ARM ROAD
BELAIR ROAD
147
1
Joins Map 22
Joins Map 29
MD GRID 590,000 FT
MD GRID 960,000
950,000 FT
76°27'30"
39°27'30"
600,000 FT
530,000 FT

File name	Evidence Disc	Length	Appendix Disc	Creation Date	Posted/Created By	Date Copied	Date Introduced
Amplified Drum		02:04					
Belmont Volley Ball	New	12:16	New	11/04/18	See Attached Note I	11/27/18	
Cam10.20180728_1115001	A3	04:48	Rec Ctr 8	07/28/17	Clark	10/16/18	
Cam10.20180728_111501	A3	04:18	Rec Ctr 8	07/28/18	Clark	10/30/18	11/01/18
Circle to Mt. Vista Ct.	A2	00:18	Rec Ctr 3	10/22/18	Clark	10/22/18	11/01/18
Cyclist	New	00:39	New	12/07/18	Clark		
Dash cam B LoBoy	A2	02:58	Rec Ctr 6	04/19/18	Clark	04/19/18	
Dash cam C Truck Crossing	A2	00:45	Rec Ctr 10	10/22/18	Clark	10/22/18	
Dash cam D Night Semi GlenArm	A2	00:34	Rec Ctr 9	06/28/18	Clark	06/28/18	
Dash Cam E Rural Road Walker	A2	02:59	Rec Ctr 11	10/14/18	Clark	10/14/18	
Dash cam F Harford Rd. South	A2	03:56	Rec Ctr 5	04/10/18	Clark	10/22/18	
Dash Cam Harford Glen Arm Mt. vista	A2	01:41	Dash Cam 1	04/10/18	Clark	04/10/18	
Dash Cam I North to Mt vista Ct	A2	23:59	Rec Ctr 3	10/22/18	Clark	10/22/18	
DSC_ 6978	A3	02:14	FB Vids 3	02/23/18	See Attached Note A	10/16/18	
DSC_ 6988 Outside	A3	02:12	FB Vids 1	07/28/18	See Attached Note D	10/30/18	
DSC_ 7045 Fire	New	02:27	New	08/03/18	See Attached Note J	01/28/19	
DSC_4933	A3	20:00	Rec Ctr 1	04/28/18	Clark	04/28/18	
DSC_5006	A3	NA	Rec Ctr 1		**See Attached Note K Remove**	06/24/18	
DSC_6985 July 4	A3	02:28	FB Vids 5	07/04/18	See Attached Note B	10/30/18	
DSC_6986 July 11 Promo	A3	03:24	FB Vids 5	07/11/18	See Attached Note C	10/17/18	
DSC_6990 Md. Dept. Sec. State Oct 6	A3	06:53	FB Vids 2	10/06/18	See Attached Note E	10/30/18	
DSC_6994 Promo	A3	02:27	FB Vids 6	07/21/18	See Attached Note F	10/17/18	
DSC_7010	A3	04:56	Rec Ctr 4	01/29/18	**Paper Copy Only**	10/23/18	
DSC_7016 Gate Open	A3	09:21	FB Vids 4	07/29/18	See Attached Note G	10/30/18	11/01/18
DSC_7040 Amplification	A4	01:57	FB Vids 10	07/31/18	See Attached Note H	10/30/18	11/01/18
DSC_7040 Building Open	A4	01:17	FB Vids 10	07/31/18	See Attached Note H	10/30/18	
DSC_7040 Is He Deaf	A4	01:38	FB Vids 10	07/31/18	See Attached Note H	10/30/18	
DSC_7042 Grass Dirt Open Mikes	A4	00:39	FB Vids 7	08/01/18	See Attached Note H	10/30/18	
DSC_7047 Drums		04:09	FB Vids 11		Facebook@Enapalese	10/30/18	11/01/18
DSC_7057	A4	05:02	New	01/28/18	See Photo	10/30/18	
DSC_7061 June Event	New	03:14	New	06/11/18	See Attached Note G	01/28/19	
DSC_7064 Belmont VB	New	02:11	New	11/04/18	See Attached Note I	01/28/19	
From Deck Sept 10 820	A4	01:54	Dash Cam 1	09/10/18	Clark	10/27/18	11/01/18

Protestant Exhibit 51

Gunpowder Park to Circle	A4	07:53	Dash Cam 1	04/10/18	Clark	10/30/18	11/01/18
June 11 Event	New	03:14	New		FB@Shyam.Karki REMOVED		
MD 94	A4	00:41	Rec Ctr 5	04/14/18	Clark	10/30/18	
Oct 6 Play with our Kids	New	01:37	New	10/06/18	See Attached Note E	01/28/19	
Oct 6 tour and Roof Hazard	New	06:08	New	10/06/18	See Attached Note E	01/28/19	
Rural Road Walker	A4	00:13	Rec Ctr 11	10/14/18	Clark	10/22/18	
Solitude	A4	01:45	Rec Ctr 6	04/28/18	Clark	10/22/18	11/01/18

URLs Of Evidence Sources Provided by Petitioners

A. **https://www.facebook.com/enepalese/videos/1668703509883269/ open house**
DSC_6978

B. **https://www.facebook.com/enepalese/videos/1819879991432286/ July 4**
DSC_6985

C. **https://www.facebook.com/enepalese/videos/1829555243798094/ July 11**
DSC_6986

D. **https://www.facebook.com/enepalese/videos/1856605667759718/ july 28**
DSC_6988
DSC_6989

E. **https://www.facebook.com/enepalese/videos/294895854452817/ October 6**
DSC_6990
DSC_6991

F. **https://www.facebook.com/enepalese/videos/1853491774737774/ July 26 promo**
DSC_6994

G. **https://www.facebook.com/enepalese/videos/1858521860901432/**
DSC_7015
DSC_7016

H. **https://www.facebook.com/enepalese/videos/1862270613859890/**
DSC_7033
DSC_7034
DSC_7035
DSC_7038
DSC_7040

I. **https://www.facebook.com/GorkhaliBPVG/videos/1179635242161396/**

J. **https://www.facebook.com/enepalese/videos/1863865540367064/**
DSC_7041
DSC_7042
DSC_7043
DSC_7044
DSC_7045

K. **https://www.facebook.com/enepalese/videos/11793448217408797 REMOVED**
DSC_5006 Open House

Protestant
CBA Exhibit
57

.E: Follow up

Subject: RE: Follow up
From: Richard Zeller <RZeller@sha.state.md.us>
Date: 7/5/2018 8:54 AM
To: "'HTI Gmail'" <historictimekeepers@gmail.com>

Mr. Clark,

It is my understanding that the county has not approved this site for the proposed use (Temple). The SHA has not approved the existing entrance for this use. From the SHA perspective this site should not be operating at all. Will the county be shutting them down?

Rich Zeller

From: HTI Gmail [mailto:historictimekeepers@gmail.com]
Sent: Monday, July 02, 2018 9:12 AM
To: Richard Zeller <RZeller@sha.state.md.us>
Subject: Follow up
Mr. Zeller

This is in reference to the matter about which I wrote on June 21 2018. This concerns the use of a single property residence at 12231 Harford Rd. Glen Arm, MD as a commercial without a State Highway Access Permit and their internet advertising for a major fund raiser July 29-Aug 30, 2018.
It is important to note that our concerns are about community health (disposal of human waste), degradation of the watershed and major traffic problems they **testified** they created at last year's even.
In order to relieve alleviate any doubt about the situation regarding 12231 Harford Rd, Glen Arm MD, 21057, I have include the direct testimony of the NACCB,Inc. at the hearing January 17, 2018.
Included are the statements about traffic and infrastructure made under oath by the property owners and their expert witnesses. As you will see, the owners testified there is no water onsite (fire sprinklers for commercial venue) and they testify about the problems they caused on Harford Road at the fund raiser last year. **The one to be held on July 29-Aug 3 2018 is advertised as even larger.**
I included the pages that identify the hearing, date and the speakers. Mr. Kotroco represented the owners of 12231 Harford Rd, I am the representative for those opposed to this use of the property, Mr. Ghimire (misspelled Gimory) is the resident agent for the owner and Mr. Motsco is the Civil Engineer acting as the expert witness for the owner.
Pages 31-33 are the testimony about projected use
Pages 35-55 are the testimony of existing infrastructure
Pages 68 -70 are Mr. Ghimire's description of the fundraiser of July 2017 which resulted in the Cease and Desist order
Pages 71-73 are Mr. Ghimire's direct testimony about the lack of any sanitation facilities; no well and unusable septic.
For your convenience, I highlighted the relevant portions of testimony.
Please feel free to call me at 410.592.9998 if there is anything else you need.
This will be followed by a letter with a paper copy of the attached transcript.
--
Regards,

Dewey Clark,
http://www.historictimekeepers.com
Omega Recognized Service Provider
WOSTEP (Neuchatel) Certified After Sales Service of Current Watches
WOSTEP (Neuchatel) Certified Micromechanics
Restoration of Vintage Timepieces
Precision Timing Specialist
Micromachining

Protestant
CBA Exhibit
53

Subject: RE: Bonaparte Fundraiser, County Inaction and SHA Permit
From: Richard Zeller <RZeller@sha.state.md.us>
Date: 7/24/2018 12:45 PM
To: "'HTI Gmail'" <historictimekeepers@gmail.com>

Understood, thanks for understanding

From: HTI Gmail [mailto:historictimekeepers@gmail.com]
Sent: Tuesday, July 24, 2018 12:40 PM
To: Richard Zeller <RZeller@sha.state.md.us>
Subject: Re: Bonaparte Fundraiser, County Inaction and SHA Permit

I know. I just sent a plea to Jayne Miller. Very concerned about the community; very tense.

Whatever happens will be on the heads of those who had the authority to act and did nothing. You have done all you can.

I am just trying to be sure I do everything I can.

Feel like I am watching a wild fire.

Regards,

Dewey Clark,
http://www.historictimekeepers.com
Omega Recognized Service Provider
WOSTEP (Neuchatel) Certified After Sales Service of Current Watches
WOSTEP (Neuchatel) Certified Micromechanics
Restoration of Vintage Timepieces
Precision Timing Specialist
Micromachining

Regards,

Dewey Clark
Club Naturalist
Co-District Manager (PA)
Potomac Appalachian Trail Club
Maryland Master Naturalist

On 7/24/2018 11:46 AM, Richard Zeller wrote:

> Mr. Clark,
>
> I'm not trying to avoid this issue, but Baltimore County is in charge of land use issues not SHA. The county has the SHA letter and is aware of our position regarding the entrance on MD 147. If the county has not approved this site for this activity, they (Baltimore County) must prohibit the NACCB, Inc. from having the activity. The SHA has no authority to enforce this.
>
> Rich Zeller
>
> **From:** D. Clark [mailto:historictimekeepers@gmail.com]

RE: Bonaparte Fundraiser, County Inaction and SHA Permit

Sent: Tuesday, July 24, 2018 10:59 AM
To: Richard Zeller <RZeller@sha.state.md.us>
Subject: Bonaparte Fundraiser, County Inaction and SHA Permit

Mr. Zeller,

I am pleading for help. Below is a link we are releasing to the press. The NACCB, Inc, in defiance of everything, is going forward with their fundraiser. Tensions are very high here and I am doing my best (including working with Balt. Police) to de conflict the situation. But NO ONE from the county has responded to letters form us about this potential since I first started sending them Jun 16.

Here is a link
https://drive.google.com/open?id=1srq4aAQUYP2us4rr-ANOgOWWZjuk-9jC

Can I meet with you and District Engineer Wolcott tomorrow???

410.592.3617

--
Regards,

Dewey Clark
Club Naturalist
Co District Manager (PA)
Potomac Appalachian Trail Club
Maryland MAster NAturlaist

Regards,

Dewey Clark,
http://www.historictimekeepers.com
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WOSTEP Certified Micromechanics
Restoration of Vintage Timepieces
Precision Timing Specialist
Micromachining

RECEIVED

JUL 11 2018

DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

12150 Harford Road
Glen Arm, MD 21057
July 11, 2018

Mr. Arnold Jablon, Director
Baltimore County Permits, Approvals and Inspections
County Office Building
111 West Chesapeake Avenue, Suite 105
Towson, MD 21204

RE: 12231 Harford Road

Dear Mr. Jablon:

The community desires to inform you that on the evening of July 10, 2018 the NACCB, Inc., in defiance of your order dated July 1, 2018, and in disregard of requirements of the State Highway Administration and Maryland Department of the Environment, and concerns of the community, once again accessed the property and held a volleyball tournament on the subject site.

It is apparent that the NACCB, Inc. has no regard for your order, and the various County and State departments who have registered concern about the use of this property for the coming event of July 28 to August 3, 2018.

As such, it appears to the community that the County, the State, and the County Executive must exercise greater attention to this problem, which is quickly escalating to a potentially bad situation.

Within the confines of the County and State requirements, the Long Green Valley community and the 100+ landowners belonging to the Gunpowder Falls Watershed Preservation Association would request that you take immediate and prompt action to avoid any threats to public health and safety arising from activities of the NACCB, Inc.

Thank you for your prompt attention to this matter.

Sincerely,

Dewey Clark
President, Gunpowder Falls Watershed Preservation Association

cc: Donald Mohler, County Executive
Vince Gardina, County Environmental Protection
Kevin Weis, State Department of Environment
Richard Zeller, State Highway Administration
Councilman David Marks
Councilman Wade Kach
Carroll Holzer, Esq.
Timothy Kotroco, Esq.

Protestant
CBA Exhibit
54

Subject: Re: 12231 Harford Road
From: HTI Gmail <historictimekeepers@gmail.com>
Date: 7/8/2018 8:53 PM
To: Kevin Weis -MDE- <kevin.weis@maryland.gov>, eps@baltimorecountymd.gov, don@baltimorecountymd.gov, Carroll Holzer <jcholzer38@gmail.com>

Mr. Gardina,

Mr. Kevin Weiss, Chief, Baltimore Division, MDE has advised me that your office has the authority and responsibility to act on the matter of a single residence property located at 12231 Harford Road being used as a commercial venue with no well, no plumbing, no septic and evidence that portable toilets are not even installed.

I am grateful to finally understand the proper authority who should be made aware of the situation. While I cc'd you on the letters I sent to Mr. Jablon, the fact that they were cc'd could mean they did not rise to your attention.

July 9 I will deliver to your office a complete package of materials on this matter to be followed up with a certified letter which duplicates those materials.

I also will bring to your attention we are preparing affidavits from guests invited to the property for large gatherings who will attest they found no sanitary facilities for human waste provided. We also are preparing affidavits that visitors observed what appeared to be friable asbestos in areas open to visitors. One is from a licensed contractor who is not asbestos certified and the other was from a prospective buyer of the property when it was offered for sale. As you know, this property was built in the 1930s and all evidence indicates it retained its original heating plant.

Finally, I am in possession of videos published by the owner of this property that show no sign of of external sanitary facilities although the testimony before Administrative Law Judge Beverungen was that there was no well, no plumbing and no septic system.

They have hosted several large gatherings this spring and have been heavily promoting on the internet and social media a gathering intended to attract a crowd larger than the 500-1,000 person crowd they attracted for a similar event last year. This multi-day event is promoted to occur from July 29 to August 3 of 2018.

You may contact me by return email or phone at 410.592.9998.

Protestant
CBA Exhibit
55

Regards.

Dewey Clark,
http://www.historictimekeepers.com
Omega Recognized Service Provider
WOSTEP (Neuchatel) Certified After Sales Service of Current Watches
WOSTEP (Neuchatel) Certified Micromechanics
Restoration of Vintage Timepieces
Precision Timing Specialist
Micromachining

Regards,

Dewey Clark
Club Naturalist
Co-District Manager (PA)
Potomac Appalachian Trail Club
Maryland Master Naturalist

On 7/5/2018 1:36 PM, Kevin Weis -MDE- wrote:

> Mr. Clark, thanks for your response. The Baltimore County Department of Environmental Protection and Sustainability (DEPS) is in receipt of your concerns on this matter at the aforementioned property off Harford Road. Matters involving residential sewage system failures are firstly handled by the county health departments or in the case in Baltimore County by DEPS, as any septic system there would be permitted through that agency not through MDE at the state level. Also to my understanding the use of the property not in accordance with its zoning (residential vs. commercial) is being handled by the appropriate zoning office in Baltimore County. DEPS will update MDE as they're investigation evolves in this matter. With this said, MDE will not be further investigating this matter unless requested by Baltimore County DEPS.
>
> Regards,
>
> Kevin R. Weis, Chief
> Central Division, Compliance Program
> Water and Science Administration
> (410) 537-34564
>
> On Mon, Jul 2, 2018 at 4:34 PM, HTI Gmail <historictimekeepers@gmail.com> wrote:
>> Mr. Weis,
>>
>> Thank you for your very quick response.
>>
>> Yes. People who have attended their events report NO spot a pots and no potable drinking water. I am in possession of 60 minute videos published by them again revealing NO spot a pots. We have seen them urinating on the ground. As you can see by the transcripts I sent, they have no working septic (unable to locate) and the copper plumbing was all removed so

there is not water from a well they cannot locate.

They are using this as a major commercial venue with advertising for a multistate gathering to be held July 29-Aug 3. I can supply screenshots of this advertising although a lot is in Nepalese.

I have alerted the Fire Marshall and Baltimore County Health whose primary concern is food sanitation. If you can get this referred to the correct agency in BC I would greatly appreciate it.

I will also tell you a licensed contractor (not asbestos certified) is 90% certain he saw friable asbestos in the basement. This building was built in the 1930s and has not been upgraded.

THANK YOU!!

Regards,

Dewey Clark
Club Naturalist
Co-District Manager (PA)
Potomac Appalachian Trail Club
Maryland Master Naturalist

On 7/2/2018 1:57 PM, Kevin Weis -MDE- wrote:

> Mr. Clark, the Department of the Environment, Water and Science Administration (WSACP) is in receipt of you concerns regarding the use of this property. It is unclear however of you specific concerns with respect to pollution occurring there. Is there no spot-a-pots or the existing system is failing and subsequently discharging to nearby streams? Although it appears that these concerns will be addressed under Baltimore County code through they're Department of Environment Protection and Sustainability and through Baltimore County Zoning office, the WSACP once we understand the specific concerns will refer this matter to the above county agencies or investigate the pollution claims ourselves.
>
> Regards,
>
> Kevin R. Weis, Chief
> Central Division, Compliance Program
> Water and Science Administration
> (410) 537-3564
>
> Click here to complete a three question customer experience survey.

Subject: FW: 12231 Harford Road
From: Vincent Gardina <vgardina@baltimorecountymd.gov>
Date: 7/10/2018 10:26 AM
To: "historictimekeepers@gmail.com" <historictimekeepers@gmail.com>

Here is the latest letter sent. Disregard the previous one which was a old draft.

Vincent J. Gardina, LEED AP
Director
Baltimore County Department of Environmental Protection and Sustainability
111 W. Chesapeake Avenue
Towson, MD 21204
410-887-3776

From: Lionel Van Dommelen
Sent: Tuesday, July 10, 2018 10:24 AM
To: Vincent Gardina <vgardina@baltimorecountymd.gov>; Arnold Jablon <ajablon@baltimorecountymd.gov>
Subject: RE: 12231 Harford Road

This is the correct letter.

Mr. Kris Ghimire, Resident Agent
Nepali American Cultural Center of Baltimore, Inc.
8030 Belair Rd., Nottingham, MD 21236

July 1, 2018

Re: 12231 Harford Road

Mr. Ghimire,

It has come to our attention that there have been advertisements for an event at your property located at 12231 Harford Rd. to be held from July 29 to August 3. There have also been allegations of health code violations, including photos, submitted to us by concerned neighbors.

I am aware of the hearing before the Administrative Law Judge, and notwithstanding the approval Judge Beverungen granted, there has been no compliance with the terms and conditions as set out in that decision. Because these terms have not been met, any event such as that which is being advertised will constitute a violation of that order and a violation of the zoning regulations, as well as possible violations of the health code. If your organization holds this scheduled event, an immediate citation will be issued.

Sincerely,

Lionel van Dommelen, Chief

PLEASE PRINT CLEARLY

CASE NAME 2018-122-X
CASE NUMBER
DATE 1-17-2018

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
Timothy M. Kotroco	305 Washington Avenue, Suite 502	Towson, MD 21204	Tkotroco@gmail.com
JOE CALOGGERO	THE TRAFFIC GROUP 9900 FRANKLIN SQ DRIVE. STE H	BALT 21236	JCALOGGERO@TRAFFICGROUP.COM
John Motsco	1055 Taylor Ave Suite 307	TOWSON MD 21286	JohnM@littleAssociates.com
CHRIS COLLISON	12501 Reg WOOD Rd	Hydes MD 21082	Collison@Comcast.NE
Yagya Rana	4415 Laplata Avenue, Baltimore	MD, 21211	Yagyabdirana@gmail.com
BIKRAM KC	9022 Fieldchef Rd	Nottingham, MD 21236	bikramkc7@gmail.com
Mahesh Bhattarai	10689 High Beach	Columbia, MD 21044	mahesh20745@yahoo.com
KIRAN PANTHA	724 TINKER ROAD	MIDDLE RIVER, MD, 21220	kpantha@hotmail.com
Krishna Chhetri	3705 Perryhall Rd	Perryhall MD, 21128	[illegible] KRKC81@Gmail.com
Shalik Wagle	4326 Cottington Rd	Nottingham MD 21136	shaliksh@gmail.com
Ammar Chantyal	3397 Parkfall Dr	" "	achantyal@yahoo.com
Kul P. Gurung	4 Minte Drive Notting	" MD 21236	Kulgrg2003@yahoo.com
RAJU PARAJULI	9 Gunfalls Garth Notting	" " 21236	leeraju2003@yahoo.com
Krishna Pantha	2210 Montauk Dr	Crofton 21114	
Biwaya Chhetri	6711 Queen Ferry	MD 21234	
Rajan Tripathi		Crofton, MD	
Yashoda Gurung	201 point to point sq	Bel-Air, MD - 21015	Mahendadesa@hotmail.com
Dilip Shrestha	1717 Aberdeen Rd E	Parkville MD - 21234	dilip64@hotmail.com

Protestant
CBA Exhibit
56

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CASE NAME _____
CASE NUMBER _____
DATE _____

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Timothy M. Kotroco	305 Washington Avenue, Suite 502	Towson, MD 21204	Tkotroco@gmail.com
SHYAM KARKI	19 Longfield Way	Kingsville MD 21087	shyamdk2121@gmail.com
BHEEM KATTEL	5 BRAFFERTON WAY	ROSEDALE, MD 21237	bheem.kattel@gmail.com
Jyoti Ranabhat	822 Bynum View Ct	Abingdon, MD 21009	jyotiranabhat2@hotmail.com
Shanker Nepal	2 trumpet court	Baltimore MD 21236	USA 04Nov@gmail.com
MRIGENDRA HAMAGAIN	10835 CATRON RD	PERRY HALL, MD-21128	homagain@gmail.com
Man Kumar Shrestha	8243 Berryfield Drive	Nottingham MD 21236	shresthaman77@yahoo.com
Subi thapa	4614 Ridge rd	Notthgham MD 21236	s3thapa@Hotmail.com
Rajni Sharma	16 Ayr ct	Nottingham MD 21236	Sharmarajnia@Gmail.com
Amy EB Shrestha	21621 Long Meadow Drive	Abingdon Md. 21009	aebucklerart@gmail.com
Helen Ghimire	5048 Springhouse Circle	Rosedale, MD 21237	helenghimire@gmail.com
Pushpa Sedeli	6401 C bistal Gate Drive	Baltimore MD 21212	pushpa.sedeli@hotmail.com
Daniel L Montague III	12828 Fork Rd, Fork	Fork, MD 21051	daniel.montF3@gmail.com
Keshav Acharya	9441 Bellhall Dr	Baltmore, MD 21231	acharya_keshav@yahoo.com
Rajan Dhakal	16 Ayr ct	Nottingham, MD 21236	rjdhakalji@gmail.com
Harish Saud	4415 laplata Ave Apt 'J'	Baltimore, MD, 21211	harishsaudlo@yahoo.com
Sangam Acharya	21 sykancak way MD 21236	Baltimore, MD-21236	Sharmasangam@gmail.com
Shree K Regmi	2915 Conroy Ct	parkville MD 21234	sk.regmi@yahoo.com
Agyat Karki	8201 lochraven blvd	TOWSON, MD, 21286	agyat952@Yahoo.com
Krishna Uprety	9221 Bretton Beef Rd	Parkvill, MD. 21234	Krishuprety@live.com

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER _____
DATE _____

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Timothy M. Kotroco	305 Washington Avenue, Suite 502	Towson, MD 21204	Tkotroco@gmail.com
Deepak Sharma	4325 Penn Ave	Nottingham MD 21236	
INDRA THAPACHHETRI	4614 Ridge R	" " "	THAPAIBT@Hotmail.com
Tarun Poudel	2620 Joppa Terrace	Parkville MD	tarunpoudel55@yahoo.com
Dhruba Onta	610 Gouchet Blvd	Towson MD 21286	dhrubaonta@gmail.com
Paras M Shrestha	9510 Hickory Falls Way	Nottingham MD 21236	
Ram Chandra Adhikari	1216 Longford Rd	Lutherville MD	readhikari17@yahoo.com
Sukeem Pokhrel	14010A Cuba Road	Hunt Valley MD	Pokhrelsukeem@yahoo.com
Angela Lykos	1129 Dulaney Gate Circle	Cockeysville MD 21030	ptoangela@yahoo.com
Bikram Pokhrel	14010A Cuba Road	Hunt Valley MD	Pokhrelbikram10@yahoo.com
Binod Uprety	332 Stevenson Lane	Towson MD	binod1515@hotmail.com
BIKRANT SHRESTHA	2621 LONG MEADOW DR	ABINGDON MD	bikrantshrestha@gmail.com
PREM R. MAHAT	515 Walker Ave	Baltimore MD 21212	premrasa@hotmail.com
Shrijana Khanal	332 Stevenson Ln, #B5	TOWSON, MD-21204	nehawins2003@hotmail.com
	~~Towson MD 21204~~		
Bishnu Ghimire	1004 Broderick Ct Crofton	Crofton, MD 21114	bishnugh@gmail.com
Khagendra Ghantha	6238 Winters Lane	Hanover MD 21076	Kbc3179@gmail.com
Diwash Pokharel	8812 Dove Dr	Perry Hall, MD 21128	diwash@gmail.com
Diwakar Gyawali	3247 Sonia Trl Ellicott City MD 21043	Ellicott City MD 21043	diwakar_gyawali@yahoo.com
Sushil Kaphle	6 Ecoway Ct #3D	Towson, MD 21286	suspens_2k@yahoo.com
Sujan Karki	1 Casheel Ct Nottingham	MD 21236	Sujan.kumar.karki@gmail
Kamal Bhandari	4706 Beacon Field Dr	MD 21236	Kamal Bhandari USAG Gov
Jill Breusse	1913 Hartford Rd Glenton		

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER _____
DATE _____

PETITIONER'S SIGN-IN SHEET

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PLEASE PRINT CLEARLY

CASE NAME 1/17/18
CASE NUMBER
DATE

CITIZEN'S SIGN - IN SHEET

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CASE NAME 2018-122-X
CASE NUMBER
DATE 1-17-2018

CITIZEN'S SIGN - IN SHEET

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DAY 1

Nepali American Cultural Center
Case No.: 18-122-X

Date: 7/19/18

Please print clearly

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
T A KNEESHAW	11 KINGS QUEEN CT	KINGSVILLE MD 21087		☐	☒	☒
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CAROL SHAW	7 Country Hill Ct	Kingsville 21087		☐	☒	☐
Joanne MARSH	5714 WILLIAMS RD	Hydes, md 21082		☐	☒	☐
Sharon Heimiller	12702 Lee Ben Rd	Kingsville MD 21087		☐	☒	☐
Edward Heimiller	12702 Lee Ben Road	Kingsville MD 21087		☐	☒	☐
Donna Carter	5515 Williams Rd	Hydes, 21082		☐	☒	☐
ROBIN Beers	12442 JERUSALEM RD	KINGSVILLE, MD. 21087		☒	☐	☐
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Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 7/19/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check - Petitioner	Protestant	Interested Citizen
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Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 7/19/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
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Naresh KC	3699 Perry Hall Rd	Perry Hall, MD		☑	☐	☑
ELLEN HUBBARD	7862 OAKDALE AVE	ROSEDALE MD 21237		☐	☑	☐
Dave Poehler	12241 Harford rd	Glenarm MD 21057		☐	☑	☐
Ravilal Sunan	8826 Victory Ave	Parkville MD 21234		☑	☐	☑
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Raj Kumar Pun	2 Viewridge ct	Nottingham 21236		☑	☐	☐

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 7/19/18

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Amber "	"	"	"	☒	☐	☐
Kanti K. "	"	"	"	☐	☐	☐
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Binod Upreti	" Towson, "	" "	binod1515@hotmail.com	☒	☐	☐
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Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 7/19/18

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Board of Appeals Sign-In Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Date: 7/19/18

Please print clearly

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Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 7/19/18

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				☐	☐	☐
				☐	☐	☐
				☐	☐	☐
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Board of Appeals Sign-in Sheet

DAY 2

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 9/6/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
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Carol Shaw	7 Country Hill Ct	Kingsville Md 21087		☐	☑	☐
Joyce Mason	11813 Harford Rd	Glen Am, MD 21057		☐	☑	☐
Mary Clark	12150 Harford Rd	Glen Arm, MD 21057		☐	☑	☐
RAM P. BHANDARI	96 CEDAR CHIP CT	PERRY HALL MD		☑	☐	☑
Donna Carter	5515 Williams Rd	Hyden		☐	☒	☐
Indira Kanti	14 Longknoll Dr.	Kingsville, 21087		☐	☐	☐
Sylvan "	"	"	nyfsal19-75@yahoo.com	☑	☐	☐
[illegible]				☑	☐	☐
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Krishna Chhetri	3705 Perryhall Rd	Perryhall MD	KRKC81@Gmail.com.	☐	☐	☐
Robin Beers	12442 Jerusalem Rd	Kingsville Md		☐	☑	☐
Dave Poehler	12241 Harford Rd	Glen Arm MD		☐	☑	☐
NARESH Kc	3699 Perry Hill Rd	Perry Hill		☑	☐	☐

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 9/6/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
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Shreejan Tamrakar	6676 Collindale Rd	MD 21234	fmaof50.bncc@gmail.com	☑	☐	☐
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Jasmine Subedi	20 ebbing ct	Essex MD 21221		☑	☐	☐
Dinesh Subedi	"	"		☑	☐	☐
Shree Krishna regmi	2911 Andorack	21234		☑	☐	☐
Binod Upreti				☑	☐	☐

Board of Appeals Sign-In Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 9/6/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
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Shanker Nepal	2 Trumpet Ct Nottingham	Nottingham MD. 21236	usa04nov@gmail.com.	☑	☐	☐
Raju Parajuli	9 Gunfalls Garth	Nottingham MD 21236	keeraju2003@yahoo.com.	☑	☐	☐
Krishna Chunara	6821 Timberlane Rd	Baltimore, MD 21209	Kbchunara@yahoo.com.	☑	☐	☐
Rajan Tripathi	2309 Montana Dr.	Crofton, MD	rtripathi94@gmail.com	☑	☐	☐
Kamal Bhandari	4706 Beaconsfield	Dr / Nottingham		☑	☐	☐
Biki Thapa	1812 Ivyhill RD	Towson MD 21286		☑	☐	☐
Kuip Gurung	4 Minute Dr. Nottingham	MD 21236		☑	☐	☐
Netra KC	8523 Westerman circle	Nottingham MD 21236		☑	☐	☐
Shalik Waje	4326 Gettington Rd	" "		☑	☐	☐
Tarun Paudel	2620 Soppa Terrace Parkville	MD 21234	gujjabhomeinspector@gmail.com	☑	☐	☐
Ram C. Adhikari	1216 Longford Rd Catonsville	MD 21093	rcadhikari17@yahoo.com.	☑	☐	☐
Deepak Khatri	8610 Hickorythicket Pl.	MD 21236	khatideep82@gmail.com	☑	☐	☐
[illegible]				☑	☐	☐
Balaram Paudel	11 Winthrop Ct Towson	MD-21204		☑	☐	☐

Shree Krish ~~2401 Andorra Ct~~

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 9/6/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
Helen Ghimire	5048 Springhouse Circle	Rosedale, MD 21237	helenghimire@gmail.com	☑	☐	☐
Sharon Heimiller	12702 LeeBen Rd	Kingsville MD 21087	sharondei@comcast.net	☐	☑	☐
Ron Stanaford	6415 MT. VISTA RD	Kingsville, MD 21087	classicdadman@yahoo.com	☐	☑	☐
Bishwa Gautam	1616 Desoto Road	Baltimore 21230	bishwaraj1965@gmail.com	☑	☐	☐
Srivash Das	1616 Desto Road	Baltimore, 21230	srivasdas1967@gmail.com	☑	☐	☐
Kumar Kanci	4401 Cottington Rd.	Baltimore - 21236	Kanci@hotmail.com	☑	☐	☐
Lolit bhattarai	22 Sylvan Park ct	Baltimore - 21236	bhattarailalit84@gmail.com	☑	☐	☐
Khumkala bhattarai	22 Sylvan park Ct	Baltimore - 21236		☑	☐	☐
				☐	☐	☐
				☐	☐	☐
				☐	☐	☐
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DAY 3

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 9/12/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
ROBIN BEERS	12442 JERUSALEM RD.	KINGSVILLE MD 21087		☐	☑	☐
JOYCE MASON	11813 Harford Rd	Glen Arm MD 21057		☐	☑	☐
CAROL SHAW	7 Country Hill Ct	Kingsville 21087	carolnshaw@comcast.net	☐	☑	☐
T A KNEESHAW	11 KINGS GLEN CT	21089		☐	☑	☐
Pat Garner	12535 Merritt Ave	Fork 21051		☐	☑	☐
Mary Clark	12150 Harford Rd	Glen Arm, MD 21057		☐	☑	☐
ELLEN HUBBARD	7862 OAKDALE AVE	ROSEDALE MD 21237	MEHUBBARD50@VERIZON.NET	☐	☑	☐
N SHYAM KARKI	19 Longhorn all Way	Kingsville, MD 21087		☑	☐	☐
N KRIS Ghimire	~~KRIS~~ 5048 Springhouse Ln 21237	Rosedale MD 21237	—	☑	☐	☐
N UPENDRA SUBEDI		BALTIMORE MD 21213		☑	☐	☐
N Surendra Raj Dhakal	8632 Jessica ln ~~perryhall 21128~~	Perryhall MD 21128		☑	☑	☐
N Shila pahari	8632 Jessica ln. ~~perryhall 21128~~	perryhall MD 21128.		☑	☑	☐
Joanne Foxwalley	6229 Bonaparte Ave	Glen Arm, MD 2105-		☐	☑	☐
Robert Shifflett	6229 Bonaparte Ave	Glen Arm, MD 21057		☐	☑	☐
Dave Poehler	12241 Harford rd	Glen Arm MD 21057		☐	☑	☐
N Shreejan Tamrakar	6676 Cottonsdale Rd	Parkville MD		☑	☐	☐
N Jasmine Subedi				☑	☐	☐

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 9/12/18

	Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
N	Ravilal Sunar	8826 Victory Ave	Parkville		☑	☐	☒
N	DWARKA SINGH	541 Seven TRAILS DR	Aberdeen MD 21001	dlamsingh@comcast.net	☐	☐	☒
	Morgan Miner	11946 Harford Rd.	Glen Arm, MD 21057	miner.morgan13@gmail.com	☐	☑	☐
N	Dhirendra Parajuli	3 Reldas ct. ~~Cockeysville~~	Cockeysville MD 21030	parajulidhi@yahoo.com	☑	☐	☐
N	Yogendra Raj Parajuli	3 Reldas ct	cockeysville MD	21030 yog.r Parajuli@gmail.com	☑	☐	☐
N	Shree K Regmi	2991 Andoor ct	parkville MD	—	☑	☐	☑
N	Salina Sharma	4326 Lottington Rd.	Nottingham MD 21236		☑	☐	☐
N	Bishnu Sharma	4 Lewiston Garth	Nottingham, MD 21236		☑	☐	☐
Y	Keshav Acharya	9441 Bellhal Dr	Nottingham, MD 21235		☑	☒	☐
N	RAM P. BHANDARI	96 Cedarchip ct	Parkville, MD 21234		☒	☐	☐
N	Dinesh Upreti	332 Stevenson Lane	Towson	binod1515@hotmail.com	☑	☐	☐
	Dorothy E. Foos	6403 Lewis Road	Baldwin, Md. 21013	elcrouch@yahoo.com	☐	☐	☑
N	Dilip Shrestha	443-374-8625	Towson	dilip64@Hotmail.Com	☑	☐	☒
N	Dibendra Bhattarai	443-554-6565	Towson	rddipen@gmail.com	☑	☐	☒
N	Amar Bhandari	443-972-0841	Bel Air	—	☑	☐	☐
N	Kranti Bhandari	〃	〃		☑	☐	☐
	Dewey Clark	12150 Harford Rd	Glen Arm, MD 21057		☐	☑	☐

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 9/12/18

	Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
✓	Krishna Karki	9022 Fieldchat RD	Nottingham, MD 21236	srishnacarkey@gmail.com	☑	☐	☐
	Ron Stanford	6415 Mt Vista RD	Kingsville MD 21087	Classicadmanagement	☐	☑	☐
N	Rajni Sharma	16 Ayr Ct.	Nottingham MD 21236		☑	☐	☐
N	Sita Dhal	9441 Bellhall	Nottingham MD 21236		☑	☐	☐
N	Sribina	3699 ph Rd	Perryhall 21128	Kc Naresh Kumar	☑	☐	☐
N	Shamila KC	3699 ph rd	" 21128		☑	☐	☐
N	Dolnath Ghimire	2714 Superior ave	Parkville 21234		☑	☐	☐
?	Man Shrestha	8243 Berryfield Dr	Nottingham MD 21236	shresthaman777@yahoo.com	☑	☐	☐
N	Prakash Shrestha	6307 Holly LN	Baltimore MD 21212		☑	☐	☐
N	Purushotam Shrestha	3710 Paca Ave	Abingdon MD 21009	purusandanupa@gmail.com	☑	☐	☐
N	Krishna Upreti	9221 Bretton Rd	Parkville 21234	krishupreti@live.com	☑	☐	☐
N	Shelik Wayle	4324 Lottington Rd	Nottingham MD		☑	☐	☐
N	Netra KC	8523 Westerman Circle	Nottingham 21236	— — —	☑	☐	☐
N	Balaram Paudel	11 Winthrop Ct Towson MD		BPaudel@hotmail.com	☑	☐	☐
N	Kul P Gurung	4 Minte Dr Nottingham	MD 21236	Kcugrg2003@yahoo.com	☑	☐	☐
N	Mahendra Dahal	201 point to point sq	Bel Air, MD - 21015		☑	☐	☐
	Joanne Marsh	Williams Rd	Hydes Md.		☐	☑	☐

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 9/12/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
Tarun Paudel	2620 Zoppa Terrace	Parkville MD 21234	gajjabhomeinspector@gmail.com	☒	☐	☐
				☐	☐	☐
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Board of Appeals Sign-in Sheet

10/11/18
Day 4 BOA

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 10/11/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
Bruce Morgan	3 Longknoll Way	Kingsville MD 21087	bruceatlas@comcast.net	☐	☑	☐
Joyce Mason	11813 Harford Rd	Glen Arm, MD 21057	Joyce.A.Mason@comcast.net	☐	☑	☐
Mary Clark	12150 Harford Rd	Glen Arm, MD 21057		☐	☑	☐
Dewey Clark	12150 Harford Rd.	Glen Arm, MD 21057		☐	☑	☐
ELLEN HUBBARD	7862 OAKDALE AVE	ROSEDALE MD. 21237		☐	☑	☐
Joanne Fowlinty	6229 Bonaparte Ave	Glen Arm MD 21057		☐	☑	☐
Joanne Marsh	Williams Lane	Hydes Md.		☐	☑	☐
Robert Sniffleff	6229 Bonaparte Ave.	Glen Arm MD 21057		☐	☑	☐
ROBIN BEERS	12442 JERUSALEM RD,	KINGSVILLE, MD 21087		☐	☑	☐
DAVID HARTMAN	12513 REGWOOD RD	HYDES, MD 21082		☐	☑	☐
STEWART WALKER	2700 BALDWIN MILL RD	BALDWIN, MD 21013		☐	☐	☑
[illegible]	/			☐	☐	☐
MARCIA BALTON	11909 Woodberry Pl	Kingsville 21087		☒	☐	☐
✓ KRIS Ghimire	3048 Springhouse Cir	Rosedale 21237		☒	☐	☐
Dave Poehler	12241 Harford rd	Glen Arm 21057		☐	☑	☐
Sharmila KC	2163699 Perry Hall R	Perry Hall 21128	sharmilakcus@gmail.com	☒	☐	☐
NARE SYKE	/ /	/ /	/ /	☒	☐	☐

Shree K Regmi 2915 Andorra Ct Parkville MD

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 10/11/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
Shanker Nepal.	2 Trumpet ct.	Nottingham. MD 21236	USAOUNO@gmail.com.	☒	☐	☒
Shree KC Re		2615 Conroy Ct		☒	☐	☒
Shila pahari	Jessica lane	Perryhall MD 21128		☒	☐	☐
Surendra Raj Dhakal	"	"		☒	☐	☐
✓ Keshav ✓ Acharya	9441 Bellall Dr	9441 Bellall Dr, 21236		☒	☐	☐
Dipendra Bhattarai	6703 Queens Fery Rd	Baltimore MD 21239		☒	☐	☐
Shreejan Tamrakar	6676 Collinsdale Rd	Parkville MD 21234		☒	☐	☐
SHYAM KARKI	19 Longknoll Way	Langsville, MD 21057		☒	☐	☐
Uma Acharya.				☒	☐	☐
Jyoti Koirala				☒	☐	☐
Dinesh Sukedi		Baltimore MD		☐	☐	☐
Jasmin				☒	☐	☐
CARL SHAW	PO Box 36 21051	Fork Md		☒	☒	☐
Morgan Miner	11946 Harford Rd.	Glen Arm 21057		☐	☒	☐
Shelik Wagle	4326 Cathyton Rd	Nottingham MD		☒	☐	☐
Rajni Sharma	16 Ayr ct.	Nottingham MD 21236		☒	☐	☐
Rajan Dhakal	16 Ayr ct.	Nottingham MD 21236		☒	☐	☐

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 10/11/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
Hemanta pudel	3620 Tappa Rev	21234		☐	☐	☑
Balaram Paudel	11 Winthrop Ct.	21204	BRoudel@gmail.com	☐	☐	☐
Ron Standiford	6415 MT Vista Rd	21087		☐	☑	☐
Barb Standiford	6415 MT Vista Rd	21087		☑	☑	☐
✓ Man Shrestha	8243 Berry field	21234		☑	☐	☐
Ram C. Adhikari	1216 Longford Rd. Lutherville	21093	rCadhikari17@yahoo.com.	☑	☐	☐
Dol nath Khanal	2714 Superior ave	21234		☐	☐	☐
Hary Bhandari	4213 Cardinal	21236		☐	☐	☐
Mahendra	201 point to point sq	21015		☐	☐	☐
Nakarmi Pokhrel	" "	21015		☐	☐	☐
Neha KC	8523 Westerman circle	21236		☐	☐	☐
				☑	☐	☐
				☐	☐	☐
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				☐	☐	☐

?

DAY 5

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 10/23/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
CAROL SHAW	PO Box 36	FORK, MD 21051		☐	☒	☐
Joanne Foxworthy	6229 Bonaparte Av	Glen Arm MD 21057		☐	☒	☐
JOYCE Mason	11813 Harford Rd	Glen Arm, MD 21057		☐	☒	☐
ROBIN BEERS	12442 JERUSALEM RD	KINGSVILLE, MD 21087		☐	☒	☐
Dewey Clark	12150 Harford	21057		☐	☒	☐
Mary Clark	12150 Harford	21057		☐	☒	☐
ELLEN HUBBARD	7862 OAKDALE AVE	ROSEDALE MD 21237		☐	☒	☐
MARCIA BARTON	11909 WOODBERRY PLACE	KINGSVILLE, 21087		☒	☐	☐
[illegible]				☒	☐	☐
Ken Ghimire	8048 Springhouse Cir	Rosedale 21237		☒	☐	☐
Krishna Chhetri	3705 Perryhall Rd	Perryhall 21128		☒	☐	☐
Jyoti Ranabha				☒	☐	☐
Morgan Miner	11946 Harford Rd.	21057		☐	☒	☐
Balaram Paudel	11 Winthrop Ct Towson - 21204			☐	☐	☐
Dinesh Subedi				☐	☐	☐
Jasmine "				☒	☐	☐
Dipendra Bhattar				☐	☐	☐
Rajni Sharma	16 Ayr Ct.	Baltimore 21236				

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 10/23/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
B. JAYA SHRESTHA	6717 Dogers Forest Rd			☐	☒	☐
BILL SWIFT	12 VISTA VIEW CT	KINGSVILLE 21087		☐	☒	☐
Raju Parajuli	9 Gunfalls Garth	Nottingham 21236		☑	☒	☐
Man Shrestha	8243 Berryfield Drive	Nottingham 21236		☑	☐	☐
Shelik Wagle	4328 Cottington Rd	" "		☒	☐	☐
				☐	☐	☐
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DAY 6

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 11/01/2018

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
MARCIA BARTON	1909 WOODBERRY PL	KINGSVILLE 21087	mabarton@sbcglobal.net	☒	☐	☐
KRIS Ghimire	5648 Springhouse Cir	[illegible] 21277		☒	☒	☐
SHYAM KARKI	19 Longtenall Way	Kingsville, MD 21087	nepal1975@yahoo.com	☒	☐	☐
[illegible]		[illegible]		☒	☐	☐
Deepak Sharma	4325 Penn Ave			☒	☐	☐
Rajan Dhakal	16 Ayr ct	Nottingham MD 21236	rjdhakalji@gmail.com	☒	☐	☐
Rajni Sharma	16 Ayr Ct.	Nottingham MD 21236		☒	☐	☐
Sharmila	3699 Perry Hall Rd	21234	sharmilakcpu@gmail.com	☒	☐	☐
Dinesh Subedi			[illegible]	☒	☐	☐
Jasmin Subedi				☒	☐	☐
Jyoti Ranabhat				☒	☐	☐
Uma Ranabhat				☒	☐	☐
Pearl (moti) Regmi	8296 Berryfield Dr	Nottingham, MD 21236		☒	☐	☐
Kumar Karki	4401 Cottington Rd.	Nottingham MD 21236		☒	☐	☐
Vinesh Manandhar	8631 Weather blvd	Nottingham MD 21236		☒	☐	☐
Man K. Shrestha	8243 Berryfield dr.	Nottingham MD 21236		☒	☐	☐
Shalik Wayle	4365 Cottington Rd	"		☒	☐	☐

Board of Appeals Sign-in Sheet

Nepali American Cultural Center
Case No.: 18-122-X

Please print clearly

Date: 11/1/18

Name	Street Address	City, State, Zip Code	E-mail Address	Please Check: Petitioner	Protestant	Interested Citizen
Rina KC	413 Lambeth Bridge Ct	Lutherville MD		☐	☐	☐
"	Dhimda Pangal	"		☐	☐	☐
Shreejan Tamrakar	6676 Collinsdale Rd	Pennville MD		☒	☐	☐
Mary Clark	12150 Harford Rd	Glen Arm, MD		☒	☑	☐
Dewey Clark	12150 Harford Rd	Glen Arm, MD		☐	☑	☐
Joyce Mason	11813 Harford Rd	Glen Arm MD		☐	☑	☐
				☐	☐	☐
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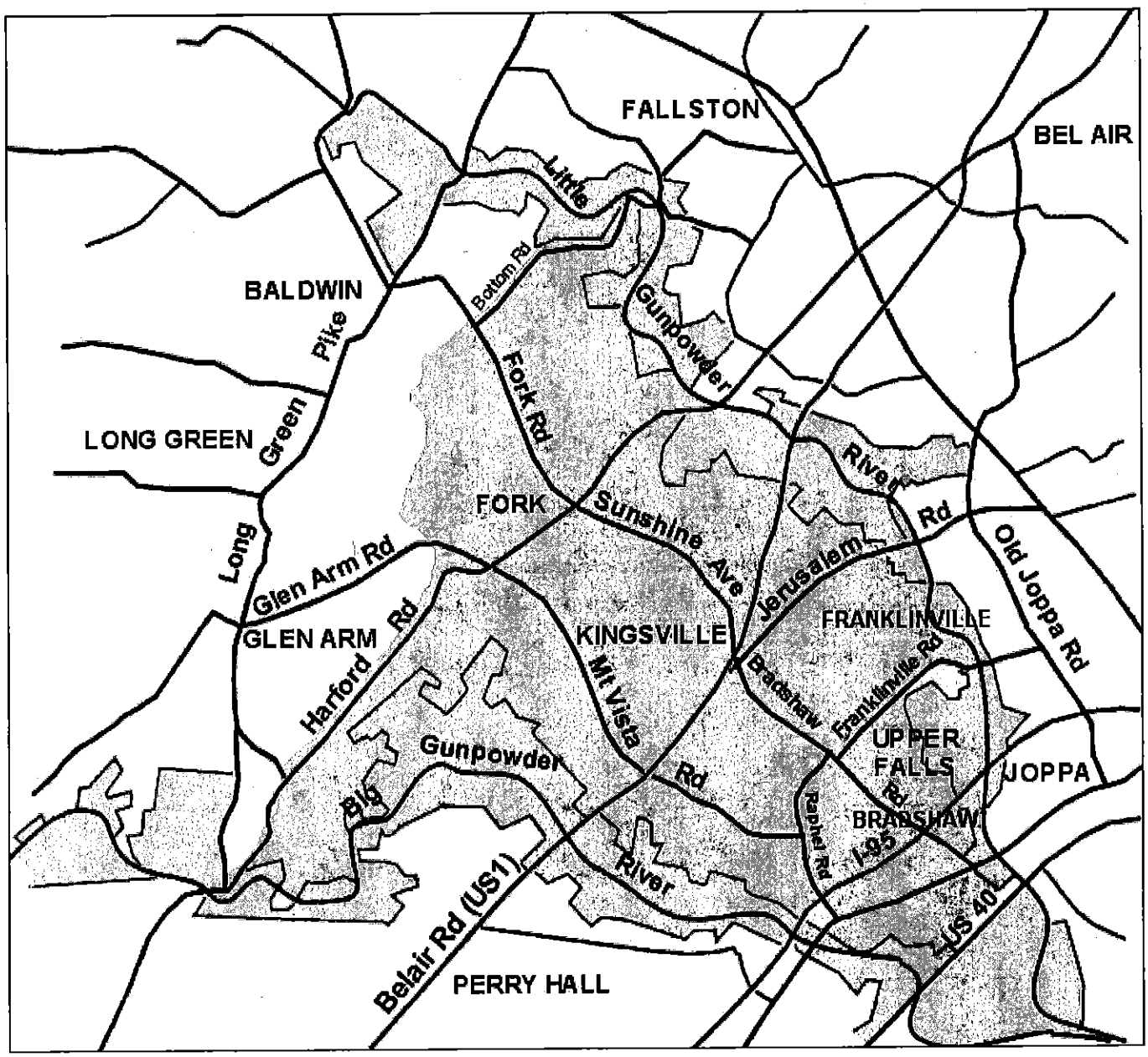
Area we cover

The Association covers the area between the Little Gunpowder Falls and the Big Gunpowder Falls, and between the CSX railroad on the east and Harford and Bottom Roads on the west, all in Baltimore County. Click here for Map

Protestant
CBA Exhibit
57

Greater Kingsville Area



Return to Main Page

Protestant
CBA Exhibit
58

Protestant
CBA Exhibit
59

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Protestant
CBA Exhibit
60

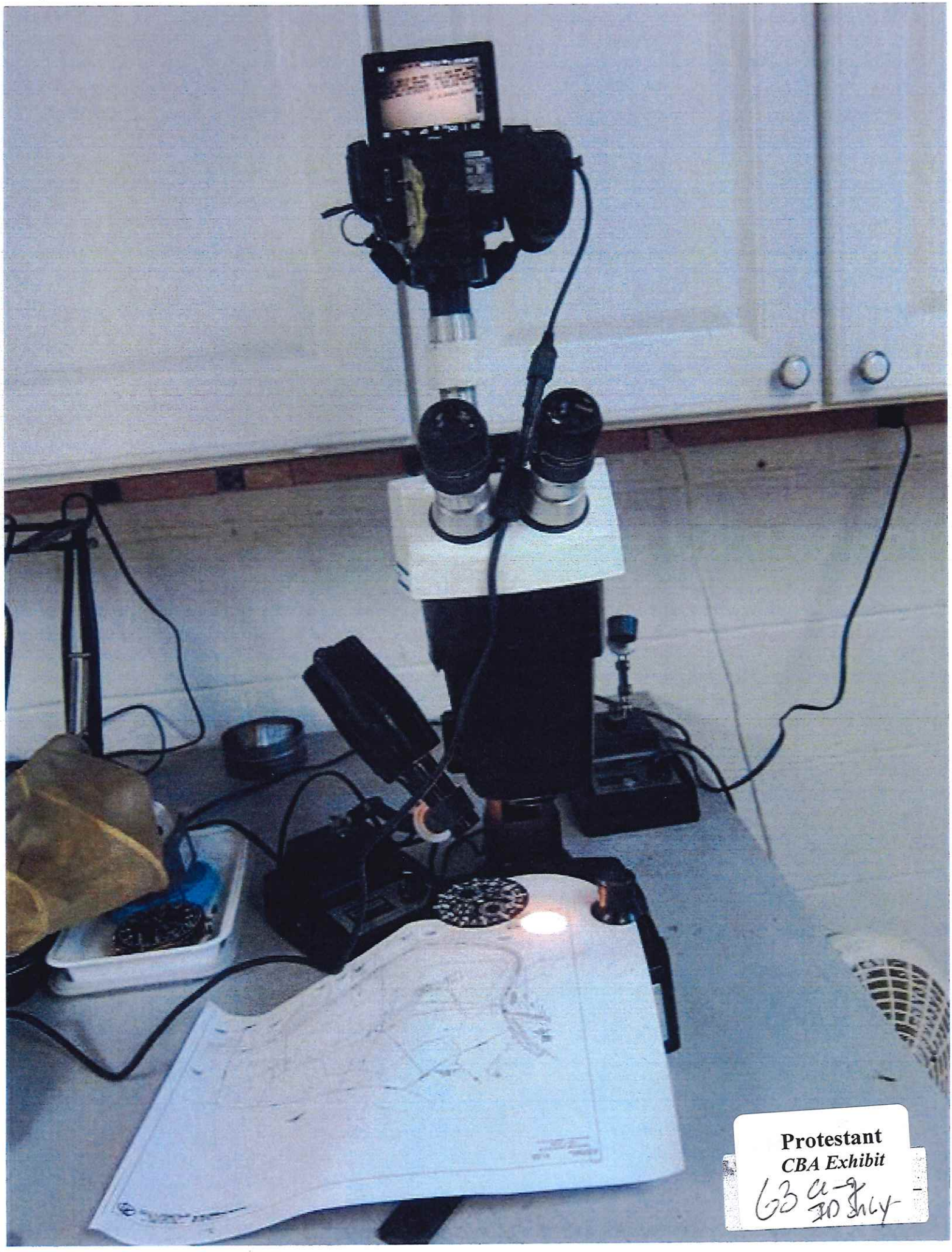
04/19/2020 15:07:21 000

Protestant
CBA Exhibit
61

Protestant Exhibit _____

Protestant
CBA Exhibit

Protestant Exhibit _____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CBA Exhibit
63 a-g
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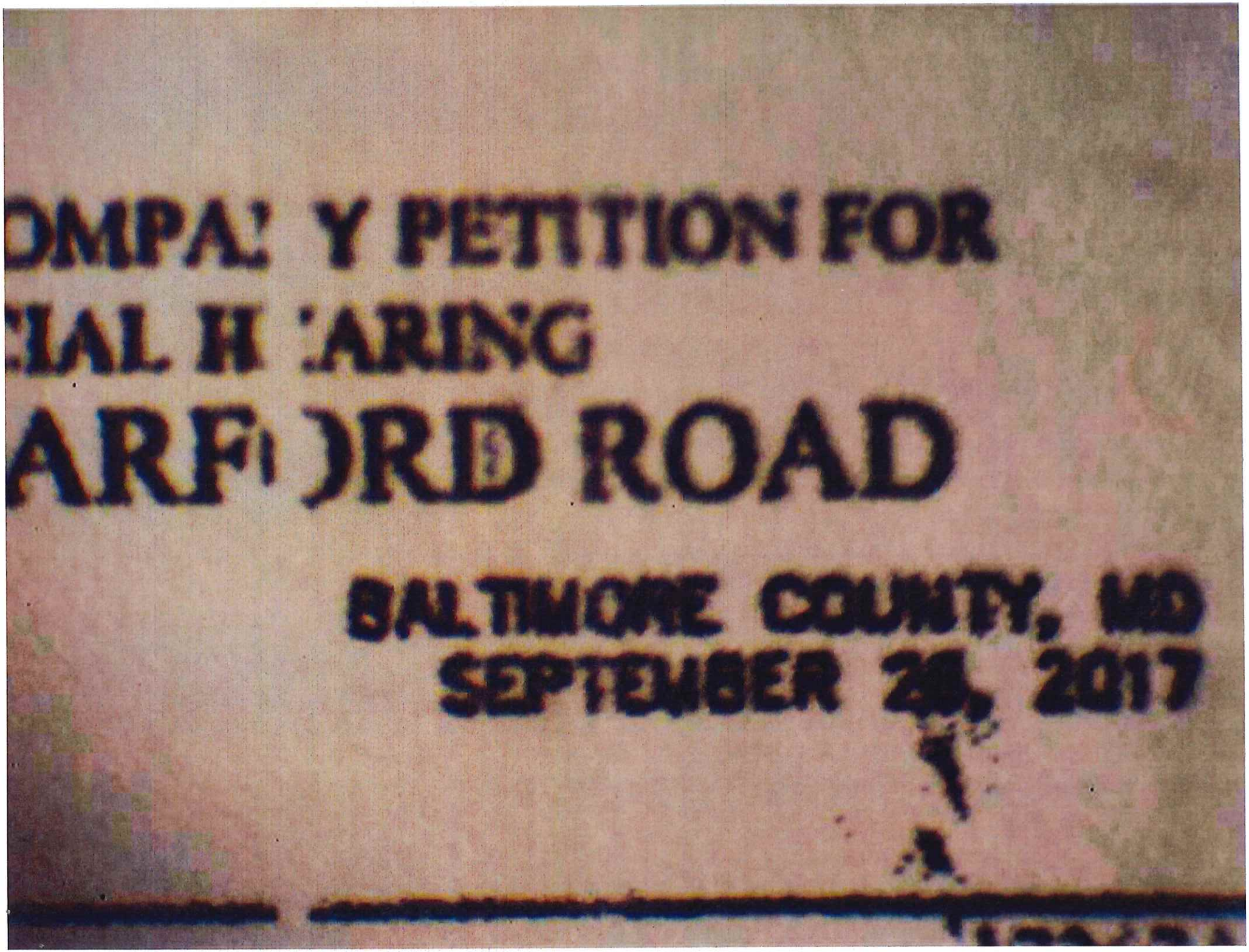
[illegible] OR OTHER BUILDING FOR

[illegible] THE [illegible] OF THIS CAUSE MAY [illegible]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ARFi)RD ROAD
BALTIMORE COUNTY, MD
SEPTEMBER 28, 2017

PLAN TO ACCOMPA! Y PE
SPECIAL H 'ARIN
#12231 HARF)RD

STRICT 11c5
CALE: 1"=60'

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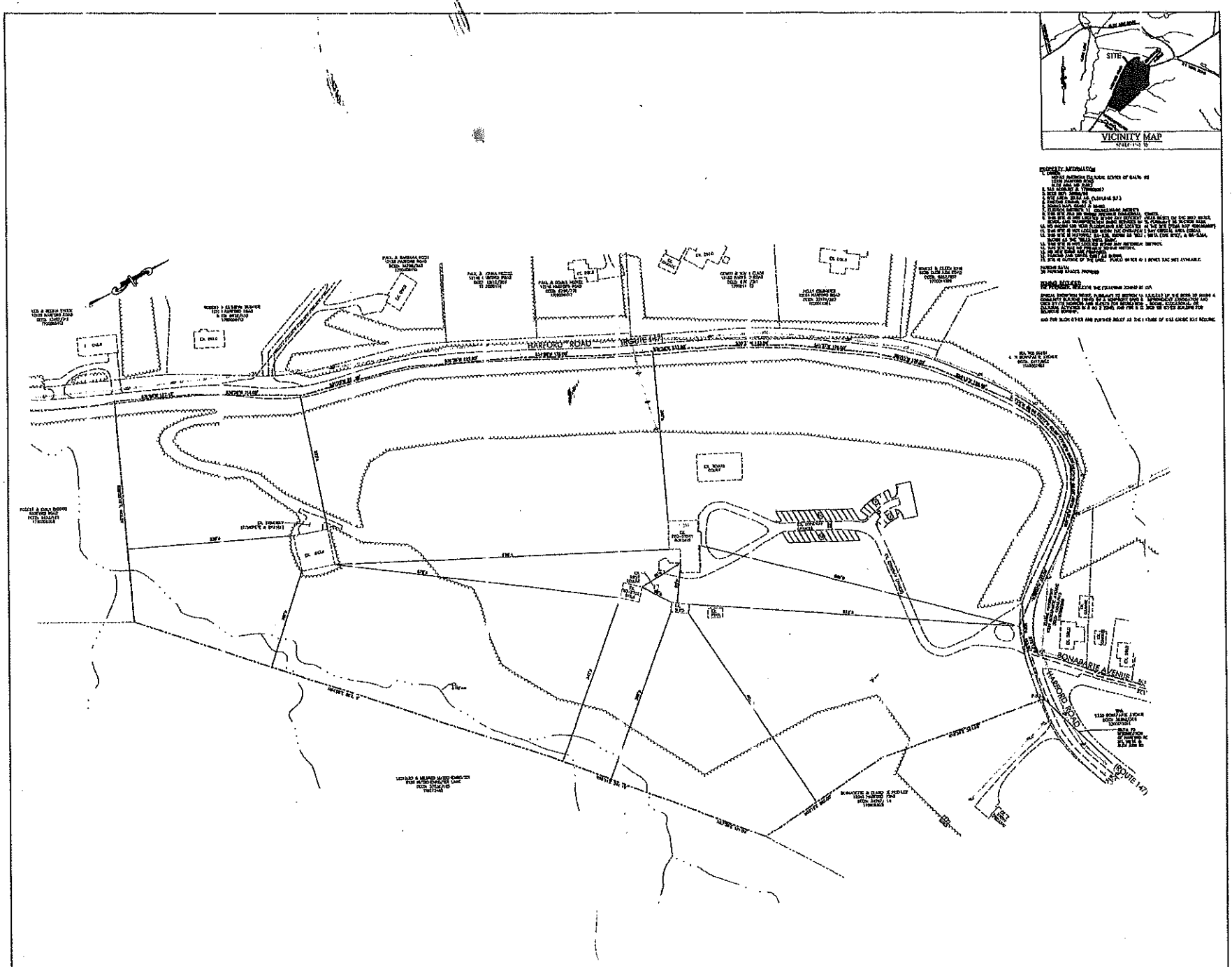
ITTI E & ASSOCIATES
NGINEERS---LAND PLANNERS---S
305 TAYLOR AVENUE, SUITE
TOWSON, MARYLAND 21286
PHONE:(410)296-1838 FAX:(410)

Protestant
CBA Exhibit
64



LITTLE & ASSOCIATES, INC.
ENGINEERS — LAND PLANNERS — SURVEYORS
355 TAYLOR AVENUE, SUITE 307
TOWSON, MARYLAND 21286
PHONE (410)296-1535 FAX (410)296-1539

PLAN TO ACCOMPANY PETITION FOR
SPECIAL HEARING
#12231 HARFORD ROAD
DISTRICT 31C5
SCALE: 1"=60'
BALTIMORE COUNTY, MD
SEPTEMBER 28, 2017

17267A

Protestant
CBA Exhibit
65

Location of NACCB Members at Hearings

Updated 10.21.18

Location	ALJ	Day 1 BOA	Day 2 BOA	Day 3 BOA	Day 4 BOA
Baltimore Co.					
Nottingham	17	32	17	10	6
Parkville	8	4	2	7	4
Perry Hall	6	4	5	4	4
Towson	5	6	3	4	1
Rosedale	4	1	2	1	1
Essex	2	2	2		
Hunt Valley	2				
Cockeysville	2			2	
Lutherville	1		1		1
Middle River	1				
Timonium	1		1		
White Marsh		1			
5 Miles Away	Karki	Karki	Karki	Karki	Karki
AA County	6	3	1		
Harford Co.	6	5		5	2
Baltimore City	8	10	5	2	5
Howard Co.	2				
Other States		1 (MS)			

Protestant
CBA Exhibit
Pr JD 66
6 of 4

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MD 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * *

AFFIDAVIT OF JOANNE FOXWORTHY

I, Joanne Foxworthy, do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. Beginning in 2017, I observed the following:

I started to have many serious health problems, which are still affecting me.

- Frequent anxiety attacks that happen almost every day.

I retired several years ago and had an enjoyable life working in my garden, being with my family, and doing other things to relax. I worked 30 plus years in payroll for a large construction company and I never had anxiety attacks. The anxiety attacks began in 2017 when the Bonaparte property owners started to have large noisy events. I have suffered anxiety from the loud noise, loud screaming, increased traffic, and headlights streaming into my windows at night when they are leaving the property after an evening event. Even with my doors and windows closed and my air conditioning on in the summer, it sounds like they're in my living room. My house has a lot of windows that face the Bonaparte property so I see the sign, the gate, cars coming and going, the mansion lit up at night, and it causes me a lot of anxiety. I have personally seen people stripping in the open to change clothes and a man relieving himself right across from my house when they were working on the property sign. I worry constantly about all of this and cannot enjoy my home and property like I used to. I also worry about how the run-off from the property is having a bad effect on my septic system. With more parking spaces

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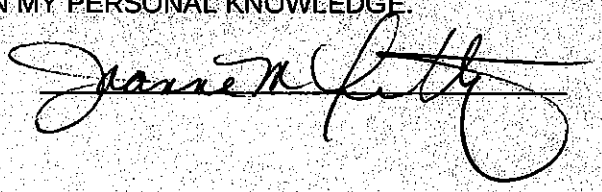
67 3D only

planned up there, the run-off will only get worse. I have been on medication to help control my anxiety, but the medicine is not working well. I keep going back to the doctor to find something that will help reduce my anxiety.

- Difficulty sleeping at night.

I keep playing the Bonaparte property conflict over and over in my head and it keeps me awake. Sometimes there is loud noise and music at night that keeps me awake. There have been cars leaving the property at night as late at 11:30 pm. The headlights from cars at night leaving the property shine through my windows. Not being able to get a good night's sleep is seriously affecting my health and welfare.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.



IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Joanne Foxworthy

I, Joanne Foxworthy, do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.
2. On April 9, 2017 , I observed the following:
3. A lot of cars entering 12231 Harford Rd. Some sort of party. They had very loud voices and music coming across to our backyard all day and into the evening. They had some sort of loudspeakers. It was so loud that went inside my home and closed the windows and it was like they were still in my living room.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE A FOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Joanne Foxworthy 7/17/18

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68 a-c
8 Pages

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Robert Shifflett

I, Robert Shifflett, do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.
2. On April 9, 2017 , I observed the following:
3. A lot of cars entering 12231 Harford Rd. Some sort of party. They had very loud voices and music coming across to our backyard all day and into the evening. They had some sort of loudspeakers. It was so loud that went inside the home and it was just as loud in the home.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE A FOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

7/17/18

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF CLARENCE D. POEHLER

I, Clarence D. Poehler, do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.
2. On June 17th, June 21st and July 4th, 2018, I observed the following:

   While on my property, I heard excessive amplified music and heard crowds of people cheering.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Clarence D. Poehler

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Morgan Miner

I, Morgan Miner do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.
2. On July 29 -30, 2017 , I observed the following:

Loud, amplified sound coming from the direction of the property could be heard while on my personal property, located 0.8 miles away, by road. At various times music and speaking could be heard. Sounds of a crowd cheering and yelling could also be heard during this time.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE,

Morgan J Miner

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69

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Morgan Miner

I, Morgan Miner do hereby make oath in due form of law and state as follows:

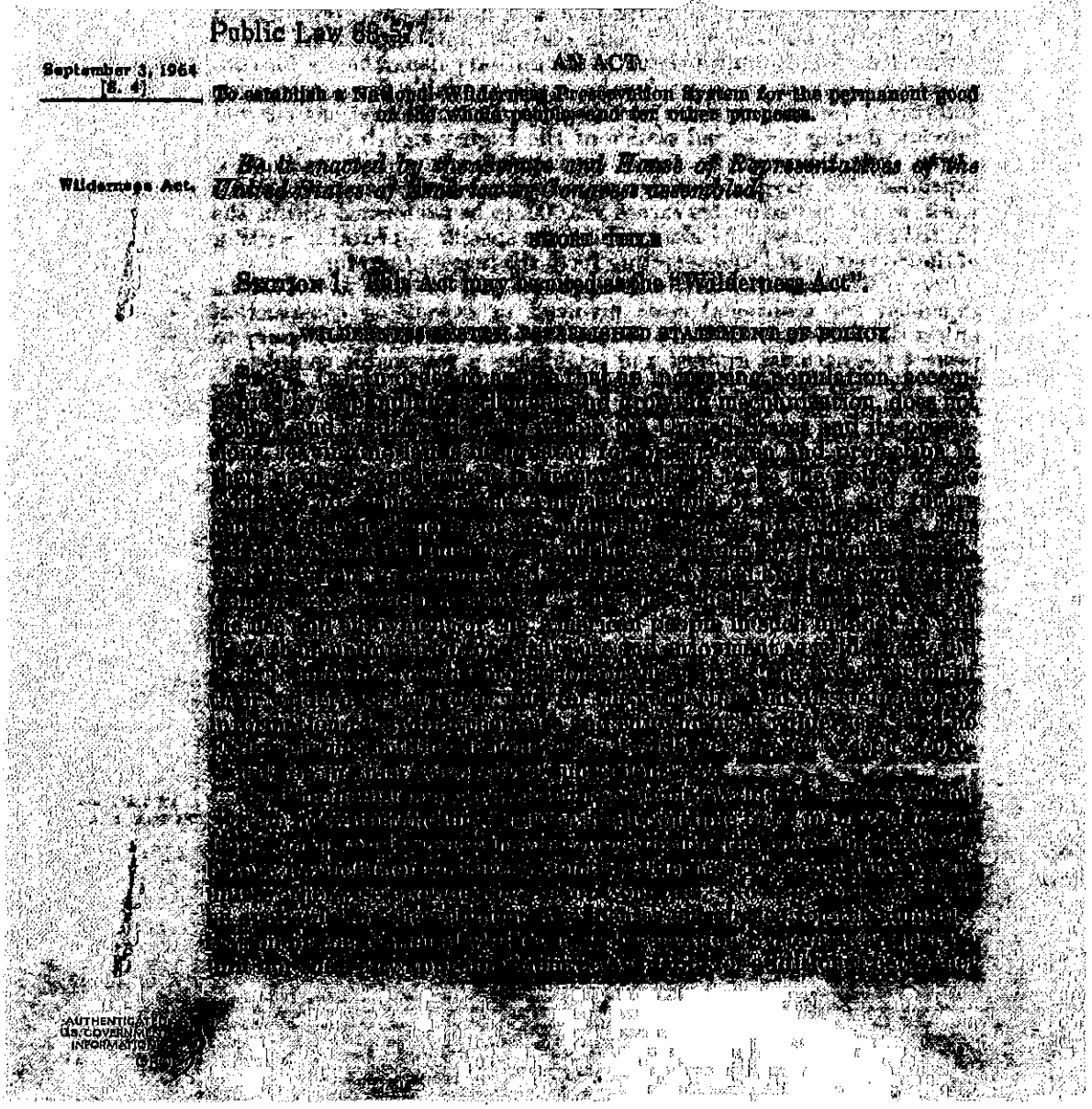
1. I am over 18 years of age and competent to testify in this matter.
2. On July 4, 2018 , I observed the following:

The main building on the property was lit with colorful, commercial lighting. The lighting was bright and not in keeping with the area and was obtrusive, even within our home. The lights came on each evening for approximately the next two months.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE,

Morgan J Miner

Wilderness Act



Public Law 88-577

September 3, 1964
[S. 4]

AN ACT

To establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Wilderness Act.

SHORT TITLE

Section 1. This Act may be cited as the "Wilderness Act".

DECLARATION OF POLICY

AUTHENTICATED U.S. GOVERNMENT INFORMATION

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70

stated as being required solely for the purpose of managing or administering areas solely because they are included within the National Wilderness Preservation System.

DEFINITION OF WILDERNESS

(c) A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

NATIONAL WILDERNESS PRESERVATION SYSTEM—EXTENT OF SYSTEM

SEC. 3. (a) All areas within the national forests classified at least 30 days before the effective date of this Act by the Secretary of Agriculture or the Chief of the Forest Service as "wilderness", "wild", or "canoe" are hereby designated as wilderness areas. The Secretary of Agriculture shall—

(1) Within one year after the effective date of this Act, file a map and legal description of each wilderness area with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such descriptions shall have the same force and effect as if included in this Act: *Provided*, *However*, That correction of clerical and typographical errors in such legal descriptions and maps may be made.

(2) Maintain a [illegible] of the [illegible] records pertaining to said wilderness areas, including maps and legal descriptions, copies of regulations [illegible] copies of public notices of, and reports [illegible] pending additions, eliminations [illegible] and regulations pertaining [illegible] jurisdictions [illegible] of regional forests [illegible].

(b) [illegible] after the [illegible] for [illegible] classified [illegible] or the [illegible] findings to [illegible] Senate and House [illegible] respect to [illegible] area on [illegible]

Classification.

Presidential recommendation to Congress.

Congressional approval.

effective only if so provided by an Act of Congress. Areas classified as "primitive" on the effective date of this Act shall continue to be administered under the rules and regulations affecting such areas on the effective date of this Act until Congress has determined otherwise. Any such area may be increased in size by the President at the time he submits his recommendations to the Congress by not more than five thousand acres with no more than one thousand two hundred and eighty acres of such increase in any one compact unit; if it is proposed to increase the size of any such area by more than five thousand acres or by more than one thousand two hundred and eighty acres in any one compact unit the increase in size shall not become effective until acted upon by Congress. Nothing herein contained shall limit the President in proposing as part of his recommendations to Congress, the alteration of existing boundaries of primitive areas or recommending the addition of any contiguous areas of national forest lands predominantly of wilderness value. Notwithstanding any other provisions of this Act, the Secretary of Agriculture may complete his review and delete such area as may be necessary, but not to exceed seven thousand acres, from the southern tip of the Gore Range-Eagles Nest Primitive Area, Colorado, if the Secretary determines that such action is in the public interest.

Report to President.

(c) Within ten years after the effective date of this Act the Secretary of the Interior shall review every roadless area of five thousand contiguous acres or more in the national parks, monuments and other units of the national park system and every such area of, and every roadless island within, the national wildlife refuges and game ranges, under his jurisdiction on the effective date of this Act and shall report to the President his recommendation as to the suitability or nonsuitability of each such area or island for preservation as wilderness. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendation with respect to the designation as wilderness of each such area or island on which review has been completed, together with a map thereof and a definition of its boundaries. Such advice shall be given with respect to not less than one-third of the areas and islands to be reviewed under this subsection within three years after enactment of this Act, not less than two-thirds within seven years of enactment of this Act, and the remainder within the tenth year after enactment of this Act. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress. Nothing contained herein shall, by inference or otherwise, be construed to lessen the present statutory authority of the Secretary of the Interior with respect to the maintenance of roadless areas within units of the national park system.

Presidential recommendation to Congress.

Congressional approval.

(d) The Secretary of Agriculture and the Secretary of the Interior shall, prior to submitting any recommendations to the President with respect to the suitability or nonsuitability for preservation as wilderness of any area under their jurisdiction on the effective date of this Act, give such public notice of the proposed action as they deem appropriate, including publication in the Federal Register and in general circulation publications in the area or areas in the vicinity of the affected land.

Suitability.

Publication in Federal Register.

Hearings.

Publication in Federal Register.

Every such public notice shall include information to the effect that any person wishing to submit comments or to attend a public hearing on the proposed action may do so within a period of not less than sixty days after the date of publication of such notice in the Federal Register. The Secretary concerned shall hold such public hearings at a location or locations convenient to the area affected. The hearings shall be announced through such notices at least thirty days in advance of the date of the hearing as the Secretaries concerned deem appropriate. Such Secretaries shall also give such notice of proposed action and of public hearings to the Governor of the State or States and to the governing body of each political subdivision within which the area or areas are located, to each Federal department or agency having administrative jurisdiction in the area, and to such additional persons as they may deem desirable. Provided, That if any area proposed for wilderness preservation is located in more than one State, at least one public hearing shall be held in each such State in which a portion of the land

(C) at least thirty days before the date of a hearing advise the Governor of each State and the governing board of each county, or in Alaska the borough, in which the lands are located, and Federal departments and agencies concerned, and invite such officials and Federal agencies to submit their views on the proposed action at the hearing or by no later than thirty days following the date of the hearing.

(2) Any views submitted to the appropriate Secretary under the provisions of (1) of this subsection with respect to any area shall be included with any recommendations to the President and to Congress with respect to such area.

(e) Any modification or adjustment of boundaries of any wilderness area shall be recommended by the appropriate Secretary after public notice of such proposal and public hearing or hearings as provided in subsection (d) of this section. The proposed modification or adjustment shall then be recommended with map and description thereof to the President. The President shall advise the United States Senate and the House of Representatives of his recommendations with respect to such modification or adjustment and such recommendations shall become effective only in the same manner as provided for in subsections (b) and (c) of this section. Proposed modification.

USE OF WILDERNESS AREAS

SEC. 4. (a) The purposes of this Act are hereby declared to be within and supplemental to the purposes for which national forests and units of the national park and national wildlife refuge systems are established and administered and—

(1) Nothing in this Act shall be deemed to be in interference with the purpose for which national forests are established as set forth in the Act of June 4, 1897 (30 Stat. 11), and the Multiple-Use Sustained-Yield Act of June 12, 1960 (74 Stat. 215). 16 USC 475. 16 USC 528-531.

(2) Nothing in this Act shall modify the restrictions and provisions of the Shipstead-Nolan Act (Public Law 539, Seventy-first Congress, July 10, 1930; 46 Stat. 1020), the Thye-Blatnik Act (Public Law 733, Eighteenth Congress, June 22, 1948; 62 Stat. 568), and the Humphrey-Thye-Blatnik-Andresen Act (Public Law 607, Eighty-fourth Congress, June 22, 1956; 70 Stat. 326), as applying to the Superior National Forest or the regulations of the Secretary of Agriculture. 16 USC 577-577b. 16 USC 577c-577h. 16 USC 577d-1, 577g-1, 577h.

(3) Nothing in this Act shall modify the statutory authority under which [illegible] the national park system are created. Further, the designation of any area of any park, monument, or other unit of the national park system as a wilderness area pursuant to this Act shall in no manner lower the standards evolved for the [illegible] park, monument, or other [illegible] in accordance with the Act of August [illegible] under which the area was [illegible] pertain to [illegible] the Act of [illegible] section 3(2) of [illegible] and the Act of August [illegible]. 39 Stat. 535. 16 USC 1 et seq. 41 Stat. 1063.

(b) [illegible] administration [illegible] for [illegible]

wise provided in this Act, wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.

PROHIBITION OF CERTAIN USES

(c) Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act and, except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.

SPECIAL PROVISIONS

(d) The following special provisions are hereby made:

(1) Within wilderness areas designated by this Act the use of aircraft or motorboats, where these uses have already become established, may be permitted to continue subject to such restrictions as the Secretary of Agriculture deems desirable. In addition, such measures may be taken as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable.

(2) Nothing in this Act shall prevent within national forest wilderness areas any activity, including prospecting, for the purpose of gathering information about mineral or other resources, if such activity is carried on in a manner compatible with the preservation of the wilderness environment. Furthermore, in accordance with such program as the Secretary of the Interior shall develop and conduct in consultation with the Secretary of Agriculture, such areas shall be surveyed on a planned, regularly recurring basis consistent with the concept of wilderness preservation by the Geological Survey and the Bureau of Mines to determine the mineral values, if any, that may be present; and the results of such surveys shall be made available to the public and submitted to the President and Congress.

Mineral leases, claims, etc.

(3) Notwithstanding any other provisions of this Act, until midnight December 31, 1983, the United States mining laws and all laws pertaining to mineral leasing shall, to the same extent as applicable prior to the effective date of this Act, extend to those national forest lands designated by this Act as "wilderness areas", subject, however, to such reasonable regulations governing ingress and egress as may be prescribed by the Secretary of Agriculture consistent with the use for mineral development, and exploration, [illegible] necessary in exploring, drilling, [illegible] including areas essential [illegible] and reclamation as the Secretary of the Interior deems reasonably necessary, and any lessee, [illegible] discovery work, [illegible] have kept their [illegible] boundaries of said wilderness areas [illegible] prospecting or mineral [illegible] under the mineral leasing laws of the United States. Any mineral leases issued hereafter for national forest lands designated by this Act as wilderness areas shall convey only to the mineral deposits

Water resources.

(6) Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests.

STATE AND PRIVATE LANDS WITHIN WILDERNESS AREAS

SEC. 5. (a) In any case where State-owned or privately owned land is completely surrounded by national forest lands within areas designated by this Act as wilderness, such State or private owner shall be given such rights as may be necessary to assure adequate access to such State-owned or privately owned land by such State or private owner and its successors in interest, or the State-owned land or privately owned land shall be exchanged for federally owned land in the same State of approximately equal value under authorities available to the Secretary of Agriculture: *Provided, however*, That the United States shall not transfer to a State or private owner any mineral interests unless the State or private owner relinquishes or causes to be relinquished to the United States the mineral interest in the surrounded land.

Transfers, restriction.

(b) In any case where valid mining claims or other valid occupancies are wholly within a designated national forest wilderness area, the Secretary of Agriculture shall, by reasonable regulations consistent with the preservation of the area as wilderness, permit ingress and egress to such surrounded areas by means which have been customarily enjoyed with respect to other such areas similarly situated.

Acquisition.

(c) Subject to the appropriation of funds by Congress, the Secretary of Agriculture is authorized to acquire privately owned land within the perimeter of any area designated by this Act as wilderness if (1) the owner concurs in such acquisition or (2) the acquisition is specifically authorized by Congress.

GIFTS, BEQUESTS, AND CONTRIBUTIONS

SEC. 6. (a) The Secretary of Agriculture may accept gifts or bequests of land within wilderness areas designated by this Act for preservation as wilderness. The Secretary of Agriculture may also accept gifts or bequests of land adjacent to wilderness areas designated by this Act for the preservation of wilderness if he has given sixty days advance notice thereof to the President of the Senate and the Speaker of the House of Representatives. Land accepted by the Secretary of Agriculture under this section shall, [illegible] wilderness area involved. Regulations [illegible] shall be in accordance with such [illegible] this Act, or are made at the [illegible] such conditions, consistent with such policy, as [illegible] and acceptable under such bequest. [illegible] Secretary of the Interior is [illegible] and gifts to be used in furtherance [illegible] Act.

ANNUAL REPORTS

SEC. 7. At the opening of each session of Congress, the Secretaries [illegible] shall report to the President, for [illegible] the administration of the areas designated [illegible] including [illegible] and classification of the areas in the system, recommending [illegible] or withdrawing recommendations [illegible]

Approved September 3, 1964.

Appendix 24
Preliminary
Motion

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRIC	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF THOMAS A KNEESHAW

I, Thomas A Kneeshaw, do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On February 25, 2018, I observed the following:

   I attended a "meet and greet" session sponsored by the NACCB, at their facility located at 12231 Harford Rd, Glen Arm, MD 21057.

   I estimate that there were between 150 and 200 people attending the event.

   I did not see any toilet facilities, "spot-a-pots" or hand washing facilities anywhere on the property.

   Light refreshments were being served in the gazebo on the property.

I HEREBY SWEAR AN AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

7.17.2018

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71

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF CLARENCE D. POEHLER

I, Clarence D. Poehler, do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.
2. On February 25th, 2018, I observed the following:

   While I was attending an Open House of 12231 Harford Road, Glen Arm, Maryland 21057 I observed no working bathrooms and no running water.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Clarence D. Poehler

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * *

AFFIDAVIT OF Morgan Miner

I, Morgan Miner do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.
2. On February 25, 2018 , I observed the following:

A lack of toilet facilities/port-a-pots available for those attending the open house, along with a lack of hand washing facilities, despite the fact that food was being served at this event. There were also exposed electrical wires and partially chipped up tiles in the upstairs hallways which posed a safety hazard for those in attendance.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE,

Morgan J Miner

24

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF JUDITH A. BOARD

I, JUDITH A. BOARD do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.
2. On 2/25/18, I observed the following:

While attending an open house at 12231 Harford Rd. after walking the property and house. I noticed there were no bathroom facilities available for the gathering in attendance for a targeted group of people. Nor were any portable toilets on the site

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Judith A. Board

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRIC	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF_Ronald Standiford and Darby Standiford, his wife.

We, Ronald and Darby Standiford do hereby make oath in due form of law and state as follows:

1. We are over 18 years of age and competent to testify in this matter.
2. On a Sunday afternoon in late Spring of 2017, we observed the following:

Four Nepalese persons were walking on the property of Redeemer Presbyterian Church, where we reside at 6415 Mount Vista Road, Kingsville, MD 21087; consisting of an older man and woman, who had come to this county within the month from Nepal and were in Nepalese native dress, along with their son with his wife in Americanized dress. We approached and greeted them. They stated they were originally from Nepal and we understood came to see the Hindu Mandir property. They had driven their car to our place where they were looking for a bathroom. Since we were near the church building, we unlocked the door for them to use the bathroom. Then we said our goodbyes.

WE HEREBY SWEAR AN AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Darby Standiford Ronald Standiford

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Carol N Shaw

I, Carol N Shaw do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On September 19, 2018 I observed the following:

   I attended the Greater Kingsville Civic Association semi-annual meeting on 9/20/2018 in the meeting hall of the Kingsville Volunteer Fire Company.

   Among other comments, Kris Ghimire, a principal of the NACCB, stated they had three porta-potties for the approximately 300 people per day who were attending their week-long festival July 28 – August 3, 2018.

   David Marks stated that he could not be involved in the NACCB matter.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Carol N Shaw Oct 22, 2018

Protestant
CBA Exhibit
72

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Carol N Shaw

I, Mary Clark do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On September 19, 2018 I observed the following:

   I attended the Greater Kingsville Civic Association semi-annual meeting on September 19, 2018. The meeting was held at Kingsville Volunteer Fire Company.

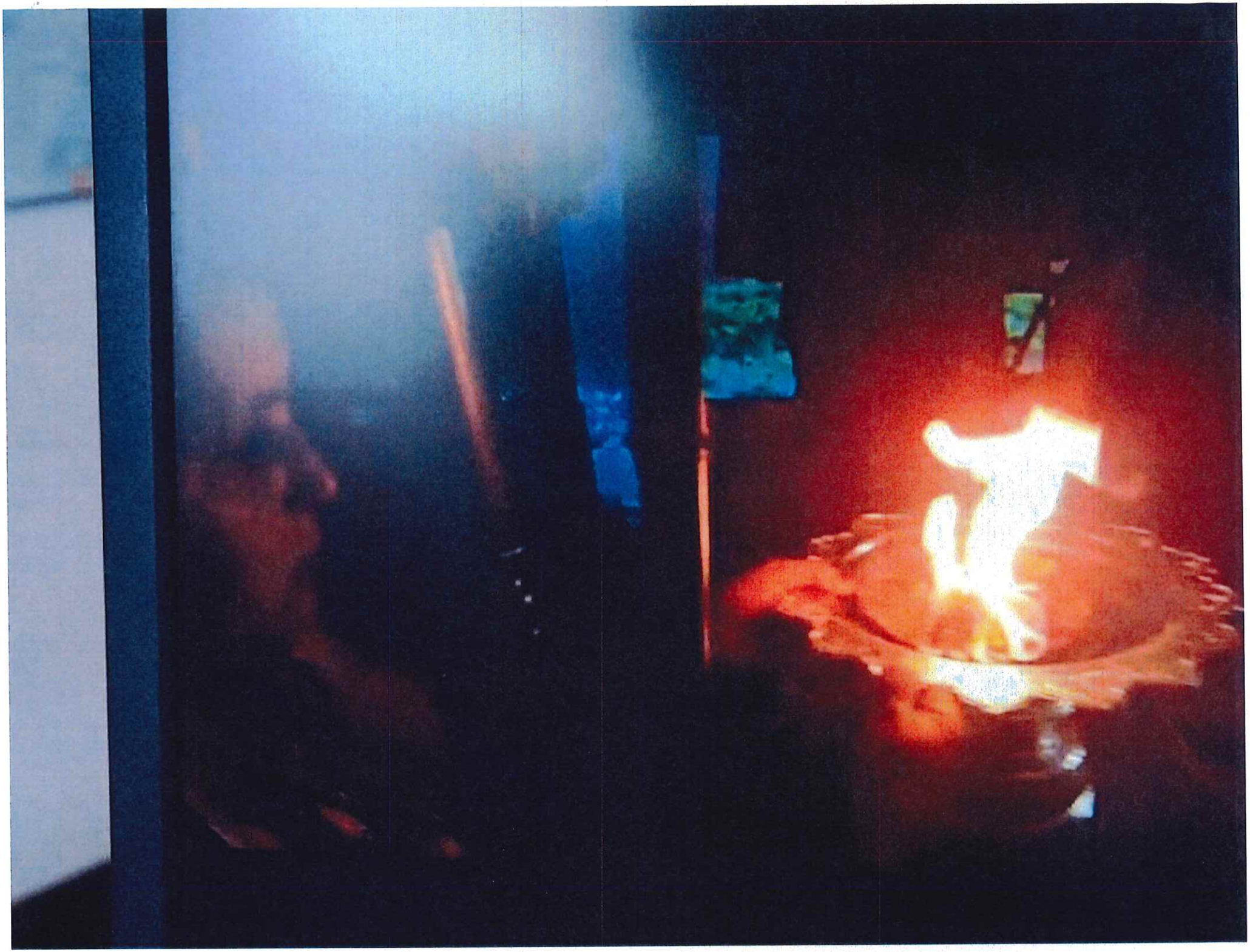
   During the discussion of the Bonaparte property at 12231 Harford Road, 5th District Councilman, David Marks, stated that he could not be involved in the matter since it was a legislative issue. A short while later Kris Ghimire, a member of the NACCB, told the audience that for the July 28 – August 3, 2018 week-long event, they had 3 porta-potties for approximately 300 people who attended each day.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Mary Clark 10-26-18

Protestant Exhibit

Protestant
CBA Exhibit
74



Report Number:
AE437900J2

State of Maryland Motor Vehicle Crash Report

Reporting Agency:
BALTIMORE COUNTY POLICE DEPARTMENT

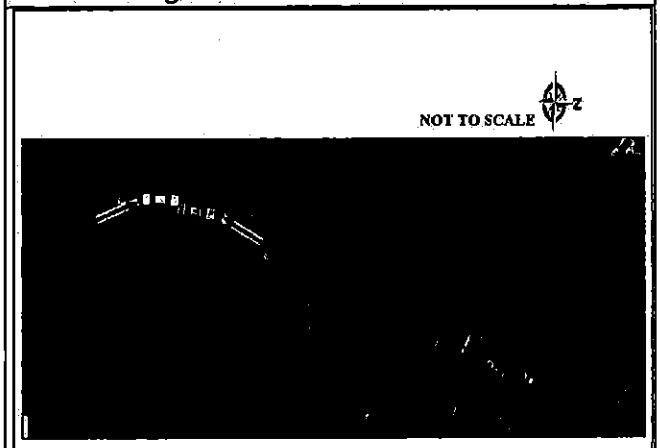
Case Information:

Report Type: **Injury Crash** County: **Baltimore County** Municipality: **N/A**
Local Case No.: **172680485** Local Codes: Crash Date: **9/25/2017**
Investigating Officer **OFC R. Leard - 4379** Crash Time: **08:51 AM** ☐ Photos Taken

Location:

GPS X-Coordinates: **-76.4611208438873** GPS Y-Coordinates: **39.46065689882**
Main Road: **HARFORD RD** Route #: **MD147**
Intersecting Road: **BONAPARTE AVE** Intersecting Route #: **CO3894**
Mile Point: **8.09** Mile Point Direction: **N** Distance: **0.10 M** Distance Direction: **S**

Accident Diagram:



Narrative:

INVESTIGATION REVEALED, V1 WAS TRAVELING S/B IN THE N/B LANE FOR HARFORD RD, WHILE V2 WAS TRAVELING N/B ON HARFORD RD. WHEN, V1 STRUCK V2 ON IT'S RIGHT FRONT. V1 THEN STRUCK THE EMBANKMENT, ALONG THE EAST SHOULDER FOR HARFORD RD, WHERE THE VEHICLE CAME TO REST. THE DRIVER FOR V1 ADVISED THAT HE HAD JUST TURNED LEFT ONTO HARFORD RD FROM A PRIVATE DRIVEWAY (MOSQUE), WHICH WAS APPROXIMATELY 1/10 OF MILE NORTH OF THIS CRASH. IT IS BELIEVED THAT THE DRIVER FOR V1 STARTED OUT ON THE LEFT SIDE OF THE ROADWAY FROM THE PRIVATE DRIVEWAY. THE DRIVER FOR V1 ADVISED THIS OFFICER THAT WHERE HE'S FROM, THEY DRIVE ON THE LEFT SIDE OF THE ROADWAY.

BWC AND DIGITAL PHOTOGRAPHS AVAILABLE.

Crash Type:

Collision Type: **Head On**
Harmful Event One: **Other Vehicle** Harmful Event Two: **Fixed Object**
Fixed Object Struck: **Embankment** School Bus Involved: **N/A**
Const./Maint. Zone: **No** Const./Maint. Loc.:
Workers Present: Const./Maint. Closure:

Road/Area:

Lane No.: **1** Lane Dir.: **N** Lane Type:
No. of Lanes: **1** Rd. Alignment: **Curve Right** Rd. Grade: **Grade Downhill**
Rd. Division: **Two-Way, Not Divided** Traffic Control: **No Controls**
Intersection: **N/A** Inter. Area: **N/A**
Junction: **N/A**

Conditions:

Road Condition: **No Defects** Contrib - Road: **N/A**
Weather: **Clear** Contrib - Environment: **N/A**
Surface Condition: **Dry** Light: **Daylight**

Protestant
CBA Exhibit
75

Vehicle 1 (5DB7554):

Basic Information

Registration: **5DB7554** Tag State: **MD** Exp Year: VIN #: **2T1BR12E52C559520**
Year: **2002** Make: **TOYOTA** Model: **COROLLA** Body Type: **Passenger Car**
Insurer: **ERIE** Policy #: **Q091815050**
Towed Vehicle: **N/A**

At Fault/Citation(s)

At Fault: **Yes** Citation Issued: **No** Citation Code:

Owner

First: **DIPESH** Middle: **NONE** Last: **MANANDHAR**
Street: **9 JACK PINE PL** Home Phone:
City: **NOTTINGHAM** State: **MD** Zip: **21236** Other Phone:

Driver:

DL#: [redacted] DL State: **MD** DL Class: **C** CDL: **No**
First: **DIPESH** Middle: **NONE** Last: **MANANDHAR**
Street: **9 JACK PINE PL**
City: **NOTTINGHAM** State: **MD** Zip: **21236** Home Phone:
DOB: **7/3/1991** Sex: **F** Other Phone: [redacted]

Safety Equip.: **Shoulder/Lap Belt(S)** Equip. Problem: **No Misuse** Airbag Deployed: **Deployed - Front**

Alch. Test Given: **N/A** Alch. Test Type: BAC:
Substance Use: **None Detected** Drug Test Given: **N/A** Drug Test Result:

Condition: **Apparently Normal** Ejected: **Not Ejected/Trapped**
Injury Severity: **No Apparent Injury** EMS Unit: EMS Run Number:

Impact & Damage

First Impact: **Twelve Oclock** Areas Damaged: **Twelve Oclock, One Oclock, Underside**
Main Impact: **Twelve Oclock**
Most Harmful Event: **Other Vehicle**
Damage Extent: **Disabling** Fire: **No**

Circumstances

Going Direction: **S** Continuing Direction: **S** Vehicle Movement: **Moving Constant Speed** Speed Limit: **30**
Left Scene: **No** Driverless Vehicle: **No** Emergency Vehicle: **No**
Special Function: **N/A**

Contrib. Circumstances Person: **Inattentive**
Driver Distracted By: **Unknown** Contrib. Circumstances Vehicle: **N/A**

Sequence of Events: **Struck Motor Vehicle In Transport, Embankment**

Towing

Towed: **Yes** Removed By: **FULLERTON** Removed To: **LOT**

END - Vehicle 1 (5DB7554)

Vehicle 2 (09582HT):

Basic Information

Registration: **09582HT** Tag State: **MD** Exp Year: VIN #: **WDBNG70J11A196060**
Year: **2001** Make: **MERZ** Model: **S 430** Body Type: **Passenger Car**
Insurer: **HARTFORD** Policy #: **55PH875606142300**
Towed Vehicle: **N/A**

At Fault/Citation(s)

At Fault: **No** Citation Issued: **No** Citation Code:

Owner

First: **BRUCE** Middle: **JUSTUS** Last: **BIRKHEAD JR**
Street: **8810 WALTHER BLVD APT 2127** Home Phone:
City: **PARKVILLE** State: **MD** Zip: **21234** Other Phone:

Driver:

DL#: [redacted] DL State: **MD** DL Class: **C** CDL: **No**
First: **BRUCE** Middle: **JUSTUS** Last: **BIRKHEAD JR**
Street: **8810 WALTHER BLVD APT 2127**
City: **PARKVILLE** State: **MD** Zip: **21234** Home Phone:
DOB: **10/31/1935** Sex: **F** Other Phone:

Safety Equip.: **Shoulder/Lap Belt(S)** Equip. Problem: **No Misuse** Airbag Deployed: **Deployed - Front**

Alch. Test Given: **N/A** Alch. Test Type: BAC:
Substance Use: **None Detected** Drug Test Given: **N/A** Drug Test Result:

Condition: **Apparently Normal** Ejected: **Not Ejected/Trapped**
Injury Severity: **Suspected Minor Injury** EMS Unit: EMS Run Number:

Impact & Damage

First Impact: **Twelve Oclock** Areas Damaged: **Twelve Oclock, One Oclock, Underside**
Main Impact: **Twelve Oclock**
Most Harmful Event: **Other Vehicle**
Damage Extent: **Disabling** Fire: **No**

Circumstances

Going Direction: **N** Continuing Direction: **N** Vehicle Movement: **Moving Constant Speed** Speed Limit:
Left Scene: **No** Driverless Vehicle: **No** Emergency Vehicle: **No** **30**
Special Function: **N/A**

Contrib. Circumstances Person: **N/A**
Driver Distracted By: **Not Distracted** Contrib. Circumstances Vehicle: **N/A**

Sequence of Events: **Struck Motor Vehicle In Transport**

Towing

Towed: **Yes** Removed By: **FULLERTON** Removed To: **LOT**

END - Vehicle 2 (09582HT)

Report Number	Reporting Agency
AE3341003L	BALTIMORE COUNTY POLICE DEPARTMENT

State of Maryland Motor Vehicle Crash Report

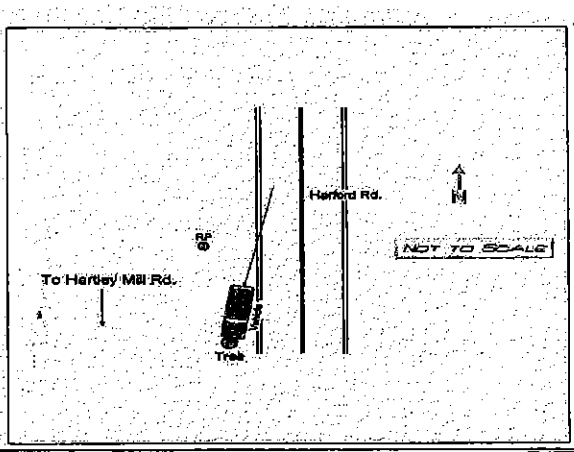
Case Information

Report Type: **Injury Crash** County: **Baltimore County** Municipality: **N/A**
Local Case No.: **173102405** Local Codes: **8 1407** Crash Date: **11/6/2017**
Investigating Officer **OFC R. Kesterson - 3341** Crash Time: **11:48 PM** ☐ Photos Taken

Location

GPS X-Coordinates: **-76.4712803666667** GPS Y-Coordinates: **39.4500276166667**
Main Road: **HARFORD RD** Route #: **MD147**
Intersecting Road: **HARTLEY MILL RD** Intersecting Route #: **CO3886**
Mile Point: **6.94** Mile Point Direction: **N** Distance: **0.15 M** Distance Direction: **N**

Accident Diagram



Narrative

VEHICLE 1 WAS TRAVELING SOUTHBOUND ON HARFORD RD. THE DRIVER OF VEHICLE 1 STATED SHE SWERVED TO AVOID A DEER IN THE ROADWAY. VEHICLE 1 RAN OFF THE WEST ROADSIDE AND STRUCK A LARGE TREE.

PHOTOS/BODY WORN CAMERA FOOTAGE WERE OBTAINED

DAMAGE TO PROPERTY: State-TREE-STATE HWY ADMIN - SLIGHT DAMAGE

Crash Type

Collision Type: **Single Vehicle**
Harmful Event One: **Fixed Object** Harmful Event Two: **N/A**
Fixed Object Struck: **Tree Shrubbery** School Bus Involved: **Not Involved**
Const./Maint. Zone: **No** Const./Maint. Loc.:
Workers Present: Const./Maint. Closure:

Road/Area

Lane No.: Lane Dir.: **S** Lane Type: **Off Road**
No. of Lanes: **2** Rd. Alignment: **Straight** Rd. Grade: **Level**
Rd. Division: **Two-Way, Not Divided** Traffic Control: **No Controls**
Intersection: **N/A** Inter. Area: **Thru Roadway**
Junction: **N/A**

Conditions

Road Condition: **No Defects** Contrib - Road: **N/A**
Weather: **Clear** Contrib - Environment: **N/A**
Surface Condition: **Dry** Light: **Dark No Lights**

Pr

Protestant
CBA Exhibit
76

Vehicle 1 (1CG1208)

Basic Information

Registration: **1CG1208** Tag State: **MD** Exp Year: **2018** VIN #: **JN8AS5MV1FW261360**
Year: **2015** Make: **NISS** Model: **ROGUE** Body Type: **Sport Utility Vehicle**
Insurer: **GEICO** Policy #: **4484630530**
Towed Vehicle: **N/A**

At Fault/Citation(s)

At Fault: **Yes** Citation Issued: **No** Citation Code:

Owner

First: **STEPHANIE** Middle: **EVONNE** Last: **SMITH**
Street: **2702 TAYLOR AVE** Home Phone:
City: **PARKVILLE** State: **MD** Zip: **21234** Other Phone: **(443) 900-1088**

Driver

DL#: [redacted] DL State: **MD** DL Class: **C** CDL: **No**
First: **STEPHANIE** Middle: **EVONNE** Last: **SMITH**
Street: **2702 TAYLOR AVE**
City: **PARKVILLE** State: **MD** Zip: **21234** Home Phone:
DOB: **5/26/1969** Sex: **F** Other Phone: ([redacted]

Safety Equip.: **Shoulder/Lap Belt(S)** Equip. Problem: **No Misuse** Airbag Deployed: **Deployed - Combination**

Alch. Test Given: **N/A** Alch. Test Type: BAC:
Substance Use: **N/A** Drug Test Given: **N/A** Drug Test Result:

Condition: **Apparently Normal** Ejected: **Not Ejected/Trapped**
Injury Severity: **Suspected Serious Injury** EMS Unit: **A** EMS Run Number: **173102405**

Impact & Damage

First Impact: **Twelve Oclock** Areas Damaged: **Twelve Oclock, One Oclock, Eleven Oclock**
Main Impact: **Twelve Oclock**
Most Harmful Event: **Fixed Object**
Damage Extent: **Disabling** Fire: **No**

Circumstances

Going Direction: **S** Continuing Direction: **S** Vehicle Movement: **Moving Constant Speed** Speed Limit: **50**
Left Scene: **No** Driverless Vehicle: **No** Emergency Vehicle: **No**
Special Function: **N/A**

Contrib. Circumstances Person: **Failure To Drive Within A Single Lane**
Ran Off The Road
Driver Distracted By: **Not Distracted** Contrib. Circumstances Vehicle: **N/A**

Sequence of Events: **Ran Off Road Right, Tree Standing**

Towing

Towed: **Yes** Removed By: **CARNEY TOWING** Removed To: **LOT**

END - Vehicle 1 (1CG1208)

EMS Unit A (BCF MEDIC 55)

EMS Type: **Ground Transport** Taken to: **SINAI HOSPITAL**

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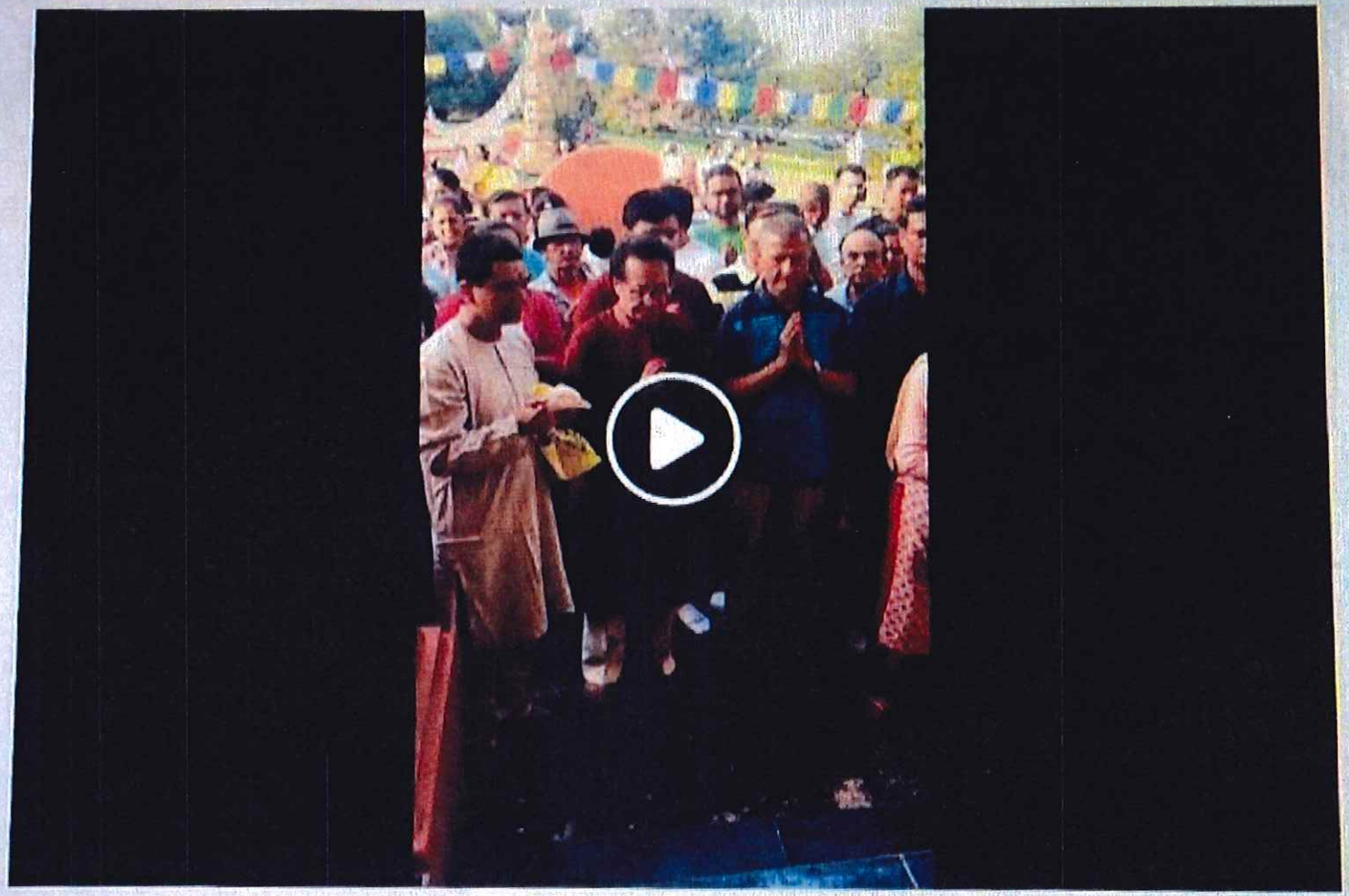
Email or Phone

Password

Forgot a



Shyam Karki
June 19

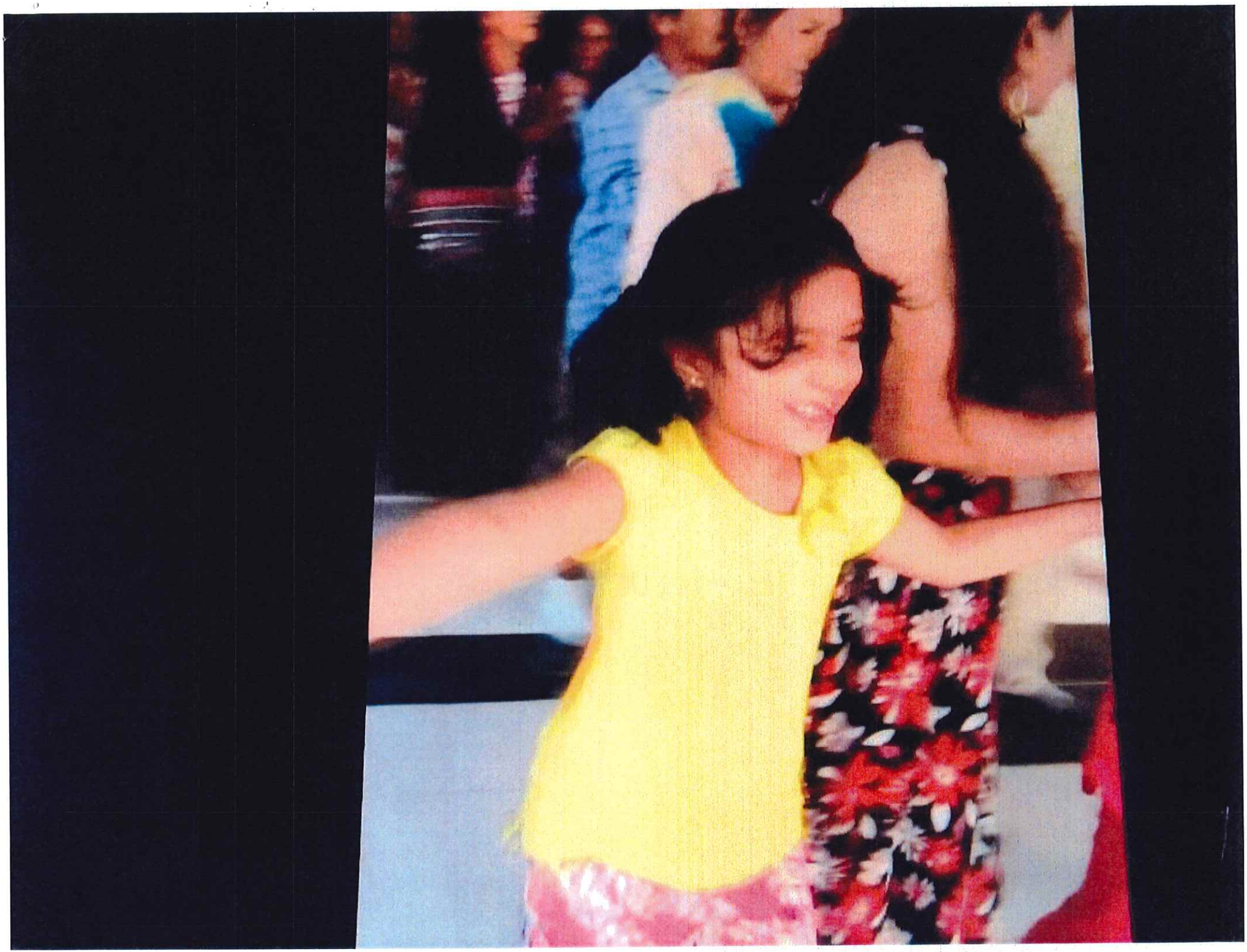
Performing Puja at the completion of renovation of the Mandir building

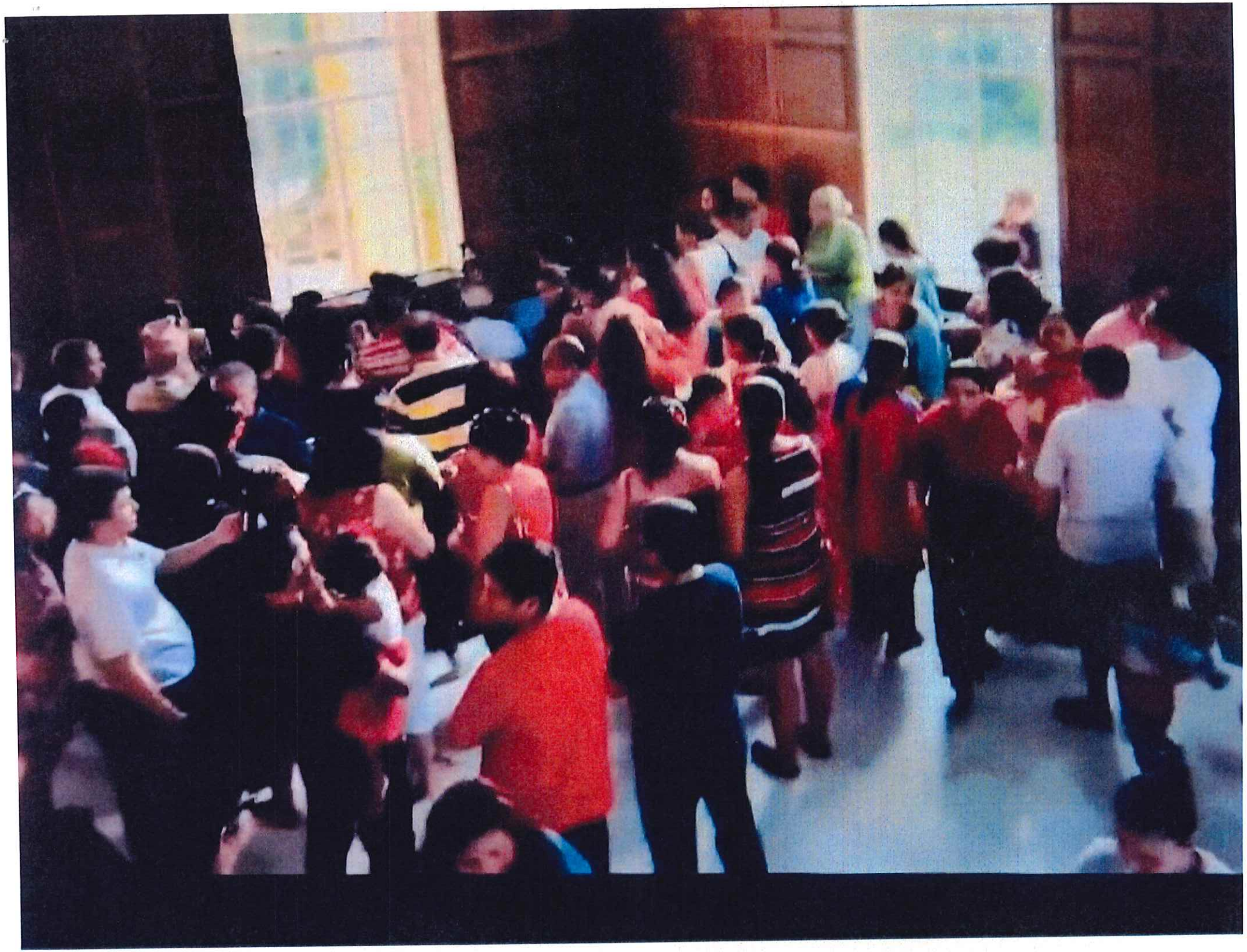
524 Views

44 Likes

Protestant
CBA Exhibit
17

Protestant Exhibit _____





Protestant Exhibit ____

Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

July 20, 1998

John B. Gontrum, Esquire
814 Eastern Avenue
Baltimore, Maryland 21221

RE: DEVELOPMENT PLAN HEARING
Grace Community Church
E/S Belair Rd./S of Goettner Rd.
(11611 Belair Road)
11th Election District - 5th Councilmanic District
Grace Community Church - Owner/Developer
Case No. XI-770

Dear Mr. Gontrum:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Development Plan has been approved in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Pastor Gregory W. Gill, 9 Perhall Court, Baltimore, Md. 21236
Mr. William P. Monk, 222 Bosley Ave., Suite B6, Towson, Md. 21204
Ms. Sally Malena, Human & Rohde, Inc.
512 Virginia Avenue, Towson, Md. 21204
Mr. Edwin S. Howe, III, KCW Consultants, Inc.
3104 Timanus Lane, Suite 101, Baltimore, Md. 21244
J. Carroll Holzer, Esquire, 305 Washington Ave., #502, Towson, 21204

Dave Flowers, DPDM; DEPRM; DPW; OP; R&P; People's Counsel; Case File

Protestant
CBA Exhibit
78

IN RE: DEVELOPMENT PLAN HEARING Grace Community Church E/S Belair Rd./S of Goettner Rd. (11611 Belair Road) 11th Election District 5th Councilmanic District Grace Community Church Owner/Developer	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. XI-770

* * * * * * * * * * *

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before this Hearing Officer for consideration of a development plan prepared by KCW Consultants, Inc., for the proposed development of the subject property by Grace Community Church, Owner/ Developer, with a 40,257 sq.ft. worship center. The subject property and proposed development are more particularly described on the development plan submitted and marked into evidence as Developer's Exhibit 1. The property consists of 16.1 acres, more or less, zoned R.C.5, and is located on the southeast side of Belair Road, not far from its intersection with Goettner Road in Kingsville. The use of the subject property as a church is a use permitted in the R.C.5 zone, therefore, no special zoning relief is necessary in order for the Grace Community Church to locate on the subject property. Furthermore, the Owner/Developer is not requesting any variances pursuant to their request and are merely seeking approval of the development plan.

As to the history of this project, a concept plan of the proposed development was prepared and a conference held thereon on July 1, 1996. As required, a community input meeting was held on August 8, 1996 at the Kingsville Elementary School. A second community input meeting was held on August 13, 1996. The Owner/Developer failed to submit a development plan to Baltimore County within the one year period of limitation as pro-

vided in Section 26-203 of the B.C.C. and as such, the Owner/Developer was required to resubmit the concept plan and a second concept plan conference was held on November 17, 1997. The requisite community input meeting was held on December 17, 1997, after which, a development plan was prepared and submitted for review at a conference held on March 25, 1998. Following the submission of that plan, development plan comments were submitted by the appropriate reviewing agencies of Baltimore County and a revised development plan incorporating these comments was submitted at the Hearing Officer's Hearing, the first day of which was scheduled for April 17, 1998. However, at the request of Counsel, the hearing was continued and scheduled for dates more convenient to the Protestants and their attorney, J. Carroll Holzer, Esquire, as well as the Owner/Developer. Therefore, the first date for the Hearing Officer's Hearing commenced May 21, 1998 and concluded on the fifth hearing date of June 11, 1998. In addition, Counsel for both the Owner/Developer and the Protestants were given until July 6, 1998 to submit memoranda in support of their respective positions.

Appearing at the public hearing required for this project were Pastor Gregory W. Gill and numerous other individuals who appeared on behalf of the Grace Community Church, Edwin S. Howe, III, Professional Engineer, with KCW Consultants, Inc., the consulting firm which prepared the development plan for this project, and John B. Gontrum, Esquire, attorney for the Owner/Developer. Many other individuals appeared in opposition to the proposed development, including representatives from the Greater Kingsville Community Association, most of whom were represented by J. Carroll Holzer, Esquire. Numerous representatives of the various Baltimore County agencies who reviewed the plan attended the hearing, including Jun R. Fernando, Rahee Famili, Ron Goodwin, and Dave Flowers.

all representatives of the various divisions of the Department of Permits and Development Management (DPDM); R. Bruce Seeley, Pat Farr, Rob Powell, and Keith Kelley with the Department of Environmental Protection and Resource Management (DEPRM); and Carol McEvoy with the Office of Planning. In addition, Larry Gredlein appeared on behalf of the Maryland State Highway Administration (SHA).

The following is but a summation of the testimony and evidence that was received over the course of the five hearing dates. This Order shall only attempt to address the testimony presented as it relates to the issues raised by those citizens who appeared at the hearing. For a more specific and detailed account of the testimony and evidence presented at the hearing, one should refer to the tape recordings made at the time of the hearing.

Pursuant to Section 26-206 of the Baltimore County Code, which regulates the conduct at the Hearing Officer's Hearing, I am required to first identify any unresolved agency comments or issues. On behalf of the Owner/Developer, Counsel indicated that all issues that they were aware of had been resolved and incorporated into the revised development plan which was submitted into evidence as Developer's Exhibit 1. Furthermore, the County representatives who were in attendance indicated that the proposed project, as set forth on Developer's Exhibit 1, met all of their respective requirements. However, as for the community representatives present, it was clear that several issues remained unresolved. On behalf of his clients, J. Carroll Holzer, Esquire indicated that a plethora of issues remained unresolved. Mr. Holzer subsequently submitted a detailed account of those unresolved issues in his Memorandum of Law submitted on July 6, 1998. In addition, Counsel for the Owner/Developer, John B. Gontrum, Es-

quire, submitted a Memorandum of Law which addressed the many issues raised by the Protestants.

As to the specifics of the development plan approval request, the Grace Community Church has existed in the Perry Hall area of Baltimore County for several years; however, they are looking at this particular site as the permanent home for their Church, which continues to grow in membership. The Owner/Developer seeks approval to develop the subject property with a two-story worship center, consisting of 40,257 sq.ft., with a capacity to seat up to 900 individuals. In addition, classrooms, administrative offices, and a multi-purpose gymnasium/hall is proposed to be located within this structure. In addition to the Church building, the Owner/Developer proposes two separate parking lots which will provide parking for up to 244 vehicles. Access to the property will be by way of a monumental entrance driveway off of Belair Road. This driveway will consist of two lanes, with a planting strip located between them. A storm water management facility is also proposed, as well as a 40,000 sq.ft. septic reserve area. The rear portion of the site contains an existing stream and associated forest buffers and forest conservation easements. The property is bordered to the south and east by residential properties. On the north side of the property are commercial businesses, in that this particular area of Belair Road is where the commercial district of Kingsville commences. However, further removed from this Belair Road frontage are residential properties which gain access to Belair Road from Goettner Road. Across Belair Road from the subject site is an upscale residential subdivision known as Longfield Estates.

As stated previously, the Greater Kingsville Community Association as well as many other citizens who attended the hearing raised a

number of issues concerning the proposed development. Perhaps the most common area of concern relative to this development involved the issue of compatibility, given the size and scope of the proposed building. In view of this issue being the major area of concern shared by most of the Protestants present, it shall be the first issue dealt with by this Order.

1) Compatibility: Testimony indicated that the Office of Planning (OP) mandated that the Owner/Developer provide to them a Compatibility Study regarding this project. The Planning Office interpreted the Kingsville Community plan to require such a study. In addition, OP undertook steps to perform their own compatibility study. Mr. Carol McEvoy testified that her agency's position was that the proposed development is compatible with the surrounding Kingsville community. Furthermore, the Developer offered its own compatibility expert. Mr. William Monk, who was accepted as an expert in land planning and site design, testified that the proposed development is compatible with the surrounding community. Mr. Norman Gerber, former Director of the Office of Planning, who was also accepted as an expert in planning and zoning, took the opposite position. Mr. Gerber opined that the subject project was not compatible with the surrounding community. However, what is germane to the issue at hand is whether a compatibility study was required in the first place.

There is no question that compatibility findings are mandated by the Baltimore County Code (B.C.C.) in certain instances. Specifically, Section 26-282 of the B.C.C. dictates when a compatibility study is required in a development plan case. A careful reading of that Section clearly indicates that the County Council has not required that a compatibility finding be made for this particular development proposal in that the proposed Church facility does not fall within any of the categories

found in Section 26-282(a)(1-3). All of the parties at the hearing agreed with this interpretation of that particular Section of the Code. However, the Protestants, as well as the Office of Planning, relied on the Greater Kingsville Area Community Plan for the purpose of requiring the Developer to provide a compatibility study. Inasmuch as the Kingsville plan had no compatibility guidelines, the Office of Planning, on their own initiative, requested the Developer to follow those guidelines found in Section 26-282 of the Code when rendering their opinion as to whether the Grace Community Church and the proposed development was compatible with the surrounding community. The Developer acceded to the pressure of the Planning Office and did, in fact, perform a compatibility study, utilizing the expertise of Mr. William Monk in that regard. However, as stated previously, the Planning Office themselves performed a compatibility study, as did the Protestants, through Mr. Norman Gerber. Apparently, all of these witnesses relied upon Section 26-282 of the Code and the guidelines provided therein when rendering their compatibility findings.

The issue of compatibility originally surfaced as a result of the Greater Kingsville Community Plan, and more specifically, Page 28 thereof. The language contained therein provides that:

> "Design requirements for special forms of development should consider the unique purpose of the site and any structures and require compatibility with the surrounding neighborhood. Structures supporting the special forms of development should be architecturally designed to be compatible with neighboring uses. This requirement of compatibility should extend to fencing and significant landscaping, including reforestation/ aforestation."

The Protestants and the Office of Planning rely upon that provision in the Greater Kingsville Community Plan and interpret that provision to mandate that a compatibility study is required.

After reading that particular provision of the Greater Kingsville Community Plan, I find that the Owner/Developer was not required to perform a formal compatibility study, as found in Section 26-282 of the B.C.C. I further find that such a study is not mandated by that Section. In addition, I find it troubling that the Planning Office required the Grace Community Church to undertake the expense of preparing a compatibility study on this particular project when no such study was required to be performed by the Pilgrim Presbyterian Church, which is also located in Kingsville. The Pilgrim Presbyterian Church sought development plan approval before this Hearing Officer within weeks of the Grace Community Church case; however, no compatibility study was requested or performed. My interpretation of the language contained within the Greater Kingsville Community Plan is that no formal compatibility study is required.

Furthermore, and paramount to the issue at hand, is what weight should be given to the Greater Kingsville Community Plan as it pertains to this particular case. The Protestants rely upon Section 26-166(a) of the B.C.C. which clearly states that "All development of land must conform to the master plan, including adopted community plans and these regulations." (emphasis added) Testimony clearly demonstrated that the Greater Kingsville Community Plan was, in fact, an adopted community plan and falls within this particular provision of the Code. That particular provision of the Code has been interpreted by myself and my colleague, Zoning Commissioner Lawrence E. Schmidt, in many cases heard prior to the Grace Community Church. Most recently, Mr. Schmidt dealt extensively with this issue in the case of Graystone Farms Estates development plan, Case No. VII-321. Interestingly enough, that particular case involved the participation of Mr. Gontrum and Mr. Holzer, both of whom are Counsel in the case before

me. Mr. Schmidt wrote an extensive analysis of Section 26-166(a) and the manner in which that Section is interpreted, in light of Section 26-167(b). As it is the goal of this Office to be as consistent as possible in our decisions on development plans, I find it compelling to incorporate herein the interpretation applied by my colleague in his opinion on the Graystone Farms Estates case. In his decision, Mr. Schmidt stated as follows:

> "Section 26-166 of the Code contains the development policies for Article V. It sets forth the vision of the regulations. Section 26-167 of the Code is similar in nature, in that it sets forth the purposes of the regulations. Section 26-167(b) states, 'Compliance with the development regulations hereinafter set forth and the comprehensive manual of development policies shall be deemed the fulfillment of the development policies set forth in Section 26-166 and purposes set forth in Section 26-167.' (emphasis added)
>
> Mr. Peterson, as set forth in his memorandum, contends that Section 167(b) constitutes a rebuttable statutory presumption. Moreover, he claims that he has produced testimony and evidence which successfully rebuts this presumption. The Developer/Peti- tioner, on the other hand, contends that the language of Section 26-167(b) connotes a mandatory finding and/or that the Developer has more than overcome any burden raised by the Protestants' offers of proof.
>
> It is the cardinal rule of statutory interpretation that the words used in any legislation are to be given their natural and usual meaning, considered with reference to the aim and objective of the statute. See Chesapeake Industrial Leasing Co. v. Comptroller, 331 Md. 428 (1993). A statute must be interpreted reasonably and with reference to the legislative purpose, aim or policy as reflected in that statute. Department of Economic and Employment Development v. Lilley, 106 Md. App. 744 (1995). Moreover, in order to ascertain and effectuate legislative intention, an examination of the language of the statute, itself, is the primary tool used. Klingenberg v. Klingenberg, 342 Md. 316 (1996).
>
> The language employed in Sections 26-166 and 26-167 sets forth the goals and aims of the development regulations. By their very nature, these goals and aims must be broadly and generally stated. Although each goal considered individually is laudable, the application of these policies and purposes to a partic-

ular project can result in obvious contradictions. For example, Section 26-166(b)(1) states as a policy, 'Promotion and encouragement of economic development to ... house the citizens of Baltimore County.' The Developer, in the instant case, would no doubt claim that this policy is being fulfilled by the proposed Graystone Farms Estate residential project. On the other hand, the language set forth in Section 26-166(b)(7) identifies the, 'Preservation of agricultural lands...' as a policy. The Protestants, obviously, contend that this policy is not being met here. These contradictions demonstrate that a strict application of the policies and purposes set forth in Sections 26-166 and 26-167 is difficult on a case by case basis, due to the inherent conflicts in these expressed policies and purposes.

It was no doubt because of this fact that the County Council enacted Section 26-167(b). In my judgment, this Section was created to express the clear mandate that if the development regulations and provision of the C.M.D.P. were satisfied in a development plan, the purposes and policies were, likewise, met by that plan.

I base this conclusion upon several factors. The Council's choice of words (e.g. 'shall be deemed') is significant. Ordinarily, when used in the language of a statute, the word 'shall' is regarded as being a direct indication that the legislature mandates that certain conduct is required. Prince Georges County v. Vieira, 340 Md. 651 (1995). Ordinarily, the word 'shall' is mandatory when used in a statute, and thus denotes an imperative obligation inconsistent with the idea of discretion. Turkey Point Property Owners Association, Inc., v. Anderson, 106 Md. App. 710.

There is little case law on the meaning of the word 'deem'. Both parties, within their memoranda, cited the definition of that word in various dictionaries. Webster's Third New International Dictionary of the English Language, Unabridged, defines the word as 'to come to view, judge, or classify after some reflection or to form or have an opinion.' Black's Law Dictionary states that the word means 'To hold, consider, adjudge, condemn, determine, treat as if or construe.'

In considering these definitions, I hereby conclude that the phrase 'shall be deemed' as used in Section 26-167(b) means that if a Developer complies with the development regulations and comprehensive manual of development policies, such compliance must be considered or is required to be held, as the fulfillment of the development policies and purposes set forth in Sections 26-166 and 26-167.

Such a conclusion is entirely consistent with the use of the phrase 'shall be deemed' elsewhere in the development regulations. As the Developer points out, Section 26-181 also uses that phrase and the context therein connotes a mandatory direction. The phrase is also used in Section 26-206(i) and is clearly mandatory there. It defies logic that the Council would intend the phrase as expressing one meaning in one part of the development regulations and a different meaning in another part.

Finally, I note Mr. Peterson's contention that the subject plan is inconsistent with the development policy set forth in Section 26-166 in that same allegedly fails to conform to the Baltimore County Master Plan, 1989-2000. He specifically cites the first sentence in Section 26-166(a), which states 'All development of land must conform to the Master Plan including adoptive community plans and these regulations.' He alleges that the subject plan is not in conformance and must, therefore, be denied in its present form. I disagree.

The Master Plan is defined in Section 26-1 of the County Code as, '...a composite of the mapped and written proposals of the systematic physical development of the County...'. The Master Plan is comprehensively discussed in Division 2 of Article III of the Code, Sections 26-81 through 26-85. Section 26-81 requires for the adoption of a Master Plan 'which generally shall comprise land use...'. (emphasis added) Section 26-84 states that 'The Master Plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the County...' These statements make it clear that the Master Plan is a general compilation of material which shall set the overall direction for development in the County. As has been frequently stated, the Master Plan is but a guide. (See pg. 7 - Role of the Master Plan - Master Plan, Baltimore County, 1989-2000)."

The Graystone Farms Estates matter before Mr. Schmidt involved a potential conflict with the Baltimore County Master Plan. The issue before me involves the application of the Greater Kingsville area community plan to the proposed development. The language in Section 26-166(a) states that the development of land must conform to the Master Plan including adopted community plans. (emphasis added) Therefore, the analysis

provided by Mr. Schmidt in the Graystone case is directly applicable to my analysis of the application of the Greater Kingsville area community plan to the proposed development. The Greater Kingsville area community plan is but a guide and does not dictate development on this particular parcel of land.

Inasmuch as the B.C.C. does not require a finding of compatibility by this Hearing Officer, and inasmuch as the Master Plan and the Greater Kingsville area community plan are but "guides" in the development of properties, I find that it is not necessary for this Hearing Officer to rule on the compatibility of the Grace Community Church development to the surrounding Kingsville community. My decision herein is further supported by the fact that no compatibility finding or study was required to be made in the Pilgrim Presbyterian Church development plan case, which, as noted above, is also located in the Kingsville area. Neither the Office of Planning or the Greater Kingsville Community Association, both of whom participated in that case, requested a finding of compatibility or offered any testimony or evidence as to the compatibility of that Church with the surrounding community. Therefore, I find that a compatibility finding is not required.

2) Size and Scope of Grace Community Church:

While I have previously determined that it was not necessary for the parties to do a formal compatibility presentation, the issue of the size and scope of the facility certainly is one that must be addressed by this Hearing Officer. Many may interpret these two areas to be very similar in nature, and in some instances they may be. However, while size and scope of the proposed development is a consideration, it does not require me to make comparisons of this project to others in the Kingsville

neighborhood. I will simply evaluate the size and scope of this particular project as it relates to the the subject property and any potential adverse effects that this development may have on the surrounding community.

Testimony and evidence indicated that the Grace Community Church originally proposed a facility consisting of three separate buildings, one of which would contain a 27,000 sq.ft. main structure, a 4,000 sq.ft. administrative building, and an 11,000 sq.ft. gymnasium/activity center. In addition, the original proposal called for 464 paved parking spaces which were to be provided around the three-building complex. In addition, the 27,000 sq.ft. sanctuary was of a circular design at that time.

After much opposition from the surrounding community, the Grace Community Church redesigned the project into a single building containing 47,257 sq.ft., with the same seating capacity as that previously proposed. However, the Owner/Developer has reduced the number of paved parking spaces on the subject property from 464 to 244. Furthermore, the Grace Community Church redesigned the architectural theme of the Church, eliminating the circular design for the sanctuary and replacing same with a more agricultural-looking barn-type building with dormer windows and steep pitched roofs. The structure, as it is seen from Belair Road, gives more of a rural appearance than that which was previously designed. It is this size, scope, seating capacity, and potential use that many of the citizens in attendance expressed concern. The Protestants rightfully stated at the hearing that while the Owner/Developer has made efforts to redesign and eliminate parking on the subject property, the seating capacity of the Church, which was originally proposed at 900 seats, remains the same. The ability to seat 900 individuals as well as the additional members who will

attend Sunday School services has caused the community concern, given the amount of traffic that such large numbers will generate and the adverse impact that such a large gathering may have on water and septic on the subject property as well as those properties immediately adjacent thereto.

After considering the testimony and evidence offered by the Owner/Developer, as well as the Protestants, I find that the size of the Grace Community Church, which at this time constitutes a single two-story building, comprising 40,257 sq.ft. which includes the sanctuary, the administrative offices, and the multi-purpose gymnasium/activity center, is appropriate for the subject 16.1 acre parcel of land. The Owner/Developer has endeavored to meet the demands of the community by redesigning the Church building to give it more of a rural appearance. The architectural rendering depicted on Developer's Exhibit 3 evidences the rural design and character of the proposed facility, and appropriate conditions and restrictions shall be imposed on the design and appearance of the building to insure that the Church is built according to that theme. Furthermore, the reduction in the parking lot area from 464 parking spaces to 244 spaces, is also appropriate. The Owner/Developer has done an excellent job of breaking up the parking fields on the subject property and landscaping them in the fashion depicted on the landscape plan. Appropriate conditions and restrictions shall be imposed upon the Developer to insure that the landscaping and screening are installed and that the parking areas are not expanded in the future.

However, what is troubling to this Hearing Officer is that while the Owner/Developer has made an effort to reduce the parking areas on the subject property and consolidated the Grace Community Church facility from three separate buildings into one two-story structure, the Owner/Developer

has not in any manner decreased the seating capacity of the Church itself. What is more troubling is the fact that while the Church obviously felt that the parking needs for 900 seats under the previous proposal justified a parking lot with 464 parking spaces, the current proposal for those same 900 seats only provides 244 parking spaces. While the parking provided by the Owner/Developer meets the criteria found in the zoning regulations, in that no variance is being requested, I am concerned that, in actuality, there will be a parking problem.

Testimony offered by Pastor Gill on behalf of the Grace Community Church, demonstrated that the Church intends to proceed with development of the subject site in several phases. Phase I would involve building the sanctuary containing 500 seats, the parking lot, and the main shell of the Church building itself. The second phase of the development would allow for the construction of the second floor, or tier, of the sanctuary which would add the additional 400 seats thereby bringing the total number of seats to 900. The third phase involves the construction of the gymnasium/ recreational hall, which would not affect the number of seats.

After considering the testimony and evidence on this issue, I find that the Church should only be permitted to construct a sanctuary with the seating capacity for 500 individuals. Limiting the development to a 500-seat capacity eliminates my concern over the number of parking spaces provided. The 244 parking spaces are more than enough to serve a sanctuary capacity of 500 people.

The Church may, at some point in the future, request a special hearing to modify this seating capacity restriction. However, no future modification of the seating capacity above and beyond 500 seats shall be permitted unless a public hearing is held to entertain the purposes for

such a request and also to address any concerns the surrounding community may have over an increase in seating capacity. Furthermore, while I have limited the seating capacity of the sanctuary area to 500, there shall be no standing room or temporary seating allowed anywhere within the second tier of the sanctuary. Additionally, in no event shall the gymnasium/ recreational hall be used in conjunction with the sanctuary for Church services. The second tier or upper floor area of the sanctuary may only be utilized for Church services in the future, if, and only if, a future hearing has been held and permission specifically granted to the Church by a Baltimore County Hearing Officer as to the appropriateness of the expansion of the sanctuary.

Therefore, in consideration of this issue raised by the many citizens who attended the hearing, I find that the seating capacity of the proposed Church shall be strictly limited to 500 seats, and the parking lot restricted to 244 parking spaces, spread out over two separate parking fields as shown on the development plan. There shall be no further expansion of either the sanctuary or these parking areas without a future public hearing to determine the appropriateness of such an increase.

3) Should the Grace Community Church development plan be referred to the Planning Board on the issue of compatibility and a historical site?.

As to the issue of whether this matter should be referred to the Planning Board, Section 26-207 of the Baltimore County Code (B.C.C.) applies to those instances wherein matters should be referred to the Planning Board. Section 26-207 mandates that this Hearing Officer should refer to the Planning Board any proposal that conflicts with the Master Plan. There was no testimony or evidence offered that the proposal by the

Grace Community Church conflicts with the Baltimore County Master Plan. Therefore, I find that there is no Master Plan conflict.

Moving on to the issue of a historical site, there was testimony presented that a property known as Gruppy Hollow, exists in close proximity to the subject site. That site is, in fact, on the Landmarks Preservation Committee's final list. Mr. John McGrain, the County Historian, appeared and testified concerning Gruppy Hollow. Mr. McGrain testified that this property, which at one time consisted of a tanyard and springhouse, dates back to the 1820s. Gruppy Hollow is located approximately 1000 feet south of the subject site on Belair Road. It was Mr. McGrain's opinion was that this Church proposal will not adversely affect that historical site.

After considering Mr. McGrain's testimony concerning the subject property and the manner in which it relates to the historic Gruppy Hollow, I find that the development plan submitted at the hearing before me does not "involve" a building, structure or site included on the Landmarks Preservation Commission's preliminary or final list. Therefore, the matter need not be referred to the Planning Board.

4) Traffic:

Many of the citizens who attended the hearing were concerned over the traffic that will be generated by the proposed project. I, too, had concerns over the issue of traffic, which may have been evident by the questions asked by me at the hearing. However, I have already reduced the seating capacity of the Grace Community Church from 900 seats to 500 seats, which, in and of itself, will reduce the potential for traffic coming and going to the site by over 40%. However, I am still concerned over the manner in which members of the Church will exit the site once services have concluded. I am primarily concerned with members leaving the site, turning

left onto Belair Road, and traveling in a southerly direction. Crossing over Belair Road at this location, which involves a four-lane highway and vehicles traveling in excess of 55 mph, can be somewhat dangerous. The volume of cars exiting the property at the conclusion of services is at its maximum. Allowing vehicles to turn left onto Belair Road during these peak times would prove too dangerous. Therefore, I believe that the exit from the Grace Community Church site should be restricted in the following manner: Either the Church will have to employ the services of the Baltimore County Police Department to assist motorists leaving Church services in making a left turn onto Belair Road, or the exit from the Church shall be limited to right turns only and posted accordingly. If the Baltimore County Police are unable to assist the Grace Church in facilitating left turns from the subject site, members will have to make a right turn from the property and travel north on Belair Road. They then will have to use the triangle at Belair/Jerusalem/Bradshaw Roads, to utilize the traffic signal at Belair Road and Sunshine Avenue to safely proceed south on Belair Road. Therefore, while the issue of traffic is not sufficient to justify an outright denial of the development plan, it is sufficient to warrant the imposition of this restriction.

5) Environmental Impact of the Grace Community Church on the subject site and adjacent properties:

The Protestants offered extensive testimony and evidence concerning the potential impact that the proposed development will have on water and septic use on the subject site and on surrounding properties. As to the water usage, testimony and evidence indicated that the Owner/Developer was successful in locating a well on the subject property which yields 15 gpm, is 135 feet deep, with a static water level of 16 feet. Having reduced the seating capacity of the Church facility from 900 seats to 500

seats, I find that the existing well at 15 gpm is more than enough to serve the Church. Mr. Rob Powell, a representative of DEPRM, testified that he used statistics indicating a daily usage of 3 gallons of water per seat per day for this particular Church. I have a difficult time understanding how that much water can be used by Church members on any given day. However, I assume that Mr. Powell based his analysis on a "worst case scenario" to insure that there is enough water for the proposed use and enough septic capacity. Having found that the 15 gpm well is sufficient to accommodate the proposed 500-seat Church, I also find, given the reduction in seating capacity, that the septic reserve area designed by the Church and Mr. Powell is sufficient to accommodate the needs of the Church. Mr. Powell is responsible for reviewing percolation tests and the design of septic systems. Mr. Powell designed the septic field for this project, based on a capacity of 900 seats, operating at full capacity. My analysis of the testimony and evidence presented is that Mr. Powell overdesigned the septic field, and that there is more than sufficient capacity to handle the 500-seat sanctuary and the use proposed by the Church. I find that the septic area is sufficient, even though the draw-down times on two of the three test pits were at 2 minutes. Furthermore, testimony revealed that there will be no cooking facilities, other than a "warming kitchen" at this Church. This also lessens the impact on the septic system.

In addition, testimony revealed that there was a leaking fuel tank located on the property immediately to the north of the proposed development. That fuel tank has been removed and the State has installed monitoring wells at that location. Thus, I find that the situation involving this fuel tank is not sufficient to warrant a denial of this development plan. Based on the testimony and evidence offered at the hearing, I find that

there are no environmental impacts, be it water use, septic use, wetland delineation, leaking fuel tank, or other environmental considerations, that warrant a denial of this development plan.

6) Is the landscaping and buffer proposed sufficient for the proposed development?:

Testimony and evidence offered revealed that the subject 16.1 acre parcel contains a substantial amount of natural vegetation and buffer. Developer's Exhibit 6, the landscape plan for this project, shows extensive natural vegetation and landscaping existing on the east side of the tract, along a stream that traverses that portion of the property. Therefore, in my view, landscaping and buffering is not an issue in that area. Furthermore, there is substantial natural vegetation and landscaping on the south side of the subject property as shown on the plan. The Developer proposes to locate the Church building in the center of what is as this time, an open field. Furthermore, the parking areas will also be located in an open field. The Owner/Developer proposes no clearing of the existing tree line on the subject property, but for a small area of trees along Belair Road. Ms. Sally Molena, a Landscape Architect engaged by the Owner/Developer, testified as to the landscape plan proposed by the Developer. The Developer has done an excellent job in landscaping the subject property.

After considering the testimony and evidence offered by Ms. Molena and after reviewing the landscape plan and making numerous site visits to the property, I find that the natural vegetation in conjunction with the landscaping proposed by this Developer will be more than sufficient to buffer the proposed development from the surrounding community as well as from passing motorists on Belair Road. My finding was also corroborated by Mr. Avery Harden, who is the Landscape Architect for Baltimore County. Mr. Harden has reviewed the landscaping proposed for the subject property

and expressed the opinion that the landscaping proposed is sufficient and appropriate. Therefore, I find that the landscaping and buffering proposed for this site is sufficient and does not warrant a denial of the development plan.

7) Lighting and Noise:

The Protestants raised the issue of lighting of the subject site and noise which might be generated as a result of the proposed use of this property. Specifically, the Protestants are concerned over the illumination of the parking areas as well as the lighting of the facade of the Church facility itself. Given the rural character of the Kingsville community, their concerns are justified. The Protestants are concerned that an over-illumination of the property will detract from the rural character of the surrounding community. Therefore, appropriate conditions and restrictions shall be imposed by way of this Order to insure that the lighting is appropriate. In addition to the lighting concerns, the citizens also expressed concern over noise. As with lighting, noise can also be a problem given the rural character of this area. Therefore, appropriate conditions and restrictions will also be imposed to limit the activity that might occur outside the Church sanctuary to insure that any noise generated by the use of the subject property will not adversely affect the surrounding community. While these issues are not sufficient to warrant an outright denial of the development plan, they are sufficient to justify the imposition of conditions and restrictions.

8) Storm Water Management, Sediment, and Erosion Control:

Mr. Holzer's Memorandum on behalf of the Protestants listed as an issue, storm water management, sediment and erosion control. These issues may have been touched on in the course of the testimony and evidence pre-

sented at the hearing. As to the storm water management facility, the Owner/Developer is proposing a storm water management pond in the south-eastern corner of the subject site. Testimony at the hearing indicated that the proposed pond will be sufficient to handle any storm water runoff that will be generated by virtue of the proposed development. Furthermore, restrictions on the future expansion of the paved parking areas will also serve to limit the amount of storm water runoff generated by this facility. Some of the concerns raised by the Protestants may have related to the future expansion of the parking lots and their ability to handle that additional storm water runoff. However, again, in consideration of the conditions and restrictions imposed on parking lot expansion, that concern should be eliminated. In my view, the storm water management proposed at this time is sufficient to accommodate the storm water that will be generated by the proposed facility.

As to sediment and erosion control, the Developer shall be required to perform any and all necessary silt fencing and other sediment and erosion control measures that apply to a development of this nature. Those erosion control measures shall be supervised and at the direction of DEPRM who routinely oversees those issues as development occurs. Thus, this issue is not sufficient to warrant a denial of this development plan.

9) Failure of the Developer's Engineer to identify on the Development Plan wells and septic systems adjacent to the proposed development.

On cross-examing Mr. Edwin Howe, III, the professinal engineer who prepared the development plan, Mr. Holzer was able to bring out that there were certain wells and septic areas on adjacent properties that were not noted on the plan. Mr. Holzer indicated that the concept plan check-list requires that wells and septic systems located within 100 feet of the

boundary of the proposed development are to be shown. There are certain instances where this was not done. Mr. Holzer moved that the hearing be dismissed and the development plan denied, based on the failure of the Developer's engineer to show these items. While those items are required to be shown on the development plan, I find, in this particular instance, that the lack of same does not warrant a denial of the development plan. In this particular case, the lack of that information on the development plan does not affect the overall development proposal of the site. On the east and south sides of the subject property, the disturbance due to the construction of this facility will be a considerable distance away from its boundaries. This is also true on the north side of the site. In some cases, such as the instant case, it is next to impossible for an engineer to locate these particular items. The engineer would have to trespass onto private property to locate such items. Many property owners who live around a controversial development of this nature would in no way grant permission for a developer to come onto their property to locate such items. This could be interpreted as supporting the development itself. Therefore, I find that the Engineer's failure to show the well and septic of all properties within 100 feet of the boundary of the subject property and any streams, seeps, ponds, or other water bodies, if any, within 200 feet of the boundary of the subject site, does not warrant a denial of this development plan. The Owner/Developer has complied to the extent possible to show all information that is required to be shown on the development plan.

10) Enforcement of the conditions and restrictions imposed:

The Protestants in attendance and Mr. Holzer argued that many of the conditions and restrictions noted on the plan at this time, and quite possibly, those restrictions which will be imposed by this Hearing Officer

upon the Developer, will be difficult, if not impossible, to enforce. The concerns expressed by the citizens were taken into consideration by this Hearing Officer and every attempt to address those concerns will be built into the conditions and restrictions imposed hereinafter. Again, this issue is not sufficient to warrant a denial of the development plan at this time. In the event the Owner/Developer fails to comply with the conditions and restrictions imposed upon them by way of this Order, then the matter shall be referred to the Code Enforcement Division of the Department of Permits and Development Management (DPDM) for prosecution.

All the other issues or concerns raised by the Protestants were not sufficient to justify a denial of this development plan. The plan as submitted complies with the development regulations and applicable policies, rules and regulations promulgated, pursuant to Section 2-416, et sec, of the Code, and therefore, shall be approved. However, in accordance with Section 26-206(o), I shall impose such conditions and restrictions that I believe are necessary, based upon the issues and concerns raised by the Protestants. Those conditions and restrictions are more fully set forth below.

Pursuant to the zoning and development plan regulations of Baltimore County as contained within the B.C.Z.R. and Subtitle 26 of the Baltimore County Code, the advertising of the property and public hearing held thereon, the development plan shall be approved consistent with the comments contained herein and the restrictions set forth hereinafter.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner/Hearing Officer for Baltimore County this 30th day of July, 1998 that the development plan for the Grace Community Church, identified herein as Develop-

er's Exhibit 1, be and is hereby APPROVED, subject to the following terms and restrictions:

1) The design and appearance of the proposed Church shall be in accordance with that shown on Developer's Exhibit 3, the artist's rendering of the appearance of the Church. The Owner/Developer shall be required to utilize building materials as shown in that rendering. Furthermore, the roof of the Church shall be a gray-green or dark green in color. The height of the Church shall not exceed 35 feet at the peak of its roof. The bell tower shall be permitted to be higher than 35 feet

2) There shall be no lighting of the facade of the Church building in any manner, except for security purposes, as necessary. Any lighting the Church wishes to install on the subject property shall be reviewed for its appropriateness by Avery Harden, Landscape Architect for Baltimore County.

3) While the exterior of the Church building will be built as set forth on the plan, the Church is limited to a sanctuary with a 500-seat capacity. The second tier of the proposed Church may be built at this time; however, no seating is permitted in that area, nor shall any standing room or temporary seating be provided in that area. There shall be no activity taking place on the second tier of the sanctuary at any time during Church services. The Owner/Developer shall be permitted to modify this seating restriction in the future, but only after a public hearing is held to determine the appropriateness of any expansion in the seating capacity of this Church to that second tier.

4) The fellowship hall/gymnasium may be built at this time or at a later date; however, this fellowship hall/gymnasium shall in no way be used in conjunction with the sanctuary for Church services. No additional seating or standing room shall be permitted in the fellowship hall/gymnasium during Church services.

5) There shall be no additional buildings of any kind constructed elsewhere on the subject property, other than what has been shown on the development plan. This provision may only be modified by way of an additional public hearing to consider the appropriateness of any additional structure which may be intended to be built on the subject property.

6) There shall be no broadcast or communication towers erected on the subject property.

7) The parking lot as shown on Developer's Exhibit 1 shall consist of 244 parking spaces, dispersed over two separate parking fields. There shall be no additional paved parking areas other than what has been presented and shown on the development plan. No additional paved parking areas shall be permitted without another public hearing to consider the appropriateness of additional parking spaces. The Owner/Developer shall be permitted to use grassy, open areas of the subject property for overflow parking, only during Christmas and Easter Church services. There shall be no overflow parking permitted on the open fields of this property at any other times during the year.

8) There shall be no kitchen or cooking facilities located within the Church, other than the permitted "warming kitchen", as discussed at the hearing and approved by DEPRM.

9) There shall be no daycare or other school facility provided within the Church. Of course, Sunday School classes for members of the congregation are permitted.

10) There shall be no outdoor services of any kind, no outdoor concerts, or carnivals permitted on the Church grounds. There shall be no outdoor loudspeakers or outdoor pavilions of any kind permitted on the property.

11) The Owner/Developer is required to install all landscaping as shown on Developer's Exhibit 6, the landscaping plan submitted at the hearing. The landscaping to be installed shall be reviewed and approved by Avery Harden, Landscape Architect for Baltimore County. Mr. Harden, at his discretion, shall be permitted to increase the amount of landscaping to be installed should the need arise to provide additional buffering or screening.

12) Within ninety (90) days of the date of this Order, the owner/Developer shall be required to submit a lighting plan for the subject property for review and approval by Mr. Avery Harden. Said plan shall be a computer-generated lighting plan, containing light standards no taller than 20 feet, utilizing cut-off lighting versus floodlighting. Said lighting shall be extinguished one hour after the latest evening service then occuring on the property, or by no later than 10:00 PM on any evening, whichever is later. In addition, the entrance sign to the Grace Community Church may not be back-lit; however, the Church shall be permitted to use ground spot-lights to illuminate their sign, so long as this ground lighting does not impact the night vision of motorists travelling along

Belair Road. As with all other lighting, the lighting for the identification sign must be extinguished by 10:00 PM of any evening, or within one hour after the last evening service, whichever is later.

13) The Church shall be responsible to secure the services of the Baltimore County Police Department to assist in directing traffic safely from the subject site. If this is not possible, only right turns onto Belair Road shall be permitted from the subject property and the Church shall be required to post their exit accordingly. This restriction shall only apply at the conclusion of regular Church services. At other times during the week, Church members shall be permitted to make left turns onto Belair Road. As stated earlier in this opinion, the volume of cars exiting the property at the conclusion of services is at its maximum. Allowing Church members to turn left during these peak times would be too dangerous. Therefore, members must turn right and proceed to the triangle at Belair/Jerusalem/Bradshaw Roads in order to turn south on Belair Road at the traffic light. Members are prohibited from using Goettner Road unless they reside in that area of the community.

14) The Owner/Developer shall permit a Baltimore County Code Enforcement Inspector to have access to all areas of the Church for purposes of ensuring compliance with the terms, conditions and restrictions of this Order.

15) When applying for any permits, the site plan and landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

Any appeal of this decision must be taken in accordance with Section 26-209 of the Baltimore County Code.

Timothy Kotroco

TIMOTHY M. KOTROCO
Hearing Officer
for Baltimore County

TMK:bjs

IN RE: PETITION FOR SPECIAL HEARING
SW/S Mt. Vista Road, 1800' SE
of the c/l of Harford Road
(6433 Mt. Vista Road)
11th Election District
5th Councilmanic District

Beachmont, Inc.
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-50-SPH
*

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing filed by the owner of the subject property, Beachmont, Inc., by Paul T. Twining, Director and Gil Thompson, Secretary, through their attorney, Ernest C. Trimble, Esquire. The Petitioner seeks approval of an amendment to the previously approved site plans in Case Nos. 75-83-X and 89-489-SPH by removing Restrictions 1, 2 and 3 thereof and approving the modified site plans proposed herein, in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Paul Twining, Director, and Gilbert Thompson, Secretary. The Petitioners were represented by Ernest C. Trimble, Esquire. Appearing as Protestants in the matter were Scott Striebinger, Dorothy Dunsmore, Robert G. Hamilton and Marianne Roebber-Hamilton, Robert F. Long, Franz Brandl, and Charles E. Lucas, all residents of the surrounding community.

The first hearing in this matter was held on September 9, 1993. After taking testimony and evidence at that hearing, the case was continued to allow the Petitioners and the Protestants an opportunity to meet and discuss the proposed changes to the site plan. A continued hearing was scheduled for November 19, 1993 to take testimony and evidence concerning the negotiations that took place from the time of the first hearing.

Protestant
CBA Exhibit
79

Mr. Twining also testified concerning special events that take place on the property. He testified that Beachmont has a special Fourth of July celebration and a special Easter celebration at which as many as 800 people will attend. The Petitioner seeks the ability to operate six (6) special functions per year with no more than 1,000 persons present at any one event. Furthermore, Mr. Twining testified that in the 19 years Beachmont has operated from the subject site, there have never been any motor vehicle accidents at the entrance to the facility from Mt. Vista Road. He further testified that the Camp does offer live music which is played in conjunction with their Christian services. He testified that the new activity center will take some of that live music, which can be offensive to surrounding residents, indoors and will eliminate some of the noise about which the neighbors have complained. Mr. Twining testified that the new building they wish to construct will cost approximately $700,000 which the Camp still needs to raise at this time.

The Petitioner also submitted several letters of support from various beneficiaries for both the day camp operations and the relief requested by Beachmont. It should also be noted that several letters of opposition were submitted by various residents in the area, including some of the Protestants who appeared at the hearing.

As previously stated, several residents appeared in opposition to the Petitioner's request. The testimony presented was basically uniform in its nature. The residents complained of the noise generated by the Christian Camp. Furthermore, they testified that campers will often take hayrides along the border of the Christian Camp and their respective properties, and that on occasions, these day campers will impose upon their privacy by looking into their property as they pass by. Furthermore, the

adjacent property owners complained of a vespers area that is situated on the southern corner of the property. This area has been set aside by Beachmont as an area for Christian services to take place outdoors. The vespers area has been set aside because of its location near an existing lake on the property. Furthermore, there is a small alter area where these vespers take place. The Protestants find these services objectionable because of noise generated by the use of loudspeakers during these Christian services. Furthermore, they stated that music is often played loudly during these services which also imposes upon the peace and tranquility the residents have come to enjoy in this rural area of Baltimore County.

The neighbors also objected to the use of campfires by Beachmont Christian Camp. They testified that on occasions, the smoke from the campfire will drift onto their adjacent properties and pose a nuisance to them. Furthermore, they fear that any increase in membership or construction of new facilities will exacerbate the already undesirable conditions that exist as a result of the Christian Camp operation.

At the conclusion of the testimony and evidence presented at the hearing, I gave an opportunity to the Protestants and the Petitioners to meet and discuss some of the differences that were voiced at the hearing. The individuals involved were given a sufficient amount of time to exchange information and ideas as to how to make this a better Christian Camp for all concerned. After an appropriate amount of time, the matter was reset for a hearing on negotiations and any progress that was made between the parties. Mr. Scott Striebinger, President of the Greater Mt. Vista Association, advised this office by letter dated October 15, 1993 of the progress, or lack of progress, that was made between the parties and submitted a list of their concerns. The issues raised in his letter will be

addressed pursuant to the restrictions and conditions imposed at the end of this Order.

It should be noted that the only restriction that is applicable to this property, according to the records of the Baltimore County Zoning Administration Office, is the number of individuals permitted to utilize the proposed activity center which is limited to 250 persons at this time. The second restriction which concerned overnight camping is not applicable as the Petitioner does not intend to provide overnight camping facilities. To that end, I will impose a restriction that no overnight camping be permitted on the property.

As noted above, the Petitioner wishes to increase the number of people permitted to utilize the activity center from 250 to 350 persons. The Petitioner is also requesting to increase the total number of people permitted to use the camp from October through April to 350 people daily and to increase the total number of people permitted to use the camp from May through September to a maximum of 720 people daily. In addition, the Petitioner wishes to increase the number of special events held from two times per year to six times per year and to permit an increase in the maximum number of people permitted to attend those events to 1,000. I was unable to find in the two prior cases referenced pursuant to this special hearing any of the restrictions cited herein. The testimony and evidence presented was unclear as to whether these were restrictions that were imposed by either Mr. DiNenna or Mr. Haines, the two previous zoning Commissioners who heard those cases. However, I will rule upon the appropriateness of the Petitioner's request in this instance, inasmuch as it is the Petitioner who has indicated that these restrictions apply to the use of the subject property.

In the opinion of this Deputy Zoning Commissioner, the number of persons permitted to use the activity center should be increased. Since the time that Mr. DiNenna imposed that restriction upon the use of the barn, which has since been razed, several changes have taken place. The Camp has acquired additional land and now totals 31.2 acres. The Petitioner seeks to develop the site with a $700,000 facility to accommodate guests as opposed to accommodating them in the old barn. The new activity center can easily handle the increased number of people proposed and the effects on the community will be minimal since activity will be inside. Also any additional traffic as a result of the increased number of people permitted to use the facility should not pose any problems since there have never been any accidents at the entrance to this site and parking on site is plentiful. Therefore, I believe that the number of persons permitted to utilize the new activity center should be increased from 250 to 350 people. This limitation of 350 people daily shall apply to all twelve (12) months of the year and the only exception to that number shall be for "special events" held by the Petitioner.

The main purpose for requesting the special hearing is to permit Beachmont to construct a new activity center in the location where the old barn used to exist. This is something that has been contemplated over the many years that Beachmont has been in existence. I believe it is appropriate at this time for Beachmont to be able to construct this new activity center. However, the use of the activity center and the use of the entire site as a Christian Day Camp will be restricted pursuant to the conditions and restrictions imposed hereinafter.

After due consideration of the testimony and evidence presented, it appears that the relief requested in the special hearing should be

granted, subject to restrictions. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In the opinion of this Deputy Zoning Commissioner, the new activity center and related parking areas as shown on Petitioner's Exhibit 1, and the relocation of the maintenance shed to the edge of the parking lot will not result in any detriment to the health, safety or general welfare of the surrounding community and meet the spirit and intent of the zoning regulations.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the special hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 20th day of December, 1993 that the Petition for Special Hearing seeking approval to amend the previously approved site plans in prior Case Nos. 75-83-X and 89-489-SPH by removing Restrictions 1, 2 and 3 thereof and approving the modified site plans proposed herein, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

2) The number of people permitted to occupy the new activity center shall be limited to 350 persons per day. In fact, throughout the entire year the total number of persons permitted to use the Camp facilities shall be limited to 350 persons daily, except during special events as provided for in Restriction 3.

Date 12/20/93

By

3) The Petitioner shall be permitted to conduct special services four (4) times per year and a maximum of 700 persons shall be permitted to attend any one of the four special services.

4) During such times as a special event may be taking place at the Beachmont Christian Camp, the Petitioner shall provide private parking attendants to assist with the safe flow of traffic to and from the site.

5) All services and activities that are conducted on site must be concluded by 10:30 PM on any given day.

6) The Petitioner will make every effort to reduce the amount of noise generated by the children who attend this Christian Day Camp particularly during such times as the children are engaged in outdoor activities. Furthermore, the Petitioner shall adjust the amplified speaker system to reduce all noise and to deflect same away from any adjacent property owners.

7) All hayrides or wagon rides shall be rerouted to lessen their infringement upon the privacy of adjoining residential property owners.

8) The Petitioner shall eliminate or relocate camp fires and outdoor barbecuing facilities to reduce the effects of smoke and to keep any smoke from drifting onto adjacent residential properties .

9) The Petitioner shall rearrange or relocate the vespers area located on the southern portion of the site in a manner that will direct all singing, chanting, and praying away from the adjoining residential properties to lessen the impact that these services have upon the neighbors' quiet enjoyment of their property.

10) The Petitioner is prohibited from providing overnight camping facilities at this time. However, in the event the Petitioner desires to provide overnight camping facilities in the future, it has the right to request a special hearing to amend this restriction.

11) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

:bjs

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

March 20, 1996

Mr. Gilbert Thompson
Secretary
Beachmont Christian Camp
6433 Mt. Vista Road
Kingsville, Maryland 21087

RE: Revised Parking Layout
Beachmont Christian Camp
Zoning Case #94-50-SPH
11th Election District

Dear Mr. Thompson:

Your letter to Arnold Jablon, Director of Permits and Development Management, has been referred to me for reply. Your request is for approval of a revised parking layout (discussed by the county's Plans Review Office) as shown on the submitted red-lined site plan. This office is approving your request as being within the spirit and intent of approved zoning case #94-50-SPH provided the travelways, aisle widths and parking spaces comply with Section 409 of the Baltimore County Zoning Regulations (20 feet, 22 feet and 8 1/2 x 18 feet respectively and the required number of parking spaces provided).

I trust that the information set forth in this letter is sufficiently detailed and responsive to your request. If you need further information or have any questions, please do not hesitate to contact me at 887-3391 (FAX - 887-5708).

Sincerely,

John J. Sullivan, Jr.
Planner II
Zoning Review

JJS/jnw

Enclosure

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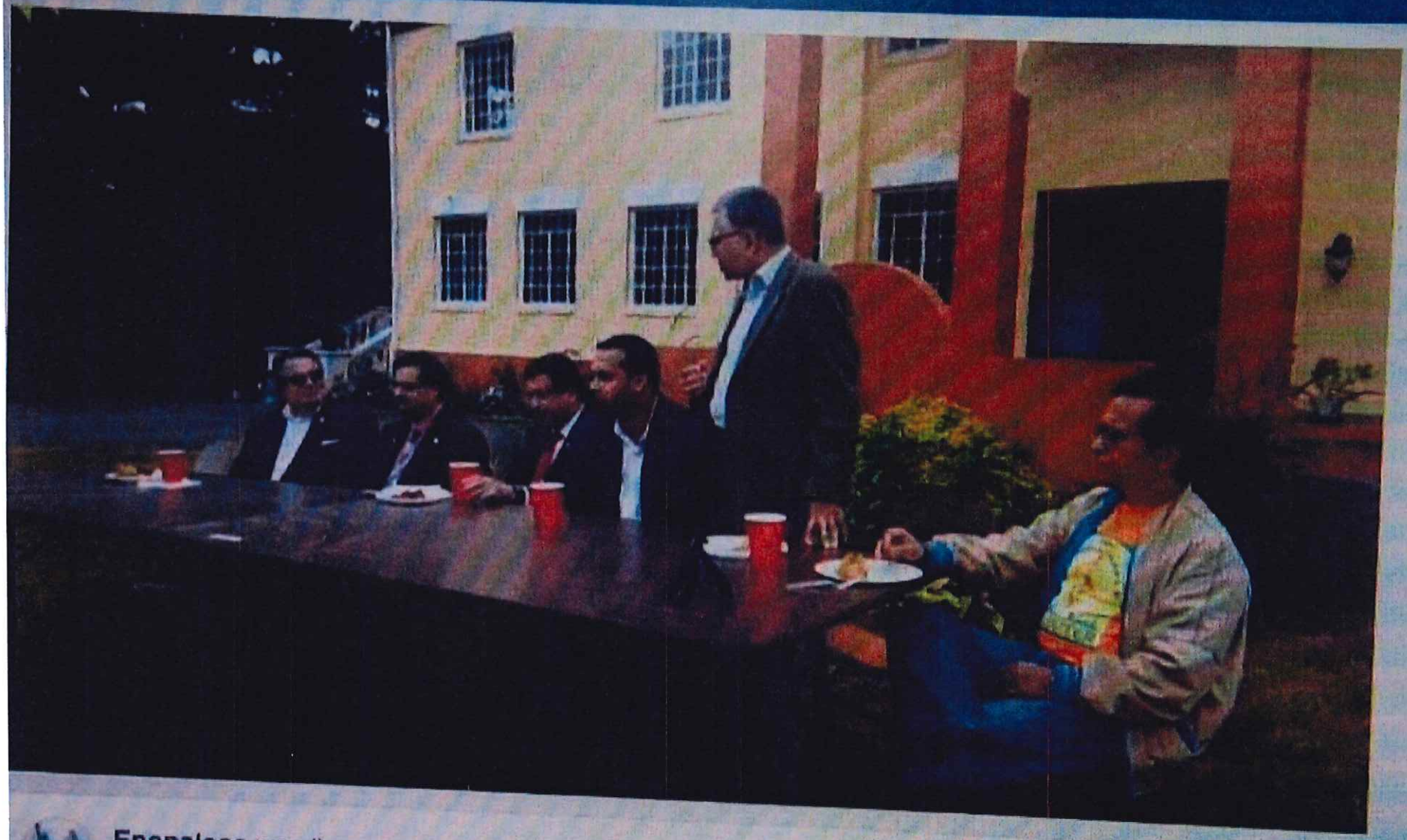

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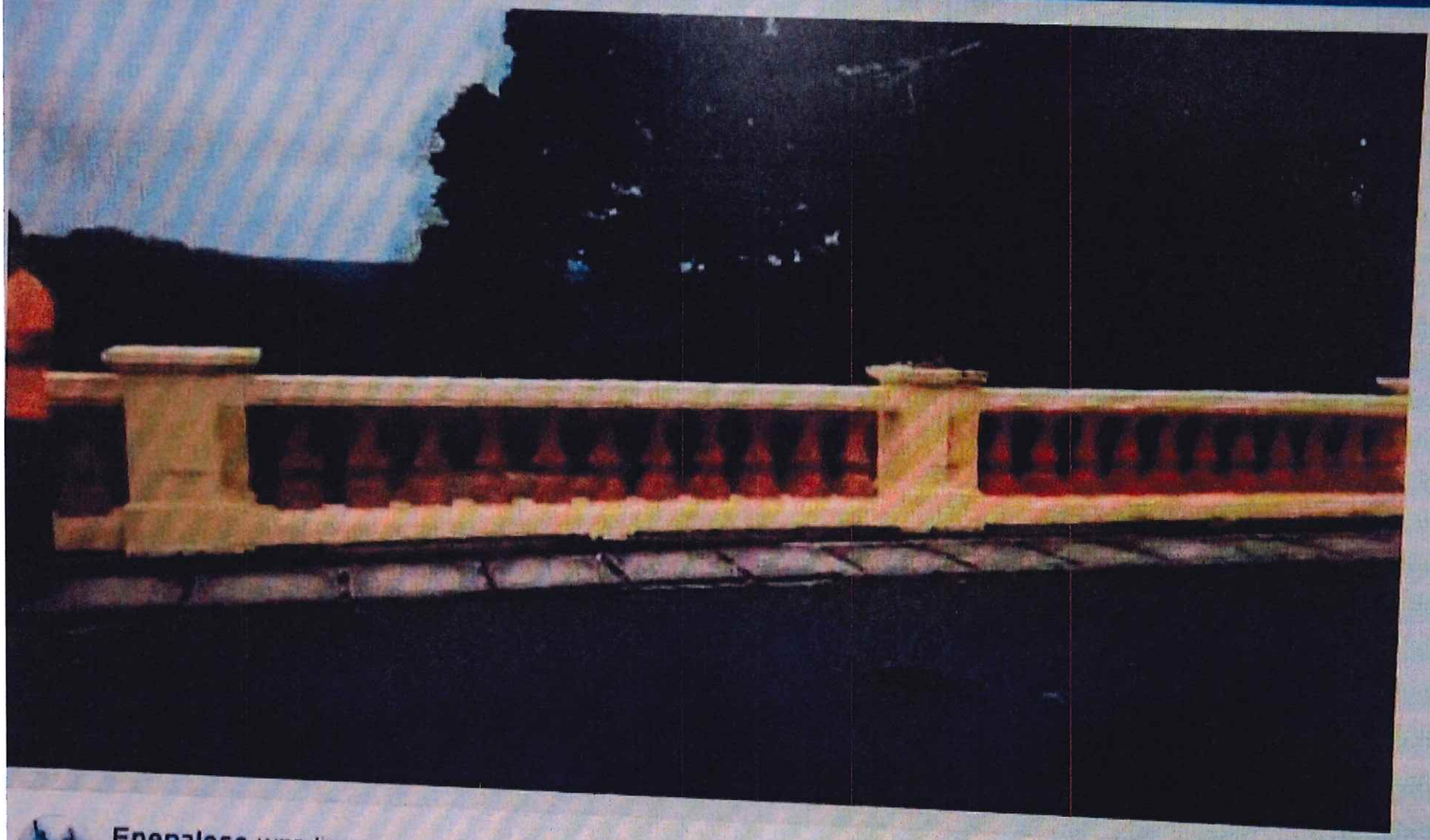

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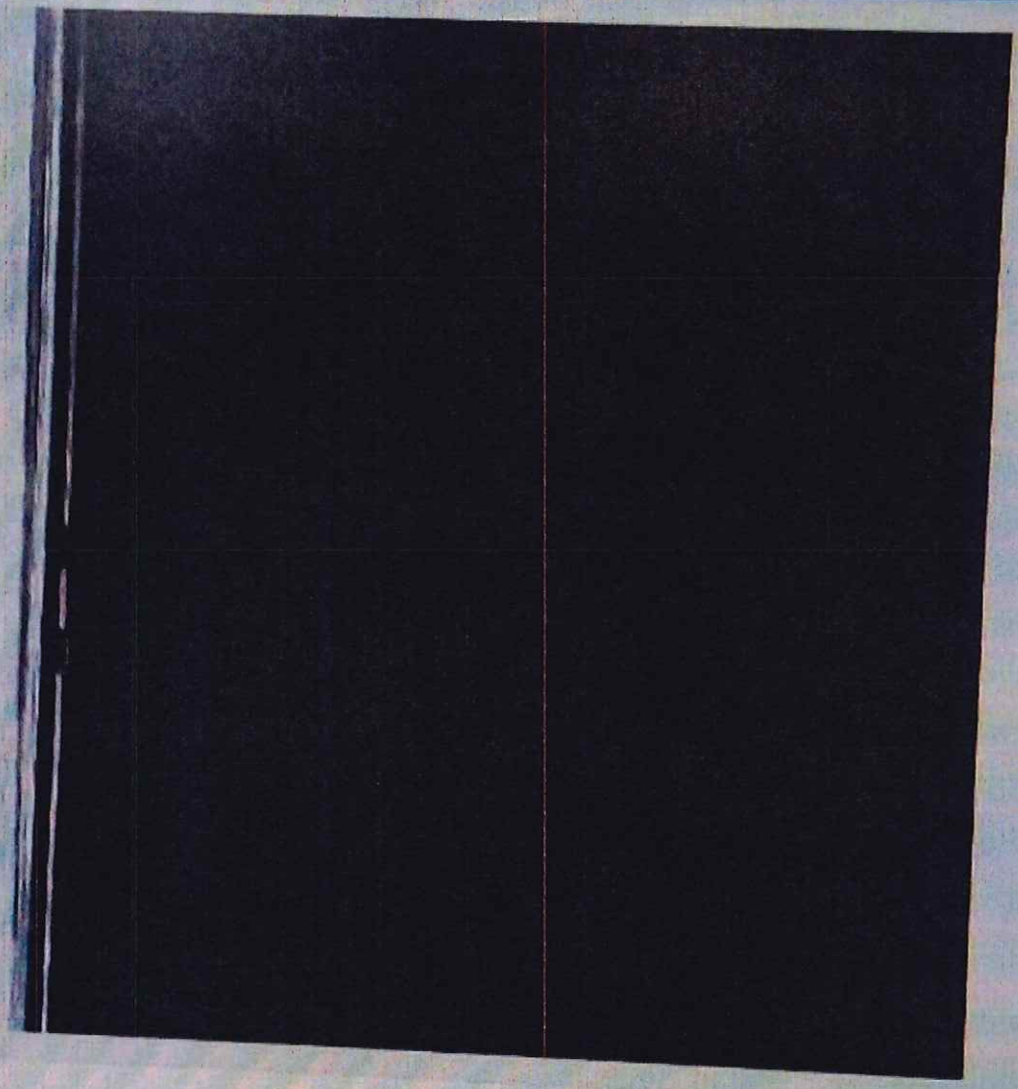

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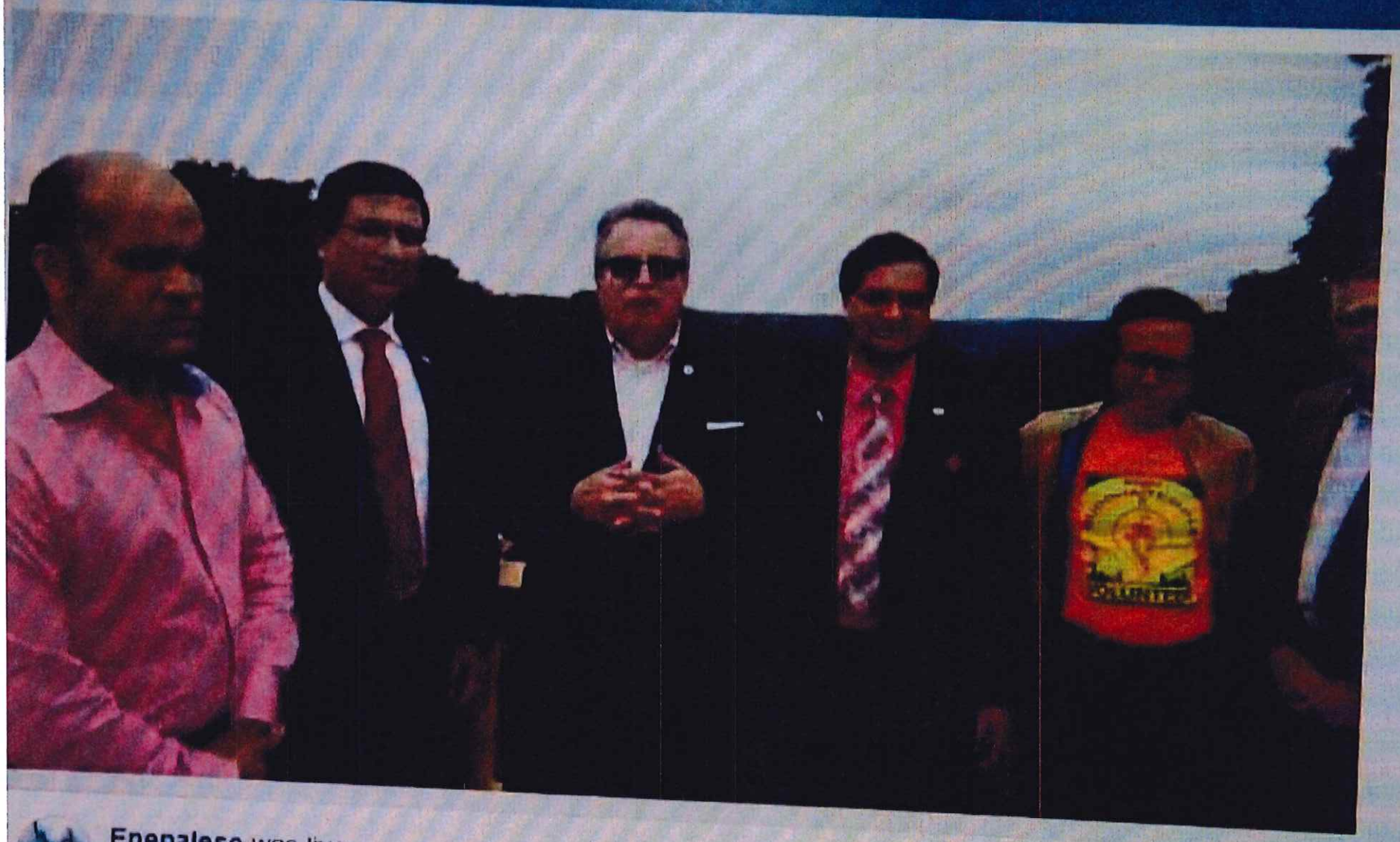

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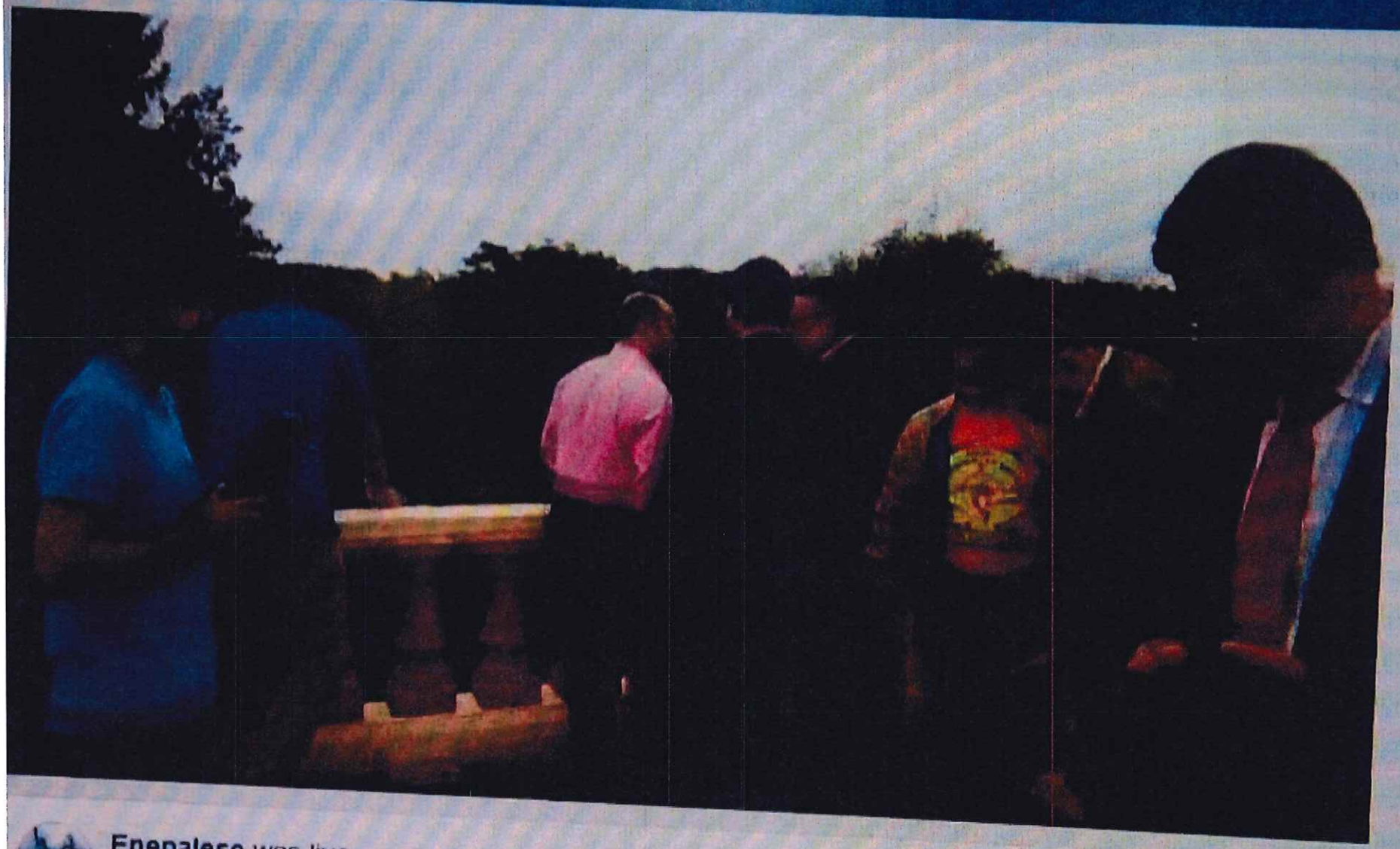

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Belmont Park Volleyball Group

Belmont Park Volleyball Group

@GorkhaliBPVG

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Belmont Park Volleyball Group was live — at Hindu Buddha Mandir.
November 4 at 8:56 AM · Glen Arm, MD

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Shyam Karki · Timeline · 2017 · All Posts

Community Hospital

Former Clinical pharmacist at Rochester Psychaitric Center, Rochester, NY

Studied Pharmacy at School of Pharmacy, SUNY at Buffalo

Studied Economics at Tribhuvan University

Studied Pharmacy at American University of Beirut (AUB)

Went to Vishwa Niketan High School

Followed by 1,018 people

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Golden voice of Gulam Ali Sahab

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Shyam Karki
July 27, 2017 ·

I invite all of my friends to join us at this Family Festival and have lots of fun and laughter in our own property.

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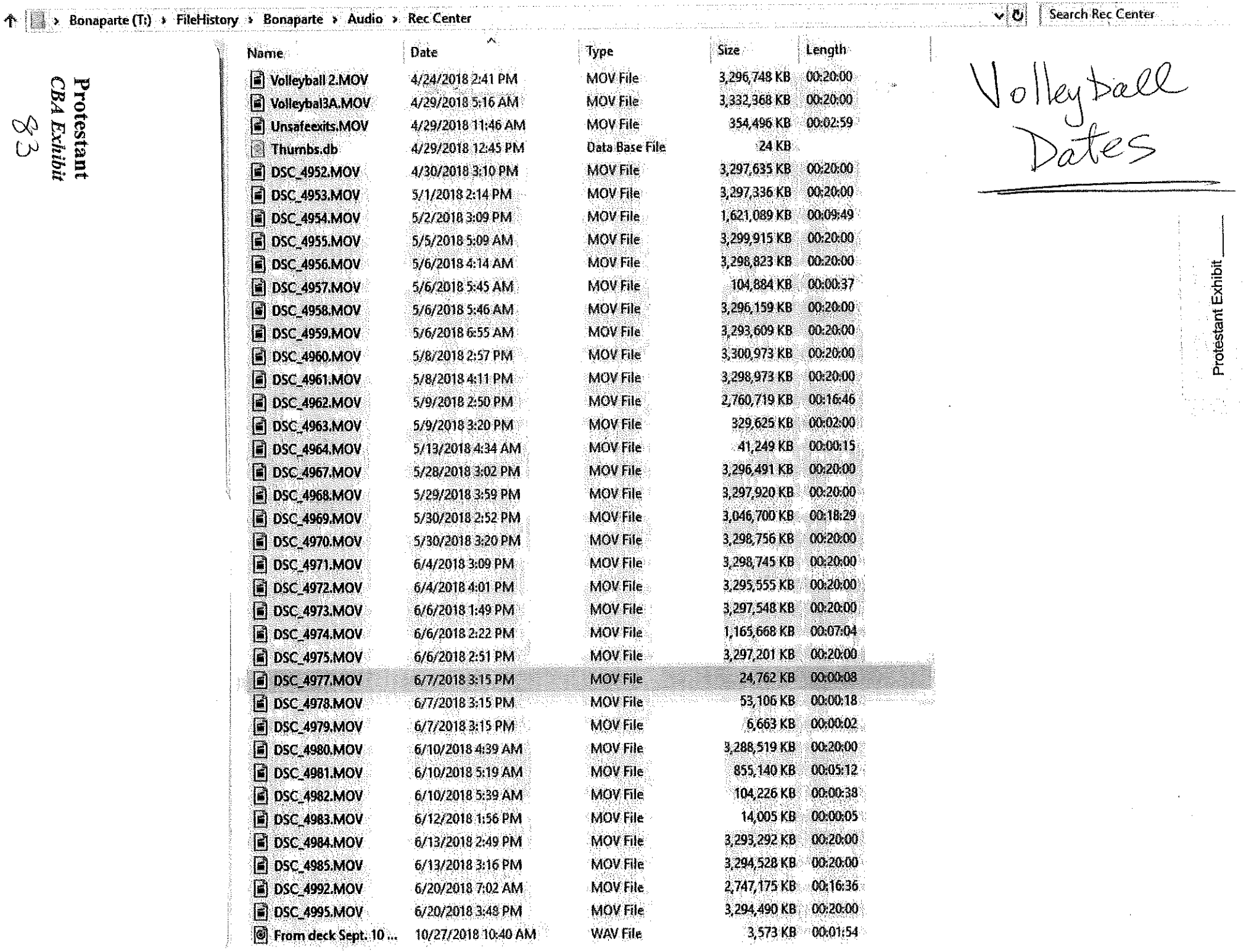

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Search Rec Center

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..पहिलो एन. ए. सि. सि. ग्रृष्मकालिन पारिवारिक महोत्सवमा आयोजना गरिन लागेको "खुल्ला मैत्रीपुर्ण भलिबल प्रतियोगिता" मा सहभागी हुन चाहनु हुने DMV एरिया लगायत यस वरपरका सम्पुर्ण इच्छुक भलिबल टिमका साथीहरूलाई यथासिघ्र सम्पर्क गर्न हुन हामी हार्दिक अनुरोध गर्दछौं।

1st NACC Summer Family Fun Festival : 2017
स्थान: हिन्दु बुद्ध मन्दिर, Baltimore, Maryland
मिति: जुलाई २९ र ३० तारिख, (शनिबार र आइतबार)...
See More — with Bishh R Shrestha, Cla Ad Sharma, Babita Pradhan Shrestha, Rajane Gurung, Daman Bikram Shah, Aakash Shrestha, Bina Joshi, Bijay Gautel, Chandra Saud, Bimala Senchuri, डी. एस. मगर and Rashmi N.Gopal Gurung at Hindu Buddha Mandir.

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8/15/2017

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[redacted] Kris Ghimire × [redacted]

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Kris Ghimire

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Intro

Proud husband and father....loves real estate & passionate about helping people.

- Owner/ President at Ghimire Homes
- Worked at Frederick National Laboratory - Leidos Biomed
- Former CEO at Ghimire International Mortgage Corp.

Photos

Kris Ghimire added 8 new photos to the album: NACC- Baltimore Summer Fest 2017 by Bhawani Mahat and 10 others — with Apar Shrestha and 7 others at Hindu Buddha Mandir.

23 hrs

"Thank you" is not enough to appreciate all the hard work and efforts of our volunteers, various event coordinators, most specially our main event coordinator, Shreejan Tamrakar who put his heart and soul for the past two months. What a fabulous job ...seeing so many families enjoying the festivities was just a heart warming experience!

Over 1000 attendees from across the state lines came to be a part of this grand festival over 2 days. We had volleyball teams from New York, Pennsylvania, Columbia and off course from Baltimore... and event participants from New Jersey, Virginia and many other states. One of the attendees from VA asked, "Can we have some of your volunteers in Virginia to jump start what you are doing in Baltimore with the mandir?" This sums up everything about our volunteers. Simply "Thank you" for everything you have done. So proud to be a part of this wonderful team!

Be a part of our Facebook group today:
https://www.facebook.com/groups/1119950008024681/

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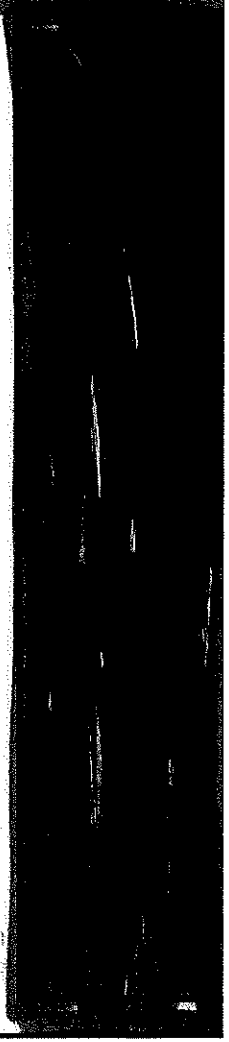

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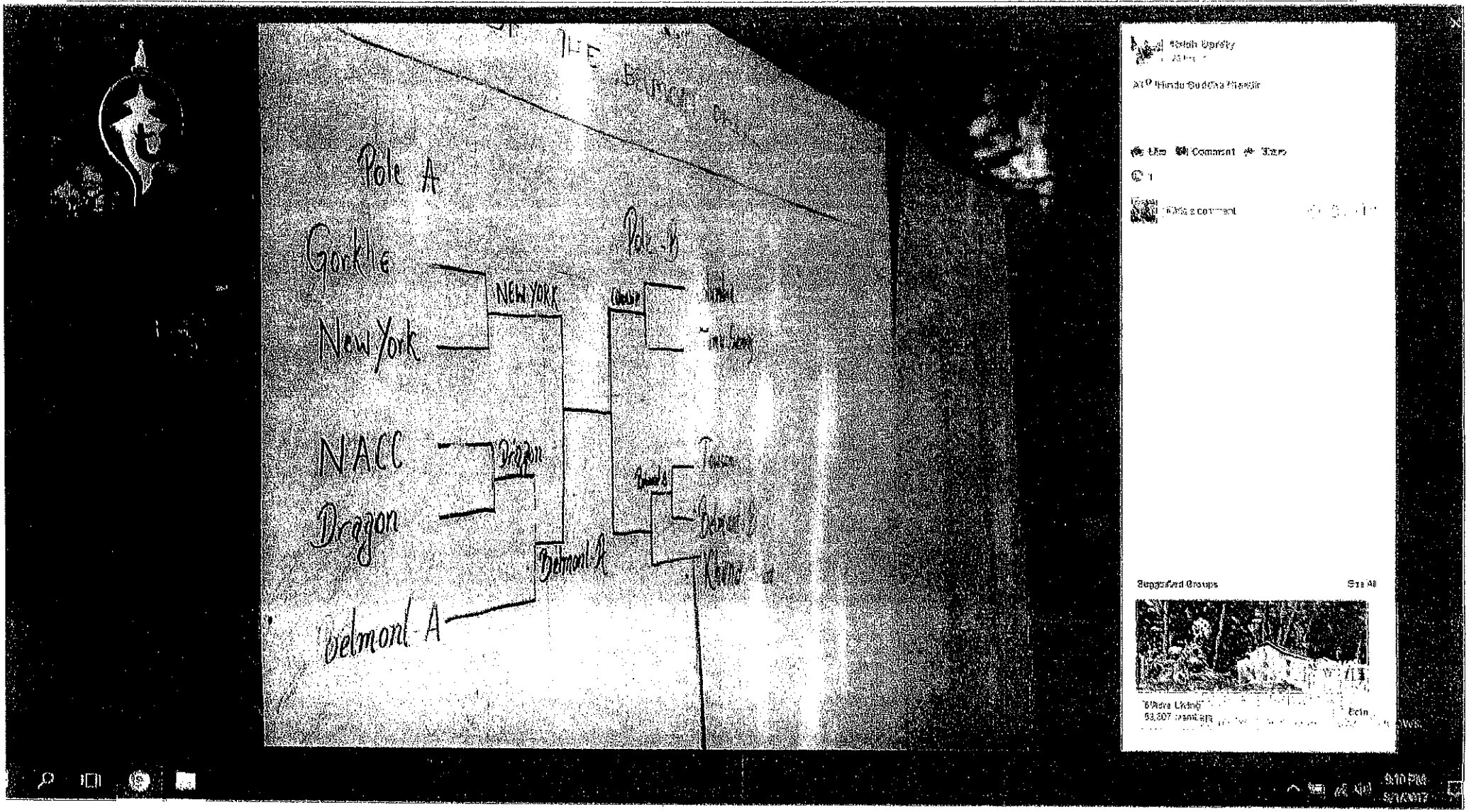
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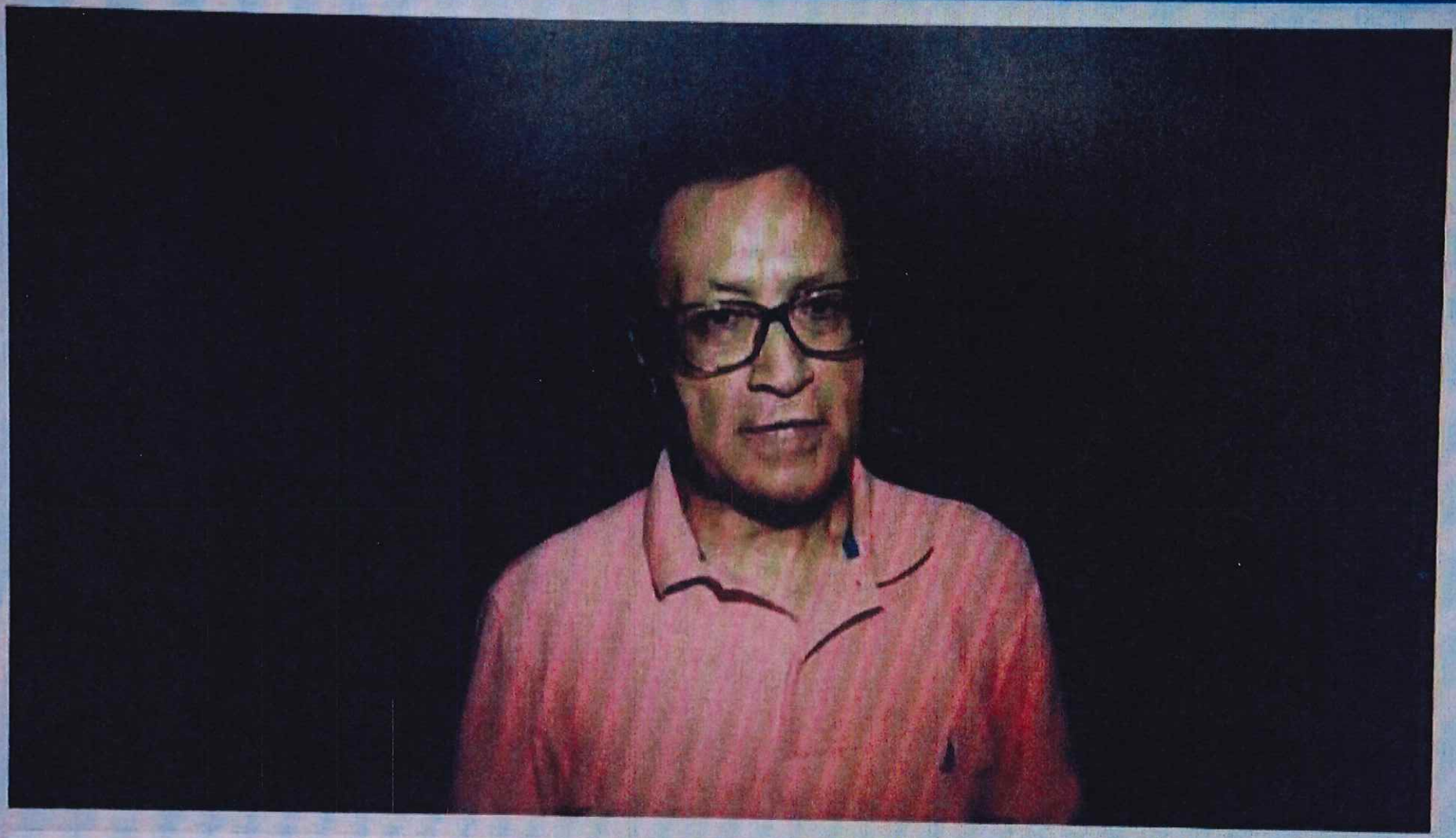

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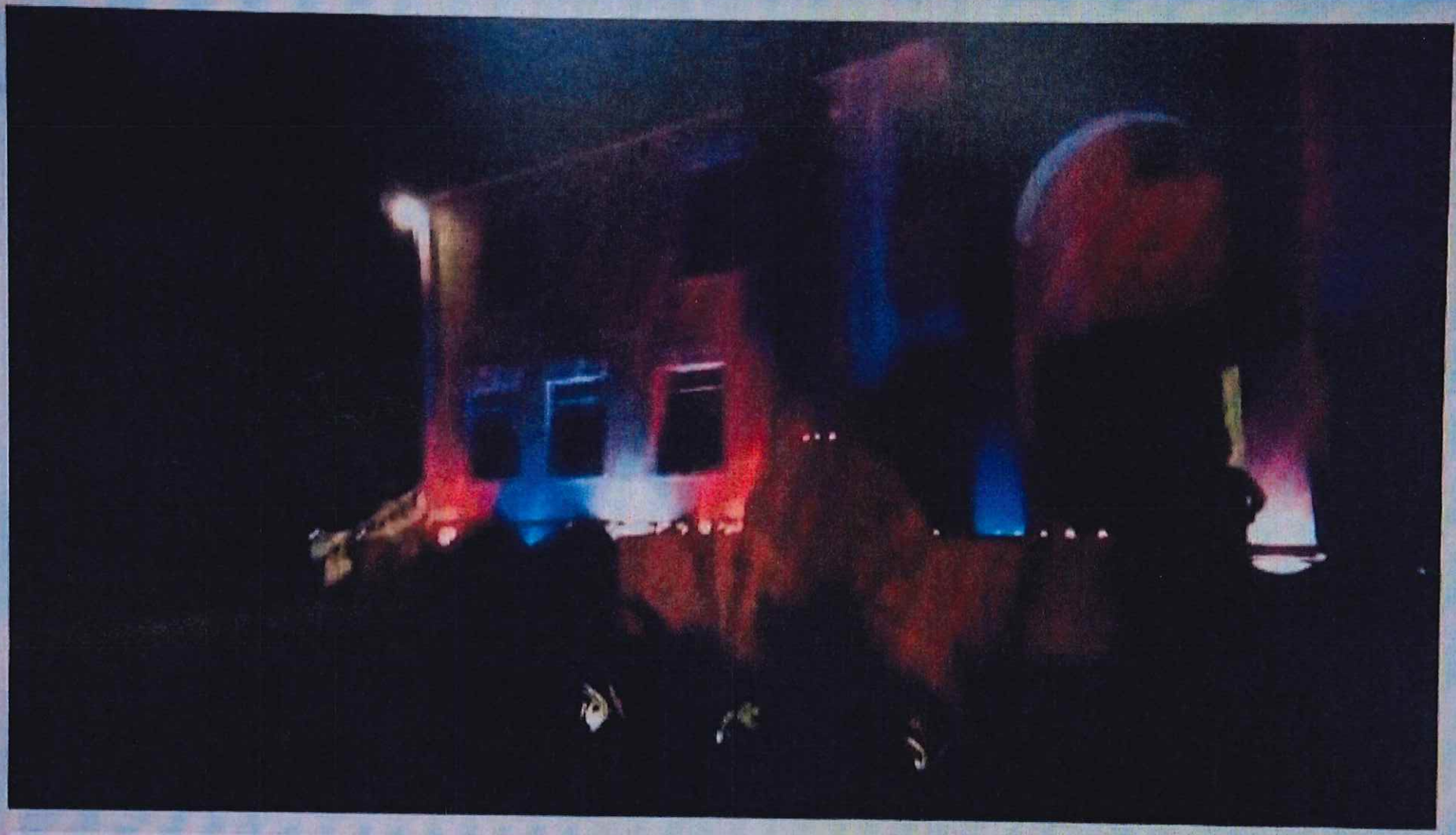

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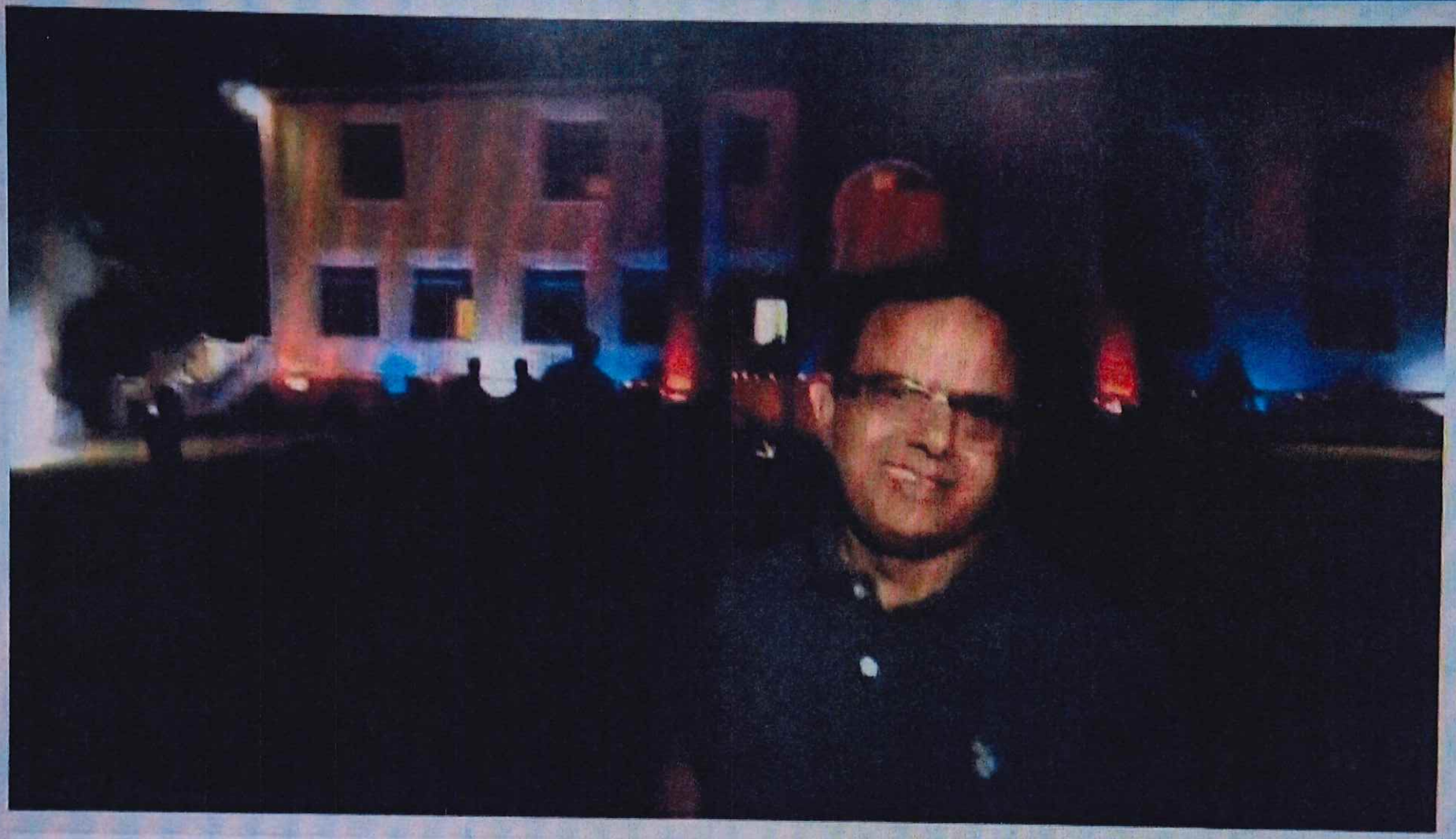

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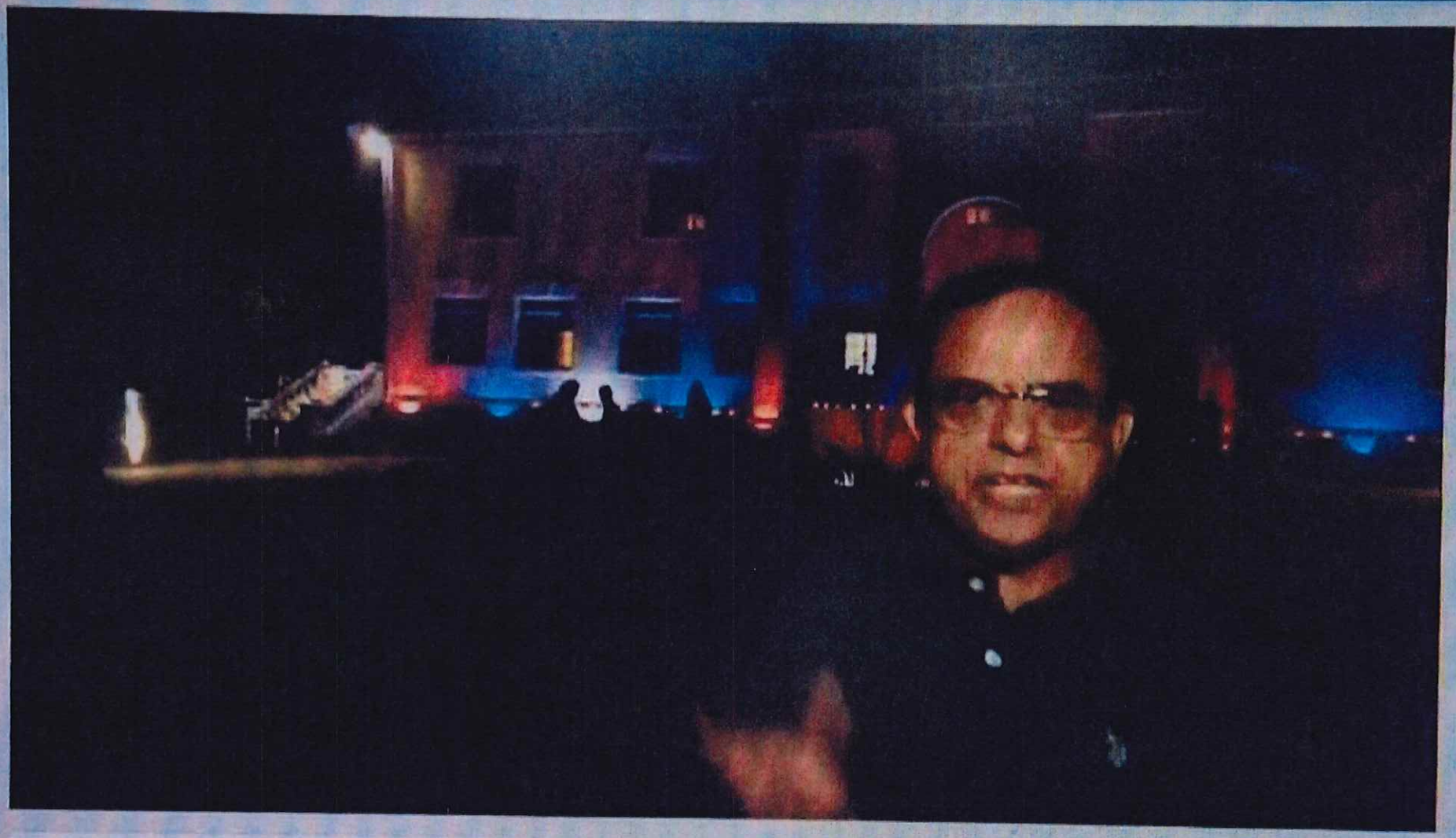

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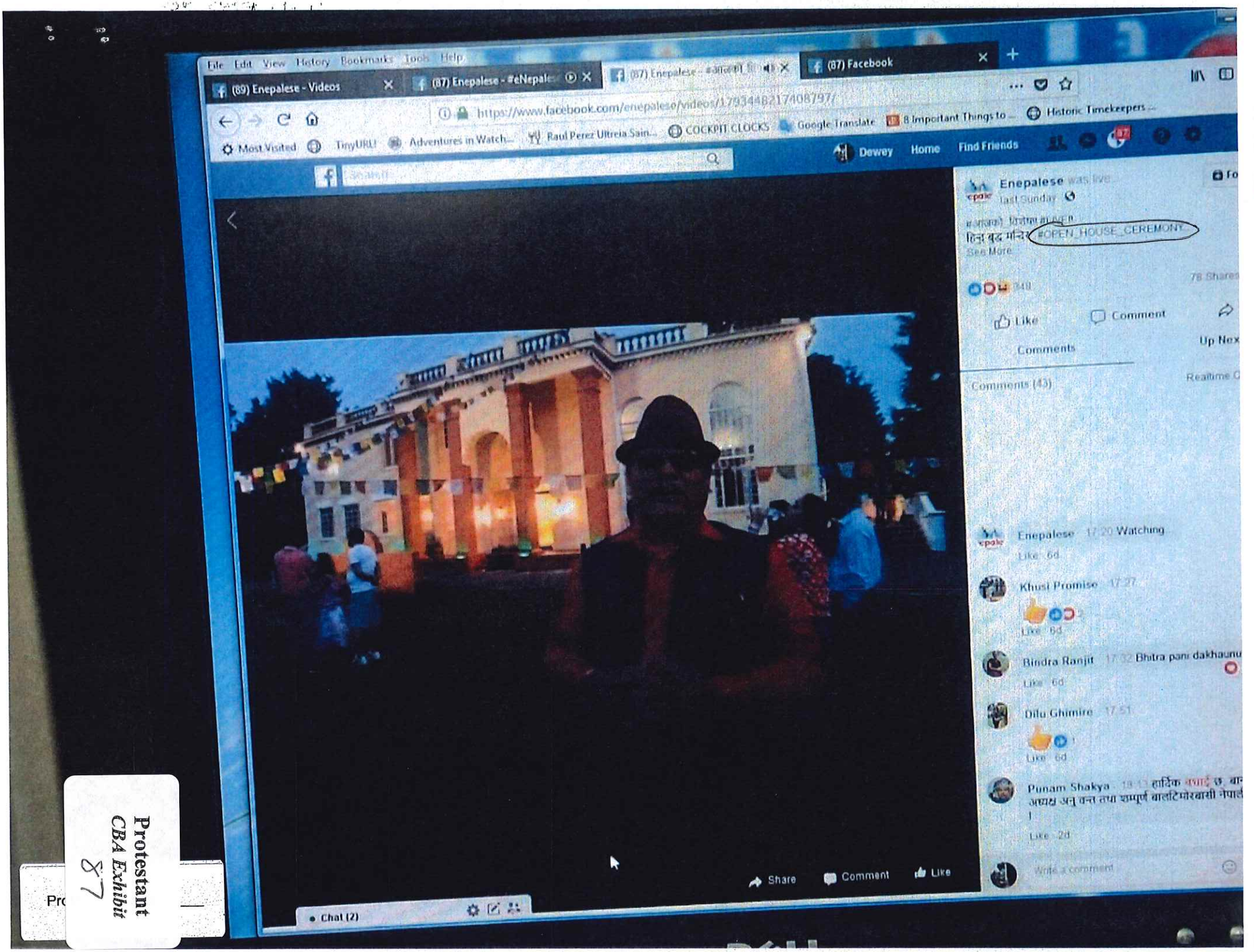

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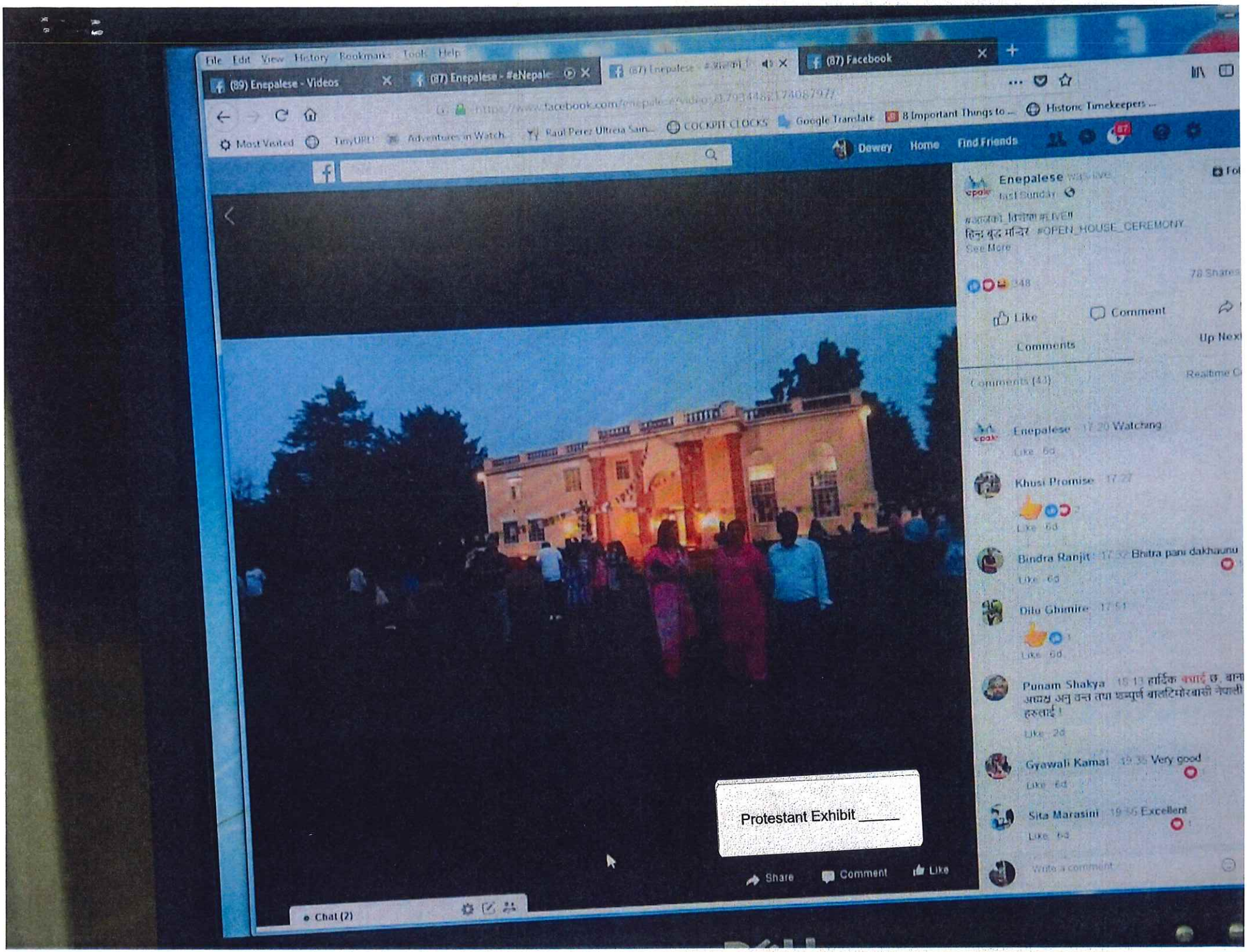
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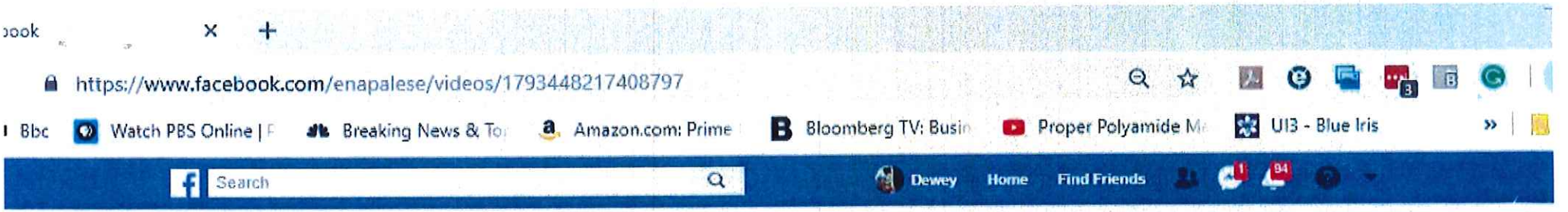
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Enepalese is at Hindu Buddha Mandir.
July 11 · Glen Arm, MD

#बाल्टिमोर_महापुराण 2018
(July 28 - August 3)
'मनुष्य आफ्नो विश्वासबाट निर्मित हुन्छ। जस्तो ऊ विश्वास गर्छ। त्यस्तै ऊ बन्छ' गीतामा श्रीकृष्णले

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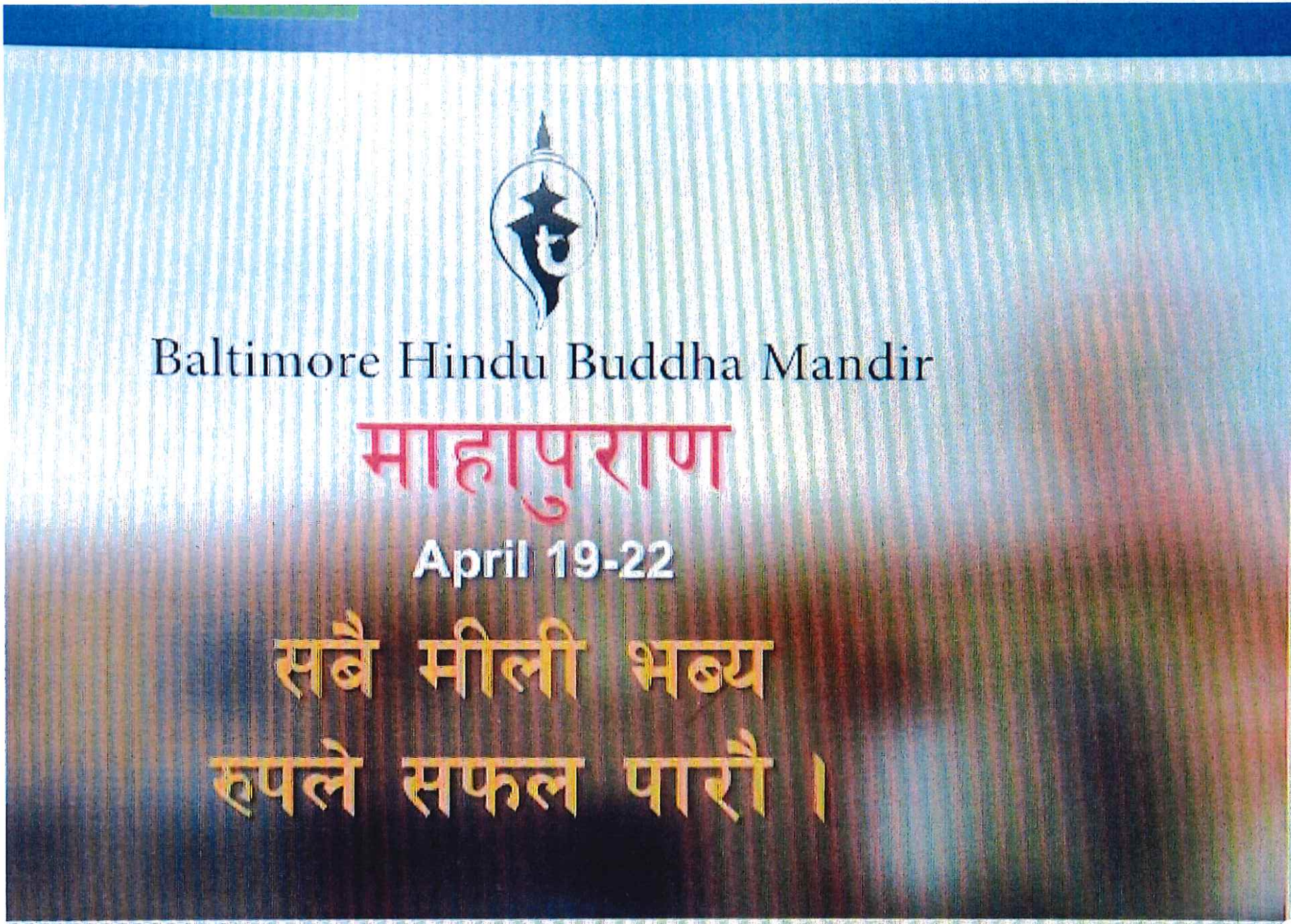

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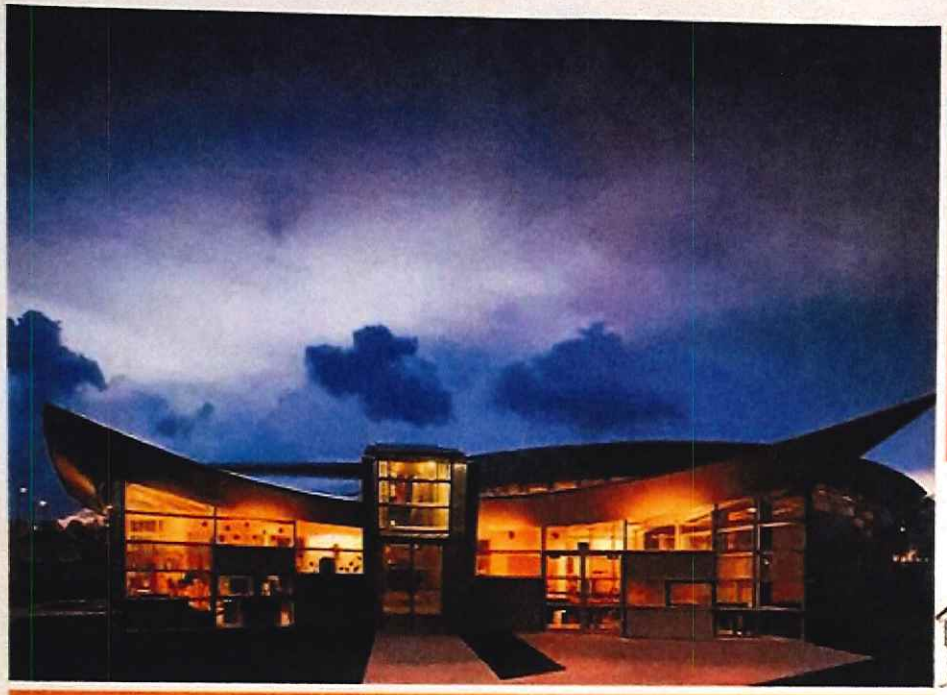

BNCC'S FUTURE COMMUNITY CENTER

Baltimore Nepalese Community Center (BNCC)

OCTOBER 2014

TABLE OF CONTENTS

- Introduction & Background - Page 2
- Estimated Costs - Page 3
- Operational Plans – Page 3
- Donors' List – Page 4

Letter of Appreciation!

by *BNCC Newsletter Team*

Happy Dashain and Tihar!

We are writing to thank you for your support and especially for your financial contribution to build our very first Nepali Community Center in the greater Baltimore area. With great excitement we're happy to report some progress regarding this momentous but very important task.

The name of this center has been decided as ***Baltimore Nepali Community Center*** or "***BNCC***" in short at one of the public meetings held at Kathmandu Kitchen. This entity is to be incorporated in the state of Maryland with BANA as its parent entity. BANA's executive committee is currently working on incorporating this entity legally in the state of Maryland.

As you know, BANA initiated efforts to build a community center in Baltimore and organized "***Maha Puran***" as one of its first steps in promoting and fund-raising for the cause. Over 120 of you pledged your support at this program totaling more than $160,000 in financial contributions. It took a little longer for us to report on the progress and reach out to you regarding our future plans. We sincerely apologize for any delays. However, we're happy to report that we have developed concrete plans to move forward and accomplish our dream of building the very first Nepali culture center right here in Baltimore!

First, we have formed two committees to spearhead these efforts. The Fund-Raising committee led by the current BANA president, Mr. Bijaya Shrestha, will focus its efforts solely in raising funds for the project while the technical team led by BANA's past president, Mr. Kris Ghimire will coordinate the technical aspects of the project, such as the acquisition of a potential site or building. Second, we have developed a timeline with concrete milestones to achieve our objectives. A detailed project plan will be presented via our very first newsletter of BNCC.

As we embark on this important journey we're are going to need your continuous support not only to build the center but also to sustain it. We are fully committed to this long term project just as you are to the cause that we all believe in- Nepali Community Center. "*No ideas are bad ideas*" so please let us know your creative ideas or feedback; we would love to hear from you!

We look forward to working with you and are counting on your continuous support!

Protestant
CBA Exhibit
91 FD only

List of Donors

The donors' list below is in alphabetic order. We apologize in advance for any misspelling of names. We are in the process of verifying names and addresses of donors. Names of spouses will be added as donors as soon as we obtain their name.

SN	Donors	Pledged
1	Aama Samuha	1,051.00
2	Amar B. Gurung	1,020.00
3	Ananda K. Ghimire	501.00
4	Anuj Saijoo	100.00
5	Arjun Shahi	2,222.00
6	Arjun Thapa	101.00
7	Arya & Ryan Homagain	501.00
8	Bharat Budha Thoki	50.00
9	Bheem Prasad Kattel	501.00
10	Bhim Kumar Tamang	501.00
11	Bhuvin Serchan	501.00
12	Bijaya Shrestha	25,555.00
13	Bijaya Thapa	51.00
14	Bikash & Rina Gautam	1,001.00
15	Binod Upreti	1,002.00
16	Bira Tiwari	101.00
17	Bishal Man Shrestha	1,001.00
18	Bishnu Ghimire	201.00
19	Bishnu Kumari Thapa	100.11
20	Dal Bahadur Rokka	1,550.00
21	Dan Bahadur Rokka	501.00
22	Deba Brata Sharma	1,501.00
23	Dharma Bishwokarma	5,001.00
24	Dhruba Gouli	501.00
25	Dilli Raj Paudel	501.00
26	Dinesh & Nisha Bhandari	501.00
27	Dinesh Gurung	501.00
28	Dipak R. Paudel	101.00
29	Diwakar Gyawali	2,001.00
30	Donation Box	610.00
31	Durga Shrestha	5,001.00
32	Edlyn & Suman Shrestha	143.00
33	Ganesh & Alka Kunwar	5,001.00
34	Ganesh Prasai	501.00
35	Gita Oli Kayastha	1,001.00
36	Gobinda Giri Prerana	100.00
37	Gopal Bishwokarma	1,001.00
38	Gyan Prasad Rimal	6,000.00
39	H B Bhandari	5,001.00
40	Hari Gaire	150.00
41	Hikmat M. Shrestha	1,001.00
42	Hira Gurung	105.00
43	Hiralal Bishwokarma	501.00
44	Indira Shrestha	100.00
45	Janak Paudel	101.00
46	Jaya Shrestha	555.55
47	Kabita Devi Mahat	1,111.11
48	Kabita Ghimire	501.00
49	Kaji Babu Karki	2,021.21
50	Kamal Bhandari	501.00
51	Kemika Bhandari	1,005.00
52	Khilendra Neupane	111.00
53	Kiran Panta	501.00
54	Kiran Thapa	501.00
55	Kris & Helen Ghimire	501.00
56	Krishna & Anju KC	5,001.00
57	Kul Mani Acharya	801.00
58	Kul Prasad Gurung	801.00
59	Lal Kaji Gurung	1,111.00
60	Laxmi Khatri Karki	51.00
61	Lok Tiwari	5,001.00
62	Mahendra Thapa	500.00
63	Mahesh KC	501.00
64	Makar Rayamajhi	101.00
65	Mohan Panta	501.00
66	Mohan Thapa	5,001.00
67	Namaraj Gautam	101.00
68	Narayan Kandel	351.00
69	Naresh KC	2,405.00
70	Om Tulachan	1,001.00
71	Deen Bandhu Pokhrel	101.00
72	Parash Mani Shrestha	3,105.00
73	Parshu Ram Thapa	100.00
74	Paru Ram Thapa	1,111.11
75	Pashupati Banjade	501.00
76	Pearl Regmi	1,001.00
77	Prajit Shrestha	501.00
78	Prakash Bhattarai	501.00
79	Prem Kumar Shrestha	25,001.00
80	Punam Shrestha	100.00
81	Rabi Lamichhane	5,001.00
82	Rabina & Narayan Thapa	501.00
83	Rajan KC	1,001.00
84	Rajan Tripathi	501.00
85	Rajendra KC	808.00
86	Ram bhandari	2,001.00
87	Ram Chandra Adhikari	201.00
88	Ram Krishna Bhattarai	101.00
89	Ramesh Upreti	2,222.22
90	Ratan Subedi	501.00
91	Ravi & Mina Pradhan	525.00
92	Ravi Paudel	1,111.11
93	Rishav R Kharel	2,001.00
94	Rishikesh Khanal	101.00
95	Rudra Gurung	501.00
96	Sadak Thapa	501.00
97	Salik Wagle	101.00
98	Sanjeev Pradhan	101.00
99	Satish Chapagain	501.00
100	Shankar Devkota	201.00
101	Shiva Bista	555.00
102	Shiva Kandel	201.00
103	Shiva Raj Joshi	50.00
104	Shreejan Tamrakar	101.00
105	Shyam & Indira Karki	501.00
106	Shyam Katila	101.00
107	Shyam Raja Mahat	101.00
108	Sindhu Paudel	35.00
109	Sitaram Bishwokarma	1,001.00
110	Sreedhar Baniya	105.00
111	Subhash Ghimire	501.00
112	Suman Malla	1,001.00
113	Sundar Rajbhandari	501.00
114	Suresh K Shrestha	201.00
115	Surya Gurung	501.00
116	Tank Bahadur Kunwar	1,001.00
117	Tarun Paudel	101.00
118	Upendra Subedi	1,001.00
119	Uttara KC	50.00
120	Yub Raj Paudel	101.00

QUICK SUMMARY

Total Pledged:

$163,788.42

❖

Total Amount Collected:

$25,313.44

❖

Our initial goal:

$1 Million

The detailed financial report is available on www.BANAonline.org.

Special thanks to the volunteer members of this newsletter team: *Shalik Wagle, Rajan Dhakal, Keshav Archarya, Kulmani Acharya, Shiva Paudel & Kris Ghimire.*

Protestant Exhibit _____

Introduction: Nepali in Baltimore Metro

Baltimore is home to thousands of Nepalese, and is one of the most popular destinations in the US for the people of Nepali origin. There are people from all walks of lives from students to business owners to professionals working in many sectors of local economy. With the growing community, the need for a community center is just a natural progression. BANA and several other Nepali organizations have been discussing ideas in establishing a community center in the greater Baltimore area for several years.

Through many community meetings, teams have been formed to further plan and initiate the building of a community center. The publication of this newsletter is the first step in communicating and sharing some of our initial plans that are based on discussions from the past community meetings and some expert opinions.

Two committees: *technical* and *fund-raising* have been formed. As we are still in the planning stage... we are actively looking for more volunteers to work in various committees to be formed as need arises.

QUICK DEMOGRAPHIC FACTS

- Baltimore is considered a capital city for Nepali Kalobar outside of Nepal
- Thriving "Mom-n-pop" business community
- Thousands of students from Nepal pursuing higher/ advance degrees at local universities/ colleges
- Recent arrival of thousands of Bhutanese of Nepali origin

What are our options? Buy or Build?

Option #1

Option #2

There are several options but the most viable options are:

- Purchase land and construct a new community center that meets our requirements
- Buy an existing older building of similar type and renovate it

There are advantages and disadvantages to both of these options. Option one would be ideal, in a way it will allow greater customization of the community center. However, it could be a lengthy and expensive endeavor. The second option would be quicker and possibly less costly compared to the first one (building) but it will have limitations as to the layout of the building and location.

During next few months we can explore our options and come up with the most suitable option for our community based on your feedback and further research.

Protestant Exhibit _____

ACTION ITEMS

- Legal setup of BNCC by BANA
- Publication of 1st Newsletter
- Prepare fund- raising prospect list
- Create donor database
- Organize a public program to report on progress
- Re-evaluate plans
- Decide on "buy" or "build"
- Start the search based on "buy" or "build" decision
- Finalize the purchase
- Financing option
- Operations and maintenance plans.

What Should the Community Center Consist of?

- A place for worship? (temple, gumba, church, etc.)
- Community hall or banquet hall?
- Museum or display of Nepali artifacts
- Educational or learning areas
- Garden reflecting Nepali architecture & arts

WHERE DO MOST DONORS LIVE?

65%

of donors live in the east side of Baltimore County

35%

of donors live in other parts of Maryland, mostly in the west side of Baltimore Co., Baltimore City and Howard Co, & Harford Co.

Note: The numbers above are solely based on the available contact information of current donors. It is also worth noting that some donors may have moved or left the state since the data was collected.

GOT FUND-RAISIG IDEAS?

We would love to hear from you. This is your project that would impact many generations of Nepali, especially your children so please make your voice heard.

We're in the process of setting up a Facebook page and subpage within BANA's website to interact with you to make this project a reality. We not only want to hear your ideas but also potential concerns about the project.

How much does it cost?

Let's say the total cost of the project is about one million dollars which includes the land and construction of about ten thousand square footage building with at least 200 parking spaces.

MORTGAGE FACTS

- Estimated purchase price: $1 Million
- Down payment: $250,000 (25% of sales price)
- Interest rate on a commercial loan would be about 6.5% or higher
- Property taxes can be waived for non-profit organizations
- Property casualty insurance about $1000 yearly
- **Estimated total monthly payment : between $4,000 and $5,000**

How do we pay for it?

As you can see from the cost estimate above, running a community center of this size can be very costly and would require a great deal of financial commitment from the community members. The question is how do we pay for it? What is the long term plan in sustaining the community center? It would be much easier to do one-time fundraiser to construct a building than commit to continuous efforts to sustain the community center for the long run.

For the initial construction, if this option chosen, about 25% of total cost would be required upfront as down payment and the rest can be financed for 20 or 30 year mortgage. We already have pledges totaling more than half of estimated down payment required; with many more members remained to pledge their support for this project.

FUND RAISING IDEAS FOR THE BUILDING OF THE COMMUNITY CENTER

- Name of donors on the "wall of fame"
- Donor with a certain amount to be credited as life members
- Donors to receive tax-incentives or deductions
- Garner possible financial and legal support from the local officials via community outreach

With these concerns in mind, here are some of ideas for generating revenues for the operation and maintenance of the community center once the building is completed. Additionally, A management team with detailed operational plans needs to run the center that can assure its financial stability.

POSSIBLE SOURCES OF REVENUES- OPERATION

- Hall rental
- Possible daycare with an emphasis on teaching Nepali culture & language
- Daily prayer or "pooja" & cultural functions including wedding ceremonies, "bratabandha", "pasni", "gunyu cholo " celebration
- Continuous Fundraising Activities

Protestant Exhibit _____

Subject: RE: Large event illegal/unpermitted event to be held at 12231 Harford Rd. (Sigh)
From: Jason W Goorevitz <jgoorevitz@baltimorecountymd.gov>
Date: 7/6/2018 10:55 AM
To: HTI Gmail <historictimekeepers@gmail.com>

Im assuming that they would not even request traffic control for the same reason but if so, I would assume that it would be declined.

Officer JW Goorevitz #4256
Baltimore County Police Department
Precinct 8/Parkville Community Outreach Team
8532 Old Harford Road
Parkville, MD 21234
410-887-5439
jgoorevitz@baltimorecountymd.gov

From: HTI Gmail [mailto:historictimekeepers@gmail.com]
Sent: Friday, July 06, 2018 10:52 AM
To: Jason W Goorevitz <jgoorevitz@baltimorecountymd.gov>; Carroll Holzer <jcholzer38@gmail.com>
Subject: Re: Large event illegal/unpermitted event to be held at 12231 Harford Rd. (Sigh)

Officer Goorevitz,

Thank you and I understand that aspect of this issue.

I would presume that since the SHA has made the determination that this is an illegal use of a State Highway that any requests by NACCB for traffic control during this event will be declined by the BCP?

Regards,

Dewey Clark,
http://www.historictimekeepers.com
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WOSTEP (Neuchatel) Certified Micromechanics
Restoration of Vintage Timepieces
Precision Timing Specialist
Micromachining

Regards,

Dewey Clark
Club Naturalist
Co-District Manager (PA)
Potomac Appalachian Trail Club
Maryland Master Naturalist

Protestant
CBA Exhibit
92

RE: Large event illegal/unpermitted event to be held at 12231 Harfo...

On 7/6/2018 10:00 AM, Jason W Goorevitz wrote:

Mr. Clark,

We got your email from last week and the information was forwarded to our patrol units so that they are aware of the potential increase in traffic on the roads and the amount of people at the location. Unfortunately, that is all the police department can assist with in this matter. The Police Department does not have the authority to shut this event down for an unpermitted event or for not having the appropriate County approval for use or for not having an SHA approved entrance.

Officer JW Goorevitz #4256
Baltimore County Police Department
Precinct 8/Parkville Community Outreach Team
8532 Old Harford Road
Parkville, MD 21234
410-887-5439
jgoorevitz@baltimorecountymd.gov

From: HTI Gmail [mailto:historictimekeepers@gmail.com]
Sent: Friday, July 06, 2018 9:24 AM
To: Jason W Goorevitz <jgoorevitz@baltimorecountymd.gov>
Cc: Carroll Holzer <jcholzer38@gmail.com>
Subject: Large event illegal/unpermitted event to be held at 12231 Harford Rd. (Sigh)

Officer Goorevitz,

I wrote Captain Martin about this last week and he/you would not have yet had a chance to respond.

Please find below the position of the State Highway Administration District 4 that this the single family residence used as a commercial venue at 12231 Harford Road should not be allowed to operate since they have not even applied for a State Highway Access permit.

I wrote Captain Martin that they have heavily promoted a multi state event to be held there July 29 Aug 3. It is expected to be larger and create more problems than last year's fund raiser which attracted between 500 and 1000 participants (depends upon which of their statements you read).

Regards,

Dewey Clark
410.592.3617

-------- Forwarded Message --------
Subject:RE: Follow up
Date: Thu, 5 Jul 2018 12:54:13 +0000
From: Richard Zeller <RZeller@sha.state.md.us>
To:'HTI Gmail' <historictimekeepers@gmail.com>

RE: Large event illegal/unpermitted event to be held at 12231 Harfo...

Mr. Clark,

It is my understanding that the county has not approved this site for the proposed use (Temple). The SHA has not approved the existing entrance for this use. From the SHA perspective this site should not be operating at all. Will the county be shutting them down?

Rich Zeller

From: HTI Gmail [mailto:historictimekeepers@gmail.com]
Sent: Monday, July 02, 2018 9:12 AM
To: Richard Zeller <RZeller@sha.state.md.us>
Subject: Follow up
Mr. Zeller

This is in reference to the matter about which I wrote on June 21 2018. This concerns the use of a single property residence at 12231 Harford Rd. Glen Arm, MD as a commercial without a State Highway Access Permit and their internet advertising for a major fund raiser July 29-Aug 30, 2018.
It is important to note that our concerns are about community health (disposal of human waste), degradation of the watershed and major traffic problems they **testified** they created at last year's even.
In order to relieve alleviate any doubt about the situation regarding 12231 Harford Rd, Glen Arm MD, 21057, I have include the direct testimony of the NACCB,Inc. at the hearing January 17, 2018.
Included are the statements about traffic and infrastructure made under oath by the property owners and their expert witnesses. As you will see, the owners testified there is no water onsite (fire sprinklers for commercial venue) and they testify about the problems they caused on Harford Road at the fund raiser last year. **The one to be held on July 29-Aug 3 2018 is advertised as even larger.**
I included the pages that identify the hearing, date and the speakers. Mr. Kotroco represented the owners of 12231 Harford Rd, I am the representative for those opposed to this use of the property, Mr. Ghimire (misspelled Gimory) is the resident agent for the owner and Mr. Motsco is the Civil Engineer acting as the expert witness for the owner.
Pages 31-33 are the testimony about projected use
Pages 35-55 are the testimony of existing infrastructure
Pages 68 -70 are Mr. Ghimire's description of the fundraiser of July 2017 which resulted in the Cease and Desist order
Pages 71-73 are Mr. Ghimire's direct testimony about the lack of any sanitation facilities; no well and unusable septic.
For your convenience, I highlighted the relevant portions of testimony.
Please feel free to call me at 410.592.9998 if there is anything else you need.
This will be followed by a letter with a paper copy of the attached transcript.
--
Regards,

Dewey Clark,
http://www.historictimekeepers.com
Omega Recognized Service Provider
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RE: Large event illegal/unpermitted event to be held at 12231 Harfo...

WOSTEP (Neuchatel) Certified Micromechanics
Restoration of Vintage Timepieces
Precision Timing Specialist
Micromachining

Regards,

Dewey Clark
Club Naturalist
Co-District Manager (PA)
Potomac Appalachian Trail Club
Maryland Master Naturalist

Regards,

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Restoration of Vintage Timepieces
Precision Timing Specialist
Micromachining

Regards,

Dewey Clark
Club Naturalist
Co-District Manager (PA)
Potomac Appalachian Trail Club
Maryland Master Naturalist

On 2/4/2018 8:32 PM, HTI Gmail wrote:

Officer Goorevitz

We are preparing a mailing list to all the households in the Fork/Baldwin/Glen Arm area to attend a community meeting at Long Green Valley Fire Co. on the evening of Feb 28. Is there something you want us to do to work with the Precinct? We may get more people than the hall can hold. There is enough concern within the community and all will want to be able to participate. So crowd control may be an issue. I honestly do not know.

The purpose of the meeting is to inform the community of the state of the appeals

and what we need to do as a community. Our attorney will be present as well. But I just don't want you or us to be surprised. The meeting will be centered on their questions after we present what happened to date and what needs to happen going forward.

Regards,

Dewey Clark, President
Gunpowder Falls Watershed Preservation Association

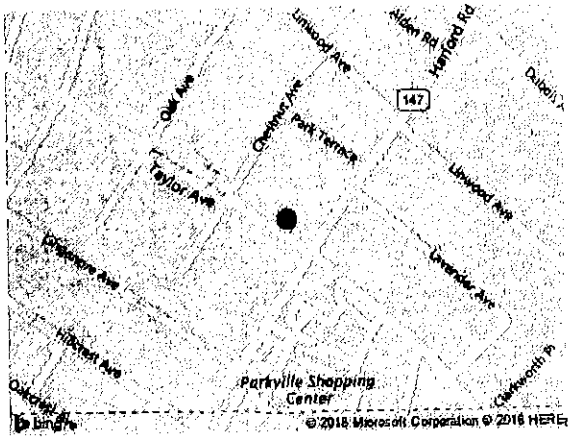
CONNECT WITH BALTIMORE COUNTY

www.baltimorecountymd.gov

SHARE

City, State, or Zip

2906 Taylor Ave, Baltimore, MD 21234



2906 Taylor Ave, Baltimore, MD 21234

SOLD: $298,000

Sold on 12/15/17

Note: This property is not currently for sale or for rent. The description below may be from a previous listing.

Great opportunity to own a building in high traffic area. 1/2 Bath on 1st and 2nd level, both have wood floors. First floor has front and back entrance and is 49 x 23. Second level is 49 x 23. Dual Zoned HVAC, heat & water heater are gas, 2 (150 amp) breaker panels, alarm system, 9 parking spots. Architectural shingles 8 years old, Exterior features maintenance free Hardiplank siding.

Facts and Features

CONSTRUCTION

Type and Style
Vacant Land

Dates
Built in 1913

UTILITIES

Green Energy
Great solar potential
Sun Number™: 87

Protestant
CBA Exhibit
93 PP 004

Protestant Exhibit ____

KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits, Approvals & Inspections

November 15, 2017

Hindu Buddha Temple
Nepal American Cultural Center
12231 Harford Road
Glen Arm, MD 21057

Re: Complaints

Sir or Madam,

Please be advised that this office continues to receive complaints about the property located at 12231 Harford Road, Glen Arm, MD 21057.

Neighbors are forwarding photos and commentary on the use of the property for events, and such use may not be legal. A public hearing will be scheduled, or has been, on your petition for special exception. This hearing will be heard by an Administrative Law Judge, who will decide based on the facts presented, witnesses heard, by both the Petitioner and Protestants. A decision will then be issued based on the evidence presented and pursuant to the particular burden of proof required by law for the special exception to be granted. As a result of the continual disruption to the neighborhood as viewed by your neighbors, these neighbors most likely will appear at the hearing in opposition. Whether your request for a special exception is for a religious institution or for a community building, various factors must be considered by law. This includes resultant traffic, noise, environmental and other factors, which could influence any such decision. Mr. Jablon had suggested to you that you meet with the community and attempt to reach a consensus. It would appear, however, that this was not done. Further, it would appear that events of a social nature have been held; which would fit into the zoning category of a community building. It is not our intent to determine what your proposed use of the property is or would be, just to alert you to the situation.

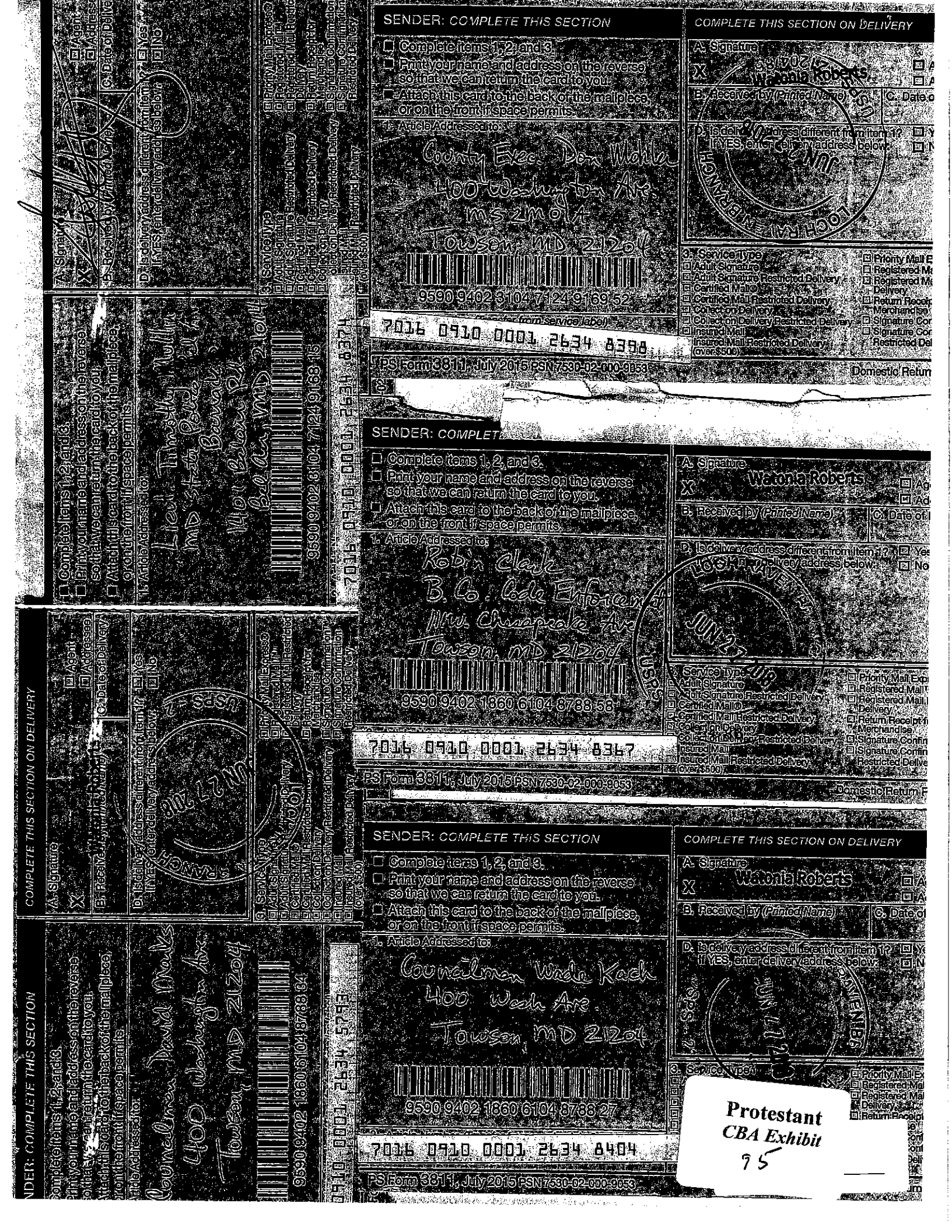
However, the purpose of this letter is to notify you that should any further social, recreational, educational or cultural use of the property occur, a citation will be issued.

Sincerely,

Lionel van Dommelen, Chief
Code Enforcement
Baltimore County Department of Permits, Approvals and Inspections

CC: Timothy M. Kotroco, Esquire
305 Washington Avenue, Suite 502
Towson, MD 21204

Protestant
CBA Exhibit
94



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

County Exec. Don Mohler
400 Washington Ave.
MS 2M01A
Towson, MD 21204

9590 9402 3104 7124 9169 52

(Transfer from service label)

7016 0910 0001 2634 8398

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date of

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over $500)
- Priority Mail E
- Registered Ma
- Registered Ma Delivery
- Return Receip Merchandise
- Signature Cor
- Signature Cor Restricted Del

Domestic Return

SENDER: COMPLETE

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Robin Clark
B.Co. Code Enforcement
111 W. Chesapeake Ave
Towson, MD 21204

9590 9402 1860 6104 8788 58

7016 0910 0001 2634 8367

PS Form 3811, July 2015 PSN 7530-02-000-9053

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date of

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over $500)
- Priority Mail Exp
- Registered Mail
- Registered Mail Delivery
- Return Receipt Merchandise
- Signature Confir
- Signature Confir Restricted Delive

Domestic Return

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Councilman Wade Kach
400 Wash Ave
Towson, MD 21204

9590 9402 1860 6104 8788 27

7016 0910 0001 2634 8404

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date of

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

- Priority Mail Ex
- Registered Mal
- Registered Mal Delivery
- Return Receip

Protestant
CBA Exhibit
95

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Colonel John Gavrilis
MTA Chief of Police
6 St. Paul Street
Baltimore, MD 21202

9590 9402 3104 7124 9168 39

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8381

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X [signature]

B. Received by (Printed Name)

C. Date of

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over $500)
- Priority Mail Express®
- Registered Mail
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation
- Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Richard Zeller
Chief, Highway Access Permits
MD SHA Dist 4
3200 Warren Rd
Hunt Valley, MD 21030

9590 9402 1860 6104 8788 10

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8466

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X [signature]

B. Received by (Printed Name)

C. Date of

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
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- Registered Mail
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation
- Signature Confirmation Restricted Delivery

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Lionel Van Dommelen
Code Enforcement Sup
Ht. W. Chesapeake Ave
#213
Towson, MD 21204

9590 9402 1860 6104 8787 80

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8480

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date of

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
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- Registered Mail
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation
- Signature Confirmation Restricted Delivery

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Arnold Jablon
Director, BCo Permits Approval & Inspection
Ht. W. Chesapeake Ave #105
Towson, MD 21204

9590 9402 1860 6104 8788 03

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8527

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over $500)
- Priority Mail Express®
- Registered Mail
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation
- Signature Confirmation Restricted Delivery

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- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Karen Lewis
Permit Processing Sup
Ht. W. Chesapeake Ave #100
Towson, MD 21204

9590 9402 3104 7124 9170 27

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8527

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

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- Certified Mail®
- Certified Mail Restricted Delivery
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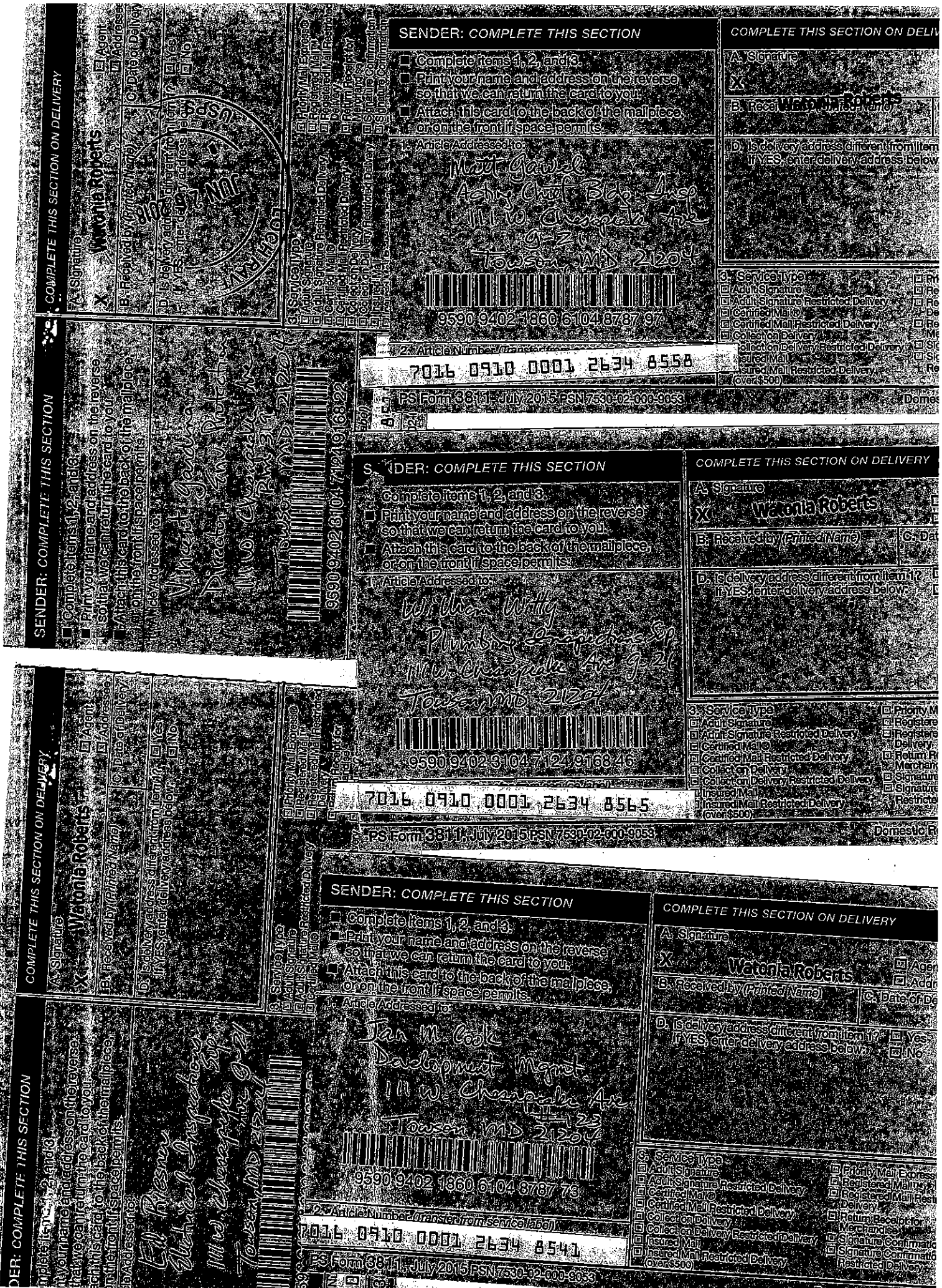
- Insured Mail Restricted Delivery (over $500)
- Priority Mail Express®
- Registered Mail
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation
- Signature Confirmation Restricted Delivery



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Matt Gawel
Acting Chief Bldg. Insp.
111 W. Chesapeake Ave
G-21
Towson, MD 21204

9590 9402 1860 6104 8787 97

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8558

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over $500)

Domes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

William Witty
Plumbing Inspections Sup.
111 W. Chesapeake Ave G-21
Towson, MD 21204

9590 9402 3104 7124 9168 46

7016 0910 0001 2634 8565

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over $500)

Domestic R

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jan M. Cook
Development Mgmt.
111 W. Chesapeake Ave
#123
Towson, MD 21204

9590 9402 1860 6104 8787 73

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8541

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over $500)

Domestic Re

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Vincent Gaudina
Director, Env. Protection
111 W. Chesapeake Ave
Rm 319
Towson, MD 21204

9590 9402 3104 7124 9168 22

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over $500)

Domestic Re

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Ed Riesner
Electrical Inspections Sup.
111 W. Chesapeake Ave G-21
Towson, MD 21204

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

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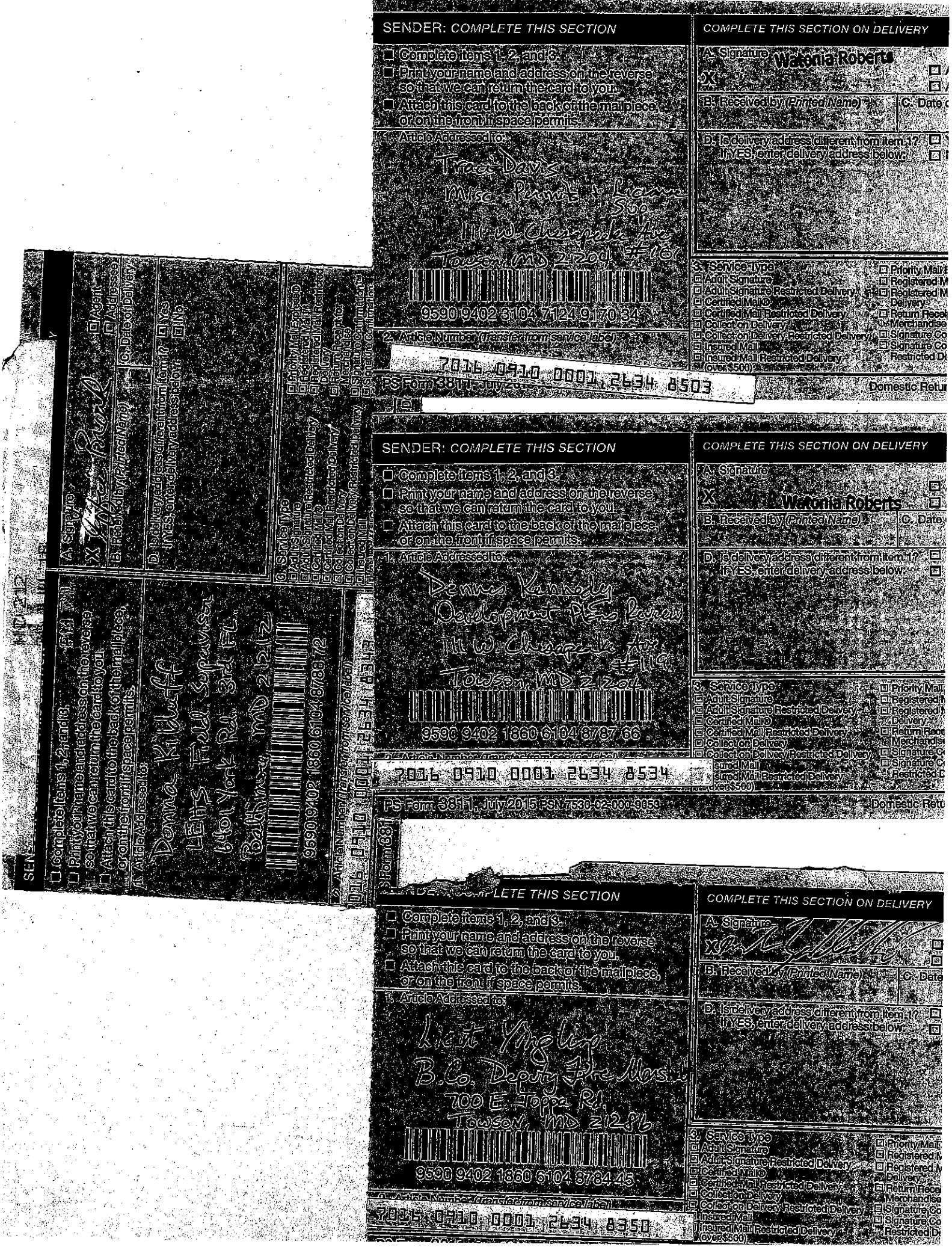
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over $500)

Domestic Re



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Tracy Davis
Misc. Permit Prgm. Supv.
1800 W. Chesapeake Ave.
Towson, MD 21204 #16

9590 9402 3104 7124 9170 34

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8503

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

Adult Signature
Adult Signature Restricted Delivery
Certified Mail®
Certified Mail Restricted Delivery
Collect on Delivery
Collect on Delivery Restricted Delivery
Insured Mail
Insured Mail Restricted Delivery (over $500)

Priority Mail
Registered Mail
Registered Mail Delivery
Return Receipt for Merchandise
Signature Confirmation
Signature Confirmation Restricted Delivery

Domestic Return

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Donna Kennedy
Development Plans Review
1800 W. Chesapeake Ave.
Towson, MD 21204 #11C

9590 9402 1860 6104 8787 66

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8534

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Watonia Roberts

B. Received by (Printed Name)

C. Date

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

Adult Signature
Adult Signature Restricted Delivery
Certified Mail®
Certified Mail Restricted Delivery
Collect on Delivery
Collect on Delivery Restricted Delivery
Insured Mail
Insured Mail Restricted Delivery (over $500)

Priority Mail
Registered Mail
Registered Mail Delivery
Return Receipt for Merchandise
Signature Confirmation
Signature Confirmation Restricted Delivery

Domestic Return

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1. Article Addressed to:

Donna Kennedy
Left Fld Swamp
101 York Rd. Sta FL
Towson, MD 21212

9590 9402 1860 6104 8787 72

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8541

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

C. Date

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3. Service Type

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Adult Signature Restricted Delivery
Certified Mail®
Certified Mail Restricted Delivery
Collect on Delivery
Collect on Delivery Restricted Delivery
Insured Mail
Insured Mail Restricted Delivery (over $500)

Priority Mail
Registered Mail
Registered Mail Delivery
Return Receipt for Merchandise
Signature Confirmation
Signature Confirmation Restricted Delivery

Domestic Return

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- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Kat Yingling
B.Co. Dpty Fire Mar.
700 E. Joppa Rd.
Towson, MD 21286

9590 9402 1860 6104 8784 45

2. Article Number (Transfer from service label)

7016 0910 0001 2634 8350

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

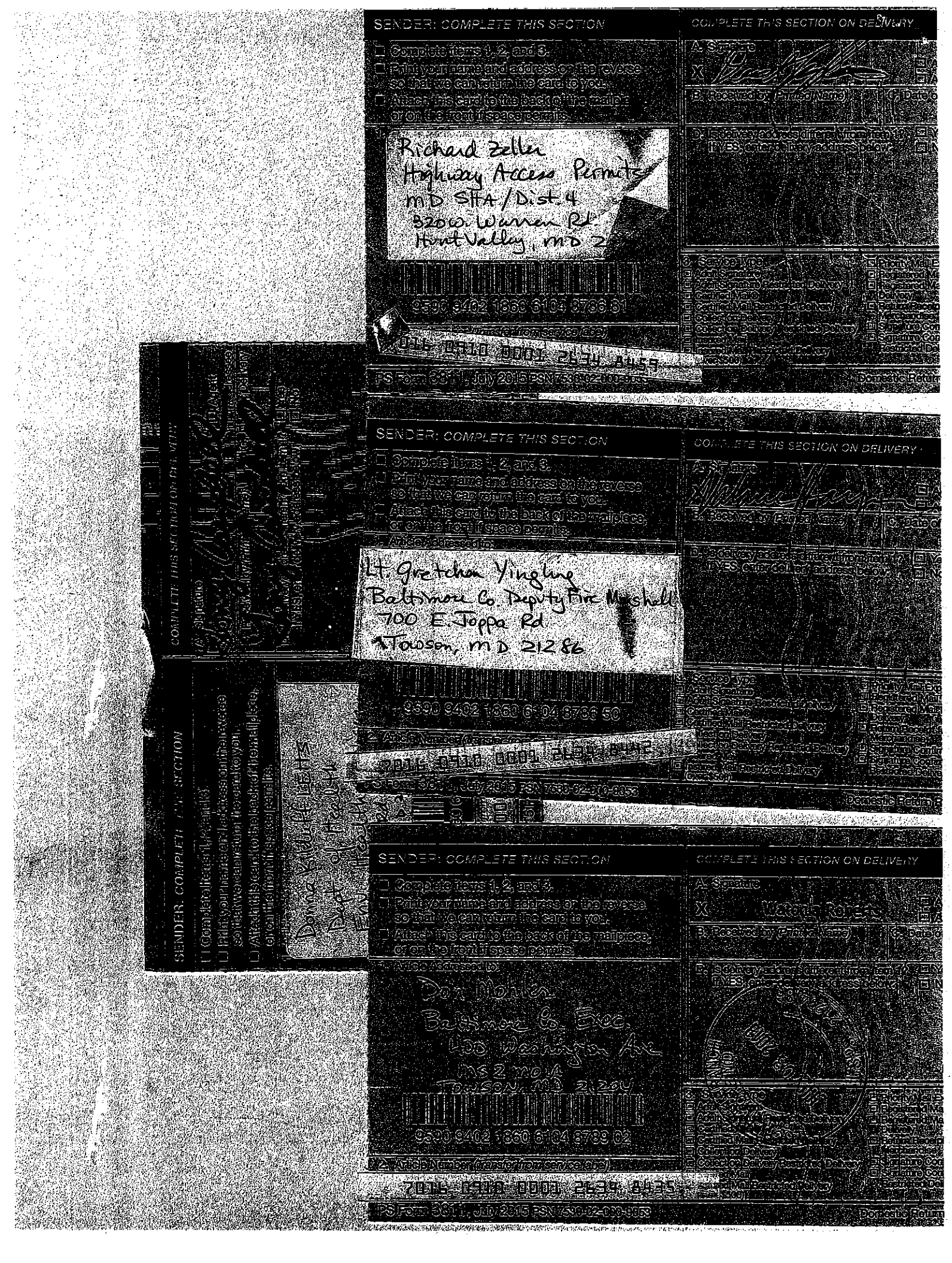
C. Date

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

Adult Signature
Adult Signature Restricted Delivery
Certified Mail®
Certified Mail Restricted Delivery
Collect on Delivery
Collect on Delivery Restricted Delivery
Insured Mail
Insured Mail Restricted Delivery (over $500)

Priority Mail
Registered Mail
Registered Mail Delivery
Return Receipt for Merchandise
Signature Confirmation
Signature Confirmation Restricted Delivery


SENDER: COMPLETE THIS SECTION
COMPLETE THIS SECTION ON DELIVERY
Richard Zeller
Highway Access Permits
MD SHA/Dist. 4
9200 Warren Rd
Hunt Valley, MD 2
9590 9402 1860 6104 8766 81
PS Form 3811, July 2015 PSN 7530-02-000-9053
Domestic Return
Lt. Gretchen Yingling
Baltimore Co. Deputy Fire Marshall
700 E. Joppa Rd
Towson, MD 21286
9590 9402 1860 6104 8766 50
Don Horton
Baltimore Co. Exec.
400 Washington Ave
MS 2 MOA
Towson, MD 21204
9590 9402 1860 6104 8783 02

IN THE MATTER OF:

PETITIONS FOR SPECIAL EXCEPTION
CASE NO. 2018-0122-X
PROPERTY: 12231 HARFORD ROAD

Hearing Date: January 17, 2018

Pursuant to Notice, the above-entitled hearing was held before the Administrative Law Judge for Baltimore County at the Administrative Law Building, 11101 Gilroy Road, Hunt Valley, Maryland 21031, commencing at 1:20 P.M.

JUDGE BEVERUNGEN, PRECIDING

PRESENT ON BEHALF OF THE PARTIES:

ON BEHALF OF THE APPELLEES/PETITIONERS:

TIMOTHY KOTROCO, ESQUIRE

ON BEHALF OF THE APPELLANT/PROTESTANTS:

DeWITT CLARK, (PRO SE)

Debbie H. Eichner
8101 Bletzer Road
Baltimore, Maryland 21222

Protestant
CBA Exhibit
96

INDEX

WITNESS	PAGE
JOHN MOTSCO	
QUALIFYING BY MR. KOTROCO FOR EXPERT	6
MR. MOTSCO QUALIFIED AS EXPERT WITNESS	7
DIRECT EXAMINATION BY MR. KOTROCO	8
CROSS EXAMINATION BY MR. CLARK	31
REDIRECT EXAMINATION BY MR. KOTROCO	38
RECROSS EXAMINATION BY MR. CLARK	39
CHRIS GIMORY	
DIRECT EXAMINATION BY MR. KOTROCO	41
CROSS EXAMINATION BY MR. CLARK	83
JOE CALOGGERO	
QUALIFYING BY MR. KOTROCO FOR EXPERT	122
MR. CALOGGERO QUALIFIED AS EXPERT	122
DIRECT EXAMINATION BY MR. KOTROCO	122
CROSS EXAMINATION BY MR. CLARK	139
PETER MARTIN	
DIRECT EXAMINATION BY MR. KOTROCO	142
CROSS EXAMINATION BY MR. CLARK	145

INDEX

WITNESS	PAGE
DOUG BURGESS	
DIRECT EXAMINATION BY MR. KOTROCO	150
STATEMENTS MADE BY ROSEMARY BRONZERT	156
STATEMENTS MADE BY BERNADETTE POEHLER	159
STATEMENTS MADE BY SCOTT STRIEBINGER	165
STATEMENTS MADE BY JOYCE MASON	171
STATEMENTS MADE BY PASTOR STANDIFORD	173
STATEMENTS MADE BY PATTI THOORN	176
STATEMENTS MADE BY KEITH REULING	187
STATEMENTS MADE BY JOANNE FOXWORTHY	188
STATEMENTS MADE BY DOUG HONBARRIER	189
STATEMENTS MADE BY JILL BRDYSSE	193

(ON THE RECORD AT 1:20 PM)

JUDGE BEVERUNGEN: Okay. So, good afternoon again everybody. We're here for a zoning hearing in case number 2018-122. This is a Petition for Special Exception. The property is located at 12231 Harford Road. And the request is for a special exception for a building for religious worship. This is an RC-2 zoned property so special exceptions apply. The Petitioner is listed as Nepali American Cultural Center. And I believe that accurately states the relief sought. Is that right?

MR. KOTROCO: It does Your Honor. Timothy Kotroco, 305 Washington Avenue, here in Towson. I'm here on behalf of the Applicant/Petitioner. We filed the application as you say, for this thirty acre piece of property on Harford Road. The former Bonaparte Mansion, as it was constructed by a descendent of Napoleon Bonaparte on the property.

JUDGE BEVERUNGEN: Okay.

MR. KOTROCO: The Applicant is hoping to be able to use the mansion for religious worship.

JUDGE BEVERUNGEN: Okay. So who, who all is here? Is, are, are you folks from the community or what? I'm trying to get a sense of who, who's in attendance?

MR. CLARK: Your Honor, my name is DeWitt Clark.

JUDGE BEVERUNGEN: Okay.

MR. CLARK: 12150 Harford Road.

JUDGE BEVERUNGEN: Okay.

MR. CLARK: I am the President of the Gunpowder Falls Watershed Preservation Association. I am here to assist the Protestants.

JUDGE BEVERUNGEN: Okay. And so, I mean, are we sitting like at a, at a wedding? Is everybody over here-- (laughs)--

MR. CLARK: It almost seems that way. Yes sir.

MR. KOTROCO: Okay.

JUDGE BEVERUNGEN: It's hard to tell. The people that are here on behalf and in the support of the Nepali Center, would you raise your hand please? Anybody over here? So, that it is a wedding then.

MR. KOTROCO: Yeah, yeah. It does. It does.

JUDGE BEVERUNGEN: Well, that's that.

MR. KOTROCO: And we don't need my, my definition to do the Protestants.

JUDGE BEVERUNGEN: All right. So, what we'll do then is the Petitioners will go first, as they do in every zoning hearing. We'll let them. They'll have witnesses or experts that will tell us what's proposed. And when they're done that I'll give you folks a chance to, to tell me what you want to tell me, all right? So, it's pretty informal, but we do need to kind of observe you know, some protocol so that the

witnesses can speak and that the testimony can be recorded.

MR. KOTROCO: Thank you Your Honor. I've only got a handful of witnesses. John Motsco is my first witness. He's with Little and Associates. The Engineers that prepared the site plan.

JUDGE BEVERUNGEN: Okay Mr. Motsco. Come on, come on up here. Okay. You're gonna, there's no chair over here. You might need to bring him a chair. This is all new to me.

MR. KOTROCO: We were stealing everything we could I guess to try to get people a place to sit.

JUDGE BEVERUNGEN: Okay. And the green light is on there. All right. Good afternoon. So, raise your right hand and remain standing. Do you swear or affirm under the penalties of perjury the testimony you'll provide today will be the truth?

MR. MOTSCO: I do.

JUDGE BEVERUNGEN: Okay. Take a seat. Tell us your name and business address and then the attorney will ask you some questions. Everybody, witnesses, attorney's, parties, try to keep yourself-- as I said, because we're recording things. Okay, Mr. Kotroco?

QUALIFYING BY MR. KOTROCO FOR EXPERT:

MR. KOTROCO: Your name and address please?

MR. MOTSCO: John Motsco. I'm a Professional

Engineer with Little & Associates. (Inaudible) the address, the business address is 1055 Taylor Avenue, Suite 307, Towson, Maryland.

MR. KOTROCO: Sir, your educational background?

MR. MOTSCO: I have a Bachelors of Science in Civil Engineering from Pennsylvania (inaudible).

MR. KOTROCO: And are you a Licensed Professional Engineer?

MR. MOTSCO: Yes sir.

MR. KOTROCO: Have you testified in these hearings before?

MR. MOTSCO: Yes, I have.

MR. KOTROCO: Have you always been accepted as an expert in these proceedings?

MR. MOTSCO: I have.

MR. KOTROCO: You were here yesterday, as a matter of fact?

MR. MOTSCO: Yes.

MR. KOTROCO: In another, in another hearing?

MR. MOTSCO: Correct.

MR. KOTROCO: Okay. Your Honor, I'm going to offer Mr. Motsco. He's testified a number of times. He's an expert in these cases.

MR. MOTSCO QUALIFIED AS EXPERT:

JUDGE BEVERUNGEN: Yeah. He's a Licensed Engineer. He has a degree from Penn State. So, yeah, he can express engineering opinions and in his, in those areas.

DIRECT EXAMINATION BY MR. KOTROCO:

MR. KOTROCO: Mr. Motsco, your role relative to this project was what?

MR. MOTSCO: I oversaw the preparation of the plan itself. The (inaudible) of relief necessary or (inaudible) itself and --

MR. KOTROCO: All right. Is the site plan that you've prepared, is that the site plan on the board there?

MR. MOTSCO: That is.

MR. KOTROCO: Is it bear your professional seal on it?

MR. MOTSCO: It does.

MR. KOTROCO: All right. The same site plan that's in the file with Judge Beverungen?

MR. MOTSCO: There have been no changes to it since it was filed.

MR. KOTROCO: Okay. The same one I shared with Mr. Clark earlier, right?

MR. MOTSCO: Yes.

MR. KOTROCO: The plan next to it is just a color rendering of the initial plan that you prepared? The initial plan, just highlighting the buildings on the property?

MR. MOTSCO: That is correct.

MR. KOTROCO: Okay. All right. Your Honor, I'd offer both of those as 1 and 2.

JUDGE BEVERUNGEN: All right. Are you going to label them and mark them?

MR. KOTROCO: I can. They all have labels except for this one he just brought today.

JUDGE BEVERUNGEN: Okay.

MR. KOTROCO: Are you familiar with the property Mr. Motsco?

MR. MOTSCO: I am.

MR. KOTROCO: Have you visited the site?

MR. MOTSCO: Yes. As recently as last week.

MR. KOTROCO: And you were there with me that day?

MR. MOTSCO: Yes.

MR. KOTROCO: Okay. And what's the size of the property we're talking about here?

MR. MOTSCO: The size of the acre-- the property is 30.8, .8 acres.

MR. KOTROCO: Okay. And it's zoned?

MR. MOTSCO: It is zoned RC-2.

MR. KOTROCO: Do you have an idea of its general location in Baltimore County? Where is it located?

MR. MOTSCO: It's, located east of Harford Road.

In the north, the northern end of Harford Road in Baltimore County.

MR. KOTROCO: Okay.

MR. MOTSCO: The nearest intersection would be Mount Vista Road. And the major intersection would be Mount Vista Road and Harford Road.

MR. KOTROCO: How do we, how do we provide access to the property? Or how is access provided?

MR. MOTSCO: There is, the current access to the property is through the main driveway entrance. It is (inaudible) on the property for some time.

MR. KOTROCO: Okay. And you're not making any changes or, or suggesting any changes to that?

MR. MOTSCO: No.

MR. KOTROCO: I see on your access there there's a circle there as you come out to Harford Road. What's that circle?

MR. MOTSCO: There's a divider in the, within the driveway entrance. (Inaudible) two clear lanes.

MR. KOTROCO: So, it's kind of a split (inaudible) entrance then?

MR. MOTSCO: Yes.

MR. KOTROCO: One driveway, but it splits at the Harford Road?

MR. MOTSCO: Correct.

MR. KOTROCO: Okay. And that's the traditional access? We're not making any changes, correct?...Are we making any changes to the driveway configuration as it comes into the property?

MR. MOTSCO: The mean-- the access of the property, no. We are proposing to install some parking (inaudible)--

MR. KOTROCO: And I'll get to that. Yep. I'll get to that in a minute. So, that circular configuration right in front of the mansion, that's all existing? No change to that?

MR. MOTSCO: Correct.

MR. KOTROCO: Okay. All right. And to talk about the parking then. You did add some parking? Now, this is a change now. So, if you could explain. What, what do I see up there on the board as far as parking spaces?

MR. MOTSCO: The parking spaces, the parking spaces are both using existing paving as a means of access to the property. We propose angled parking here, on the main access. And there was a existing (inaudible) or driveway here that we have, have the turnaround and more parking spaces.

MR. KOTROCO: So, the angled parking is on the right hand side as you're coming in? You can just pull in, is that right?

MR. MOTSCO: (Inaudible)--

MR. KOTROCO: On an angle? And then

(inaudible) you can loop around and come and park in one of the spots on the opposite side as you're leaving?

MR. MOTSCO: That's also correct.

MR. KOTROCO: And if they're all full then you have some overflow parking down at the end?

MR. MOTSCO: Yes.

MR. KOTROCO: Okay. And would it be possible to install that parking without having to get a grading permit? Are we disturbing less than 5,000 feet? Do you know?

MR. MOTSCO: I do not know at this time.

MR. KOTROCO: You haven't done those calculations?

MR. MOTSCO: Correct.

MR. KOTROCO: But the object was to keep as minimal impact to the land as possible?

MR. MOTSCO: To minimize the (inaudible)--

MR. KOTROCO: Okay. Now, let me ask you about the parking calculation. How many spaces are you showing on that?

MR. MOTSCO: We are showing 38 parking spaces.

MR. KOTROCO: Okay. And how did you come up with 38 parking spaces?

MR. MOTSCO: Typically for a religious worship youth the parking is 1 per 4 seats. In the case of this comm-- this religious community the facility would not have seats in a

traditional sense for a church. Instead of that we base it on inspected size of the congregation, of 150 people and applied the 1 slot per 4 to that number.

MR. KOTROCO: So, you would be, at 38 spaces, according to the Zoning Regulations would be able to account, accommodate at one time at the property 152 if you multiply it by (inaudible)?

MR. MOTSCO: Yes.

MR. KOTROCO: Okay. And how was it explained to you how the worship will occur over the course of the seven day a week?

MR. MOTSCO: That there is, there's no set worship time or meeting.

MR. KOTROCO: There's no set mass?

MR. MOTSCO: No.

MR. KOTROCO: There's no set church time like, like we might be used to?

MR. MOTSCO: (Inaudible)-- Correct.

MR. KOTROCO: Right. How, how is the worship--

MR. MOTSCO: It's the, the way it was explained to me is that it is more of a personal thing. That the families and members will arrive and park on their own schedule throughout the day, throughout the week. And that the, their worship would be varying in length with depending on, I guess

their (inaudible).

MR. KOTROCO: Okay.

MR. MOTSCO: The twenty minutes (inaudible)--

MR. KOTROCO: Okay. So, if the 38 parking spaces are not enough for any particular occasion, is there areas elsewhere on the property, in that vicinity where people could park temporarily?

MR. MOTSCO: There is. The general area in front of the house and where the parking is now is on a flat top of a hill. That there is a significant (inaudible) area that would be suitable temporary parking.

MR. KOTROCO: But the client has told you that 38 spaces should be more than enough to accommodate their needs?

MR. MOTSCO: Yes. That, that number was arrived at providing the practical use of the property (inaudible) the congregation.

MR. KOTROCO: Okay. Does it make a lot of sense to put in giant parking lots when they're not necessary to be parked on? That it's just more disturbance and run off to the land?

MR. MOTSCO: Correct. (Inaudible) --don't believe we need additional (inaudible).

MR. KOTROCO: Okay. The buildings and structures that you show on the property, are, first of all, are

we proposing to build any new buildings on the property?

MR. MOTSCO: No.

MR. KOTROCO: And the Applicant is just simply going to use what's there, is that right?

MR. MOTSCO: (Inaudible)--

MR. KOTROCO: No additions or anything of that nature?

MR. MOTSCO: That is correct.

MR. KOTROCO: And the religious activity, the worshiping will occur in the mansion part, which is the former estate home of the property?

MR. MOTSCO: Yes.

MR. KOTROCO: Okay. If you are able to, if you would, you drew distance lines from the mansion and the other buildings. I want to go over the buildings that you located on the property. So, can you start with the, with the former homes that I'll call it, the mansion? What are the distances from that to the edges of the property sir?

MR. MOTSCO: The existing house is right here. And in the direction of Harford Road, at the driveway entrance it is 650 feet from the property line. And Harford Road to the west is 340 feet away. And to the rear of the property line, down in the hill is the excess of 1,000 feet. And that's just to a stream and a neighbor. And then more to the east, the property is a little oddly shaped there, but it is around 400

feet to the property line.

MR. KOTROCO: So, as far as R.T.A. requirements, Residential Transition Areas, none apply here because of the distances?

MR. MOTSCO: Right. It's well beyond the distances required.

MR. KOTROCO: Okay. How about the other, the other structures on the property? You mentioned the mansion, the former home. What other types of improvements are there on the property?

MR. MOTSCO: What we have, what is (inaudible) on the plan is the, of course the driveway we discussed is, this is a tennis court, pool, it's a shed, a pool-house. There's an existing caretaker's house. And then there is a, it's marked (inaudible) property.

MR. KOTROCO: Okay. Did you walk the property and see all that?

MR. MOTSCO: Yes, I have.

MR. KOTROCO: Okay. Aside from the entrance on Harford Road at the northern part of the property there's also an entrance or a former entrance I guess down on the lower part, is that right?

MR. MOTSCO: There is a, there is a, this used driveway that accesses Harford Road. (Inaudible) the plan shows a clearing through the trees, but the driveway snakes up

the hill, past the barn. And based on my site visit it continues up the property and terminates in the vicinity of the pool.

MR. KOTROCO: Okay. We're not proposing to use that in any shape or form, is that right? And that's kind of access to the old historic barn that's down on the lower end of the property?

MR. MOTSCO: Yes.

MR. KOTROCO: And, but it continues all the way up to, by the swimming pool?

MR. MOTSCO: Yes, it does.

MR. KOTROCO: Okay. The, is the property well buffered with existing vegetation?

MR. MOTSCO: Yes. There, at the, currently and with no proposed changes there is a wooded buffer along the entirety, with the exception of the two driveway entrances. Along the entirety of the road (inaudible). And then the southern and eastern (inaudible) property line are (inaudible). A stream runs in the vicinity in there very well buffered by an additional patch of woods.

MR. KOTROCO: And that might be better reflected on the colored plan over there?

MR. MOTSCO: Yes.

MR. KOTROCO: The green area, that, that mimics the tree line or the woods line that you have shown on your plan?

MR. MOTSCO: Yes. That is, the green is the existing (inaudible) on site.

MR. KOTROCO: Okay. You can have a seat.

MR. MOTSCO: Thank you sir.

MR. KOTROCO: This is another exhibit from the county. It's my neighborhood. It kind of shows that, the buildings that you've just testified about. Are, is that a fair and accurate representation of the buildings you just talked about?

MR. MOTSCO: Yes, it is.

MR. KOTROCO: And the outline of our property is highlighted in black there. And so, we see the mansion, the tennis courts, the swimming pool, the caretaker's house and the barn, right?

MR. MOTSCO: Yes.

MR. KOTROCO: Does the exhibit also show the extensive treeline around the perimeters of the property?

MR. MOTSCO: It does.

MR. KOTROCO: That looks like it was taken in the wintertime. I have another, or one with the, where the trees are in bloom more so which provide I guess an even more extensive buffer when they're in bloom. Take a look at that exhibit. The vegetative buffer that's around there, that ones taken when the trees have leaves on them, is that right?

MR. MOTSCO: Yes.

MR. KOTROCO: And it shows the mansion in the middle there?

MR. MOTSCO: Correct.

MR. KOTROCO: You went on top of that mansion the other day, didn't you?

MR. MOTSCO: I did.

MR. KOTROCO: I was there with you, right?

MR. MOTSCO: Yes.

MR. KOTROCO: You looked all around the property? Tell us what you saw.

MR. MOTSCO: A lot of trees.

MR. KOTROCO: And could you--

MR. MOTSCO: The only visible structures were some distance away, is the farms that were the immediate neighbors (inaudible) appeared to be quite a distance away. (Inaudible)--

MR. KOTROCO: So, your opinion then as, as an Engineer as based on the exhibits and your observations very well buffered, which was--

MR. MOTSCO: It is.

MR. KOTROCO: It's all the way on top of a hill though? So, your views across the valley's are extensive?

MR. MOTSCO: Yes.

MR. KOTROCO: Okay. And you can see the building from distances as well because it sits on top of a

hill?

MR. MOTSCO: Yes. It sits on top of a hill in a clearing, surrounded by trees.

MR. KOTROCO: Okay. When you went up to the property you came up Harford Road to access the property?

MR. MOTSCO: Yes.

MR. KOTROCO: Okay. I'm going to show you another exhibit here. This is a series of photographs Mr. Motsco. And it takes you up Harford Road (inaudible). And it has some photographs that are attached to this Legend Sheet. And it's photos 1 through 9. Photo 1 is kind off the bottom of the sheet because it's a photograph looking up Harford Road. And you see the mansion on top of that hill up there as you mentioned?

MR. MOTSCO: Yes. It's more or less in line with the road. There's, you see the couple of evergreen trees there (inaudible) right. (NOISE IN BACKGROUND)--

MR. KOTROCO: Okay. All right. If you would, just kind of flip through photo #2. It's taken further up. Almost as you're approaching the curve at the top of the hill. What do you see in that, in that photo?

MR. MOTSCO: Photo 2 is the property that's on the right. And we're on Harford Road. And in this photo you see the road, trees and power poles.

MR. KOTROCO: Okay. I see a sign for Bonaparte

Avenue, which is --

MR. MOTSCO: Yes.

MR. KOTROCO: That's, yeah. That's the street?

MR. MOTSCO: Here. The street that's adjacent from the entrance.

MR. KOTROCO: Pretty much across the street from our entrance is Bonaparte Avenue. I guess named after the property owner at the time?

MR. MOTSCO: I guess.

MR. KOTROCO: Okay. What's the significance of that speed limit sign on the right hand side there, in your mind?

MR. MOTSCO: It indicates that there's a curve which requires you to reduce speed (inaudible) miles an hour.

MR. KOTROCO: Okay. And then the arrow. And then we have a traffic expert who can also embellish on this. But it shows an arrow at ninety degree, two ninety degree angles there?

MR. MOTSCO: Yes.

MR. KOTROCO: Okay. So, that's the top of the hill. The next photograph #3, coming into the turn?

MR. MOTSCO: This is in the turn that was (inaudible) the previous picture.

MR. KOTROCO: Right.

MR. MOTSCO: Again, the property is to the right.

We're on Harford Road. And --

MR. KOTROCO: It looks like storm-drains in the road there I see?

MR. MOTSCO: There is a storm-drain right there in the road.

MR. KOTROCO: Okay. And, and there's other--

MR. MOTSCO: (Inaudible) part of the hill to the right coming on to the property.

MR. KOTROCO: And there's other signs. The State Highway puts those signs up? The arrows?

MR. MOTSCO: Yes. The arrows indicate (inaudible) --

MR. KOTROCO: That you'd better turn right or you're going to have a problem, right?

MR. MOTSCO: Yes.

MR. KOTROCO: Okay. And then okay, you come around the turn then and you make the turn and up ahead is the entrance there?

MR. MOTSCO: Yes. That is the entrance on the right. You can see that there is a small green shrub there. The, that is, in the middle, that's the island. In the middle, the entrance that we discussed earlier.

MR. KOTROCO: Okay.

MR. MOTSCO: And the Harford Road then turns to the left. And that's the second part of that zig-zag.

MR. KOTROCO: Also, some other signs up there telling you--

MR. MOTSCO: Yes. Indicating the left, the property (inaudible) the right. You see the hill.

MR. KOTROCO: Also, you see the, an existing vegetation on the right hand side, right?

MR. MOTSCO: Yes.

MR. KOTROCO: It's a rather large it looks like oak tree over there in that picture? Do you see that?

MR. MOTSCO: Yes.

MR. KOTROCO: Okay.

MR. MOTSCO: (Inaudible) large tree and (inaudible) of vegetation (inaudible).

MR. KOTROCO: Okay. Photo 5? Just what? Another close up of the entrance?

MR. MOTSCO: A very similar shot. Just closer to the entrance, showing the entrance and the existing condition there, how wide it is (inaudible).

MR. KOTROCO: I see another storm-drain It looks like another storm-drain inlet there.

MR. MOTSCO: There is another inlet there.

MR. KOTROCO: Okay. So, 6, you're turning into the property. What do we see there?

MR. MOTSCO: This, in this photo you're just past the island and the driveway. And you're looking into the site.

And all, again, all you see is the hill of vegetation. There's still no view of the house.

MR. KOTROCO: Okay. It's an incline? You're going up a small incline there?

MR. MOTSCO: Yes.

MR. KOTROCO: Okay. And #7, a little further up the driveway?

MR. MOTSCO: Yes.

MR. KOTROCO: What do you see there?

MR. MOTSCO: Yeah. This is still further into the property. There's a, you're in, part of area, an area that was maintained as lawn, as lawn. There's also some trees. And the house is up to the, it's off to the left of this photo.

MR. KOTROCO: Right. So, we're going to see that in another photo or two?

MR. MOTSCO: Yes.

MR. KOTROCO: Number 8 there, is you're making the turn on the driveway?

MR. MOTSCO: Through, well, you're turning through the vegetation that's shown in the previous photo in the, generally lawn area, but there's some vegetation in the turn that's matured trees.

MR. KOTROCO: Okay. And then, then you come out of that and you're looking straight into the mansion, is that correct?

MR. MOTSCO: Correct.

MR. KOTROCO: All right. And we went in that mansion the other day, right?

MR. MOTSCO: Yes.

MR. KOTROCO: You went up on the roof. The worship part, on the right hand side I see two big glass windows. Actually, you can see straight through that side. That side of the house. Is that right?

MR. MOTSCO: That's correct.

MR. KOTROCO: And that's where the, the actual worship will take place?

MR. MOTSCO: Yes.

MR. KOTROCO: Okay. Are there any, any benches or seating or anything in that room?

MR. MOTSCO: No.

MR. KOTROCO: It's just an open room?

MR. MOTSCO: It's an open room. Two stories. That's an access through the main door building and also access the adjacent patio.

MR. KOTROCO: And off to the side patio on the side of it. Okay. Your Honor, I'm going to offer that series of photos as an exhibit, as well as the two previous photos. Mr. Motsco, we're asking for a Special Exception, to allow the owners of the property, the Nepali American folks to be able to use that building as a place of worship. And you have

assisted in filing the Special Exception for that?

MR. MOTSCO: Yes.

MR. KOTROCO: And are you familiar with Section 502.1 of the Baltimore County Zoning Regulations?

MR. MOTSCO: I am.

MR. KOTROCO: All right. Now, based on your observations, your visits to the property and talking with the client, do you believe the use of the property for religious worship would be detrimental to the health, safety and general welfare of the surrounding community?

MR. MOTSCO: No.

MR. KOTROCO: Do you think it's going to create congestion in roads, streets or alley's?

MR. MOTSCO: No.

MR. KOTROCO: Would it create a potential hazard in fire, panic or other danger?

MR. MOTSCO: No.

MR. KOTROCO: Is it going to overcrowd the land or cause undo concentration of population on the property?

MR. MOTSCO: No.

MR. KOTROCO: Is it going to interfere with adequate provisions for schools, parks, water, sewer, transportation or other public requirement?

MR. MOTSCO: No.

MR. KOTROCO: Is it going to interfere with the

adequate light and air?

MR. MOTSCO: No.

MR. KOTROCO: Is it inconsistent with the property zoning classification or anyway inconsistent with the spirit and intend of the Zoning Regulations?

MR. MOTSCO: No.

MR. KOTROCO: Does the RC-2 Zone allow this type of use by a special exception?

MR. MOTSCO: Yes, it does.

MR. KOTROCO: It's the purpose of the hearing today?

MR. MOTSCO: Yes.

MR. KOTROCO: Is it in anyway inconsistent with the impermeable surface and vegetative retention provisions of the regulations?

MR. MOTSCO: No.

MR. KOTROCO: Would it be detrimental to Environmental and Natural Resources of the site, including any forest or stream or wetlands or aqua (inaudible) on the property?

MR. MOTSCO: No.

MR. KOTROCO: We're not cutting any trees? We're not doing anything to the property, other than using what's there, is that right?

MR. MOTSCO: Correct.

MR. KOTROCO: Is the property being farmed now?

MR. MOTSCO: No. It is not.

MR. KOTROCO: And what, so would this proposed use be anyway detrimental to farming activity on the property?

MR. MOTSCO: No.

MR. KOTROCO: Okay. Is there any reason that requested relief here would have a greater detrimental impact at this property than it would at another RC-2 Zoned property?

MR. MOTSCO: No, it would not.

MR. KOTROCO: Okay. It's a pretty clean site as far as you're concerned? No variances needed or anything?

MR. MOTSCO: No. Yes, just special exemption.

MR. KOTROCO: Okay. You saw the comments that have been issued in this case?

MR. MOTSCO: I have.

MR. KOTROCO: Did you see the one from the Planning Office? Let me show you that. I have a copy for --

MR. CLARK: Thank you sir.

MR. KOTROCO: Here. The Planning Office went out and made a site visit to the property. Does it say on there what day the Planning Office went out and looked at the property?

MR. MOTSCO: November 17th of 2017.

MR. KOTROCO: I see November 7th on mine.

MR. MOTSCO: I'm sorry. Yes.

MR. KOTROCO: Okay. I have my glasses on.

MR. MOTSCO: (Inaudible)-- (laughs)--

MR. KOTROCO: Right. I got ya. Okay. What was the opinion of the Planning Office after their site visit?

MR. MOTSCO: They had no objection to granting the proposed--

MR. KOTROCO: All right. Another set of comments came out from the Environmental Department of the County. A copy of that for you all.

MR. CLARK: Uh-hum.

MR. KOTROCO: Did you have a chance to take a look at the environmental comments that came out?

MR. MOTSCO: I have.

MR. KOTROCO: Is that a standard comment that usually comes out from the Environmental Department?

MR. MOTSCO: They are standard comments.

MR. KOTROCO: And what's it require us to do?

MR. MOTSCO: It requires us to provide, to comply with the applicable laws regarding forest conservation, protection of waterfall (inaudible).

MR. KOTROCO: Okay. So, not having, other than the parking, we're not making any disturbance to the land?

MR. MOTSCO: Correct.

MR. KOTROCO: There isn't any problem with complying with their request then?

MR. MOTSCO: No.

MR. KOTROCO: Okay. And then the other comment I wanted to ask you about was Ms. Visnew, Mr. Visnew DeSingh (phonetic) from Development Plans Review. And this indicates that, that if should be granted we have to do a landscaping plan and a lighting plan. Is that what that says?

MR. MOTSCO: Yes. That is correct.

MR. KOTROCO: It also says you've got to comply with the State Highways because Harford Road is a state road at this location, right?

MR. MOTSCO: It's a state road.

MR. KOTROCO: Okay. Not a county road?

MR. MOTSCO: Correct.

MR. KOTROCO: We've got to deal with Mr. Zeller (phonetic) and the State Highway Administration?

MR. MOTSCO: Yes.

MR. KOTROCO: And Mr. Caloggero from the Traffic Group is going to talk about that when he testifies?

MR. MOTSCO: Yes.

MR. KOTROCO: Okay. Any problem with doing the landscaping and the lighting plan?

MR. MOTSCO: No.

MR. KOTROCO: Okay. And I don't have any

further questions of Mr. Mostsco.

JUDGE BEVERUNGEN: Okay.

MR. CLARK: Your Honor, I do have some questions.

JUDGE BEVERUNGEN: Okay. Go ahead.

CROSS EXAMINATION BY MR. CLARK:

MR. CLARK: Okay. Mr. Motsco, you testified that your plan is based on the assumption of about 150 people visiting this site at a time?

MR. MOTSCO: A congregation of 150.

MR. CLARK: Yeah. About, about 150 people--

MR. MOTSCO: Yes.

MR. CLARK: --showing up at, at a time? Okay. Would your, would--

MR. MOTSCO: What I said was that our plan is based on 150 people in the congregation (inaudible)--

MR. CLARK: I understand that you want to use that word, but that's not, --

MR. MOTSCO: (Inaudible)--

MR. CLARK: --that's, that's not the word I'm using.

MR. MOTSCO: (Inaudible)--

MR. CLARK: I'm asking a very direct question. Your plan was based on 150 people visiting the property at a time? Is that correct?

MR. MOTSCO: Yes.

MR. CLARK: All right. Would your assump-- would your plan change if you learned that there were 500 to 1,000 people attending events at that property?

MR. MOTSCO: Attending events or (inaudible)?

MR. CLARK: Events? At that prop-- no. I'm just using the words. The words I use are the words I use. Would, would your opinion change if there were in fact 500 to 1,000 people attending events on that property?

MR. MOTSCO: A temp-- a regular occurring event? Or a--

MR. CLARK: It doesn't matter. I just asked.

MR. MOTSCO: It could.

MR. CLARK: It, your plans could change?...Okay. You said that the, the driveway can handle 40 cars, and the property could handle 40 cars. Would, would your opinion change if there were three to 400 cars?

MR. MOTSCO: What I said was that we, that we--

MR. CLARK: No. No, I know what you assumed on.

MR. MOTSCO: (Inaudible)--

MR. CLARK: I know what your assumptions were for your plan.

MR. MOTSCO: (Inaudible) 40 cars.

MR. CLARK: Right. But if there were three to

400 cars showing up, would your plan be adequate?

MR. MOTSCO: I can't say without (inaudible).

MR. CLARK: Well, but you're, you're a Civil Engineer. Would, would that plan suit 300 to 400 cars?

MR. MOTSCO: Without having a chance to look at it, you know, I (inaudible).

MR. CLARK: Fine. Non-responsive Your Honor.

JUDGE BEVERUNGEN: Well, he gave the answer (inaudible)--

MR. CLARK: Right. Okay. Now, your site plan, well, first of all you, you said you visited the, you testified you visited the site?

MR. MOTSCO: Yes.

MR. CLARK: And you visited the worship room?

MR. MOTSCO: Yes.

MR. CLARK: Do they currently, do they currently have, is, is, use, but is a house of worship permitted under, under the land use as it currently sits?

MR. MOTSCO: We visited the room that will be used --

MR. CLARK: No. No, no, no. You testified you saw the worship room?

MR. MOTSCO: Yes.

MR. CLARK: So, is, so, do they have a special exemption at this time for a house of worship there?

MR. MOTSCO: No.

MR. CLARK: So, they are currently operating a house of worship without the benefit of, of proper permission?

MR. KOTROCO: Objection Your Honor. He's assuming facts not in evidence. As a matter of fact, there's no heat, no water, nobody using that building at this time.

MR. CLARK: Your Honor, he testified that he saw the, he saw the house of worship.

MR. KOTROCO: The area, what's going to be the area that they worship--

JUDGE BEVERUNGEN: Hold on a second. I, I, people aren't going to be yelling back and forth.

MR. CLARK: Right.

JUDGE BEVERUNGEN: We're not going to do that. The witness said, he observed an open two story space that would be used for worship I thought is, is what he said. You now want to ask him if worship is taking place?

MR. CLARK: No. He, I, if it is zoned for worship? If it is currently zoned for worship?

JUDGE BEVERUNGEN: Well, we know that it's because we're here today (inaudible)--

MR. CLARK: That's right. That's, that's my point Your Honor.

JUDGE BEVERUNGEN: (Inaudible)--

MR. CLARK: Yes sir. Yes sir.

JUDGE BEVERUNGEN: Okay.

MR. CLARK: Now, you, you were in the building, right?

MR. MOTSCO: Yes sir.

MR. CLARK: You, you examined the building head to toe?

MR. MOTSCO: I examined the majority of the rooms (inaudible)--

MR. CLARK: Okay. Do they have adequate toilet facilities for 150 people?

MR. MOTSCO: I do not know. That was not (inaudible)--

MR. CLARK: You do not know that? Okay. Fine.

UNIDENTIFIED SPEAKER: He wouldn't be able to to know that.

MR. CLARK: When you visited the property, and on your site plan I don't see the location of the septic system. Do you know where the septic system is?

MR. MOTSCO: It will be--

MR. CLARK: No. Do you know where the septic system is now?

MR. MOTSCO: No.

MR. CLARK: No. For all we know the, the prop-- now, I do know, behind the house Your Honor is a wetland. So, I know the septic systems not back there. For all we

know, the proposed parking is right over the septic system, okay.

JUDGE BEVERUNGEN: Is that a question?

MR. CLARK: That's a statement, you know.

JUDGE BEVERUNGEN: Okay. Well, you need to just ask him a question.

MR. CLARK: Okay. What, is it possible-- thank you Your Honor. Is it possible that that parking spaces are over the existing septic system?

MR. MOTSCO: There--

MR. CLARK: Is it possible?

MR. MOTSCO: There's no record of where the septic--

MR. CLARK: Is it possible?

MR. MOTSCO: Can I finish the statement?

JUDGE BEVERUNGEN: Yeah. Go ahead.

MR. MOTSCO: There's no record of the septic system. And if this Special Exception is granted the Petitioners intend to replace the septic system with a current system and to install a new (inaudible).

MR. CLARK: So, why is that not on the, on the site plan?

MR. MOTSCO: Because that work has not been initiated (inaudible).

MR. CLARK: So, so, in fact, there are other plans

for this site other than the parking lot?

MR. MOTSCO: There's a replacement of a well and septic.

MR. CLARK: There are other, there are other plans for development other than this parking lot?

MR. MOTSCO: Replacing the well and septic for an existing structure (inaudible).

MR. CLARK: Okay. Another question. You testified that there are, there are no ecological or habitat disturbance. Are you qualified to answer that question? Do you have a degree in Forestry?

MR. MOTSCO: I'm qualified to observe (inaudible). (Inaudible) is the area that will be disturbed.

MR. CLARK: Do you, do you, do you, no, but you testified that the, the forest and the other areas will not, will not be impacted. Do you have a degree in Forestry?

MR. MOTSCO: I can (inaudible) the limits of the disturbance (inaudible).

MR. CLARK: That is not what you testified to.

MR. MOTSCO: (Inaudible)--

MR. CLARK: That is not what you testified to.

MR. MOTSCO: We have no proposed impacts (inaudible)--

MR. CLARK: That is not what you testified to. You testified that there was no impact to the forest. Do you

have, do you have a, do you have a degree in, in Forestry?

MR. MOTSCO: No. I do not.

MR. CLARK: Thank you. Okay. And I understand that we're going to have a witness to testify about the, the highway. Based on your experience and based on your observations what do you think Harford Road and coming in and out of that driveway can handle four or five hundred cars in a, in a half hour period?

MR. MOTSCO: I would (inaudible).

MR. CLARK: Okay. I think I, I think I've asked my questions Your Honor.

JUDGE BEVERUNGEN: Okay. Mr. Kotroco, do you have anything else?

REDIRECT EXAMINATION BY MR. KOTROCO:

MR. KOTROCO: Did you observe any wetlands on the property when you walked it?

MR. MOTSCO: I did not. Not in the top of the hill. There is a stream at the bottom of the hill that (inaudible)--

MR. CLARK: Oh, I have one more question.

MR. MOTSCO: It was far away from any proposed use of the property (inaudible).

MR. KOTROCO: Okay. And it's your understanding a brand new septic system and a brand new well will be installed in the event this application is approved?

MR. MOTSCO: Yes.

MR. KOTROCO: Okay.

MR. MOTSCO: Those locations and design will be determined (inaudible)--

MR. KOTROCO: Okay. Thank you.

MR. CLARK: Your Honor, I, I do have two--

JUDGE BEVERUNGEN: Hold on. --

MR. CLARK: Okay. Thank you. I'm sorry.

MR. KOTROCO: Nothing.

JUDGE BEVERUNGEN: Are you (inaudible). Okay. (Inaudible)--

RECROSS EXAMINATION BY MR. CLARK:

MR. CLARK: Okay. All right. Do you, now, do you know what assumptions are going to be used in the design of that septic system? Is it for 150 people? Is it for--

MR. MOTSCO: I, I can't say with the-- nothing is progressed on that point (inaudible)--

MR. CLARK: So, so, so all, all of that is unresolved at this point?...Now, you said you were at the top of the building with Mr. Kotroco?

MR. MOTSCO: Yes.

MR. CLARK: Can you describe what you saw at the top of that building looking south?

MR. MOTSCO: I saw the valley. And in the distance I saw, it's a larger building from here to the farm use.

And there were a couple houses in the distance on the Harford Road (inaudible).

MR. CLARK: As an Engineer, you are skilled, you have some knowledge of Physics. And you have some, some knowledge of sound propagation. Would you say that the, the, that loud activities, events and loud music can be heard all the way down that valley? Would you say that that's possible?

MR. MOTSCO: I, sound propagation is a specialty that I'm not capable of answering questions (inaudible).

MR. CLARK: Even, even with your background of Physics?

MR. MOTSCO: That's, that's not something that I (inaudible)--

MR. CLARK: Okay. Okay. Okay. I, I think I'm done this time for real.

JUDGE BEVERUNGEN: Okay.

MR. KOTROCO: (Inaudible)--

JUDGE BEVERUNGEN: Okay. Thank you Mr. Mostsco. Okay. Who's next?

MR. KOTROCO: Chris Gimory (phonetic).

JUDGE BEVERUNGEN: Gimory. Okay. Good, good afternoon sir. Remain standing and raise your hand please. Do you swear or affirm under the penalties of perjury the testimony you'll provide today will be the truth?

MR. GIMORY: Yes sir.

JUDGE BEVERUNGEN: Okay. Please keep your voice up. Take a seat and tell us your name and address please.

MR. GIMORY: My name is Chris Gimory. I live in 5048 Springhouse Circle (phonetic) (inaudible) Maryland. Very close to (inaudible)--

DIRECT EXAMINATION BY MR. KOTROCO:

MR. KOTROCO: Okay. Mr. Gimory, where, where are you employed?

MR. GIMORY: I run a real estate company called, (Inaudible) Homes, right out of Perry Hall.

MR. KOTROCO: What, what's the address of that?

MR. GIMORY: It's 8030 Belair Road, Nottingham, Maryland.

MR. KOTROCO: Okay. Are you married?

MR. GIMORY: I'm married. My wife is right here with with a few of our friends.

MR. KOTROCO: With a few other friends, I guess?

MR. GIMORY: A lot of friends.

MR. KOTROCO: Yes. I see that. How many, do you have children?

MR. GIMORY: Three boys.

MR. KOTROCO: And are they in school?

MR. GIMORY: Yes.

MR. KOTROCO: Where do they go to school?

MR. GIMORY: The oldest goes to John Carroll, up in Harford County. Two goes to St. Joseph right on Belair Road. It's another county school.

MR. KOTROCO: Belair Road and Perry Hall?

MR. GIMORY: And the oldest, we've looked at going, Redeemer is right next to--

MR. KOTROCO: I'm going to get to that in a minute. You're a little ahead of me.

MR. GIMORY: Okay.

MR. KOTROCO: Hang on second, okay. All right. So, are you a member of a church in your community now?

MR. GIMORY: Yes. My wife belongs to St. Joseph. We go, go there.

MR. KOTROCO: So, I guess that kind of means you belong there too, right?

MR. GIMORY: Yes. Yes.

MR. KOTROCO: Okay. But you also, in addition to being a member at St. Joseph's on Belair Road in Perry Hall, you also on occasion go to a temp-- you go to a temple, is that right?

MR. GIMORY: We'd love to, but it is kind of, a bit far.

MR. KOTROCO: Well, there's not one in Baltimore County?

MR. GIMORY: (Inaudible)--

MR. KOTROCO: This is the first request for one?

MR. GIMORY: Yes.

MR. KOTROCO: For your community?

MR. GIMORY: Yes. This is a, this has been the first of its kind. (Inaudible) the (inaudible) American, coming to America and establishing (inaudible).

MR. KOTROCO: So, this is the first Nepali American.

MR. GIMORY: First Nepali American (inaudible).

MR. KOTROCO: But you do go to, that I'm, I'm familiar because I live in Finksburg, but you're, you do go to the temple in Finksburg on--

MR. GIMORY: Yes.

MR. KOTROCO: You have been there?

MR. GIMORY: Yes.

MR. KOTROCO: And a lot of your members, of your congregate go out to Finksburg in order to worship?

MR. GIMORY: That's correct.

MR. KOTROCO: All right. I mentioned already, but you are from Nepal, is that right?

MR. GIMORY: That's correct.

MR. KOTROCO: Okay. And how long have you been in the United States?

MR. GIMORY: I've been here since 1998. Right

here in Baltimore County.

MR. KOTROCO: Okay. And you've been a resident and a businessman since that time, in Baltimore County?

MR. GIMORY: I have a (inaudible) jobs, including a federal contracting job, but I started my business back (inaudible), yes.

MR. KOTROCO: Okay. Now, were you involved in the creation of the Nepali American Cultural Center of Baltimore?

MR. GIMORY: Yes. I was one of the corp member who (inaudible) yes.

MR. KOTROCO: Okay. Tell us how that got started.

MR. GIMORY: We, we realized this, this, (inaudible) the temple. A place of worship of, of (inaudible) today. There's none right in, here in Baltimore County today. And we were watching football game (inaudible) house this year as well. And we said, what if we you know started looking for a place we can call it a home, call it, you know, a temple. And I, I stood up and say you know, I would like to start this project, would you help me? And we, we raised $35,000.00 that night. And that's how it started. Everyone you see here today has donated (inaudible) of this group.

MR. KOTROCO: So, you're using your personal

funds to buy the property and fix it up?

MR. GIMORY: Absolutely.

MR. KOTROCO: Every one in this room?

MR. GIMORY: Every one (inaudible), yes.

MR. KOTROCO: How much did it cost to be a founding member of the, of the Nepali religious group that you--?

MR. GIMORY: (Inaudible) it's a $5,000.00. And it's a, you know, and you can donate any amount of money. You know, (inaudible).

MR. KOTROCO: So, the initial contribution, yourself and how many others put in the five-thousand?

MR. GIMORY: I think like five, can recall correctly, probably twenty-five families (inaudible) of Trustees (inaudible).

MR. KOTROCO: Okay. And that's (inaudible) group?

MR. GIMORY: Yes.

MR. KOTROCO: Do you have an I.R.S. approval to be able to just--

MR. GIMORY: Yeah. We have (inaudible) approved entity. Yes.

MR. KOTROCO: Who, who was in charge then? I think you might, since you're a realtor you took it upon yourself to try to find a location for, for your group? They,

they charged you with that responsibility?

MR. GIMORY: That, that is correct. (Inaudible)--most of them are tasked with this, you know, with this job. So, we were looking around. Couldn't find a suitable property for what we're trying to do. Especially I can't, if I, if I may give you a little bit of background?

MR. KOTROCO: Go ahead.

MR. GIMORY: A temple in Nepal, and, and also in India, (inaudible) is above the hill, like in kind of quiet place. You know, it's like a (inaudible) style. It doesn't really have a lot of seatings. People could come and go and visit and go back. You know, but it's not like you have a mass (inaudible). So, when we saw this property sitting on top of hill with thirty acres, not having any, anybody in near proximity, and we thought this is the perfect location (inaudible) we could, we could find.

MR. KOTROCO: Well, how did you find it? Were you just driving by one day and saw --

MR. GIMORY: Oh, no. We, you know, (inaudible) on a multiple listing in--

MR. KOTROCO: On your computer in your office you--

MR. GIMORY: Yeah. In my office.

MR. KOTROCO: Okay. Okay.

MR. GIMORY: And it came on the market. The

very next day we put an offer. We put a package together. We called the bank and you know, everything. So we--

MR. KOTROCO: So, you bought it from the bank?

MR. GIMORY: Yes.

MR. KOTROCO: It was in foreclosure?

MR. GIMORY: It was in foreclosure. Yes.

MR. KOTROCO: Okay. So, when did you actually buy the property?

MR. GIMORY: That's, in March of 2017.

MR. KOTROCO: Okay. So, you own it then?

MR. GIMORY: (Inaudible)--

MR. KOTROCO: Not you, but your group owns it?

MR. GIMORY: Yes.

MR. KOTROCO: As a group? All those families that put that money up?

MR. GIMORY: That's correct.

MR. KOTROCO: Okay. But now, we filed a special exception request to allow you to use that building for religious worship. What type of religion does your group actually practice? Because there's a lot of us in here that aren't familiar with what you guys do.

MR. GIMORY: Okay.

MR. KOTROCO: So, why don't you go ahead and tell us.

MR. GIMORY: So (inaudible) what we're going to

do is how the Catholic masses and Christian masses run because (inaudible) mainly this is like when you have two-hundred people go (inaudible) come out at the same time. And you have, you need to have parking lot (inaudible) understand. And I would understand the concern of the neighbors as well. But the Hinduism, the Hindu Buddha, they pray very differently. Yeah. There's no set times. There's no set events. There's no priest standing and giving a one hour lecture or speeches, presiding over the mass. It is, you know, people, you know, family of, you know, their friends come to the temple on their birthday, a baby name, naming ceremony, a rice planting. You know, any kind of family events. They come with their family. They come, pray and leave. So, it's like you, at maximum I would say you would have a five or six car, fifteen to twenty people if any (inaudible)--

MR. KOTROCO: Okay. So, walk me through then. In the course of a week, I'm, I'm a Catholic. And on Christmas Eve there were five-thousand of us at the fairgrounds (inaudible) a nativity and the traffic was horrendous. That's not the way you do things?

MR. GIMORY: No.

MR. KOTROCO: So, tell us, in the course of a week, on a Monday, Tuesday, Wednesday, how many people are going to be coming over to this property?

MR. GIMORY: On a, on an average day I would

say between fifteen to twenty cars. Not all there at the same time. On an average day. They will come. Go. Pray. There may be a priest, may not be a priest. In our religion it's not really required that you have a have a priest to preside over something. So, people will come and go as they choose at various (inaudible) fits into their schedule.

MR. KOTROCO: At your convenience?

MR. GIMORY: (Inaudible)--

MR. KOTROCO: You go whenever it's convenient to you?

MR. GIMORY: (Inaudible)--

MR. KOTROCO: Not that you have to be there at 12:00 mass on a, on a Sunday?

MR. GIMORY: That's, that's correct.

MR. KOTROCO: It could be in the morning, the middle of the day or evening? And that happens through the weekdays?

MR. GIMORY: Yes.

MR. KOTROCO: And people come on the weekends as well?

MR. GIMORY: Yes.

MR. KOTROCO: So, how many might come on a weekend?

MR. GIMORY: I mean, this, unlike the Sunday masses that tend to be popular and people (inaudible) Sunday

masses, that we don't have that you know, Saturday mass or Sunday mass. People just come. You know, if my birthday falls on a Wednesday then that's when I'm going to go and, and pay my respect (inaudible) to temple. So, it's not, it's not a set day (inaudible)--

MR. KOTROCO: Do you usually go once a week?

MR. GIMORY: I love to. I'm not as religious as I would like to be. (laughs)-- I, the last time I was (inaudible) ago.

MR. KOTROCO: And I'm a Christmas and Easter kind of guy myself. But I understand. So, it's not, it's not a requirement that you go every week? You go as needed?

MR. GIMORY: That's correct.

MR. KOTROCO: Okay. When's the last time you've been out to Finksburg?

MR. GIMORY: It was two years ago when, when my cousin was getting married. So--

MR. KOTROCO: Okay. You haven't been out there for two years? But you, you do go to Saint-- Do you attend at St. Joseph's?

MR. GIMORY: My two boys go there. So, (inaudible) --(BACKGROUND TALKING -INAUDIBLE)--

MR. KOTROCO: Do they have parking problems at St. Joseph's there at the church and the school?

MR. GIMORY: (Inaudible)--

MR. KOTROCO: Big problems? What, what kind of problems?

MR. GIMORY: So, every morning I drop my two boys off. So, we have a line all the way (inaudible).

MR. KOTROCO: Out in the state highway there? Belair Road?

MR. GIMORY: Out on the state highway, yes.

MR. KOTROCO: Blocking the lane of traffic?

MR. GIMORY: Yes. So, when you leave and when you pick them up the same, the same thing (inaudible) traffic light (inaudible)-- (BACKGROUND TALKING - INAUDIBLE)--

MR. KOTROCO: Okay. And then on Sunday, church day, the same thing?

MR. GIMORY: (Inaudible)--

MR. KOTROCO: Do they have the police there sometimes directing traffic?

MR. GIMORY: I have not seen a police officer there, but--

MR. KOTROCO: Okay. You're just (inaudible) your chance sitting out there in the middle of the highway? And that seems to be okay?

MR. GIMORY: (Inaudible) thing.

MR. KOTROCO: Okay. Do you think you're going to be back in traffic out there onto Harford Road here?

MR. GIMORY: Not onto Harford Road.

MR. KOTROCO: No? You're not going to have enough cars coming?

MR. GIMORY: (Inaudible) as you can see the distance from Harford Road to the, to the building.

MR. KOTROCO: Plenty of driveway length? Plenty of parking?

MR. GIMORY: (Inaudible)--have to have a, you know, I don't know, maybe eighty cars to line up from the property to the Harford Road which I -- I, I, I don't know the exact amount, but, that's (inaudible).

MR. KOTROCO: Tell us, now, when you get to the property, well, just be a little bit clearer. How long does it take you? You come in. You maybe you have another friend or another car of some family members. You go inside. How long does it take to get through your worship session or whatever?

MR. GIMORY: Well, it depends. If you, you run into your friend (inaudible) you know. You know, more than an hour, chit-chatting. But actual you know, prayer and the visit takes this, it just could be as little of five or ten minute. It could be a half an hour.

MR. KOTROCO: So, if you're just going by yourself, five, ten minutes, a half hour? You're in and you're out?

MR. GIMORY: Yeah.

MR. KOTROCO: But if you run into some friends or whatever you may stay around and talk?

MR. GIMORY: Talk a while

MR. KOTROCO: Okay. Tell us about where, we (inaudible) understand (inaudible) holidays. How about the holidays and festivals that, that is --

MR. GIMORY: So, we have a couple festivals. One mainly being September. That's called Dashain. That's the biggest, obviously that's the biggest in the festival in Nepal. In India (inaudible) that's the festival comes for ten days, twenty-- twenty-one days after that.

MR. KOTROCO: Okay.

MR. GIMORY: So, that's, that's one of the biggest festival. And we have a few other minor festival. (Inaudible) in, right around the summertime and the spring.

MR. KOTROCO: So, one in the summer? What would that be?

MR. GIMORY: That's September. It was, it, we go by lunar calendar.

MR. KOTROCO: Okay.

MR. GIMORY: So, it could fall like any time in September or the beginning of October.

MR. KOTROCO: Okay. So, a total of three then is what you're telling me?

MR. GIMORY: Three major one, yes.

MR. KOTROCO: Okay. And you make it more complicated because you follow the lunar calendar, right?

MR. GIMORY: Yes. Right.

MR. KOTROCO: I got you. So, on those days then, now, are those held inside or outside? Those festivals?

MR. GIMORY: Those festival, they, I mean, it's, it's, it can be, it can be done outside.

MR. KOTROCO: Uh-huh.

MR. GIMORY: Yeah.

MR. KOTROCO: Weather permitting or--

MR. GIMORY: Weather permitting.

MR. KOTROCO: --if it's raining you might go inside?

MR. GIMORY: More like a festival. (Inaudible) could have that (inaudible).

MR. KOTROCO: Well, I guess they're concerned about noise. How much noise do you make at one of these festivals? Is there music?

MR. GIMORY: We could have music. We could you know, the music could be, the buildings, it's (inaudible). And once it's all done everything is. The microphone (inaudible) will be stationed inside the building. So it, not necessarily the mike will be stationed outside (inaudible).

MR. KOTROCO: Okay.

MR. GIMORY: Outside the (inaudible).

MR. KOTROCO: Well, let me clear one thing up. You haven't had any religious services whatsoever at this property, is that right?

MR. GIMORY: None.

MR. KOTROCO: Nothing?

MR. GIMORY: No.

MR. KOTROCO: The buildings not even occupiable at this point? It was freezing cold the other day when I was in there. You don't have heat?

MR. GIMORY: No.

MR. KOTROCO: Because you don't have water?

MR. GIMORY: No water.

MR. KOTROCO: And, and it's a hot water boiler system. So, if you don't have water you don't have heat?

MR. GIMORY: That's correct.

MR. KOTROCO: The water hasn't been connected up yet?

MR. GIMORY: No.

MR. KOTROCO: When you bought the property the neighbors or vandals or somebody went in and they cut all the copper pipes out and stole them all?

MR. GIMORY: (Inaudible)--

MR. KOTROCO: So, you don't have any water?

MR. GIMORY: Yeah. It was in bad shape. Yes.

MR. KOTROCO: In bad shape. I'm going to get to

that in a minute. So, there's no heat? No air conditioning? And you haven't had any, in, in the temple room there's still damage in there? People throwing paint around and expletives,--

MR. GIMORY: (Inaudible)--

MR. KOTROCO: --swastikas?

MR. GIMORY: You have a swastika sign--

MR. KOTROCO: Racial slurs?

MR. GIMORY: --up from top to bottom.

MR. KOTROCO: There's everything you can think of in there?

MR. GIMORY: Absolutely.

MR. KOTROCO: Busted out windows?

MR. GIMORY: Yes.

MR. KOTROCO: Drugs, alcohol?

MR. GIMORY: Needles. You could find-- we have, literally have to have the gloves on. Some of my friends here are volunteers. But we put gloves on. Clean all the needles and, and the bottles. We have like, literally have like three, four trash bags full of like beer bottles.

MR. KOTROCO: What type of graffiti were you finding inside the property?

MR. GIMORY: The most visible ones like swastikas, you know, plastered all over the building inside and, and the outside.

MR. KOTROCO: People riding four wheelers, motorcycles on the property.

MR. GIMORY: That's true.

MR. KOTROCO: Even after you took it over you were still having problems?

MR. GIMORY: We, in the early few weeks of the thing, we, we had a building broken into a few times. Then we, we secured that with a, with a new door. We changed the locks. We posted some sign. And recently we installed cameras. So, now it's, you know, we can see.

MR. KOTROCO: And you have, you have it? And you put a chain across the entrance to keep people from coming in?

MR. GIMORY: That's correct.

MR. KOTROCO: People were coming in with pick-up trucks and stuff? Even when you were there fixing it up?

MR. GIMORY: Yes.

MR. KOTROCO: All the work that you're doing now has been done by the volunteers that we see in the room?

MR. GIMORY: It's all volunteer work. We, the only money we had to spend from the donation that came in, buying materials. Paying for legals and registrant fees, but all the work has been done by our volunteers (inaudible).

MR. KOTROCO: So, who's coming around and, and spray painting all this graffiti and all this trash and

busting your pipes, stealing out, busting out your windows, leaving drugs, doing drugs, drinking alcohol? Who's doing all that on the property?

MR. GIMORY: No idea.

MR. KOTROCO: They're not coming out of Baltimore City doing that?

MR. GIMORY: I don't know.

MR. KOTROCO: Okay. The four wheelers are from the neighborhood?

MR. GIMORY: I would assume so.

MR. KOTROCO: This is a picture of the property when you bought it? The front? That's the front entrance, right?

MR. GIMORY: Yes.

MR. KOTROCO: And did you put the plywood up?

MR. GIMORY: That was there. The bank did that.

MR. KOTROCO: The bank secured it as best they could? And somebody, J.D. and W.L. spray painted their initials on there, right?

MR. GIMORY: Yeah.

MR. KOTROCO: Yeah. I see that. And busted up everything?

MR. GIMORY: Yes.

MR. KOTROCO: The windows, beautiful windows, these are individual glass windows, aren't they? They're all,

they're all busted?

MR. GIMORY: Yes.

MR. KOTROCO: Who busted those out?

MR. GIMORY: We didn't do it.

MR. KOTROCO: No, I know. But you're fixing them, right? You've got them all fixed?

MR. GIMORY: Yeah. So--

MR. KOTROCO: You had to-- that's not like an Anderson window? You just pop it out and replace it?

MR. GIMORY: That's right.

MR. KOTROCO: You've got to replace those individual panes?

MR. GIMORY: And then I guess you're going to ask the question about the (inaudible) Association. When we met with some of the neighbors and, and when they had a concern about conservation we said, we're going to do everything possible to preserve the building the way it is today. And knowing the history of the Bonaparte, knowing the history of where it came from and you know, and (inaudible) government (inaudible) lived there for a long time (inaudible) Attorney General. So, we, (inaudible) the history of the building. And we ordered glass. And the person who will help us do that is standing right here.

MR. KOTROCO: A friend. Vic Rhom (phonetic), Vic Rhom did all that?

MR. GIMORY: So, we contact, we, and a piece of glass, do (inaudible) as much as we could. We (inaudible) destroying, you know, not even a window or changing anything to the building.

MR. KOTROCO: So, the front of the building, going from all that graffiti and busted up looks now, and this was taken some time ago (inaudible). You've gotten it pretty well cleaned up, at least at this point?

MR. GIMORY: Yes.

MR. KOTROCO: That's what it looks like most recently?

MR. GIMORY: Okay. So, we, the last thing we did we fixed the roof. There was a leaking from all over the place. We you know, you know, obviously (inaudible) all the graphics. The graffiti that was painted all over the place. Fixed the windows. Fixed the doors. Secured locks. All the steps outside were, the cements and everything was you know, was not safe to say the least. So, we fixed all that.

MR. KOTROCO: So, the back of the house, the back of the mansion also. You've gotten all the glass fixed? Cleaned it up? Painted it up, right?

MR. GIMORY: Yes.

MR. KOTROCO: All done with your own private money and the hard work of these people in the room?

MR. GIMORY: That's correct.

MR. KOTROCO: Anymore vandalism going on?

MR. GIMORY: Not at this point.

MR. KOTROCO: Okay. Got your security camera in place and you've chained off the, the driveway?

MR. GIMORY: Yes.

MR. KOTROCO: Okay. How about, how close, well, you still don't, you still can't occupy the property and you haven't been able to occu-- you've been in there working?

MR. GIMORY: Yes.

MR. KOTROCO: But you're not using it for any religious work?

MR. GIMORY: Yes. We have--

MR. KOTROCO: The people--

MR. GIMORY: You know, the summer time and this (inaudible) we, we go in there maybe twice, even three times a week just to cut the grass, clean up the mess all around the building because the tennis court, it was in a bad (inaudible) found safe. (Inaudible) volunteer not only in a, in a, you know, raise money, but they literally (inaudible). We would (inaudible) fix up the tennis court, all the retaining walls and then just--

MR. KOTROCO: Well, I saw the tennis court and you told me the story that your children raised money too, too?

MR. GIMORY: Absolutely.

MR. KOTROCO: Okay. Tell the Judge what

happened there. When the kids got involved with the ten-- it was so overgrown you didn't even know you had a tennis court there?

MR. GIMORY: Yeah. It was, (inaudible) the property we didn't really look through everything. We discover as we went through the property. And one of the things a good, surprise was there was a tennis court to the building. (laughs)-- And, and all the bushes were so overgrown. It was really blocking the view. And the retaining, big lumbers were just like giving away. So they were literally on the, on, on top, on the tennis court. So, we have volunteer, a youth group, not the corp group, the youth group. Children's and kids in high school. They literally raised $9,000.00 you know. They collected dollar, ten dollar, fifteen dollar from their families and friends. And they bought in a secondhand lumber from somewhere. I didn't even know the name of the place. And they, $9,000.00 they spend on the material. And they spend out of, you know, a few weeks of their time to, to fix it up and make it nice. And today they, you know, when they go there and cut the grass. They could make, play volleyball. In some cases, play basketball.

MR. KOTROCO: Okay. So, it's a volleyball court, a basketball court? They put a brand new, I'm sorry, they put a brand new sport court on top of the old--

MR. GIMORY: Yes. On top of, yeah. So, we've got--

MR. KOTROCO: Right. And now you can use it as a, what it was intended to be?

MR. GIMORY: That's correct.

MR. KOTROCO: Okay. How about the other, other things that are on the property? There's a caretakers house on the property?

MR. GIMORY: There's a care--

MR. KOTROCO: In addition to the mansion?

MR. GIMORY: Yeah. That's, it's in pretty decent shape. We (inaudible) fifteen, twenty-thousand dollars investment into that (inaudible). I think that's where we plan to have a (inaudible) live in (inaudible). (TALKING IN BACKGROUND)--

MR. KOTROCO: And it would be someone to keep an eye out on the property?

MR. GIMORY: Keep an eye on the property.

MR. KOTROCO: And be a caretaker?

MR. GIMORY: And a caretaker. Yes.

MR. KOTROCO: That didn't look like it had all the damage that I saw in the mansion. Was it not-- was it spared? I mean, are the vandals just like busting up the beautiful mansion or --

MR. GIMORY: Yeah. I think they, they were

probably too occupied or too busy.

MR. KOTROCO: Too busy busting that place up?

MR. GIMORY: Yeah. Yeah. That's (inaudible)--

MR. KOTROCO: It's hard to explain. And nobody can really understand it unless they went in and saw it like I did and you all did at the beginning. But there, I mean, there was paint splattered all over the pine woodwork in there?

MR. GIMORY: Even in the basement. Even in all the (inaudible) nice (inaudible) you know, that it has in the main, the main hall (inaudible). (Inaudible)-- (TALKING IN BACKGROUND)--

MR. KOTROCO: Okay. And you're, you're bringing all that back slowly --

MR. GIMORY: And we taking painstaking you know, the time and energy. Our contractor involving (inaudible)--

MR. KOTROCO: I know you're speaking for Vic Rhom back there because he's heading all that up.

MR. GIMORY: Yeah.

MR. KOTROCO: Because I met him on the property because the-- but that's okay. How much longer do you think it's going to take before you're going to have it in a condition that you, assuming this is a (inaudible) that you might even be able to occupy it?

MR. GIMORY: We are, I, I'm going to guess here.

A good guess. I mean, it's probably another four to five month before we get everything done, done.

MR. KOTROCO: Okay. So, even if we're approved here today, that the Judge approves us, you're still months away from being able to --

MR. GIMORY: That's, that's correct.

MR. KOTROCO: All right. Well, let's move on. Well, let me just cover a couple other items. There's, tell me about that historic barn. I was there with you and the Kingsville folks.

MR. GIMORY: Yeah.

MR. KOTROCO: And we walked down to that barn and took a look at that. That's an old, historic barn?

MR. GIMORY: That was another surprise. And we kind of saw it on the Google Map. And we didn't go in until, until a month later after we bought the property. And we came to find out about the, the history that's associated with the barn. And some of Robin Beers, I think I saw him there and Tom. And a couple other folks came to meet us. And they also, (inaudible) well, you know, it was such an honor to know what, what took place there. And they wanted to preserve that. I was like I would be the first one to contribute or sign up for any, any kind of, you know, (inaudible) that you would like to do and preserve that building for, for what it is.

MR. KOTROCO: You're willing to donate it for

purposes of preservation?

MR. GIMORY: Abs-- absolutely. Absolutely.

MR. KOTROCO: It's a two-hundred, maybe older barn that, that Mr. Bonaparte kept his stabled horses in--

MR. GIMORY: Yeah. (Inaudible)--

MR. KOTROCO: --as he would ride back and forth to Baltimore because he didn't like a car. He would ride back and forth (inaudible) those lawns using the horses and that farm?

MR. GIMORY: Yes. And I posted that in our Facebook group page once I found out about the (inaudible). I posted that. And, and not only from our community member, but it was from, from Kingsville area. They were very, very, you know taken back. I mean, very appreciative of what, you know (inaudible).

MR. KOTROCO: Of an opportunity maybe to restore that barn and bring it back to the way you're bringing the mansion back? Nobody seemed to be stepping up to take care of this property? Nobody even cared about it?

MR. GIMORY: Yeah. I was a little surprised that a building was sitting there vacant and in, in that shape for such a long time.

MR. KOTROCO: Right.

MR. GIMORY: And, and then one we, we (inaudible) we bought it and, and started doing some of the

maintenance outside then I think it, it, the attention was given to it.

MR. KOTROCO: It was coming back to life? You're bringing it back to--

MR. GIMORY: Yes.

MR. KOTROCO: Okay. The last part is the swimming pool and the pavilion. What are you going to do with that? There's a beautiful swimming pool and pavilion now. What, what are you going to do with that?

MR. GIMORY: We quite, don't have the exact plan for that. It, for, for safety and liability we need to kind of create a little garden. But I, I think that can be (inaudible)--

MR. KOTROCO: Okay. Down the road?

MR. GIMORY: Down the road.

MR. KOTROCO: Okay. So, just to reiterate, the people coming and going here daily or whatever, week, on weekends, they're your volunteers? They're the people coming in and fixing the place up?

MR. GIMORY: Yeah. Half of the people you see here, these are the volunteer who have come and gone and help us. Help us. And just cutting the grass. Just imagine, cutting the grass on thirty acre property. You're going to need twenty people-- (laugh)--

MR. KOTROCO: Or a big lawn mower.

MR. GIMORY: --a week or more.

MR. KOTROCO: Yes.

MR. GIMORY: And, and that we didn't have this, I take big (inaudible). So, we were just using you know, a small John Deere lawn mower. So, right. It would take, take a long time.

MR. KOTROCO: Let me talk about, and this is a touch, a touching point with the community because I know Mr. Clark already brought this up. You had a fundraiser on the property in the summertime where you invited a lot of people to come and contribute money for your, for your (inaudible). Tell us, tell us what happened there, because I know they want to know about that.

MR. GIMORY: Yeah. Absolutely. Anybody that was involved in the (inaudible), really just organizers and any kind of volunteer work you know how much, how difficult it is to raise money. It is difficult. Telling people to open up their wallet and give you, write you a $1,000.00 check or $500.00 check, not knowing the cause. What we're trying to do and what, what are you trying to achieve? So, we thought that we had a, this, this beautiful piece of property that we're trying to establish a (inaudible) temple. First time in the history in Baltimore County for this population that have never had a home, they haven't had a place to call, at their temple. And inviting people and, and inviting all this family to come and see that place. What it would be in the future. It

was important to us. And, and it was very important for us. And to, to raise that money that we needed. So, once we, we didn't even like you know, (inaudible) Facebook page. And we, people are so excited. People traveled from Virginia, D.C. You know, people came from New York just to see it. You know, and, and if I may expand that into that? There was a traffic, there was a traffic circle that was being constructed that week. I don't know how it, how long it took but probably a couple of years. And a lot of people are getting lost because the Google Map, the property is so big Google Map pointed the property in the wrong place. So, a lot of our members couldn't find the place. That they you know, accidentally moved, you know, drove into somebodies driveway and the neighbor were probably not very pleased with that. And, and later we fix all of that now. The Google Map point to our entrance. The (inaudible)--

MR. KOTROCO: You don't really have a sign out there or anything?

MR. GIMORY: We didn't even have a sign right there.

MR. KOTROCO: Right. Right. So, what happened? How many people showed up? How much money did you raise? How long did it go on for? Tell, tell us what happened.

MR. GIMORY: So, we had two days event. I think

between those two days we may have, have three to five-hundred people show up in, in two days. So, they were come, coming in and going out. And some of the people that we didn't know from you know, Virginia and D.C. So, we didn't have exact count. But people we knew. I would, a rough estimate been three to five hundred.

MR. KOTROCO: Mostly Nepali people?

MR. GIMORY: No. We had you know, people from our other ethnic group. A lot of our good friends from, from Baltimore County, Perry Hall. They were excited as well for us. Yes.

MR. KOTROCO: Okay. Do you have any plans to do any more of those types of fundraisers?

MR. GIMORY: No. Because we, it, we met our initial target of raising a half a million dollar.

MR. KOTROCO: Okay.

MR. GIMORY: To, -- That's not one of our regular event or you know, future plans.

MR. KOTROCO: Well, if you're getting a half a mill out of it you might want to have a couple more. I don't know. (laughs)--

MR. GIMORY: Let me correct that. I mean, we didn't raise a half a million dollar on that day, but we raise (inaudible)--

MR. KOTROCO: Oh, okay. I got you. Okay.

Let's go over the water and sewer, because I know Mr. Clark brought up some very good points. This property is so old you were not able to find a well on this property?

MR. GIMORY: So, we have, I'm, this, I have, our contractor (inaudible) septic and (inaudible). And Vic Rhom, our contractor is here. He met with (inaudible) around the Baltimore area a long time. He's, you know, (inaudible)--

MR. KOTROCO: It's the Preston Whiteford Company, which is an odd name for--

MR. GIMORY: Right. It's Preston White.

MR. KOTROCO: -- Whiteford, Preston Well Company, because I used to work for (inaudible) Preston.

MR. GIMORY: Yeah. Highly recommended by Baltimore County. And so he's on the list. So, (inaudible) but he cannot three or four times. We have an estimate to replace the septic. I think it's right around twenty some thousand. So yeah, we have, one (inaudible) of--

MR. KOTROCO: Let me back up a minute. You never found the well? Is that right?

MR. GIMORY: Yes.

MR. KOTROCO: You could not find it?

MR. GIMORY: Could not find it.

MR. KOTROCO: And we think maybe in the old days they, they would, took the water out of the stream, do you think?

MR. GIMORY: Yes. That's what we (inaudible)--

MR. KOTROCO: That's what he thought though? Because he couldn't find any well on the property where there was a well? Okay. But there is a well because there's water coming from somewhere, right? Or there's a water source?

MR. GIMORY: Was, it was just, we were told there was a spring water (inaudible).

MR. KOTROCO: Okay. So, you're going to put a brand new well in?

MR. GIMORY: Yes.

MR. KOTROCO: You haven't done it yet? You're going to go to Baltimore County and get a permit and then go through Baltimore County and put in a proper well for this property?

MR. GIMORY: That's right.

MR. KOTROCO: And the well will work for the, the temple and the mansion, as well as the caretaker's house because that needs water too.

MR. GIMORY: That's right. Yeah.

MR. KOTROCO: Okay. Were they able to find a septic system? Or no?

MR. GIMORY: Septic system?

MR. KOTROCO: We, are we saying yes or no? The ground--

MR. GIMORY: There was one.

MR. KOTROCO: They found one?

MR. GIMORY: It's not (inaudible)--

MR. KOTROCO: It's no good? Okay. So, you're gonna, well, what are you gonna do? You want to put a brand new system in?

MR. GIMORY: Yeah. So we, so, his recommendation to put a brand new system. We have an estimate for that. So--

MR. KOTROCO: Okay.

MR. GIMORY: And then this is going to tie in all (inaudible) places. Like the caretaker house, (inaudible) and the main (inaudible)-- (TALKING IN BACKGROUND)--

MR. KOTROCO: Okay. So, when you go through Baltimore County and, and in Environmental Department in the County, they inspect. They come out and they oversee the installation of this entire system?

MR. GIMORY: That's correct.

MR. KOTROCO: And they make sure it's done properly and the right size?

MR. GIMORY: (Inaudible) yeah. Yes.

MR. KOTROCO: All right. But you haven't done that yet?

MR. GIMORY: No.

MR. KOTROCO: Okay. You're not that far? You're still three or four months away from even using the

property?

MR. GIMORY: Yes.

MR. KOTROCO: Okay. Discussions with your neighbors. I know I was there and you, you've always been open and invited anybody that wants to come out there to come out there?

MR. GIMORY: Yeah. Yes.

MR. KOTROCO: All right. So, what have you done with talking with the neighbors?

MR. GIMORY: We, we met, I think some of the Kingsville Associates. And (inaudible). We met with them twice, right at the property. We shared our plan. We even shared the plan that (inaudible) you see here today. They had that months ago. We had a good feedback from them. They shared some of their concern. And we always, we (inaudible) very truthful and, and (inaudible). And always had intentions to be a good neighbor and we will be a very awesome neighbor. We, we hope so. And we also met with Pastor Daniel (phonetic) is here.

MR. KOTROCO: Pastor Daniel Montague (phonetic), right?

MR. GIMORY: (Inaudible)--

MR. KOTROCO: Okay.

MR. GIMORY: And with the United Methodist Church. They were so gracious to invite us to the church on

Sunday. We met with a lot of members of the church. And I shared my plan and some of the folks stood up and say, you saved my trip to Towson Courthouse, you know. (laughs)--

MR. KOTROCO: Go ahead.

MR. GIMORY: You know, some of the fear that we had was unfounded. And we had you know some misinformation about your group and what your plans are. Now you shared with what you're going to do and what's about to happen and there's no need for us to go there at that place. So, that's (inaudible)--

MR. KOTROCO: They, they're, they're in support of you?

MR. GIMORY: Yes.

MR. KOTROCO: And the Pastor's here today in support?

MR. GIMORY: The Pastor to, to support us. And you know, as I said in the beginning it's, it's very, you know, I get a good smile when I say it. It's, it's a big deal for our, for our community. It's, it's a, it's (inaudible) and all of his friends. It is a, it's a defining moment for us, you know.

MR. KOTROCO: Uh-hum.

MR. GIMORY: And you know just, we have (inaudible) day and, Pastor was talking about being inclusive. Being able to listen to. And that message is so (inaudible) on that day when (inaudible) on, on there on Sunday. Now, I

hope the proximate community neighbors would find us and would listen to us and we would sit down and listen to you. Give us a chance. I know this country is welcoming place. I know you will welcome us open heartily. We'll do everything to be a good neighbor. I'm sure we can abide by every code and laws out there on, on the books. And that's exactly what we, we are here for. (Inaudible)--

MR. KOTROCO: And, and you're willing to have meetings on the property and invite, invite anybody here in the room to come out?

MR. GIMORY: I'm self employed. I have time, all the time in the world. So, call me up any day from 9:00 AM to 9:00 PM. I can meet you any day and answer any question you have.

MR. KOTROCO: Okay.

MR. GIMORY: Any day.

MR. KOTROCO: Yeah, I know. I've attended a couple of those myself. This one, your property is not only religious use in that vicinity right there, is it?

MR. GIMORY: No. No.

MR. KOTROCO: There are, there a couple other religious institutions right next to you or just a couple of properties over, is that right?

MR. GIMORY: Redeemer Church and, and the schools. It's just, because I think, don't quote me on it, but I

think it's literally only four houses between our site and the Redeemer Church. And--

MR. KOTROCO: And the Hutschenreuter property in the back? I mean, you're, you're only one farmer's property--

MR. GIMORY: Yeah.

MR. KOTROCO: One big piece of property between the two of them?

MR. GIMORY: Yes. And I have been to that (inaudible)--

MR. KOTROCO: You looked to put your son in there, right?

MR. GIMORY: I (inaudible), my wife and I were contemplating putting my son to high school and he ended up going somewhere else. But you know, I've been there a few times. Yes.

MR. KOTROCO: And you've walked the campus? And you walked with property?

MR. GIMORY: Yes.

MR. KOTROCO: You've met with the Headmaster or whatever the--

MR. GIMORY: Yeah. I can't remember the name now, but I met with the counselor and the student, the registration folks and yes.

MR. KOTROCO: Okay. And that's, that has a

grade school, a high school as well?

MR. GIMORY: I think it have 250 students that go there every day.

MR. KOTROCO: Uh-huh.

MR. GIMORY: It's, it's a high, you know, a grade through high school. Our neighbor goes there too. That's how we found out. Yes.

MR. KOTROCO: Okay. And next, next door to that is the Beachmont Christian Camp, is that right?

MR. GIMORY: I think they're related. I, I don't know how they are set up. I think you can put the one entity, I mean, you know, legally two entities, but you know, one management. I'm not sure how that's set up. But I know there's a church, a school and a pretty big summer camp I think there because it's pretty well known.

MR. KOTROCO: Yes. So, it's, and there's soccer fields, football fields, ball fields, baseball fields?

MR. GIMORY: That's right.

MR. KOTROCO: Swimming pools, tennis courts? Everything on there?

MR. GIMORY: Everything in there. Yes.

MR. KOTROCO: Everything you need?

MR. GIMORY: Everything you need.

MR. KOTROCO: I was shocked on the one. I've never seen a corn maze at a Christian School before. But it

looks like a big, giant corn maze in there. Did you see that?

MR. GIMORY: No. It's, right in the corner, it looked like it.

MR. KOTROCO: It does. I've, I've never seen that. Only, what, I don't know what relation that has to Christianity or whatever, but there's a big, giant corn maze there. And I guess that attracts a thousand people or so to come and go to that?

MR. GIMORY: I, I wouldn't know (inaudible)--

MR. KOTROCO: Do you see it in the photo? It's quite elaborate.

MR. GIMORY: Yes.

MR. KOTROCO: It even says something on there. I was trying to make out the word. And maybe there's some folks from Redeemer here that knows what it says. I think it says, Super Heroes or something like that. I couldn't tell. Those things amaze me that they're able to cut-- Here's a better picture of it. That's the corn maze at the Redeemer School. Have you ever gone through that?

MR. GIMORY: Not the corn maze.

MR. KOTROCO: Okay. Was it there when you toured the school? It's fairly new, isn't it?

MR. GIMORY: (Inaudible)--

MR. KOTROCO: You don't know?

MR. GIMORY: No.

MR. KOTROCO: It's okay if you don't know.

MR. GIMORY: (Inaudible)--

MR. KOTROCO: That's the last thing about that Redeemer, Redeemer School. And I'm, listen, I'm fan of the Redeemer School. I think I approved part of it and the Beachmont as well when I used to work with the County. But it's a great use. And I'm not knocking it, but it's a, it's a pretty well, established Christian School there, right? I mean, it's--

MR. GIMORY: Yeah. It is.

MR. KOTROCO: --got a Logic and Rheteric School. I see a Grammar School, Redeemer Classical Christian School, a field house and a bunch of other buildings?

MR. GIMORY: Yes.

MR. KOTROCO: All shown on this?

MR. GIMORY: Yeah. That's--

MR. KOTROCO: (Inaudible)--

MR. GIMORY: Quite a few buildings out there. Yeah. Yeah.

MR. KOTROCO: Okay. And you're not looking to do any of that stuff? You just want to go in there for your half hour to an hour?

MR. GIMORY: No. We met morning (inaudible)--

MR. KOTROCO: More so than every two years? You're going to go a little bit more than once every two years,

right?

MR. GIMORY: Yeah. Yes.

MR. KOTROCO: Okay. (laughs)-- Got some catching up to do. A couple more questions and I'll be finished (inaudible).

MR. GIMORY: Okay.

MR. KOTROCO: The Special Exception Request. You know how you're going to use the property? You know it better than anybody and maybe some of the others in your, in your congregation. You believe your use of this property and the buildings that are on there for your purposes, do you think that's going to be detrimental to the health, safety or general welfare of the surrounding neighborhood?

MR. GIMORY: No.

MR. KOTROCO: Are you going to create congestion in roads, streets or alleys coming and going to the site?

MR. GIMORY: No.

MR. KOTROCO: Are you going to create a potential hazard and fire, panic or other danger?

MR. GIMORY: No.

MR. KOTROCO: Are you going to overcrowd the land or cause an undue conservation of population?

MR. GIMORY: No.

MR. KOTROCO: Are you going to interfere with

adequate provisions of school or parks or water or transportation or other public environments?

MR. GIMORY: No sir.

MR. KOTROCO: Are you going to interfere with adequate light and air?

MR. GIMORY: No.

MR. KOTROCO: And are you inconsistent with the purpose of the properties zoning classification?

MR. GIMORY: (Inaudible)--

MR. KOTROCO: They're RC-2. Redeemer and Beachmont, a couple doors down, they're on RC-5. Both rural conservation zones, right?

MR. GIMORY: Yes.

MR. KOTROCO: And do you think there's any reason why you setting up a religious worship on this property is anyway going to be more detrimental here than it would somewhere else?

MR. GIMORY: No.

MR. KOTROCO: Okay. And the property is not being farmed at this time though, is it?

MR. GIMORY: No. It's, yeah, it's not being used (inaudible).

MR. KOTROCO: Maybe horses I guess when Mr. Bonaparte had it?

MR. GIMORY: Yeah. Yeah.

MR. KOTROCO: Okay. All right. I don't have anything further of Mr. Gimory.

JUDGE BEVERUNGEN: Okay. Any questions?

CROSS EXAMINATION BY MR. CLARK:

MR. CLARK: Yeah. Can I approach the, the exhibit?

JUDGE BEVERUNGEN: Yes.

MR. CLARK: Mr., is it Gimory?

MR. GIMORY: Gimory.

MR. CLARK: What, you know, I-- this is the first you and I have met, right?

MR. GIMORY: I think so, right?

MR. CLARK: Yes. It is.

MR. GIMORY: (Inaudible).

MR. CLARK: You don't remember me? I don't remember you? I live right across the street from you.

MR. GIMORY: Okay.

MR. CLARK: And we have never met. Have you ever come down into these properties and introduced yourself?...Have you ever sent circulars to these properties, including Mr. (inaudible)?

MR. GIMORY: No. I have not.

MR. CLARK: And you have not. So, your outreach has been very limited, correct?

MR. GIMORY: Um--

MR. CLARK: You haven't, you haven't approached the people in the immediate area? Is that correct?

MR. GIMORY: We met with the Kingsville Association--

MR. CLARK: The Kingsville Civic Association is about five, three miles away. All right. You did not meet or attempt to meet with the people in the immediate area, is that correct?

MR. GIMORY: That would be correct.

MR. CLARK: Okay. Now, you described the damage to the, to the property. Your Honor, I've got to work off nervousness. So, is it okay if I, I walk around?

JUDGE BEVERUNGEN: (Inaudible)-- oh, sure.

MR. CLARK: Okay. Thank you. Would it surprise you to, to, to learn that the old caretaker's house down by me, at the bottom of Mark Lane (phonetic), okay, down here, that that had been abandoned and was also in the same, exact condition as yours? Would that surprise you? And that was thirty years ago? Forty years ago?

MR. GIMORY: Are you saying the caretaker house?

JUDGE BEVERUNGEN: What, yeah, what property? I'm not sure I follow that question.

MR. CLARK: Yeah, yeah, yeah.

JUDGE BEVERUNGEN: Where is it?

MR. CLARK: (Inaudible)--

MR. GIMORY: No, I don't think (inaudible).

MR. CLARK: It, it's, it's down here. They got the tag on barn, but anyway it was, it was the original farmers house for the Bonaparte's, okay? And that property was in exactly the same condition? In fact, the kids were using it as a roller skating rink, okay? You know, I mean the, the things you found in there are offensive to any reasonable human being?

MR. GIMORY: That would be my assumption. Yes.

MR. CLARK: Yes. And but it, do you think it was targeted at you?

MR. GIMORY: They didn't even know that we bought it (inaudible)--

MR. CLARK: Correct. Thank you.

MR. GIMORY: Before that. But after we bought it I (inaudible)--

MR. CLARK: Right. But, but the swastika was there when you bought the property?

MR. GIMORY: Some were there. And some were painted even after we bought--

MR. CLARK: Okay. That, that's your testimony. Okay. Now, I looked at the, the signing list for the Protestants. I didn't see anybody, and if I'm wrong please

raise your hand. I didn't see anybody with the initials J.D. or W.L. Is it, is there anybody here with those initials?... Okay. So, it wasn't anybody in this room that defaced that property, is that correct? If their initials are not J.D. or W.L.?

MR. GIMORY: I don't know that.

MR. CLARK: All right. Well, but there is, you agree there is nobody here that has stood up and said they are, they are J.D. or W.L.?

MR. GIMORY: I, I (inaudible)--

MR. KOTROCO: I'm going to look at the list.

MR. CLARK: Yeah. Please do.

MR. KOTROCO: Maybe it's their kids.

MR. CLARK: Well, it could be.

MR. KOTROCO: It could be.

MR. CLARK: All right.

MR. KOTROCO: It's not any of them, but, but--

MR. CLARK: But, but right. Now, would it surprise you to learn that I have chased kids in wheel ATV's off my property?

MR. GIMORY: No.

MR. CLARK: Okay. It's not just directed at you I don't think.

MR. GIMORY: I hope not.

MR. CLARK: Now, we, we have never met before. And I'd better go back to my questions. You, you testified

that there have been as many as eighty cars already going down the driveway, right?

MR. GIMORY: Sir, can you, can you--

MR. CLARK: You said something in your testimony about eighty cars going down the driveway at one time.

MR. GIMORY: I, I think what I said was, I don't know the exact length and how many cars that would fit in, but you know, at the wild guess I would say if you line up from Harford Road all the way to the building you could probably--

MR. CLARK: Okay.

MR. GIMORY: --fit in sixty to eighty cars easily from.

MR. CLARK: Okay.

MR. GIMORY: That's what I said.

MR. CLARK: Okay. Because and I'm sorry, (inaudible) getting distracted by (inaudible)--

MR. GIMORY: No problem. No problem.

MR. CLARK: And I really am sorry if I come across strident. I'm just--

MR. GIMORY: No. No problem.

MR. CLARK: You know, I know (inaudible) well.

MR. GIMORY: You're good. You're good. You're good.

MR. CLARK: All right. Now, you said you're a

501 (inaudible)?

MR. GIMORY: Yes.

MR. CLARK: Did you apply for 501-C status?

MR. GIMORY: It's already approved.

MR. CLARK: No, no. That wasn't my question. Did you apply? (TELEPHONE RINGING IN BACKGROUND)--

JUDGE BEVERUNGEN: Jess?

MR. GIMORY: I don't-- well, how would you get that without apply it?

MR. CLARK: Well the, well, the I.R.S. gives special exemptions for certain categories, all right? Did you apply--

MR. GIMORY: Okay, okay--

MR. CLARK: Did you actively apply--

MR. GIMORY: So, now I understand. But yes, we did apply. Yes.

MR. CLARK: You did apply?

MR. GIMORY: Yes.

MR. CLARK: Okay. Now, you also said something that led me to, to wonder about the actual ownership. You said that people, that people that gave money have a stake in the property. Was that a, what, what, am I misunderstanding or, or is that--

MR. GIMORY: No. I don't think I said that. But it's a 501-C Corp-- a 501-C Entity.

MR. CLARK: Yeah.

MR. GIMORY: So, when you donate that money to a 501-C that becomes your donation. That's a 501-C property.

MR. CLARK: Right. Right. Right. I understand that part. But do people actually have a share of the property? You know, and a lot of this is --

MR. GIMORY: No.

MR. CLARK: I took Comparative Culture forty years ago.

MR. GIMORY: Okay.

MR. CLARK: Right? So, okay. It actually belongs to the, the--

MR. GIMORY: To the entity body.

MR. CLARK: To the Cultural Center?

MR. GIMORY: Yes. That's correct. Yes.

MR. CLARK: All right. To, to the entity. Okay. You, all right, let's, let, I'm just going to cut to the chase Mr. Kotroco.

MR. KOTROCO: Go ahead. I like that. (Inaudible)--

MR. CLARK: I'm just going to cut to the chase. (laughs)--

MR. KOTROCO: That sounds good.

MR. CLARK: All right. I think I've got a copy for you. Can, can you get out copy, copy one or two of the

Code Enforcement? You knew this was coming up.

MR. KOTROCO: I didn't. But I'll take it down to the Department of Justice the next time I'm (inaudible)--

MR. CLARK: There, yeah, yeah, yeah.

MR. KOTROCO: Let me have it. Let me have it.

MR. CLARK: All right.

MR. KOTROCO: Thank you very much. Were you the one that complained sir?

MR. CLARK: No, I was not. Well, I was one of them ultimately.

MR. KOTROCO: Okay.

MR. CLARK: But, should I give this to the, to the witness Your Honor or should I --

JUDGE BEVERUNGEN: Sure. If you want him to review something.

MR. CLARK: Okay. Are you familiar with these?

MR. KOTROCO: Look at my (inaudible) shake.

MR. CLARK: All right. Are, are you familiar with it? With these actions?

MR. GIMORY: Oh, yes.

MR. CLARK: Yes. I think in April. Can I, can I have a copy? Yeah. I think in April the Department of Permits and Approvals investigated you. And the complaint was converting the property into a temple with no permits. Please see pictures, etcetera. That was, oh, no. That was in

August. I'm sorry. August 4th, okay? Now, since you didn't have a Special Exception Permit, right, at that point the description is not pejorative, it's factual? Is that right?

MR. GIMORY: I'm sorry? I was looking at --

MR. CLARK: Yeah, yeah, no, no, no, no. No.

MR. GIMORY: Can you--

MR. CLARK: I'm trying to fact, to say that the way that this was, that the way the, the code action was written it --

MR. GIMORY: Yeah.

MR. CLARK: --wasn't pejorative? It was in fact--

MR. GIMORY: May, may you say that in a simple English? I'm, this is my second language. So, I--

MR. CLARK: No, no. And I, I was told by French to speak in English. (laughs)--

MR. GIMORY: Okay.

MR. CLARK: All right. The, yeah, what, the, the term used in this complaint was not an insult, right that you're converting it to a temple--

MR. GIMORY: Well, you gave me about twenty pages (inaudible)--

MR. CLARK: No. I'm talking about the top one (inaudible)--

MR. GIMORY: Okay. All right.

MR. CLARK: All right. We're going to work,

we're going to go through them all.

JUDGE BEVERUNGEN: Sir, what's your question? You're asking him if the use of the term temple is a (inaudible) term?

MR. CLARK: No. Yeah. No, no, it's not pejorative. It's descriptive.

JUDGE BEVERUNGEN: And do, do you mean because that it's, it's not a common place to be at a temple? Or what, I mean (inaudible)?

MR. CLARK: No, I mean, yeah, Your Honor, here, here is--

JUDGE BEVERUNGEN: Yeah. I'm in the dark too. I don't have a copy of what you're asking.

MR. CLARK: Do we have another? All right. Well, here's this one.

JUDGE BEVERUNGEN: Okay. Well--

MR. CLARK: Here's that one.

JUDGE BEVERUNGEN: Okay. So, the question to him is a what?

MR. CLARK: Is that that in fact is descriptive, not pejorative? That it's not insulting?

JUDGE BEVERUNGEN: Okay. Did, well, you, you (inaudible) insult him sir? That somebody charged you with operating a temple without a permit? Did that offend you? Using the word temple or --

MR. GIMORY: No.

MR. CLARK: Okay. Good.

JUDGE BEVERUNGEN: Okay.

MR. CLARK: Thank you again.

JUDGE BEVERUNGEN: If that's your point I, I--

MR. CLARK: That, that is (inaudible).

JUDGE BEVERUNGEN: Okay. Good.

MR. CLARK: Now, later on you, the, the organization received several enforcement notices from the county, right? Including a Cease and Desist Order? Okay? Did you seek legal advice on how to handle those?

MR. GIMORY: Yes.

MR. CLARK: And presumably your, your adviser told you to deal with the, to, to meet with them head on? To do the right thing and a legal thing?

MR. GIMORY: Yes.

MR. CLARK: Now, I have it from Mr. VanDommelen and Mr. Jablon that they asked you repeatedly to meet with them. In fact, they sent the ecumenical (inaudible) liaison. Oh, my mouth is dry. (laughs)-- To, to talk with you, but you were unresponsive to them, is that correct?

MR. GIMORY: That's not correct.

MR. CLARK: Okay. Can you tell me what happened?

MR. GIMORY: All right. So, I'm going to go back a little bit you know. So, to these incidents and how some of them are so. I would say somewhere, this was back-- and my wife is sitting right here. The County Office Enforcement guy comes and put a note on my door.

MR. CLARK: At your home?

MR. GIMORY: At my home.

MR. CLARK: At your house?

MR. GIMORY: Yeah. They know where my office is. They know where the property is.

MR. CLARK: Right.

MR. GIMORY: And my middle son goes, daddy, are we been foreclosed on? And that (inaudible) you know, and my wife was screaming (inaudible). And that's what's very, the effort on some of the, I don't know, I don't know the names, but there were like marching into the zoning office every day and telling some of the things, weren't true. One of them was the building was used as a place of worship, which was a false. Number one, there's one, one time the Baltimore County and personnel showed up at the property. And of the members here. And he said, you guys cook in here or something. You're serving some food and you don't have food. You got to be kidding me. There's no water. There's no, no heat. We're not cooking. We're not selling food. We're (inaudible) none of this. This is harassment. And, and this,

and he obviously gave a whole bunch of papers over here. And as soon as we met, met we even went out of our way to meet with Mr. Jablon at his office. We were, three or four people who are here today we went, met with him. We discussed what was some of the concerns. He told us that he had a large event like the, the fundraiser. Yes. Even your personal property you could have a picnic. You could have fundraiser. You know, you (inaudible) invite thirty people in my back yard to have a fundraiser (inaudible) to do that. But is it just to be nice with the neighbor what (inaudible) next event, why don't you get a permit. And that's exactly what we did. The next time we had a fundraiser I forwarded a copy to permit, a copy of the permit to you. I think people who are, maybe we wish we knew everybodies name and the e-mail address and phone number, which is not possible. And we (inaudible) rude and knock on somebodies door. But people we had contact with, like the Kingsville Associates and folks, we were in contact with them. I think that we had a couple phone, phone call conversation. We had e-mail exchanges. I still have e-mails I think Tim was copied on.

MR. KOTROCO: And Councilman Marks sent you --

MR. GIMORY: Councilman David Marks we, all along we, we were in contact with him from the day one. I, just like you, we are good citizen, good neighbor. And

anything goes on, and we wanted to, as much as you like to preserve that land I think I would like to do the same too.

MR. CLARK: Okay.

MR. GIMORY: Absolutely.

MR. CLARK: That, that's very nice to hear. I'm glad you brought up Councilman Marks and the Kingsville Association and Mr. Jablon. You said that you know, you can have thirty people there.

MR. GIMORY: And--

MR. CLARK: There was a but to that, wasn't there? There was a but if you're having a hundred or more you need a special event permit, right?

MR. GIMORY: A special event permit. But that's not exactly, we had, we had--

MR. CLARK: No. No, but you said he said that you can have thirty people there. But for, but for that, to be nice to the neighbors you would need-- he actually gave you a number that triggers a special event permit, did he not?

MR. GIMORY: I can't recall that.

MR. CLARK: Okay. That's fine. Now, let's go to the Kingsville Civic Association and Mr. Marks and Outreach, okay? You're aware of the Kingsville Civic Association community meetings that were held about the property, right?...You were invited. In fact, Mr. Marks told me personally, he was annoyed that you didn't show up at one of

the meetings.

MR. GIMORY: I, I have no knowledge of that.

MR. CLARK: Okay.

MR. GIMORY: I tried to reach out to (inaudible) if I can remember and --

MR. CLARK: Okay.

MR. GIMORY: --asking when the next meeting would be.

MR. CLARK: Okay.

MR. GIMORY: From privately a couple of the members that (inaudible) you know, some of the attending could be hostile and then it would be probably not a good idea to come. Those, those (inaudible)--

MR. CLARK: Who said it would be hostile? (Inaudible)--

MR. GIMORY: That was coming from --

MR. CLARK: Doesn't that occur to you that that's pre-judging us?

MR. GIMORY: That was in my judgment.

MR. CLARK: No, no, no, no, no, but--

MR. GIMORY: But I think--

MR. CLARK: (Inaudible)--

MR. GIMORY: I don't know if that was the reason that (inaudible) I wasn't you know, given that notice for the meeting, but I did not know about the (inaudible).

MR. CLARK: All right. But what you just said strikes me as fairly (inaudible) to tell you the truth. You know--

MR. GIMORY: That didn't come from me.

MR. CLARK: I, I understand that. I understand that.

MR. GIMORY: I'm, I'm just stating what (inaudible)--

MR. CLARK: Now, let me tell you something all right? I have some, I actually had somebody that came up to me and said that they don't pray like that. That they don't pray, they don't pray like us, okay? I told him that was a hateful and spiteful thing to say.

MR. GIMORY: I'm very (inaudible)--

MR. CLARK: And that I didn't want to hear anymore of that. And, and you can figure, I, I just bowl, and what comes out of a bowl.

MR. GIMORY: I'm very proud of you. (Inaudible)--

MR. CLARK: All right. What we are concerned here is with proper (inaudible), okay? And what, now, do you recognize that all of this area and all down the valley can, can you accept that they are pretty upset and annoyed about the disturbance to their quiet enjoyment of their property?

MR. GIMORY: So, the Beachmont of the school

and the (inaudible)--

MR. CLARK: Beachmont is, we don't hear Beachmont. We hear you.

MR. GIMORY: Okay. You're probably not going to hear us much. (laughs)-- I don't think how can you really hear? Well, one festival maybe you could have heard some noises. But on a regular day, a regular prayer day, a regular you know, meeting I don't know how you're going to hear that.

MR. CLARK: Trust me, the, the regular comings and goings as you describe them aren't the communities concern, okay? That is not what we're worried about. We're, we are, we are in fact annoyed that several times, not just once, but several times we have to endure days of noise, all right? And we had no choice. Now, I have a recording from, from my deck, all right? And like said, I'm there. I'm about a, a half a mile (inaudible) entrance, okay? I have a recording that I will offer into evidence that, of the noise that was coming off. And it was, and it went until 9:00, 10:00, okay? So, can you get how your neighbors that you want to be in partnership with aren't necessarily looking at you as a effective partner? I do a lot of partnerships, okay? And an effective partner is a two way street.

MR. GIMORY: And I'm a little, so, I'm surprised I didn't, had a chance to meet you to (inaudible)--

MR. CLARK: Oh, I'm very surprised. (laughter in

background)--

MR. GIMORY: And I--

MR. KOTROCO: No, I think you should apologize. You should.

MR. CLARK: No. I said, I'm very surprised.

MR. KOTROCO: No, you should apologize.

MR. GIMORY: I mean, I, you know, the three meetings we had at the building if you were a next door neighbor I don't know how you missed that or some of folks from the Kingsville Association. I don't know. Do you know any of them?

MR. CLARK: We were, we were at three meetings that they held about the, the--

MR. GIMORY: No, no. At, at the property?

MR. CLARK: No. At Kingsville, to which your group was invited?

MR. GIMORY: Did, did they mention that they had, they had a meeting with us?

MR. CLARK: Yes, they did. But that wasn't, like I said, that's people who have a whole different point of view of, of how the property, of the property, all right? We, as I said, as Mr. Mostco, Motsco, right?

UNIDENTIFIED SPEAKER: Correct.

MR. CLARK: Testified, you are at the top. Well, my property is at 300. You're probably at 500 feet. Is that

fairly correct? Substantially, more or less?

JUDGE BEVERUNGEN: No. That's too small. (Inaudible)--

MR. CLARK: But you know, you're at about 500 feet in elevation. And then it goes, it drops down to the valley, which goes down to Gunpowder Falls Park. That sound travels all the way down that valley. And you see how people would be upset about that? Did you give any consideration to those people?

MR. GIMORY: If that's what, if the noise is a, is a factor that's something we can discuss. And once, as I stated earlier--

MR. CLARK: But--

JUDGE BEVERUNGEN: Hold on.

MR. CLARK: (Inaudible) I'm sorry. I'm sorry.

MR. GIMORY: As I stated earlier, once the building gets (inaudible) and occupied all the activity will take place inside the building. And (inaudible) I said that's a one in you know many years in fundraiser event.

MR. CLARK: Understood.

MR. GIMORY: So, I (inaudible)--

MR. CLARK: But, but my question is did you give consideration to the, to the immediate neighbors, and I mean a mile away how they would be impacted by the noise? Did you give any consider-- did anybody say, oh, we ought to think

about how the people who live here are, are going to, to respond to this. If not just to avoid problems like now.

MR. GIMORY: They consider what they're given. And that's, that's (inaudible)--

MR. CLARK: No, no, no. But it wasn't at the time, right?

MR. GIMORY: No.

MR. CLARK: Okay. Now, your, your profession is you're a developer, right?

MR. GIMORY: No.

MR. CLARK: Okay. What, what is your profession? I'm sorry.

MR. GIMORY: I'm in real estate sales.

MR. CLARK: Okay. Real estate. You're in real estate. How long have you been in business in Baltimore County?

MR. GIMORY: About ten years.

MR. CLARK: Ten years. Okay. So, number one, you understand the difference between RC-2 and RC-5?

MR. GIMORY: I know what the RC-2 is, with the exception--

MR. CLARK: Yeah. And you know what RC-5 is?

MR. GIMORY: (Inaudible)--

MR. CLARK: And you know RC-5, the comparison between Beachmont and this property isn't really germane?

RC-5 is a lot more liberal than RC-2, right?

MR. GIMORY: I would have to, you know (inaudible)--

MR. KOTROCO: It's not. You can say no.

MR. GIMORY: Okay. No.

MR. CLARK: Okay. Okay. Now, and I want to be clear on something. Is your testimony that you never served food for large crowds up there? You, you said that earlier. I just want to be clear.

MR. GIMORY: No. We never cooked food inside the building or serve, but we had a festival, We had food that was prepared and brought to the place. So, it was--

MR. CLARK: So, it was catered?

MR. GIMORY: The, so, the food was not-- it's the Baltimore County Court Enforcement Officer, even he was, his face was like a stun, like I was just sent here for nothing, you know. (laughs)--

MR. CLARK: (Inaudible)--

MR. GIMORY: And when he, when he went to the property. What I was told isn't what I see here. It's two different things.

MR. KOTROCO: It was just harassment? You were told bad information?

MR. GIMORY: Yeah. It was like in a--

JUDGE BEVERUNGEN: It isn't right to

characterize it as harassment.

MR. KOTROCO: Okay.

MR. GIMORY: He, he called me on the phone and said, sorry sir, I'm, I (inaudible) wasting your time, but I, I have to make this call. And one of the gentleman handed me, handed the phone to me and I said, look, I mean, you see what you see. I didn't have to tell you anything. Do you see the kitchen being used? The kitchen is not even usable. The building is not usable. We, we don't even have a permit to use the building. We haven't even got into that second phase of the permitting, for the building and the fire and safety and septic and water and all this.

MR. CLARK: Do you have a (inaudible) of harassment?

MR. GIMORY: I'm not accusing of that.

MR. CLARK: You used the term. It's a pejorative term.

MR. GIMORY: No.

JUDGE BEVERUNGEN: Mr. Kotroco mentioned it when he (inaudible).

MR. KOTROCO: I did.

MR. CLARK: Okay. I'm sorry.

MR. KOTROCO: I did. I'm involved with a lot of them right now.

JUDGE BEVERUNGEN: (Inaudible) he says is-- I

really don't listen to what, I listen (inaudible).

MR. CLARK: Okay. Okay. Thank you Your Honor. I mean, I'm try, I'm trying to pay attention to a whole lot of --

JUDGE BEVERUNGEN: That's okay.

MR. CLARK: Okay. Now, now, you said you're putting in a new septic system?

MR. GIMORY: Yes.

MR. CLARK: What have you sized it for?

MR. GIMORY: So, the detail, I would have to look at it because we have them you know--

MR. CLARK: No. But, but you know, every septic system is--

MR. KOTROCO: Your Honor, can the witness at least have a chance to answer the question before he cuts him off?

JUDGE BEVERUNGEN: Okay. So, go ahead. Do you know, do you know anything about it?

MR. KOTROCO: Do you know who's sizing it?

JUDGE BEVERUNGEN: Do you know any of the details or size or cost or anything you can share?

MR. GIMORY: We, we, we told him what the uses, the uses is going to be to (inaudible) map. The number of people who would be coming and going. So, based on that his recommen-- he was, recommend a system that he's going to put

in. So, I'm not a septic expert. So, you, don't quote me for that.

MR. CLARK: (Inaudible)--

MR. GIMORY: So, as a, as a property owner I tell him what I need and he's, he coded for that. And--

MR. CLARK: My question is, how many people did you tell him to size it for?

MR. GIMORY: We, we have a congregation of about one-fifty. And we'll have on, on an average day (inaudible) people who come and go. On a special event we might have a hundred or a hundred and fifty people. So, that's, that's the number I gave him.

MR. CLARK: All right. So, if he's sizing it for one-hundred-fifty people. I, I, I'm just, you know, because you, you go with your maximum load, right?...Okay. Which is about what the parking lot is and (inaudible)?

MR. GIMORY: That's, that's--

MR. CLARK: I mean, it, it, I, I look for (inaudible), right? So, now, we've already covered the RC-2. You understand that RC-2 is the most (inaudible) zone (inaudible)? Did you know, again, this goes to (inaudible). Did, did you know that in this, in that area of the county you know, we actively engage in hunting and recreational shooting? Did you know that?

MR. GIMORY: Kind of, yes.

MR. CLARK: Kind of.

MR. GIMORY: And my son goes to, is in Boy Scout. We go to that, you know--

MR. CLARK: Yeah. Yeah.

MR. GIMORY: (Inaudible)-- I mean, it's not like, I'm not (inaudible) it, but I know. But I'm not expert.

MR. CLARK: But you know, for example Mr. Hoochenruter, Hutchenreuter, (inaudible) all around here, he hunts, all right?

MR. GIMORY: (Inaudible) point (inaudible)--

MR. CLARK: These are, people are responsible hunters, all right? In the, in the state you only need one-hundred and fifty, which I think is stupid, because I work up in Pennsylvania a lot. In the state the safety zone is you only have to be one-hundred and fifty yards from a structure, okay? And, and I personally think that's stupid, but that, that's reality, okay?

MR. KOTROCO: I think-- Judge, I'm trying to give some leeway here. I don't know if somebody's going to shoot our guys our there or what's going to happen when the hunters (inaudible)-- (laughter in background)-- I'm not sure it's germane.

MR. CLARK: It is, because it goes, it goes with their peace and enjoyment of the property and what their expectations are.

JUDGE BEVERUNGEN: So, your, your point was to find out whether this gentleman knew there was hunting before he bought the property? Whether--

MR. CLARK: Yes. Yes. Yeah. Due diligence. And I think, he said kind of.

JUDGE BEVERUNGEN: Yeah. That's what he said.

MR. CLARK: And that's fine. Now, did you also in your due diligence, did you discover the Nike Missile Base? (Inaudible) the Nike Missile Base about a mile east of you?

MR. GIMORY: No.

MR. CLARK: No. And it's (inaudible) Super (inaudible) site. Now, can, can you tell me, where do you personally live? Oh, you said. You said you live over in Rosedale?

MR. GIMORY: I live right close to White Marsh Mall.

MR. CLARK: Okay.

MR. GIMORY: And I, I have a few properties in Perry Hall.

MR. CLARK: Okay.

MR. GIMORY: And my cousins and my brothers, my relatives who live right across from the Gunpowder and that's a creek that separate Kingsville from Perry Hall. Probably you'll see fifty to twenty people right here, right on

that border. They have a gentleman sitting right in the front (inaudible) state. That's like less than a mile away from, from Bonaparte Mansion. And he does go to Kingsville Association meetings and--

MR. CLARK: Uh-hum.

MR. GIMORY: --you know (inaudible)--

MR. CLARK: He, he missed, he missed the, the ones where Kingsville discussed this issue. Yeah, yeah. Hang on.

UNIDENTIFIED SPEAKER: Actually, I (inaudible)--

JUDGE BEVERUNGEN: Hold on sir. No, no, no. You can't do that.

MR. CLARK: Okay. Okay. I'm sorry Your Honor.

JUDGE BEVERUNGEN: That's all right.

MR. CLARK: I, I would like to hear what he has to say, but -- And if I'm wrong I'm wrong. And you're saying I'm wrong? Now, so, so, but, and actually, that goes to my next question. You don't live in the environments that are impacted by (inaudible) property, right?

MR. GIMORY: I don't live close by there. Yes, that's correct.

MR. CLARK: Yeah, yeah, yeah. And I don't know if this is appropriate Your Honor, but I would like to ask for a show of hands of those who live within say a mile and a half

of the property.

JUDGE BEVERUNGEN: Why am I going (inaudible)?

MR. CLARK: Arbitrary.

JUDGE BEVERUNGEN: It seems that, it seems like it might (inaudible), but go ahead then.

MR. CLARK: All right.

JUDGE BEVERUNGEN: Okay.

MR. CLARK: Because we know we have one who lives within a mile. So, I didn't want, no, you don't live within a mile.

JUDGE BEVERUNGEN: (Inaudible)--

MR. CLARK: Okay. But can, can I ask that?

JUDGE BEVERUNGEN: Go ahead.

MR. CLARK: How many of the, of your group, and I'm using my words (inaudible) the way I use them, sorry. How many people live within a mile and a half (inaudible)?

MR. GIMORY: (Inaudible) five mile maybe.

MR. CLARK: No, no. Well, no. My only--

JUDGE BEVERUNGEN: (Inaudible) a mile.

MR. CLARK: Right.

JUDGE BEVERUNGEN: So, go ahead.

MR. CLARK: How many people, how many people who are part of the property, who are part of the Association live within a mile and a half of the Bonaparte property? And

you're in, you're in a Cultural Association?

MR. GIMORY: Yes.

MR. CLARK: Okay. But how many others? Just one, okay?

UNIDENTIFIED SPEAKERS: (Inaudible)--

MR. CLARK: Okay. Three. Thank you. Thank you. Now, how many people here, on this side of the room live within a mile and a half? Okay. So, virtually unanimous of the Protestants. Three of, of, of the Applicants. Right. (Inaudible)--

MR. KOTROCO: If you want to call them that?

MR. CLARK: Okay. So, the vast majority of that, of the members are not impacted by these such events that are held, okay? There's no cost to them. And it's no surprise.

MR. KOTROCO: Judge, I'm going to object. I don't see any questions. I mean, these are your--

MR. CLARK: Okay.

MR. KOTROCO: --(inaudible) alone.

JUDGE BEVERUNGEN: I mean, these are arguments he can make. But now you need to (inaudible) questions.

MR. CLARK: Thank you.

JUDGE BEVERUNGEN: Yeah.

MR. CLARK: And, and you're not, you're not, (inaudible)--

MR. KOTROCO: I'm trying to give you as much leeway as I can Mr. Clark.

MR. CLARK: I know, and I appreciate it.

MR. KOTROCO: Okay. No problem.

MR. CLARK: So, so, you didn't really understand how people used their property out there? You didn't understand about the Nike Missile Base? Oh, why thirty acres? You know, you've got thirty acres as the site you're asking for a Special Exception. Why thirty acres?

MR. GIMORY: I, we found a thirty acre lot (inaudible)--

MR. CLARK: Oh, no. Why thirty acres as the Special Exception? Why isn't that just maybe the immed--

MR. GIMORY: (Inaudible)--

MR. CLARK: --the area immediate to the building?

MR. GIMORY: It's one piece of property.

MR. CLARK: Yeah. But you could also, you would also request-- I'm sorry. I cut him off.

MR. GIMORY: Uh-hum.

JUDGE BEVERUNGEN: That's all right.

MR. CLARK: Okay. You could also request the proposed temple itself. So, why the thirty acres?

MR. GIMORY: It's one lot. One sale. Who's going to take care-- I mean, we (inaudible) take care of the

whole, the whole (inaudible), not just the building.

MR. CLARK: Okay.

MR. GIMORY: So, that's--

MR. CLARK: All right. Now, now, I told you I took Comparative Cultures years ago. And my understanding of Tibetan and Nepali is not all that fresh. And it's not, it's not right here.

MR. GIMORY: Okay.

MR. CLARK: Okay. Now--

MR. GIMORY: We'll offer free classes of, of (inaudible) and other things. (laughter in background)--

MR. CLARK: I need them. And you can tell I need them.

MR. GIMORY: Then, then, well, what's (inaudible)? (laughter)--

MR. CLARK: No, no, no, you can't do inducements. The, the, the thirty acres, all right. Well, you just brought up the (inaudible) for classes. Where are you going to hold those classes?

MR. GIMORY: A prayer, part of life, part of religion.

MR. CLARK: Okay.

MR. GIMORY: So, it doesn't have to be-- meditation, it's not instructive (inaudible) meditation, you know.

MR. CLARK: Okay.

MR. GIMORY: You could go in a, in a solitude and then pray and meditate and (inaudible).

MR. CLARK: Okay.

MR. GIMORY: It doesn't have to be you know, a group of fifty people going in class and then say, you know--

MR. CLARK: Okay.

MR. GIMORY: --singing and dancing. So--

MR. CLARK: Now, so, you do not have any, any, you do not have any plans to build an education complex up there?

MR. GIMORY: That's correct.

MR. CLARK: That, that's absolutely correct?

MR. GIMORY: Absolutely correct.

MR. CLARK: Okay. First of all, that's a big relief for a lot of people.

MR. GIMORY: Okay. That's absolutely, that's a, I think the more we talk I think you're going to like us, what we have (inaudible)--

MR. CLARK: Well, and I think you'll like me, but you know, I'm sorry, it, it's an adversarial position that we've got to get to know each other. (laughter)--

MR. GIMORY: Absolutely.

MR. CLARK: I'm sorry. By the way, I'm the, I'm the guy who posted the sign up there.

MR. GIMORY: Okay.

MR. CLARK: All right. (laughs)-- I'll take ownership of that. And--

MR. GIMORY: (Inaudible) like it. (laughter in background)--

MR. CLARK: All right. So I, I covered-- Oh, one more question. And I'm not doing this for (inaudible). You testified that you met with Pastor Daniel?

MR. GIMORY: That's correct.

MR. CLARK: And how did that come about?

MR. GIMORY: That was a wonderful meeting. It was a very, you know, short time window. One of our member was (inaudible) to Pastor Daniel. And he said, we have a mass on Sunday if you'd like to come and share your plans. And we, me, along with a few other friends who are here today went to the church. We sat through the mass. Then after he was done he just told the member they can stick around if they wanted to hear our plans. He left the room. And I, I stood up and with my friend become, we, we talked about the plan. And people had questions. We answered their questions. The (inaudible) just like what you had about, about the festival. (Inaudible) thing, you know, is that going to happen more often? I said, no. And (inaudible) other things (inaudible).

MR. CLARK: Okay. Now, my only question is did you share with him the enforcement actions taken by the

County against the property?

MR. GIMORY: That, you know, we went there to share our plan.

UNIDENTIFIED SPEAKER: There are.

JUDGE BEVERUNGEN: (Inaudible)--

MR. GIMORY: And that, if that came up if anybody asks I'll be more than happy to share everything that I know (inaudible).

MR. CLARK: But, but you didn't volunteer (inaudible)?

MR. GIMORY: I would, (inaudible) was, was more of a you know, even for us, letting us know what, you know, what was the next step more like it. And that's what, when we met with (inaudible)--

MR. CLARK: I know. See-- Okay. I'm sorry.

MR. GIMORY: So, the building. It was related to building. And we, we haven't even got into the building part yet because you know, we're working through the exception, the zoning exception.

MR. CLARK: Okay. But, but a cease and desist is not just a random zoning action, correct? That's a, in a, in a zoning, that, that's a big, red flag?

MR. GIMORY: Yeah, I mean, we didn't even have exception for religious use of the property yet. So, we couldn't really do (inaudible)--

JUDGE BEVERUNGEN: (Inaudible) cease and desist

MR. CLARK: No. Because he's being asked to cease and desist something he wasn't doing. That's what Mr. Whitelock (phonetic), the inspector said.

JUDGE BEVERUNGEN: (Inaudible)--

MR. KOTROCO: Well, no, no. (Inaudible) no, that's--

MR. CLARK: I'm sorry sir. I'm being sent out here under false pretenses.

MR. GIMORY: No, no, no, no. No, no.

MR. CLARK: You're not doing anything. You don't even have a kitchen. You don't have water. You're not even (inaudible) your building.

MR. KOTROCO: No, that is not, that is not for --

MR. CLARK: But he cited him anyway, at his house.

MR. KOTROCO: That is one piece of the --

MR. CLARK: And thank you for that information. I've been wanting to get that because I'm going right to the Department of Justice with it.

MR. KOTROCO: (Inaudible)-- Yeah. Okay. In fact, here is the photograph of the delivery of the (inaudible)--

MR. CLARK: Yeah. Taped it on the front door of his house.

MR. KOTROCO: Right. Right. Would it, now, now--

MR. CLARK: How's that?

MR. KOTROCO: And this is slightly embarrassing.

MR. CLARK: It should be.

MR. KOTROCO: I've been served by, by the sheriff, you know.

MR. CLARK: It's not fun, right?

MR. KOTROCO: No. But you know, they come to your door.

MR. CLARK: Under false pretenses?

MR. KOTROCO: No. I don't think it's false pretenses.

MR. CLARK: No. He was told bad information, on the record.

MR. KOTROCO: No.

JUDGE BEVERUNGEN: Gentlemen, we're not (inaudible) the witness questions.

MR. CLARK: Thank you Your Honor.

JUDGE BEVERUNGEN: That's what he's here for.

MR. CLARK: Okay. (Inaudible)--

JUDGE BEVERUNGEN: If you all want to argue you argue maybe when I'm not here. (laughter)-- I'm going to finish this hearing. We're going to finish listening to what

people have to say, and that's how we're going to do it. You and Mr. Kotroco can stand maybe out in this hall. I'll go home. So, let's go.

MR. CLARK: Okay. So, so, Pastor Daniel didn't know about that? About the enforcement district?

MR. GIMORY: Yeah, I, it's a, as our attorney said, cease and desist, I, it wasn't, we weren't doing anything from the building or improving or having a prayer, having a worship. That, that's, that's according to (inaudible) the officer was told or led to believe. That wasn't, that wasn't happening.

MR. CLARK: Which, which leads me to another question. I'm sorry. But why didn't you contest that? You know, you have the opportunity? Am I right?

MR. GIMORY: Yeah. We went right to meet Mr. Jablon.

MR. CLARK: (Inaudible)--

MR. GIMORY: And that's what, you know we, we met with him. And --

MR. CLARK: And then did you withdraw it?

MR. GIMORY: And he, he, he, I'm going to quote exactly what he said. Look, you, your next step is to go apply for exceptions from it. We, we was already in the process. And just move on from there. That's what he said.

MR. CLARK: Okay.

MR. GIMORY: There's no penalty. No, no. No. I'm not going to (inaudible) of those. That's, you know, this, that's it.

MR. CLARK: All right.

MR. GIMORY: So you--

MR. CLARK: But, but you, you did not contest the cease and desist?

MR. GIMORY: No. It was, I don't think it was necessary because--

MR. CLARK: All right.

MR. GIMORY: --he was, wasn't stopping us from (inaudible)--

MR. CLARK: No. And I understand how it works there. If he gets put on hold until the Special Exception hearing and all that.

MR. GIMORY: Yeah, yeah. I (inaudible) that was (inaudible)--

MR. CLARK: I understand. I, I just want to (inaudible)--

MR. GIMORY: Look, we are not (inaudible). I mean I'm not having worked in the County system for twenty, you know, you know. I'm just normal citizen. So, we, we, you know. I do what, what the, the best of my knowledge what tells me that you know, had to be done and we you know, ask for counsel.

MR. CLARK: I only play an attorney on one (inaudible). (laughter)-- All right. No. Thank you Mr. Gimory.

MR. GIMORY: Yes. Yes.

MR. CLARK: You know, and I do hope we can get together and you can meet with the, the watershed preservation.

MR. GIMORY: I would love to.

MR. CLARK: Yeah. So, all right. That's it. And thank you for your patience.

JUDGE BEVERUNGEN: Okay. Sure. Mr. Kotroco, anything else?

MR. KOTROCO: No.

JUDGE BEVERUNGEN: Is that enough?

MR. KOTROCO: That's it.

JUDGE BEVERUNGEN: Thank you sir.

MR. KOTROCO: Joe Caloggero, our traffic expert.

JUDGE BEVERUNGEN: Okay. Mr. Caloggero? Good afternoon.

MR. CALOGGERO: Good afternoon.

JUDGE BEVERUNGEN: Okay. Remain standing and raise your hand. Do you swear or affirm under the penalties of perjury the testimony you'll provide (inaudible)?

MR. CALOGGERO: (Inaudible)--

JUDGE BEVERUNGEN: Okay. Take a seat. And

tell us your name and business address and then you'll get some questions.

QUALIFYING BY MR. KOTROCO AS EXPERT:

MR. CALOGGERO: Joe Caloggero, Vice President of Traffic Group, 9900 Franklin Square Drive, Suite H, Baltimore, 21236.

MR. KOTROCO: Your, your educational degree is in what?

MR. CALOGGERO: Civil Engineering.

MR. KOTROCO: Okay. And you have been accepted as a traffic expert many times in this Court and in others?

MR. CALOGGERO: Yes.

MR. KOTROCO: And the (inaudible) project you and I worked with?

MR. CALOGGERO: Correct.

MR. KOTROCO: Now, I'm going to offer him as an expert in Traffic Engineering.

MR. CALOGGERO QUALIFIED AS EXPERT IN TRAFFIC ENGINEERING:

JUDGE BEVERUNGEN: Yeah. He's, he's a Civil Engineer and he can express opinions in those areas.

DIRECT EXAMINATION BY MR. KOTROCO:

MR. KOTROCO: You're familiar with this property?

MR. CALOGGERO: Yes, I am.

MR. KOTROCO: And you know where it's located and you visited the property?

MR. CALOGGERO: Yes, I do.

MR. KOTROCO: And you're familiar, based on what you've heard here today and even prior to today how the property is proposed to be used?

MR. CALOGGERO: Yeah.

MR. KOTROCO: You know how many members are going to come and go on different days and so forth?

MR. CALOGGERO: Correct.

MR. KOTROCO: And could you tell us and it's been testified to about access to the property? Can you describe the entrance to the property and what road it's going to be on?

MR. CALOGGERO: Sure. Absolutely. Access is on Harford Road. It's located, well, I guess in this instance with north just being straight up it's on the south side of Harford Road, even though Harford Road travels in a north, south direction.

MR. KOTROCO: All right. Harford Road is a State road, is that right?

MR. CALOGGERO: That's right.

MR. KOTROCO: So, we're subject to the State Highway Administration, not necessarily Baltimore County?

MR. CALOGGERO: Absolutely.

MR. KOTROCO: We need to get an access permit through the State Highway Administration?

MR. CALOGGERO: Correct.

MR. KOTROCO: And Rich Zeller is our contact person? Is that right?

MR. CALOGGERO: Correct.

MR. KOTROCO: And we haven't had to meet with him yet, is that right?

MR. CALOGGERO: That is right.

MR. KOTROCO: By that point if this thing gets approved we've got to go meet with him?

MR. CALOGGERO: Right.

MR. KOTROCO: So, the second, the second means of access to the property that came up earlier, I don't know if you were here. Do you know about a second, a second driveway that comes into the property?

MR. CALOGGERO: I should based on, just on today (inaudible) their back access. But it's still my understanding that it was not to be used.

MR. KOTROCO: That's right. We're not going to use it. So, your focus was on the access that comes off of Harford Road, is that right?

MR. CALOGGERO: That is correct.

MR. KOTROCO: All right. So, I'm going to ask

you what we got you here for was to talk about the sight distance and the stopping distance. Can you, can you tell the Judge and those in the courtroom the difference between the sight distance and a stop, a stopping distance?

MR. CALOGGERO: Yes. Absolutely. I'm glad most of the people here are from (inaudible) Road. It may make it a little bit easier for me to testify and those people to understand. So, this area is, is located in an area of a reverse turn. So, basically two ninety degree turns. And this access is located basically in the middle of it. The State Highway is recommending, it's called an advisory speed. The State Highway recommends that, that drivers travel this portion of the road at thirty miles per hour. Advisory. Can you take it at faster speeds? Yes. The speed limit is forty-five, but when you encounter situations of sharp turns they do recommend and warn the, warn the motorist to, to slow down so they can traverse it properly. So, from a sight distance perspective we reviewed or I, I personally reviewed as people would be leaving the site. When you're looking to the left you can see approximately 355 feet.

MR. KOTROCO: All right. Let me, before you get that far let me just say. Now, sight distance is something we worried about when you're leaving the property and getting ready to pull out onto Harford Road?

MR. CALOGGERO: Correct.

MR. KOTROCO: You want to be able to know how far you can see to the south and how far you can see up to the north?

MR. CALOGGERO: Absolutely correct.

MR. KOTROCO: Your sight distance. In case a car is coming you don't want to pull out in front of it?

MR. CALOGGERO: Correct.

MR. KOTROCO: Okay. Stopping distance is how far can this guy coming down the road seeing you pull out, so he has a chance to stop?

MR. CALOGGERO: Correct.

MR. KOTROCO: The same with this guy coming up the hill here and around that turn (inaudible) stop too?

MR. CALOGGERO: Correct.

MR. KOTROCO: Sight distance. Stopping distance. So, I want to go over some sight distance with me first, okay?

MR. CALOGGERO: Okay. Sight--

MR. KOTROCO: I've got some photographs here that will help us along. (TALKING IN BACKGROUND)-- And so, on the legend (phonetic) did I give you one? Right?

MR. CALOGGERO: Yes.

MR. KOTROCO: So, on the legend that you see underneath there's a series of photographs that were taken as you're exiting the property. Photographs 10 through 15. Do

you see that?

MR. CALOGGERO: Yes.

MR. KOTROCO: So, the first photograph, #10 is as you're leaving the property and you're driving down the rest, the end of the driveway and you see that round circular planter box and split entrance there, that's our entrance and exit from the property, is that right?

MR. CALOGGERO: That is correct.

MR. KOTROCO: Okay. So, you have a choice to go to the right if you're leaving? And if you're coming in you're coming in on the left side of that, is that right?

MR. CALOGGERO: Correct.

MR. KOTROCO: Okay. So, the next picture then is as you're sitting there. Now, just explain here. You saw in the previous picture there's a barrel and a cable going across the road to keep people from coming in. You see that? So, it was not, you know, you weren't able--

MR. CALOGGERO: Yes. I encountered that as well.

MR. KOTROCO: Wasn't able to drive out that side. So, if you go out the left side, the photograph as you're sitting there looking up the highway to the right. Looking to (inaudible)?

MR. CALOGGERO: Correct.

MR. KOTROCO: That's the sight distance looking

up that way? And you're sitting in your car and you've got to pull out and you've got to make a determination, is somebody coming around that turn or coming down that hill there can you safely pull out. What was the measured distance looking to the right of that?

MR. CALOGGERO: So, looking to the right we could see approximately 420 feet.

MR. KOTROCO: Okay. You can see a street sign there. That looks like Bonaparte Avenue there, right, right across from (inaudible)?

MR. CALOGGERO: That's correct.

MR. KOTROCO: Okay. Look to the next picture. Now, on the left side of the circular planter, looking down towards the curb, looking left as you're leaving the property how far was the sight distance looking that way?

MR. CALOGGERO: 355 feet.

MR. KOTROCO: Okay. Look to the next picture. I want you to --

MR. CALOGGERO: Before we, we approach--

MR. KOTROCO: I'm sorry. Go ahead.

MR. CALOGGERO: These two pictures are a little bit further. These pictures are just general pictures from the driveway. So, they wouldn't be from the perspective of the car into proper lane as to proper location.

MR. KOTROCO: Okay.

MR. CALOGGERO: So, I don't want, I don't want them misinterpreted. They're, they're just --

JUDGE BEVERUNGEN: (Inaudible) on that? Or no?

MR. CALOGGERO: --pictures from (inaudible)--

JUDGE BEVERUNGEN: (Inaudible) just linear?

MR. CALOGGERO: No. Well, sight distance is based on how far you can pull up to the side of the road.

JUDGE BEVERUNGEN: Right.

MR. CALOGGERO: And we measure it based on what, how we measure it is three and a half feet in the air, which is your typical distance from sitting in your car. And what we like to do is measure three and a half feet to three and a half feet so both drivers can see each other.

JUDGE BEVERUNGEN: Okay.

MR. KOTROCO: Okay.

JUDGE BEVERUNGEN: At some stance down the road? Is that what you had?

MR. CALOGGERO: I did it. I parked my car. The, the access was closed. I, I parked my car accordingly, where I would sit pulling out and walked up and down the road and --

JUDGE BEVERUNGEN: Okay.

MR. CALOGGERO: --took these measurements.

JUDGE BEVERUNGEN: All right.

MR. CALOGGERO: I'm sorry. Go ahead.

MR. KOTROCO: Okay. So, the next picture in line. I thought I had them marked, but (inaudible). It's #13 there. It shows the turn and, and those signs. You and I had a conversation about those particular signs?

MR. CALOGGERO: Yes.

MR. KOTROCO: Go ahead and explain to the Judge why they're used and what's the purpose of those particular signs.

MR. CALOGGERO: Well, well, these are Chevrons (phonetic) and a, and another warning sign. It's, it's to signify that the larger arrow sign is, is, you basically have to make a left hand turn in the middle of the road. And it gives the drivers advance warning to be able to help navigate around this turn. And they're in the other direction as well. And even before that there's the advisory speed that shows these turns in the road.

MR. KOTROCO: Mr. Motsco had (inaudible)?

MR. CALOGGERO: Yes. Correct. And, and with the advisory speed plate.

MR. KOTROCO: Right.

MR. CALOGGERO: It's not, it's not a legal term. It's advisory. We advise you to travel at this safe speed.

MR. KOTROCO: Right. So, you mentioned that these sign signify a turn versus curve. There's a difference in,

in highway technology between a curve and a turn?

MR. CALOGGERO: Correct. And what, what is the difference then?

MR. KOTROCO: Well, the curve sign has a, it's more of, the curve. Not these signs we're looking at right now.

MR. CALOGGERO: These Chevrons and just direct arrows. And they are probably not a lot of people who would understand this.

MR. KOTROCO: I didn't. Right.

MR. CALOGGERO: But, but there's, there's a curve sign, which has a smooth turn. You know, you can take at a little bit of a higher speed.

MR. KOTROCO: Right.

MR. CALOGGERO: The ones with the ninety degree signify more of a turn, almost to ninety degrees.

MR. KOTROCO: Right.

MR. CALOGGERO: There's specific studies that, that when I worked for the State Highway in one of my (inaudible) I had to go and actually measure these curves to determine how, what proper speeds you should post these to give the driver more of a (inaudible).

MR. KOTROCO: So, and whether it gets a squiggly curve or whether it gets one of these Chevrons?

MR. CALOGGERO: Absolutely.

MR. KOTROCO: Okay. Okay. The next sign? Just a more closer up view of that? That's a, basically a pretty sharp ninety degree turn then?

MR. CALOGGERO: Yes. Correct.

MR. KOTROCO: Okay. Look to the next photograph. This one is, it looks like #14 in the direction of the entrance now on the left hand side, right?

MR. CALOGGERO: Correct. I mean, correct.

MR. KOTROCO: Okay. And again, you mentioned already those Chevrons, right?

MR. CALOGGERO: Correct.

MR. KOTROCO: Interesting. The picture also shows that the front entrance is pretty heavily wooded and vegetated as far as a buffer goes for seeing into the property?

MR. CALOGGERO: Absolutely.

MR. KOTROCO: And, and maybe even help, although it must not be doing a good job of blocking the sound if you can hear it a mile away or whatever it was, right? But still, heavily vegetated?

MR. CALOGGERO: Correct.

MR. KOTROCO: And, and you see the entrance? It's on the left hand side. And our zoning sign posted?

MR. CALOGGERO: Yes.

MR. KOTROCO: Look to the next photo. I highlighted, it looks like a mercury vapor type of street light

on that telephone pole there at Bonaparte that illuminate that entrance-way?

MR. CALOGGERO: Yeah. I'm not too familiar but I know it's a street light.

MR. KOTROCO: Okay. You know a streetlight when you see one?

MR. CALOGGERO: Yes. (laughs)--

MR. KOTROCO: Okay. All right. On the last two photos Mr. Caloggero just very simply, you mentioned those squiggly signs. So, I just happen to, got a couple pictures there to show you. Those are the ones that tell you there's a, a windey ahead, a windey curve?

MR. CALOGGERO: That's a windey, a windey curve. Those are windey curves. Yes.

MR. KOTROCO: Okay. That's all I'll go there for. They're not of the property (inaudible)?

MR. CALOGGERO: (Inaudible)--

MR. KOTROCO: They're just of the signs. Okay. So, based on your measurements then Mr. Caloggero, do you have an opinion about the sight distance? Whether it's appropriate and whether it's safe for people to pull out this entrance?

MR. CALOGGERO: So, again, this is my opinion. And as we mentioned before, we're going to have to meet with State Highway Administration.

MR. KOTROCO: Right.

MR. CALOGGERO: And the State Highway Administration will make that final determination. It's not up to me.

MR. KOTROCO: Right.

MR. CALOGGERO: I provide the measurements. I will meet with Mr. Zeller or one other traffic experts or representatives to determine whether they feel this is a safe access or not.

MR. KOTROCO: He may tell you cut a couple of those trees down.

MR. CALOGGERO: Absolutely.

MR. KOTROCO: It could help if you cut a couple of the trees down?

MR. CALOGGERO: Correct. Absolutely. It happens numerous times.

MR. KOTROCO: Right.

MR. CALOGGERO: But based on, on, one of the minimum, the bare minimum requirement we have to meet, and I say that as when you're traveling on the road yourself, when you're on, you're traveling on Route one (inaudible) seven, Harford Road whether north or south, if you're traveling at 50 miles per hour you need four-hundred and-- you need, at 50 miles an hour you need 425 feet to come to complete stop. And this is from AASHTO, is the National Work Requirements

for State Highway. Not just this state highway, but state highway's across the United State's. And these conditions are based on a pour driver (phonetic), a poor Preception-Reaction time. Poor conditions--

MR. KOTROCO: Uh-hum.

MR. CALOGGERO: --and bad weather, bald tires.

MR. KOTROCO: Uh-hum.

JUDGE BEVERUNGEN: Say like today I guess probably, right?

MR. CALOGGERO: Correct. Maybe not as much as (inaudible) you would have a lot of, you know slip and slide. But hopefully people aren't trying to traversing to 50 miles an hour down a hill.

MR. KOTROCO: On a day like today?

MR. CALOGGERO: A day like today. Right. And coming from the opposite direction when you're coming around the turn again, we can see 355 feet or 355 feet of sight distance. And that is good for 45 miles an hour for a vehicle coming around that turn to stop if someone were to make a, an improper decision.

MR. KOTROCO: Okay. And so, to illustrate your point for stopping distance I've got two photos here.

MR. CLARK: Yeah. Thank you.

MR. KOTROCO: One from the north and one from the south coming from Google Earth. So, take a look at those

and, and go ahead and finish up on your testimony about the stopping distance in coming around the turn and coming from the other direction.

MR. CALOGGERO: Correct. So, Exhibit T is you know, the, the, as you're coming around the turn you'll be able to see what is happening in front of you for again 355 feet. I'm sure (inaudible) you know. Make this maneuver at 45 miles per hour. Again, it's not recommended. It would be hard to do I believe. But again, they'll have opportunity to stop. And the same goes for, for nineteen. As you're coming down the hill you'll be able to see cars at the driveway and have an opportunity to stop if someone were to pull out in front of (inaudible)--

MR. KOTROCO: Okay. So, in your opinion then there, in your expert opinion that the stopping distances are safe in this location?

MR. CALOGGERO: Absolutely. Yes.

MR. KOTROCO: If, we talked before. And I didn't think about this. It was brought up by members of the congregation about if for some reason you're leaving and exiting the property and you need to go south on Harford Road and you don't feel safe and you don't feel, you feel there's too much traffic coming you can make a right turn and go up around the traffic circle and just double back around and go south?

MR. CALOGGERO: That is correct.

MR. KOTROCO: That's a possibility? In the event there's heavy traffic or whatever you don't have to try to go across Harford? You can just move around the traffic circle?

MR. CALOGGERO: Correct.

MR. KOTROCO: And in the event Rick Zeller, at the State Highway Administration who has to give an access program for that (inaudible) well we want you to go out this way and come in this way or vice versa, there's still an opportunity through this exit now that Mr. Motsco said, there is a driveway that comes all the way up to the pool house from down there?

MR. CALOGGERO: Yes. That's my understanding from the testimony.

MR. KOTROCO: I'm trying to stay away from that, but that's also something that Mr. Zeller might want to explore?

MR. CALOGGERO: Correct. Correct. And even moving this access if need be a little bit left or right.

MR. KOTROCO: So, you can, you can widen the driveway a little bit and remove some embankment or (inaudible)--

MR. CALOGGERO: Correct.

MR. KOTROCO: --to improve this situation?

MR. CALOGGERO: Correct.

MR. KOTROCO: Okay. And did you prepare a traffic study in this particular case?

MR. CALOGGERO: The, yes, we did.

MR. KOTROCO: Okay. What did you do?

MR. CALOGGERO: Well, basically we looked at the Basic Services Map of 2017, prepared by Baltimore County Department of Public Works. This area is, it's not in a deficient area. It's located north of the urban, the urban area. The urban area aligns. So, by that estimation or by, by those maps there is adequate and available (inaudible) services in the area. And this is a, it, since this is a different site, with respect to trip generation. And when you study intersections with trip generation the State particularly asks to analyze situations during the highest hour in the morning, the highest hour in the evening. Now, it's understanding based on these types of trips for this use that we could get 20 people coming in on an average day during the evening. That could be from four to ten or whatever hours of operation may be. So, it's really hard to depict how many cars are actually going to come in or out. But again, we'll, we'll work with the State Highway. If they want some, some data; if they want to look at some worse case conditions; if they would like to see some additional traffic counts. However, day to day basis, during the week I, I don't see this having (inaudible).

MR. KOTROCO: I guess the State Highway is probably not-- maybe they've had more exposure to temples and the Hindu practice or Buddhist practice or religion. I guess maybe they might be more familiar, but in Baltimore County this is the first one --

MR. CALOGGERO: Correct.

MR. KOTROCO: --according the Nepali American.

MR. CALOGGERO: Correct.

MR. KOTROCO: Okay. And the exhibit that I just handed you, that is your report and your conclusion? That is of the access at this point. In your opinion is safe subject to State Highway approval?

MR. CALOGGERO: Yes.

MR. KOTROCO: Okay. Nothing further of Mr. Caloggero.

CROSS EXAMINATION BY MR. CLARK:

MR. CLARK: I, I do have a couple questions. I thought I didn't, but I do.

JUDGE BEVERUNGEN: Okay. Go ahead.

MR. CLARK: Have you done a, is it your job or have you done an analysis of the morbidity and mortality on that stretch of Harford Road?

MR. CALOGGERO: No.

MR. CLARK: Okay. Thank you. And your assumption, yeah, I mean, let me make it clear. We're not

concerned about 20, 30 cars at a time. That's noise, okay? But your assumption, but your assumptions would change if there were several hundred cars at a time?

MR. CALOGGERO: It depends on which day, how many hours.

MR. CLARK: But, but you would have to redo this?

MR. CALOGGERO: Not necessarily.

MR. CLARK: Okay. Okay. All right. Thank you. And one last question. (laughs)-- Since you're a technical expert. Personal. How do we get to get the State to put batons up the center line up that stretch of road?

MR. CALOGGERO: Well, I mean, it, it can be a request. I don't know why you would do that.

MR. CLARK: Because far, and, and this is serious folks. Far too many times people are crossing the road. I've had people when I'm making a left in my property I've had people try to, try to beat me to the left. I, I kid you not. You know, people are idiots on that road. So, you know, I, I mean--

MR. CALOGGERO: It's (inaudible)--

MR. CLARK: Batons, batons would be wonderful.

MR. CALOGGERO: Yeah. It's a challenge we face--

MR. CLARK: I, I know.

MR. CALOGGERO: --every day because we're not (inaudible) designed for--

MR. CLARK: Idiots.

MR. CALOGGERO: --the improper driving. (laughter in background)-- And, and a lot of times we'll come here and have to make proffers to design for that one person who may make an illegal--

MR. CLARK: Yeah.

MR. CALOGGERO: --u-turn and come in to make a, a, you know, a left turn in a right hand, where they have to drive 100 feet to do.

MR. CLARK: Yeah.

MR. CALOGGERO: I mean, we have to do some crazy designs to accommodate people who just are not going to obey the law.

MR. CLARK: Mr. Kotroco, could I ask you a question? Would a morbidity and mortality analysis be done as part of the State?

MR. KOTROCO: I'm not, I'm not aware of that Mr. Clark.

MR. CALOGGERO: It would not.

MR. KOTROCO: (Inaudible)--

MR. CLARK: Okay.

MR. CALOGGERO: It would not (inaudible)--

JUDGE BEVERUNGEN: It would not?

MR. CLARK: Okay. They would not?

MR. CALOGGERO: No.

MR. CLARK: Okay. Thank you.

JUDGE BEVERUNGEN: Anything else?

MR. CLARK: No sir. (laughs)--

JUDGE BEVERUNGEN: Thank you Mr. Caloggero. Anyone else?

MR. KOTROCO: Mr. Martin, did you want to be, say a few things?

MR. MARTIN: (Inaudible)--

MR. KOTROCO: Go ahead. I know you waited all day to be able to do that. So, go ahead and take the stand and give your name and address.

JUDGE BEVERUNGEN: Okay sir. Raise your right hand please. Do you swear and affirm under the penalties (inaudible)-- Okay. Take a seat. And tell us your name and address and (inaudible) and Mr. Kotroco will ask you questions.

DIRECT EXAMINATION BY MR. KOTROCO:

MR. MARTIN: Okay. Peter Martin. My address is 14-- I'm sorry, 1443--

JUDGE BEVERUNGEN: Okay.

MR. MARTIN: -- Manor Road, Phoenix, Maryland, 21131.

JUDGE BEVERUNGEN: Okay.

MR. KOTROCO: Thank you for coming Mr. Martin. What did you want to tell us? What do you want to share with us here today?

MR. MARTIN: I wanted to share just a couple of things. I'm a business owner. I'm down (inaudible). And what I've seen with this whole project, I've been involved since we first got involved. In talking with them. Talking about planned work. But I'm part of a national men's Christian Group. (BACKGROUND TALKING)-- And we do a bible study at my house every week. (Inaudible) regular attending. And it's kind of interesting being Christian having somebody who is in a Hindu Buddhist religion come join us. And I have learned so much about these people. These people from Nepal and their beliefs. And they're not very dissimilar to ours, you know. Treating people right. Living good. Being fair. But we have had such good interactions and learning. And that's why there's a lot of concerns when people don't know about other religions. I didn't know a lot about the Buddhist religion. I've learned a lot about it. And from a Christian standpoint these are some of the nicest people I've known. And it's been very beneficial from my standpoint to learn more about them. But what I've seen in my life being a Christian and being involved in religion there's a lot of people that make assumptions and they make decisions without knowing all the facts. And this is a perfect example today, because there are a

lot of people here because there's concerns. And there is a lot of misconceptions with what's going on and what the choices are here. So, my thought and my feelings are there needs to be like we're doing today, more communication because that what they do is very similar to what we do. Their beliefs. And they're very good people. And part of the problem I feel today was there's just been a lot of misconceptions. And it seems like I think a lot of your questions sitting next to you, listening to you have been answered. And that was one of the positive things I find I guess. But I simply want to share this. Even myself, not knowing a lot about the Buddhist religion and Hinduism, I've changed a lot of my preconceptions, you know, because I'm not just Christian, should we have this like, you know preconception of other religions? Or are religions better than others? And it's been very enlightening and it's been very beneficial for me.

MR. KOTROCO: What, what church do you belong to?

MR. MARTIN: I belong to Mount Christian.

MR. KOTROCO: And that is in Harford County?

MR. MARTIN: It's on Mountain Road.

MR. KOTROCO: On Mountain Road. And that is in Harford County?

MR. MARTIN: It's on Mountain Road.

MR. KOTROCO: On Mountain Road.

MR. CLARK: Yeah, yeah, yeah, yeah.

MR. KOTROCO: And, and your address again was where?

MR. MARTIN: Manor Road.

MR. KOTROCO: Okay. Anything else you want to add?

MR. MARTIN: No sir.

MR. KOTROCO: Okay. Thank you for staying all day to testify.

MR. CLARK: I have a couple questions.

JUDGE BEVERUNGEN: Go ahead.

CROSS EXAMINATION BY MR. CLARK:

MR. CLARK: Why, why, why do you think the issue is about understanding rather than land use? What, who gave you that impression?

MR. MARTIN: You, very, very clearly.

MR. CLARK: I did?

MR. MARTIN: There was a lot of your questions where you were very aggressive, asking questions that clearly were directed, and especially in your cross examination where you were trying to change some of the words around. And it was really not, maybe you weren't listening or you weren't hearing, but you were making assumptions that were not true.

MR. CLARK: Are, are you sure?

MR. MARTIN: Yes. Exactly. There was one time

when you said, tried to make it, seem like they were going to have 80 cars coming out. The gentleman's testimony was the distance from the road, the property you could probably fit 80 cars.

MR. CLARK: Did I not concede I made a mistake?

MR. MARTIN: (Inaudible)-- After you were corrected, yes.

MR. CLARK: Yes. I did. Isn't that human?

MR. MARTIN: Yes, it is.

MR. CLARK: Okay. But is, is that me being bigoted?

MR. MARTIN: I never said you were bigoted.

MR. CLARK: Okay. But you said you, you have, you have testified that spiritual communication and miscommunication is at the heart of this. And I'm asking what makes you able to state that as fact?

MR. MARTIN: Because as a Christian I'm used to church. We get up. We go to church. We are there for several hours sometimes. And we leave. It's a big thing. The Hindu religion is different in that sense, where they're coming to church throughout the day. They do their, their praying as I call it, their worshiping on their own. It's a lot different than what we're doing.

MR. CLARK: That's been, that--

MR. MARTIN: So, the traffic pattern situation is

dramatically different.

MR. CLARK: That's, that's stipulated, okay? That they, that, and, and as I said to Mr. Gimory, right?

MR. GIMORY: Yes.

MR. CLARK: You know, I had someone tell me that they don't pray like that. Like, like us. And I told him to, basically that, to, well, I won't, you know, I won't repeat that Your Honor. All right. So, I'm asking again, other than your limited world view, what makes you think these people here are here because they don't understand the religion? They are against the religion? What, what made you bring religion into this? We have been talking all about land use.

MR. MARTIN: Why did I do, bring religion involved?

MR. CLARK: Yeah.

MR. MARTIN: Because I thought it would be very important to clear up the fact that, well, you're talking about land use?

MR. CLARK: Yeah. (BACKGROUND TALKING)--

MR. MARTIN: You're talking about traffic patterns and this and all those different pieces. It's important to understand that the way that they worship is very different than the way a Christian worships.

MR. CLARK: What makes you think we don't understand that?

MR. MARTIN: That was just my opinion based upon a lot of your (inaudible).

MR. CLARK: Okay. Thank you. Now, you said you live on Manor Road, and yet when you were over here you raised your hand as being within a mile and a half of the property?

MR. MARTIN: Uh-hum.

MR. CLARK: Where exactly, you know, and, and my, I don't, on Manor Road what intersection are you near?

MR. MARTIN: I'm right by four corners. That's the best way (inaudible).

MR. CLARK: So, you're down by Baldwin?

UNIDENTIFIED SPEAKER: That's several miles away.

MR. CLARK: You're down, you're down by Baldwin?

UNIDENTIFIED SPEAKER: Yes. No. (Inaudible)--

MR. MARTIN: I'm not familiar with Baldwin. I just (inaudible) there--

MR. CLARK: The Baldwin Post Office?

MR. MARTIN: I'm not familiar with (inaudible).

MR. CLARK: Okay. So, so, what four corners? There's lots of four corners in the County.

MR. MARTIN: Four corners. I've only lived there

for less than a year.

MR. CLARK: Okay.

MR. MARTIN: Okay.

MR. CLARK: That's, that's fair.

MR. MARTIN: I'm not that familiar with that area.

MR. CLARK: But, but I'm asking for the cross streets?

MR. MARTIN: The cross streets?

MR. CLARK: Yeah. Manor Road and what?... Okay. That's fine. But yet, you testified you were within a mile and a half. I think people in the community will, would actively disagree that Manor Road is within a mile and a half of the property, all right? Yet you, you, you testified by raising your hand that you were within a mile and a half. That's all I have Your Honor.

JUDGE BEVERUNGEN: Okay. Anything else?

MR. KOTROCO: Nothing further.

JUDGE BEVERUNGEN: Okay. Thank you very much sir.

MR. MARTIN: Thank you.

MR. KOTROCO: And Mr. Doug Burgess was the last witness.

JUDGE BEVERUNGEN: Okay. Mr. Burgess? Good afternoon. Would you raise your right hand please? Do

you swear or affirm under the penalties of perjury the testimony you will provide today will be the truth?

MR. BURGESS: I do.

JUDGE BEVERUNGEN: Okay. Take a seat. Tell us your name and business address and that whatever you'd like to say or (inaudible)--

MR. BURGESS: Doug Burgess. My business address is 8640 Ridgley's Choice Drive. And that's Nottingham, Maryland 21236.

JUDGE BEVERUNGEN: Great. Okay.

DIRECT EXAMINATION BY MR. KOTROCO:

MR. KOTROCO: Mr. Burgess, you're, you're also an attorney?

MR. BURGESS: I am.

MR. KOTROCO: And you have your law practice in Perry Hall, is that right?

MR. BURGESS: That's correct.

MR. KOTROCO: And you are on Belair Road, in Perry Hall, your law practice? Your residence is in Kingsville?

MR. BURGESS: It's in Fallston, Maryland.

MR. KOTROCO: Fallston.

MR. BURGESS: Or 15 Cabernet Court (phonetic).

MR. KOTROCO: Okay. Are you, I should say that your specialty in the practice of law recently, the thirty years

I've known you Mr. Burgess has been in land use and zoning work, is that right?

MR. BURGESS: One of my concentrations is that. That's correct.

MR. KOTROCO: You appeared in this Court many, many times?

MR. BURGESS: I have.

MR. KOTROCO: Are you familiar with this particular piece of property?

MR. BURGESS: I am.

MR. KOTROCO: Are you familiar with the Nepali American Applicants that are requesting this Special Exception?

MR. BURGESS: Yes.

MR. KOTROCO: Now, how are you familiar with, with their group? Let's start with that.

MR. BURGESS: In the office building I and Chris Gimory, who testified here today was a, a tenant in the building for a real estate company. And I got to know him just from being a tenant. And I became, to get to know some of his friends that he worked with. I've played golf with him. I've had, had transactions with, with him. I've been to some of their events. And I've been very impressed, like the gentleman who spoke earlier about their, their demeanor and their willingness (inaudible) people, people.

MR. KOTROCO: Have you been out to the property?

MR. BURGESS: I have. Yes.

MR. KOTROCO: And are you familiar with that property and Redeemer and Beachmont and those properties?

MR. BURGESS: Yes. I'd have to tell you if I was going to find the neighborhood I would start with the little town of Fork. And that's Fork Road and Harford Road. There's a post office there. There's a veterinarian there. There's a little farm store that's not open anymore. There's a gentleman who has a, at the end of the little strip center there's a gentleman who has a car repair. Across the street there's a dentist. There's a furniture (inaudible). There's a gas station. There's a, a small restaurant there (inaudible). There was a (Inaudible) Methodist Church which is not far from that corner. Fork Christian Church (phonetic) is not far from that corner. It was also mentioned about Redeemer, which is a church and a school you know, which is farther south on Harford Road. Not far from the corner. And so, I define the neighborhood as several miles from that intersection (inaudible) property.

MR. KOTROCO: There's many religious uses within that area?

MR. BURGESS: Yes. There's the Fork Christian Church, Fork United Methodist Church, the Redeemer School

and the church as well as Beachmont Christian Camp. And I've been to all of those locations except for, I've not attended a service at Fork Christian Church, but I've been to the other locations to attend various functions.

MR. KOTROCO: Okay. Do you believe this particular application is compatible with those other religious uses in that neighborhood?

MR. BURGESS: It is because of the nature of zoning in Baltimore County and also, including zoning throughout the nation. The legislature's, has made it's decision already that certain uses are permitted and certain uses are prohibited. The uses that are in the middle are special exceptions. And with the, what the statute says and what Judge Harold (phonetic) has told us from the higher court that these uses are (inaudible) permittable. In other words they, it's presumed that they're compatible. It's prima facie compatible. So, your question is, are they compatible? Yes (inaudible) a religious use in the RC-2 is prima facie compatible. As far as my view of the area and my look of the area, because of the size of the property all the testimony we hear today which I (inaudible) repeat, I believe it is, it meets fully the definition of the statute, what the, and, and also what Judge Harold has decided about the compatibility.

MR. KOTROCO: Do you draw a distinction between the RC-2 zone and the RC-5 zone?

MR. BURGESS: I do not. Both are Rural Conservation Zones. And with regard to this particular Special Exception, for religious use there's no difference. The RC- (inaudible) and that has to do with housing (inaudible). That's not the issue before this tribunal today.

MR. KOTROCO: So, you're familiar with Section 502.1 of the Baltimore County Zoning Regulations? And you believe this application meets those requirements?

MR. BURGESS: That's correct. I, can I, that testimony is already in evidence and I won't repeat it, but I just say, I agree with that evidence that's already come in by Mr. Motsco I believe.

MR. KOTROCO: Right. And so the, this particular use is not going to have any greater detrimental impact here than it would in another RC-2 zone around the County?

MR. BURGESS: That's correct. And the, that's what the Court of Appeals asked us to look for, and that's what we looked for in this particular location. I believe it would not have a further detrimental use.

MR. KOTROCO: Okay. Anything else you want to add?

MR. BURGESS: I want to thank everybody. Both the Protestants and the people in favor of this site. Coming out here, this is how this works. We get to speak openly and

candidly. And I want to congratulate both sides for (inaudible) this tribunal.

MR. KOTROCO: All right. Thank you Mr. Burgess. I'm going to see if there's any questions --

MR. CLARK: No. I'm not going to ask a lawyer questions. (laughter in background)--

MR. KOTROCO: Okay. Thank you. We have no further, we have no further witnesses.

JUDGE BEVERUNGEN: Okay. So, that's it for the Petitioner's case?

MR. KOTROCO: It is.

JUDGE BEVERUNGEN: Okay. It's 4:00. I'll stay as late as I need to. Whoever wants to be heard can, can do that.

MR. CLARK: All right. We, we, as a group are, have decided that as the Gunpowder, as the Gunpowder Falls Watershed Preservation Association we have decided not to present testimony.

JUDGE BEVERUNGEN: Okay.

MR. CLARK: Okay. I would like to, to offer into evidence the sound recording I mentioned.

JUDGE BEVERUNGEN: Okay.

MR. CLARK: All right. But that I know that there are some Protestant's that would like to, to say their peace.

JUDGE BEVERUNGEN: Sure.

MR. CLARK: And--

JUDGE BEVERUNGEN: All right. Well, they can do that. Who, who wants to do that? Come on up.

MR. CLARK: Come on down.

JUDGE BEVERUNGEN: All right. Ma'am, good afternoon. Yeah. Come on over here. You can just take a seat there and tell us whatever you'd like to tell us. Give us your name first please.

STATEMENTS MADE BY ROSEMARY BRONZERT:

MS. BRONZERT: My name is Rosemary Bronzert. I live at--

JUDGE BEVERUNGEN: Could you spell your last? I'm sorry.

MS. BRONZERT: B-R-O-N-Z-E-R-T.

JUDGE BEVERUNGEN: Okay. Thank you ma'am. Go ahead.

MS. BRONZERT: I live on Regwood Road, just off Harford Road.

JUDGE BEVERUNGEN: How far is that from this site?

MS. BRONZERT: My house is half a mile up Regwood. And the Bonaparte property is probably half a mile down Harford Road.

JUDGE BEVERUNGEN: Okay. About a half a

mile, give or take?

MS. BRONZERT: Right. Yeah. Sort of.

JUDGE BEVERUNGEN: Okay. All right. Go ahead.

MS. BRONZERT: When I first heard of the Nepali Center I thought, oh, that's kind of neat because many Catholics have an infinity for Buddhist preachings. And I am a Muslim. I studied Comparative Religions years ago. So, the tenants are admirable. And I have no objection to a Religious Center on the Bonaparte property. It's private property. Pretty much you can do what you want in this country. My concerns, the biggest concern is traffic. Harford Road is a pass through between Harford County and people going into Towson and south to the beltway. So, it's heavily traveled Those turns at the property are extremely dangerous. We approach them with great caution because cut across the curve or there's a big ditch right near the, the driveway, coming out of the property. So, I'm always very careful. I don't want to go over to that ditch. So, the, the turns are a great concern. And if there are large numbers of people coming out it would be very interesting to say the least. If cars were backed up, going down the hill because nobody mentioned, but this is a steep hill, in addition to the turns. So, maybe if it were right turn only coming out of the property. I can't imagine left turns--

MR. CLARK: No.

MS. BRONZERT:--of any numbers of cars coming out of that property. You'd be taking your life in your hands, because of the number of the cars and because of carelessness on the part of some drivers. And there were times last summer when we heard what we thought were kids having big parties because at my house the music was easily discernible. It was loud. And I understand from what you're saying, that that was an exceptional occurrence. It probably would have been a good idea to let the neighbors know. (laughs)-- When we have parties we let the neighbors know, you know, there are going to be cars because we're a little, one lane road. And it makes for a problem. So, really, the idea of large gatherings is a problem, which would have to be worked out. And the other thing, the biggest thing though is, is the road and the traffic and safety. That's all.

JUDGE BEVERUNGEN: Okay. Very good.

MR. KOTROCO: No questions. (CLAPPING IN BACKGROUND)--

MR. CLARK: Wait. Before she comes out of the stand. I, I have on question. And, and I'm going to poke at the obvious, all right? (laughs)-- Are you insulted when someone characterizes you as not understanding the religions and that's why you're here?

MS. BRONZERT: I try to avoid ad hominem

statements. (CLAPPING IN BACKGROUND)-- (Inaudible)--

MR. CLARK: Yah. Right. So, so, you vehemently disagree with, with one of the witnesses who said that you're here because you don't understand the differences in the religions?

MS. BRONZERT: People have misunderstandings sometimes. I'm not going to--

MR. CLARK: Okay. Well, okay. That's fine.

MS. BRONZERT: --get upset one way or the another.

MR. CLARK: That's fair. That's fair.

MR. KOTROCO: Thank you ma'am.

JUDGE BEVERUNGEN: Okay ma'am. Come on up. Tell us, and tell us your name and address and then whatever you'd like to say.

STATEMENTS MADE BY BERNADETTE POEHLER:

MS. POEHLER: My name is Bernadette Poehler.

JUDGE BEVERUNGEN: Spell your last name please.

MS. POEHLER: That's P-as in Paul, O-E-H-L-E-R. My address is 12241 Harford Road. So, my husband and I have the property adjacent to the property that we're discussing right now. So, when I look out my front door I can see the house because it's winter. I can see people on the driveway. I can see, at times this past summer hundreds of cars parked on

the property. I'm not sure what date this event was that you referred to, but on June the 3rd I can clearly remember waking up to music, hearing music all day, seeing hundreds of cars parked on the property. So, not just on the driveway, if you could line up 80 cars. All over the, every, just about every blade of grass that wasn't in a ditch either had cars or spot-a-pots that had been brought in. And then my husband went to a concert in Virginia that evening. And when he came home at 1:00 AM I could still hear the music very loudly being played. And, and we have the concert ticket from when my husband went out. It, it is a shame that what I'm basing my concerns about this exception is based on my experience of living next door to this property that when it first was sold in March my husband went right over and introduced himself. And I think it was the gentleman that was talking about being a contractor, and that made reference to the septic. So, my husband introduced himself and said, we live next door. If you need anything, if you have any questions you can just come right over. Our properties touch. So, throughout this summer I would be coming and going out of my driveway, which wasn't mentioned, but when the fellow was mentioning about if we had to expand your entrance we could go a little to the right or a little to the left, it wasn't mentioned that my driveway is (inaudible) your entrance. And my driveway is a single lane. Just enough for one car. So, sometimes I'd be coming around

that sharp turn and there would be cars in my driveway coming out because they were trying to find your property and they're in my driveway. So, I can't pull into my driveway because there's only one way to get in. So, I have to go past that, turn around to get into my home. So, other times I'm leaving my house and there's a car driving up my driveway. And it's unusual that I've lived there for four and a half years, had never seen a taxicab. And now I have multiple taxicabs driving up my driveway. When they drive up my driveway they turn around in my grass. And my husband is so dedicated to mowing and treating and you don't want to over treat it because we raise bees and we care about our environment. We try to take care of our property. But there's cars circling around in our driveway, tearing up the grass to go to the next door neighbor. So, that's been my experience. My experience with Nepalese people has been 100% positive. My brother was recently written up in the Baltimore Sun as giving tens of Nepalese individuals employment at gas stations. We've gone to Ashland Cafe (phonetic). We know the owners very well. We love our country. We love the Earth. We love to thank any creator that made, acknowledge for all the blessings in our lives. We also value our property that we have dedicated so much to taking care of. And we feel like it's been torn up since our neighbors moved in, and had given us no consideration like it was mentioned today. Oh, we're having a

large party. We're not talking 20, 30 cars. We're talking hundreds of cars and spot-a-pots being brought in to the property, and remaining there all day. That's quite different than let's have a youth group come in and restore our tennis courts. So, I'm concerned that based on my experience this is what I'm going to expect in the future. And then when it's mentioned, well, you were so successful in that fundraiser maybe you ought to do it a few more times. That was, that was a joke this afternoon. And I don't think it's funny. I can't imagine what anyone in this room would think if the property next door to them was sold to a group of 800 people that brought in spot-a-pots in their front yard and partied all day and all night. I can't imagine how you would feel. I just know how I feel. And I'm very concerned if this exception is granted that I'm going to have hundreds of people drive up and down my driveway without any recourse for them tearing up my lawn. Terrorizing me and my husband. For us not to be able to gain access to our own home. Thank you. (CLAPPING IN BACKGROUND)--

JUDGE BEVERUNGEN: A couple questions?

MR. CLARK: Yes. And I have--

JUDGE BEVERUNGEN: Is this your house, right here? In fact is that (inaudible)--

MR. CLARK: Yes. Just north. Just north.

JUDGE BEVERUNGEN: That's you?

MS. POEHLER: Yeah.

JUDGE BEVERUNGEN: Is the entrance? And that's your house? No problem with the corn maze and the hundreds of people coming to the corn maze?

MS. POEHLER: Oh wow. (Inaudible) turned out not once have they driven up and down our driveway.

JUDGE BEVERUNGEN: There's a big Redeemer sign out there.

MS. POEHLER: You're right. And they've been established in our neighborhood for a long time. (TALKING IN BACKGROUND)-- (Inaudible) pull in there to that school. I'm so well aware. Actually, I was born and raised in Baltimore County, 100% familiar with it and I tell you, in the four and a half years I've lived in that house I had never seen a cab go up and down my driveway before. And I've lived within a five mile zone of this area for 52 years.

JUDGE BEVERUNGEN: They are well signed though. Everybody knows where the Redeemer School is.

MS. POEHLER: And I am not familiar with cars going up and down and spin around in people's driveways. No.

JUDGE BEVERUNGEN: So, no problem with Redeemer or Beachmont Camps and all that stuff? (TALKING IN BACKGROUND)--

UNIDENTIFIED SPEAKER: No, no problem.

MS. POEHLER: No. And another thing about

their activities is they post them for the public. And I was not aware of this party or any of the parties that took place next door to me.

JUDGE BEVERUNGEN: Okay.

MR. CLARK: Ms. Poehler, before you sit down. So, so, so the activities at Beachmont are very, are very different than the activities--

MS. POEHLER: They're advertised on the news.

MR. CLARK: That's right.

MS. POEHLER: The local news. See the dates.

JUDGE BEVERUNGEN: Open to the public.

MR. CLARK: Okay. Now, now--

MS. POEHLER: I didn't see the date of the parties going on next door to me.

MR. CLARK: All right. And the other, the other question I have for you is how do you feel when someone characterizes your presence here as out of misunderstanding and just not being open minded?

MS. POEHLER: I think everyone knows that I'm here because I live next door to this property. (laughter in background)--

MR. CLARK: But, but, but, but, but seriously, I, you know--

MS. POEHLER: Seriously, I think everybody --

MR. CLARK: No, no--

MS. POEHLER: --here understands. I'm here today because I live next door to this property and I would like to live in the safety of my own home, without getting hit head on in a car accident--

MR. CLARK: But--

MS. POEHLER: --while I'm pulling in and out of my driveway.

MR. CLARK: I would, I would appreciate an answer to the --

MS. POEHLER: I would appreciate that.

MR. CLARK: --to the question asked.

MS. POEHLER: That's my answer.

UNIDENTIFIED SPEAKER: That's her answer.

MR. CLARK: Okay. All right.

UNIDENTIFIED SPEAKER: Just let it go. Very good-- (CLAPPING IN BACKGROUND)--

JUDGE BEVERUNGEN: Sir, did you want to say something? Come on up please. Good afternoon.

STATEMENTS MADE BY SCOTT STRIEBINGER:

MR. STRIEBINGER: Good afternoon.

JUDGE BEVERUNGEN: Take a seat there or stand, at your pleasure. Tell us your name and where you live though.

MR. STRIEBINGER: My name is Scott Striebinger. I'm President of the Greater Mount Vista

Association.

JUDGE BEVERUNGEN: Greater Mount Vista Association? (BACKGROUND TALKING - INAUDIBLE)--

MR. STRIEBINGER: Mount Vista Association.

JUDGE BEVERUNGEN: (Inaudible) keep, keep your talking down. I can't hear what, what the gentleman's saying. It's Greater Mount Vista Association? Is that a recognized group?

MR. STRIEBINGER: Yes sir.

JUDGE BEVERUNGEN: Okay. Go ahead.

MR. STRIEBINGER: Which is more in, in proximity to this facility. We have, most of our people, Mount Vista Road. I live on Vista View Court. We have everybody at Vista View Court (inaudible). So, it's a community that is more directly in proximity to this facility.

JUDGE BEVERUNGEN: Okay.

MR. STRIEBINGER: Now, everybody (inaudible) to discuss as (inaudible) some kind of personal degeneration of anybody. No. Everybody here that I've seen thus far is good people. So, nobody is inferring in the least that somebody is better grade of person than the other people. So, we respect you. Just understand, we do live in that neighborhood. So, we pay a lot of taxes, a lot of investment. So, it's nothing personal. And we've got to look out for our investment. Now, people have brought up Beachmont, which

was kind (inaudible) because if we had any partiality, because I sent my two boys, well, I think even my daughter, two sons and daughter to Beachmont for summer camp. However, when they wanted to far too far with a property Special Exception we had to step up. So, a matter of fact, we had a final court decision in 1987 that reversed the Special Exception that Beachmont had received. The final decision was by the Appeals Court of Maryland. It was the Superior Court of the State. So, nothing goes higher than Superior Court of the State. So, that decision was December 9 of 1997, and it was regarding Beachmont. The essence is, Beachmont wanted to expand tremendously overnight stay, unlimited persons and, and things of that nature. We had a traffic engineer who spoke very different than the traffic engineer that I heard today who talked about Mount Vista Road and Harford Road, because I'm sure a lot of people will be coming off Belair Road and across Mount Vista Road also to this, to Harford Road. He spoke very different as to what the roads really can safely contain, so far as (inaudible) cars. Another issue, we had a Geologist expert talk about these ground conditions in our general area. Our ground conditions are very poor for septic and well water usage. Eventually Beachmont proposed setting up a above ground facility for treating their sewage. Now, we don't know exactly how many people are going to be at your facility. And just like you said, you had a estimate from a septic tank

person as to what he would charge to put in a new septic system and then (inaudible) and so forth and so on. With all due respect, you didn't quantify, you gave him a specific number. What I'm trying to say is that area cannot sustain a lot of sewage. Our well water, even my well water, people in my whole development, the well water quality has went down in the last twenty years. Where it used to be just clear as a bell now it (inaudible) has to have all kinds of treatment systems. So, we live in a sensitive area. It isn't like there's, you know, that's one thing everybody's missing here. They're acting like it's public sewer and water, which is a whole another world. When our life sustaining capabilities depends on sewage from our holding tanks and well reserves and our well water because the County ain't gonna spend millions and millions of dollars to run sewage (inaudible) and the, and water lines up to our community, nor would we really want it because there's added benefits of, of not having that kind of service. Now, you also discussed that your zoning of RC-2 is less restrictive than RC-5. However, when the Appeals Court of Maryland sided with our organization their again, now is again Beachmont. And it's nothing personal. It's simply, we got to live there. So, we're looking out for our interest, but not stepping on their interest, because why would I (inaudible) to Beachmont and, and I enjoy Beachmont as long as we have some understanding. So, it eventually there was a

understanding so far as by the people that (inaudible) the property. (Inaudible) system that would adequately handle the (inaudible) of people. A matter of fact, the Court eventually told them they've even got to have a traffic guider if they have something where they feel there's 50 people or more showing up at one time. They, they have to hire some kind of local entity to flag traffic. Now, we've got to real too. Those sharp turns you downplay, that is all kinds of activities, but don't downplay them. I don't want to hear a site distance, that you know, it doesn't take a Rocket Scientist to see that's not good entrance, but that's no reason to pound you into the ground. Don't take it wrong. If something could be done, if hillsides could be moved and the State's going to be that generous to move some of the hillsides so some of those turns aren't as radical yeah, it would be nice, but I doubt the State's going to do that. So, we're not here persecuting you people. You're all good people. I haven't seen anybody who's a bad people. We're not bad people. We just got to deal with reality. And there again, there is a big difference between public water and sewer and people that rely on septic and well water. And I'm sick and tired of seeing my well water get, go downhill constantly because it's over taxed. Now, Beachmont has a cap on it as far as volume of people. Guess what? We've never enforced that cap. But if you look at the legal record, there's a lot to be learned if you'll look at that legal record as to the

decisions of the Appeals Court, what Beachmont was mandated to do. Now, as good people, we haven't held a gun to Beachmont's head. But now, we're over inundating the area. And as long as you can cap volume of people and do certain caps, it is much more apt to get along with the community than have all these open doors. Beachmont even has time limits and various things. You're saying people can come to your facility at any time. We don't want that. If I see somebody in our neighborhood late at night I want to (inaudible) them you know, because you shouldn't be there. (laughter in background)-- I mean, we're old I guess country mentality or however you want to paraphrase it. But if we see vehicles that should not be around at a certain time at night something, you know, I'm not saying it will happen, but you know, we're, we're just, you know, that kind of entity that is, doesn't take fond to seeing strange vehicles at strange hours. We, you know, so, that's the essence here, is you know, you really got to understand the area. It is not about view. It is about what you're proposing to do. It's about what works with the area as an entirety. And Beachmont even was promised, they were going to put an above ground waste water plant in because of the possibility of a certain volume of people when they have special occasions. That works with us. But if you have to live somewhere and you have to worry every day, I have well water to live with and a septic system and if those two things

are gone all the money I have invested in my house, all the time, money and effort becomes worthless. That's all I have to say.

MR. KOTROCO: No questions. (CLAPPING IN BACKGROUND) --

MR. CLARK: Very well stated.

JUDGE BEVERUNGEN: Okay. Any, anyone else though? Ma'am, do you want to-- Okay. So, what's your name and address please?

STATEMENTS MADE BY JOYCE MASON:

MS. MASON: My name is Joyce Mason, M-A-S-O-N. And I live at 11813 Harford Road.

JUDGE BEVERUNGEN: Okay.

MS. MASON: And before I heard the gentleman before us I want to talk about well water. Okay. Our, our well currently only produces at 2.5 gallons per minute. That is with a lot of the folks of that area. We don't have big volumes of well water. And I don't, I haven't heard anything about a study of the Aquifer, Aquifers in that area. What can they support? How many people can they support at one time. How many events can they support? I haven't heard anything about (inaudible) support to justify having these events with a lot of people. We don't all have parties every week at our house and have 50, 60, 70 people. The second item is, the last line on that Special Exception, it just is open ended.

MR. CLARK: Yep.

MS. MASON: Whenever it, whatever we require it exact-- is, I'm paraphrasing because I don't know the exact word. But it's so open ended that they could do anything. And I'm, I'm concerned about again the well water. And a third thing is has anybody done a traffic study of how many accidents are within one mile each way of that property? I live right by Hartley Mill Road. People coming out of Hartley Mill Road cannot see. And they constantly pull out and get hit by the people going south because they can't see the traffic going south because there's a guardrail there and a bridge. In the summer there was a gentleman on a motorcycle. Him and his girlfriend got killed because somebody came down there at 50 miles an hour because it is 50 mile (inaudible) there. Didn't see them and they got thrown. That, there needs to be a traffic study there before there's more traffic put in that area. And that's kind of all I have to say.

MR. KOTROCO: No questions.

MR. CLARK: All right.

JUDGE BEVERUNGEN: (Inaudible)--

MR. CLARK: Poke the bear. Do you, how do you feel about being characterized as being here for, for religious reasons? (BACKGROUND TALKING - INAUDIBLE)--

MS. MASON: As I stated, it has nothing to do with anybody's religion. It has to do with the well water of

the people, myself, our family and the people in the area and the safety of everyone in the area.

MR. CLARK: Thank you. (BACKGROUND TALKING)

JUDGE BEVERUNGEN: Okay. Good afternoon. Tell us your name and (inaudible) where you live.

STATEMENTS MADE BY PASTOR STANDIFORD:

PASTOR STANDIFORD: My name is Ron Standiford. I'm Pastor of (inaudible) Presbyterian Church.

JUDGE BEVERUNGEN: Standiford?

PASTOR STANDIFORD: Yes.

JUDGE BEVERUNGEN: Okay.

PASTOR STANDIFORD: S-T-A-N-D-I-F-O-R-D.

JUDGE BEVERUNGEN: Got you. Okay. Very good.

PASTOR STANDIFORD: I live on the main house with Beachmont Farm, which is my families farm. And I'm here, and not because of the religious issue, but because I, there was a couple of things I wanted to straighten out. One is, with regards to the RC-2 zone versus the RC-5 zone. I know Mr. Striebinger. I remember him well because I was on the Board of the Camp when our family donated property to start it. And the community did want to put numbers on it because they didn't want it open ended, and that was very understandable. And so, we did have, not only a time frame

that everything had to be finished at 10:00 at night, but then also as far as the numbers of people who would be involved at certain times. And, and the camp certainly abided by that. And I'm not on the Camp Board now so I can't attest. But I do know that there was a difference in the Maryland Court of Appeals, as he says, Special Appeals I think it was that basically gave a ruling that said we had to go back and to get a separate zoning to RC-5 because RC-2 was insufficient, even though a Special Exception was allowed to have a community building it was insufficient because of the ministry that was projected on the property. So, in summary of that point RC-2 is one in which you, if you did research it as Mr. Striebinger said which does not contemplate significant about, of, of numbers, and that was why the RC-5 zone was pursued (inaudible). But there are a necessity of numbers on the property which I think is just being plain respectful. I also drove past on that one Saturday when there were, the whole of Obrecht's (phonetic), I know it as the Obrecht's property because Bonaparte of course didn't live in that house. It burned and Mr. Obrecht built back the house that, out of concrete and metal because he didn't want it to burn. And anyway, I think that I did see cars all over the fields and the noise, we could hear it over at our place. And we heard it more than once. And not, and, and so, I do think there needs to be some kind of a, a respect that comes, which I'm sure your

religion would put forward that needs to be incorporated into whatever activity that you want to do for the neighbors. And, and lastly, if you look on the property tax map you'd see that Redeemer Presbyterian Church and Beachmont Christian Camp are two different entities. The church does not run the camp and the camp has really nothing to do with the church or the school. And so, the, when you entered into evidence about why does the school have a corn maze, we don't. That's, that's a completely different entity. It's by the camp. It's something that they do. And we have nothing to do with it. So, just that is a correction that you, that I wanted on the record just in case it was needed that the school is separate from the camp and we do not have a corn maze. We have a K through 12 class--(inaudible)--

MR. CLARK: He's good.

UNIDENTIFIED SPEAKER: Yeah.

MR. KOTROCO: You live on that Redeemer property?

PASTOR STANDIFORD: I live at the main house. Yes.

MR. KOTROCO: Okay. The well, septic, everything works fine?

PASTOR STANDIFORD: Yes.

MR. KOTROCO: Okay. And how many students do you have in the school?

PASTOR STANDIFORD: 220.

MR. KOTROCO: Come every day?

PASTOR STANDIFORD: Yes.

MR. KOTROCO: Use the bathroom every day?

PASTOR STANDIFORD: Well, absolutely.

MR. KOTROCO: Okay. Right. A, a field house?

PASTOR STANDIFORD: It's all within, it, all of our things have been within the County code.

MR. KOTROCO: Yes.

PASTOR STANDIFORD: And they have come out and so forth.

MR. KOTROCO: Exactly right. And I, I can appreciate that. A field house, where they have sporting events and --

PASTOR STANDIFORD: That belongs to the camp.

MR. KOTROCO: Oh, okay. I wasn't sure whether-- so then the corn maze is the camp, not you all?

PASTOR STANDIFORD: Absolutely.

MR. KOTROCO: Okay. No further questions.

JUDGE BEVERUNGEN: Okay. Thank you sir. Ma'am?

STATEMENTS MADE BY PATTI THOORN:

MS. THOORN: Hi.

JUDGE BEVERUNGEN: Okay. What's your name

and where do you live?

MS. THOORN: Hi, everyone. I'm Pat Thoorn. And I live at 6316 Hutschenreuter Road.

JUDGE BEVERUNGEN: Okay.

MS. THOORN: And I know that a lot of you have seen my posts on Facebook, because you've guys have been responding to them. And I want to make it very clear that this is not a religious vendetta, okay? It's not. I'm Christian. My son is Buddha. I don't, yeah. Who cares. We all love each other. So, I want to get that out in the open first. I also want to make mention that my property does back to the woods that backs to your property. It is extremely loud when you hold your affairs and your festivals. I will, our main concern, not they have a temple. But our concern is this, you haven't been respectful with keeping your cars to a minimum or your invites to a minimum or too private. You've left it open to the people that, for your research and for your fund-raising I stopped by that weekend. There is no parking lot. There is a driveway with a circle, okay? So, a parking lot would have to be put in. Let's just be very clear about that. You keep talking about a parking lot. It's not a parking lot. It's grass. It is a field. It is a very steep hill where people were parking. When we talked with the people at the festival they were very thrilled that they had over 1,000 people come that weekend. They were bragging about it. And I think that's awesome for fund-raising

I'm sure they made a lot of money. Our concern is they're not diligent with the County Ordinances. It's absolutely, well, we're going to do it anyway. We're not supposed to be here. We're going to do it anyway. In the beginning you had a, you had people living there, at the caretaker residence, which was informed to us at the Kingsville Association meeting. According to page 4 of your contract, you cannot have anyone living there, according to the deed because it is a commercial loan. So, you violated that, okay? There are many things that you have violated--

MR. CLARK: She's good.

MS. THOORN: --that you just keep saying, oh well. You just want to push this through. Let's just hypothetically say this does get pushed through. What's to stop you from having those festivals every weekend? Absolutely nothing, because it will be yours. What is to stop you from taking that last line of the Special Exception to say we can do what needs to be done, and you don't expand that mansion twelve times the size? Because like it's been stated, this Special Exception is not geared at the mansion. It's geared at 30 acres. Well, if it's not geared for the 30 acres, why not change it to just gear it to the mansion? Why not say, and I've been in the mansion. I was friends with Kelly DeCheeko (phonetic). I know how many people can fit into that mansion, okay? To have one of your festivals in the third

of the house that is the ballroom is not conducive. To say that you can come and pray at any given time, well, that's wonderful. Absolutely. I'm all for it. You know, I pray when I'm driving down the street. I pray when I'm in the bathroom. I pray all the time. Okay. But what we cannot say and what you cannot guarantee and what you cannot say for certain is that throughout the course of 9:00 in the morning or 8:00 in the morning or 7:00 in the morning till 10:00 at night you're not going to have a continuous stream of people running through that area. I would like to just make mention, this is just something that happened last night, because I have a good contact in the Kingsville Volunteer Fire Department. Is that there was a car turned over, flipped over, on its side at the circle last night. Half of the sign in the circle before this accident was taken out. Now, this was supposed to make us safer, am I right? It hasn't. There have been five accidents since this circle has opened. Please check into that. I encourage you. Five accidents since this circle has been finished. At the bottom of Hutschenreuter Road we had a young couple, 18 years old. A boy in the front, a boy in the back, a girl in the front, a girl in the back. A car came around that turn. They pull out. Boom. All four of them dead. Okay. Wouldn't it be great to say, oh, yeah. It's 30 miles an hour and we're going to gonna do the speed limit? How many of you have teenagers? Come on. Somebody's gotta have a

teenager in here. Don't tell me they drive the speed limit because they don't. They are reckless. It is scary. It is about the sight distance. When you look, according to the Transportation Department and Zoning because I'm a realtor. (Inaudible)-- You have to be 10 feet back before you take those pictures. So, when you took those pictures of the sight line, did you stand 10 feet back from the road and take your pictures? No. You probably stood at the front of the road, didn't you? But County law says you have to be 10 feet back before you take those pictures. When you are 10 feet back what do you see? You see that giant circle in the middle that you already stated you weren't going to remove. You look to the right, and what do you see? You see trees. The sight distance is not compatible or conducive to this area. It's not. I mean, we're not trying to be mean. We're trying to save lives. My kids go up and down that road constantly. I drive up and down that road constantly. The sight lines are awful. We would love for you to have a wonderful church, absolutely, but you can't guarantee that there's only going to be 30 people there in a day or on Sunday. You said you were going to have the caretaker's home for a Pastor, but you don't have one. And you can't have one legally living there because of the way your contract is written on page 4 of your deed that says, no one will occupy this property. Am I correct? So, you're breaking all of these variances and laws, and you don't understand why

we're upset. You're playing loud music and having parties when you say you're only going to have 10 (inaudible) people there, but you're not. There were over 1,000 people there. So, are you good people? Absolutely. But I'm not thinking that your people love your (inaudible). And I think that if this goes through, and I pray and I pray that it does not. I pray it does not. It will only create more traffic. The intersection from Mount Vista Road and Harford Road was deemed the (inaudible) worst intersection in the country. The circle hasn't fixed it. What makes you think that when you have 50, 60, 100 cars pulling out on a sight line that you can't see it's going to be any better? People are going to lose their lives. And it's not worth it. The other concern is the well, because I have lived there and I will tell you that in that long time the well has gone dry five times. Five times. My brother's well has gone dry. He lives right next to me, on Hutchenreuter has gone dry ten times. What is this going to do to impact those that live the closest? I realize you all don't live near it, and that's cool. If I lived in (inaudible) it would effect me either. But you guys are talking about my well, my septic, my area and my home. And so, I ask that this all be taken into account, and that it not be passed because they cannot regulate the amount of people for the buildings that they're going to put up. And they will. The other thing I would like to state is someone had mentioned earlier that (inaudible) this house was

in foreclosure for so long. How come nobody bought it? That is not true. Okay. Yes, the bank did own it. So did Mr. DeCheeko?. But I will tell you that as a realtor we know what's coming up thirty days ahead of anyone else. So, say it went on the market and the next day was gone, well, that's a little stretched because the property was known that it was going to go up. The other thing is, how many other offers were made? I will tell you that there were five. How many offers were turned in and accepted to the realtor? None. Absolutely none. And by law, you have to submit all valid contracts. None were submitted. And if you don't believe me you can-- well, (inaudible)-- So, things are gone about the wrong way. And that's what we're upset about mainly. Yes sir?

MR. CLARK: No. It's, it's Mr. Kotroco's turn.

MR. KOTROCO: Yeah. I'm going to ask, I'm going to ask. You seem to know a lot about the property. You live next door, is that right? On Hutchenreuter? Who's busting it up?

MS. THOORN: You know what? If I had the answer to that I would be God.

MR. KOTROCO: God?

MS. THOORN: Okay.

MR. KOTROCO: Who do you think is busting it?

MS. THOORN: Probably the same people that

vandalized (inaudible) our store. Maybe it's the same group that vandalizes the other church. Maybe it's the ones that write graffiti on the Hartley Mill Bridge.

UNIDENTIFIED SPEAKER: Yeah.

MR. KOTROCO: Local, local people?

MS. THOORN: Maybe.

UNIDENTIDIED SPEAKER: Maybe not.

MS. THOORN: Or maybe just people who know that --

MR. KOTROCO: Do you hear them up there busting it up? Breaking windows?

MS. THOORN: Oh, I can't hear windows breaking.

MR. KOTROCO: Okay.

MS. THOORN: I mean, that--

MR. KOTROCO: You don't hear them partying?

MS. THOORN: --would, I don't have good hearing that way.

MR. KOTROCO: All right. These are your posts on Facebook here? Take a look at them.

MS. THOORN: (Inaudible) my glasses.

MR. KOTROCO: That's your name at the top, right?

MS. THOORN: I don't have my glasses.

MR. CLARK: Uh-oh.

MR. KOTROCO: I'll read it if you want. I'm not

going to read them into the record. I'm going to give them to the Judge. But that's your name on it?

MS. THOORN: (Inaudible) is it?

MR. KOTROCO: That's why I asked you. It says right here, Patti Griswald Thoorn. Is that you?

MS. THOORN: And yes, I (inaudible)--

MR. KOTROCO: That's you.

MS. THOORN: Okay.

MR. KOTROCO: (Inaudible)--

MS. THOORN: Uh-hum.

MR. KOTROCO: I'd offer these into evidence Judge. (Inaudible)--

MR. CLARK: Can, can I have a copy of it?

MR. KOTROCO: That's the only one I have.

MR. CLARK: Okay.

MR. KOTROCO: We can get them from the, in the case.

MS. THOORN: And, and what were my posts?

MR. KOTROCO: What do you post? Let's, let me ask you that?

MS. THOORN: Did I say that we were concerned about the water? About the water run off? About the traffic? About the noise?

MR. KOTROCO: No. How about people coming here from other countries and they should be locked

(inaudible) and crossed the border in North Korea you get locked up. You get twelve years. How about that?

MS. THOORN: Oh, I didn't post that.

MR. KOTROCO: Oh, it's got your name on it.

MS. THOORN: No. That was sent to me.

MR. KOTROCO: Uh-huh. And what did you do with it? Why is it your name on the top of it?

MS. THOORN: Because it was sent to me.

MR. KOTROCO: It was sent to you? Did you repost it?

MS. THOORN: Uh-hum.

MR. KOTROCO: Okay.

MS. THOORN: And I'd agree wholeheartedly. And if you want to throw that back at me I believe that any person can come to the United States-- if we're going to go down immigration law absolutely. But let's do it legally. Let's do it legally. Let's do it on the up and up.

UNIDENTIFIED SPEAKER: Everybody here is legal (inaudible)--

MS. THOORN: Well, thank you for sharing. So am I.

JUDGE BEVERUNGEN: Okay. Any other questions from this lady?

MR. KOTROCO: No questions.

JUDGE BEVERUNGEN: Do you have questions?

MR. CLARK: Yeah.

JUDGE BEVERUNGEN: Go ahead.

MR. CLARK: So, if you heard people breaking up the property would you have called the police?

MS. THOORN: Absolutely.

UNIDENTIFIED SPEAKER: I did.

MS. THOORN: I called the police when I see strange cars on my road because they come back to the end of Hutchenreuter to see where it goes. And if they're lingering around I call the police.

MR. CLARK: Okay. While I may disagree with your political views, would you say that your political views are present in, in America?

MS. THOORN: I believe that everybody has the right to become a United States Citizen, absolutely. And I do believe that it should be done legally.

MR. CLARK: Okay. That's it Your Honor.

MR. KOTROCO: Nothing else.

JUDGE BEVERUNGEN: Thank you ma'am.

MS. THOORN: Wait.

MR. CLARK: Okay. Short and sweet.

JUDGE BEVERUNGEN: Okay. Very good.

MR. CLARK: Okay.

JUDGE BEVERUNGEN: Just your name and (inaudible) and whatever you want (inaudible)--

STATEMENTS MADE BY KEITH REULING:

MR. REULING: My name is Keith Reuling. I live in--

JUDGE BEVERUNGEN: Would you spell your last name?

MR. REULING: R-E-U-L-I-N-G.

JUDGE BEVERUNGEN: Okay.

MR. REULING: I heard enough testimony. It sounds like there's going to be more than a thirty (inaudible) parking spots needed.

JUDGE BEVERUNGEN: Okay.

MR. REULING: It looks to me like there's no inlets or you know, storm water runoff, which means that's just going to run off into the groundwater too. Oil, all that good stuff. I would think the County would want to take a look at the, the amount of parking spots that may be required on this project and the proper storm-water management facilities that would be attached to it.

MR. CLARK: Yes.

JUDGE BEVERUNGEN: Okay. Is that it?

MR. REULING: Yes.

JUDGE BEVERUNGEN: Okay.

MR. KOTROCO: No, no questions.

JUDGE BEVERUNGEN: Short and sweet. Thank you sir. Okay. Come on up ma'am. Okay. So, what's your

name and where do you live?

STATEMENTS MADE BY JOANNE FOXWORTHY:

MS. FOXWORTHY: My name is Joanne Foxworthy. And I live at 6229 Bonaparte Avenue.

UNIDENTIFIED SPEAKER: Bingo.

MS. FOXWORTHY: Right at your driveway. But just to let your attorney know, this is all I'm going to say. I'm the one that watched that property and called the police when the kids were up there. I chased, took pictures of their tags. Called the police and then called the realtor, whoever that was and he told me to call the police. So, it's not like I like that. So, I kept an eye on that. I shouldn't have to do that, but I did. But that's what I want to tell you right now.

MR. KOTROCO: Thank you.

MS. FOXWORTHY: So, it's not like we're not looking out for everybody, okay?

UNIDENTIFIED SPEAKER: Thank you.

MR. KOTROCO: Thank you very much. (CLAPPING IN BACKGROUND)-- You're right across on Bonaparte, right?

MS. FOXWORTHY: Oh, baby. Yeah. I get all the noise. (laughs)-- (Inaudible) nice (inaudible)--

MR. CLARK: Stop while you're behind. Stop while you're behind. (laughs)--

JUDGE BEVERUNGEN: (Inaudible)--

MS. FOXWORTHY: Oh, yeah.

JUDGE BEVERUNGEN: Anyone else? Sir, come on up. Just your name and where you live sir.

STATEMENTS MADE BY DOUG HONBARRIER:

MR. HONBARRIER: My name is Doug Honbarrier. And I live --

JUDGE BEVERUNGEN: Spell your last.

MR. HONBARRIER: I'm sorry. H-O-N--

JUDGE BEVERUNGEN: Okay.

MR. HONBARRIER: --B-A-R-R-I-E-R.

JUDGE BEVERUNGEN: Gotcha. Okay. And where do you live?

MR. HONBARRIER: I live on Bonaparte Avenue. Just three houses in --

JUDGE BEVERUNGEN: (Inaudible) --

MR. HONBARRIER: Right. The, yeah. Right across.

JUDGE BEVERUNGEN: Gotcha.

MR. HONBARRIER: And I have concerns like some of the others. Mainly the well is a big, big issue for me. Traffic has always been a problem on that road. Just that curve, there's single car accidents in the, the s-curve all the time. We're sitting outside on our deck and we hear it and we're like oh, there's another one. Probably one a month or one every other month or so. But I guess it's one of the bigger

concerns that hasn't been raised for me is living on Bonaparte is trying to turn onto Harford Road off of Bonaparte is horrible. And when you directly across the street have all these other cars coming that will be discharged onto Harford Road is going to make it even harder to, to turn. So, I would just ask that somehow there be some kind of, whether there's a second entrance or something because right now, with no cars coming out of the driveway it's horrendous to try to get out. And if there's 50, 60, 70 cars, whatever it is it's just going to be a nightmare.

JUDGE BEVERUNGEN: How many homes are on your street?

MR. HONBARRIER: One, two, three, four-- I think there's nine. Nine or ten or something--

JUDGE BEVERUNGEN: Is it a cul-de-sac?

MR. HONBARRIER: Yeah. It's a dead end. Yes.

JUDGE BEVERUNGEN: Okay. All right.

MR. HONBARRIER: And that's all I have.

JUDGE BEVERUNGEN: All right. Okay. Thank you very much.

MR. KOTROCO: Thank you. No questions.

JUDGE BEVERUNGEN: Anyone else?

MR. CLARK: Shall I give you this now?

JUDGE BEVERUNGEN: Sure, you can. That is --

MR. CLARK: The sound recording.

JUDGE BEVERUNGEN: The recording?

MR. CLARK: Yeah.

JUDGE BEVERUNGEN: Okay. On a computer disk?

MR. CLARK: Yes.

JUDGE BEVERUNGEN: Okay. When, when was that made? Do you know?

MR. CLARK: When--

JUDGE BEVERUNGEN: Did you make it sir?

MR. CLARK: My, my wife did.

JUDGE BEVERUNGEN: Oh.

MR. CLARK: And she, and she has a copy to attest to that.

JUDGE BEVERUNGEN: Do you tell, is it, do you announce that on this here? Or is it, was it--

MR. CLARK: No, no. She'll give you a signed copy.

UNIDENTIFIED SPEAKER: The date of the recording Your Honor was September 10th, 2017.

JUDGE BEVERUNGEN: September 10, 2017?

MR. CLARK: Yes.

UNIDENTIFIED SPEAKER: Correct.

MR. KOTROCO: And the time, time of day?

MR. CLARK: It will be, it will be time stamped on, from the recording --

UNIDENTIFIED SPEAKER: It, approximately 8:30 PM.

MR. CLARK: You know how that (inaudible) works.

MR. KOTROCO: 8:30 AM.

MR. CLARK: Yeah.

MR. KOTROCO: Okay.

JUDGE BEVERUNGEN: Okay. I'll take it. I'll take it. And this can be heard. (Inaudible) on a computer (inaudible)?

MR. CLARK: Yes. Yes.

JUDGE BEVERUNGEN: (Inaudible)--

MR. CLARK: And Mary, you have your signed statement, right?

MR. KOTROCO: Mr. Clark, just one more thing? Your address is 12150 Harford Road?

MR. CLARK: Yeah, yeah, yeah. Yeah. Yeah.

MR. KOTROCO: Is it on?

MR. CLARK: Yeah. And we're (inaudible) forever.

MR. KOTROCO: Okay. Okay. So, a very long road?

MR. CLARK: Yeah. (Inaudible)--

MR. KOTROCO: Okay.

MR. CLARK: (Inaudible)--

JUDGE BEVERUNGEN: I got ya.

MR. CLARK: No. Come on.

JUDGE BEVERUNGEN: Good afternoon. All right. So, tell me your name and address and then whatever you'd like.

STATEMENTS MADE BY JILL BRDYSSE:

MS. BRDYSSE: My name is Jill Brdysse. The last name is B-R-D-Y-S-S-E. I live at 11963 Harford Road.

JUDGE BEVERUNGEN: Jeal or Jill?

MS. BRYDSSE: Jill, J-I-L-L.

JUDGE BEVERUNGEN: Okay.

MS. BRYDSSE: So, I just want to say a couple things. I have not been deeply involved in this issue. I, in talking about the traffic. And I've lived on Harford Road for 24 years. I live just south of Hutchenreuter. It's not an easy place to turn on a lot of places on Harford Road. I'd be interested in knowing how much this particular church is going to contribute to the overall traffic that's already on Harford Road? I just wonder if proportionally is really is not going to be a whole lot. I understand it's going to be a big concern for the folks on Bonaparte and stuff, but for those of us who live up and down from it I don't, (inaudible) expect to see a whole lot of impact. I also just want to say, I'm also not here for religious reasons. But I'm not necess-- I'm not here as a Protestant either. And when the, I don't know his name, the

lawyer over here asked everybody who lived within a mile and a half to raise their hands, you know, I raised my hand, but that did not necess-- that did not mean that I am a Protestant, because I'm not. I'm just here to get more information. And I don't really like being categorized necessarily as somebody who's on one side or the other.

JUDGE BEVERUNGEN: Okay.

MS. BRYDSSE: So, I, I resented that.

JUDGE BEVERUNGEN: That's all right. That's fair enough.

MS. BRYDSSE: All right. Thank you.

MR. KOTROCO: Thank you. (CLAPPING IN BACKGROUND)--

JUDGE BEVERUNGEN: Okay folks, anyone else? All right. Well, I do thank everybody for-- it was a big crowd to be accommodated in a room like this, and I think all in all it's a good job. We got, we got done what we needed to get done. And everybody, everybody said what they wanted to say. (Inaudible)-- Please make sure if you want to receive a copy of the Order which I imagine will be in a week to ten days. My secretary will use the sheets here.

MR. KOTROCO: Did everybody get to sign in? The citizens sign in?

JUDGE BEVERUNGEN: And get their name and address. If you haven't done so, do that or else there's no way

to know (inaudible)--

MR. KOTROCO: (Inaudible) want a copy of the Order.

JUDGE BEVERUNGEN: So, that's that. If your names on that list you'll get a copy of the Order I'd say within (inaudible). Thanks.

(OFF THE RECORD AT 4:34 PM)

CERTIFICATE OF TRANSCRIBER

I hereby certify that the hearing in the matter of 12231 Harford Road, case number 2018-0122X heard before the Administrative Law Judge for Baltimore County, January 17, 2018 were recorded by means of audiotape.

I further certify that, to the best of my knowledge and belief, page numbers 1 through 195 constitute a complete and accurate transcript of the proceedings as transcribed by me.

I further certify that I am neither a relative to nor an employee of any attorney or party herein, and that I have no interest in the outcome of this case.

In witness thereof, I have affixed my signature this 19th day of February, 2018.

Debbie H. Eichner

Transcriber

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Carol N Shaw

I, Carol N Shaw do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On September 20, 2017 I observed the following:

   I attended the Greater Kingsville Civic Association semi-annual meeting on 9/20/2017 in the gymnasium of the Kingsville Elementary School which was attended by over 100 people.

   David Marks, 5th district County Councilman was in attendance at the meeting. Several people addressed Councilman Marks with regard to the problems they were experiencing with the activities that were being conducted by the new owners of the 'Bonaparte' property (12231 Harford Road). They asked him why he did not insert himself and get involved on behalf of the surrounding community since the owners were causing disruptions to the lives of so many people.

   Councilman Marks several times said that he could not involve himself since this was not a legislative issue and that he could even be brought up before the Ethics Board.

   I personally actually tried to explain to the group that there is a separation of powers between the judicial, legislative and executive functions of the County government just like the Federal and State governments.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Carol N Shaw Oct 22, 2018

Protestant
CBA Exhibit
97(ab)

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Carol N Shaw

I, Mary Clark do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On September 20, 2017 I observed the following:

   I attended the Greater Kingsville Civic Association semi-annual meeting on September 20, 2017. The meeting was held at Kingsville Elementary School.

   During the meeting, an audience member raised concerns from the community to 5th District Councilman David Marks, about about large and noisy events at the Bonaparte property at 12231 Harford Road. Mr. Marks stated to the entire audience that he could not be involved in the matter, since it was a legislative issue.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Mary Clark 10-26-18

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Carol N Shaw

I, Carol N Shaw do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On September 19, 2018 I observed the following:

   I attended the Greater Kingsville Civic Association semi-annual meeting on 9/20/2018 in the meeting hall of the Kingsville Volunteer Fire Company.

   Among other comments, Kris Ghimire, a principal of the NACCB, stated they had three porta-potties for the approximately 300 people per day who were attending their week-long festival July 28 – August 3, 2018.

   David Marks stated that he could not be involved in the NACCB matter.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Carol N Shaw Oct 20, 2018

Protestant
CBA Exhibit
98 (2-6)

Pr... Exhibit ____

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Carol N Shaw

I, Mary Clark do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

2. On September 19, 2018 I observed the following:

   I attended the Greater Kingsville Civic Association semi-annual meeting on September 19, 2018. The meeting was held at Kingsville Volunteer Fire Company.

   During the discussion of the Bonaparte property at 12231 Harford Road, 5th District Councilman, David Marks, stated that he could not be involved in the matter since it was a legislative issue. A short while later Kris Ghimire, a member of the NACCB, told the audience that for the July 28 – August 3, 2018 week-long event, they had 3 porta-potties for approximately 300 people who attended each day.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Mary Clark 10-26-18

CHRISTOPHER N. JAKUBIAK, AICP

Jakubiak & Associates, Inc.
115 Yorkleigh Road
Towson, Maryland 21204
443-895-4240
cj@jakubiak.net

Christopher Jakubiak has 27 years of professional experience preparing zoning ordinances, comprehensive plans, master plans, land use studies, and negotiating development agreements. He founded Jakubiak & Associates, Inc. in 2000. Prior to that he served as Principal Planner for Calvert County, Maryland where he managed programs in transportation, land use, and town center master planning. He directed the work of the County's Board of Zoning Appeals and wrote the County's first transportation plan.

Immediately following graduate school, Mr. Jakubiak began his career as Principal Planner for the Southeastern Wisconsin Regional Planning Commission. He headed a special projects division at the Commission and authored the "Prospectus for the Study of the Impacts of Development on Bio-diversity in Environmental Corridors", which contributed to the then emerging concept of "green infrastructure". He updated the Commission's zoning guide, conducted land use planning and comprehensive rezoning for two rural townships, and wrote the 2010 Regional Transportation Plan.

While leading Jakubiak & Associates, Mr. Jakubiak has served as an instructor in the School of Architecture and Planning at The Catholic University of America and taught citizen planning commissioners and real estate professionals through the University of Maryland Urban Studies and Planning Program. He served four years as a member of the City of Annapolis Board of Appeals. He has advised municipal officials, and testified before House and Senate committees, on multiple bills that have shaped Maryland's planning statutes.

Mr. Jakubiak has provided testimony as an expert in planning and zoning in Baltimore County, Baltimore City, Anne Arundel County, Montgomery County and the City of Annapolis.

Education

Master's Degree in Urban and Regional Planning: 1992
University of Illinois, Urbana-Champaign
Practicum: Comprehensive Neighborhood Revitalization Plan, East St. Louis, IL
Award: American Institute of Certified Planners - Most Outstanding Graduate Planning Student

Bachelor of Arts in Political Science: 1990
University of Maryland, Baltimore County

Professional Affiliations

American Institute of Certified Planners (AICP)
American Planning Association (APA)
APA's Planning & Law Division
APA's New Urbanism Division

Protestant
CBA Exhibit
99

-Comprehensive Planning. Prepared many comprehensive plans which are providing guidance's to cities and towns throughout Maryland on their long-term growth, development, and conservation, including Annapolis, Cambridge, Smithsburg, Oakland, Queenstown and Crisfield.

-Comprehensive Rezoning. Conducted land use studies and drafted zoning ordinances and zoning mapping for municipalities throughout Maryland with a focus on smart codes, infill development, and promoting compatibility between land uses including in North Beach, Cambridge, Chesapeake Beach and Thurmont.

-Design Standards for Compatible Residential Infill. Prepared standards to guide compatible redevelopment, addressing the issue of "mansionization" under new zoning authority enabled by Maryland statute. Towns of Chevy Chase and Chevy Chase View and the Village of Martin's Additions.

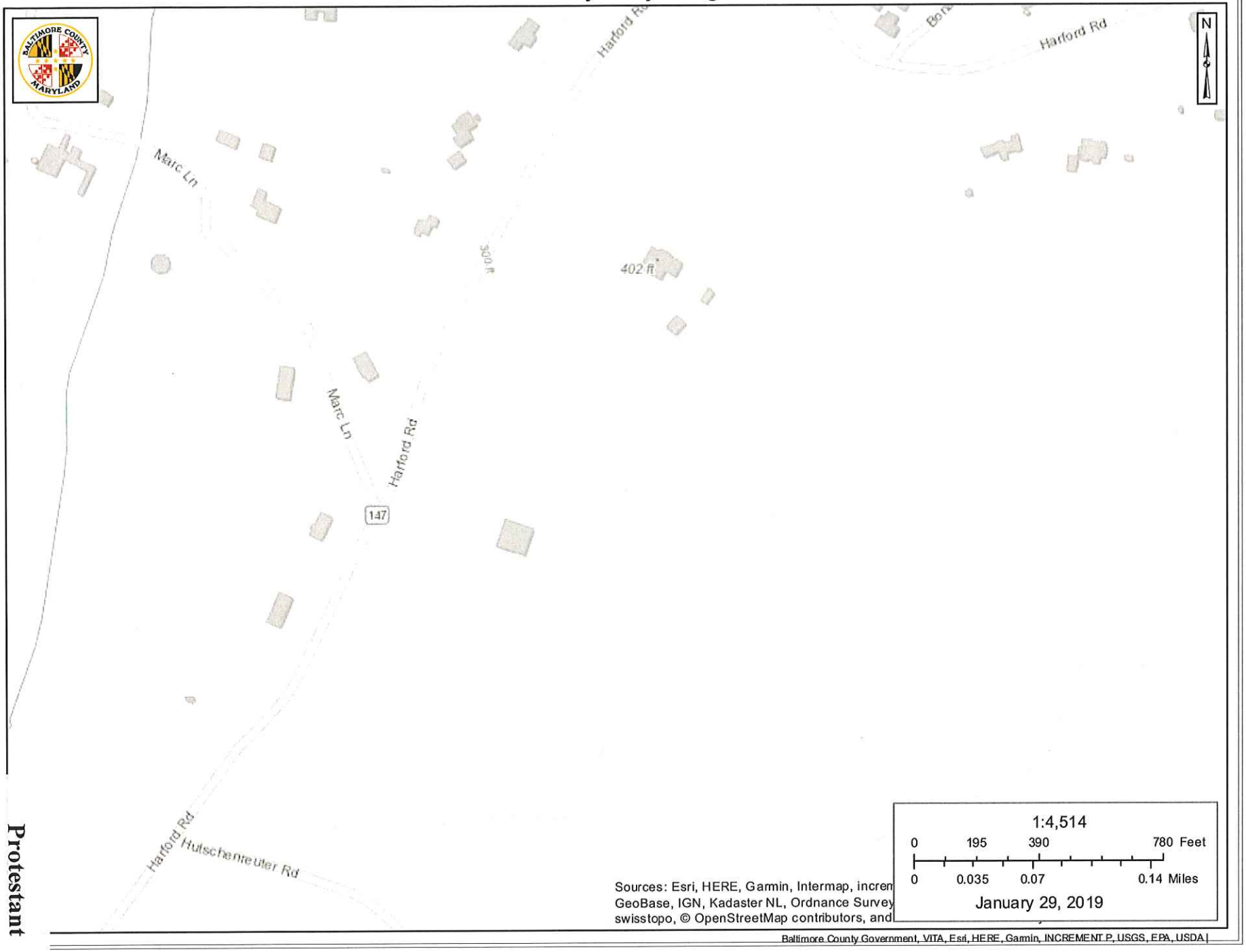
-Private Sector Land Planning. Such as preparing alternative commercial development plans to counter offers made through State Highway Administration condemnation proceeding, applying zoning and site development standards to demonstrate and assess the magnitude of property takings. Anne Arundel County, Maryland (interchange at Interstate Highway Route 97).

Representative Cases - Expert Testimony Before the Board of Appeals, Baltimore County

Case No. 16-099-SPH, Hunt Valley Presbyterian Church, Inc.
Case No. 15-239-SPH, 15-279 SPH Goldman and Congregation Ariel Russian Community Synagogue, Inc.
Case No. 14-131-SPHX, Riverwatch, LLC, Two Farms, Inc.
Case No. 15-__-SPHX, Hunt Valley Baptist Church
Case No. 16-335-SPHX, Donald & Kathleen Lippy

***

Baltimore County - My Neighborhood



Protestant
CBA Exhibit
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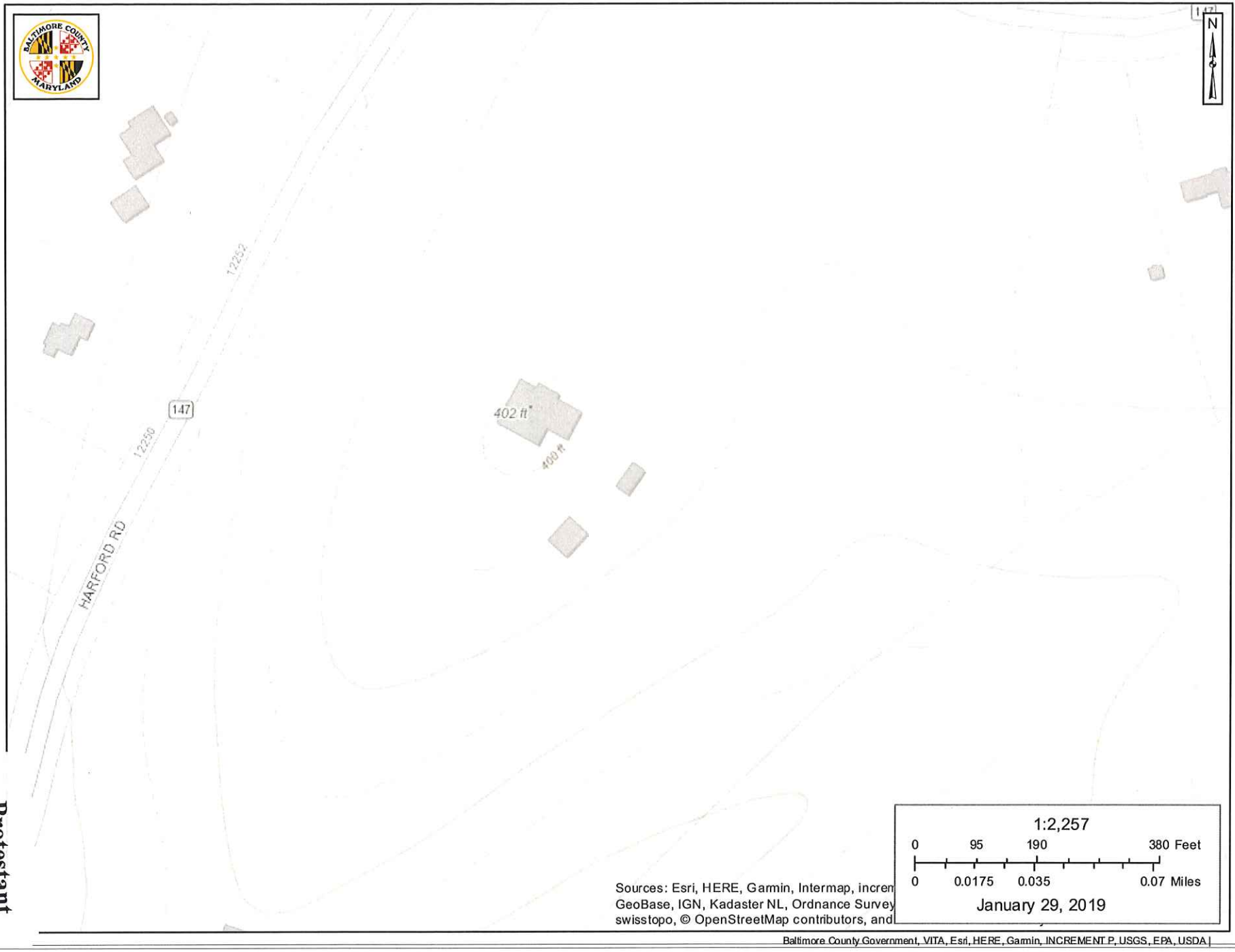
Baltimore County - My Neighborhood



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CBA Exhibit
102

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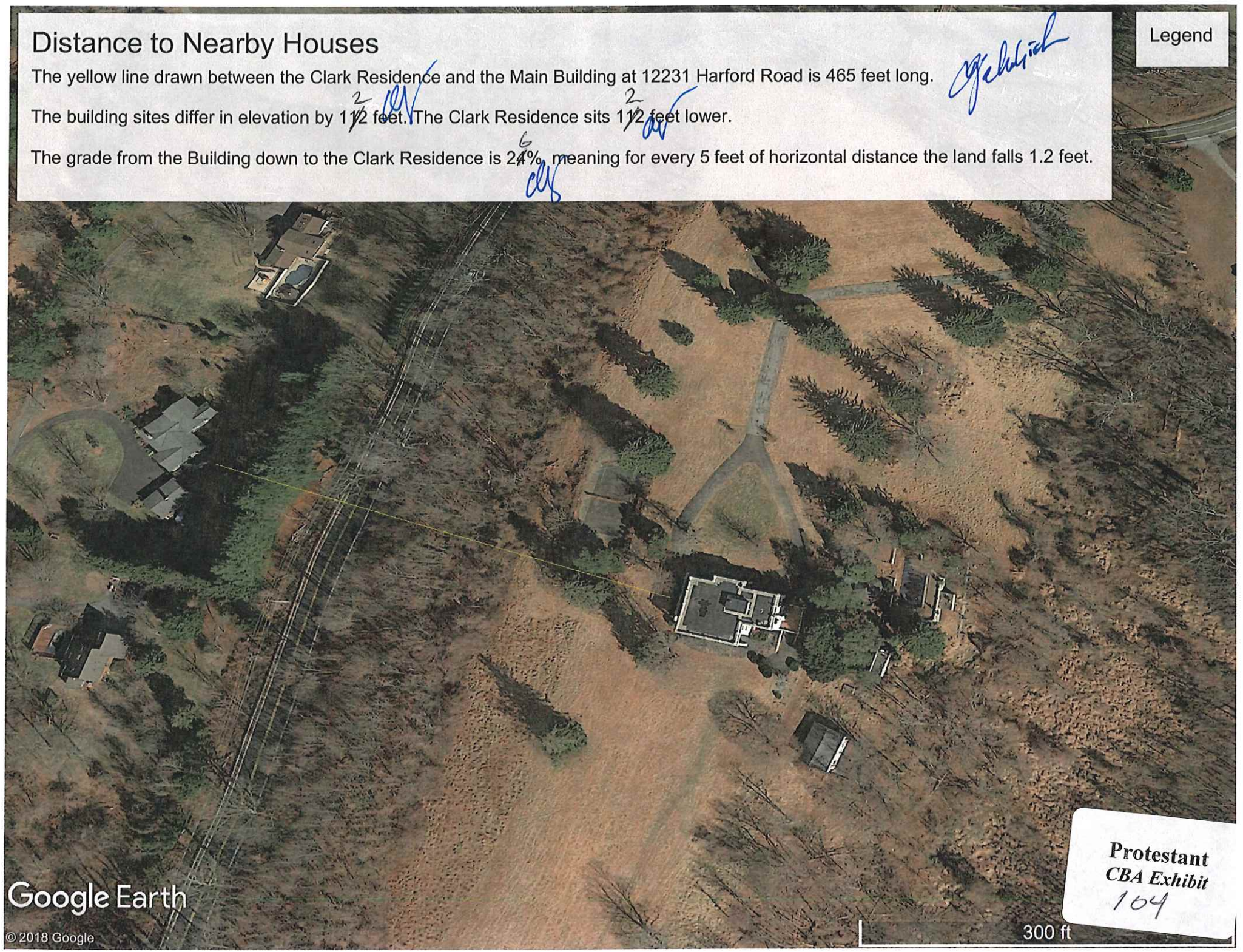
CBA Exhibit
103

Distance to Nearby Houses

The yellow line drawn between the Clark Residence and the Main Building at 12231 Harford Road is 465 feet long.

The building sites differ in elevation by 1½ feet. The Clark Residence sits 1½ feet lower.

The grade from the Building down to the Clark Residence is 24%, meaning for every 5 feet of horizontal distance the land falls 1.2 feet.



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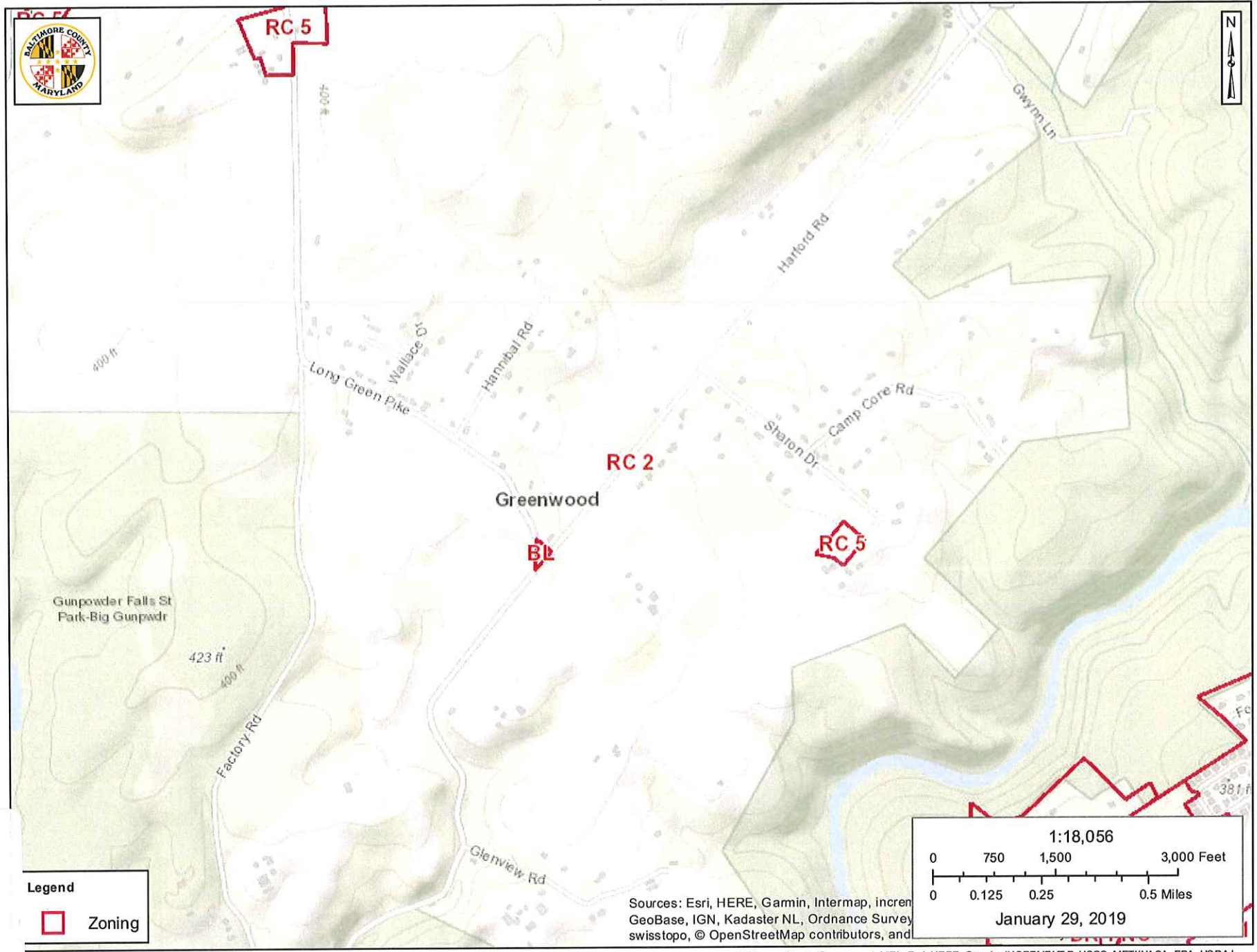
105 A-K

A

Baltimore County - My Neighborhood



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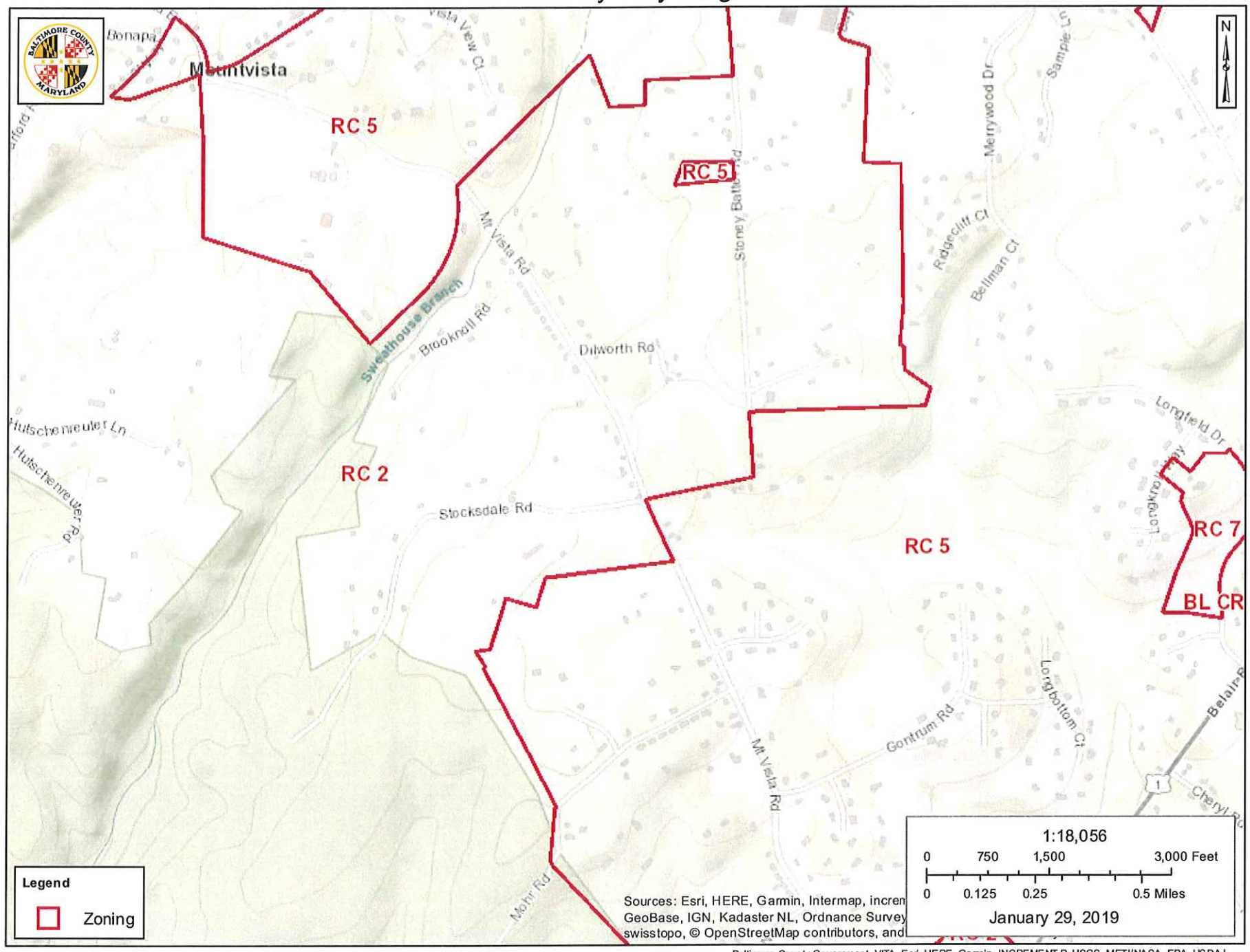
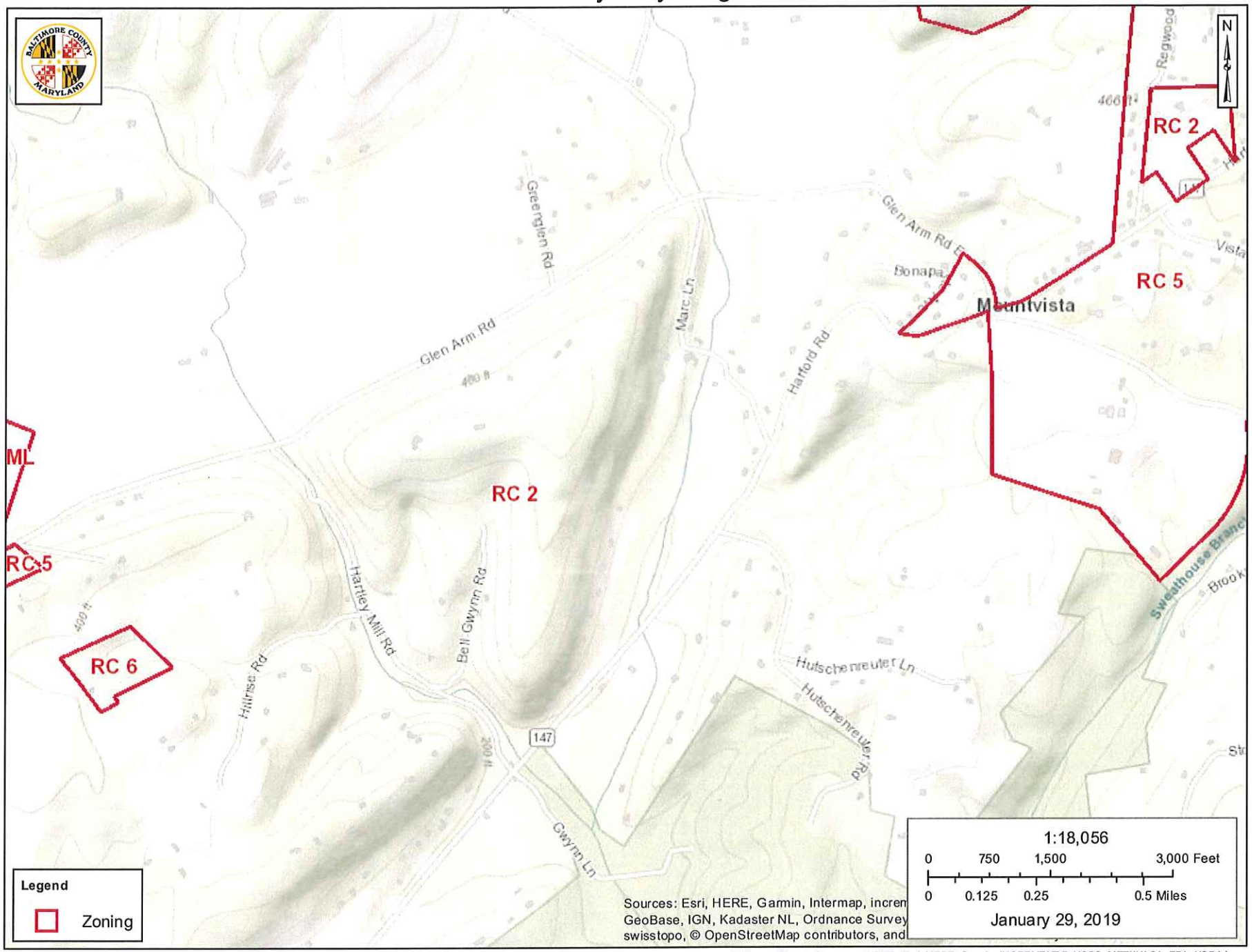
Baltimore County - My Neighborhood



Baltimore County - My Neighborhood



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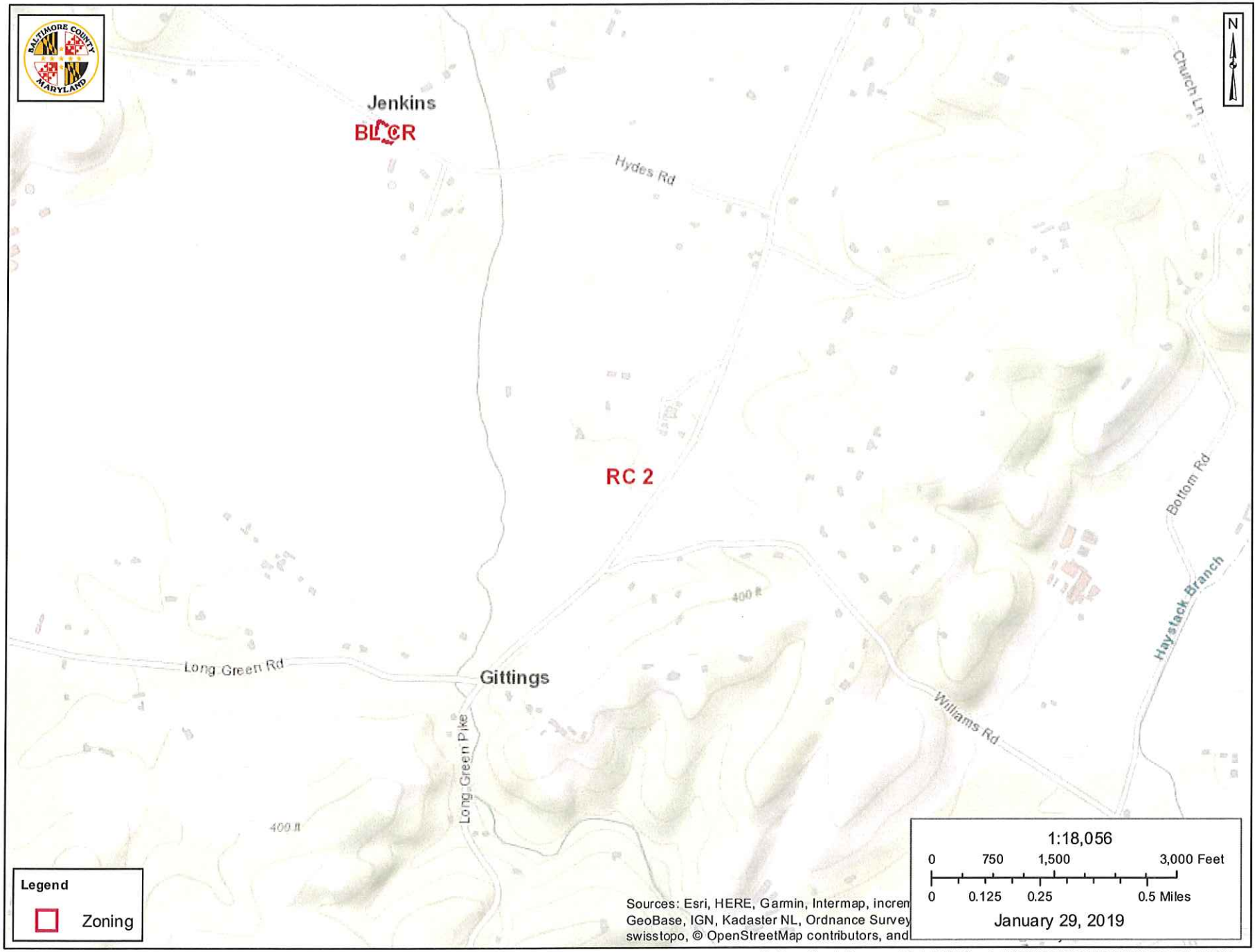
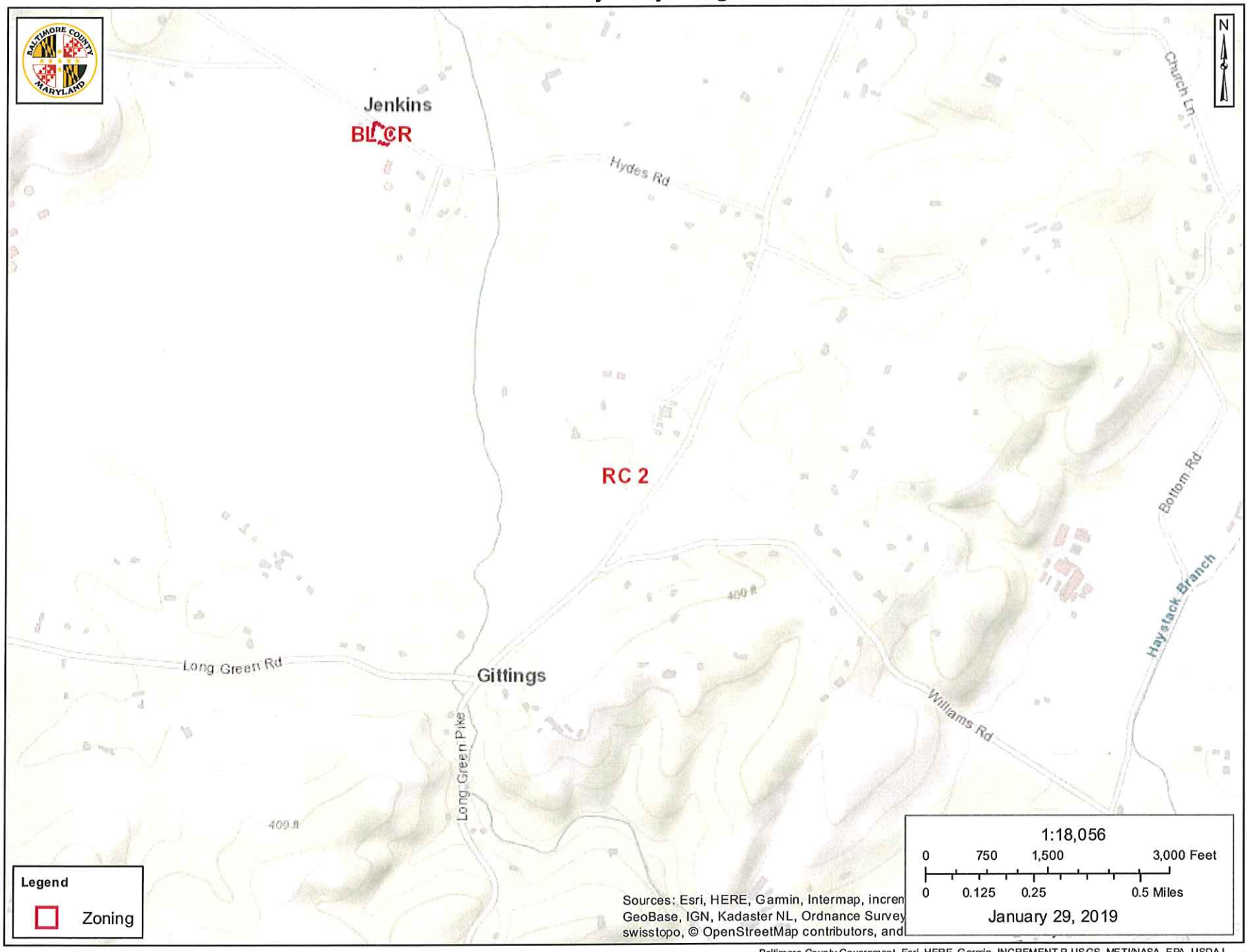
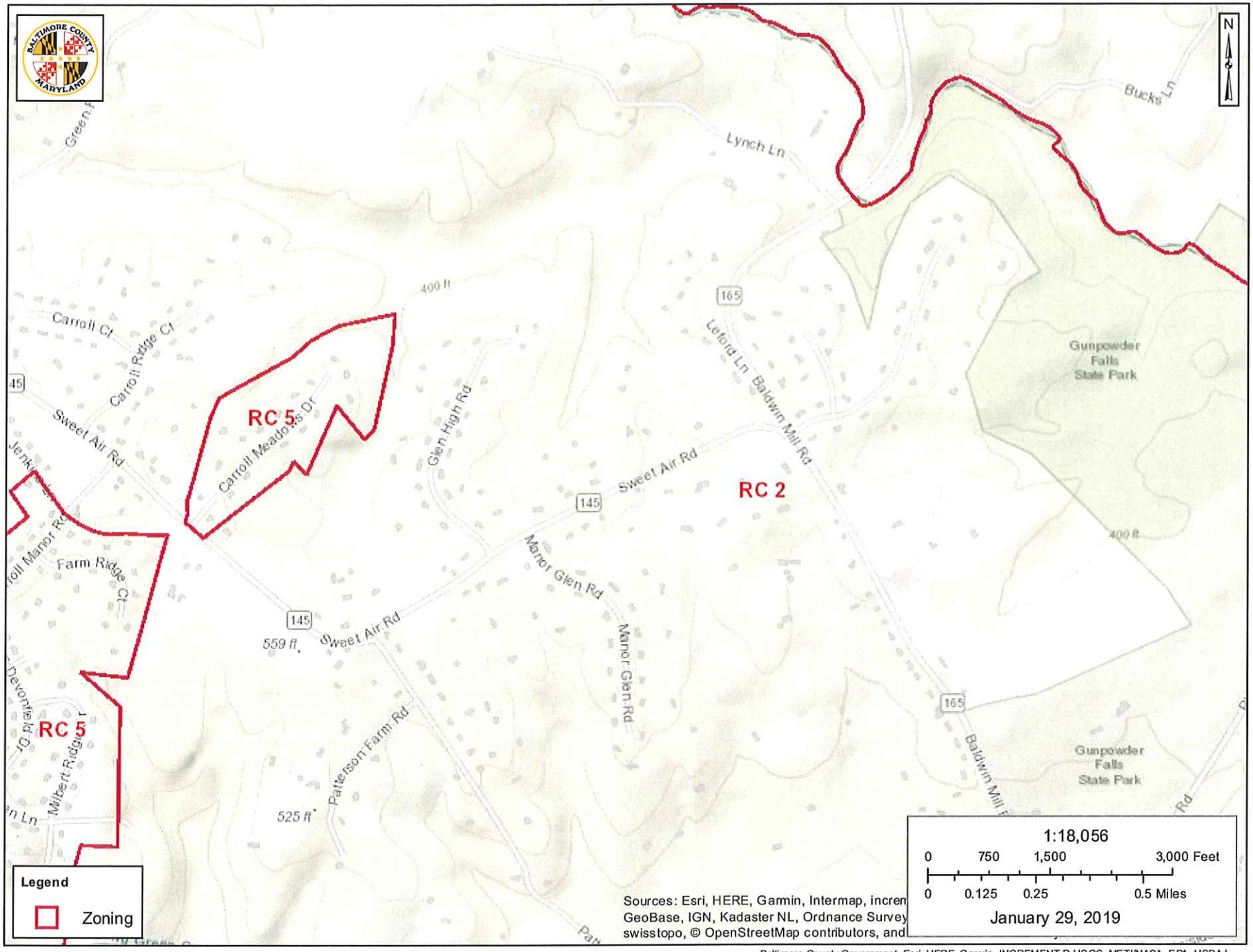


Baltimore County - My Neighborhood



Baltimore County - My Neighborhood



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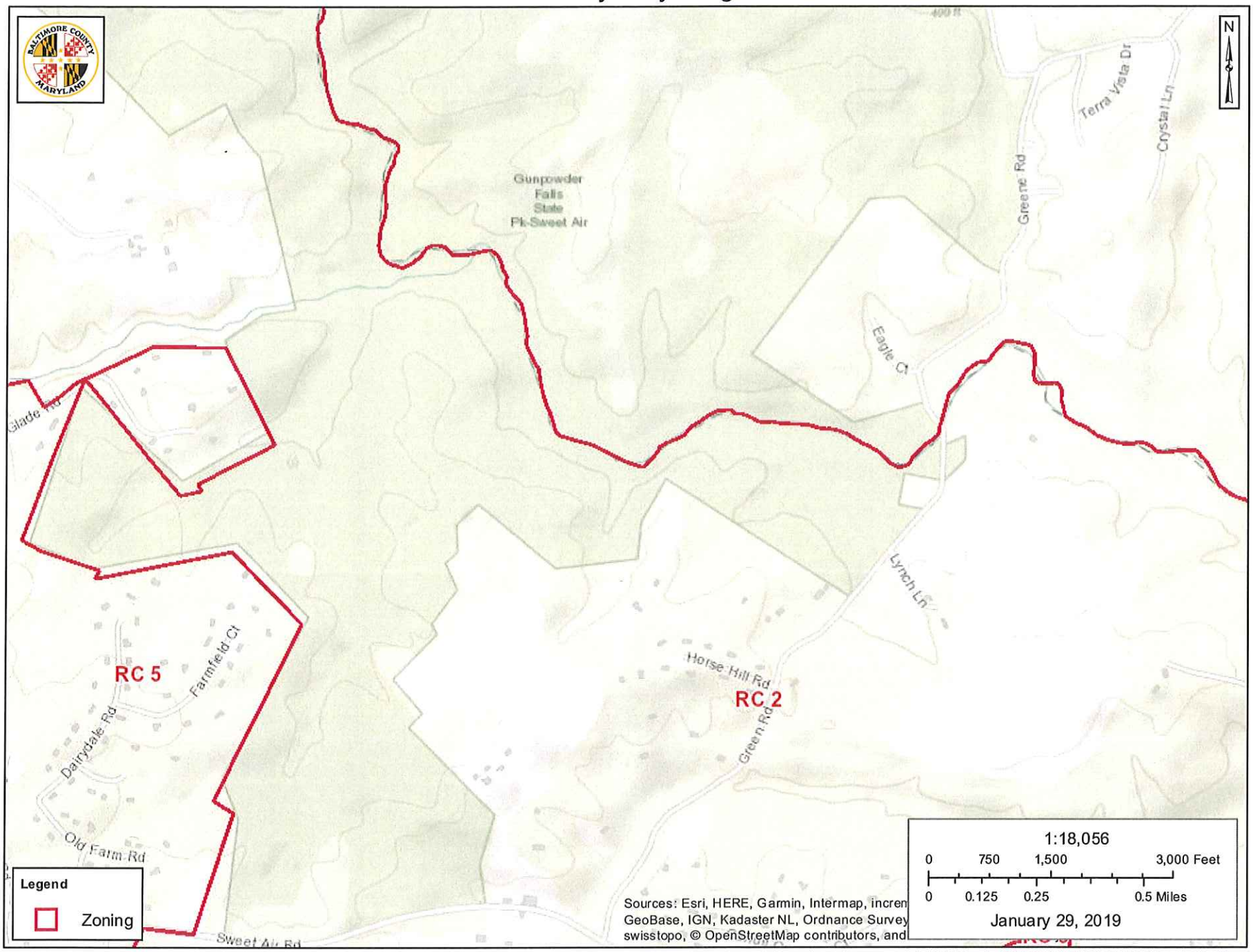
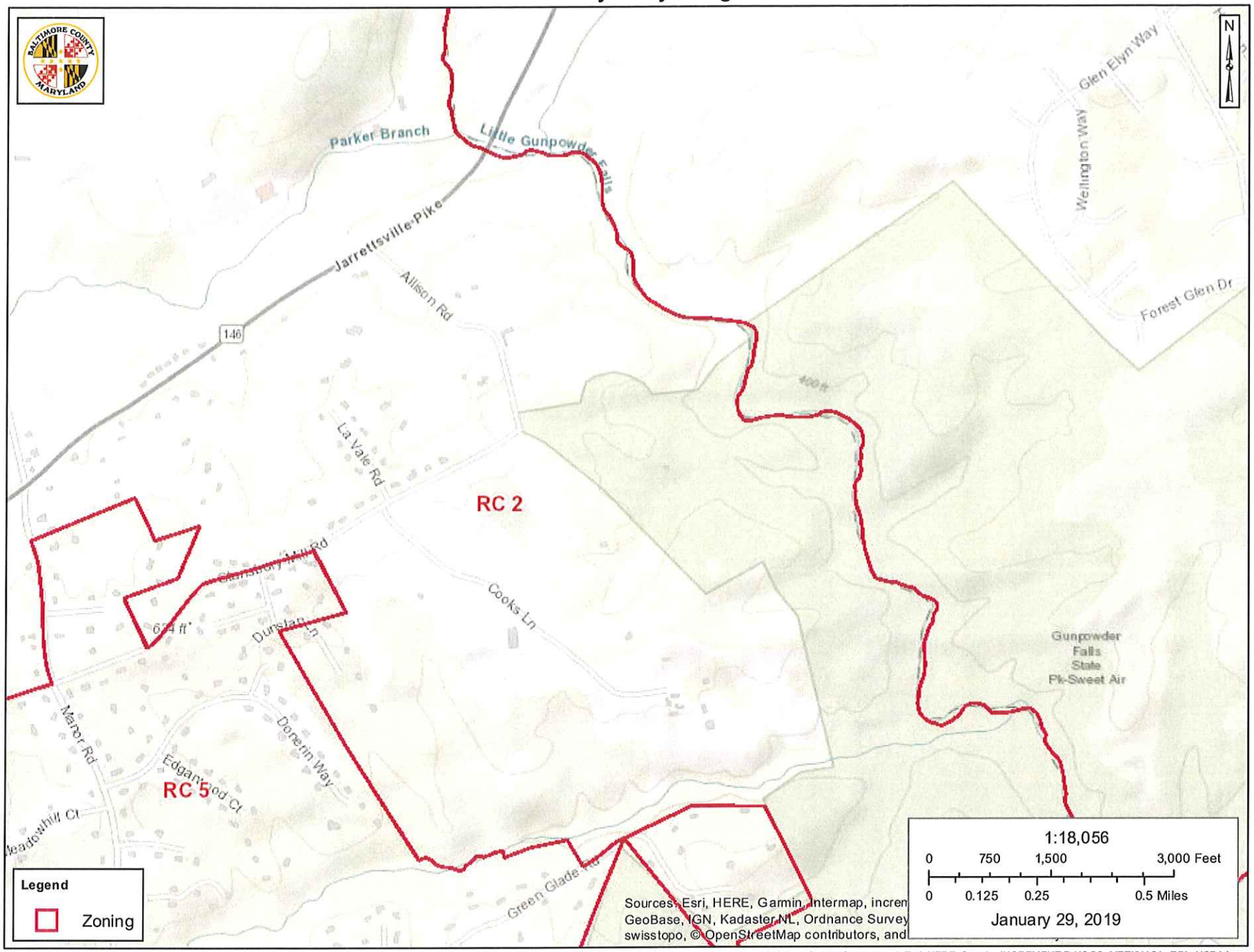
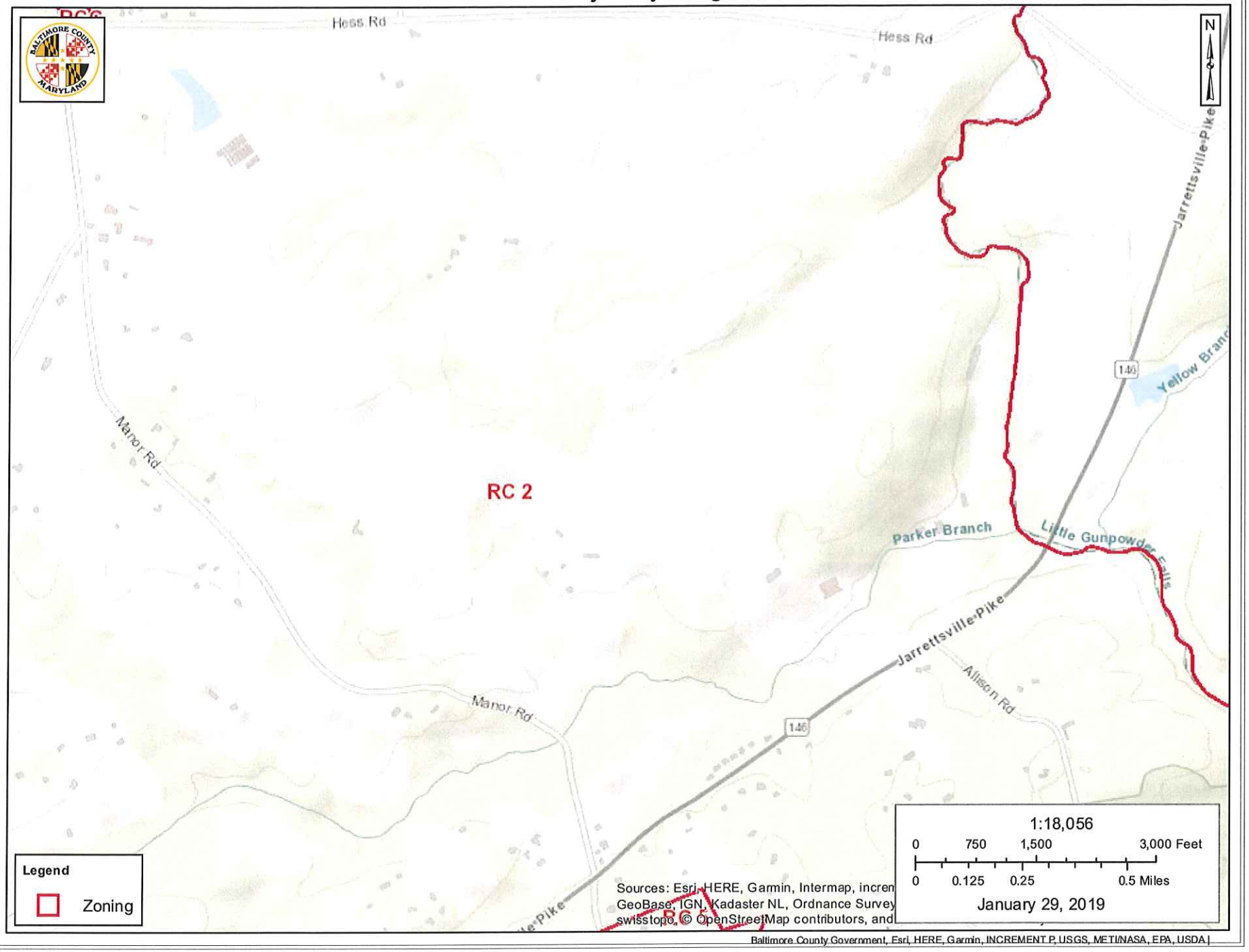


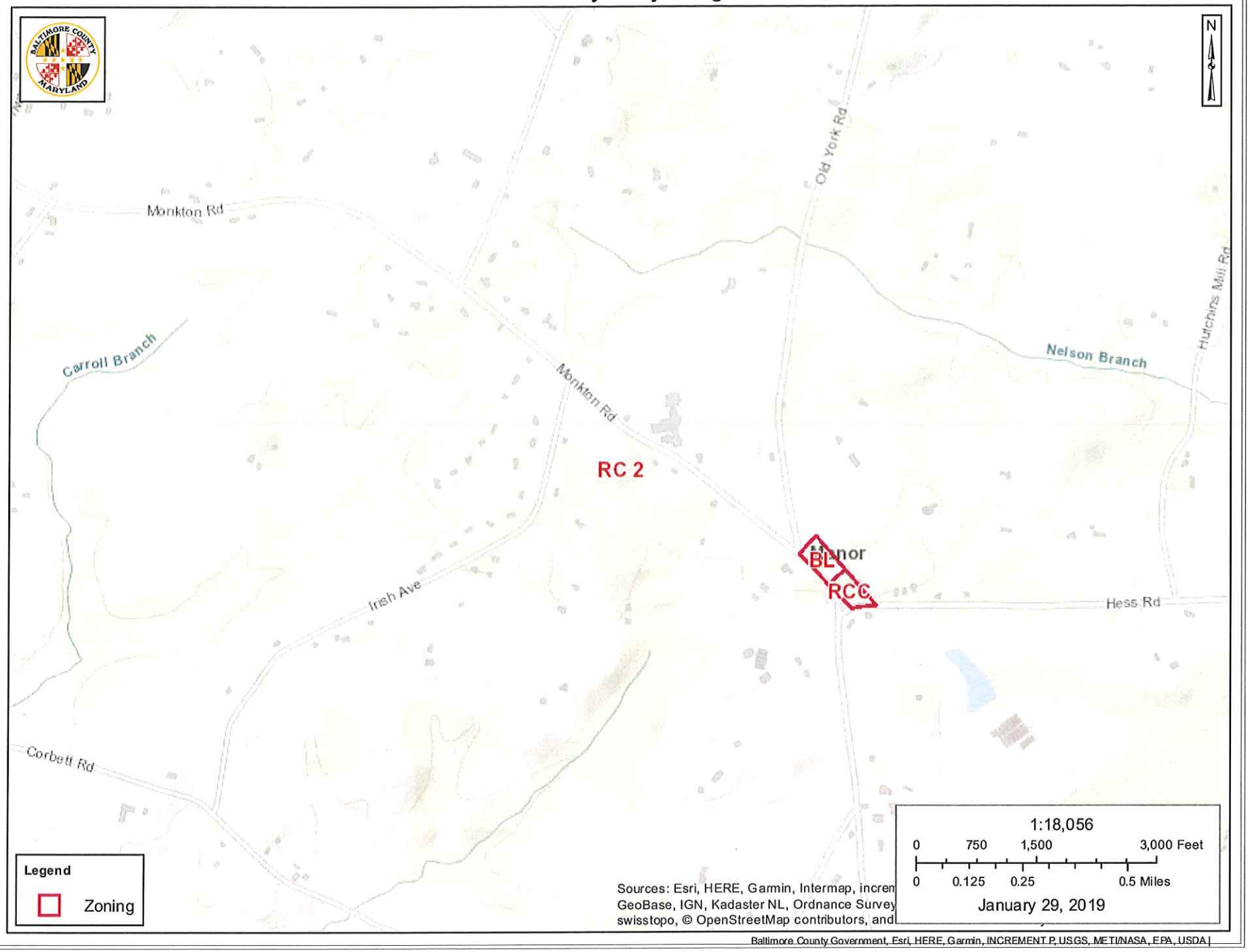
Baltimore County - My Neighborhood



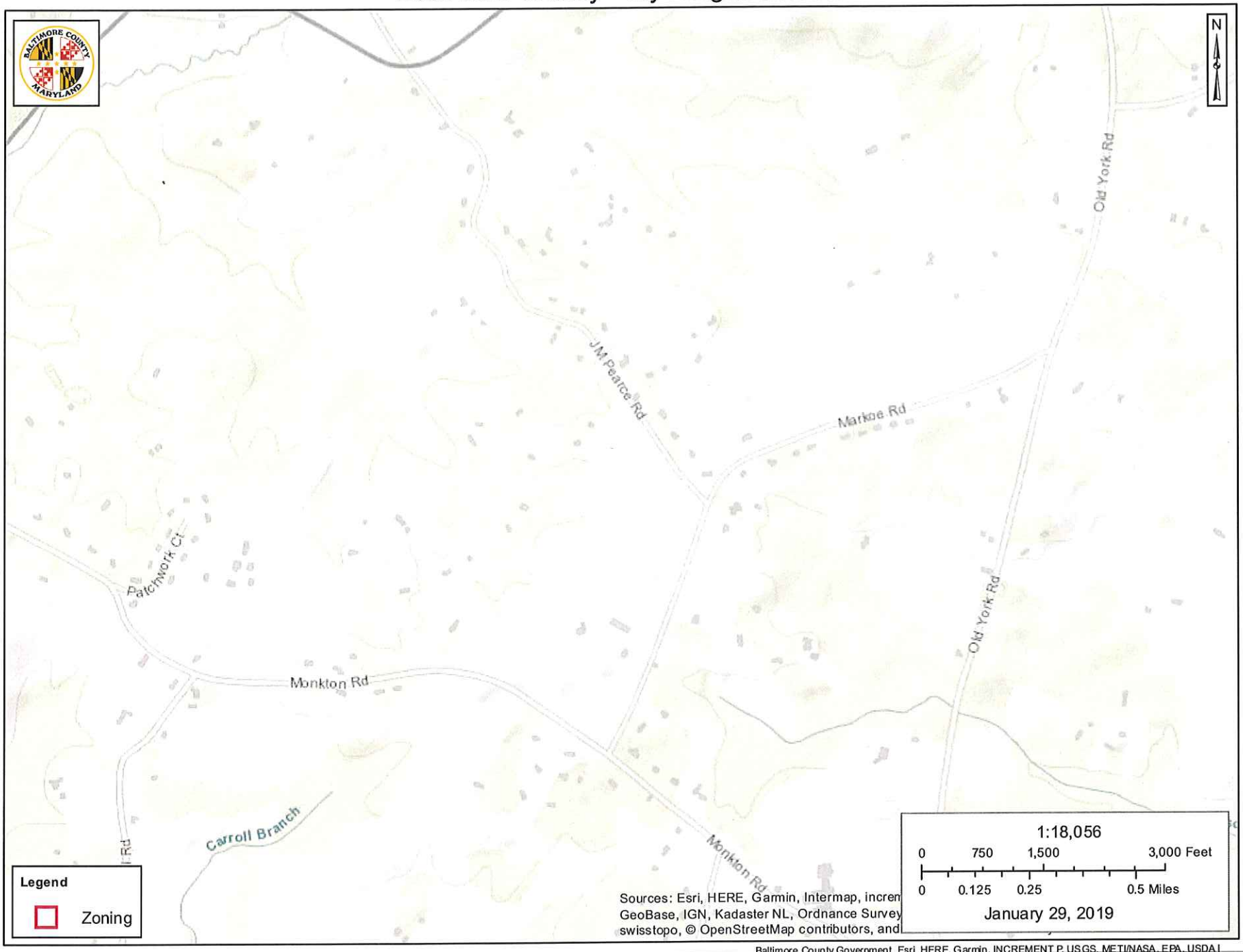
Baltimore County - My Neighborhood



Baltimore County - My Neighborhood



Baltimore County - My Neighborhood



Protestant
CBA Exhibit
106

No futher record of the organization has been found, and it must be assumed that the society disbanded at about that time. Certainly, if there were further meetings or other activities the county newspapers would have reported them.

The fate of the historical society is best described in Dr. Morris's own words:

In January, 1886, a few of us founded a Baltimore County Historical Society at Towson, Md, of which I was chosen President. It was composed of very few members, and no interest whatever could be excited in the subject, and the Society soon became extinct.

NOTES:

1. This biographical data about Dr. Morris is found in the *Baltimore County Union,* Towson, October 12,1895 *Maryland History Notes,* Vol. 5, No.4 (February 1948); and his autobiography, *Life Reminiscences of an Old Lutheran Minister* (Philadelphia: Lutheran Publication Society, 1896).
2. John G. Morris D.D. *Life Reminiscences,* p. 354.

Mr. Bonaparte's Farm

Such historians as have written of Mr. Charles J. Bonaparte have depicted him as a lawyer, statesman and reformer. They have also dwelt upon his relationship to the great Napoleon, or Napoleon the Great, which is a different way of expressing the same thing. While much has been published about Mr. Bonaparte in the connection mentioned, little or nothing has been said of him as a "farmer." This may or may not have been gratifying to him, for modesty is one of his virtues, and perhaps he preferred that one feature of his busy life should be withheld from the lime light. Through Mr. Bonaparte is modest, he has never been acredited with being especially thin skinned, and he has not gotten "sore" with persons who have differed with him. He criticizes whenever he gets good and ready, and is broad enough to realize that the same privilege he enjoys should be accorded to others. He smiles satirically, and bobs his head with satisfaction when his political opponents get after him, for he likes a "Scrap' of that kind. He rubs his hands in glee at the prosepect of a tilt with other legal talent in a court of law. He listens with delight to the shafts that are thrust at him as a reformer in anticipation of the pleasure of hitting back. He resents none of these things, but to reflect upon him as a "farmer" would really hurt his feelings.

Mr. Bonaparte owns more farms in different parts of the State than the proverbial poor man has children, but there is on that is his special joy, and pride. It is in what is called Long Green Valley, and is a part of the original Lambert Gittings estate. It is Mr. Bonaparte's summer home. In fact, he lives there seven months of the year, going out in May and returning to his town house at Park Avenue and Centre Street, the first of December. The name of Mr. Bonaparte's place is Bella Vista (beautiful view). That it is appropriately called every visitor will admit. For some years, Mr. Bonaparte had a country home at Roland Park called Chestnut Wood. It was a nice place, but he finally disposed of it because of that part of the country was building up too rapidly. He wanted to get away from the trolley and other signs of ths city, so he bought 360 acres of fertile land in Long Green Valley. The purchase was made from Mr. William H. Bosley, who, in turn, had secured the property from the Lambert Gittings estate. The place is on the Harford Road, and is midway between Towson and Belair, and about 10 miles from each town and 15 miles from Baltimore. In selecting his site, Mr. Bonaparte was anxious for an unobstructed view, and he got it. His house stands on an eminence and from the porches the country can be seen for miles around on every side.

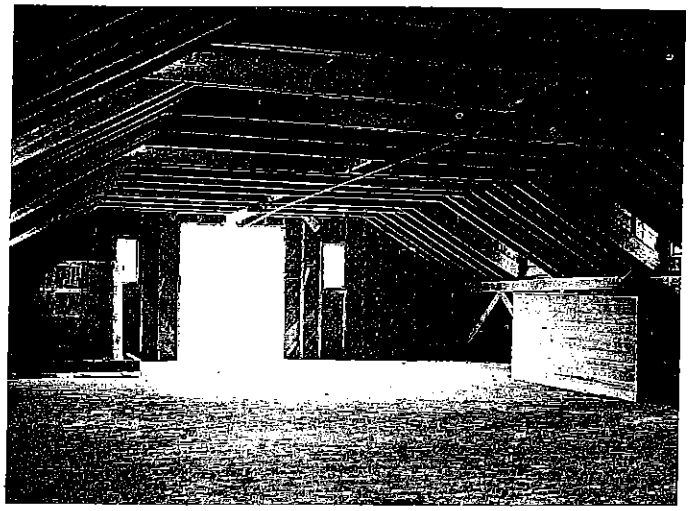
Glen Arm on the Maryland and Pennsylvania Railroad (old Narrow Gauge) is Mr. Bonaparte's station, and from there the drive to the house is about two and one half miles. The route is over country roads until the Harford pike is reached. A fine view of the place is to be had from the pike. One notices white washed fences that divide all the fields and a general air of trimness prevails. The house is on the crest of a hill, with a small expanse of lawn around it and a field of growing corn nearby. In this respect Mr. Bonaparte's summer abode is unlike the country places of most men of means. The latter go in usually for the ornamental, and like velvety lawns, trees and shrubbery, but not a corn field. Such a view destroys their idea of the aesthetic, but not so with Mr. Bonaparte. He is a "farmer," and he doesn't care who knows it. He is surrounded by all the things that stamp him a as tiller of the soil and an advocate of agricultural pursuits.

Mr. Bonaparte's house is built of Virginia shingles and is in Colonial Style, with white porches in circular form nearly the entire distance around it. Hand carving is a feature of the scroll and ornamental work. A great attraction of the interior is the reception hall, which runs the entire width of the house from north to south. The flooring is of hardwood, highly polished, and the walls are paneled in oak. The ceiling is supported in the centre by columns, and to each side are the doors to other apartments, with the circular effect observed on the inside as well as exterior of the mansion. The reception hall is funished with sofas and divans upholstered in tapestry, and ther are easy chairs, standing lamps. a piano and an old fashioned spinning wheel, besides several coffee tables. The reception room and dining room are on the left and the library and "study" on the right of the entrance, and to one side is an oaken stairway. The second floor has an interior balcony in the form of an alcove. Some of the furniture in the bedrooms is of mahogany and in Colonial designs, and the rest is modern. Among the guests apartments a "green" a "pink," a "yellow" and a "violet" room, the decorations and furnishings corresponding.

Pictures of the Bonaparte family are to be found in all the apartments. There are several of the orignial Napoleon, as well as one or two busts of him. Among the pictures in the alcove is one of Napoleon III and his wife, the Empress Eugenie, who is still living and is one of the grande dames of France. In the "study" there is a photograph of Col. Jerome Bonaparte at West Point, where Colonel Bonaparte received his early military training, though he later entered the French army for a while. In fact, one cannot go to Bella Vista without realizing that Mr. Bonaparte is fond of having the pictures of those in whom he is or has been interested around him. Among the photographs given prominent places are those of Cardinal Gibbons, Dr. Daniel C. Gilman and Whittier, the poet.

While Mr. Bonaparte's friends who visit him usually go from Baltimore by train, he rarely travels by that method himself. every week day, with the occasional exception of Saturday, he drives the 15 miles to and from his law office in this city. He makes an early start in the morning, but he rises with the lark. He is up every morning at 5:30 o'clock, takes a look over the place and writes down his orders for the day, breakfasts, and is ready to leave for Baltimore by 7:45 A.M. With his star team, composed of Ticoe and Trottle, he can make the distance at the rate of a mile in five minutes up hill and down. With the other teams, he requires six minutes to the mile,and when the roads are heavy, a little more. His favorite vehicle is a yellow surrey, and he is always driven by his colored coachman. While he is fond of blooded stock and keeps only good horses, he rarely handles the ribbons himself. In return for rising with the lark, Mr. Boanparte retires with the chickens. He turns in every night at 9 o'clock.

Mr. Bonaparte has surrounded himself at Bella Vista with every modern convenience for up to date "farming." He has a capable manager for his place and he keeps a large force of "hands." Everything indicates perfect system and order. His residence is supplied with running water and gas, and his cattle, his horses, his fine flock of Southdown sheep, his hogs, his poultry, and even his dogs, are all provided with shelter of uniform architecture. In the stable near the mansion for the pleasure and light draft horses there are rooms for the grooms and men employed about the house



A 1977 photo by Geoffrey Fielding show sturdy interior framing of Attorney General Bonaparte's barn at Bella Vista.

Recent photo by Geoffrey Fielding shows the Bonaparte barn. House up the hill is a replacement of the shingle style house that was burned.

and grounds. There is also a dairy with all of the latest appliances. Mr. Bonaparte's manager lives in the original Lambert Gittings house, which is at the foot of the hill upon which Bella Vista is erected.

Although Mr. Bonaparte has the blood of kings in his veins, his grandfather having been Jerome Bonaparte, King of Westphalia, there is no man with a greater dread of snobbishness than himself, and in order to spare his feelings no further reference to his distinguished ancestry will be made in this brief description of the "Farm." Mr. and Mrs. Bonaparte live quietly at Bella Vista, and frequently, they are without house guests at all, but visitors are always cordially received.

— *Baltimore County Union,* September 10,1904 p.3.

G. W. Did Slumber in B. C.

J.W. *McGrain*

Our first president recorded several stops in Baltimore County at inns known as Cheyne's, Skerritt's, or Websters. These three names are shown as one and the same tavern on Plate 30 of *The George Washington Atlas* issued by the U.S. George Washington Bicentennial Commission in 1932. However, Griffith's 1795 map showed Webster's on the east side of present Philadelphia Road (Md. 7), just south of Bird River; an unnamed hostelry, actually the Red Lion Inn, was also shown a mile or so farther north on the west side of present Red Lion Road, which then served as the main Post Road.

The future president recorded in his diary for 1787: "May 11, Set off before breakfast -- rid 12 miles to Skerretts for it--baited there and proceeded without halting (weather threatening) to the Ferry at Havre De gras where I dined but could not cross the winds being turbulent and squally--lodged there."

"September 2---Sett of after early breakfast--crossed the Susquehanna and dined at Havre de gras at the House of one Rogers and lodged at Skirrets Tavern 12 miles short of Baltimore."

Later, as President, Washington noted in 1795. "Aug. 8. Breakfasted at Baltimore--and dined and lodged at Websters." The memorandum book noted, "August 9. Bill at Websters 1.10.6 Servants at Do. 2.0"

"Sept. 10....lodged at Webster's."

"October 16....Lodged at Websters."

Finally, as a former President, he breakfasted at Webster's on March 12, 1797, and dined there on November 7 and December 17, 1798.

The atlas of Washington's travels can be seen at the Maryland Historical Society as well as *Itinerary of George Washington and Washington After the Revolution,* two volumes by William Sphon Baker that trace every day spent in transit by the General in war and peace.

Captain Clement Skerett called the place "Stone House Tavern, formerly Legitts" in a stray horse advertisement in the *Maryland Journal* of November 1,1785. An ad offering the place for sale. (*Md. Journal,* February 12, 1789) called it Red House Tavern. Scharf's history of this county (p. 924) called it the "largest and best appointed in Maryland. It was a large building, constructed of stone and brick. In the center, under the second story, a spacious archway broke the wall, allowing passage of wagons to the stables beyond." Scharf recorded the tradition that "it was once kept by the celebrated Moll Roe" but feigned not to know the cause of Ms. Roe's celebration. The Red Lion Inn site is now occupied by the Silver Top Manufacturing Company.

The *Washington Atlas* also shows stops at Sutton's at Shane in the Seventh District and at Slade's Tavern that stood on Manor Road at Hess Road until the early years of this century across from the Manor Store. The pre-Revolutionary Washington diaries show that the Vriginia planter lodged at Sutton's on June 5, 1773 and on June 6, he left host Thomas Sutton, rode down the old York Road and "Breakfast as Slades 10 m. from Suttons." The account in *St. James of My Lady's Manor* (p.16 f) records the legend that Washington enjoyed a game of bowling with cannon balls and rolled the ball off the green into a field. The same June 5 date is claimed for a Washington stop by a highway marker in front of Black Horse Tavern near Norrisville, Harford County. Can any other dates be authenticated?

An "intrepid aeronaut" made an ascension from Baltimore on Thursday evening about 4 o'clock. His balloon passed in full view of Towsontown, and descended near the line of the N.C. Railway, a short distance below Rider's Switch. — *Baltimore County Advocate,* Towson, Nov. 24, 1860

History Trails

Baltimore County Historical Society

Agriculture Building, 9811 Van Buren Lane

Cockeysville, Maryland 21030

Editors: JOHN W. McGRAIN and WILLIAM HOLLIFIELD

Vol. 11 Summer 1977 No. 4

The Baltimore County Historical Society of 1886

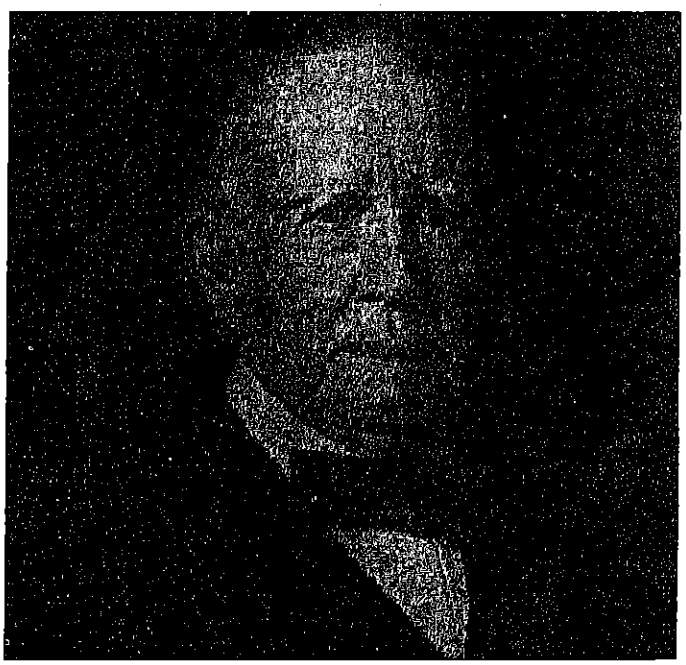
by William Hollifield

The Baltimore County Historical Society was founded in 1959 and since then has grown to an organization of over 700 members. There was an earlier historical society in the county with which the present society has no connection. This earlier, short lived organization is, itself, an object of historic interest.

The first Baltimore County Historical Society was organized in 1886 by the Rev. Dr. John G. Morris (1803-1895), the founder of Lutherville. Early in the year he wrote to the *Baltimore County Union,* a Towson newspaper, suggesting a historical society. He said that historical societies had already been established in other counties-Harford and Talbott had set a good example and societies were being organized in Frederick, Anne Arundel, and Somerset Counties and the people of Baltimore County should not let all the others get ahead of them. The objectives of a historical society in Baltimore County would be as follows he said:

1. To collect and preserve all old records of historic value which are now lying in obscurity and liable to be exterminated by conflagration, mildew, the depredations of vermin or natural decay. There must be a number of old families in our county who doubtless have such old papers stowed away in antiquated trunks and barrels, or neglected cupboards, which have not been disturbed for years. They would be glad to have them saved from destruction by presenting them to a historical society which would carefully keep and properly value them.
2. To perpetuate the history of persons of the olden time, who have distinguished themselves in any position of life, and whose deeds should not be suffered to be forgotten or unrecorded.
3. There are not a few places in our county associated with interesting historical events, which are as yet indistinctly known, and which should be thoroughly investigated and brought to light.
4. There is a multitude of isolated historical facts of deep historical interest which are floating about as traditionary stories and many of which are founded on truth. These could be identified from the old church records, and many facts could be gathered from some of our oldest inhabitants, but especially from the newspapers of the olden time, which are rich sources of local information.

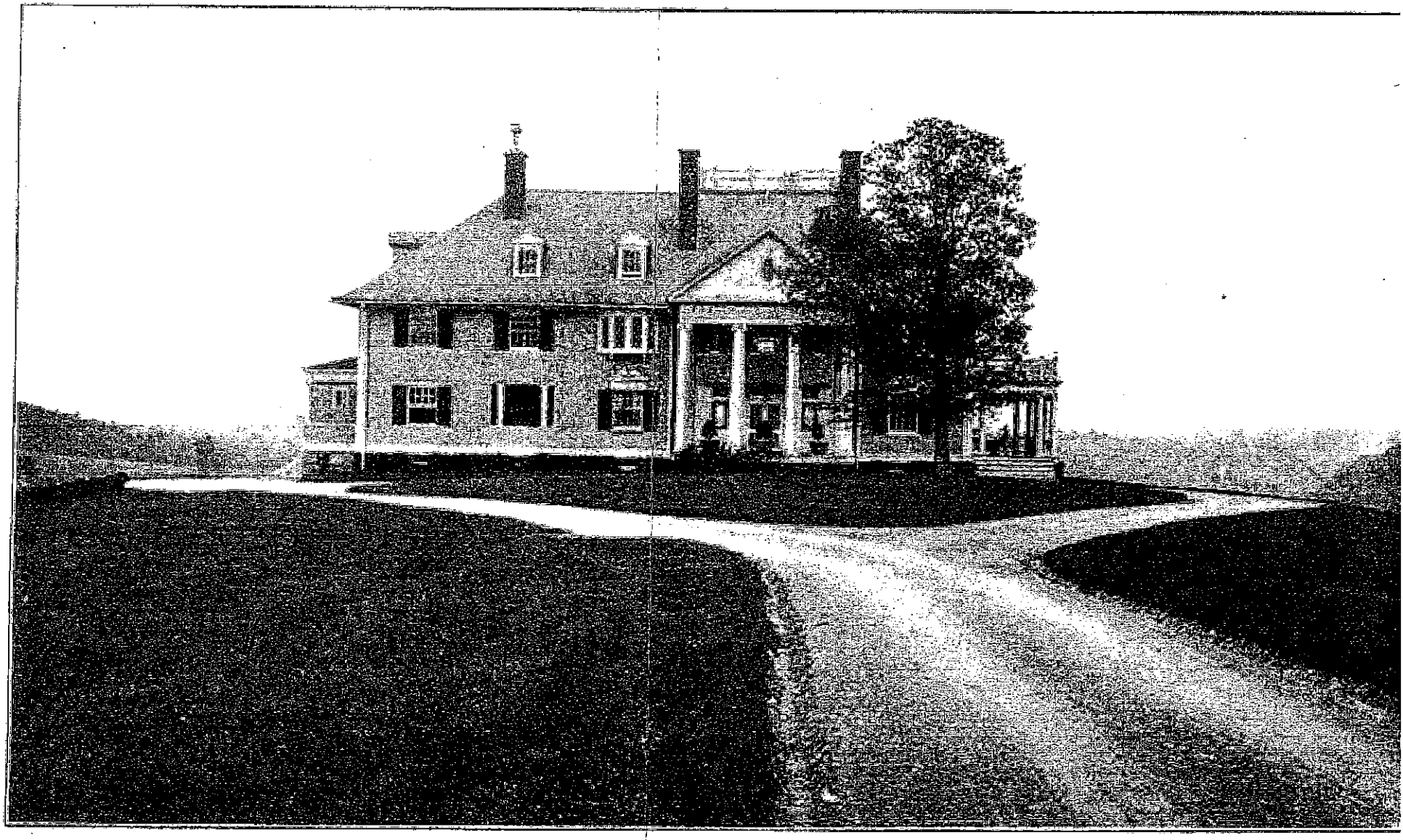
He went on to suggest that the historical society could be organized right away if enough enterprising gentlemen were interested. And not only gentlemen; even "ladies and the more advanced pupils of our schools" would be invited to join. A constitution could be drawn up prior to the organizational meeting to avoid delay. Expenses would be minimal, he said, because no building had to be rented or erected and there would be no salaries to pay. The only expenses anticipated would be for things such as stationery and advertising. Meetings could be held about once a month at different locations in the county so that they would be convenient to all members. Meeting times would have to be during the daytime. however, because he thought that members who lived at a distance would want to get home before dark. Papers on topics relating to Baltimore County history would be read at meetings and, with the consent of their authors, copies would be preserved by the society in a central location for the use of future scholars.



Dr. John G. Morris founded an unsuccessful historical society in 1886.

Dr. Morris' full name was not given; instead, his initials J.G.M. appeared at the bottom of his letter.

Dr. Morris was quite active throughout his long life. He was well acquainted with scholarly affairs and with the organization of libraries and historical societies. He was a member of many scientific and historical societies and he had written an impressive number of books, pamphlets, and articles, chiefly on religious history. George Peabody had appointed him a trustee of what was to become the Peabody Library and he spent three years buying books, organizing the library, and bringing it into active operation. In 1860 he resigned his pastorate of the First English



THE COUNTRY HOUSE, "BELLA VISTA."

Protestant
CBA Exhibit
107

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 2018-0122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Ila Christenbury

I, Ila Christenbury, do hereby make oath in due form of law and state as follows:

- I am over 18 years of age and competent to testify in this matter.
- On September 20, 2017, I observed the following:
- General Membership Meeting of Greater Kingsville Civic Association (GKCA)
- The following motion was made by a GKCA member and passed by the members:
- "To oppose the Bonaparte property being used for large scale, excessive use such as a cultural center and/or a religious facility which would create unsafe traffic conditions, excessive noise, unsafe run-off, and would threaten public health, safety and welfare through over taxation of our well and septic resources as well as negatively impacting the rural character of the area."
- Motion was passed with 28 "for" (not including the GKCA Board which voted 12 "for" and 0 opposed). Quorum rule for members is 5% and 28 members with a membership of 216 is adequate. Quorum for the Board is 50%; 12 Board members voted--100%.
- On April 4, 2018, I observed the Special GKCA Board Meeting which met to authorize our Rule 8 Members. By a vote of 7 to 0, the board voted that the Members of the Zoning Committee should be authorized to testify for GKCA before the County Board of Appeals or other duly constituted zoning agency, commission, or body. The members selected were Doug Behr, Ila Christenbury, Dorothy Foos, Pat Garner, Pat Schmidt and Tom Kneeshaw.
- The position of GKCA was adopted by the Board of Directors and Zoning Committee on Case No. 2018-0122-X "Bonaparte property to vote affirmatively to endorse the Motions passed at the General meeting on September 20, 2017. The vote was 11 in favor and none against. Seven members present and 4 proxies affirmative votes from absent Board Members.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

Ila Christenbury
Feb. 4, 2019

Protestant
CBA Exhibit
108

IN RE:	PETITIONS FOR SPECIAL EXCEPTION (12231 Harford Road)	*	BEFORE THE BOARD OF APPEALS
11th Election District 5th Councilmanic District		*	FOR
		*	BALTIMORE COUNTY
Nepali American Cultural Center Legal Owner		*	
		*	Case No.: 2018-0122-X
		*	

* * * * * * * * * * * * *

PROFFER OF MATERIALS FOR
EXHAUSTION OF ADMINISTRATIVE REMEDIES

DeWitt and Mary Clark, 12150 Harford Road, Glen Arm, Maryland 21057, ***David Hartman***, 12513 Regwood Road, Hydes, Maryland 21082, ***Dave Poehler***, 12241 Harford Road, Glen Arm, Maryland 21057, ***Morgan Miner***, 11946 Harford Road, Glen Arm, Maryland 21057, and ***Carol Shaw***, 7 Country Hill Court, Kingsville, Maryland 21087, Protestants by ***J. Carroll Holzer, Esquire***, in the above-captioned matter herewith file their Motion to Strike Petitioners Exhibit #34 as *ex parte* and say as follows:

1. Protestants attach the following documents bringing to County Officials the Zoning non-compliance of Petitioner and seeking enforcements by the County of said violations.

2. The County's refusal to take action.

3. The Board, on the basis of Code Enforcement being beyond its authority, refused to admit said attachments.

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
FAX: (410) 825-4923

Protestant
CBA Exhibit
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4. For purpose of exhaustion of administrative remedy, these Exhibits were presented to the Board and the Board denied their admission into evidence and required they be submitted as a proffer.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
J. CARROLL HOLZER, P.A.
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
jcholzer38@gmail.com
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of February, 2019, a copy of the foregoing Proffer of Materials for Exhaustion of Administrative Remedies was mailed first class, postage pre-paid to the following:

Timothy M. Kotroco, Esquire
305 Washington Avenue
Suite 502
Towson, Maryland 21204

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, Maryland 21204

J. CARROLL HOLZER, Esquire

C:\My Docs\Motions 2019\Clark – Proffer of Materials for Exhaust - Admim Remedies - 2/4/19

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JUL 11 2018
DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS
DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

July 11, 2018
Gunpowder Falls Watershed Preservation Association
12150 Harford Rd.
Glen Arm, MD. 21057

County Executive Don Mohler
400 Washington Avenue, Mailstop 2M01A
Historic Courthouse, Mezzanine
Towson, Maryland 21204

Dear Mr. Mohler:

As you may know, on July 1, 2018 Mr. Arnold Jablon issued an enforcement order prohibiting the owner of 12231 Harford Rd., Glen Arm MD, 21057 (NACCB ,Inc.) from continuing to hold group events. They have failed to comply with any of the requirements specified in the Special Exception granted by ALJ Beverungen in January 2018. Subsequent to Mr. Jablon's order, on the evening of July 10 the owner accessed the property to hold a volleyball tournament in open defiance of that enforcement order.

The GFWPA has always had two concerns about the use of that property. The first is the threat to community health and watershed degradation presented by the apparent lack of sanitation facilities to handle human waste.

The second issue is that the entrance used to gain access to the property is inadequate for such use. The sight distances and narrowness of the road preclude the owner's ability to acquire the needed Highway Access Permit from the State Highway Administration. Mr. Zeller of District 4 SHA has written that this use of the property given the dangerous location of the entrance should not be permitted.

We are deeply grateful that Mr. Jablon, Mr. Gardina and Mr. Zeller have stood up to correct this situation.

However, NACCB, Inc. has heavily promoted via internet and social media an event to be held during the period July 28-August 3, 2018. They hoped to attract the more than 500-1000 (their estimates) participants at a similar event held last year. That event resulted in the initial Cease and Desist order issued in 2017 by Mr. Jablon.

It is highly likely that the NACCB, Inc. will be unable to communicate their change in plans to all the guests they invited. Further, Mr. Jablon and Mr. Gardina are well aware of the lack of impact enforcement orders have had with the NACCB, Inc. in the past.

I am writing to you as the community leader representing over 100 landowners in the immediate area. I have two concerns to express about July28-August 3 and a request.

The first concern is about uncontrolled traffic. In his testimony before Judge Beverungen, Mr. Ghimire, the Resident Agent for the Corporation, testified that the many out of state visitors had difficulty navigating Harford Road, caused backups and trespassed on private driveways when they tried to find the property. Given the extent of the promotion for this year's event, we can expect even more disruption on this rural road which is already heavily used as a commuter route to I-695.

Protestant Exhibit ____

1

The second issue is the reasonable anticipation of possible civil conflict. Those out of state visitors who come to the closed property will be understandably disappointed and frustrated. It is even understandable that members of NACCB, Inc. may be frustrated and perhaps angry at what they consider to be a denial of an absolute right. Then we can have members of the community who have been patient and trusting in both the GFWPA and the County authorities who get annoyed by the disturbance of unpermitted traffic and perhaps even use of the property at 12231 Harford Road.

My request is that the County plan a response to any disturbance in Glen Arm during the period of July 28 to August 3. This plan could be communicated to all parties so they know the expectations and the response to violations of those expectations.

As President of GFWPA, I will work with the Baltimore County Police and the County Fire Marshall to inform the community of what is expected of them and what we can expect from the County.

Mr. Mohler, I will point out with pride that despite the community's feelings about the improper use of land by NACCB, Inc., not one person has taken it upon themselves to vandalize the unpermitted sign erected at the property entrance.

The community has respected the rights of all and values that the competing rights will be decided in the judicial process.

All they are asking is to know the County plan for avoiding disturbance in our rural community.

Respectfully,

Dewey Clark, President
Gunpowder Falls Watershed Preservation Association

cc: Arnold Jablon, County Permits
Vince Gardina, County Environmental Protection
Kayla Weis, State Department of Environment
Richard Zeller, State Highway Administration
Councilman David Marks
Councilman Wade Kach
Colonel John Gavrilis, Maryland Transportation Authority
Donna Kilduff, County Health Department
Marcus Johnson, County Fire Marshall
Captain Lamont Martin, County Police – Parkville Precinct
Carroll Holzer, Esq.
Timothy Kotroco, Esq.

RECEIVED

JUL 11 2018

DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

12150 Harford Road
Glen Arm, MD 21057
July 11, 2018

Mr. Arnold Jablon, Director
Baltimore County Permits, Approvals and Inspections
County Office Building
111 West Chesapeake Avenue, Suite 105
Towson, MD 21204

RE: 12231 Harford Road

Dear Mr. Jablon:

The community desires to inform you that on the evening of July 10, 2018 the NACCB, Inc., in defiance of your order dated July 1, 2018, and in disregard of requirements of the State Highway Administration and Maryland Department of the Environment, and concerns of the community, once again accessed the property and held a volleyball tournament on the subject site.

It is apparent that the NACCB, Inc. has no regard for your order, and the various County and State departments who have registered concern about the use of this property for the coming event of July 28 to August 3, 2018.

As such, it appears to the community that the County, the State, and the County Executive must exercise greater attention to this problem, which is quickly escalating to a potentially bad situation.

Within the confines of the County and State requirements, the Long Green Valley community and the 100+ landowners belonging to the Gunpowder Falls Watershed Preservation Association would request that you take immediate and prompt action to avoid any threats to public health and safety arising from activities of the NACCB, Inc.

Thank you for your prompt attention to this matter.

Sincerely,

Dewey Clark
President, Gunpowder Falls Watershed Preservation Association

cc: Donald Mohler, County Executive
Vince Gardina, County Environmental Protection
Kevin Weis, State Department of Environment
Richard Zeller, State Highway Administration
Councilman David Marks
Councilman Wade Kach
Carroll Holzer, Esq.
Timothy Kotroco, Esq.

FW: 12231 Harford Road

Here is the latest letter sent. Disregard the previous one which was a old draft.

Vincent J. Gardina, LEED AP

Director

Baltimore County Department of Environmental Protection and Sustainability

111 W. Chesapeake Avenue

Towson, MD 21204

410-887-3776

From: Lionel Van Dommelen
Sent: Tuesday, July 10, 2018 10:24 AM
To: Vincent Gardina <vgardina@baltimorecountymd.gov>; Arnold Jablon <ajablon@baltimorecountymd.gov>
Subject: RE: 12231 Harford Road

This is the correct letter.

Mr, Kris Ghimire, Resident Agent

Nepali American Cultural Center of Baltimore, Inc.

8030 Belair Rd., Nottingham, MD 21236

July 1, 2018

Re: 12231 Harford Road

Mr. Ghimire,

Protestant Exhibit ___

It has come to our attention that there have been advertisements for an event at your property

located at 12231 Harford Rd. to be held from July 29 to August 3. There have also been allegations of health code violations, including photos, submitted to us by concerned neighbors.

I am aware of the hearing before the Administrative Law Judge, and notwithstanding the approval Judge Beverungen granted, there has been no compliance with the terms and conditions as set out in that decision. Because these terms have not been met, any event such as that which is being advertised will constitute a violation of that order and a violation of the zoning regulations, as well as possible violations of the health code. If your organization holds this scheduled event, an immediate citation will be issued.

Sincerely,

Lionel van Dommelen, Chief

Bureau of Code Inspections and Enforcement

CC;

Mr. Timothy Kotroco, Esquire

Towson Commons, Suite 300

One West Pennsylvania Avenue

Towson, MD 21204

Email to Jablon (cc Gardina, Bcc Weis and Zeller)

Mr. Jablon,

Today is now July 10. On the Evening of July 9th, the day I first crafted the email below, the NACC,Inc. once again used the property as a recreation center. I have the recordings of their volley ball tournament.

Mr. Kotroco's client apparently views your enforcement orders with mockery and contempt. I am now even more convinced than indicated below that we need to be prepared for their open defiance of your order concerning the event July 28 to Aug 3. Please not that somewhere along the way the event was change to be July 29 to July 28. You may want to revise your order to reflect this.

Text of original email.

On July 9, 2018 I received an email from Mr. Gardina to the effect that you had transmitted an order to the NACCB, Inc., owner of the property located at 12231 Harford Road, prohibiting them from hosting group events since they have not complied with the conditions of the Special Exception granted by ALJ Beverungen.

Thank you. Can you please provide a copy of that order to me and to our attorney, Carroll Holzer, Esq.

We can then apprise the community of the action.

As you know, the NACCB, Inc. heavily promoted an event to be held on July 28-Aug 3, 2018. They apparently hoped to attract a large crowd from the Eastern Seaboard. This event last year (which resulted in your Cease and Desist order) attracted between 500 and 1,000 people (their statements vary) from at least 4 states.

It is very likely that not all intending to attend that event will receive NACCB, Inc.'s notification of their change in plans. The time for them to get the word out is very short.

We know that controlling the possible disturbance in the community requires County resources beyond your control.

We hope you will support our request to County Executive Mohler for coordinated plan to respond to any disturbance that may arise.

A copy of the order can be sent to Mr. Holzer and myself via email.

Once again, thank you for your assistance in this matter.

Respectfully,

Dewey Clark, President
Gunpowder Falls Watershed Preservation Association

12150 Harford Road
Glen Arm, MD 21057
July 24, 2018

Honorable John E. Beverungen
Administrative Law Judge for
Baltimore County
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, MD 21204

Judge Beverungen,

I just finished a conversation with Sherry of your Office. Earlier today I dropped off a complete copy of the preliminary motion Carroll Holzer, Esq. entered into the record during the proceedings on 19 July 2018.

As I explained in the note I left with her earlier, Larry read what is purported to be a letter from you into the record sans evidentiary copies. This meant we could not test the veracity of his interpretation. However, he interpreted it to mean you approved of the 1,000 person fundraiser scheduled for 28 July to 3 August at the property located at 12231 Harford Rd. This is in spite of the record of NACCB Inc.'s open defiance of the seven conditions set forth in your 22 Jan. 2018 decision granting a Special Exception to NACCB, Inc. (see copy of Protestant's Exhibit No. 1 left with Sherry).

I was informed by Sherry that you kept no file copy and that we will have to wait on Mr. Kotroco's leisure to get our copy and even that will not be provided to me, the primary protestant of standing or as President of the Association represented by Mr. Carroll Holzer, Esq.

I was further informed that Mr. Kotroco in fact prepared that letter for your signature and that upon review you signed it as some kind of letter of intent. I am very unclear about what that means or in fact how you intended for your letter to be used.

If I any of my understandings are imperfect, please correct them. Thank you for your time.

Respectfully,

DeWitt S. Clark, Ph.D.
President
Gunpowder Falls Watershed Preservation Association

June 18, 2018
12150 Harford Rd.
Glen Arm, MD 21057

Mr. Richard Zeller, Chief
Highway Access Permits
Maryland State Highway Administration
District 4
320 West Warren Road
Hunt Valley, MD 21030

Mr. Arnold Jablon, Director
Baltimore County Permits, Approvals and Inspections
County Office Building
111 West Chesapeake Avenue, Suite 105
Towson, MD 21204

Sirs

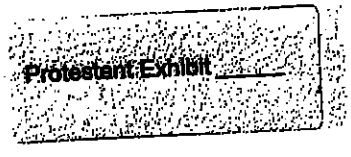
I am writing to inform you that the Corporate owner of the single residence property located at 12231 Harford Rd. Glen Arm, MD 21057 has publicized a very large fundraiser to take place July 29 to August 3, 2018. According to their own estimates, last year this fundraising event drew about 1,000 participants from several states. It resulted in the issuance of a Baltimore County Cease and Desist Order that, according to Arnold Jablon, is still in effect.

They have no sanitation facilities on site, no parking facilities for this event, and no SHA Highway Access permit. In addition, their own publicity photographs and videos reveal they have completed electrical installations without the benefit of a permit as verified by phone calls to Baltimore County Permits office on June 18, 2018. A licensed contractor observed what is in his opinion to be friable asbestos.

Mr. Jablon was adamant that we should notify the responsible officials if we were to become aware of just such a large event or if we became aware of violations of County Permit regulations.

The health, safety and ecological threats are obvious. Harford Road is a State road with no modern shoulders; at many points only 2 feet wide with guard rails directly on the shoulder on the other side. A traffic circle intended to control traffic in the immediate area was also recently installed. The entrance in question has very short sight distances due to blind curves in both directions. The property access is on the most dangerous 190 turn. This narrow rural road has become overburdened as a result of commuters driving to I-695 from Baltimore and Harford counties.

The July 29-Aug 3 fundraising event will create an unwarranted and unnecessary hazard not only for commuters. Out-of-area event participants unfamiliar with the nature of this rural road and the dangers it presents will also be trying to find an obscure address, stopping quickly, getting lost and causing backups on this route which, because this road traverses a valley, has no effective alternatives between Mt. Vista Rd. and Long Green Valley Rd., a distance of some 4 miles.



The owner of 12231 Harford Road is, as you know, well aware of the requirements for an SHA Access permit and that the current situation does not meet the criteria for that permit. In fact, there is no documentation that the owner has even started the SHA permitting process.

The owner and the attorneys handling this matter have been fully informed by you of the requirements to be met to change this property from its current single family use into a commercial venue.

The lack of sanitation facilities (they have a history of not seeking the required special events permits that would ensure health and safety factors are resolved) is a major threat to the community and the surrounding Gunpowder Falls watershed.

For your convenience I have included below the contact information for their attorney, Timothy Kotroco, and the Resident agent for the corporation, Kris Ghimire, who has an established real estate business in Baltimore County over the last 20 years.

Mr. Kris Ghimire, Resident Agent
Napali American Cultural Center of Baltimore, Inc.
8030 Belair Rd, Nottingham, MD 21236
(410) 497-5238

Mr. Timothy Kotroco, Esq.
Towson Commons, Suite 300
One West Pennsylvania Avenue
Towson, MD 21204- 5025
Whiteford, Taylor & Preston, LLP
(410) 832-2004

If you need additional information please feel free to contact me at the above address or by phone: 410.592.9998.

Respectfully,

Dewey Clark, President
Gunpowder Falls Watershed Preservation Association

Attachments:
Social Media Statements
Publicity Announcement

cc: (w/ Attachments)
County Executive David Mohler
Councilman David Marks
Councilman Wade Kach
Vincent Gardina (Env)
Lionel Van Dommelen (Zoning)
Matt Gawel (Inspections)
Jan M. Cook (Development)
Dennis Kennedy (Plans Review)
Ed Riesner (Electrical)
Karen Lewis (Permit Processing)
Traci Davis (Misc. Permits)
William Witty (Plumbing)
Senator Jim Brochin
Colonel John E. Gavrilis (MTA)
Lieutenant Timothy M. Mullin (MSP)
Maryland Dept. of the Environment
Long Green Valley Fire Company

12 September 2017
12150 Harford Rd.
Glen Arm MD 21057

Mr. Lionel Van Dommelen
Baltimore County Zoning Enforcement
Room 213
111 West Cheasapeake Ave.
Towson, MD 21204

I affirm that these photos are unmanipulated and were taken by me on the night of 10 September 2017 between the times of 8:30 PM and 8:45 PM as indicated by the EXIF data contained within the photo files. I was positioned in front of the power pole at the corner of Bonaparte Ave and Harford Rd.

I apologize for the quality, I was having problems with my flash. But it is easily seen that a number of different vehicles were observed leaving the Bonaparte property.

At the same time, my wife made the included sound recording from our porch using her cell phone. We are approximately 150 feet west of Harford Rd. across from the Bonaparte property.

I have included on the USB drive the photos, sound recording, a screen shot of Mr. Ghimire's Real Estate web site and a copy of the signage we propose to install on properties adjacent to the Bonaparte property.

From the Facebook pictures posted by this group, they appear to be respectful, kind, educated and affluent people. We find it hard to believe they would knowingly step on the rights of their neighbors and flout county laws, regulations and orders.

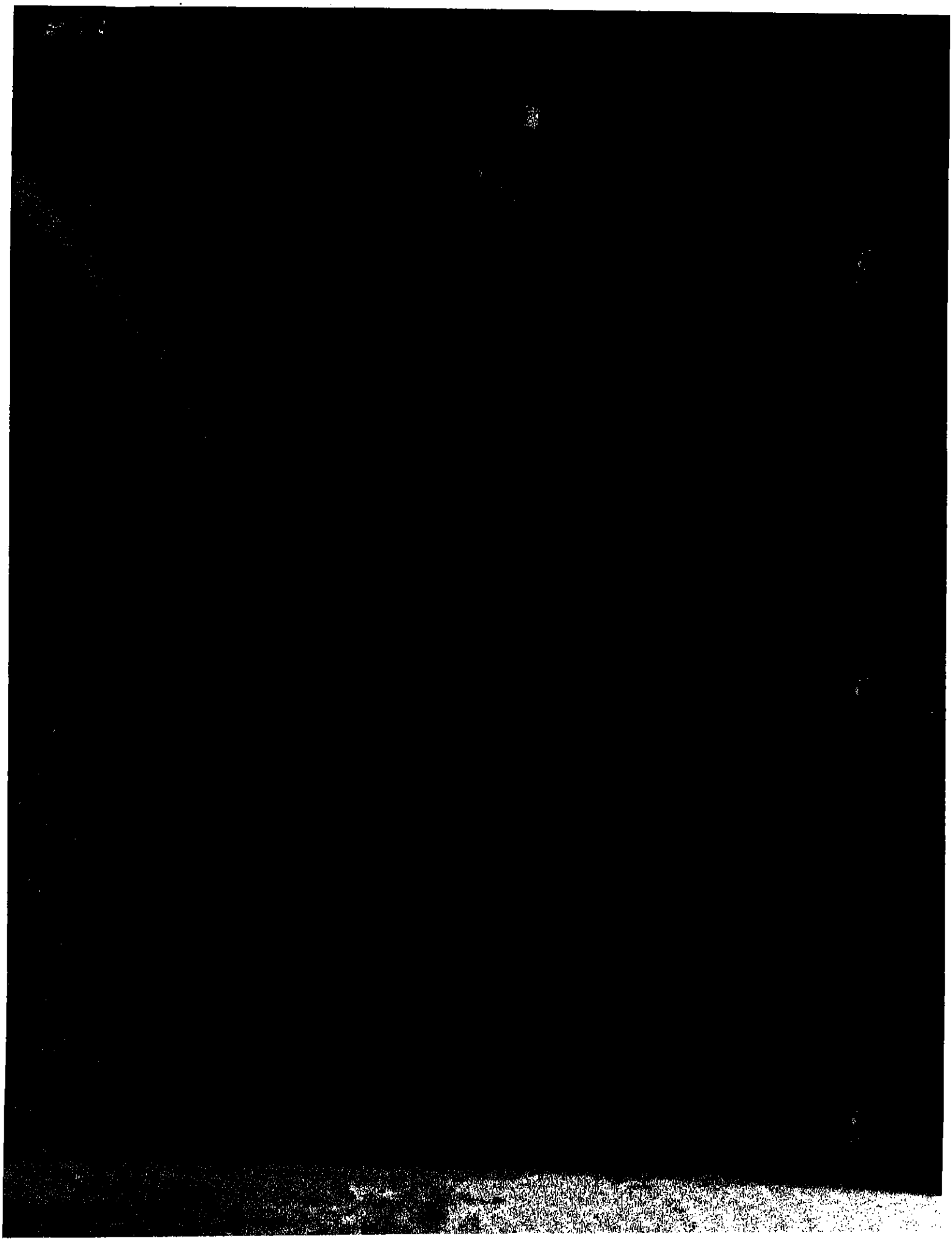
It is unfortunate the leaders/developers of this property have chosen the path they are taking. They certainly lost the goodwill of virtually every affected property owner.

Thanks you for all you are doing.

Regards,

Dewey Clark

Protestant Exhibit ____



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SHOTS (G:) › Photos sent to Van Dommelen

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_DSC4591.JPG	9/10/2017 8:40 PM	JPG File	1,530 KB

TIMOTHY M. KOTROCO, Esq.
305 Washington Avenue, Suite 502
Towson, Maryland 21204
410-339-2548
[redacted]

July 25, 2018

The Honorable Donald I. Mohler, III
County Executive for Baltimore County
400 Washington Avenue, Mezzanine Level
Towson, Maryland 21204

Re: Nepali American Cultural Center
Request for Police Protection

Dear County Executive Mohler,

I write to you out of great concern for the safety and welfare of a group of Baltimore County citizens. I have been working with the Nepali American community for over the past year. These families have become an integral part of Baltimore County having established themselves as successful business owners, doctors, engineers and otherwise productive members of our Baltimore County community.

Not long ago, these families gathered together and purchased an abandoned 20 acre estate formerly owned by Towson attorney, Robert DiCicco. The property is located at 12231 Harford Road in Glen Arm, Maryland. This estate property was dilapidated and was severely vandalized by local residents. It was foreclosed upon by the bank who held the mortgage and was heading to auction. The Nepali community pooled together their resources and purchased the subject property.

Over the past year, these Baltimore County families have been investing their money, time and energy rebuilding the damage that the neighbors did to this property and today, the property is more valuable a showpiece. I have witnessed this transformation myself and this property now stands as one of the nicest estates in Baltimore County.

The goal of our Nepalese community is to utilize the subject property as a Temple for the purpose of exercising their religious freedoms. I represented the Nepali community at a hearing before the Honorable John E. Beverungen who approved the use of the property for that purpose. This will be the very first Buddhist Temple in Baltimore County. As the present time, these Baltimore County residents must travel to Hyattsburg, Carroll County to practice their religion.

The case is now on appeal before the Board of Appeals and I am confident that we will prevail at that level. We have plans to restore the building for religious worship as our building is not yet served by well and septic. The new owners have decided to abandon the old

Protestant Exhibit ____

well and septic systems and install brand new state of the art systems, which will be designed and approved by Baltimore County. This project should be completed in the very near future.

A great deal of misinformation has been spread and I wanted to share some factual information with you before I get to the purpose of this letter. The reason I'm writing to you is to request police protection for an event that we have scheduled to occur this Saturday, July 25 at 10 am. (Set up will begin at 9 am). The event is an open house picnic fundraiser which will occur on the grounds of our 30 acre estate. Our gathering will occur within a tent that is being provided by Lewis Brothers and portable toilets will be used for the convenience of our guests and families. Tours will be given of our newly renovated building. Our picnic will continue throughout the day on Saturday until 8pm and will continue until day until concluding on Sunday, August 2nd. We hope to have as many as 200 people visit over the course of a 10 hour day. My wife Laura and I will be attending. The events of October will include over the ensuing days.

It is of paramount importance that our Nepali residents have police protection at this event on Saturday and Sunday and maybe over the week depending on how the picnic progresses. I make this request because of statements that were made at our hearing before Judge Beauregard and recent social media posts that cause me great concern. There are examples of events that have occurred across our country where tragedies have occurred that could have been avoided, and local governments were proven negligent. On behalf of the Nepalese community in Baltimore County, I ask that of your administration.

State Senator James Brochin and Councilman David Marks have been actively involved with our Baltimore County Nepalese community. Senator Brochin has spoken with Captain Lawson Myers of our Police Department, Precinct 8. Captain Myers indicated that he would have police protection available for our picnic.

Lastly, there have been allegations that our scheduled picnic violates the conditions of Judge Beauregard's decision. Judge Beauregard recently issued a written statement indicating that the picnic scheduled for this upcoming week in no way violates the terms and conditions of the Order and that the Nepali community is free to have a picnic gathering on their property just like any other Baltimore County citizen could do. I am sure Judge Beauregard would share that opinion with you from you to give him a call.

I am available and would welcome an opportunity to meet with you to discuss this matter in more detail. Thank you for your consideration of this request.

Very truly yours,

Timothy M. Maloney

cc: The Honorable James Brochin
The Honorable David Marks

27 July, 1018
12150 Harford Rd.
Glen Arm, MD, 21057

The Honorable Donald I. Mohler, III
County Executive for Baltimore County
400 Washington Avenue, Mezzanine Level
Towson, MD 21024

RE: Letter for Timothy Kotroco Dated July 25 2018

Mr. Mohler,

I am in receipt of Mr. Kotroco's request for "police protection" for a "picnic" on a 31 acre tract located at 12231 Harford Rd. Glen Arm, Md 21057 that is subject to the conditions set forth in Judge Beverungen's January 22, 2018 decision. Please note, this decision and the attending conditions are imposed on the ENTIRE 31 acres of the property. I have attached a copy of that decision for your convenience.

It seems Mr. Kotroco finds himself in the surprising position of supporting my request of June 16 to you and your cabinet for a proactive plan to manage this event. I welcome his support to that request.

There are some facts which Mr. Kotroco fails to mention.

On July 23 I met for 30 minutes with Lt. Franzoni of the Parkville Precinct to discuss this very matter. This was the first the Precinct had heard of this. I could only approach the precinct AFTER NACCB,Inc. publicly announced this event which has been promoted regionally and internationally for the last 4 months at least.

I talked with Capt. Martin the following day.

The Nepali American Cultural Center of Baltimore, Inc.'s (NACCB, Inc.) public disclosure of this long planned July 28 event came only after intense community requests for information. This outcry was the result of public disclosure of documentary evidence including videos published by NACCB, Inc. These videos and our letters to you and other officials asking for proactive planning are located on a public folder on Google Drive (USB of contents enclosed).

The letter from Judge Beverungen to which Mr. Kotroco refers is of some interest to us. It was read into the record at the July 19th Hearing but no copies were made available. As a result, Mr. Holzer (opposing Counsel) was unable to test the veracity of what was read or the interpretation of the letter as explained by Mr. Schmidt.

I was instructed by Mr. Holzer to get a copy of that letter. When I contacted Judge Beverungen's Office, it was explained to me that that letter was prepared to go out over the Judge's signature by Mr. Kotroco himself. More disturbing was that I was informed I could not be provided a copy since Judge Beverungen did not keep a file copy.

Protestant Exhibit _____

I have included a copy of an email (followed by certified letter) to the Judge relating my understandings and asking him to correct me if I misunderstood anything. To date, there has been no response.

This "picnic" would appear to be an understatement of what is to take place. Mr. Holzer introduced into evidence some 50 pages of documentation (videos, social media and record of unapproved/uninspected improvements) including the NAACB, Inc. testimony before Judge Beverungen that there was no well or septic on the property and that the plumbing had even been removed from the main building.

Mr. Kotroco is absolutely correct. 110 landowners have joined the Gunpowder Falls Watershed Association (GFWPA) in action to oppose the overuse of this land. You are aware that SHA has gone on record saying that this property **should NOT** be used to for the purpose to which it has been put since January 2018. It DOES NOT have the required State Highway Access Permit because it does not meet the safety requirements. This was a very specific condition of Judge Beverungen's decision.

You are also aware that Mr. Kevin Wels, Chief, Baltimore Compliance Division, MDE is watching how the County acts to fulfill its statutory requirements to protect the watershed resources within the County.

Mr. Jablon, Judge Beverungen and Mr. Gardina have complete copies of the evidence introduced at the July 19 Hearing. The appellant did not contest this evidence. I am sure you can get those data from one of them.

The videos alone of the NACCB, Inc.'s defiance of County orders and disregard for the required permits for approved and **inspected** improvements such as well, septic, plumbing, asbestos abatement, wiring, etc. should cause any and all County officials concern. Further, upon last conversation, there is no record the building itself has been approve for public use by the Baltimore County Fire Marshall.

As for Mr. Kotroco's concerns about safety and public order. Seems a little late, but I concur. That was the focus of my conversations with the Commanders at the Parkville Precinct.

As for my community, I have attached a copy of the notice I sent to them about how to behave this weekend. I also gave Capt. Martin my cell phone number to help if any conflicts arise.

Mr. Kotroco should advise his clients that the community will be taking photographs and videos from public or private places, as is their right. Any interference with that right will be treated as an assault.

He should also advise his clients that any trespass on adjoining properties will be treated as such.

If they insist on violating Judge Beverungen's conditions for the ENTIRE property (and Mr. Ghimire made it clear in the ALJ Hearing that it was an intentional act to include the entire 31 acre property in the Special Exception), then they MUST remain on that property.

On multiple documented occasions, Mr. Holzer and the GFWPA have offered to sit down with Mr. Kotroco, the NACCB, Inc. Mr. Marks, Mr. Kach, Sen. Brochin and someone by the name of Bhandari (STILL no idea who he is and why he is involved) only to have met a lack of interest or even failure to meet appointments with excuses sent at later time.

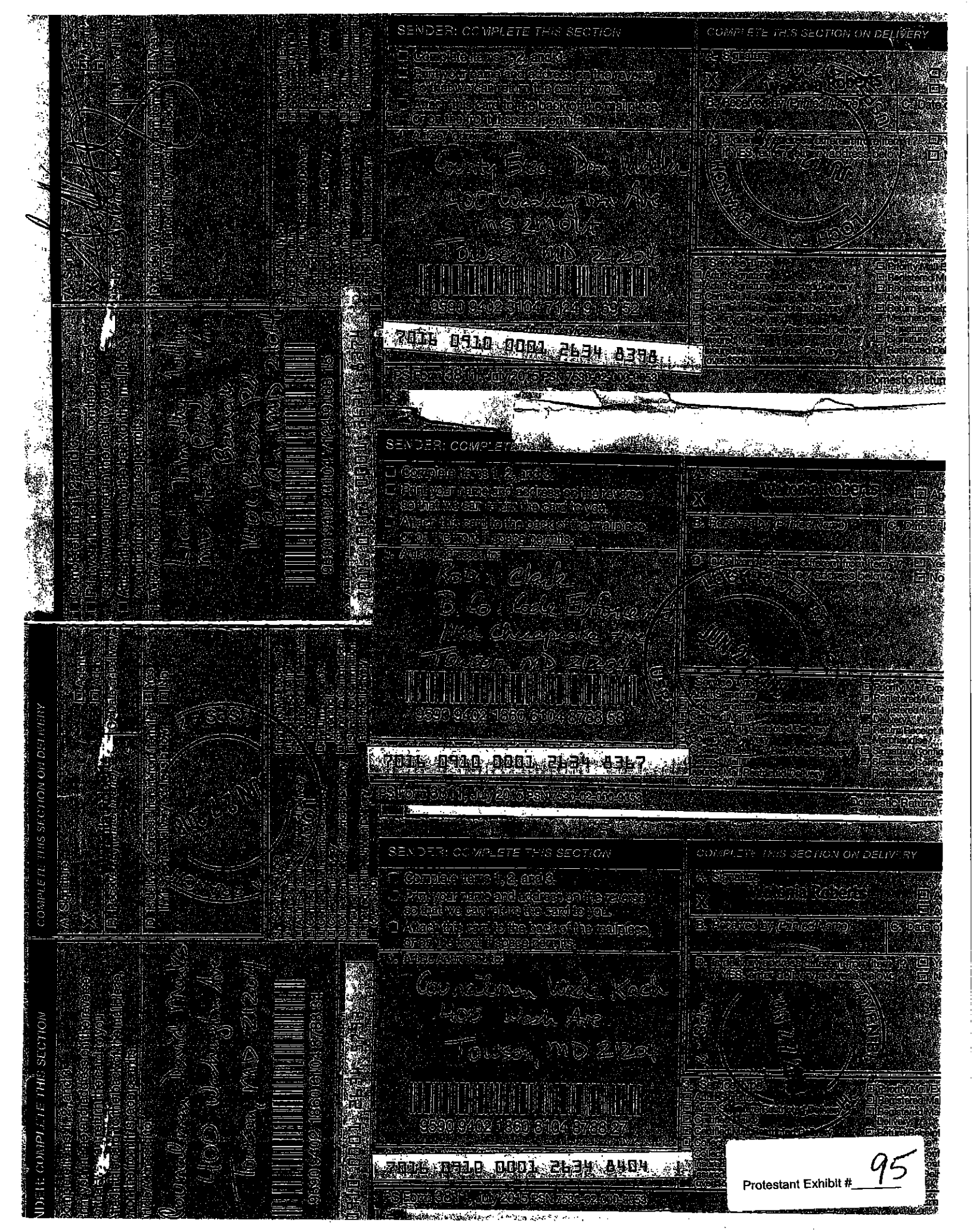
As always, I am available to speak with County Officials about our concerns.

Respectfully,

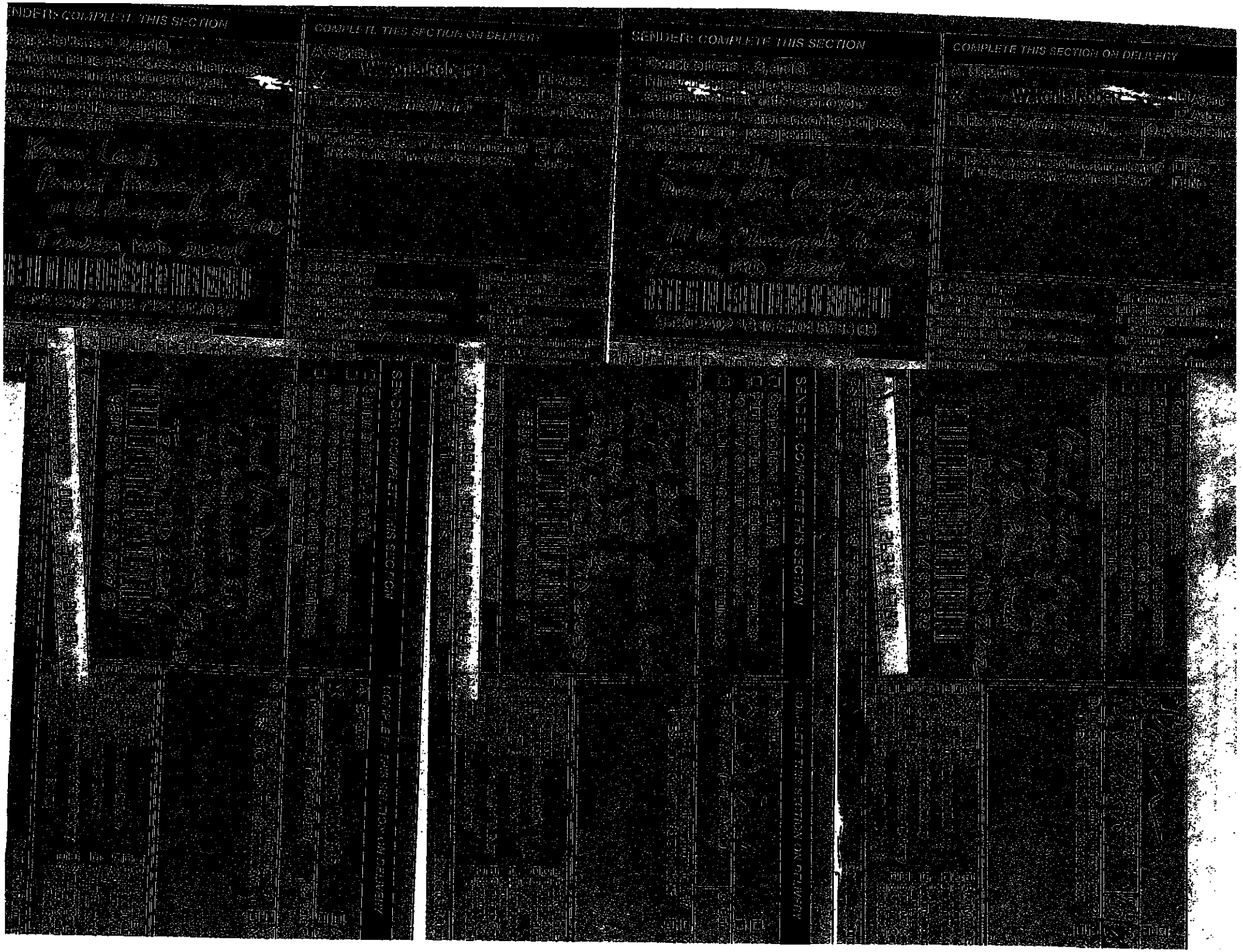
DeWitt S. Clark, Ph.D.
President
Gunpowder Falls Watershed Preservation Association

Attachments:

ALJ Decision
Instruction to Community
USB of Contents on Google Drive
Last email from Mr. Zeller



Protestant Exhibit # 95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COMPLETE THIS SECTION ON DELIVERY
SENDER: COMPLETE THIS SECTION
COMPLETE THIS SECTION ON DELIVERY

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

9590 9402 1660 6104 8787 73

2. Article Number (Transfer from service label)

7014 0510 0001 2634 8541

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

3. Service Type

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Collect on Delivery Restricted Delivery

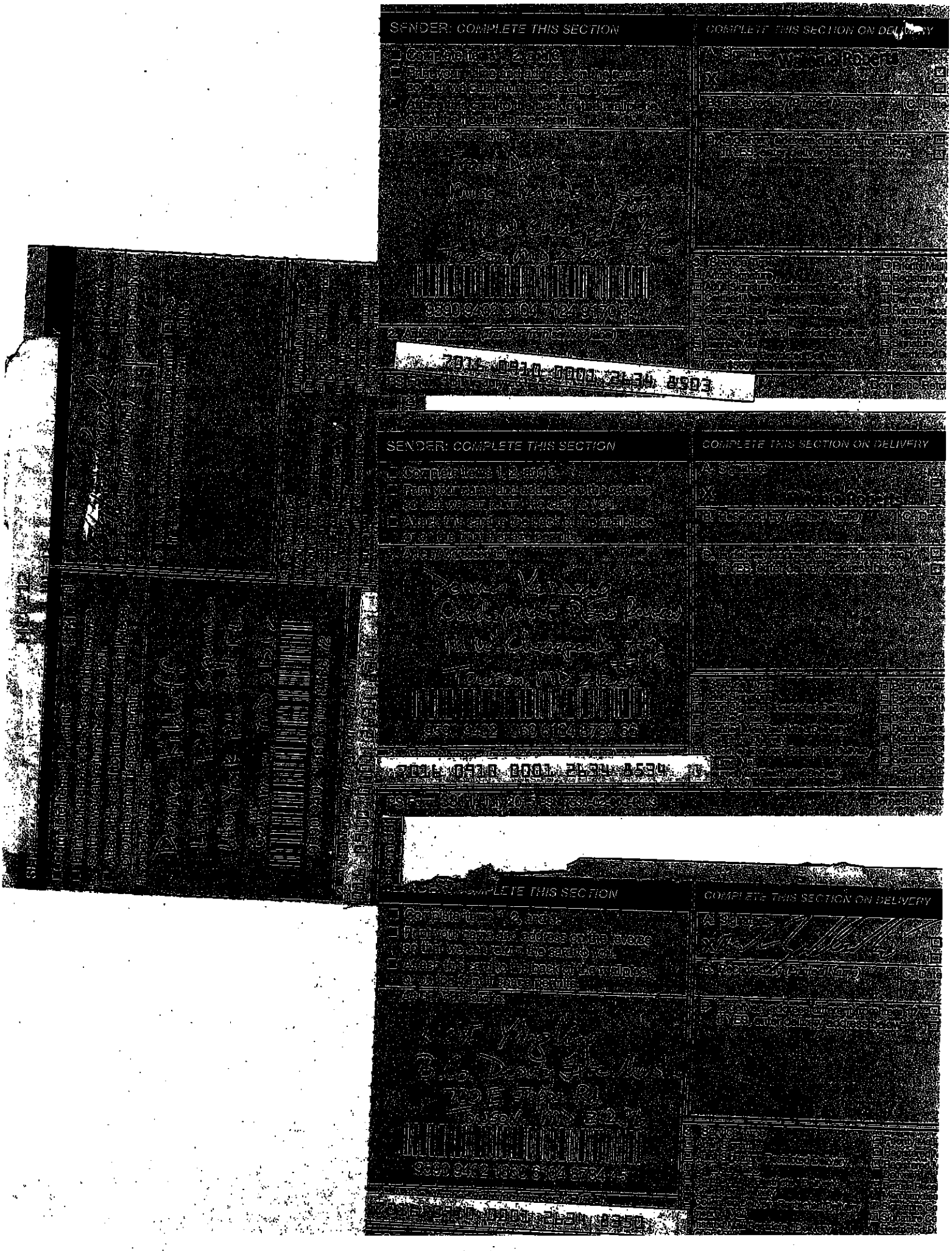
Insured Mail

Insured Mail Restricted Delivery

Signature Confirmation™

Signature Confirmation Restricted Delivery

Domestic Return Receipt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7014 0910 0001 2634 8503
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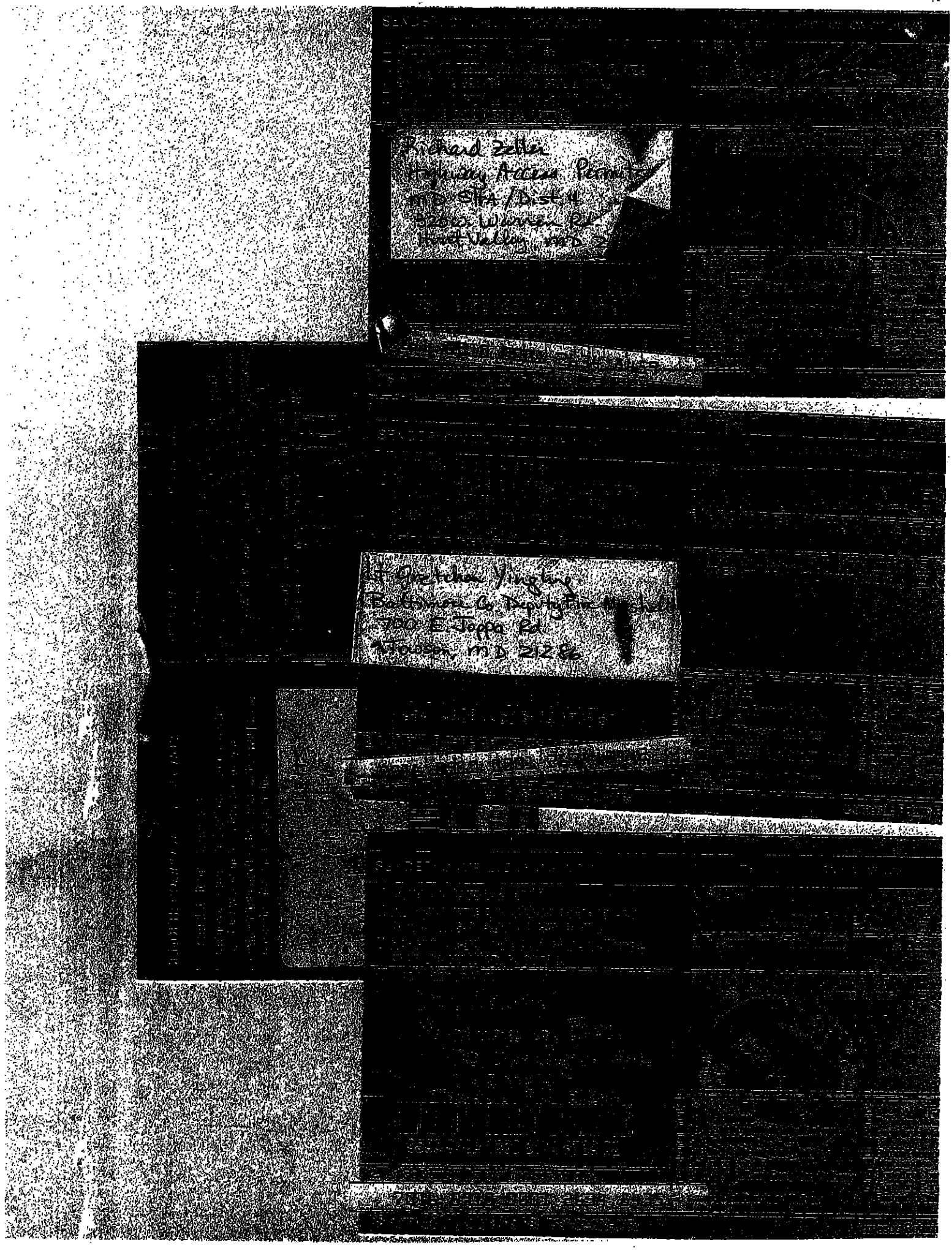

Richard Zeller
Highway Access Permits
MD SHA / Dist 4
320 W. Warren Rd
Hunt Valley MD 2

Lt Gretchen Yingling
Baltimore Co Deputy Fire Marshall
700 E. Joppa Rd
Towson, MD 21286

Proposed List of Conditions
for the Operation of a House of Worship at 12231 Harford Road

Include language similar to the following regarding continuation of monitoring the conditions: The Gunpowder Falls Watershed Preservation Association (GFWPA), its successors and assigns, to hand off to another community group if necessary in the future, as well as the Nepali American Cultural Center, Inc. (NACCB) or any reincorporations or successors to NACCB, Inc. for the property at 12231 Harford Road.

- A place where 10-15 people a day can come to worship. Maximum 20 visitors per day with controlled entrance and verifiable count.
- No outdoor events, services, festivals, receptions, or fund raisers of any kind; no outdoor concerts or carnivals permitted on the grounds covered by this request. There shall be no outdoor loudspeakers, outdoor microphones, or outdoor pavilions (permanent or temporary, i.e. tents).
- No amplified sound from inside any building that can be heard from outside any building. No sound greater than 55 dB shall emanate from any boundary of the property except that associated with grounds maintenance.
- Use of the property for worship limited from dawn to dusk (or 8AM to 8PM).
- No food kitchen for use by visitors or for providing community assistance.
- No daycare or educational facility for yoga, language, cultural or other classes.

- Well/septic for a maximum of 50 people.
- Petitioner agrees to take corrective action up to and including the drilling of a new well on the Poehler property [12241 Harford Road] who (a) has a well meeting current well standards and (b) prior to construction of the development of 12231 Harford Road [NACCB, Inc. project] undertakes to establish a baseline of well usage and recharge through independent analysis and (c) gives NACCB, Inc. a copy of same and (d) can demonstrate a measurable degradation of that well due to the usage of the NACCB, Inc. well.

- Restrict all improvements to the existing footprint and purpose. Reclaimed buildings to be used only for their original purpose, other than the mansion. No other structures to be converted to a new use. Main building shall house only offices and areas required for worship; no classrooms or kitchen.
- No changes allowed to the exterior of the building such as erecting spires or towers. No changes to existing roof line, columns, or other exterior structures. Exterior features of the building must be maintained as is, except for code requirements and maintenance.

- No recreational facilities. Remove pool and remove volleyball/tennis/basketball court.
- Petitioner agrees to install an on-site water storage tank located underground or inside the building for on-site fire protection, as may be required by Baltimore County as part of its permit review.

Protestant
CBA Exhibit
111

- No architectural or landscape outdoor lighting. All lighting required by code to be approved will be limited to light standards limited to 20 feet in height, utilizing cut-off vs. flood lighting. Lighting will be turned off no later than 8 PM.
- Existing stone planter in existing entrance driveway to be retained as part of historic nature of the property and locale.
- Signage consistent with rural and historic nature of the property and locale (e.g. carved wood).
- No structure added to the property (e.g. windmills, cellphone towers, antennas, etc.) that will degrade the historic contribution of the property to the National Historic District.

- No LEFT EXIT out of the property; right turns ONLY. Vehicles shall travel northbound on Harford Road to the traffic circle to access MD 147 south. The driveway will consist of two lanes: one entrance lane; one exit lane directing traffic northbound ONLY.
- Headlight screening for Poehler property [12241 Harford Road] and Foxworthy property [6229 Bonaparte Avenue].
- No improvement to or use of the long-abandoned second entrance to the property, which is located south of the entrance on Harford Road. No additional entrances to be constructed anywhere on the property.
- Parking for 10 vehicles. No vehicle parking on grassy areas.
- All driveway/parking to be constructed as PERMEABLE surfaces.

- All new landscaping to be comprised of native plants as recommended by the Maryland Department of Natural Resources/Wildlife Heritage Services. This proscribes any use of non-native species (plants or animals).
- Regrading to control runoff onto Foxworthy Property [6229 Bonaparte Avenue].

- SHA Access Permit prior to any use of the property.

- Prior to allowing individuals into the building for any reason, Fire Department inspection, and remediation of all identified defects.

- Certificate of Occupancy prior to any use of the property.

- Protestants and their representatives can enter the property for inspection and verification purposes twice per year accompanied by the Resident Agent.
- Petitioners to place money in escrow or obtain a performance bond to execute equitable relief by Protestants.

- Provide a Certificate of Liability Insurance of $1 million per injury to protect members and guests.

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 2018-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF DeWitt (Dewey) Clark

I, DeWitt Clark do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.
2. On July 29, 2018 I observed the following:

   I accompanied Eric Tate fly a drone to record events on the property at 12231 Harford Road as could be viewed from a height of approximately 300 feet above my property at 12150 Harford Road and above the property of David Poehler at 12241 Harford Road.

   The photos included in Protestants Exhibits #4, 14, and 21 were provided to me by Mr. Tate in digital format on July 29, 2019. These photos are unretouched and unmanipulated and are representative of what was recorded on the drone video.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

DeWitt Clark 2/3/2019

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Protestant
CBA Exhibit
112 (a-d)

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2. On February 4, 2019 I observed the following:

   I took the photo in Protestants Exhibit #19 on April 30, 2018 at 9:43 AM.

   I was standing across from Sharon Drive at Harford Road, facing north.

   The photo specifications are attached.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

DeWitt L Clark 2/4/2019

Protestant
CBA Exhibit
113

File info

File name
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Date taken
Monday, April 30, 2018 9:43 AM

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13.5 MB

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Device
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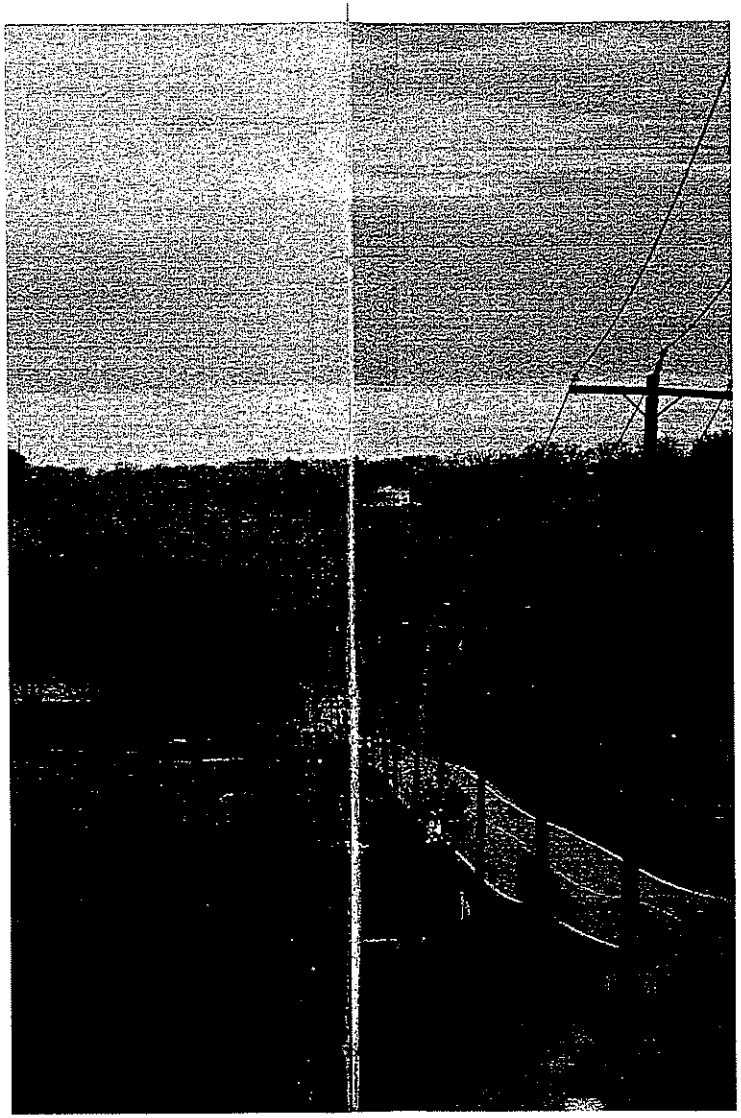

19

Iconic View Photo

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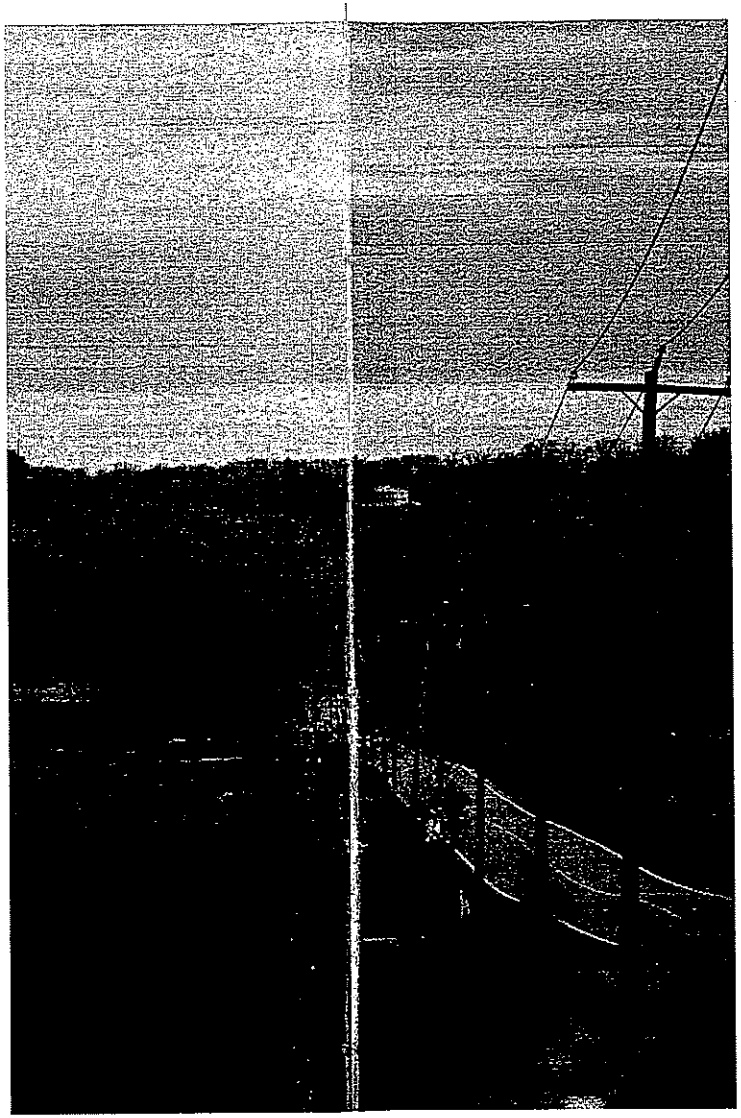
Source
Bonaparte (T:)



Iconic View Photo

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13.5 MB

Dimensions
4016 x 6016

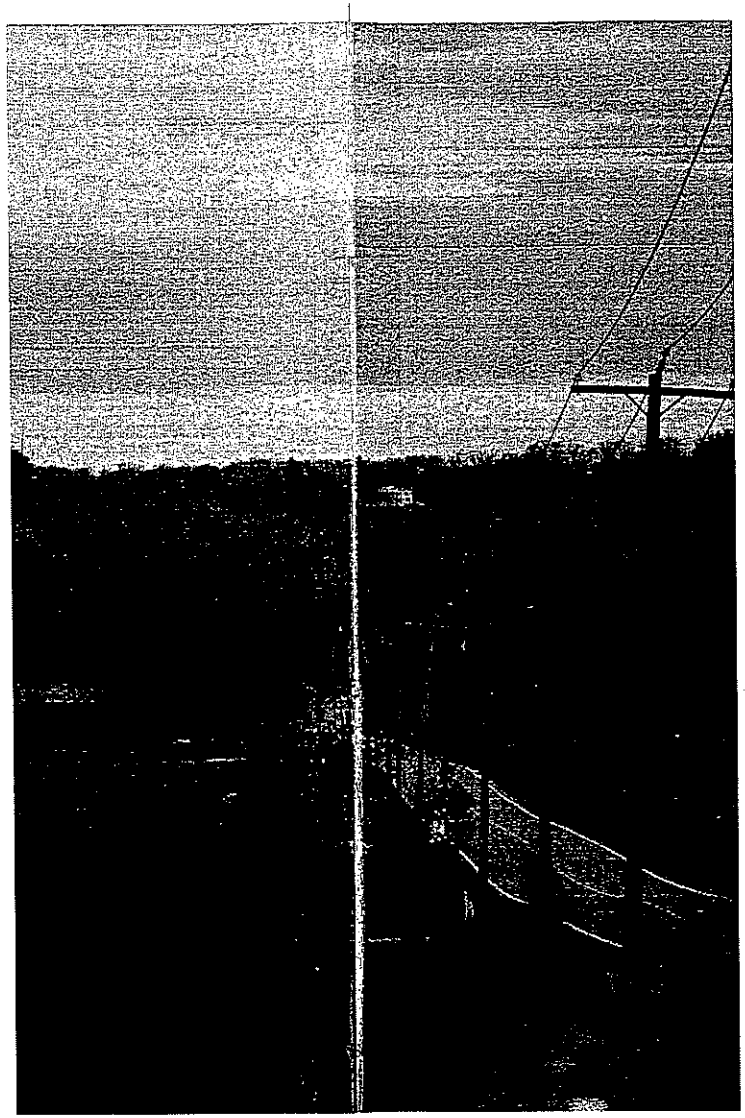
Shot
1/400 sec. f/10 200mm

ISO
400

Device
NIKON D750

Folder path
T:\FileHistory\Bonaparte...

Source
Bonaparte (T:)



19

Iconic View Photo

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 2018-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF DeWitt (Dewey) Clark

I, DeWitt Clark do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.
2. On February 4, 2019 I observed the following:

   I took the photo in Protestants Exhibit #19 on April 30, 2018 at 9:43 AM.

   I was standing across from Sharon Drive at Harford Road, facing north.

   The photo specifications are attached.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.

DeWitt L Clark 2/4/2019

Protestant Exhibit #_____

File info

File name
Iconic View_DSC4949

Date taken
Monday, April 30, 2018 9:43 AM

Size
13.5 MB

Dimensions
4016 x 6016

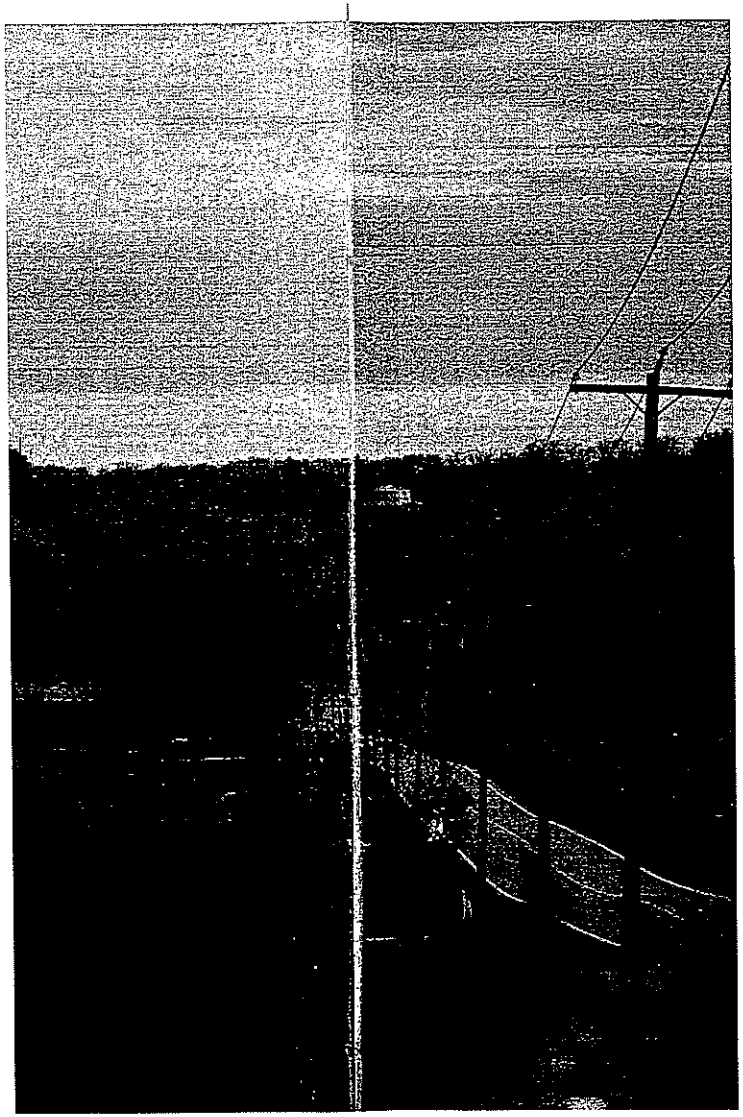
Shot
1/400 sec. f/10 200mm

ISO
400

Device
NIKON D750

Folder path
T:\FileHistory\Bonaparte

Source
Bonaparte (T:)



19

Iconic View Photo

50 - Part 1

Search Nextdoor

Home (/news_feed/)

Post in General

Long Green Valley (/neighborhood_feed/)

(/profile/26587647/) Matt Plowman (/profile/26587647/), Long Green Valley

Map (/map/)

boneparte appeal

(/news_feed/?post=76512780)

Recommendations (/recommendations/)

any [illegible] recent zoning decision?

14 Feb · 44 neighborhoods in General (/general/)

For Sale & Free (/for_sale_and_free/?init_source=more_menu)

Thank Reply 58

Events (/events/) 9 (/news_feed/?post=76512780)

Real Estate (/real_estate/?is=sidebar)

(/profile/18124962/), Long Green Valley · 14 Feb

Like you, I have the same question. I sent an email to the GFWPA and never received a response. What is so secretive? Time is running out..... I believe the responses date is the 20th.

Crime & Safety (/crime_and_safety/)

3 Thanks

Lost & Found (/lost_and_found/)

(/profile/18124962/), Long Green Valley · 14 Feb

Drafting an appeal costs $$ for the necessary legal fees. Any amount is appreciated and needed, but $100 a household would be welcome.

Documents (/documents/)

General (/general/)

Please support this effort. Send a check directly to the lawyer: J. Carroll Holzer, Esq. 508 Fairmount Ave. Towson, MD 21286; Reference File 8228

All Interests (/channels/?is=nav_menu)

1 Thank

Neighbors (/directory/)

(/profile/26587647/), Long Green Valley · 14 Feb

done, so there is an appeal in play?

Pets (/pet_directory/)

1 Thank

Public Agencies (/agency/feed/)

(/profile/19683402/), Parkville/Carney · 15 Feb

What is the boneparte appeal?

Browse all 5 groups (/groups/)

(/profile/19980425/), Red Fox Farms · 15 Feb

I'd also like a refresher on what this is. I don't know exactly where the house is located but I believe a group of Buddhists are trying to build a temple somewhere in LGV that would increase traffic and obviously be more development. I hate to see any further building in that area, any current green space should be preserved in my opinion.

2 Thanks

(/profile/21670181/), Long Green Valley · 15 Feb

Protestant
CBA Exhibit
1/4

Pr

For sure we don't need more traffic

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lived on long green pike for 39 yrs I remember when you see just a few cars no street lights bright big stars . Now the race up and down I have to wait to get out of the driv

(/profile/21670181/), Long Green Valley · 15 Feb

Now it's way to much traffic!!!!

Big trucks it's a mess . Now they want to add more??

(/profile/19980425/), Red Fox Farms · 15 Feb

By the turn around I'm assuming you mean traffic circle? Just wanted to check. Are there any news articles about this situation? I have some free time on my hands today and I'd like to learn more if anyone knows of any articles.

1 Thank

(/profile/19980425/), Red Fox Farms · 15 Feb

Thanks for the info! I don't live in the area. Could I still attend the meeting? The preservation of the rural part of the county is very important to me.

3 Thanks

(/profile/15861122/), Carroll Manor · 15 Feb

Rebecca - The Villager, February 2018, has an article. Tried to find it on a webpage/FB but didn't find any links. The Villager is sent in the mail but sometimes local stores have copies of local papers; or maybe the local library.

2 Thanks

(/profile/18124962/), Long Green Valley · 15 Feb

The new owners have been operating an unzoned and unpermitted mid-Atlantic regional community center since they took posession, holding noise amplified events hosting hundreds of cars parked on the grass (leaking into the water table we drink) and over a thousand people at some events. This in spite of verbal and written warnings from zoning that the property was zoned RC2 for one family, one farm.

The noise from their many events could be heard at my property nearly a mile away multiple times. Their attendees were turning around in my driveway. They were finally issued a cease and desist. The noise, traffic and water impact and sewage use of this group - which operated in violation of zoning- has already been of major adverse impact to local residents. It's my experience that past behavior is an indicator of future behavior.

Having failed to respect the community, the zoning laws, the rights of neighbors to enjoy the peaceful use of their own property, and the environment, by operating what amounted to a noisy fairgrounds in known violation of zoning warnings, and with no regard for the existing community, these owners have incurred no trust that they will respect the same in the future.

If you want to preserve the Long Green Valley from further noise, traffic and development and respect its rural conservation, then this zoning exception needs to be opposed.

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(/profile/26074831/), Long Green Valley · 15 Feb

Rebecca,

If you are opposed to the proposed use of the Bonaparte Property, you are welcome to attend. The owners have wasted the opportunities to hold hands with the community. This CLOSED meeting will only be open to those in the area opposed to the planned usage of the Bonaparte tract.

Regards,

Dewey Clark, President,
Gunpowder Falls Watershed Preservation Association.

1 Thank

(/profile/26074831/), Long Green Valley · 15 Feb

BTW, the Appeal is being filed on Friday.

1 Thank

(/profile/2400953/), Long Green Valley · 16 Feb

Dewey,

I'm curious what the watershed concerns are of the "Gunpowder Falls Watershed Preservation Association" for the Bonaparte Property. I can't seem to find a website or mission statement for the Association. It seems highly inappropriate to send solicitations in the mail to send money to an attorney, when it's not clear what the end goal or legitimacy of this group is.

Furthermore while I appreciate the desire to not have more development or traffic in the area. I think we need to weigh the alternatives of a church versus having a developer come in and build on the property.

Finally I don't understand what a closed door meeting for only those opposed to this group hopes to solve. I've seen nothing but attacks against this group on here and imagine the meeting will be the same. Has anyone actually tried to have an open dialog with the group to voice the concerns of the community. Maybe instead of wasting time and money working against each other we can work together to improve the property and give the group a safe peaceful place for worship.

11 Thanks

(/profile/9473209/), Carroll Manor · 16 Feb

Thank you Ben. I have the same feelingd

(/profile/23562304/), Long Green Valley · 16 Feb

Check is in the mail.

2 Thanks

Dew Clark (/profile/26074831/), Long Green Valley · Edited 19 Feb

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Thank you for the opportunity to address this.

It is ok if you have your views. I am very accepting of divergent viewpoints.
Why are those of us who are opposed not be allowed the same consideration?

Those I have had the pleasure to discuss this issue with have focused on the issues of traffic, WATER, amplified noise and destruction of the rural nature of the community so many have protected over the last 50 years. If those are attacks, then so be it. To reasonable people they sound like real concerns of consequence.

We invited the Bonaparte property owners to meet with us a number of times last year and even the County Ecumenical Liaison was asked to make contact. They were unresponsive to those invitations. I know for a fact Mr. Kotroco was instructed by the owners to contact our Attorney, Mr. Holzer. Since they were again unresponsive, we had no option but to file the APPEAL today.

And as the Hearing Transcript records. Kris Ghimire lamented that his group squandered the opportunity to engage with the community.

This meeting is to discuss the future of OUR case.

Kris Ghimire happens to agree with me and he has instructed Mr. Kotroco (the Bonaparte Tract Attorney) that it would be highly inappropriate for him to attend this meeting as was his intention. Mr. Kotroco had the decency to inform me that someone had invited him to our closed meeting. Whoever did so had no authority to issue such an invitation and only created an embarrassing situation.

Mr. Ghimire is also going to instruct his members that this is a private meeting held in a private venue paid for by private funds. They are not invited and I have every reason to believe our privacy will be respected.

And Ben, a watershed is the landscape that provides everything that flows into the streams, rivers and ultimately the Bay. It is the very rural nature of this valley that PROTECTS the Gunpowder Falls Watershed. While I would love to take the time to provide you with the opportunity to learn the damage done to once-native trout streams by development and chemical runoff from roads, parking lots and developments, I have other things that need my time. I would suggest you look into the Maryland Master Naturalist program if you are serious about understanding these things.

Have a great weekend. For me I am heading to PA for trail work!

1 Thank

(/profile/2400953/), Long Green Valley · 17 Feb

Hi Dewey,

Thank you for taking the time to respond. I actually hadn't made my mind about where I stood on the Bonaparte property yet. I'm not sure why you assume that asking questions equates to being an opposing viewpoint. I don't know about you but when I receive something in the mail asking for money, I'd like to have some idea what it is before just blindly sending in a check.

I'm glad you have found reasonable people to discuss this issue with and I agree these concerns

hearing and thus can only follow what's going on through venues like Nextdoor. To be honest much of what I've seen on here hasn't been reasonable.

The concerns I've seen stated here are loud noise, parking of cars, septic, and large events. I live over a mile from a place that I can hear every summer inside my home and out. They host large gatherings of hundreds of people, with countless cars parked on the grass. It's called Boordy Vineyards. Yet I don't see many people, myself included, that would consider Boordy anything but an asset to the community. I fail to see why when given the chance this can't be the same.

It is my understanding from reading the decision of the judge, Mr Ghirmire and his group have no plans to develop the property other than fixing the mansion. Which I think we can all agree that needs to be done. Before putting in a well or septic system they need approval of the County which will require a review of the site and plans to make sure it is feasible. A review from SHA about any traffic issues that may arise. And finally a requirement that they have no amplified noise at any event. It seems to me all of these requirements put forth are reasonable and address many of the concerns of the community.

As for the meeting, I have no problem with anyone getting together to discuss their views. I wish many in the community would get more involved in what is going on around them. However the letter I received in the mail clearly stated that this is a community meeting. It didn't say anything about it being a private event only for those oppose this property. I'm curious why this detail was left out. It also seem unreasonable to me to expect privacy when you send an invitation to seemingly every household in the area.

I agree with Mr Ghirmire that it is unfortunate his group didn't do more to meet with the community before the hearing. However it seems from what you have posted here, that you have an open dialog with him. To me that seems like a good start to have both sides start a dialog to come to a conclusion that everyone can agree to. It's not at all clear to me why the door is shut on talking to Mr Ghirmire and his group just because the hearing has already taken place. You say they have wasted countless opportunities to hold hands with the community. Yet it seems the opportunity that you are organizing has purposely turned them away.

As watersheds go I'm quite familiar with what they are and why they are important. In fact my brother in law works for one of the country's leading non profits working to preserve the Gulf of Mexico watershed and the Mississippi river delta. I've heard more about watersheds in my life time than many would care to. There are quite a few groups in this area looking to preserve property and ensure the security of our agricultural lands and watersheds. I fully support their efforts and care deeply about the environment and our watersheds. What I don't care for is people hiding behind environmental preservation for other motives. So I ask again what are the watershed concerns of the "Gunpowder Falls Watershed Preservation Association" and what is it's mission?

☺ 6 Thanks

(/profile/26811817/), Long Green Valley · 17 Feb

Dear neighbors and friends,

We have not had an opportunity to meet all of you in person. We are your new neighbors. We met some of you at our property last year. The Greater Kingsville Civic Association helped us with two of these meetings last fall. This is the only civic organization we knew in the area at that time.

We also came to find out about the Gunpowder Falls Watershed Preservation Association led by

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phone calls.

We think it is only appropriate to speak with our neighbors directly as some of the misinformation about of our temple (Nepali American Cultural Center) and our future plans are spreading in this and other forums. We have been respectful of people's comments and opinions however some of the comments here are very disheartening and not factual. We have always welcomed an opportunity to discuss some of the concerns raised in this discussion forum and we like to do more so, preferably in person to person. Some of you, we have not met have reached out to us with your love and support, we can't thank you enough. It means the world to us, specially knowing that we're welcome in your neighborhood. We will be a great neighbor and will preserve and protect the area as you would.

The vast majority of our members live only 5 to 10 miles away, right here in Perry Hall. Some of our children go to the same schools and many of us in the area know each other either through a church, local businesses or from workplaces, so we are not strangers. Our temple will be open not only to Hindus and Buddhists but also to people from all faiths or even to people with no religious affiliations to join us in some of our community activities like meditation and yoga. Once we get a chance to speak with you and share our future plans for this site, we are quite sure, you will appreciate our plans for what once a vacant/abandoned mansion soon to become a place of worship.

Knowing this home with a historic importance to our nation, former residence of the US Attorney General and Secretary of the Navy, will be used for a religious purpose instead of other possible commercial usages or even potential developments, the neighbors, we hope, will take comfort in it. We'll separately post how the day to day operations will run once it opens or we can share it with you in person.

We would like to invite you to our "Meeting the Neighbors" event on Sunday, February 25th, at 10 am. We have done quite a bit of cleaning up and maintenance of the property and would love to give you a tour. Please come and visit us next Sunday. We look forward to your love and support in the coming days.

Thank you,

Nepali American Cultural Center (NACC)

A.K.A. Hindu Buddha Mandir (Note "Mandir" means a temple)

5 Thanks

(/profile/26074831/), Long Green Valley · 17 Feb

Thank you to the the poster form NACCB. Please read this because it clarifes who is invited to our meeting on Feb 28 and why other parties are excluded. The GFWPA appreciate your willingness to respect our privacy.

To be clear Ben, YOU chose to characterize the comments on this forum as ATTACKS. You words, not mine.

Staying home because it is lousy weatherer their this AM in PA but I am restricting myself to two posts here a day.

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bothering to learn "the rest of the story" as Paul Harvey used to say. I reviewed the email account and my PMs very carefully and I find no inquiries from you.

So to whom did you talk to learn the issues of those opposed?

You are correct on one point though. We did omit two words in one line. It should read "The GFWPA has arranged to hold a community meeting for THOSE OPPOSED to update the community....."

Thank you for giving me the opportunity clarify and I believe the intended meaning is consistent with everything that has been written here. We are just volunteers.

I beg you forgiveness.

Of course, no one is stopping YOU from organizing your own meeting. We act on our words.

It is a shame you did not step up 6 months ago to apply your skills at reconciliation. Perhaps you would have saved us all from the current situation. Water under the bridge.

I am very heartened that you are pleased Kris Ghimirie and I have worked hard to keep a line of communications open. You give me another opportunity to remind readers that just because you oppose someone, you do not need to demonize them.

In fact, anyone in business will tell you that such behavior is bad for business.

I know it is popular today to demonize those who think or value differently, but I am too old to play by the new rules. I am old school.

And while we are at it, what do you know about my life and how I have spent it? And yet you appear very willing to prejudge me and my colleagues. Shame on you.

OK. For readers of the Village.

I can understand your confusion. Think it through, who did Michael interview for that article but Kris? And the strategic victory for us was that he could not find fault with our behavior during the hearing despite the best efforts of Mr. Ghimire to ascribe the Sawstikas on the walls as specifically targeting them. On cross he had to admit that this is quite common to abandoned real estate (he is an agent) and he had no reason to believe anyone even knew that his group was buying the property.

Ben, you obviously have chosen your side. Since this is NOT a meeting to air public opinion, there is no point in you trying to attend. I expect you to follow the examples of Mr. Ghimire, Mr. Kotorco and Mr. Montgue (???).

Since you are a fair minded person, I am sure you can our point. Besides, no specific details of our case will be discussed so it would be a waste of anyone's time to think that attending will provide "intelligence". Only embarrassment can result.

John Sottile Jackson (/profile/15861122/), Carroll Manor · 17 Feb

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burden on sewage, water, and peace in the valley. I'm not trying to start something...just curious.

5 Thanks

(/profile/2400953/file/2400953/), Long Green Valley · 17 Feb

Dewey,

As mentioned in my previous post I only recently became aware of this situation through Nextdoor. I took a greater interest upon receiving your flier in the mail. You are correct that I didn't reach out to you privately. I felt that since you were posting on here this was the appropriate forum for discussion with you. It appears that I was mistaken.

For the sake of transparency I haven't reached out to anyone privately on this issue. The Nepali American group sent me a message on here after my initial comment with more information about their cause. I appreciate their willingness to reach out. And in my response I asked them to share their side of the story regarding the noise/permit complaints from last summer. I like you and I assume many others are given pause by those allegations. I hope they take me up on that ask and clear the air with their future neighbors.

I'm not sure why you are insistent on ascribing me to a "side" for asking questions. You ask who I've asked about the concerns of those opposed, well I've come here twice now to ask you directly for that information. What your side represents. It's clear from your response that you have no willingness to have that discussion. I find that regrettable and unfortunate. I wish you the best of luck.

You are correct the weather doesn't look good for this weekend. I hope you have safe and enjoyable weekend regardless.

5 Thanks

(/profile/26074831/file/26074831/), Long Green Valley · 17 Feb

Scott,

RC-2, the most restricted zoning in the County. The previous owner tried several times to subdivide and rezone to no avail. And there lies the rub.

Last year the current owners hosted events with 1000 with cars from at least four states. There is a long record of County enforcement actions which were ignored. While Kris and I have agreed that it is "water under the bridge" and the only real question is "where do we go from here", we have yet to see meaningful action that would preclude such in the future.

We have no idea what the full strategic plan for the 30 acre site is. And we have no reason to be privy to it.

The problem is I am old enough to know that past behavior is the best predictor of future behavior. And the area probably cannot even support the water and sewer load that they have said would be needed for the 150 people they are planning for at any one time. There was testimony that people 1/2 mile from the tract already have well yields of only 2.5 GPM. And those wells are over 200 feet deep.

So no matter who owned the property we would oppose any use for other than what it is, as

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for a single residence.

Personally, I think the current owners were ill served. They did not know the history and backbone of this community when it comes to defending the rural nature of this region, they did not due any due diligence with the County and they did not even know about how permissive the hunting regs are out here.

I have NO idea who advised them to ignore the County requirements and enforcement actions. That was just silly.

No idea how they will react to the NG firing range that was recently a topic on this board.

But our position would be the same whether it is the YMCA, BSA, GSA or any other large organization with over 1000 members who intend to use it as they wish. And yes, their membership number does not comport with the design parameters for their infrastructure (150 people).

They are highly unlikely to "pull out". You would have to ask them how they are funding this.

It is just to bad that they squandered the many opportunities with which they were presented to engage the community until now. Better late than never.

In my call with Kris Ghimirie (and yes, we are on first name) yesterday, he was disappointed that his attorney did not call Mr. Holzer. I told Kris that lack of communication left us no option but to file the Appeal. He was saddened but understood. So it goes.

But, the missed opportunities for engagement are NOT on us.

BUT, Kris and I will continue to talk to each other and look for common ground.

(OOPS, wife is coming down the stairs, gotta go!)

2 Thanks

(/profile/2400953/), Long Green Valley · 17 Feb

John,

I had a similar question/concern it's nearly impossible to find any information on the county website. But what I could find said the exception is granted to the owner of the property not to the property itself. So I would assume that means it's not transferable. Hopefully if someone knows for sure they could answer that question.

Also as far as I could tell from the judgement the exception is only for having religious gatherings on the property, I believe if a developer wanted to change the property they would need a different exception or rezoning. Again not an expert on this so hopefully someone who knows more could come provide a definitive answer but that's what I could find.

☺ 3 Thanks

(/profile/21670181/), Long Green Valley · 17 Feb

When is the next meeting? 28 February 2019 At

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(/profile/26811817/), Long Green Valley · 17 Feb

Regina,

We are not invited to this meeting as Dewey mentioned that it is for those who are against our temple. But we would like to welcome you to our property on 25th Feb, at 10 am. We have meet and greet with neighbors.

2 Thanks

(/profile/26074831/), Long Green Valley · 17 Feb

Thanks for helping Regina. BTW, I do not discourage anyone for visiting the Bonaparte Tract. (sorry, I did parse my words there) (Is this Kris writing?)

I hope people are paying attention to how the NACC and I talk with each other. There is no need for animus. It is simply a disagreement on land use.

Regina, the GFWPA meeting will be held at 7PM on Feb 28 at Long green Valley Volunteer Fire Company. There will be an agenda handed out at the meeting. We will use 5 speakers of no more than 5 minutes each to explain different aspects of where we are. After the presentations there will be time for questions. But please understand, this is not about airing complaints or seeking instruction on neighborly relations. The GFWPA are adults and do not need such counsel.

At the end of the meeting we hope to understand what those opposed to the planned use of the Bonaparte tract consider negotiable, non negotiable and non issues. What are deal breakers and deal makers is of real importance to us. We do not expect a consensus on these; but we need to have a sense of where the community opposition stands.

Nuts. I am not working again!

(/profile/26426801/), Long Green Valley · 17 Feb

As a property owner just down the road it would not matter what GROUP wanted to set up shop there it is not an appropriate location. We currently only pump 2.5 gallons of water from our well which is over 200 ft deep and it has gone dry 3 times over the past 5 years. Fortunately it recovered within 8 hours. We can only run 1 water using item at a time. You either do laundry or shower. No one can flush the toilet when you shower. Now until you live under those conditions you won't understand this opposition. We already have 2 churches, a camp, a school, the Perennial Farm, Boordy Vineyards and Cavanos pulling from the already limited resources in this valley. We don't need an additional 100 to 1000 people pulling from the limited aquifers in the area. This property is zoned for one family.

6 Thanks

(/profile/7980958/), Blenfield · 17 Feb

I am unfamiliar with Long Green Valley or your water system but it sounds like even without additional building in the area, you have some real problems. Shouldn't the county make sure your water system is functioning appropriately?

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(/profile/26426811/), Long Green Valley · 17 Feb

Anna, its well water, each property has its own well. The county does nothing to protect our well water.

1 Thank

(/profile/4033307/), Long Green Valley · 17 Feb

Anna, residents in this area have wells for water and septic systems for waste. Gas lines are not available to all who live here so if we prefer to cook and heat with gas, it is up to us to procure propane. These items are individual expenses we are willing to pay for to live in the area in addition to the state and federal taxes that we all pay regardless of where we live.
For these reasons, building and developing has been limited. We are, in effect, attempting to protect the resources we have in order to maintain our ability to live here.
It is a sensitive issue because we are dealing with a faith based group of people who have unknown intentions to the community. The issue is not with their faith, culture or skin pigment. It is purely a matter of numbers. Will they host so many people on their property at one time, that it will cause the rest of the community to suffer for lack of water? In times of ample rainfall and snowfall, the aquifers become amply filled. In times of drought, we must all limit our usage to what is essential only.
I hope you now have a better understanding of the concern we have.

3 Thanks

(/profile/26074831/), Long Green Valley · 17 Feb

Anna,

The only time for us to be heard is before permits are issued. After that we have none, zero zilch input into the process. This is why we need to ensure the Court is fully aware of the circumstances. In most cases, the Court has no mental picture at all of the region before them and WE have to paint it for them. There are no fairness police who are going to step in; no one in the County or State is paid to look after these issues. It is and always has been up to the local community to make its case about available resources to the Courts. And the last thing most of us want is for the County to have to run sewer and water out here like they did at Jacksonville as a result of the old Nike base there. Then there were WILL be tract housing development.

Good questions. Keep them up.

1 Thank

(/profile/15861122/), Carroll Manor · 17 Feb

I hope there is factual evidence of water draw, traffic studies, environmental issues such as water run-off, sewage, etc. Opinions are nice but like as*holes everyone has one.

(/profile/10885255/), Phoenix · 17 Feb

Jacksonville has water and sewer?

(/profile/26811817/), Long Green Valley · 17 Feb

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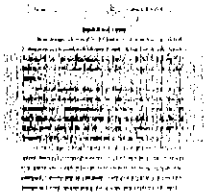
your mission statement. Is it limited to just this area or group? Is the whole association opposed to our plans or are the comments posted here your personal opinion? Is the website - gunpowdervalleyconservancy.org/ (http://gunpowdervalleyconservancy.org/)?

We don't want to make comments without knowing the facts first about the association and its involvement in this matter.

As per the RC-2 zoning- Please read the judge's ruling based on the recommendations of all the agencies involved. All the agencies of Baltimore county and the state are listed in the picture below are highlighted. None of them objected to the exception request including the environmental and zoning agencies.

Thank you,
NACC



(https://d3926qxcw0e1bh.cloudfront.net/post_photos/8c/d5/8cd5599baac3d726e141bfa5562fa33d.png)

2 Thanks

(/profile/26074831/), Long Green Valley · 17 Feb

Would be polite to have a name to correspond with.

But no, we do not have a website. We are old school.. We have spent all of our resources on things directly related to our case.

Now, would you be willing to share the 5-year strategic plan for your site and group? Could you describe precisely where your membership lives, specifically how many live directly in the impacted area and how many come from Crofton, Rosedale and Parkville? The sign-in sheet for the property owners at the Hearing had NO ONE from your group living in the area and members all the way down to Crofton. Just Peter Martin who could not find his way home and had to admit he did not live within the impacted area, and Daniel Montague from Fork United Methodist.

And thank you for giving me the opportunity to emphasize to our readers that since all our expenses to this point (in excess of $6k) have been covered by our board, and since we will handle NO outside money (all donations are mailed directly to the Escrow account set up in Carroll's office) we have no need to waste money on incorporation. We will continue to fund all printing and mailing costs out of our own pockets. All donated funds (and thank you to those who have been sending checks to Carroll) will go directly to the legal expenses.

Regards,

Dewey

1 Thank

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See below this is one of many messages in our support we are receiving... who are you representing?

Hello,
I am a neighbor who is happy to have you join our community. I have lived under the shadow of the mansion most of my life and am thrilled to see the mansion be restored. A center with meditation and yoga and peaceful worshippers only adds to the quality of life in Glen Arm. Many of my friends and family are also your supporters and look forward to meeting you and touring the mansion on the 25th.
My son and his friend are AP honors students at Perry Hall High School. They have a business designing websites and would like to design one for the Nepali American Cultural Center as a gift to you.

2 Thanks

(/profile/26074831/), Long Green Valley · 17 Feb
Terrific. But as you are very reluctant to identify yourself I am handing this over to the moderator. Very immature behavior.

(/profile/26811817/), Long Green Valley · Edited 17 Feb
Mr Dew
You can call us as one for the owner of the property from our community, does it matter?. And we ARE THE OWNER of the property. Lets meet on 25th and discuss, we all will be there to welcome you. Please come. And please stop spreading WRONG info about what is going on. We are going to post each communication we had with you and proof of all the emails we had with you. Stay tuned...

Also if you are looking for name from our group you pick one, we all live in Kingsville, Perryhall and Rosedale

Kris Ghimire, Shalik Wagle, Keshav Acharya, Dr Shyam Karki

(/profile/26074831/), Long Green Valley · 18 Feb
Kris,

On Friday you suggested you and I meet at the property this week. Is our meeting for this week on the property still on? Thank you for explaining your members do not live in Long Green Valley.

Would you share with this group here and now your Strategic Plans for the property and your group and the demographics of you membership?

Thank you for your commitment to transparency on this matter.

Warmest,

Dewey

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quoting letters that no one has seen.

☺

(/profile/26074831/), Long Green Valley · 18 Feb

Just got this through PM. ?????? Kris, are we still meeting this week?

++

"Mr Dewey,

You know we tried to contact you from the day of hearing... even after the decision... you ignored our calls... now you are blaming our attorney who emailed you at least 5 times and you didn't respond? Sir you know we are there to STAY and will go upto supreme court if need for our rights. Again... we are trying to be nice and want to work things work out with neighbors.... but if you want to take it all the way we are ready too.... We will talk to our neighbors and not necessarily need you to talk with them.

NACC

*we can talk to neighbors and don't necessarily need your help to talk to them...."

++

Does anyone remember me saying that the Bonaparte property owners needed my permission to talk to anyone?

FWIW, Kris and I talked twice. Once when we agreed to keep a line of communication open and that he would instruct his attorney (Mr. Kotroco) to contact our attorney so the "grown ups" could figure out if there was common ground. I later called Kris to say I appreciated his professionalism.

The second call was when I called Kris to let him know Mr. Kotroco informed me someone without authority had invited him to the the Feb 28 meeting. And Kris agreed it was inappropriate for Mr. Kotroco or any of his members to attend that meeting. All these calls are logged on my Comcast account.

Kris expressed dismay that Mr. Kotroco did NOT contact Mr. Holzer as instructed. It was also odd that Mr. Kotroco contacted me on the final day the appeal could be filed. No idea why this is so, but it is a shame.

FWIW, I suspect their reference to the Supreme Court has to do with a recent federal law that allows religious organizations to file suit alleging the state has discriminated against them in zoning. This is why at the Special Exception Hearing they tried to introduce the notion that there was religious or cultural intolerance related to their purchase of the property.

In your contacts with this group, PLEASE do not do ANYTHING that they can use as a "claim" of intolerance. Even at their open house. I know some of you are upset, but you must not play into their hand. Walk away rather than get into an altercation.

As already noted, our cross forced Mr. Ghimire to acknowledge he had no basis in fact for such a claim. And our entire objection is based on nothing other than proper land use.

I am thankful to the owners for providing the opportunity for me to bring this to the attention of

Search Nextdoor

1 Thank

(/profile/14041557/), Long Green Valley · 18 Feb

Also looking at addresses of those here, there are a few that have been complaining that don't live as close to the Bonaparte address as many others do that this will affect. There was an earlier "supporter" on another thread that lives past Greenwoods, and this will not affect his groundwater; and like the current hot discussion on the board now, it is likely that your well won't be impacted living more than 1/4 mile away. When Cavano expanded and both nearby activities on Mt Vista road expanded, MY well yield went down along with those on my street because I live closer.

This will not impact Kris Ghimire's water because he has public water in Perry Hall. In fact the people using the property don't live here (many out of state license plates) will not be supporting the local merchant community, local farms, or adding any benefit to the local economy. This effort will not be adding any local jobs. In short, they intend to drain the local community and resources and not give anything back.

4 Thanks

(/profile/14041557/), Long Green Valley · 18 Feb

And to add... this is not an issue of intolerance. This is an issue of the law, legal use of a property, community impact, ignoring a cease and desist letter- while Ghimire (letter recipient) a commercial real estate developer licensed in MD- should have known better. If they know the law and chose to ignore it, we have every basis to be concerned that any future use will also ignore the law.

5 Thanks

(/profile/26426811/), Long Green Valley · Edited 19 Feb

Folks, This has nothing to do with religion or beliefs. This has to do with resources such as water. The aquifers in this area are already stretched with supporting Baltimore County Maintenance facility (the old Grumnan plant), Ulla popkin, Sun Automation (the previous 4 locations have 7 wells to support their needs), Glen Meadows (have 2 wells to support their needs), Cavanos Nursery, The Perennial Farm, 3 churches, Reedemer School, Beachmont Camp, Richardson Farm, etc. We do not need any additional strain on the water resources in this area. Go read some of the reports that MDE has put out on the piedmont region(our water supply). Wise up before you have no water!

3 Thanks

(/profile/22008707/), Kingsville · 19 Feb

It's so sad that all our comments have been deleted from the thread.
WOW!
Can not believe this. I hope Next Door or the administrator does the right thing and let us be a part of this discussion. If you love and stand for the freedom of expression please let Next Door know this is NOT acceptable. This is one thing we cherish in this country, Freedom of Expression!

(/profile/1717575/), Long Green Valley · 19 Feb

I am the Lead for Long Green Valley and I have not removed any comments.

Search Nextdoor

(/profile/22008707/), Kingsville · 19 Feb

Ibby,
Not only our comments have been removed but our whole thread on "meet and greet with the neighbors" section have been removed. If you have access to the administration page or administer the users please help us or look into it for us. This is so important for people to get the right information---and hear the both sides. PLEASE!

1 Thank

(/profile/618271/), Chatterleigh Association · 19 Feb

Shyam,
In the Nextdoor world, the "Lead" and neighboring Leads are the admins. They can decide to remove something but said they did not. Therefore, the person who made the comment was the one that removed it.

1 Thank

(/profile/26074831/), Long Green Valley · 19 Feb

Kris just called me to alert me to this. However it happened I and GFWPA do not agree with the removal. Dr. Kharki, you ought to post your open house invitation again. The ONLY way disagreements can be resolved is through open discussion, Dr. Karki, Ibby can clarify this, but I think the only ones who can legitametely delete posts are the either the thread owner (the entire thread) or the poster (their own posts in that thread). I am new here too so I am not familiar with all the workings.

I will also take this opportunity to repeat the clarification I posted earlier this AM:

Clarification

At our meeting last night the GFWPA Board reminded me I misstated who is invited to the Feb. 28 meeting. It is open to ALL residents in the Long Green Valley area.

Regards,

Dewey

1 Thank

(/profile/22008707/), Kingsville · 19 Feb

Paul, Thanks for the quick reply. No, None of the comments were removed by us or any of our board members. No reason to. We stand by every word we posted here and will re-post if we can not resolve it with Next Door. One of our board members is reaching out to Next Door to find out what happened. Thanks again!

(/profile/1717575/), Long Green Valley · 19 Feb

I did not remove the thread. I believe the only way it can be removed is from the person who started the post or the Lead for each neighborhood. I do not see anyway that I can find the original post, it is not accessible to me either. Please repost. I can assure you I am not here to censor anyone's point of you.

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(/profile/18403033/), Long Green Valley · 19 Feb

Dr. Karki, if NextDoor is anything like Facebook, it possibly viewed the account as a business or organization account, and therefore removed it, since there were no personal names attached and the person using it was acting as an organization, using a personal account. The person who owned the account should have received an email from NextDoor in regards to the action take... It might be better to for you to post it, as you are a resident in this area and part of the group, as that should prevent it from being removed. I'm still seeing the actual event invite however.

1 Thank

(/profile/22008707/), Kingsville · Edited 19 Feb

I'm re-posting Kris Ghimire's post from this morning since it was removed. Please see below...

Dewey,
This is Kris Ghimire posting this time. Due to the restrictions on Next Door for number of accounts for a property we share account with other board members. It seems like you have been in communication with other board members of NACC. It looks like you have been very active on this forum ...all good :) I am catching up on some of the posts as I am new to it and reading some of your the comments for the first time. I am shocked to read your post about "NACC wasted time to work with you before deciding to file an appeal". I called you and spoke with you --had a very cordial conversation as I can remember. One of my board members, Dr. Karki wrote to you on Jan 24th and Mr. Krotoco wrote to you and other neighbors on Jan 22. You never got back to Dr. Karki and you replied to Mr. Krotoco saying you will be get back to him after speaking with your team which was never followed up. These communications took place well before the judge even approved our request.

As I said from the day one we are looking for common grounds and looking to work with you and neighbors. I don't want to engage in the war of words as Anna said in the thread. As reasonable people we can discuss things that are important to each of us. I came to this country knowing it's the best place in the planet and truly believe in it and ...my wife and I have lived the true American dream. My wife is a devout catholic and our 3 sons go to catholic schools. My next door neighbors sent their daughters to Redeemer who I am good friend with. So fittingly - I hope not a coincidence, one of the leading institutions in MD recently recognized me and my wife with a "Good Neighbor Award". Not to boast anything about the award but it does speaks a volume about the neighbor you are going to see in coming days. I promise we will answer all your questions on Sunday. Please come and join us on Sunday at 3pm.

When I was speaking with one of my good friends who is a pastor at one of the Catholic churches in Bel Air about our temple, he quoted Pope Francis " Love of neighbors begin with love of God" . I felt like I never heard more beautiful sentence that describes our hope and faith in one GOD, does not matter what name you call it by. With this ...would love to see you on Sunday.
With Love,
Kris

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(https://d3926qxcw0e1bh.cloudfront.net/post_photos/4a/fe/4afeb5f98397ebbd406067ba868446ce.png)

2 Thanks

(/profile/22008707/), Kingsville · 19 Feb
Kris just spoke with Ibby. She is looking into it. Thanks

1 Thank

(/profile/17007188/), Long Green Valley · 19 Feb
Someone controlling this site is using censorship to stop the people from getting both sides of this debate. Why have the posts from the other side been taken down? Are you afraid that they do have support? Looks that way to me. Let all voices be heard. Cowards

2 Thanks

(/profile/13753750/), Long Green Valley · 28 Feb
Who do i make the check out to?

1 Thank

(/profile/26811817/), Long Green Valley · 1 Mar
Kris Ghimire, Long Green Valley
Banaparte Factsheet/ In Response to Gunpowder Falls Watershed Asso's letter
FACT SHEET TO ACCOMPANY LETTER CIRCULATED BY THE GFWPA

Footnote #1. The Gunpowder Falls Watershed Preservation Association (GFWPA) is not a legal entity. No articles of formation have been filed with Maryland SDAT. There are no officers or directors. There are no formal meetings. The thoughts and opinions are that of just one person, Mr. Dewey Clarke.

Footnote #2. A special exception has been granted by Baltimore County for the Bonaparte property to be legally used as a place of religious worship. A change of occupancy has not yet been issued by Baltimore County because the years of vandalism done to the Bonaparte mansion have not yet been repaired. Once the repairs are completed, Baltimore County will issue an occupancy permit.

Footnote #3. There have been no unpermitted illegal multi-day large gatherings on the property. There was a fundraising event held one day last summer where many hundreds of benefactors joined the owners on the property on site to raise money for the needed repairs to the buildings on the property. All attendees parked on the property. Some of the attendees, not sure of the property's location, may have turned down the wrong driveway when trying to find the Bonaparte mansion. That is because there is no proper sign marking the property. Before opening up for religious worship, the owners intend to place a sign at the entrance to mark the driveway.

Footnote #4. The Urban Rural Demarcation Line (URDL) is actually located along Belair Road within 2 miles from the property and 3.3 miles south on Harford Road. (not 5 miles as Mr. Clark

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Footnote #5. The properties surrounding the Bonaparte Mansion are zoned RC5 and RC2. It is rural, but mainly houses along Harford, Bonaparte, Mt. Vista and Glen Arm Roads. There are few, if any farms located in the immediate vicinity of the Bonaparte property. The Bonaparte property itself has never been farmed, to our knowledge. It is a residential property located on 30 acres. It is improved with a mansion home, a caretaker's residence, a swimming pool complex, a tennis court area and a large historic horse barn. The Redeemer Christian School is located near or nearly adjacent to the Bonaparte property where 250 school children commute to the school in the morning and then leave in the afternoon. It is a K-12 school with many employees, a field house for sporting events and other school buildings and parking lots. The Beachmont Christian Camp is located next to the Redeemer Christian school. Beachmont is a commercial venture offering camps for children across Maryland. They offer swimming lessons and a large corn maze which attracts thousands of people each summer. Our religious use is very minimal compared to the large commercial Christian ventures located nearby.

Footnote #6. The Bonaparte mansion does sit atop a hill. It is very well buffered with existing vegetation around its perimeter and cannot be seen or may hardly be seen from Harford road or surrounding properties. Religious activities, consisting of meditation and/or prayers will occur within the mansion, once the building is renovated and opens for services. There will be no outside noise relating to religious worship. There are four religious festivals, similar to Christmas & Easter celebrations in the Christian faith, spread out over the course of the year where some outside activities may take place, weather permitting. These occasional festivals may be attended by several hundred people, far less than what one finds at Christian services during holidays. There will be no "disruption to the lives of the people throughout the valley time and time again" as suggested by Mr. Clark in his letter.

Footnote #7. Code enforcement issued a citation against the owners of the property for operating a church when no church or religious worship was actually occurring on the property. Once the code inspector was invited to tour the house and grounds, he quickly realized that he was wrong in prematurely issuing the citation because the house and grounds were not even able to be occupied. The code inspector apologized to the owners for issuing the citation without first investigating the complaint. The inspector relied on inaccurate information supplied to his office by neighbors. As of this date, the property is still not ready for use as repairs are still ongoing. As of this date, the owners have not been able to use the mansion. There is no active cease and desist Order.

Footnote #7. No religious events are taking place on the property as of yet. Baltimore County, after a very lengthy hearing attended by many members and neighbors, has approved the property for religious worship and as soon as all repairs are completed and our occupancy permit is issued, services may begin. The Bonaparte owners and their attorney have reached out to Mr. Clark on many occasions to address the neighborhood concerns, but Mr. Clark has refused to reply or set up a meeting with the ownership group.

Footnote #8. The entrance to Bonaparte is located between twisting turns on Harford Road. This is beneficial as traffic slows down along this stretch of Harford Road, affording an opportunity to safely enter and exit the property. The entrance has been there for many years and no changes are proposed unless Baltimore County or the SHA require upgrades.

Footnote #9. The 38 parking spaces shown along the existing driveway are more than sufficient to meet the owner's parking demands. On weekdays, it is estimated that 5 to 10 cars will visit

the property and up to 20 cars will visit on the weekend. (Hence the 20 spaces provided) These

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cars will come at the same time. This is far less than the 500 cars per day dropping off and picking up students at he Redeemer Christian school and the hundreds of people visiting the corn maze at Beachmont on a daily basis during the summer.

Footnote #10. The owners of the Bonaparte property have hired well and septic experts to assist them in installing a brand new septic system and a new well. The owners are not relying on the existing septic or well. All new services will be installed, inspected and approved by Baltimore County. The owners have 30 acres of land to work with so the well and septic will be no issue whatsoever to surrounding properties. In addition, the property will be used in a very limited fashion and the water and septic usage will be minimal. Certainly, the well and septic use will be miniscule compared to the 250 school children attending all day classes each day at the neighboring Redeemer Christian School and the Beachmont Christian Camp where campers come from across Maryland to attend day camps.

Conclusion: The Owners of The Bonaparte property continue to request an opportunity to meet with our neighbors. Our requests to meet are rejected by Mr. Clark, in fact we were told to stay away. Any neighbors who are interested to meet with the owners may reply to this email and a meeting will be set up with you. The owners look forward to becoming a part of this community.

2 Thanks

Add a reply...

Kris Ghimire, Long Green Valley

Bonaparte Property - Meet and greet with our new neighbors

Dear neighbors and friends,

We have not had an opportunity to meet all of you in person. We are your new neighbors. We met some of you at our property last year. The Greater Kingsville Civic Association helped us with two of these meetings last fall. This is the only civic organization we knew in the area at that time. We also came to find out about the Gunpowder Falls Watershed Preservation Association led by Mr. Dewey Clark at the hearing. We have then spoken with Mr. Clark a few times via e-mail and phone calls.

We think it is only appropriate to speak with our neighbors directly as some of the misinformation about of our temple (Nepali American Cultural Center) and our future plans are spreading in this and other forums. We have been respectful of people's comments and opinions however some of the comments here are very disheartening and not factual. We have always welcomed an opportunity to discuss some of the concerns raised in this discussion forum and we like to do more so, preferably in person to person. Some of you, we have not met have reached out to us with your love and support, we can't thank you enough. It means the world to us, specially knowing that we're welcome in your neighborhood. We will be a great neighbor and will preserve and protect the area as you would.

The vast majority of our members live only 5 to 10 miles away, right here in Perry Hall. Some of our children go to the same schools and many of us in the area know each other either through a church, local businesses or from workplaces, so we are not strangers. Our temple will be open not only to Hindus and Buddhists but also to people from all faiths or even to people with no religious affiliations to join us in some of our community activities like meditation and yoga. Once we get a chance to speak with you and share our future plans for this site, we are quite sure, you will appreciate our plans for what once a vacant/abandoned mansion soon to become a place of worship.

Knowing this home with a historic importance to our nation, former residence of the US Attorney General and Secretary of the Navy, will be used for a religious purpose instead of other possible commercial usages or even potential developments, the neighbors, we hope, will take comfort in it. We'll separately post how the day to day operations will run once it opens or we can share it with you in person.

We would like to invite you to our "Meeting the Neighbors" event on Sunday, February 25th, at 3 pm. Address is 12231 Harford rd. We have done quite a bit of cleaning up and maintenance of the property and would love to give you a tour. Please come and visit us next Sunday. We look forward to your love and support in the coming days.

Thank you,

Nepali American Cultural Center (NACC)

A.K.A. Hindu Buddha Mandir (Note "Mandir" means a temple)

Edited 17 Feb · 44 neighborhoods in General

Thanked! Reply 35 Thanks · 103 Replies

Walter MacEachern, Shepherds Knoll · 17 Feb

Protestant
CBA Exhibit
115

I think this temple is a great addition to the community. We have many many churches in the area and they are perfect for this rural setting, providing similar help and support to all faiths. I look forward to their continued good works and admire their efforts to preserve the Bonaparte property

Thank 19 Thanks Kris Ghimire, Long Green Valley · 17 Feb

Walter,
Thank you for your kind words. Yes we have no plans to add any development. We are planning to renovate the building and use it as a place of worship where anyone and everyone are welcome

Thank 4 Thanks Mike Rollins, Long Green Valley · 17 Feb

Residential area, not commercial, well and septic up here, also between two rivers, have to see what the EPA says about it as well

Thank 4 Thanks Thomas Stehr, Carroll Manor · 17 Feb

What is the address of the location? I'm not familiar with the Bonaparte property location. Just curious. Good luck with your future endeavors.

Thank 2 Thanks Jennifer Pecora, Carroll Manor · 17 Feb

Did Not mean to Thank, as I strongly disagree with this view!

Thank Keith Merrill, Redcoat · 17 Feb

Namaste, will be looking forward to it in the near future !

Thank 2 Thanks Pete Smith, Long Green Valley · 17 Feb

It's hard for me to imagine easier, more compatible neighbors than a Buddhist temple and community center. Good luck with your project, and with persuading some others.

Thank 19 Thanks Kris Ghimire, Long Green Valley · Edited 17 Feb

Jennifer, We respect your view and would like to welcome you to the property on 25th Feb, at 10 am should you have any questions. We know few people are spreading wrong information about our plans. We would love to clarify any confusion and listen your concerns.
Keith, Thank you and Namaste. We can't wait...
Pete, Thank you for your kind words.

Thank 3 Thanks Anna Kirkley, Blenfield · 17 Feb

I feel this is a gracious invitation by the NACC to reach out to the surroundings communities. If you are not interested, or have oppositions to their zoning request, I find it a bit rude to use a good faith invitation to complain. There are several other topics already posted here for that conversation. Whether you agree or disagree with the zoning request or whether it is upheld or not, the NACC owns the property and has every right to be there. It would behoove everyone to remain civil, neighborly, inclusive, and work together to create an environment that is, at the very least, not antagonistic. Let the NACC extend their invite without creating undue tension.

Thank 25 Thanks Kris Ghimire, Long Green Valley · 17 Feb

Anna, Thank you for your kind words, really appreciate it!!!

Thank 5 Thanks Richard Liddick, Long Green Valley · 17 Feb

What's the big deal? There is already a large church school complex just around the corner. This group had repaired a run down eyesore and is now maintaining the property. Live and let live. I think it a nice gesture that they are attempting to reach out to the people in the community.

Thank 18 Thanks Jennifer Pecora, Carroll Manor · 17 Feb
I usually do not post, so was confused and "Thanked" Mike Rollins, whose opinions I strongly disagree with. Just clarifying that point.

Thank 4 Thanks Anna Kirkley, Blenfield · 17 Feb
@jennifer You can just re-click where it says "thanked" and it will remove it.

Thank 3 Thanks Jennifer Pecora, Carroll Manor · 17 Feb
Thanks, Anna. I figured that out, but only after posting.

Thank 1 Thank Jennifer Pecora, Carroll Manor · 17 Feb
I only posted, as I did not want anyone to think I shared that opinion.

Thank 1 Thank Joyce Mason, Long Green Valley · Edited 17 Feb
As a property owner just down the road it would not matter what GROUP wanted to set up shop there it is not an appropriate location. We currently only pump 2.5 gallons of water from our well which is over 200 ft deep and it has gone dry 3 times over the past 5 years. Fortunately it recovered within 8 hours. We can only run 1 water using item at a time. You either do laundry or shower. No one can flush the toilet when you shower. Now until you live under those conditions you won't understand this opposition. We already have 2 churches, a camp, a school, the Perennial Farm, Boordy Vineyards and Cavanos pulling from the already limited resources in this valley. We don't need an additional 100 to 1000 people pulling from the limited aquifers in the area. This property is zoned for one family.

Thanked! 12 Thanks Wayne Schaumburg, Perry Hall · 17 Feb
Address please

Thank Susan Hammond, Kingsville · 17 Feb
Are you able to share this invitation to the Kingsville, MD FB page?

Thanked! 1 Thank Dew Clark, Long Green Valley · 17 Feb
Joyce, as crass is it is, there is an advantage to being first.

While people point to Beachmont, they do not know the legal fight that ensued and the resulting restrictions (covenants and deed). Also, as you point out, in the 50 years since that fight, this area has filled in a great deal and the aquifer is a serious concern. Not to mention what happens when an additional load starts drawing the polluted water form the old Nike base on Stockdale Rd. This issue is not about words, it is about impacts.

And not doing thorough research on the capacity of the area to support such a infrastructure as well as not understanding the long history of resolve and commitment of this community to preserve the rural nature of our region is on whoever was advising the NACC. While I feel they were ill served, it is my job to stand for the community. Just as it is Kris's job to stand for his. I just think he is holding a bad hand.

This is why a Court will likely decide. And emotion has no impact on them.

If anyone REALLY thinks Beachmont got a free pass, you are not doing your homework.

This community is tough; and I mean in the sense of properly annealed piece of steel tough. We are understanding, but we will defend what has

been long defended. So that future generations can enjoy this region..

Kris and I are searching for that common ground. But as I said, after Mr. Kotroco failed to call Mr. Holzer by Friday this week, , we had no choice but to file the appeal. Maybe Mr Kotroco's failure was a tactic in the hopes we would let the deadline pass, but we waited to hear from him until the last possible minute.

Regards,

Dewey

8 Thanks

Kris Ghimire, Long Green Valley · 17 Feb

Susan,
Yes we can post this to kingsville FB page. Do you have the link?

Thank Joe Cole, Long Green Valley · 17 Feb

Interesting that the invite is Sunday morning which conflicts with Christian worship services. Otherwise I would like to visit. An afternoon time would be more inclusive to our community. .

Thank 4 Thanks Amy Sadera, My Lady's Manor · 17 Feb

Sunday morning? That is when some of us are at our own places of worship. Will there be another time/day for this forum?

Thank 1 Thank Kris Ghimire, Long Green Valley · Edited 17 Feb

Amy we have changed it to 3 pm.

Thank 3 Thanks Keith Merrill, Redcoat · 17 Feb

The old joke is "What's the difference between an environmentalist and a developer?? The environmentalist already HAS his piece of property!"

Thank 5 Thanks Kris Ghimire, Long Green Valley · Edited 17 Feb

As many requested we have changed meet and greet to 3 pm on 25th Feb

Thank 6 Thanks Donna VanSant, Long Green Valley · 17 Feb

"BYKOTA" Senior Center in Towson. BYKOTA means "Be ye kind one to another". Just something to keep in mind during discussions of the Bonaparte property. I don't mean to be "preachy", I have to remind myself of this all the time. I wish nothing other than the best resolution for everyone involved. Jesus said "Love one another as I have loved you".

Thank 8 Thanks Kris Ghimire, Long Green Valley · 18 Feb

Mr Dewey,
We are still looking for an answer to this question:
Is the whole association (Gunpowder Falls Watershed Preservation Association) opposed to our plans or are the comments posted here your personal opinion? you should clarify this to members of YOUR Association?

Thank Dew Clark, Long Green Valley · 18 Feb

Just got this through PM. ?????? Kris, are we still meeting this week?

++

"Mr Dewey,

You know we tried to contact you from the day of hearing... even after the decision... you ignored our calls... now you are blaming our attorney who emailed you at least 5 times and you didn't respond? Sir you know we are there to STAY and will go upto supreme court if need for our rights. Again... we are trying to be nice and want to work things work out with neighbors.... but if you want to take it all the way we are ready too.... We will talk to our neighbors and not necessarily need you to talk with them.

NACC
*we can talk to neighbors and don't necessarily need your help to talk to them...."
++
Does anyone remember me saying that the Bonaparte property owners needed my permission to talk to anyone?

FWIW, I suspect their reference to the Supreme Court has to do with a recent federal law that allows religious organizations to file suit alleging the state has discriminated against them in zoning. This is why at the Special Exception Hearing they tried to introduce the notion that there was religious or cultural intolerance related to their purchase of the property.

In your contacts with this group, PLEASE do not do ANYTHING that they can use as a "claim" of intolerance. Even at their open house. I know some of you are upset, but you must not play into their hand. Walk away rather than get into an altercation.

As already noted, our cross forced Mr. Ghimire to acknowledge he had no basis in fact for such a claim. And our entire objection is based on nothing other than proper land use.

I am thankful to the owners for providing the opportunity for me to bring this to the attention of our readers.

2 Thanks

Anna Kirkley, Blenfield · 18 Feb
I am truly shocked at some of the disrespect being shown here. The NACC is part of our community and while I understand you have fundamental differences and are in a tense situation, which is understandable, please try to act civil. It's embarrassing.

Thank 10 Thanks Dew Clark, Long Green Valley · 18 Feb
Anna,

Please be specific.

Regards,

Dewey

1 Thank

Joyce Mason, Long Green Valley · 18 Feb
Anna, this has nothing to do with "fundamental differences", it has to do with land use and the protecting our ability to continue to have water at our homes. When you have to rely on well water it's not guaranteed like public water. When the aquifers become over used and dry up there

is no more water. I live just down Harford Rd from this property. I went to the hearing back in January and no one there I talked with identified being there because of "fundamental differences".

Thanked! 5 Thanks Dew Clark, Long Green Valley · Edited 18 Feb

Anna,

I see you are in Phoenix. Did you support the plan for the Loyola College Retreat out there? Were you upset when it failed?

Regards,

Dewey

3 Thanks

Patty Vikestad, Carroll Manor · 18 Feb

I have been there many times before all this comotion on doing something to it. Its a home not a church. I am against what is being planned for i we do not need a place like that in the country. The Mansion should be more of a Museum Bed and Breakfast. The house should remain the way it looks inside and out. Your going to ruin the History of the mansion besides bringing too much traffic to the area. I have lived in Kingsville 60 years I have many memories of the Mansion

Thanked! 6 Thanks Mike Habersack, Long Green Valley · 18 Feb

And if Beachmont planned expansion, I would be contrary to it as well. No more expansion.

Thanked! 7 Thanks Anna Kirkley, Blenfield · 18 Feb

Dew, I am not getting drawn into a war of words with you. It solves nothing and only perpetuates more argument. People know how to read and can see your comments for themselves. As you said yourself, "Walk away rather than get into an altercation."

Thank 5 Thanks Dew Clark, Long Green Valley · 18 Feb

Anna,

I agree with everything you just said. Thank you.

4 Thanks

Anna Kirkley, Blenfield · Edited 18 Feb

Dew, I was not living here at the time. In fact, I was only 18. But I'm not disagreeing with your points, nor do I wish for anything other than an amicable outcome. The zoning board made their decision, and as with any other decision of that matter, there is an avenue for you to appeal--which you are doing.

To be clear, I have no dog in this fight. But whatever the outcome of the appeal, you will be neighbors regardless and unless you want tension indefinitely, maybe everyone should just handle this in accordance with the county's process and work together from there.

Thank 4 Thanks Ida Thompson, Long Green Valley · 18 Feb

Unlike many of these folks here, we live right down Harford Rd from your new place of meditation and community and we welcome you. Contrary to the rumors that are circulating, we haven't heard any loud music and cavorting into the late evening nor have we been any more

inconvenienced by traffic jams than we are when Redeemer kids are going to and leaving school or when St. John is having church, school or other functions. We are excited to come up and visit and meet our new neighbors. We will be at your open house and hope to come to future events. This is a simple case of NIMBY.

Thank 16 Thanks Mike Habersack, Long Green Valley · 18 Feb

Dew- boards like this tend to devolve into lobbing shots and are all heat with no light. Tom, Morgan, myself were the first locals at the initial meeting in August as were David M and Chris M. The Bonaparte folks and their lawyer were there and focused solely on renovations to the old building and paint. We toured the building and I left wondering how 500+ visitors used the one jon I saw. They wanted to reach out to the community back then and it appears they will be doing that next week. They even discussed signing a covenant with the neighbors that no more than 20 people would be there a ever. A few weeks later, they had an event with more than 200 guests.

Odd timing for a warm and fuzzy open house- they would have been smarter to do it last fall, but now see that there is considerable opposition and are late with any olive branch. After the first meeting, their Facebook went dark (so much for openness) but we have all archived images online prior to going dark that prove they have no intention on staying small. I have their donor list and amounts, and they're not as poor as the GoFundMe they offer for public consumption.

Also- research FB to see who supports whom, follow the money,and you will learn who supports this and who does not. Focus on events, dinners, donors, who is there. We're watching, and the internet never forgets.

Thanked! 6 Thanks Dew Clark, Long Green Valley · 18 Feb

Mike,

It is all ok with me. This is America and everyone is entitled to their views until it conflicts with someone else's rights. And that is what the Courts are for. It is a shame someone seems to have removed Kris Ghimirie from the equation. We were really trying to find common ground. To quote Kurt Vonnegut "So it goes".

As do you, we require more than fine words. And the Court will force that issue. Please introduce yourself on the 28th!

2 Thanks

Kris Ghimire, Long Green Valley · 18 Feb

Dewey,

No one has replaced Kris, we work as a team. And as always we are open to discuss and find common ground. Kris will call you Monday.

Thank 1 Thank Dew Clark, Long Green Valley · 18 Feb

Good to hear. He has my number.

1 Thank

Jane Shipley, Long Green Valley · 18 Feb

What it comes down to is that we live where we live because we want to live a rural lifestyle. Ours wells and septic cannot take the potential stress from another large facility. Though it has been stated they will have only small groups at the facility, the laws in place have been disregarded

when hundreds of people came to the facility on numerous occasions, blaring music. How can we believe anything going forward with this facility will comply with the law? I do not appreciate being told "we are here to stay and will take this to the Supreme Court." The zoning was residential when the property was purchased. Don't pretend to be peacefully trying to integrate in the community,while using words that reflect bullying.

Thanked! 10 Thanks Carla Flaim, Carroll Manor · 18 Feb

Jane Shipley. Why start a new post with your feelings rather than hijack an open invitation for a meet and greet. Everyone has important point of views and valid concerns to share but no need to usurp this thread. I am so disappointed in the community as a whole that there has been so much negativity and 'NIMBY'.

Thank 7 Thanks Jane Shipley, Long Green Valley · 18 Feb

Maybe if you lived closer and it was your property being affected you might care a little more.

Thank 10 Thanks Carle Goldman, Phoenix · 18 Feb

When do you plan to have renovations done? and start meditation classes?

Thank 3 Thanks Kris Ghimire, Long Green Valley · Edited 6d ago

Dewey, This is Kris Ghimire posting this time. Due to the restrictions on Next Door for number of accounts for a property we share account with other board members. It seems like you have been in communication with other board members of NACC. It looks like you have been very active on this forum ...all good :) I am catching up on some of the posts as I am new to it and reading some of your the comments for the first time. I am shocked to read your post about "NACC wasted time to work with you before deciding to file an appeal". I called you and spoke with you --had a very cordial conversation as I can remember. One of my board members, Dr. Karki wrote to you on Jan 24th and Mr. Krotoco wrote to you and other neighbors on Jan 22. You never got back to Dr. Karki and you replied to Mr. Krotoco saying you will be get back to him after speaking with your team which was never followed up. These communications took place well before the judge even approved our request.

As I said from the day one we are looking for common grounds and looking to work with you and neighbors. I don't want to engage in the war of words as Anna said in the thread. As reasonable people we can discuss things that are important to each of us. I came to this country knowing it's the best place in the planet and truly believe in it and ...my wife and I have lived the true American dream. My wife is devout catholic and our 3 sons go to catholic schools. My next door neighbors sent their daughters to Redeemer who I am good friend with. So fittingly - I hope not a coincidence, one of the leading institutions in MD recently recognized me and my wife with a "Good Neighbor Award". Not to boast anything about the award but it does speaks a volume about the neighbor you are going to see in coming days. I promise we will answer all your questions on Sunday. Please come and join us on Sunday at 3pm.

When I was speaking with one of my good friends who is a pastor at one of the Catholic churches in Bel Air about our temple, he quoted Pope Francis " Love of neighbors begin with love of God" . I felt like I never heard more beautiful sentence that describes our hope and faith in one GOD, does not matter what you call it. With this ...would love to see you on Sunday.

With Love,
Kris

Thank 2 Thanks Shyam Karki, Kingsville · Edited 3d ago

After many days of back and forth with Next Door, our account and all the posts have been restored. Someone reported us for no particular reason. Pretty unfortunate.

Thank 2 Thanks Jill Kanto, Long Green Valley · 4d ago

You're providing meditation classes? I look forward to that!

Thank 4 Thanks Shyam Karki, Kingsville · 3d ago

Once we complete renovations, fulfill the county requirements by taking care of sewage, water and traffic issues, we will start the Mandir and then we will make plans to start Meditation and Yoga classes and they will be offered to everyone interested, specially our neighbors as we highly value our neighbors and neighborhood.

Thank 6 Thanks Jill Kanto, Long Green Valley · 3d ago

Yoga too! Even better. Thank you. I look forward to meeting you all and learning more about your culture.

Thank 2 Thanks Alison Cantrell, Long Green Valley · 3d ago

Welcome to the community and we look forward to seeing what you do with the property :)

Thank 3 Thanks Jane Giovanazi, Satyr Hill · 2d ago

I am thrilled that you are a part of our community. I can't come Sunday but look forward to a future visit and to attending classes!

Thank 2 Thanks Patricia Sier, Sunshine/New Cut · 1d ago

I am happy to welcome all faiths and nationalities to my community. However the main issue is according to your website that that is currently under construction it is stated that it will be one of the largest Hindu Buddah temples in the United States and will be welcoming hundreds of visitors a day. How do you expect to handle traffic coming and going from that address that is at one of the worst sections of Harford Rd.? Not to mention septic and well water. I thought is was zoned residential. What a negative impact on the community who live nearby, and I live within one mile of the site unlike the others who are posting who do not!!!!

Thank 9 Thanks John Sottile Jackson, Carroll Manor · 1d ago

Please direct me to the website you are referring to where they will be welcoming hundreds of visitors a day. BTW - if you didn't want posts from people not directly affected then this post should have been limited. Instead it is wide spread which invites everyone to have an opinion.

Thank 1 Thank Patricia Sier, Sunshine/New Cut · 1d ago

Here is the link : http://webcache.googleusercontent.com/search?q=cache:HCAs2ZVyTUoJ:greatdesignllc.com/index.php/component/spsimpleportfolio/item/5-hindu-buddha-temple+&cd=11&hl=en&ct=clnk&gl=us

The project is referred to by two names: Nepali American Cultural Center but also as Hindu Buddha Mandir. This link is to the web design company that is putting together the page for the temple. You can click on View Project and it will take you to the property. It clearly states what I previously posted.

Thank 5 Thanks Linda Eminizer, Long Green Valley · 1d ago

You're right Patricia Sier. Here is the verbiage from that site... "Hindu Buddha Mandir is one of the largest Hindu temples in the U.S. and is widely known for welcoming hundreds of visitors every day, regardless of their backgrounds, to its religious services, family festivals, and devotional retreats. Located at Baltimore, Hindu Buddha Mandir is an integral member of the local interfaith

community, working with other faith-based institutions to provide charitable works and strengthen the common bonds between all religions."

Thank 3 Thanks John Sottile Jackson, Carroll Manor · 1d ago

Patricia - thank you. That is something concerning and hope it can be explained further. If true that would affect all of us because most of us travel that road.

Thank 3 Thanks Joyce Carpenter, Harford Rd · 1d ago

I wonder if the people who are supportive of this endeavor live nearby and will be affected by the above mentioned concerns of the people who do. As the owner of a property next to one that was recently purchased for the purpose of building an assisted living facility, I can assure you that all who live nearby are opposed to the idea for similar reasons. Those who aren't opposed don't live nearby and don't have a clue.

Thank 7 Thanks Jane Shipley, Long Green Valley · 1d ago

I am more upset than ever now that I visited the link listed above. We have been told they will only have 20 or so people a day, but their website, now under construction says they intend to be one of THE LARGEST HINDU TEMPLES IN THE COUNTRY, HOSTING HUNDREDS OF VISITORS A DAY! Where is the truth, honesty and good neighborliness these developers claim???Will they replace my well when it runs dry from all these visitors?

Thank 4 Thanks Joyce Mason, Long Green Valley · 1d ago

If the aquifers go dry there won't be any replacing your well, there won't be any water!

Thank 1 Thank Kris Ghimire, Long Green Valley · 1d ago

Patricia, NACC does not yet have a website. Some of our volunteers are working on creating one which is at least a month away. We will be happy to share the website once it is created. I don't know the information you are referring to. Anyone can put anything they want on the internet. Again, we don't have a website.

Thank 1 Thank Dee Car, Sunshine/New Cut · 1d ago

Kris,

The website is archived as if someone started it, then removed it. Google is able to store this information. However, in addition to the archived one, I found www.baltimoremandir.org "Official Page of Hindu Buddah Temple" just by googling NACC Baltimore (page created in 2016). It even features a picture of the mansion and lists the Harford Road address. So, Kris, I am confused, do you have a website or not? And if not, then you have imposter(s).

I live within a mile of the property and will be attending the meet and greet tomorrow. I, like a lot of my neighbors, are concerned about this property due to the infrastructure concerns. As someone else mentioned, it could be any persons or group coming in to develop the property and I would be concerned.

Here are some things that I have found by looking around on social media. These raise further questions of my concerns in regards to the use of the property as just a temple and place of worship. In addition, I feel like some of your posts on here and Facebook have been misleading to the public.

Dr. Shyam Karki posts on his Facebook page on December 21, 2017 in what appears to be an effort to fundraise, states that "After the Mandir is initiated, it will have a regular source of income

which can meet routine expenses." And further, "Second we need to look beyond Pujas and initiate programs and services like HEALTH CAMPS, YOGA, INTERFAITH COLLABORATION IN THE AREA, SOUP KITCHEN and contribute to the overall being of the neighborhood."

Can you please elaborate on the plans to grow from just a Mandir where perhaps two dozen persons will be gathered (your words), to a place that generates income through other services and programs? I appreciate Mr. Karki's willingness to contribute to the community, but feel like this contradicts what the community wants.

WE DO NOT WANT MORE STREET TRAFFIC, A TAX ON THE LOCAL WATERSHED, OR ANY OTHER NEGATIVE ENVIRONMENTAL IMPACTS ON THE AREA.

I encourage my neighbors to do more research and come to your own conclusions. There are videos on youtube, posts on social media such as Facebook, and other public records. And of course, please visit the property tomorrow.

Thank 3 Thanks Jason Miller, My Lady's Manor · 1d ago
The owner of the domain is Janak Ojha. The domain has been online since January 2017. It's clearly a website for them.

Thank 2 Thanks Dee Car, Sunshine/New Cut · Edited 1d ago
Also, what is the event that is scheduled to be held on April 16-22, 2018 at your location? I have seen fliers for it- looks like a speaking engagement- but want to know more information. Thank you.

Thank 1 Thank Dee Car, Sunshine/New Cut · 1d ago
Jason Miller- you are talking about the 'archived' one from google?

Thank 1 Thank Jason Miller, My Lady's Manor · Edited 1d ago
I am talking about who owns the domain, if it's some fake website someone else developed. Look it up on whois

Thank 2 Thanks Michael Davis, My Lady's Manor · 1d ago
Intriguing, different and most likely enlightening. Everything this ultra conservative community fears. Best of luck! Love the forthcoming and outreaching attitude but in this neighborhood your fighting an uphill battle not only because of the underlying racism alone but the constant and insane resistance to any type of change.

Thank 5 Thanks Tom Miner, Long Green Valley · 1d ago
Wow Michael Davis that is amazingly offensive. I haven't heard a single racist comment yet that would elude to your assumption. Saying this community even on a small part judges others in that way is just ignorant.

Thank 7 Thanks Dee Car, Sunshine/New Cut · 1d ago
I have always found that people who resort to personal attacks have nothing intelligent to contribute to the conversation. Thank you Michael Davis for exposing yourself as one of those people.

Thank 5 Thanks Michael Davis, My Lady's Manor · 1d ago
Hence the "underlying" statement Tom.

The reaction to a non Christian house of worship is over the top.

Thank 1 Thank Mike Habersack, Long Green Valley · 1d ago

Sorry- I live less than 1/2 mile away, therefore this impacts me in this rural area directly. I don't care it was another evangelical or catholic church, it would impact me the same and drain local resources and add traffic that the already unpopular circle wasn't designed for. How much tax will this add to the base? None as it is a non-profit. How many jobs? None for locals if any at all.

To another point- there are posts here from those saying "why not" and "I can't hear them", and when I look further, these comments are coming from people more than a mile away. Of course YOU cannot hear it. Doesn't affect YOUR traffic either. I would support their activity were it in Monkton or Jarrettsville. Wouldn't impact me at all there.

Thank 2 Thanks Tom Miner, Long Green Valley · 1d ago

If a 1000+ person organization bought the single family home next to you and decided to hold multi day events on a regular basis without even obtaining permits prior commencing, I think you have a right to be displeased. All I'm saying is the comment is offensive to those concerned and that shouting NIMBY is all fine until it is next door.

Thank 6 Thanks Dee Car, Sunshine/New Cut · 1d ago

Michael Davis-
You have insulted me and my neighbors by calling us racist. I will not engage you any further. You have nothing intelligent to contribute to the conversation.

Thank 2 Thanks Mike Habersack, Long Green Valley · 1d ago

I would fight any development, be it from the local camp or school, and yes I am also a Christian. This is not an issue of race or faith, but one of resources and congestion.

Thank 4 Thanks Kris Ghimire, Long Green Valley · 1d ago

To all people who are against us please remember... this is to invite OUR neighbors for meet and greet. If you can come and talk to us that would be wonderful but if you really want to oppose you know there are many other places.

Thank 2 Thanks Richard Liddick, Long Green Valley · 1d ago

I have said this all along. If this were not a Hindu temple would there be such a hoopla.? Give me a break, there's a large church school around the corner.

Thank 4 Thanks Dee Car, Sunshine/New Cut · 1d ago

For the record, you are the one spewing hate. It is a shame that you are able to use this platform to embarrass yourself. Bravo.

Thank Dee Car, Sunshine/New Cut · 1d ago

Is anyone else being trolled and harassed both publicly and privately by Michael Davis? Wow. You need some help.

Thank Gay Ayyagari, Laurel Brook · 1d ago

Can't believe this stuff is allowed on this website. I was un-registered for less than this.

Thank 2 Thanks Richard Liddick, Long Green Valley · 1d ago

Some people can't take when you point out their intolerance. Calling it as you see it is just too much for them to bear,'they feel insulted. Call a spade a spade, if it quacks like a duck it is a duck.

Thank 1 Thank Joyce Mason, Long Green Valley · 1d ago

As a property owner just down the road it would not matter what GROUP wanted to set up shop there it is not an appropriate location. We currently only pump 2.5 gallons of water from our well which is over 200 ft deep and it has gone dry 3 times over the past 5 years. Fortunately it recovered within 8 hours. We can only run 1 water using item at a time. You either do laundry or shower. No one can flush the toilet when you shower. Now until you live under those conditions you won't understand this opposition. We already have 2 churches, a camp, a school, the Perennial Farm, Boordy Vineyards and Cavanos pulling from the already limited resources in this valley. We don't need an additional 100 to 1000 people pulling from the limited aquifers in the area. This property is zoned for one family.

Thank 6 Thanks Kris Ghimire, Long Green Valley · 1d ago

To all people please remember... this is to invite OUR neighbors for meet and greet. If you can come and talk to us that would be wonderful but if you really want to oppose you know there are many other places.

Thank 1 Thank Kris Ghimire, Long Green Valley · 1d ago

Thanks Richard. Yes we do and we are working on it. Well and Septic.

Thank Joyce Mason, Long Green Valley · 1d ago

If the water is not available due to over population for the area, it won't matter how many wells you dig. Read some of the MDE reports for the area.

Thank 3 Thanks Richard Liddick, Long Green Valley · 1d ago

Perennial Farms runs water down Glen Arm Rd. It turns to ice, maybe you need a new well.

Thank 2 Thanks Joyce Mason, Long Green Valley · 1d ago

A prime example of over use by Perennial Farms. That is why the properties in this area are zoned RC2 and need to stay that way.

Thank 2 Thanks Richard Liddick, Long Green Valley · 1d ago

Yes, but nothing is done about their waste of water, why because they are considered a farm. There is plenty of water available.

Thank 1 Thank Linda Eminizer, Long Green Valley · 22h ago

Up till now I've kept silent except for sharing verbiage from a website that I felt was important to see. I've read every post concerning this feed. I was so happy to see that everyone was expressing their opinion based on the fact that they either support or oppose the addition of this church due to the concerns for added traffic or, more importantly, concerns of water consumption. I live on a well so I understand that. First of all, a religion is not a race, so that negates the racist card, which I expected someone to play at some point. How sad that it had to be introduced by anyone, especially at this late stage of conversation. I'm going today to see what this is truly about and I hope this guy doesn't show up to make an unrelated spectacle. How sad there is someone who had to throw in his own prejudices.

Thank 6 Thanks Cresencio DeLeon, Long Green Valley · 21h ago

Kris, I look forward to the meeting today and seeing the plans for the future. I think it'll be wonderful to have a place that will be offering meditation and yoga classes in the immediate are...

Hopefully all unnecessary drama is kept away from your property today and we are able to engage in a meaningful way. Look forward to meeting you and others at 3.

Thank 2 Thanks Mike Rollins, Long Green Valley · 20h ago

When someone has nothing concrete to say because their point is pointless, they always play the race card, typical

Thank 4 Thanks Joyce Carpenter, Harford Rd · 20h ago

Notice that our Long Green Valley and My Lady Manor's contributors are more than a stone's throw away from the Bonaparte site.

Thank 1 Thank Rebecca Bartholow, Phoenix · 19h ago

I hope someone who attends the Meet and Greet today starts a new thread and tells us everything that was explained about sewage, water, events, etc.

Thank 4 Thanks Mike Habersack, Long Green Valley · 19h ago

Final thought. It has been an interesting exercise to see how quickly "social media" can become unsociable. There are opinions on both sides of this issue,and you need to separate what is in discussion.

Unlike many of you here, I met Kris Ghimire and a number of the folks at the Harford Road address in August. I found them to be very kind, friendly, and welcoming to the very small handful of people that visited that day. They would not dream of bring rude based on the quality of people I met. You can also be assured that based on their faith system, you will never have drunken revelry or other carousing from the Nepali group. Those that charge faith-bashing or race baiting are ignorant and have not met this group - and lobbing uninformed assaults at those in opposition to the anticipated property use is wrong.

Additionally, those that are living more than a mile away are not affected and should consider the more the reasons behind the comments made by those living close by. YOUR well won't pump less. YOUR ability to navigate traffic won't be impacted. YOUR rural setting won't be disturbed.

You are immature if you cannot separate the issue from the people involved, which has become the world we now live in, and many of you should be old enough to have grown out of childish behavior like name calling. Adults can dialogue and take the high road.

Done.

Thank 9 Thanks Mike Rollins, Long Green Valley · 18h ago

It's all been confusing, I've heard 10 different explanations. Is anything people saying true? Water, sewer, already holding gatherings illegally, how they found this property, etc etc etc???????

Thank Dew Clark, Long Green Valley · 14h ago

Mike and Mike,

These things will be argued in Court and are for a Judge to decide. That is how things work in a democracy. Two parties have a dispute, so it goes before a Judge. I have no idea why some are so concerned about the use of our Constitutional systems. One of the most embarrassing situations in life is when one suddenly is faced with taking a hard line without knowing all the facts.

We are going to litigate our case in a Court of law with all the rules of evidence. The facts will be determined by the Court and a judgment will be rendered. Civics 101.

We are very concerned about how people are acting towards each other. I would recommend watching this You Tube short on lessons learned from WWII put out by the US Govt for use in civics classes. !7 minutes and well worth watching.

It can be found here:

https://r.search.yahoo.com/_ylt=AwrBT9e4IJNaZ04ARwxXNyoA;_ylu=X3oDMTEybDJybHFjBGNvb...

3 Thanks

Joyce Carpenter, Harford Rd · 14h ago

Dew, it sounds like you are supportive of the community. Just out of curiosity, is this the first hearing? Who is representing the community in this case when it goes before the judge? Was that person able to gather data supporting the community's concerns and will he/she be effective in presenting the data before the judge? Is the district's councilman involved and has he provided any help? Also, will the public be notified of the next hearing date, and is the public invited to attend? I imagine the Nepali American Cultural Center has a slew of lawyers to aid them in this case. It would be helpful to have some answers to these questions.

Thank 1 Thank Dew Clark, Long Green Valley · 14h ago

Joyce,

What seems to be lost is that this has been actively worked for over a year. After the two GKCA meetings last year to hear the community concerns about this topic, a group of us decided to prepare for the possible ensuing litigation. We decided to litigate this after all other avenues were exhausted.

PLEASE come to the meeting Wednesday night. It will be a factual presentation of the history of this situation. Our attorney will be making a short presentation.

Regards,

Dewey

2 Thanks

Eddie Hall, Long Green Valley · 13h ago

Mike no one is "faith bashing," by voicing concerns. Also just because most of us don't live within one mile does not mean it doesn't effect us all and we shouldn't be concerned. Next time it could be YOUR neighbor trying to set up a business where it does not belong.

Thank 4 Thanks Linda Eminizer, Long Green Valley · 11h ago

I attended the meet and greet today. I must say, I was very impressed by the folks of NACC. What struck me most important is the fact that this temple does not hold a service as we currently see in our churches. The temple will be open and it's members will come and pray and leave. The intent, and I believe it to be true, is that the property will be maintained with it's surrounding nature and resources in mind. 1 wasn't sure how I felt about it and have been trying to read every post to listen to the concerns or support from our community. At this point, I will

say that they have my support. I'll be interested in attending future hearings to have a full picture.

Thank 6 Thanks

IN THE MATTER OF	*	BEFORE THE
NEPALI AMERICAN CULTURAL CENTER	*	BOARD OF APPEALS
Legal Owners	*	FOR
12231 HARFORD ROAD	*	BALTIMORE COUNTY
GLEN ARM, MARYLAND 21057	*	
PETITIONERS FOR SPECIAL EXCEPTION	*	CASE NO. 18-122-X
11th ELECTION DISTRICT	*	
5th COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * * *

AFFIDAVIT OF Carol N Shaw

I, Carol N Shaw do hereby make oath in due form of law and state as follows:

1. I am over 18 years of age and competent to testify in this matter.

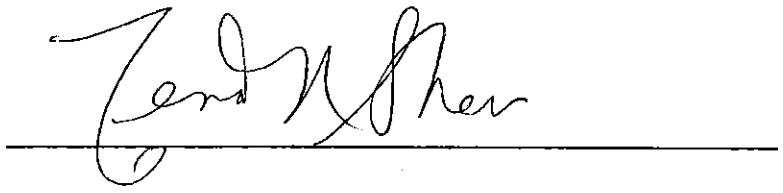
2. On September 19, 2018 I observed the following:

   I attended the Greater Kingsville Civic Association semi-annual meeting on 9/19/2018 in the meeting hall of the Kingsville Volunteer Fire Company.

   Among other comments, Kris Ghimire, a principal of the NACCB, stated they had three porta-potties for the approximately 300 people per day who were attending their week-long festival July 28 – August 3, 2018.

   David Marks stated that he could not be involved in the NACCB matter.

I HEREBY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE AFOREGOING IS TRUE AND CORRECT UPON MY PERSONAL KNOWLEDGE.



Protestant
CBA Exhibit
116

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BALTIMORE COUNTY
BOARD OF APPEALS

July 2, 2018

The Honorable John E. Beverungen
Administrative Law Judge for Baltimore County
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204

Re: Case No. 2018-0122-X, Petition for Special Exception
Request for Clarification of Your Order Dated January 22, 2018

Dear Judge Beverungen:

I write to you on behalf of my clients, the Nepali American Cultural Center and the zoning Order that you wrote approving the use of a building on their property for religious worship. The decision you wrote was dated the 22nd day of January, 2018 and a copy of that decision is attached hereto.

As you may know, some of the protestants who appeared at the hearing before you filed an appeal to the Board of Appeals and the case is currently pending before that agency. In the meantime, my clients have continued to repair the damage that has been done to the property by the local residents and continue to maintain the grounds, as they should.

At issue at this time is the language contained within your Order, specifically the seven restrictions located at the end of your approval. My clients have scheduled a fundraising event which is proposed to occur on the grounds of the subject property. These fundraising events are very important to the owners of the property as the repairs to fix the damage done to the property over the years has been extensive. This fundraising event is scheduled for July 29th to August 3rd, 2018.

I have attached to this letter a post that was taken from Facebook which advertises this event. As you are aware, social media, such as Facebook is an effective way to inform people of an event such as this fundraiser. Baltimore County Code Enforcement was provided a copy of that Facebook post by one of the protestants. Code Enforcement is attempting to assert that we cannot gather on our property because of the language of your restrictions contained within your Order. The fundraiser will be held outside on the property and not within the building. In fact, the building is not occupiable at this time as it still is not connected to water or sewer. It is however, anticipated that my clients will provide walking tours of the building to show the extensive improvements they have made to the property, of which they are very proud.

Based upon this letter and the attachments hereto, I respectfully request your interpretation of your Order, specifically the restrictions contained therein as to whether it is appropriate for my clients to host this gathering event on the grounds of their property or whether such actions would violate the restriction you imposed upon them.

I have included a simple statement at the bottom of this letter for you to sign, should you deem it appropriate. Thank you for your time and consideration of this matter.

Very truly yours,

Timothy Kotroco

Timothy M. Kotroco

I understand the owners are proposing to host a gathering on the property July 29th through August 3rd, 2018. I also understand the Code Enforcement Bureau contends that the gathering would violate the terms and conditions of my January 22, 2018 Order granting special exception relief. I respectfully disagree and would note those conditions (as envisioned by BCZR section 502.2) related solely to the operations of a building for religious worship, which was the relief granted in the special exception case.

The owners are free to gather on their property so long as no religious activities are occurring within the subject building and all other permit requirements, if any, are satisfied. If this is the case, there is no violation of my Order. This owner should be treated no differently than any other citizen who wishes to host a party, a picnic or any other social event on their property.

7/3/2018
Date

John E. Beverungen, ALJ

TMK/mtk
Attachments

KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

January 22, 2018

Timothy M. Kotroco
305 Washington Avenue, Suite 502
Towson, Maryland 21204

RE: Petitions for Special Exception
Case No. 2018-0122-X
Property: 12231 Harford Road

Dear Mr. Kotroco:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: DeWitt Clark, 12150 Harford Road, Glen Arm, MD 21057
Morgan Miner, 11946 Harford Road, Glen Arm, MD 21057
Carol Shaw, 7 Country Hill Ct., Kingsville, MD 21087
Paul Koch, 12138 Harford Road, Glen Arm, MD 21057
Robin Beers, 12442 Jerusalem Road, Kingsville, MD 21087
Joyce Mason, 11813 Harford Road, Glen Arm, MD 21057

Darby Standiford & Ronald Standiford, 6415 Mt. Vista Road, Kingsville, MD 21087
Ginny Terhune, 404 W. Joppa Road, Towson, MD 21204
Stephen Brady, 6208 Banaparte Avenue, Glen Arm, MD 21057
Edward & Sharon Heimiller, 12702 Lee Ben Road, Kingsville, MD 21087
Peter Martin, 1954 Greenspring Drive, Timonium, MD 21093
Robert & Denise Smith, 6215 Bonaparte Avenue, Glen Arm, MD 21057
Ellen Hubbard, 7862 Oakdale Avenue, Rosedale, MD 21237
Mary C. Clark, 12150 Harford Road, Glen Arm, MD 21057
Philip Landefeld & David Hartman, 12513 Regwood Road, Hydes, MD 21084
Pat Garner, 12535 Merritt Avenue, Fork, MD 21051
TA Kneeshaw, 11 Kings Glen Ct., Kingsville, MD 21087
Joanne Foxworthy & Robert Shifflett, 6229 Bonaparte Avenue, Glen Arm, MD 21057
Joanne Marsh, 5714 Williams Road, Hydes, MD 21082
Patricia Foley, 6131 Glen Arm Road E, Glen Arm, MD 21057
Jeannette Kempske, 11748 Harford Road, Glen Arm, MD 21057
Barbara Yingling, 11744 Harford Road, Glen Arm, MD 21057
Rosemary Bronzert, 12517 Regwood Road, Hydes, MD 21082
Holly Hammond & Charles Bronzert, 10900 Harford Road, Glen Arm, MD 21057
Patti Thoorn, 6316 Hutschenreuter Road, Glen Arm, MD 21057
Ibby Fazzini, 12330 Long Green Pike, Glen Arm, MD 21057
Jim Shipley, 6801 Glen Arm Road East, Glen Arm, MD 21057
Joe Tiberi, 6041 Glen Arm Road East, Glen Arm, MD 21057
Dave Poehler, 12241 Harford Road, Glen Arm, MD 21057
Donna Carter, 5515 Williams Road, Hydes, MD 21082
Keith Reuling & Nancy Koerner, 12505 Regwood Road, Hydes, MD 21082
Mary Lou Wickham, 11752 Harford Road, Glen Arm, MD 21057
Lisa Vindiola, 11930 Harford Road, Glen Arm, MD 21057
Scott Striebinger, 18 Vista View Ct., Kingsville, MD 21047
Doug Honbarrier, 6219 Bonaparte Avenue, Glen Arm, MD 21057
Bernadette Poehler, 12241 Harford Road, Glen Arm, MD 21057
Donna Gillespie, 32 Edgemoor Road, Timonium, MD 21093

IN RE: PETITION FOR SPECIAL EXCEPTION (12231 Harford Road) 11th Election District 5th Council District Nepali American Cultural Center *Legal Owner*	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2018-0122-X

* * * * * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Exception filed on behalf of Nepali American Cultural Center, legal owner ("Petitioner"). The Special Exception was filed pursuant to the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow a church or other building for religious worship on property zoned RC-2.

Professional engineers John Motsco and Joe Caloggeri appeared in support of the petition. Timothy M. Kotroco, Esq. represented the Petitioner. Numerous citizens attended the hearing and objected to the request. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP), the Bureau of Development Plans Review (DPR), State Highway Administration (SHA) and the Department of Environmental Protection and Sustainability (DEPS). None of the reviewing agencies objected to the request.

The subject property is approximately 30.8 acres and is zoned RC-2. The property is improved with an historic single-family dwelling and several outbuildings. Petitioner purchased the property last year, at which time it was rundown and abandoned. Photographs submitted at the hearing reveal extensive vandalism to the property which occurred both before and after Petitioner purchased the property. Petitioner is in the process of renovating the property, and estimates that

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at least 4-5 months of additional restoration work needs to be done before the property can be used by the congregation.

Special Exception

Doug Burgess, an attorney with a law office in the area, testified a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), wherein Maryland's highest court discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Mr. Motsco, a professional engineer accepted as an expert, explained the site plan in detail and said he has visited the property on several occasions. He testified the property is approximately 30.8 acres in size and is zoned RC-2. The witness noted the site has mature wooded buffers along all road frontages, and he testified Petitioner is not at this time proposing any new construction on the site. In conclusion, Mr. Motsco opined Petitioner satisfied each of the requirements set forth at B.C.Z.R. §502.1.

Several citizens testified in opposition to the proposal. Though each witness expressed concern with how the project may impact them individually, there were common themes in the testimony. Traffic conditions and roadway safety, and a concern for water wells and private sewage disposal, were the most frequently cited concerns. Many neighbors also complained about several events or gatherings at the site which generated a significant amount of noise. With the exception of the complaints about noise (which will be addressed in a condition included in the

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By lsln

final order), these concerns are inherent in the operation of a church or building for worship located in a rural area. In other words, most uses for which a special exception is required are regarded as "potentially troublesome because of noise, traffic, congestion...." *Montgomery County v. Butler*, 417 Md. 271, 297 (2010).

In rural zones especially roadways are often antiquated and overburdened, and water/sewer services are not provided by the County. Harford Road will be used to access the site, and as a state highway it is under the control and jurisdiction of the State Highway Administration (SHA). As Mr. Caloggeri (a professional engineer accepted as an expert) testified, the SHA, not Baltimore County, will examine the proposed access and determine whether improvements or other measures are necessary to ensure safe ingress/egress from the site.

As noted in the conditions below, Petitioner must obtain approval from Baltimore County for installation of well and septic systems for this property. Ronald Standiford, pastor of the adjacent Redeemer church, noted that the Christian school affiliated with the church has approximately 220 students and the well and septic system are sufficient. According to witnesses in Petitioner's case, far fewer people will visit this site on a daily basis, and thus there is no reason to believe the water supply and sewerage system would not be adequate.

THEREFORE, IT IS ORDERED this **22nd** day of **January, 2018,** by this Administrative Law Judge, that the Petition for Special Exception to allow a church or other building for religious worship on property zoned RC-2, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

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2. Petitioner must submit for approval by Baltimore County landscape and lighting plans for the site.
3. Prior to operating a religious facility at the site Petitioner must install a sign at the Harford Road access point (in compliance with the B.C.Z.R. §450) containing the name of the facility and street address.
4. Prior to issuance of occupancy permits, Petitioner must demonstrate to DEPS that the well and septic system proposed will be sufficient to serve the facility.
5. Prior to issuance of permits Petitioner must comply with the ZAC comment of DEPS, a copy of which is attached hereto and incorporated herein.
6. Prior to issuance of permits Petitioner must obtain from SHA an access permit authorizing ingress and egress from the site via Harford Road.
7. Special events held at the site shall be limited to the hours of 10 a.m. to 10 p.m., and outdoor amplification of music or sound shall not be permitted.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln

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Date 1/22/18
By sln

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and Sustainability (EPS) - Development Coordination

DATE: November 21, 2017

SUBJECT: DEPS Comment for Zoning Item # 2018-0122-X
Address 12231 Harford Road
(Nepali American Cultural Center Property)

Zoning Advisory Committee Meeting of **November 13, 2017.**

__X__ The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

__X__ Any development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

__X__ Any development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Additional Comments:

Reviewer: Paul Dennis, Environmental Impact Review Date: 11/21/2017

CHRISTINE R. LEARY
LEGAL TRANSCRIPTIONIST
3129 Hiss Avenue
Baltimore, Maryland 21234
(443) 622-4898
Crleary1@comcast.net

INVOICE

December 10, 2020

TO: J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, Maryland 21286

IN THE **Case Nos.: 18-122-X & CBA-19-004**

MATTER OF **Hearing Dates: 1/29, 1/30, 2/05, 2/13/2019**

NEPALI AMERICAN CULTURAL CENTER

To transcribe 1,068 pages @ $3.75 per page = $4,005.00

BALANCE DUE **$4,005.00**

Payment should be made payable to "Christine R. Leary" and mailed to the above address.

IN THE MATTER OF:

NEPALI AMERICAN CULTURAL CENTER

CASE NUMBER: 18-122-X and CBA-19-004

Hearing Date: February 13, 2019

Pursuant to Notice, the above-entitled hearing was held before the Board of Appeals for Baltimore County at the Jefferson Building, Second Floor, Suite 203, 105 West Chesapeake Avenue, Towson, Maryland 21204.

PANEL PRESIDING:

JASON S. GARBER, CHAIR

WILLIAM A. MCCOMAS, BOARD

DEBORAH C. DOPKIN, BOARD

PRESENT ON BEHALF OF THE PARTIES:

LAWRENCE E. SCHMIDT, ESQUIRE
Counsel for Petitioners

J. CARROLL HOLZER, ESQUIRE
Counsel for Protestants

Christine R. Leary
crleary1@comcast.net

TABLE OF CONTENTS

Description	**Page**
Direct exam of John Motsco by Mr. Schmidt	6
Cross exam of Mr. Motsco by Mr. Holzer	25
Re-direct exam of Mr. Motsco by Mr. Schmidt	50
Discussion regarding appeal	54
Discussion regarding scheduling	65

(ON RECORD – 11:20:42 AM)

CHAIR: All right.

MR. SCHMIDT: Can we talk about that because that's more important.

CHAIR: Yeah, that's, I mean, that's obviously big news, right?

MR. HOLZER: That is big news.

CHAIR: I mean, I'm a Philadelphia Eagles fan but, you know, still he went to Delaware, I think, Delaware, so. (inaudible). Anyway, sorry. We are here today for day eleven of the Nepali matter which, from what I recall, is case number 18-122. So, just to recap. We had, let's see, I think, if I remember correctly, July 19th, September 6th, September 12th and part of October 11th was Petitioner's case, part of October 11th, October 23rd, November 1st, January 29th and 30th were Protestant's case. Protestants have now rested so now it's back to Petitioner for rebuttal, is that correct?

MR. SCHMIDT: yes, sir.

CHAIR: Any other preliminary matters before we begin?

MR. HOLZER: No.

CHAIR: So, if you have cell phones, I mean I don't, some of you have heard this now ten days in a row, I'll make it eleven. Please make sure to put them on silent or turn them off. Please do not talk loudly, gesture or otherwise nod in

approval or do anything to communicate to any witness on the stand or cause any commotion or disruption in the Court. Unless there's anything further, Mr. Schmidt, the floor will be yours.

MR. SCHMIDT: Thank you, Mr. Garber. Mr. McComas, can I see Petitioner's exhibit number one, which is a site plan? And there's also 1-A which is, it's described as a duplicate site plan on the exhibit list and it's, it's, it's down on the second page.

MR. MCCOMAS: I have one here.

MR. SCHMIDT: I might just put this on the board.

MR. MCCOMAS: They may just say, mine just says site plan, Exhibit 1, there's nothing about an A. Probably, maybe it's indicated on there.

MR. SCHMIDT: But then there's another --

CHAIR: There's a 1-A.

MR. SCHMIDT: -- ex, there's another exhibit --

CHAIR: There's a 1-A.

MR. SCHMIDT: -- that was introduced the second day called 1-A.

MR. MCCOMAS: There is one?

CHAIR: Yeah, there should be one.

MR. SCHMIDT: Yeah.

CHAIR: I recall that. So, it may not have been done that day because it was done, I think, a day or two later.

MR. MCCOMAS: You think there's another site plan in there?

MR. SCHMIDT: Yes, sir.

MR. WILKINS: Yeah, it was on day two.

MR. SCHMIDT: It came in after, on day two.

MR. MCCOMAS: Oh, I see.

MR. SCHMIDT: Yeah. I just, I'm not sure which one.

CHAIR: Oh, so I've already introduced Mr. Schmidt for the record. Will all counsel introduce themselves for the record? So, Mr. Schmidt, you're good?

MR. SCHMIDT: Yes. For the record, --

MR. WILKINS: Zachary Wilkins.

CHAIR: Thank you. For Petitioner.

MR. HOLZER: Carroll Holzer.

CHAIR: Thank you. For Protestants.

MR. SCHMIDT: I can return this as 1-A. Thank you, Mr. McComas.

MR. MCCOMAS: That's the one, that's 1-A?

MR. SCHMIDT: Yes, sir. Yes, it is.

MR. MCCOMAS: It says here in the listing area it's a duplicate but I heard you say it's not a duplicate, is that --

MR. SCHMIDT: Well, it is, yeah, it is a duplicate. I, I wasn't sure --

MR. MCCOMAS: All right.

MR. SCHMIDT: -- and I didn't --

MR. MCCOMAS: All right, so we're good.

CHAIR: Yeah.

MR. MCCOMAS: Yeah, we're good.

MR. SCHMIDT: Okay. With that, Mr. Garber, I would call John Motsco to the stand, please.

MS. DOPKIN: Mr. Motsco, do you swear and affirm under the penalties of perjury, that the testimony you are about to give is true and correct to the best of your knowledge and belief?

MR. MOTSCO: I do.

MS. DOPKIN: And would you state your name and address for the record, and spell your last name?

MR. MOTSCO: My name is John Motsco, M-O-T-S-C-O, and I'm employed at Little & Associates at 1055 Taylor Avenue, Suite 307, Towson, Maryland 21286.

CHAIR: And you're a professional engineer, correct?

MR. MOTSCO: Correct.

CHAIR: And Mr. Schmidt, I, I don't have the exact terminology we used in terms of the expertise previously accepted.

MR. SCHMIDT: Yes. I think, Mr. Garber, and I was going to ask Mr. Motsco, you test, you previously testified on this, in this case, I think on the second day, which I believe was September the 6th, correct?

MR. MOTSCO: Correct.

MR. SCHMIDT: And at that time, you were accepted as an expert civil engineer?

MR. MOTSCO: Correct.

MR. SCHMIDT: And you're a licensed engineer by the State of Maryland?

MR. MOTSCO: That is correct.

MR. SCHMIDT: And you prepared or had prepared under your supervision and direction the site plan that's been submitted in this case as Petitioner's exhibit number one, which is on the board, correct?

MR. MOTSCO: That is correct.

MR. SCHMIDT: So, that's your work product, Mr. Motsco?

MR. MOTSCO: Yes.

MR. SCHMIDT: And Mr. Motsco, I think you were accepted, not only as an engineer, but also with expertise in the County zoning and, zoning regulations and other regulations as they may relate to the preparation of the site plan and the issues generated by this case?

MR. MOTSCO: Yes.

MR. SCHMIDT: Okay and the record will speak for itself.

CHAIR: Yes, it was just basically to refresh us where we are, but also for the record purposes as to why Mr., Mr. Motsco is on the stand now.

MR. SCHMIDT: Right.

CHAIR: And obviously, we do know that he testified before and --

MR. SCHMIDT: Sure, sure and I'm not going to be repetitive. I know Mr. McComas has the transcript as well. But Mr. Motsco, I'm going to maybe ask you to go to the board, if I can, because I'm going to ask you some questions about the site plan.

CHAIR: And before you do that, Mr. Motsco, when you give your testimony, please turn and face this direction. The reason being is we need to capture your testimony obviously by the microphones here. So, now that you're further away to also amplify your voice. Probably no different than the last time though we were in the County Council the last time you testified.

MS. DOPKIN: Does he need the pointer? There's a pointer --

CHAIR: Would you like a pointer?

MR. MOTSCO: Sure.

MR. SCHMIDT: Geez.

MR. MOTSCO: Doesn't hurt.

CHAIR: We're getting fancy. Straight, straight out of the 1970's.

MR. SCHMIDT: That's a, the Board's got an, apparently quite a budget, huh? To afford such high tech

equipment.

CHAIR: We found a TV on the side of the road and took off the antenna.

MR. SCHMIDT: Okay.

MR. MOTSCO: It actually says it came from Prince George's County government.

CHAIR: They donated to us. All right, sorry.

MR. SCHMIDT: Okay.

CHAIR: Please proceed.

MR. SCHMIDT: Yeah, it's been a long hearing. Mr. Motsco, you were here for also, were you not, for the testimony of the Protestant witness who the Protestants called, Mr. Jakubiak?

MR. MOTSCO: I was.

MR. SCHMIDT: And you heard his testimony as well. I'm going to ask you some questions about some of the things that he asked you about, and first the parking arrangement for the property. Can you tell us, Mr. Motsco, just to kind of refresh the Board's recollection, how many parking spaces are proposed for this site?

MR. MOTSCO: A total of thirty-eight spaces are proposed.

MR. SCHMIDT: Okay and how did you calculate or come up with that number?

MR. MOTSCO: A, as this is not a traditional church,

as would be reflected in the zoning regulations, the closest applicable regulation, or requirement is that there's one space for every four seats.

MR. SCHMIDT: That's what's required for a church?

MR. MOTSCO: For a church or synagogue, something with pews or seating. This case, we had a discussion with the zoning office, as well as with our client to determine that the zoning office would accept this ratio based on an expected attendance, even though there's no seating because zero seats would be zero parking spaces. And then additional coordination with the client to determine what the maximum attendance they anticipated on regular holidays and days of greater importance that would generate a large turnout. And based on that, we had a hundred and fifty peop, hundred and fifty people as the expected attendance and arrived at thirty-eight parking spaces being necessary.

MR. SCHMIDT: Okay and what, and you indicated that the County ratio requires one space for every four seats for a church, correct?

MR. MOTSCO: Correct.

MR. SCHMIDT: Do you know, you've been to the property, have you not?

MR. MOTSCO: I have.

MR. SCHMIDT: And you've seen the area of the building, the room where services would occur?

MR. MOTSCO: Yes.

MR. SCHMIDT: Do you know, when you were there, did you see the number of seats or can you give us an estimate of the capacity of that room in terms of number of chairs that could get in there?

MR. MOTSCO: During one of my visits, there were chairs set up, appeared to be for a meeting or, and a rough count was in the eighty to ninety chair range.

MR. SCHMIDT: And was that pretty much the capacity of the room?

MR. MOTSCO: That was pretty full.

MR. SCHMIDT: Okay. Where, can you show the Board on the plan where is the parking proposed?

MR. MOTSCO: The parking prop, is proposed north of the existing building, along --

CHAIR: If I may, Mr. Motsco, just, I understand what you're referring to but just for the people in the room and the Board, show us which direction is north on the map.

MR. MOTSCO: Okay. North would be to the upper right hand corner of the page.

CHAIR: Right.

MR. MOTSCO: In the generally north to northeasterly direction from the existing home or building, there's an existing driveway extending to Harford Road. There are parking spaces proposed along the main access close to the home before

you get to the turnaround, or the circle. And then there is also an existing piece of paving that seems, that just turns off into the yard, which will additionally be used for parking in the maneuvering turnaround.

MR. SCHMIDT: Okay. So, that's a hundred and thirty-eight actual spaces on paved parking, correct?

CHAIR: Mr. Schmidt, --

MR. MOTSCO: Thirty-eight.

MR. SCHMIDT: I'm sorry, thirty-eight. Thirty-eight, I'm sorry. I was thinking of a hundred and fifty-two. It's thirty-eight parking spaces on, on paved surface, correct?

MR. MOTSCO: Correct.

MR. SCHMIDT: And those, that paving, that would meet the County requirements in terms of the durable and dustless requirement for the parking spaces?

MR. MOTSCO: Correct. The, the intention is to use asphalt paving.

MR. SCHMIDT: Okay and are they adequately sized under the County zoning regulation as well?

MR. MOTSCO: Yes, they meet all the minimum size spacing and (inaudible) all requirements.

MR. SCHMIDT: Okay. Now, in addition to the paved parking that you've discussed, is there other areas of the site that are available for parking in your judgment in the event there would be a larger crowd than expected for a festival or

for whatever it might, for whatever reason?

MR. MOTSCO: The, the site in the general vicinity of the home and the circle driveway and the pieces of driveway, we've discussed that in parking too. Is generally on top of the hill, on the flatter portion. Beyond where we've proposed the additional parking, especially in the area beyond the paving to nowhere and the turnaround, there's flat, or generally flat areas that are currently lawn and would remain lawn but could be used in the event of a large, in the occasion of a large event that required overflow parking.

MR. SCHMIDT: And have you seen that type of use for other institutional or park like settings where lawn is used in the event there's an overflow or a, a crowd?

MR. MOTSCO: Yes.

MR. SCHMIDT: And do you believe it would be a practical and workable solution here?

MR. MOTSCO: Given the alternative of paving a significant additional portion of the property, yes.

MR. SCHMIDT: Okay and I assume you did not want to do additional paving if you could avoid it?

MR. MOTSCO: No, the goal was to provide a number of spaces that accommodated the typical use and but, but I've also provided some overflow in the, you know, (inaudible) parking or overflow extra people that, in general, the lawn would be protected from driving on, but with the knowledge that there is

ample space that could be used in the event that there was a need.

MR. SCHMIDT: Okay. So, Mr. Motsco, do you believe that there will be sufficient onsite parking to accommodate this proposed use?

MR. MOTSCO: Yes.

MR. SCHMIDT: Okay. You, you talked about the grade a little bit. Let me, let me next move to another topic, if I can. You're an engineer you indicated, correct?

MR. MOTSCO: Correct.

MR. SCHMIDT: And as part of your responsibilities in preparing or shepherding a project such as this, will you be require to address storm water management requirements?

MR. MOTSCO: Yes.

MR. SCHMIDT: Can you tell us how that works at the County, generally the process and the procedure?

MR. MOTSCO: Yeah, assuming that the special exception is confirmed by this Board, the next step would be to file a DRC, or design review committee, application and in that, we would seek guidance from Baltimore County review agencies as to the particulars of our, what our further requirements will be and the, one of those requirements that is required, will be required to add, be addresses is the prov, to provide storm water management for any proposed impervious areas and to address the, any negative impacts the runoff may

have on adjoining properties.

MR. SCHMIDT: Okay and have, have you done, first of all, can you tell us a little bit about the topography of the site and where the impervious areas are in terms of the slopes and the things that will, will go into actually preparing a storm water management plan for submittal?

MR. MOTSCO: The proposed improvements and most of the existing improvements exist on the flatter portion of the site at the top of the hill. Surrounding that, the ground falls in every direction and more significantly towards Harford Road, but additionally it falls towards the southeast, towards an existing stream that is on site.

MR. SCHMIDT: Okay. Let me ask you, Mr. Motsco, although you haven't submitted a plan, storm water management plan, to Baltimore County at this stage, can you tell us some of the factors or, or have you done an analysis, I guess I should ask, of some of the factors that you would look at in terms of storm water management and whether you believe it's workable and appropriate for this site, how it would generally work?

MR. MOTSCO: We haven't done any detailed calculations but obviously we're aware that that requirement would be coming and as part of our due diligence for providing a service to the client, we've examined roughly some areas on site that would be suitable for the installation of a storm

water treatment facility that is, would be acceptable in Baltimore County and additionally, we've looked at scenarios where we would be able to provide a suitable outfall that would not be detrimental to the neighbors. And primarily that would be to the southeast where there is the existing stream on site.

MR. SCHMIDT: What's a, what is a suitable outfall? What's that mean under the storm water management terminology?

MR. MOTSCO: Suitable outfall is one where you have a legal right to discharge the water and also that it could be done safely without causing erosion or damage to downstream properties.

MR. SCHMIDT: Okay and where, what do you anticipate the suitable outfall to be here?

MR. MOTSCO: For the type of facility that would be installed, the, it would be a small drain outlet that would be allowed to run across the property through the existing wooded areas and given time, it would arrive in the stream onsite.

MR. SCHMIDT: And then water would be discharged into that stream?

MR. MOTSCO: Yes.

MR. SCHMIDT: Would it be controlled, in terms of the volume of the flow or the, the, the extent of the water?

MR. MOTSCO: If it, if the calculations require that it would be, we would have to provide that control.

MR. SCHMIDT: Is there a requirement in terms of the

quality of the water?

MR. MOTSCO: Yes, the, the primary concern would be to provide quality, water quality treatment, or environmental site design and those measures, just by their very nature of detaining the water, do provide a level of runoff reduction and --

CHAIR: Runoff what?

MR. MOTSCO: Reduction.

CHAIR: Thank you.

MR. MOTSCO: And reduce the peak flow as well.

MR. SCHMIDT: Okay.

MR. MOTSCO: The goal with the micro-facility is what they're, the terminology is, that the peak outflow from the site in which in this case would only be the proposed impervious areas, the peak outflow, if your facility is designed correctly, will mimic an existing condition of woods in good condition, which is, in engineering terms, is the best case as far as runoff and has the highest absorption. So, if the storm water is designed correctly and meets the criteria, it would actually, theoretically, result in a runoff from the property.

MR. SCHMIDT: Okay. So, you're looking at con, --

MR. MOTSCO: I'm sorry, reduction of runoff on the property.

MR. SCHMIDT: Re, reduction of runoff. So, you're

looking at managing the quantity of the water that's coming off the site and also the quality of the water, is that correct?

MR. MOTSCO: Primarily the quality with the quantity as a beneficial side effect.

MR. SCHMIDT: Okay and Mr. Motsco, I mean, in terms of the special exception criteria, do, are you able to express an opinion as to whether there would be negative downstream impacts or flooding on adjacent properties due to this proposal?

MR. MOTSCO: No, there will not be. And I believe the regulations that would be applicable further down the road would serve to prevent that.

MR. SCHMIDT: Okay, okay. All right. I guess moving on. Mr. Motsco, let me ask you about, about, there was some testimony from Mr. Jakubiak about sound. Now, you're not an acoustical engineer, correct?

MR. MOTSCO: I am not.

MR. SCHMIDT: So, I'm not offering the witness as such. Can you tell us a little bit, just about the size of the property and sort of the features of the property, the topography of the property as it may impact sound, just generally as an engineer?

MR. MOTSCO: The property is 30.8 acres and the, the area of propose use is generally situated in the center of the site and the neighboring properties, at their closest, are

about four hundred feet away.

MR. SCHMIDT: Okay.

MR. MOTSCO: So, there's a significant distance as well as the change, significant change in topography from this building to the surrounding dwellings.

MR. SCHMIDT: Okay. How about the Harford Road, where is that located? Maybe you can show it with your pointer, your high tech equipment.

MR. MOTSCO: Harford Road is located along the northern and western sides of the property and separates the majority of neighboring homes from the property.

MR. SCHMIDT: And obviously, there will be sound associated with traffic on Harford Road that we've heard about, correct?

MR. MOTSCO: Correct.

MR. SCHMIDT: So, that that sound from the traffic on Harford Road will be much closer, at least to the homes that are on the other side of Harford Road, correct?

MR. MOTSCO: Correct.

MR. SCHMIDT: Okay. How about is the property wooded along its perimeter in any areas?

MR. MOTSCO: Yes, there are, the, there's a significant stand of trees that surrounds the property adjacent to Harford Road, as well as along the stream on the southeastern side of the property. It's a --

MR. SCHMIDT: Okay.

MR. MOTSCO: -- developed stand of older trees.

MR. SCHMIDT: Okay and you would expect that most of the events here, if they're outside, would likely occur in good weather when the trees were in bloom and had leaves on them.

MR. HOLZER: Objection.

MR. SCHMIDT: If you think --

CHAIR: I mean, does he --

MR. HOLZER: I'm sorry.

CHAIR: No, that's okay.

MR. SCHMIDT: Do you have an opinion?

CHAIR: Well, let's ask this. Do you have information regarding that one way or the other, as to when the events may, whatever events they are, may occur in terms of the time of year?

MR. MOTSCO: I've been told by our client that they would primarily be in the summer, of course, better weathered months to accommodate the outside --

CHAIR: As long as we have an outstanding as to where he has that information, you may answer the question.

MR. SCHMIDT: Okay. He, he just did, I think.

CHAIR: Sorry, if you don't mind just doing it again?

MR. SCHMIDT: Yeah, just, when do you expect that most of the folks will be out, out of doors, if at all, on the property?

MR. MOTSCO: Based on the information I've been given from our client, I would expect that to be during the warmer months of the year.

MR. SCHMIDT: Okay. Let me ask you, Mr., Mr. Motsco, does Baltimore County have any subjective standards or requirements as it relates to sound, as far as you know, as an engineer?

MR. MOTSCO: There is one requirement I'm aware of as it relates to sound generation and --

MR. SCHMIDT: And what is that?

MR. MOTSCO: There's a requirement that in a new, in a subdivision, or a project creating new lots for home construction, if it's located within a, five hundred feet of the paving of a regulated highway, which in this case would apply to interstates and other limited access highways, there's a requirement that a sound study be performed.

MR. SCHMIDT: Okay and can you, is, is Harford Road a quote, regulated highway under that definition?

MR. MOTSCO: It is not.

MR. SCHMIDT: So, that sound requirement that you're aware of would not apply here?

MR. MOTSCO: No, there is, it would not apply to the property in question or the surrounding roads.

MR. SCHMIDT: Okay. So, the County has no objective or established regulation or law which would prohibit or impact

the development of this property?

MR. MOTSCO: No.

MR. SCHMIDT: Okay. Tell us though, just for comparison sake if you can, about how the County does regulate sound in that instance, as it relates to the interstates, the beltway and the like?

MR. HOLZER: Objection, objection. That's not relevant since he already testified it's, it doesn't fit this property. So, why do we need to know what would happen at some other road?

CHAIR: I understand.

MR. SCHMIDT: I, I, I think it's instructive to the Board that the, since the witness has testified that there is no, what I would call, sound regulation here. It would, it, I think it's instructive to the Board to know what steps the County has made and what they do require when they are regulating sound because the Board can, I think, take notice, I think some of it will be in argument, but I think the witness can opine that the regulations, as they relate to sound, in those instances, have some application here.

CHAIR: I'm sorry, I'm, I'm missing the point. So, he, he has explained that this, whatever express sound regulation that there is does not apply to this property?

MR. SCHMIDT: Yes.

CHAIR: And you're looking for to get testimony from

him to form an opinion as to what the County would require or?

MR. SCHMIDT: Well, I think it's in, I guess what I'm saying, Mr. Garber, is that I think it's, it, it may be helpful for the Board to understand what the requirements of the County sound policy are in that instance because --

CHAIR: In what instance?

MR. SCHMIDT: Well, I think the, in the instance where the County does do the regulation.

CHAIR: Right, but if it doesn't apply here, then we're going to go down a road of here's what applies in other places and here's what they could have done here but chose not to do, some of that, I imagine, is going to be part of your argument.

MR. SCHMIDT: Yes, sir.

CHAIR: Right. But the fact of the matter is, it doesn't apply here so as to what they could do or not do or whatever the case may be in other instances, I don't know how far we have to go down that road to, for you to be able to have your argument.

MR. SCHMIDT: Okay. I'll, I'll, I'll argue it in, in my memorandum.

CHAIR: All right. So, I will sustain your objection, Mr. Holzer.

MR. SCHMIDT: Okay.

CHAIR: And we, you certainly are free to argue in

memos as to whatever you feel is necessary from testimony.

MR. HOLZER: Thank you.

CHAIR: Sure.

MR. SCHMIDT: Okay, okay. I thank you, Mr. Motsco. Let me ask you finally, if I can, in terms of the use of the property, is the subject property in any kind of agricultural use at the present time?

MR. MOTSCO: It is not.

MR. SCHMIDT: Okay. Do you know when it, do, do you know, Mr. Motsco, you may not know, when it was last used for any agricultural purposes?

MR. MOTSCO: I have looked at aerial photographs going back to the fifties and as far as I can tell, it was maintained in roughly this condition with no farming and the, the same existing features as far back as the fifties.

MR. SCHMIDT: Okay. All right and do you know where the nearest, or I think you heard Mr. Jakubiak's testimony as well, do you know where the nearest agricultural use is in this, to the, in proximity to this property?

MR. MOTSCO: Yes. Roughly speaking, it is south, south east of the property on the other side of the stream, roughly a quarter mile from our property.

MR. SCHMIDT: Okay. Do you believe that this proposed use will have any adverse impact on any of the agricultural operations in the general locale?

MR. MOTSCO: I do not.

MR. SCHMIDT: Why not?

MR. MOTSCO: There, it's, maintaining a roughly existing condition and the, the significant distance from the nearest farm.

MR. SCHMIDT: Okay. Board's indulgence for just a minute.

CHAIR: Um hm. And just so I understood that last testimony was, you said the nearest agricultural use is about a quarter mile to the south of the stream?

MR. MOTSCO: To the south of the property line.

CHAIR: South of the property line. But you're not pointing to the south though, you're pointing to the east.

MR. MOTSCO: South, southeast.

CHAIR: Southeast. So, a quarter mile to the southeast and then it is your opinion that there are no impacts on any ag, agricultural uses in the area because it's been used in, it's going to be used in a similar condition as before and the distance to the nearest agricultural use?

MR. MOTSCO: Yes.

MR. SCHMIDT: Mr. Garber, that would be all the questions I have of Mr. Motsco.

CHAIR: All right. Mr. Holzer?

MR. HOLZER: Thank you. Mr. Motsco, you're a civil engineer that you testified the second day, first or second day

of this hearing, is that correct?

MR. MOTSCO: Yes, I am a civil engineer.

MR. HOLZER: Yeah. You are not a land planner per se, are you?

MR. MOTSCO: I serve, I serve a land planning function in my office and in my course of business. The State of Maryland does not recognize any land planning certification.

MR. HOLZER: Right, and does Baltimore County recognize any land planning certification either?

MR. MOTSCO: No.

MR. HOLZER: Okay. So, I believe you testified, let me, let me make sure I've got this correct. Did you attend any courses and obtain any degrees in, just in land planning?

MR. MOTSCO: That was part of my course work in obtaining my civil engineering degree.

MR. HOLZER: Right.

CHAIR: Do you need to return to your seat or do you need to be up at the board?

MR. MOTSCO: I, I guess it's more of a question for Mr. Holzer.

MR. HOLZER: Yeah, I'll let him stay there. I'll try to jump around.

CHAIR: I, I will defer to you, Mr. Holzer.

MR. HOLZER: Yeah, I'll try to jump around. I, I can't really see, but do you show on the exhibit that you had

on the board there and was introduced earlier, do you show the tennis courts being located on site?

MR. MOTSCO: I do.

MR. HOLZER: Do you show the land, volleyball court being shown?

MR. MOTSCO: The volleyball court and the tennis court are the same facility.

MR. HOLZER: Correct, correct. So, that's shown on the site and did you --

CHAIR: Mr. Holzer, would you like him to point out where that is for you?

MR. HOLZER: I, I think we can see it.

CHAIR: Okay.

MR. HOLZER: I, I'm familiar with it.

CHAIR: Okay.

MR. HOLZER: And do you recall Mr. Ghimire, when he testified in reply to Mrs. Murphy's question that, that they would eliminate the, the tennis court or the, the volleyball court, whichever way you want to call it?

MR. SCHMIDT: Objection. I, I think that's a mischaracterization of the test, of the testimony but.

CHAIR: Well, number one, he can speak to what he recalls as to the testimony. Two, the record will reflect what the actual testimony is.

MR. SCHMIDT: Right.

CHAIR: So, the relevance of the question, obviously will hinge upon what the actual testimony was and what his answer is.

MR. HOLZER: Yeah.

CHAIR: So, I will overrule the objection and you may answer.

MR. MOTSCO: I can't say that I recall that in detail.

MR. HOLZER: Okay. So, right now, even though he testified that to this Board, it's still being shown on the site plan that you proposed to have the Board accept in the special exception, is that correct?

MR. MOTSCO: The tennis and volleyball court is shown on the plan.

MR. HOLZER: Right. Any other buildings shown on the plan?

MR. MOTSCO: There are some smaller outbuildings. There's a dwelling shed and a pool that are east and southeast of the main structure and then there is a large existing barn at very south, towards the very southern portion of the property.

MR. HOLZER: And are any of those buildings proposed to be removed under your site plan?

MR. MOTSCO: They are not.

MR. HOLZER: Okay. So, as it stands now, regardless

of the testimony of, of Mr. Ghimire and others from the Petitioner's side, all of those existing facilities are going to stay according to this plan?

MR. SCHMIDT: Objection. And just, Ms. Garber, it exceeds the scope of the direct examination. I didn't talk about what buildings are coming and going. Obviously, the record will reflect what Mr. Ghimire said and what the church, I'm sorry, what the temple may do or not do, but it's beyond the scope of what this witness was called for today.

CHAIR: He is called as a rebuttal witness. Can you tie it to something with the rebuttal testimony?

MR. HOLZER: No, I'm not going to make an issue out of it. If, it, it, the record says what it says.

MR. SCHMIDT: Sure.

CHAIR: The record says, agreed.

MR. HOLZER: And we've got the transcript if the Board reads them.

CHAIR: And I'm sure that you're going to certainly argue that whatever points you want to elicit anyway. And you have the record for that purpose.

MR. HOLZER: Yes.

CHAIR: Okay. So, we can sustain the objection.

MR. HOLZER: Okay. You are not an acoustical engineer, are you?

MR. MOTSCO: I am not.

MR. HOLZER: Okay. Let me see. Do you happen to know how many congregants does NACCB have? Did they ever tell you that?

MR. MOTSCO: My understanding some time ago when this started was that it was in the neighborhood of a hundred. I do not know what that number would be currently.

MR. HOLZER: Okay. Do you know how many members that they have?

MR. MOTSCO: No.

MR. HOLZER: Okay. So, if it was a thousand would that cause you to alter your analysis of this site?

MR. MOTSCO: With regard to what portion?

MR. HOLZER: All of it. Sound, traffic, well, you didn't talk about traffic, but sound, storm water management, etcetera.

MR. MOTSCO: Based on what I've been told from our client that the maximum expected attend, regular attendance would be a hundred and fifty people, based on that, I would have no reason to change my testimony.

MR. HOLZER: Okay. So, if they've testified that there's a thousand people in their congregation, or if that's not, probably not right word, but as a member of NA, whatever, I'm --

CHAIR: Petitioner?

MR. HOLZER: Yeah, of the Petitioner.

CHAIR: Sure.

MR. HOLZER: That wouldn't affect your testimony or opinion in regard to whether this site is satisfactory?

MR. MOTSCO: Say the first part again, please?

MR. HOLZER: If they had told you that they have a thousand people, a thousand members or people who have signed up, however you want to characterize them, would that impact your opinion that you've just rendered?

MR. MOTSCO: I don't know that I would believe that membership is directly tied to regular attendance.

MR. HOLZER: Okay.

MR. MOTSCO: I think my experience as a church goer myself is most people don't go every week.

MR. HOLZER: Well, let me ask you this question then. I, when you testified previously, you said that you had personally visited the site two times.

MR. MOTSCO: Yes.

MR. HOLZER: Is that right?

MR. MOTSCO: Yes.

MR. HOLZER: Did you attend a meeting or an event that was held as an open house on the site on February 25th, 2018?

MR. MOTSCO: I did not.

MR. HOLZER: Did you attend an event held there on April 30th, 2018?

MR. MOTSCO: I did not.

MR. HOLZER: Did you attend an event held there on June 10th, 2018?

MR. MOTSCO: I did not.

MR. HOLZER: Did you attend June 19th, 2018, an event held onsite?

MR. MOTSCO: No.

MR. HOLZER: Did you attend a July 4th, 2018 event held on the site?

MR. MOTSCO: No.

MR. HOLZER: Did you attend a July 11th, 2018 event held on the site?

MR. MOTSCO: No.

MR. HOLZER: Did you attend a July 25th, 2018 event held on the site?

MR. MOTSCO: I did not.

MR. HOLZER: Did you attend October 6th, 2018 event held on the site?

MR. MOTSCO: No.

MR. HOLZER: Did you attend July 28th through August 3rd event held on the site?

MR. MOTSCO: No.

MR. HOLZER: Did you attend a November 4th, 2018 event held on the site?

MR. MOTSCO: No.

MR. HOLZER: Thank you.

CHAIR: I'm sorry, Mr. Holzer, just real quick, just so I have all those dates that you just identified.

MR. HOLZER: Yes.

CHAIR: What was the February date, 25th?

MR. HOLZER: February, February 25th, 2018.

CHAIR: And April?

MR. HOLZER: April 30th, these are all 2018.

CHAIR: Yes.

MR. HOLZER: April 30th, June 10, June 19, July 4, July 11, July 25, October 6, July 28 through August 3rd, and November 4th.

CHAIR: Right. And you identified the February one as an open house and the rest as events?

MR. HOLZER: Events.

CHAIR: Thank you.

MR. HOLZER: Yes.

MR. SCHMIDT: Mr. Garber, I would just say that's assuming there's evidence that there were, indeed, quote, events on those days.

CHAIR: I, I don't know what that refers to necessarily other then they're being characterized as events.

MR. SCHMIDT: Um hm, yes, sir.

MR. HOLZER: And were you invited to observe any of the events that, or, or meetings, or parties or open houses,

whatever they be characterized, were you invited to attend any of them by your client?

MR. MOTSCO: I was aware of some of the dates prior to them occurring.

MR. HOLZER: But you didn't go?

MR. MOTSCO: No.

MR. HOLZER: Okay, all right. Okay. You just testified that you were in attendance at, at the site though inside of the building. I assume that's the large house, is that correct?

MR. MOTSCO: I've actually been in, I believe all the, unless there's something hiding in the woods, I believe I've been in all the buildings.

MR. HOLZER: Okay. What building did you see chairs of eighty to ninety?

MR. MOTSCO: That would be in the main house.

MR. HOLZER: Right.

MR. MOTSCO: Main building.

MR. HOLZER: And do you recall when that was, what date that was?

MR. MOTSCO: That was the date that Mr. Schmidt and I visited the site and that is in the record. We submitted photos taken that day.

CHAIR: I was about to say, Mr. Holzer, I recall --

MR. HOLZER: Yeah, I know, I do.

CHAIR: Okay.

MR. HOLZER: I do.

CHAIR: And I know there's an exhibit too, if it helps.

MR. HOLZER: Yes, they put in photos.

MR. SCHMIDT: I think there's a visit actually shows the folding chairs all set up.

CHAIR: Yes, that's what I'm thinking.

MR. SCHMIDT: Yes, sir.

MR. HOLZER: Looking at the storm water management, you said that you haven't done any plans at this time, you haven't done any detailed analysis of storm water management. So, your testimony today, can that be characterized as hypothetical or in theory only and not, not documented by any analysis, proper study?

MR. SCHMIDT: Objection. That's just argumentative to the witness. He testified that he will be required to do a storm water management plan, but had done an analysis of part, as part of his due diligence and I just think it's mischaracterizing his testimony.

CHAIR: It is cross examination. He's allowed to certainly ask questions and have the witness provide testimony. I do, I will say I do recall the same as Mr. Schmidt, but it is up to the witness to then answer Mr. Holzer's questions. So, I will overrule the objection.

MR. HOLZER: Thank you.

MR. SCHMIDT: You can answer, you can answer.

CHAIR: And you want the question again, don't you?

MR. MOTSCO: Yeah, please. I want to make sure I answer it correctly, or hear it correctly.

CHAIR: Well, both really.

MR. HOLZER: Is it, is it fair to say that your testimony here today was not based on any plan that was, has been prepared, not, not based upon any detailed analysis of the storm water management aspects of, of the property and of the water runoff, but just hypothetical or a general analysis by you?

MR. MOTSCO: I wouldn't call it detailed or hypothetical. I drew on my extensive experience preparing many storm water management plans, looked at the site for the existing topography and land cover and based on the size of the site and the grades that exist on site, combined with the relatively small scope of improvements compared to the size of the site, I'm comfortable in saying that based on my experience providing storm water, there's plenty of room to provide adequate storm water management on this property.

MR. HOLZER: Okay. Now, you said, you testified that the DRC would have to review that aspect of it, is that correct?

MR. MOTSCO: They would review the property to

provide guidance for the remainder of the development process.

MR. HOLZER: Right, and part of that would be the storm water management aspect?

MR. MOTSCO: DRC wouldn't review storm water management, DEPS, environ, and Department of Environmental Protection and Sustainability's Storm Water Management Section would provide the detailed review following the DRC Committee, DRC meeting.

MR. HOLZER: Now, you mentioned DRC applications, so that's why I asked you the question. So, does the DRC analyze the impacts of the storm water management plan?

MR. MOTSCO: No, they do not. They provide guidance as to which departments will need to review the plan further as part of your approval process.

MR. HOLZER: And, okay, so they provide, the DRC provides guidance and ultimately you're saying the final determination would be the Environmental Department?

MR. MOTSCO: The Storm Water Management Section of the Environmental Department.

MR. HOLZER: Right, okay. And all this proposed storm water management, any outfall would have to go to a suitable outfall, as you've described it, as most of us know what that means, is that correct?

MR. MOTSCO: Yes.

MR. HOLZER: Okay and that suitable outfall, it,

you're suggesting would be the stream that flows through the property?

MR. MOTSCO: That is one suitable outfall.

MR. HOLZER: Are there other suitable outfalls?

MR. MOTSCO: There's an existing storm drain in Harford Road close to the entrance. And depending on the type of facility we end up with, we may have other options that would --

MR. HOLZER: So, so what kind, what kind of other facility could you end up with? And why haven't you done it up till now so that the Board could understand this issue?

MR. MOTSCO: The facilities would all be environmental site design practices. There's as a number that are acceptable for use in Baltimore County. As far as structural, or micro-scale practices, you could use a micro-bioretention, level spreaders, submerged gravel wetland, bio swales, grass swales, enhanced filters. There's additional non-structural practices, such as roof top disconnects, non-roof top disconnects, sheet flow to buffer and when we get into our detailed analysis, if the approval to go forward is granted, that's when we would make a determination about what is best suitable for the site when we get into the details of it.

MR. HOLZER: Would the, would the neighboring properties have a right to have an impact on that decision or

is it solely up to your client and the County to approve what you're proposing?

MR. SCHMIDT: Objection. That's a legal question, I mean, will the neighbors --

CHAIR: Please stand up.

MR. SCHMIDT: I'm sorry, I'm sorry, Mr. Garber. But that's a legal determination as to what the role, what role the neighbors may have as to the approval of the storm water management plan. As the witness has said, I mean, the way it works is assuming there's zoning approval, one, we would go to the Development Review Committee and they would determine what development process we would follow, which would include storm water management and then that's approved by the Department of Environmental Protection.

CHAIR: Well, I think the question is fine for cross examination.

MR. HOLZER: Yes.

CHAIR: That is his under, it's basically, perhaps better worded at the moment, step by step, as in what his familiarity is with the process and whether then the Protestants, or neighboring properties, would be able to participate in that process --

MR. HOLZER: Right.

CHAIR: -- to provide their opinions and voice to that process.

MR. HOLZER: Sure.

MR. SCHMIDT: Well, as Mr. Holzer knows, and the Board knows, the Board gets appeals of the DRC decisions all the time.

CHAIR: Yes, and but I think he's directing the question though to Mr. Motsco to see his familiarity with the process. So, I'm going to allow that and see where that takes us.

MR. HOLZER: Thank you.

MR. SCHMIDT: Yes, sir.

CHAIR: Yes, so overruled for now.

MR. MOTSCO: The storm water management plans, the facilities would be privately owned and maintained for this facility, but the plans themselves would be public record, it would be available to anybody in the community.

MR. HOLZER: To your knowledge, I, my question related to is there any place in the process where depending on which option you use to resolve the issue, whether they would have an, an ability to participate in that? Or register their concerns or register approvals?

MR. MOTSCO: I can't answer from a legal standpoint because I don't know how it occurred. But I know from a personal experience that I provided a review of a subdivision storm water management (inaudible) community that was adjacent to the proposed subdivision. So, there, I don't know what

mechanism had that occur, but I know that it has occurred in the past.

MR. HOLZER: Okay. To sum it up, the neighbors and this Board do not know what option you end up recommending or asking the County to approve in regard to getting rid of storm water management and how it might affect neighboring properties, is that correct?

MR. MOTSCO: I would not say getting rid of, I would say addressing storm water management, not getting rid of storm water management.

MR. HOLZER: Well, I didn't mean getting rid of the, the issue, I meant getting rid of the water.

MR. MOTSCO: I don't know that I can answer that question.

MR. HOLZER: Okay. In your prior testimony, do you recall testifying that you should not be testifying about sound? Do you remember that statement in the record?

MR. MOTSCO: I recall that I stated that I was not qualified as an expert in sound engineering.

MR. HOLZER: Okay and your client has not done a sound study of any sort, have they?

MR. MOTSCO: They have not, to my knowledge.

MR. HOLZER: Okay. When you were asked questions about what's the closest agricultural farming, you said a quarter mile in a south dir, direction. Could you show us

where that is on the, on the site plan that you have? And if it's not on the large part of it, can you look up in the right hand corner and sort of give us an indication of where that is?

MR. MOTSCO: It is, if you, it's too far away to appear on the main plan. It's, on the vicinity map, it is in an area to the south of Mount Vista Road. And I'm going to do my best to describe this with some stuff that's not labeled. There is a squiggly line representing a stream coming from the lower right hand corner of the vicinity map and there is an area at the end of that, before you get to the streams that are closer to the property, that is currently in agricultural use.

CHAIR: Would it be beneficial to look at Exhibit 2?

MR. HOLZER: Well, I just, --

CHAIR: Since he's now identified where it would be, that Exhibit 2 may be able to show specifically?

MR. HOLZER: Sure.

MS. DOPKIN: I think that Mr. McComas has the large, Petitioner's Exhibit 2.

CHAIR: Mr. McComas, do you have the actual exhibit? This is Ms. Dopkin's.

MS. DOPKIN: Petitioner's Exhibit 2.

MR. HOLZER: Why don't you, just for the record though, since you're here, why don't you just mark with a circle the area that you just described up there? Thank you.

MR. SCHMIDT: Mr. McComas, I think there were a

couple of aerials that Mr. Garber is referring, aerial photographs.

MR. MCCOMAS: You got it (inaudible).

MR. SCHMIDT: Yeah.

CHAIR: Yeah, there was a large one that was presented and then there were hand sized ones for the Board's own use.

MR. HOLZER: This is marked as Petitioner's CBA Exhibit 2.

CHAIR: Yes, there was, again, a, a larger size one and then the more handheld size.

MR. HOLZER: If, --

CHAIR: And show Mr. Schmidt real quick, just so we--

MR. SCHMIDT: Yes, sir, I'm familiar with it. Yes, sir.

CHAIR: Okay, thank you. Sorry. You may proceed.

MR. HOLZER: Looking at that, could you describe the area of agriculture farming a quarter mile from the subject site that you just testified to? And that you indicated on the upper right hand corner of Petitioner's Exhibit 1?

MR. MOTSCO: Again, it's, there's not really a whole lot in the vicinity to identify it. It's located on the, we're looking at Petitioner's Exhibit 2, the eleven by seventeen size. It's located on the right half of the page, close to the center. It's towards the southern end of it, to the southern

portion of this exhibit and there's a, sort of rectangular, you can see a parcel outline around part of it, and there's a, can't tell from this scale if it is a barn or a house, but it has a white roof and a row of evergreens next to it that's on the same property.

MR. HOLZER: If I may --

CHAIR: I know what you're, where you're going with it.

MR. HOLZER: Could you use my pen and circle the area that you just described?

CHAIR: Put your initials there, sir.

MR. HOLZER: Put your initials in it.

CHAIR: And if you didn't do that on the board, on, on one, please do so so, and also can you write 2/13/19, so we know the date that you did that? Same on Exhibit 2.

MR. MCCOMAS: Do you also want to do it on the larger photo?

MR. HOLZER: No, I think this is more than enough.

CHAIR: I think that's sufficient.

MR. HOLZER: Thank you, appreciate it.

CHAIR: And show Mr. Schmidt. Did he see where it was marked?

MR. SCHMIDT: I saw it, yes, sir. I was able to see it when he was hold it.

CHAIR: Okay.

MR. SCHMIDT: Yes, sir. Thank you.
CHAIR: Thank you.
MR. HOLZER: Let's see.
CHAIR: Again, if you want to sit down, you certainly can.
MR. HOLZER: I'm searching.
CHAIR: No, it's quite all right. Take your time. I mean, Mr. Holzer, if you're doing that, I, I may have a question or two to ask during this time.
MR. HOLZER: Sure, go ahead. I just want to --
CHAIR: Just so I understand, I understood generally from your testimony that the storm water management, I guess, I don't want to call them plans, because there's no plan at the moment. But what your opinion is as to what may occur in the future and how, and what direction it may go is to the east of the property, where the main house is, correct?
MR. MOTSCO: More southeast from the main house but east, southeast, there's a portion there where the stream is onsite, we would direct it towards that.
CHAIR: Okay. So, where in relation to where your expectation as to storm water management area would be, would be the overflow parking on the lawn, that you would expect?
MR. MOTSCO: Where the storm water would be in relation to the parking, to the overflow parking --
CHAIR: Where would the overflow parking be in

relation to where the storm water management, I guess, I don't know, it's hard for me to call it (inaudible) when we don't know exactly, but using what your expectation would be as to where things would be located for storm water management, where would the overflow parking area be?

MR. MOTSCO: They would be near each other. They would, ideally they're, they'd both have the same restrictions that would drive them to be located on the same, similar topography, the flatter portions of the site and we would locate the storm water management in a way to be near or adjacent to the overflow parking, but at the same time, not interfere with its use.

CHAIR: Is there any concern about pollution or contamination from using the lawn for overflow parking as it relates to storm water management pond or if it drains into a stream?

MR. MOTSCO: The storm water management facilities that are currently required by State and local law are designed to remove pollutants from runoff to help protect the health and general condition of receiving waters.

CHAIR: Would it, would the expected location of any storm water management area or into the stream itself, would that have any impact on the ground water for well usage for the next door neighbor?

MR. MOTSCO: There are requirements in COMAR and

COBAR as to the setbacks from wells for the various types of proposed facilities, depending on the facility, the setback is greater or smaller and so --

CHAIR: Just so I understood what you just said, you said there would be, that there's a regulation for wells or for, is it for the storm water management?

MR. MOTSCO: For storm water management.

CHAIR: Right, because the well presumably is pre-existing?

MR. MOTSCO: Yes.

CHAIR: Right. Okay.

MR. MOTSCO: So, there are minimum distances that we are allowed to site storm water practices from any existing well.

CHAIR: What is your understanding, if there is any perceived conflict between the ground water for well water usage and storm water drainage runoff area? Is that something that, that gets addressed at a later date or is it something that should be addressed before it gets submitted for future review, if it gets past the zoning process?

MR. MOTSCO: If I was preparing a storm water plan, that initial portion of my analysis would be what, what area of the site is suitable for installing a storm water practice and in a site like this that is served by well and septic, that's one of the primary concerns, is that you're meeting the

required setbacks and hopefully exceeding them from both the septic and the well.

CHAIR: If it's subsequently, and this is a hypothetical, subsequently determined that there is a change in the water quality for the neighbor, is there anything that can be done to remedy the change in quality that it, it, we'll assume is attributed to the storm water management from the adjacent site?

MR. MOTSCO: I don't know that I'm, have any experience with remediating a well contamination that I would be able to say.

CHAIR: And again, I recognize these are all assumptions, so. And that is something though that would be addressed, you would think, to whatever extent it can be in advance to, by DEPS or another agency?

MR. MOTSCO: Correct and I've, I've, I have the opinion that the setbacks, as determined by the State and the County for these types of facilities, the intention there is to be cautious with the goal of protecting the well versus all other scenarios.

CHAIR: If it's drained into the storm drain in the front, there would not necessarily be as, a conflict if it drains to the east, is that fair to say?

MR. MOTSCO: I feel that they're both suitable, as the draining to the east to the stream is significant distance

from any adjoining wells. Draining towards the storm water, the storm drain on Harford Road is actually putting things closer to the adjoining wells.

CHAIR: Oh, okay. Thank you. Sorry for that.

MR. HOLZER: Yes. If I could follow-up with one question after what you just said. If you were going, going to the west, if you decided to go that route, would it impact the Foxworthy property, their septic system, septic field? Have you had an opportunity to examine that?

MR. MOTSCO: Can you point me to Foxworthy?

MR. HOLZER: It's at the entrance, I believe.

MR. SCHMIDT: It's right across, just, just, I believe it's right across the street next to Bonaparte.

MR. HOLZER: Right.

CHAIR: At the north, right, at the north end of the property.

MR. SCHMIDT: Yeah, at the north, yeah, just so the witness can see.

MR. MOTSCO: That's north and it's located right across Harford Road from the existing entrance.

MR. HOLZER: Yes, and her septic area, would there be impacted, any potential impact that, if you chose that route?

MR. MOTSCO: If we were to discharge in that direction, the facility would be located outside of the required setback from the existing septic and it would have to

be designed in a way that it did not discharge into the existing septic system.

MR. HOLZER: Okay. I have no further questions.

CHAIR: I'm sorry.

MR. HOLZER: I was waiting for you to finish.

CHAIR: I appreciate that. Mr. Schmidt?

MR. SCHMIDT: Just a couple. Just, Mr. Motsco, just so I'm clear and because you're the engineer and all the rest of us are laymen, you would anticipate that a storm water management plan will ultimately be required by Department of Environmental Protection and Sustainability, assuming we get zoning approval to move ahead, correct?

MR. MOTSCO: Yes.

MR. SCHMIDT: And you also indicated, I think, that there are a variety of, I guess, tools or mechanisms which you would use or consider in consultation with that department in terms of achieving the requirements of the storm water management regulations that the County enforces, correct?

MR. MOTSCO: That's correct.

MR. SCHMIDT: And there would be level, possibly level spreaders and bio retention facilities and all different kinds of things, I think you identified a long list of things that could potentially be used, correct?

MR. MOTSCO: Correct.

MR. SCHMIDT: And you've also testified that as part

of that analysis, the County and the State, through the Code of Maryland regulations, requires that you maintain certain setbacks, i.e., the required distance from septic systems and also existing wells, correct?

MR. MOTSCO: That is correct.

MR. SCHMIDT: And those setbacks that are required --

MR. HOLZER: Objection.

CHAIR: One second, Mr. Schmidt.

MR. HOLZER: Isn't this a repeat of what he has already said on direct (inaudible) I mean, --

CHAIR: I would, I would agree that there is some repetition, but I do think that these are important points because I had some of these questions myself as to what that all meant. And I do think it, it would be helpful to hear just to make sure the understanding from his testimony as received is well understood.

MR. SCHMIDT: Yeah, and I was ask, mainly in response to your questions, Mr. Garber.

CHAIR: And, and, I, I, I got that.

MR. SCHMIDT: Yeah.

CHAIR: And, and certainly it's not going to impact anything in terms of any arguments on behalf of Protestants in that regard. So, for that, those reasons I'll overrule for now and I, and I don't want to go too far afield with it either.

MR. SCHMIDT: Yeah.

CHAIR: But overrule it.

MR. SCHMIDT: And I think I was asking, Mr. Motsco, that these required buff, setbacks that, that are required are designed so that the storm water management facility will not adversely impact adjacent wells and setbacks, correct?

MR. MOTSCO: That is the goal, yes.

MR. SCHMIDT: And although you haven't done a plan, I believe you have opined that --

MR. HOLZER: Objection. I mean, you know, come on. This is a little ri, now he's, how he's testifying. I mean, one word answers, yes, no.

CHAIR: Is your, is your objection to the leading nature of the questions?

MR. HOLZER: Of course.

MR. SCHMIDT: Okay. I'll strike the, I'll strike the question.

CHAIR: Okay. So, you just say objection, leading and then or if it's a foundation question so this way we know what the objection is so Mr. Schmidt can cure his question.

MR. SCHMIDT: Mr., Mr. Motsco, do you have an opinion, sir, as to whether a storm water management plan can be developed for this property and this use, which will meet all the State, applicable State and County requirements?

MR. MOTSCO: I'm confident that a, an approval plan is able to be created for this property.

MR. SCHMIDT: Thank you. I have no other questions.

CHAIR: Any --

MR. HOLZER: No questions.

CHAIR: All right. Thank you, Mr. Motsco, for your time.

MR. MOTSCO: Thank you.

MR. SCHMIDT: Mr. Garber, that will be the Petitioner's case on rebuttal.

CHAIR: All right. So, with that in mind then, there is nothing further to come into the record, do I understand that correctly?

MR. SCHMIDT: Yes, sir. I think that's correct. I think, I guess just in terms of where we are, I know you've indicated before that you would want a memorandum submitted and we have a time deadline on that.

CHAIR: Well, we're, we're going to get into that in a second.

MR. SCHMIDT: Okay.

CHAIR: Yes.

MR. SCHMIDT: And the only other thing that I guess I would ask that I think is somewhat open is, I thought there was something that we had not definitively decided about the appeal that Mr. Holzer had filed --

CHAIR: I was about to address that.

MR. SCHMIDT: Yeah, so I'm just trying to think of

what else we need to do while we're here.

CHAIR: Mr. Holzer, is there anything before the record in this case closes out --

MR. HOLZER: No.

CHAIR: Okay. So, with that in mind, we can close the record on 18-122. We now have the appeal in CBA-19-004, which is also scheduled for today. Which again, concerns the same property and same Petitioner and same Protestants. That is obviously directly related to what was, correct me if I'm wrong, it was Petitioner's Exhibit 34.

MR. HOLZER: Thirty, thirty-four.

CHAIR: Previously, there has been a ruling in that that establishes that one, the ALJ had no jurisdiction at the time. Without the, without having jurisdiction, I'd say basically a non-event and, therefore, it's not an appealable event. It should never have happened in the first place to the extent it was intended to have any effect.

MR. HOLZER: Well, --

CHAIR: Go ahead.

MR. HOLZER: -- I'd like to, what I did over the hiatus that we had, I have the, basically, what's the same Motion to Strike Exhibit 34, but I've recharacterized it. But it's pretty much the exact same thing and I'd like to --

CHAIR: (inaudible) into this case?

MR. HOLZER: Exactly. And then I have, in addition

to that, a second Motion to Strike after, after the Petitioner's filed their reply to it, I (inaudible) reply to that. So, I've got these two documents. I have no argument, I have nothing else.

CHAIR: Well, hold on. So, the sur reply that you have, should that be incorporated into the case 18-122?

MR. HOLZER: No, no.

CHAIR: Okay.

MR. HOLZER: Because that's already in.

CHAIR: Okay.

MR. HOLZER: It's already in.

CHAIR: Because you're, I'm talking about, I understood you --

MR. HOLZER: This is, this is case 19-004.

CHAIR: Yes, right. I, sorry, I mis, I misunderstood what you had said about the other exhibit, the second one.

MR. HOLZER: Yes.

CHAIR: But that does not need to be made a part of the record of 18-122?

MR. HOLZER: I want it, I want it in this, 19-004 case.

CHAIR: That I understand.

MR. HOLZER: Because I anticipated maybe there would be a response to this and if there isn't, it's still arg, its jurisdiction.

CHAIR: Okay.

MR. HOLZER: And, and other, and you know.

CHAIR: Yes, so have you provided it to Mr. Schmidt, the copies? And then to the Board?

MR. HOLZER: Got them, got them all here. I'll give you the, give the Board the, that's the original, one, two, three, four.

CHAIR: This will be Protestant's exhibit number one, which is identified as Protestant's Motion to Strike the, the letter from Mr. Kotroco dated July 2nd, 2018 as ex parte and not in the ALJ jurisdiction to opine.

MR. HOLZER: Right.

CHAIR: Okay.

MR. HOLZER: And then this is the reply. There's the original and four.

CHAIR: Thank you.

MR. HOLZER: And it just, I basically, it's the same memo as in the other, the first case.

CHAIR: I understand. Yeah, I had understood that maybe you were doing something new, which is why I asked did that need to be included in the other.

MR. HOLZER: Yeah.

CHAIR: But it already is there, I got you.

MR. HOLZER: Yeah.

MR. SCHMIDT: Isn't, isn't this the same thing you

just gave me, Mr. Holzer?

CHAIR: It does appear to be the same.

MR. HOLZER: Oh, I'm sorry. It shouldn't, it shouldn't --

MR. SCHMIDT: No, no, I'm sorry.

MS. DOPKIN: One's a reply.

MR. SCHMIDT: One's a reply and one --

MR. HOLZER: Yes, one says reply one was --

MR. SCHMIDT: Okay.

MR. HOLZER: -- the second one should be --

CHAIR: Sorry, I had multiple copies in front of me too, so, which made it worse. Well, so, for purposes of an evidentiary record for 19-004, they're received as Motions, but as to them being exhibits for substantive evidence, Mr. Schmidt, do you have a position? Ordinarily, Motions are not substantive evidence by themselves.

MR. SCHMIDT: No, I would agree. I mean, I, I, I don't know that I, I don't know that there's any basis that I can object to someone filing a Motion. Certainly, it's not substantive.

CHAIR: It's not the filing, it's not the filing of the Motion.

MR. SCHMIDT: Yes.

CHAIR: That's been received. It's made part of the record for 19-004 for that purpose.

MR. SCHMIDT: Yes, sir.

CHAIR: But it's also now being introduced into evidence in that case, so does it, in your mind, warrant an objection for being evidence?

MR. SCHMIDT: The Motion is evidence?

CHAIR: That's what it's being offered for. It certainly wasn't received as a Motion.

MR. HOLZER: Yes.

CHAIR: But, I know in this case, we've --

MR. SCHMIDT: Well, then I would, I mean, --

CHAIR: -- we've marked certain Motions as, as evidence but I don't believe that they've been received as substantive evidence in any, in the other case.

MR. SCHMIDT: I don't, I guess, for the record, yes, then I would object. I don't know how a Motion can be substantive evidence in a case, if, if I'm understanding it correctly. I mean, my position all along has been that the appeal that was filed from what I'm going to call the Kotroco letter, is an improper appeal because it's a moot issue and we've covered this ground, I think, in its interlocutory and I think I've made my objections known in the, in, in the, in the context of the proceedings that have been conducted over the past ten days on 2018-122-X. So, I would just, if I can, maybe I will incorporate them for the purposes in this matter.

CHAIR: Well, and that's what I want to make sure we

have an agreement as to how this record for 19-004 is going to appear. It would make sense to me that we have the Motion. It would make sense to me that we have the reply in that record. So, that (inaudible) received for the Motion, as Motions. As to the substantive evidence of it, certainly, you know, the exhibit attaches thirty-four for 18-122, would be made part of the record for 19-004.

MR. HOLZER: Yes.

CHAIR: Right. So, that is understood too. But the Motion itself, do you understand where I was going with it in terms of substantive evidence?

MR. HOLZER: I, I understand where you are going that way. I just want the Board to decide this issue, this case, however you want to do it.

CHAIR: I just want to make sure the record is clear and everyone is on the same page. That's all, really what I care about because, you know, I want to make sure that there's nothing left behind for anybody and no one is under a different impression as to what is, what has happened here.

So, what we'll do is we will receive the Motion, we will receive the reply. I don't know, necessarily know they need to be received as substantive evidence in it. However, what, to be fair to everybody in this, the July 2nd letter with the July 3rd signature by Mr., by Mr. Beverungen, or excuse me, ALJ Beverungen, we will make that Petitioner's Exhibit 3, or

Protestant's Exhibit 3.

MR. HOLZER: Oh, okay. You want to separate it.

MS. DOPKIN: So, you're still making them exhibits?

CHAIR: We're going to label them as exhibits for i.d. only. But the, the letter from Mr. Kotroco, July 2nd, plus ALJ's signature on July 3rd, that will be made as a separate exhibit.

MR. HOLZER: Okay.

CHAIR: Protestant's Exhibit 3. So, that record, so that letter is in the record as an evidentiary matter.

MR. HOLZER: Correct.

MR. SCHMIDT: So that I understand it, the letter that Mr. Kotroco wrote that Judge Beverungen signed, is an exhibit in --

CHAIR: 19-004.

MR. SCHMIDT: -- 19-004, submitted by Mr. Holzer, but yet in case 18-0122-X, he has moved to strike that as evidence?

CHAIR: Well, it's evidence for purposes of the record so we can understand what is being referred to.

MR. HOLZER: Right.

CHAIR: So, this way, if it, if it goes separate tracts, we know what, it has, there has to be something in the 19-004 record that would go up on an appeal if it's to be appealed. There needs to be something there.

MR. HOLZER: Yes, correct.

MR. SCHMIDT: Yes, sir.

CHAIR: Okay. I'm overthinking this, just to, to try to be clearer and make this better, but apparently I'm only making it worse. So, I will defer to the wise counsel of Mr. McComas and Ms. Dopkin on that, as well as to hopefully remove any confusion for Mr. Schmidt and Mr. Holzer. Since it's already part of it, I just wanted to make sure that it was, --

MR. HOLZER: Right.

CHAIR: We're already there, so we don't need to make it, do it any further. You were correct, Mr. Schmidt, as to the absurdity of the situation. Thank you for illustrating that for the Board because otherwise we would make it even more absurd. So, Mr. Holzer, are you comfortable with that as an outcome?

MR. HOLZER: No.

CHAIR: Okay. What would you like, because it's your appeal here, what would you like?

MR. HOLZER: I want the, I want the Board to decide what to do with this appeal.

CHAIR: We're getting to that point.

MR. HOLZER: Okay.

CHAIR: I just need to know what the record is before we get there.

MR. HOLZER: The letter is an exhibit of, of the Motion. So, it is, in that respect, it is evidence that, that

is in the case. However you want to parse it. And I think the Chairman was parsing it in the way that I understood it was to be. That's why I was, found it acceptable last time.

CHAIR: Okay.

MR. HOLZER: So, I don't know --

CHAIR: As long as it's in the record for you is, is what --

MR. HOLZER: Yes.

CHAIR: -- I'm trying to make sure occurs in this case.

MR. HOLZER: Yes, yes.

CHAIR: That's, because I realize what you're trying to --

MR. HOLZER: Right.

CHAIR: -- I know that you're appealing this for that. So, as long as --

MR. HOLZER: Yeah.

CHAIR: -- it's within the record for you for whatever subsequent use you may have for it. So, to that to that end, since it's already part of, it is the subject matter of your appeal, it is attached as an exhibit to your Protestant's Motion Exhibit 1 now.

MR. HOLZER: Yes.

CHAIR: So, I think that that should probably satisfy it. We don't need to do anything further with it.

MR. HOLZER: I hope.

CHAIR: Yes.

MR. SCHMIDT: And I would --

CHAIR: That would be the intent of the Board.

MR. HOLZER: Yeah.

MR. SCHMIDT: And just, I'm going to say for the record, --

CHAIR: And we'll incorporate, by the way, your response filed in 18-122 to the record.

MR. SCHMIDT: That's fine.

CHAIR: In response to the original Motion to which Mr. Holzer responded with his reply, because that's only fair. And also, the discussion we previously had in resolving that Motion in 18-122.

MR. SCHMIDT: Right. And I would just also say for the record, Mr. Garber, that in addition to the letter, also attached to Mr. Holzer's Motions is a copy of Judge Beverungen's initial Order in case 2018-0122-X, which I think in order --

CHAIR: Yes, you need to have bot.

MR. SCHMIDT: -- the letter has to, has to, since the letter refers to the original Order, the original Order is also an exhibit to the Motion.

CHAIR: Are we all on the same page? I would agree with that, that makes the most sense.

MR. HOLZER: I think, I think that's why I spent all my time getting this ready.

CHAIR: I know and I'm, I'm, I'm glad that I wasted the last ten minutes of everyone's time trying to figure out how to get this done for all of you, which you already figured out and I could have just remained client the whole time and you would have been ahead of the game.

MR. HOLZER: No problem.

CHAIR: All right.

MR. MCCOMAS: Jason, so, so we're going to admit in as Exhibit 1 --

CHAIR: We're, we're just, everything is i.d. only because it's already going to be in the record for purposes of the Motion being received, and also it is the subject of the appeal. Bless you, bless you.

MR. SCHMIDT: Thank you.

CHAIR: And Mr. Holzer, that works for you?

MR. HOLZER: I've heard so many different options now, it works, it, it works. Whether it works for me or not, is another story, but.

CHAIR: Right. But for purposes of the appeal, as long as that's covered.

MR. HOLZER: Yes.

CHAIR: Mr. Schmidt, are you satisfied for the record in 19-004? Bless you, bless you.

MR. SCHMIDT: Excuse me, yes, sir. I apologize.

CHAIR: All right. So, the record in 19-004 we do not need anything further, is that correct?

MR. HOLZER: That's correct from my side.

MR. SCHMIDT: Yes, sir.

CHAIR: All right. So, the record in 19-004 will be closed, no matter how much I comment further or not. All right. So, with that in mind, we can then go to the matters of scheduling both the memos and deliberation for, because both will be decided, both matters will be decided at the deliberation. So, we'll do both the same day, for those who did not understand what I just said.

MR. SCHMIDT: And I assume that you would like our memos to address both, both cases?

CHAIR: Yes. Yes, well, --

MR. HOLZER: Separate memos.

CHAIR: -- it would be better to do them separately because they are separate cases still.

MR. SCHMIDT: Cases.

CHAIR: And again, who knows what happens going forward. So, yes, it would be better to have separate memos on them.

MR. SCHMIDT: On each case?

CHAIR: On each case.

MR. SCHMIDT: Yes, sir.

CHAIR: I'm assuming the record in 19-004 will be easier to get through.

MR. HOLZER: Yes.

MR. SCHMIDT: Yes, sir, yes.

CHAIR: So, with that in mind, I had warned everyone previously that we're going to have a shorter schedule. All right. Sorry, the discussion up here was concerning your original Motion from day one. What was entitled the preliminary Motion.

MR. HOLZER: Yes.

CHAIR: As to whether, where that stands in terms of its resolution. I had understood that, this is my recollection, because again, it was nine months ago or thereabouts, that it had been resolved because obviously we proceeded with the next eleven days of hearings.

MR. HOLZER: You ruled and --

CHAIR: Right.

MR. HOLZER: -- and denied my, my Motion.

CHAIR: Okay.

MR. HOLZER: So it was one.

CHAIR: And that's what we're just clarifying, so that matter is, and that's on case 18-122.

MR. HOLZER: Yeah.

CHAIR: That's been resolved.

MR. HOLZER: Correct.

CHAIR: And if you needed it to be addressed any further, it could be addressed at the deliberation if it did. But I don't --

MR. HOLZER: I don't believe it does because you --

CHAIR: -- I don't believe it does either.

MR. HOLZER: -- we were asking for a postponement literally. That's what it, --

CHAIR: Right.

MR. HOLZER: -- the Motion was about. And since it was denied and we went ahead, we've had eleven other days since then.

CHAIR: I assume right. The postponement request would be a little fruitless at the present time.

MR. HOLZER: Right.

CHAIR: All right. So, with that in mind, I warned everyone in advance that we're going to have abbreviated memo schedules, that is abbreviated from what we are generally accustomed too in light of various backend pressures on the Board's schedule. So, with that in mind, frankly the way, and I understand, Mr. Holzer, you have a vacation coming up too?

MR. HOLZER: Yes, yes. March the 6th, I believe, was the date. March the 6th through March the 21st, it was two weeks.

CHAIR: All right. I can tell you also that there's a Board member that has a, will also be out of town for

anticipated two weeks from the 15th through the 30th of March. With that in mind, it seems to me that we should have the memos in, I would say by March 1st.

MR. HOLZER: That's two weeks.

CHAIR: Yes.

MR. SCHMIDT: Two weeks and two days.

CHAIR: Yes.

MR. SCHMIDT: Yes, sir.

CHAIR: Is that something --

MR. HOLZER: No.

MR. SCHMIDT: Yes, sir.

CHAIR: -- that can be accomplished?

MR. HOLZER: No. No, not for me.

CHAIR: Mr. Holzer, I'm, I'm, I'm inclined to try to work with you on it.

MR. HOLZER: Okay.

CHAIR: At the same time, I, it is my position we absolutely need it before you leave because it's going to be tough enough to schedule everything and get an opinion done in the timeframe it has to be done. So, I realize it's a sacrifice on your part. I'm not trying to belittle that or, or to otherwise give you a hard time about it.

MS. DOPKIN: This was discussed at our last hearing.

MR. HOLZER: Could you put on the, could you put on the record why, why the Board, after eleven days of hearing,

and going from July to February, that it has to be done, you know, normally we have three weeks --

CHAIR: We've, we have put it on the record already. Ms. Dopkin's term expires at the end of April, which means the opinion has to be out by the end of April.

MR. HOLZER: Right.

CHAIR: So, writing that, writing the opinion in this case is going to obviously take some significant time. And it has to be, then be approved by all Board members, depending on whatever, you know, the outcome is.

MR. HOLZER: Well, could, I mean, I'm going away but that doesn't mean that if we could have like to March the 15th, or something like that, I'm, I'm going to be available to either work on it, modify it, re, refine it. So, I mean, I would request at least till March the 15th.

CHAIR: I would, well, again, let's take this back, because if you make it March 15th, for the sake of argument, then one of the Board members is not going to be around until the beginning of April.

MR. HOLZER: Oh.

CHAIR: Which means that pushes the deliberation back into April at some point.

MS. DOPKIN: That's not going to work.

CHAIR: And that's going to be, again, it'll give us three to four weeks to try to get the opinion in order, which

in cases that have been similar to this in the past, it has taken a lot, a lot longer than thirty days, twenty-one days, whatever the case may be here, to write the, the opinion and have it out in time. So, we're, I'm, we're, we're going to be on a condensed scheduled in terms of coming up with whatever opinion. So, how about this? What if we make it March 4th? That'll give you the extra weekend to get it done.

MR. HOLZER: Okay.

CHAIR: This way you get the extra weekend to get it done so, I mean, even if --

MR. HOLZER: Well, Monday is, is Monday the 5th?

CHAIR: The 4th.

MR. HOLZER: Or 4th?

MR. SCHMIDT: Monday is the 4th.

CHAIR: Yeah.

MR. HOLZER: Fourth.

CHAIR: So, it would be two days before you leave for --

MR. HOLZER: Can, can we do the 5th?

CHAIR: I don't, I don't have a problem with the 5th. Do you have a problem?

MS. DOPKIN: I don't care.

MR. MCCOMAS: Yeah, I don't care.

CHAIR: So, March 5th.

MR. HOLZER: Thanks.

CHAIR: Yeah.

MS. DOPKIN: Three p.m. is what --

CHAIR: Three p.m. is the, right, the normal, we'll have it in in the normal course. If you believe that there are exhibits that are important to your Motion, please attach them to the Motions.

MS. DOPKIN: Memos.

CHAIR: Or excuse me, memos, sorry.

MR. SCHMIDT: Mr. Garber, one question about that. Obviously, we'll submit, I think Ms. Cannington always tells us to submit an original and three copies of our Motion.

MS. DOPKIN: Memo.

CHAIR: Memo.

MR. HOLZER: The memo.

MR. SCHMIDT: I mean, of the memo, and I can, I mean, I can also submit it electronically and hard, is that, it's up, I mean, does that make it easier for the Board?

CHAIR: As long as there's confirmation of receipt and Ms. Cannington's okay with it, I don't have a problem with it. Mr. Holzer, would you have a problem if that was, if it was done that way?

MR. SCHMIDT: I'll, I'll give you both a hard copy and an electronic copy that you can have e-mailed to you if you want.

MR. HOLZER: I don't care.

CHAIR: Would that work for you?

MR. HOLZER: Yeah, sure.

MR. SCHMIDT: Sure.

CHAIR: Okay. So, yeah, so that's fine and it's fine obviously for Mr. Holzer, if you choose to avail yourself of the same.

MR. HOLZER: Okay.

CHAIR: Now, with that in mind, in terms of deliberation then, the 15th through the 30th is out, so either we could do it sometime, well, obviously if the memos are coming in the 5th, we're not going to do it for the rest of that week for sure. Then we have the following week up until the, which leaves 11th through the 14th. Or that means we wait till April. It would seem to me it would be better to do between 11th and 14th, but I want to hear from Mr. Holzer on that since he's the one who has vacation, or is not going to be around.

MR. HOLZER: Go ahead and have the deliberation while I'm in Florida.

CHAIR: Well, that's what I'm asking.

MS. DOPKIN: You'll be back, you'll be back.

MR. HOLZER: Pardon?

CHAIR: That's what I'm asking you.

MR. HOLZER: Yeah, go ahead.

CHAIR: Is, how, how do you feel about that?

MR. HOLZER: You can go ahead and do it. That's

fine.

CHAIR: All right. So, we'll look to some time, well, we'll try to maximize our time there, give us at least a week, sometime between 12th, 13th, 14th we'll look to schedule the deliberation. I will inform my wife of my absence for the weekends that precede it. And then it'll give us five, six weeks, whatever it is to finalize an opinion. Because again, it has to be done before April 30th.

MR. SCHMIDT: Yeah, and I would just say, Mr. Garber, I mean, I'm looking at my calendar and I've got commitments that week too, but Mr. Kotroco is around, Mr. Wilkins is around and as long as one of us will attend the deliberation, so I'm just deferring to whatever works for you all.

CHAIR: Okay.

MR. SCHMIDT: Because we don't participate, obviously.

CHAIR: Right.

MR. SCHMIDT: And we just, as long as one of us is here to listen, that's all we need.

CHAIR: And I should say specifically to the Clarks, because I know that you have been the primary people on behalf of Protestants who have been here, in case you haven't been through the deliberation process, the, we sit around and we talk about how the case is going to resolve. You know, we talk about what we think and those kind of things. No one is

allowed to participate other than the Board members. It is open to the public, so everyone here or even not here conceivably can attend, this applies, by the way, to both sides, sorry.

MR. SCHMIDT: Sure.

CHAIR: But because Mr. Holzer is not going to be there, that's the reason why I'm directing it to this side. So, certainly, it's a public matter so that you can attend but there are no questions, no participation from counsel, there's no participation from any party or witness or anyone else. It's just the three Board members discussing it. And I, right, --

MS. DOPKIN: (inaudible).

CHAIR: Right.

MR. HOLZER: And those as, as the Board normally does, she keeps a record of the --

MR. SCHMIDT: Minutes.

CHAIR: Right.

MR. HOLZER: Minutes of it and those are available to the public.

CHAIR: And then they're posted --

MR. HOLZER: Yeah.

CHAIR: -- shortly after, when I say shortly, it's not like within minutes, no pun intended. It's within a couple days, thereabouts.

MR. HOLZER: Right, right.

CHAIR: So, it then, for those who do not attend, they can see what was discussed. It is not done verbatim, it is basically a highlights.

MR. HOLZER: Yes.

CHAIR: And then, the opinion will follow, which will be obviously a bit more detailed. Just to explain the process, if you're not --

MR. HOLZER: Right, I will.

CHAIR: Right.

MR. HOLZER: I'll talk to them.

CHAIR: Well, no, not that you wouldn't, but just so they know sitting here so there's not the confusion as to that, what happens next part of it.

MR. HOLZER: Right.

CHAIR: Is there anything further that needs to be said or done with respect to either matter, 18-122 and 19-004?

MR. HOLZER: Not on behalf of the Protestants.

MR. SCHMIDT: No, sir.

CHAIR: All right. So, why don't we then say, assuming Court schedule works out for that, we'll make deliberation March 13th. And then March 5th was for the memos. Now, the good news about that is we already have transcripts too, so I, do both parties have the transcripts or whatever it is you need for your memos?

MR. SCHMIDT: No, I, yeah, and I, I was asking Mr.

Holzer about this and I was going to ask Ms. Cannington, I believe we have, essentially, transcripts for the Petitioner's case. I, I don't know, I, I'll ask Mr. Garber if you know, have transcripts been, been prepared of the tapes when we've not had a court reporter here?

CHAIR: Some. For Mr. McComas' benefit primarily.

MR. SCHMIDT: Okay, all right.

CHAIR: And the, obviously the days that he sat here, the answer would be no.

MR. SCHMIDT: Okay.

MR. HOLZER: Okay. Are those available to, for us to come over and make copies?

CHAIR: I will discuss that with Ms. Cannington. I will look to make them available.

MR. HOLZER: Thank you.

CHAIR: As, as per last time, there's always the copying issue, which becomes a, a matter for the County. So, that is something that will have to be considered.

MR. SCHMIDT: Well, we can --

MR. HOLZER: Downstairs they, or, you know, some of the departments, they just give it to me and (inaudible) --

CHAIR: I, I will discuss it with Ms. Cannington as to how that, but the answer to your direct question is yes, they will be made available to you. The only question is, how will they be made available.

MR. HOLZER: Sure, yeah.

CHAIR: And Mr. Holzer, do you have a copy of the transcripts that were done for Petitioner's case?

MR. HOLZER: No.

CHAIR: Okay. I don't know how that will resolve but I understood that those copies would be provided to everyone. Was I wrong on that?

MR. SCHMIDT: I think what I said, I have to look at the transcript, I believe what, and this is just kind of typical, that our typical Motion at the beginning is that I will have it transcribed, I will provide a copy to the Board and obviously anyone who wants to talk to the court reporter because the court reporters are a little funny about --

CHAIR: Copying.

MR. SCHMIDT: -- copying stuff and giving it to people because they don't get their cut. So, I gave a copy, I know, I think what I said is I would give a copy to the Board, which I think we've, I think my office has done.

CHAIR: Yes, we do have, we do have copies and I don't know where it was left with Mr. Holzer with those copies because all we have --

MR. SCHMIDT: Well, he can certainly, I can give him, it's Irwin Reporting and he can talk to them and get a copy from them.

CHAIR: So, just because I want to give you an

expectation as to those transcripts, there are only three that we have that were done independent of the court reporter retained by Mr. Schmidt.

MR. HOLZER: Okay.

CHAIR: And one of them is of the November 29th evidentiary hearing, so no testimony in there.

MR. HOLZER: Right.

CHAIR: So, there's only two days that we would have otherwise.

MR. HOLZER: Right.

CHAIR: I know that, for example, Dr. Mary Clark's testimony is one of those days and Ms. Mason's testimony is one of those days and maybe Mr. Poehler, if I remember correctly, for example. I'm sure Dr. Dewey Clark, on the other hand, because his testimony was spread over three days, --

MR. HOLZER: Right.

CHAIR: -- only part of his testimony is going to be reflected --

MR. HOLZER: Right.

CHAIR: -- within.

MR. SCHMIDT: Because then Mr. McComas joined us for the last two days of that.

CHAIR: Right, the last two.

MR. HOLZER: Right, right.

CHAIR: All right. To give you an expectation, so

the first four days of Petitioner's case --

MR. SCHMIDT: Lucky Mr. McComas only had two days.

CHAIR: -- that's a different matter, because the Board does not have them from the Board's own election to have the transcription for those days.

MR. HOLZER: That's okay.

CHAIR: Okay?

MR. HOLZER: I can take care of it.

CHAIR: All right. I just wanted to give you an expectation as to what there was.

MR. HOLZER: Right, how much, what there is.

CHAIR: And how to go about it, obtaining it.

MR. HOLZER: Yes, thank you.

CHAIR: Yep.

MR. HOLZER: No, appreciate that.

CHAIR: Yeah. And it, so I take it that there's nothing further. So, I want to thank everyone here for all your attendance and, and patience. I know this case has not been easy for anybody or everybody for that matter. We managed to get through it. I do appreciate, though, the fact that, I know there were times that may have seemed that, you know, the parties and counsel and the Board may have had some moments that needed to be addressed. But in the end, you were all well served by your counsel. (inaudible) I can assure you that it, there is a lot, obviously, to go on and think about in this

matter.

So, thank you all for attending. Thank you all for your patience and thank you all for your participation because this is the time for public participation and, you know, the County gets better when there are more people involved and there are more people participating. And so, thank you all for attending for any or all of these days.

MR. HOLZER: Okay, thank you.

MR. SCHMIDT: Thank you and I appreciate the Board's indulgence and particularly Mr. McComas. I appreciate his challenge of having to get caught up to speed. So, I know it's difficult, but. Thank you, all.

CHAIR: We also appreciate the efforts of whatever airline flew you back here from Lake Tahoe.

MS. DOPKIN: We are off the record.

(OFF THE RECORD – 12:47:41 PM)

CERTIFICATE OF TRANSCRIBER

I hereby certify that the hearing in the matter of Nepali American Cultural Center, case number 18-122-X and CBA-19-004, heard before the Board of Appeals of Baltimore County, February 13, 2019 were recorded by means of audiotape.

I further certify that, to the best of my knowledge and belief, page numbers 1 through 80 constitute a complete and accurate transcript of the proceedings as transcribed by me.

I further certify that I am neither a relative to nor an employee of any attorney or party herein, and that I have no interest in the outcome of this case.

In witness thereof, I have affixed my signature this 9th day of December, 2020.

Christine R. Leary

Christine R. Leary

Transcriber

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BALTIMORE COUNTY
BOARD OF APPEALS

IN THE MATTER OF:

NEPALI AMERICAN CULTURAL CENTER

CASE NUMBER: 18-122-X and CBA-19-004

Hearing Date: February 5, 2019

Pursuant to Notice, the above-entitled hearing was held before the Board of Appeals for Baltimore County at the Jefferson Building, Second Floor, Suite 203, 105 West Chesapeake Avenue, Towson, Maryland 21204.

PANEL PRESIDING:

JASON S. GARBER, CHAIR

WILLIAM A. MCCOMAS, BOARD

DEBORAH C. DOPKIN, BOARD

PRESENT ON BEHALF OF THE PARTIES:

LAWRENCE E. SCHMIDT, ESQUIRE
Counsel for Petitioners

J. CARROLL HOLZER, ESQUIRE
Counsel for Protestants

Christine R. Leary
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TABLE OF CONTENTS

Description	**Page**
Discussion regarding exhibits	3
Direct exam of Christopher Jakubiak by Mr. Holzer	15
Cross exam of Mr. Jakubiak by Mr. Schmidt	99
Re-direct exam of Mr. Jakubiak by Mr. Holzer	167
Re-cross exam of Mr. Jakubiak by Mr. Schmidt	179
Re-direct exam of Mr. Jakubiak by Mr. Holzer	187
Discussion regarding exhibits	195
Motions	204
Discussion regarding exhibits	219

(ON RECORD – 09:12:17 AM)

MS. DOPKIN: We are recording.

CHAIR: Thank you. All right. Good morning. We are here today on the matter of Nepali American Cultural Center, case number 18-122-X. I'm at a loss at the moment as to what number day we're at.

MS. DOPKIN: Ten I believe.

MR. HOLZER: Ten.

CHAIR: Ten? Thank you, all. Sorry, I'm trying to get through all my paperwork here. There it is. I would have figured out ten, thank you. All right. First thing to go through real quick, as best as I can, I had indicated to all parties last time about reviewing the record to go see what questions remains about the status as to certain exhibits. That is, as we went on throughout the case, there would be times when we would, we would talk about exhibits and, I don't know if you guys remember this, but sometimes we would get sidetracked. And so, we have then some of these exhibits left in limbo. So, I want to make sure that we have everything in evidence that's supposed to be in evidence and we have marked clearly for the, the record that's going to be reduced to a transcript, what is in and what is not in. So, in my brief review and, and I see, Mr. Holzer, you, you must have done the same exercise.

MR. HOLZER: Mr. Chairman, I have a copy for each

member of the Board and for counsel so it's easier to follow through this.

CHAIR: Sure, and again, the purpose here is to match our records, to make sure the transcript matches what we all have.

MR. HOLZER: Right. And we tried to, to do that yesterday, we had some, I don't know that you need to, it's up to the Board if you want to mark these as exhibits or just want to use them.

CHAIR: I think let's just use them because it's not an exhibit by itself, but thank you --

MR. HOLZER: Right.

CHAIR: -- for the extra copy and thank you for doing that work too. Because actually, it, it will be very helpful to go on.

MR. HOLZER: I, I think it will.

CHAIR: Because the, a lot of the questions are particular to the Protestant's side of things, not as much Petitioner's, that's pretty clear for the most part, other than me confirming on the record I found was it, make sure I have the right, oh, yes. Okay. One, 1-A, two, three, four, eight, eleven and fourteen for Petitioner, there were, I don't know if it ever said in the record, in the transcripts, that it was admitted or received specifically. But it was certainly understood all were admitted and at the end of your case, you

said the same thing. That is, all my exhibits, I believe, are in.

MR. SCHMIDT: Yes.

CHAIR: And I think that's what probably the records here, Mr. McComas, show and Mr. Holzer agreed that they were. So, to the extent that there's any ambiguity, they're all admitted.

MR. SCHMIDT: Yes, that --

CHAIR: Because I went back to see what objections you had at the time too and there were none that I saw that were not otherwise resolved or whatever the case may be.

MR. SCHMIDT: Yes, Mr. Garber, I, I re, recall pretty clearly that at the end of my case --

CHAIR: You did.

MR. SCHMIDT: -- which is kind of my usual practice, I just, before I rest my case, I wanted to indicate that all the exhibits were in. I think Ms. Murphy was sitting in the chair at that time.

CHAIR: Yes.

MR. SCHMIDT: But, but all, that was my understanding that the response from the Board was yes, they are all in.

CHAIR: Right. And, and this is just to make sure that there's not any ambiguity --

MR. SCHMIDT: Right.

CHAIR: -- between the two thing, that, and that is,

certainly my recollection, that is confirmed by the transcript, that is you did, in fact, ask for that. But also during the course of the exhibits as they were introduced, there either were no objections or there were, objections were resolved or whatever the case may be. So, there may have been a spot where we said nothing about it being admitted or received formally speaking, but it was certainly understood by our records, whether it be Ms. Murphy or Mr. McComas.

MR. SCHMIDT: Yeah, and I think what happened, as I recall, just because of the order of witnesses, --

CHAIR: Yes.

MR. SCHMIDT: -- like for example, when Mr. Ghimire may have testified, he may have referred to a plan that Mr. Mosco, the engineer, may not have already testified so that was the source of that discussion.

CHAIR: Yes.

MR. SCHMIDT: That when Mr. Motsco testifies, this will be moved, --

CHAIR: Right.

MR. SCHMIDT: -- and then it was moved.

CHAIR: In addition, some exhibits, and I think equally applicable, were identified during the course of the openings and then when it came to full, time to actually be identified for the record during the course of evidence, it may not have been addressed in that manner, but it was understood.

MR. SCHMIDT: Right. And Mr. Holzer had the initial memo, motion that he filed in this case, that there, I think we were referring possibly to an exhibit or a plan, you know, that kind of thing.

CHAIR: Right, that's why, right. So, that's why I'm saying.

MR. SCHMIDT: Right.

CHAIR: So, I think Petitioner is squared away. As to Protestants, so I, I had understood that starting with the Motion part of it, there, there was a prior ruling, and this is just to clarify, just so we're on the same page, that the exhibits attached to the motion are not substantive evidence in the case and that during the course of the case, whatever you felt you needed from that Motion, for part of your evidence, you would then go along the way. I then have identified, particularly, and I see, you can sit down for this for the moment.

MR. HOLZER: I think I can, once you're finished explaining what you've got, I think it would be helpful if I went through this because it's a, quite an extensive list of documents and I can articulate which ones have to be verified and which ones are proffers, etcetera.

CHAIR: Okay.

MR. HOLZER: So, I mean, it's up to you obviously.

CHAIR: No, I, I, I am inclined to do it the fastest,

the most efficient way possible. And if you believe that that is the case, I will, I will certainly adopt what you're, you're suggesting.

MR. HOLZER: Well, you, thank you very much. If you start at the top of this document that I provided to the Board, you can see we have the day listed up till nine, we have the exhibit number and then a description of what it was and then the word in, and if, if it's an x, that means it was in. If it was marked for identification, it's in that column and then the notes will explain what, if anything, is involved. So, therefore, you can see Exhibits 1 and 2 are in, 3 is in, 4 is aerial photo, it was a drone photo --

CHAIR: Yes.

MR. HOLZER: -- and we have an affidavit and a, and a photo specs in an affidavit to, at whatever point you want to get this done, that's when we would present it to move, to move it in.

CHAIR: So, and for those, and it seems to be photos are the --

MR. HOLZER: A lot of them.

CHAIR: -- I'm going to say the least controversial aspect, that perhaps Mr. Schmidt, you can show them to Mr. Schmidt, whatever it is you feel that you need to complete the record on those to make them admissible or whatever the case is. Then if there's an agreement, then we can move on from

there.

MR. HOLZER: Do you want to do it now?

CHAIR: I would suggest during a break maybe to do that, because I know that we have some other things to get to today, of course. I just, the reason why I'm bringing this up now is because next week we have our scheduled last day for the hearing and so for any evidentiary questions I want them to try to be as, resolved as much as possible today so people can prepare for the last day.

MR. HOLZER: Sure.

CHAIR: That, that's the purpose of why I'm trying to do it like this and just to introduce what is going on and --

MR. HOLZER: So, if I could just run through this very briefly.

CHAIR: Sure.

MR. SCHMIDT: Mr. Holzer, can I ask a question?

MR. HOLZER: Yeah.

MR. SCHMIDT: What's fix i.d. mean in the one column? I.d. and then fix i.d.?

MR. HOLZER: That means we want to try to get it in.

MR. SCHMIDT: You want to fix it?

MR. HOLZER: Yes.

MR. SCHMIDT: Okay, okay.

MR. HOLZER: We want to get it introduced.

MR. SCHMIDT: I just didn't know, I want to make sure

I'm --

CHAIR: Just to be clear, I, the, the column that says i.d., I understand to be i.d. only at the moment, that is we have a --

MR. HOLZER: Right.

CHAIR: -- obviously designated as a particular exhibit.

MR. HOLZER: Yeah.

CHAIR: And then the fix i.d. is that you are coming back to it to address?

MR. HOLZER: Yes, and that would be, for instance, through affidavits or exhibits that would identify the photos four, fourteen and twenty-one and you'll see as we go down the list six is in, seven is --

CHAIR: Well, let me read this, so that's fine.

MR. HOLZER: Okay.

CHAIR: Yeah. I mean, I appreciate the fact that you did this and then we'll, we'll match it up and then we'll figure out where we stand after a break.

MR. HOLZER: That's fine with me.

CHAIR: As to that.

MR. HOLZER: Save time.

CHAIR: Right.

MR. HOLZER: Absolutely.

CHAIR: Because I don't want, I want to make sure the

record is complete to whatever it needs to be because I realize that there were a bunch of objections during the course of presentation of certain evidence and, and later you would say, well, we're going to bring someone in to authenticate or whatever the case is.

MR. HOLZER: And just so that the Board knows, we tried to explain under the notes exactly what has to be done or sometimes one exhibit is later identified and marked as in in, with another number, and that's all straightened out too.

CHAIR: Okay.

MR. HOLZER: So, --

CHAIR: So.

MR. MCCOMAS: I did a quick little check based off this. The only thing that I see that we have a discrepancy on is number seventeen, the Mary Clark dash cam. He has it indicated as i.d. only and I have it on the, on the chart here as in.

CHAIR: So, yes, if you went by the transcript, you would only have it as i.d. only. But last week I believe it was admitted.

MR. HOLZER: Okay, okay.

CHAIR: That's what I have in my notes. That it was admitted on January 30th.

MR. MCCOMAS: Well, it was originally identified as i.d. then I have a strike through it.

CHAIR: Right, so that one you've already cured, or resolved.

MR. HOLZER: Great.

CHAIR: One last thing.

MR. HOLZER: Actually the Board just straightened it out.

CHAIR: Well, we, --

MR. HOLZER: Thank you.

CHAIR: -- we, we all did it as a team.

MR. HOLZER: Yes.

CHAIR: So, with that in mind, now I know that there were several Motions that were filed yesterday. Leaving that aside at the moment, we also have the Motion, Exhibit 34, which has been identified as an ex parte communication. I know we discussed this the last time as to when the timing for all the, to deal with it. I think it's best to deal with it now so this way we can, again, recognizing next week may be the last day for hearing, people can adjust whatever they need to for that purpose. If they feel they need to.

MR. HOLZER: You, you'll recall I suggested we put Mr. Jakubiak on first.

CHAIR: I don't think he's going to take too long.

MR. HOLZER: Pardon?

CHAIR: I'm, I'm assuming he's not going to take too long. I'm going to give some introductory remarks and see

where we stand and then if that means it's going to be longer, then we're going to take Mr. Jakubiak.

MR. HOLZER: I, I can tell you. I have another witness on the Greater Kingsville as, as requested. I, I, I have about four or five different things, including those Motions and the response to the Motions. Mr. Jakubiak is here. I could put him on and have him crossed and he could be finished before lunch.

CHAIR: Okay.

MR. HOLZER: And then we can do a lot of this miscellaneous, because we're going to be jumping around, I think.

CHAIR: I, I just want to make sure that whatever rulings are not going to impact Mr. Jakubiak, right?

MR. HOLZER: No, I don't think so.

CHAIR: Okay.

MR. HOLZER: I really don't.

CHAIR: Mr. Schmidt, are you, is that how you wish to proceed too?

MR. SCHMIDT: I, I'm comfortable with whatever you determine is best, that's fine with me.

CHAIR: I'll defer to Mr. Holzer and we'll call Mr. Jakubiak.

MR. HOLZER: Call Mr. Jakubiak.

CHAIR: So, now that, I should have done this first

obviously. We have here today Mr. Holzer on behalf of Protestants and Mr. Schmidt here on behalf of Petitioners as per every other day. Please everyone turn your cell phones off, keep talking and other things to an absolute quiet. No gesturing, no nodding in approval, no, you know, gesticulations or hands, you know, up in the air or anything else that would signal anything to this Board or to the witnesses. And again, try to make sure we keep our behavior in accordance with the fact that we are within a courtroom and should behave accordingly. So, with that in mind, --

MR. HOLZER: Thank you. I'd call Mr. Jakubiak.

MR. SCHMIDT: And while he's approaching, Mr. Wilkins, who is an associate of my office and a member of the Bar is also seated at trial table.

CHAIR: I apologize, Mr. Wilkins. Right, you were here the last day.

MR. SCHMIDT: Yes, sir.

CHAIR: And I apologize.

MS. DOPKIN: Mr. Jaku --

CHAIR: GO ahead.

MS. DOPKIN: -- biak, do you swear and affirm under the penalties of perjury, that the testimony you are about to give is true and correct to the best of your knowledge and belief?

MR. JAKUBIAK: Yes, I do.

MS. DOPKIN: And would you please state your name and address for the record, spelling your last name for us?

MR. JAKUBIAK: My name is Christopher Jakubiak, J-A-K-U-B-I-A-K, my address at Jakubiak & Associates, Incorporated is 115 Yorkley Road, Towson 21204.

CHAIR: And what is your position at Jakubiak & Associates?

MR. JAKUBIAK: I am the President.

CHAIR: You may have a seat.

MR. SCHMIDT: And I'll, just to move things along, I'll stipulate. I assume Mr. Holder is going to offer him as a land planner. I see Mr. --

MR. HOLZER: Land planner and zoning expert.

CHAIR: So, the tendered areas of expertise are land planner and zoning expert?

MR. HOLZER: Yes, that's correct. And I would, I think you probably already have it.

MR. SCHMIDT: Yes.

MR. HOLZER: And I would provide four copies of his resume and ask that that be marked as the next exhibit.

MR. MCCOMAS: Number ninety-nine.

MR. HOLZER: And I would just very briefly, Mr. Jakubiak, can you just give the Board some background about your experience, how long, where'd you graduate from, what, what clients have you been representing, etcetera?

MR. JAKUBIAK: Okay.

CHAIR: Well, I (inaudible) when you graduate, that we can easily take from the c.v.

MR. HOLZER: Oh.

CHAIR: But I understand what you're trying to do so.

MR. HOLZER: Yeah, I just want a few, few words, that's all.

CHAIR: Yeah, that's fine.

MR. JAKUBIAK: In 1992 I graduated from the University of Illinois, Department of Urban Regional Planning with a Master's degree. I've practiced since then. Beginning in 2000, I've been working as the President of Jakubiak & Associates where I provide town planning, urban planning services to communities, mostly in Maryland. I work almost exclusively in the public sector but have worked in the private sector from time to time. I provide zoning administration services for a number of communities through retainers that our firm has obtained with local jurisdictions and --

MR. HOLZER: Could you just give us like the counties or the towns that you represent, or are involved in?

MR. JAKUBIAK: Sure. Well, the City of Annapolis, for example, the City of Westminster, the Town of Centreville on Maryland's Eastern Shore, the Town of Churchill, another rural county, community in, in Queen Anne's County. That's just a handful but I've worked in other communities as well.

MR. HOLZER: And have you appeared and testified before the Administrative Law Judge of Baltimore County, the Board of Appeals for Baltimore County?

MR. JAKUBIAK: Yes, I have, both the Administrative Law Judge and this Board.

MR. HOLZER: And you, this Board has qualified you as both a planning and a zoning expert?

MR. JAKUBIAK: Yes.

MR. HOLZER: Okay. I think that's enough.

CHAIR: Mr. Schmidt, you said you'd stipulate to the areas of expertise?

MR. SCHMIDT: Yes, sir.

CHAIR: Do you have any questions for Mr. Jakubiak based on what was just elicited by Mr. Holzer?

MR. SCHMIDT: Not on voir dire.

CHAIR: Thank you.

MR. HOLZER: Thank you.

CHAIR: All right. So, admitted and Exhibit 99 will be admitted.

MR. HOLZER: Thank you. Mr. Jakubiak, who retained you for purposes of being involved in this case?

MR. JAKUBIAK: The Greater Kingsville Community Association.

MR. HOLZER: Okay and, and I notice, and you, I think everybody noticed, that you were here the other day, the last

day of the hearing --

MR. JAKUBIAK: Yes.

MR. HOLZER: -- previous. And how did you become familiar with what, what the, this case is all about?

MR. JAKUBIAK: Well, of course, I sat in the hearing the past two days, past two hearings.

MR. HOLZER: Right.

MR. JAKUBIAK: I read parts of the, the record from those hearings that preceded my arrival. I reviewed the, the landscape, looked at mapping. I've looked at the site plan that was proposed for the special exception. I visited the site on two occasions. I'm generally familiar with the, the area as well.

MR. HOLZER: How, how, how did you generally become familiar with the area? I mean, --

MR. JAKUBIAK: Having lived in the region for all my life, except for a few years as I began my career. I've traveled from Baltimore City to Harford County along Harford Road quite extensively.

MR. HOLZER: All right. You would, he's smiling because he told me a story about his travels up Harford Road and I think that's why he, he's very familiar with the, with the road system.

MR. JAKUBIAK: Many a late evening, my dad has driven us from Baltimore City up to our home in Harford County using

Harford Road so I remember the twisty, turny road and the winding nature of that road as a small child.

MR. HOLZER: Right. What is your understanding of the Petition before us today, Mr. Jakubiak?

MR. JAKUBIAK: The Petition is for a special exception for a church or other building for religious worship. The proposal, as I understand it, is to rehabilitate the existing building and to create within that building a temple or some other building for religious worship. But also to, to, to improve the site with thirty-eight parking spaces. At the County's parking standards, those thirty-eight spaces, you know, can accommodate an occupancy in a church of a hundred and fifty seats. So, that's just sort of the scale and magnitude that I'm considering it.

But another element of this is, it goes beyond the, the building itself and that's the, the festivals and other activities that I understand, based on the record, will occur on the site, multiple day festivals, three or four over the course of the year.

MR. HOLZER: What about the, the, the lawn area? Was there any discussion in the documents that you reviewed about that?

MR. JAKUBIAK: Yes, the testimony of the engineer indicated that the lawn area would be used as overflow parking for events when the thirty-eight parking spaces would not be

sufficient.

MR. HOLZER: To, just to give us some background, what is your understanding of the standard of Maryland concerning approval and denial of special exceptions?

MR. JAKUBIAK: Okay. Well, the special exception requires an individualized assessment, obviously. And there are two focal points that I'd like to stress and one is the, it's the particular use at the particular location.

If the particular use at this particular location causes impacts to adjoining properties or to the neighborhood that are more adverse than what you might find inherent with that proposed use, the Board can deny the application. And it's the, the applicant, or the Petitioner, that has the, the burden of proof in insuring that, demonstrating that the various requirements of the code would be complied with. So, what I'd like to do today is talk a little bit about that particular location and particular use and how the impacts raise concerns certainly for the adjoining property owners.

CHAIR: Here's someone coming the door.

MR. JAKUBIAK: Sorry?

CHAIR: I just hear someone coming in, that's all. All right. (inaudible).

MR. HOLZER: What, what standard must be met that relates to particular use of the, of the particular location? Can you explain that?

MR. JAKUBIAK: I'm going to explain what the, an example, I guess. If the noise is a, noise is an impact inherent in any, almost any use candidly, certainly within a church or religious building. If there's something particular about that location, of the site or circumstances concerning how the use would be occupied that raise questions about whether the noise would be worse than typically associated with a church, that then makes this whole question relevant and certainly provides the Board of Appeals with the, the opportunity, perhaps the obligation, to deny an applicant, a Petition for Special Exception.

MR. HOLZER: So, is a special exception sort of a way to require the Board to consider individualized assessments, is that what you're saying?

MR. JAKUBIAK: Yeah, absolutely. A church and religious institution is not a, a fixed use, right? Churches, institutions or any use has a particular, or may be different in the given location. It's not a question of denomination. Certainly, a Christian church can be used quite differently than another Christian church. The activities on the property can be such that they're unique. So, the individ, individualized assessment is about what is being proposed on that particular use.

For instance, a, a, a small church that requires windows to be open because there's no air conditioning and the

music is so loud that the adjoining properties are affected during the course of the day, Sunday or Wednesday, that's an offsite impact that requires an individ, individualized assessment. It's not enough to simply say a church has impacts so be it. An individualized assessment is required.

MR. HOLZER: And does the, the County code, zoning regulations, provide a way to analyze those by certain criteria?

MR. JAKUBIAK: Yes. Fortunately, there are some, a pathway to get to that individualized assessment, and that is the 502.1 standards and the, that would, I certainly would hope to get to that analysis before my testimony is completed.

MR. HOLZER: Is there a presumption of validity that's involved and is there a standard upon which that must be rebutted or overcome?

MR. JAKUBIAK: Yes. So, the, a special exception is presumed to be valid. And it, but it certainly places the Board of Appeals in a decision making role to make a determination and that standard is the one that I discussed before, are the impacts there, at that location, more adverse or, or more impactful than is inherit in the use. If that, those, that standard is not met, the, the, the application is deniable.

MR. HOLZER: Is it, is, is it appropriate to say that the way an institution intends or a facility of whatever is

being asked as a special exception, intends to use the land, is that relevant to the special exception assessment?

MR. JAKUBIAK: Yes, it certainly is. If the parking required for an institution is expansive to a degree that storm water management is impacted, that's an individualized impact on a site that, you know, raises concerns about whether the impacts there are more adverse than inherent. If the uses proposed raise questions as to whether it's even consistent with the spirit and intent of the zoning category, that's certainly a, something that ought to be considered in the adverse analysis.

MR. HOLZER: So, in, in your answer to that question, would the, would one, only just one of the factors that is involved here in regard to the three or four multi day festivals that are being proposed, would that come under the, the answer that you just gave or, or articulated? The fact that there are festivals, do they become relevant?

MR. JAKUBIAK: Yes, and in this case, particularly relevant. I think that this is perhaps the most significant relevancy that I can gather from my analysis so far of this case.

MR. HOLZER: And will you get into that, that a little bit later in your testimony?

MR. JAKUBIAK: Yes.

MR. HOLZER: Okay. Can you provide an overview of

the vicinity where this property is located?

MR. JAKUBIAK: Yes. So, this, this site is located, as the Board knows by now, on Harford Road, in a section of Harford Road that is very rural. Harford Road itself is a, is an interesting transition from very urban to very rural. And it, you can read Harford Road as a, as a, an example of the success of the County's planning framework, if you will. It travels from Baltimore City heads north, as you cross 695, it's still urban but a bit suburban as you pass Carney heading, heading north.

It's not long before the road begins to become a two lane highway, very rural in appearance. By the time you cross Hartley Mill Road, where the, the branch of the Long Green Creek crosses there, it's completely rural. The fields and forest are very evident and one aspect of this site, this, especially relevant in this, to this discussion is that the geology of the land comes into focus. The road conforms itself now to the landscape and to the geology, both vertically, there are hills going up and down, and horizontally. It winds its way up to Mount Vista.

That's an important kind of aspect of a, of a cultural landscape that has maintained its relevance over centuries on this property, or this area. Interesting is the view that you have from the, the valley floor before Harford Road starts making its way up to Mount Vista. You have the

view of the, the prominent view of Bella Vista, the, the old Bonaparte Estate and the house is, exists there now and the second house on that location, as I gather, but it's very much a focal point for a short period of time as you travel at speed on, on the highway.

That relationship between the house up on the prominent part, overlooking what is a very narrow valley is quite a unique cultural landscape. And by cultural landscape I mean it's an area that, or it's, it's, you can see the history on the landscape. You can see the interrelationship between the valley floor, farming, how it's been carved out by water over the course of millennia and the improvements that have been made by humans on the property. And it's not a far stretch to imagine how this area factored into the lives of native Americans, which I gather from reading the Long Green Historic District application, was an active hunting area as far back as ten thousand years ago. The, the archeologist that found quite a few, you know, artifacts from that time, arrows and other, arrow points and other things, within the area. So, this particular site has to be a major archeological element of this cultural landscape because of its geology and its prominence.

Certainly, Mr. Bonaparte, when that house was built, he was a, the attorney general under Theodore Roosevelt. He selected that site and while other property he owned within the

Long Green Historic District, he selected that site because of its prominence and farmed it, so it's been in that use for quite a while and that relationship speaks to the enduring qualities of the master plan, that seeks to preserve rural landscapes, rural legacy areas.

MR. HOLZER: Excuse me, Mr. Chairman, could I just hand him his water?

CHAIR: Yes.

MR. HOLZER: He seems to be --

MR. JAKUBIAK: Oh.

MR. HOLZER: You might need to take a swallow every once in a while.

CHAIR: You want to just take a one minute break, two minute break just to, so that is accomplished or --

MR. JAKUBIAK: No.

MR. HOLZER: He says he's okay.

CHAIR: You're fine? Okay.

MR. JAKUBIAK: I'm fine.

MR. HOLZER: Thank you for the offer.

CHAIR: Yeah.

MR. HOLZER: I, I interrupted you --

CHAIR: He was, master plan seeks to preserve --

MR. HOLZER: Yes, I, I interrupted you at the time where you began a discussion on the County's master plan.

CHAIR: Yes.

MR. JAKUBIAK: So, I, I guess I was, perhaps concluding that, wrapping that up. But the general question about the, the vicinity of the, the area, the, the area also includes houses. Low density houses on well and septic, one to two, two and a half acre lots on Harford Road in close proximity to this particular site.

So, the, the relationship between this historic landscape and this emerging pattern of residents or development can't be dismissed. It's very much a factor that has happened over time.

CHAIR: Well, and is that your point about the master plan? I was in the middle of writing that down when I guess we got the water. You were saying something about the master plan seeks to preserve, and I don't know if there was a point that you were going with that.

MR. JAKUBIAK: Oh. Those historic landscapes, the cultural landscapes, by preserving rural lands not only do you preserve agricultural resources and the, the general agricultural land mass, and of course, preserving agriculture means not just preserving properties and agricultural use, it's about preserving a larger district, so that farming can operate without interference from urban development. In fact, I'd like to at some point talk a little bit about the master plan and it speaks to that very, very question through its designation of this area and through the text in the report.

MR. HOLZER: Can you describe the, I think you testified that you've been out in the area at least twice on this particular, looking at this particular property, but also you have traversed Harford Road. Could you just define Harford Road when it gets in the area of the subject site?

MR. JAKUBIAK: When you say define it? Do you mean characterize it?

MR. HOLZER: Well, yeah, characterize it.

MR. JAKUBIAK: In the area of the subject site it's a, it's a two lane highway, no shoulders. Perhaps the, the striping allows a bit of hard surface just beyond the, the travel lane, so we --

CHAIR: Well, just so I understand what, because you're describing it as a two lane highway, no shoulders, etcetera. What are the starting points, what are the boundaries --

MR. JAKUBIAK: Okay.

CHAIR: -- for that, what you are describing? Because obviously we know the further south you go, it's not necessarily that way.

MR. JAKUBIAK: Okay.

CHAIR: So, just for the record, when you're describing what the road is, --

MR. JAKUBIAK: Allow me to describe it from Hartley Mill Road --

CHAIR: There you go.

MR. JAKUBIAK: -- to Mount Vista, to the roundabout.

CHAIR: Yes, thank you.

MR. JAKUBIAK: Very much rural in character. It's, and its function is primarily through there to carry traffic north and south, not so much to provide direct access to any individual property. In fact, most, most properties are accessed from a side road or, or something similar to that. So, you don't see a pattern of houses or businesses or institutions fronting onto the street, onto the road at all.

MR. HOLZER: Would you also describe what you understand is the subject site?

MR. JAKUBIAK: Yes. The subject site is a 30.86 acres, accessed by Harford Road. Its, as I mentioned earlier, it sits at a very prominent point. At the top of a very narrow valley through which Harford Road runs. There's a building on the property at its highest point with an elevation of four hundred and two feet above sea level. That building sits about two hundred feet above the valley floor and that's why you have such a prominent relationship. It's visible, a scenic view along that road.

But only a small part of that total property, thirty acres, is usable. And even its use is constrained by the, the sloping terrain. So, the, the building itself sits on the southern promontory or the southern part of the, the, the

cleared area and from that four hundred and two foot elevation, the land slopes on either side of the access drive coming in but it slopes particularly steeply to the west. In fact, the tennis courts that have been discussed before, are about a hundred and thirty feet from the side of the house, on the west side of the house.

Beyond that, the land drops in a very steep way. About a hundred and forty feet, hundred and twenty feet of that is, is wooded. And but the, is wooded. But the, the woods are below the elevation of the, the house and the elevation of the, the land that's usable.

The driveway from Harford Road traverses up to the building, generally within the, the, the contours of the land, so it doesn't take the most direct approach. It works its way up in a gradual way and on either side of the, the driveway, the land is relatively flat but sloping until it drops off directly. I had some exhibits that I'd like to show.

MR. HOLZER: Can you identify what the first document is?

MR. JAKUBIAK: Yes.

MR. HOLZER: You don't have to describe what it shows, just, it's a map, is that correct? Or is it, just tell me physically what it is.

CHAIR: So, you're about to show an exhibit, can you just, can you just identify what the exhibit is?

MR. JAKUBIAK: Yes.

CHAIR: Before you, don't testify, don't provide testimony, I just, just for identification, just for the record.

MR. JAKUBIAK: Yes.

CHAIR: And then make sure Mr. Schmidt has his copy before we get to any testimony.

MR. JAKUBIAK: The first exhibit that I'd like to show is Baltimore County MyNeighborhood topographic map.

CHAIR: Okay.

MR. HOLZER: Okay. I need all of them.

MR. JAKUBIAK: I only have one.

MR. SCHMIDT: Thank you.

CHAIR: Thank you.

MR. HOLZER: And there's four.

CHAIR: Thank you.

MR. HOLZER: I don't get one.

CHAIR: Would you like to use a copy?

MR. HOLZER: Thank you.

CHAIR: Yeah, no problem.

MR. HOLZER: And this is?

CHAIR: Protestant's Exhibit 100. Right, Mr. McComas? Mr. Schmidt, are you ready?

MR. SCHMIDT: Yes, sir. Thank you.

MR. HOLZER: Okay. Mr. Jakubiak, you described this

Protestant's Exhibit 100 as a caption by Baltimore County – MyNeighborhood. What, what relevance does this document have in your testimony?

MR. JAKUBIAK: This document visually shows what I've been explaining about the, the contours and the topography of the land. So, you might see in the center of this exhibit, the existing house on the property and you'll see that there's a dot there in the middle of the house that designates the elevation at four hundred and two feet. And you can notice the contour lines, which are the gray lines that connect points of equal elevation on the landscape and if you head towards Harford Road from the house, in that very direct line, you'll see that there's another contour line at three hundred feet. So, between that three hundred feet and roughly the four hundred feet, we've dropped in elevation by one hundred feet down to Harford Road.

You drop another twenty feet to the, the contour line that, you know, runs, or runs along the houses there and one of those houses is the Clark residence, with the detached garage. So, that you see a, a, quite a drop in elevation of a hundred and twenty-two feet really over the course of that distance. I'd like to provide another --

MR. HOLZER: Sure.

MR. JAKUBIAK: -- exhibit that shows the same thing in more detail.

CHAIR: Well, before, before, before we get there, Mr. Schmidt, any objection to one hundred?

MR. SCHMIDT: I guess my only question is I'm familiar with looking at contour lines and I, I don't know whether to ask this to Mr. Jakubiak later or just raise it but is, is there a scale or any indication on the document as to what each line is? Do you understand what I'm asking?

CHAIR: Yes.

MR. SCHMIDT: And I think that's usually on --

CHAIR: The, the first line --

MR. SCHMIDT: -- the, that's usually on most of the contour maps that I've seen where it shows what each line is, or it says the scale is ten feet between lines or something and this doesn't, so.

CHAIR: Mr. Holzer?

MR. HOLZER: Mr. Jakubiak, can you answer that?

MR. JAKUBIAK: I can.

CHAIR: Okay.

MR. SCHMIDT: Okay.

MR. JAKUBIAK: Yeah, contour interval is twenty feet.

MR. SCHMIDT: Okay.

MR. JAKUBIAK: So, there's twenty feet between each line.

CHAIR: So, with that in mind, do you have any objection to Exhibit 100?

MR. SCHMIDT: And Mr., Mr. Jakubiak, this was taken from MyNeighborhood?

MR. JAKUBIAK: Yes, it was, exactly.

MR. SCHMIDT: Okay, okay.

CHAIR: So admitted.

MR. HOLZER: Thank you. Have you produced another document?

MR. JAKUBIAK: The, the, no, the other document is a more detailed view of it.

CHAIR: Before you start testimony, make sure Mr. Schmidt has an opportunity to review. Okay. Mr. Schmidt, are you ready?

MR. SCHMIDT: Yes, sir. Thank you.

CHAIR: All right.

MR. HOLZER: Mr. Jakubiak, this Exhibit 101, is this also from Baltimore County MyNeighborhood?

MR. JAKUBIAK: Yes, it is.

MR. HOLZER: And that's where you obtained it?

MR. JAKUBIAK: Yes, I did.

MR. HOLZER: All right. You heard Mr. Schmidt's question about the difference between the lines. You testified in the previous document that it was twenty feet?

MR. JAKUBIAK: Yes.

MR. HOLZER: Is that the same as on this document?

MR. JAKUBIAK: Yes.

MR. HOLZER: Okay. What, why did you produce this document for purposes of your testimony?

MR. JAKUBIAK: I produced it just to aid the Board in, in seeing the difference in elevations. This is just a, a greater detailed exhibit.

CHAIR: Basically, it's like a zoom in of the one hundred?

MR. JAKUBIAK: Yeah, a zoom, thank you. Yes, yes, it is.

MR. HOLZER: So, that, that your testimony in regard to Exhibit 100 with the 402 feet and then across Harford Road, Route 147, shows the Clark residence?

MR. JAKUBIAK: Yes, it's also visible in that, that exhibit as well.

MR. HOLZER: Okay.

CHAIR: In that exhibit, you mean 101?

MR. JAKUBIAK: 101.

MR. HOLZER: Yeah, sorry.

CHAIR: All right.

MR. HOLZER: I would offer 101.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: No, no objection with that explanation, thank you.

CHAIR: So, so admitted.

MR. HOLZER: Now, do you have another document?

MR. JAKUBIAK: I do. And this document is an aerial photograph from Google Earth.

CHAIR: Okay.

MR. HOLZER: Yeah, you should just keep one.

MR. JAKUBIAK: Okay.

MR. HOLZER: And, and hand me the rest.

CHAIR: So, Protestant's Exhibit 102 and what are we identifying this as for the record?

MR. HOLZER: I was waiting for Mr. Schmidt.

MR. SCHMIDT: Yes.

CHAIR: Yeah, I just meant for identification.

MR. HOLZER: Oh.

CHAIR: Not necessarily the test, the substance of the testimony.

MR. HOLZER: Oh, this is an aerial photo of which I believe shows re, a reflection of Exhibit 100 and 101.

MR. SCHMIDT: No objection. It's from Google Earth, I think, I assume.

CHAIR: Okay.

MR. SCHMIDT: I mean, that's what it says.

CHAIR: That, and I believe that's how we started when it was first --

MR. SCHMIDT: Yes, sir.

MR. HOLZER: Yeah.

CHAIR: -- pointed out, so.

MR. HOLZER: Mr., Mr. Jakubiak, --

CHAIR: Just for the record, it's admitted then, if you, no objection.

MR. HOLZER: Thank you. Mr. Jakubiak, on one, photo 102, is there anything you would like to explain in regard to that photo now that we've seen the first two, which were nothing more than different height lines, I'm sorry, I had a moment. Go ahead.

MR. JAKUBIAK: Yes, and this is a, kind of the same geography, without the contour lines. But the, the, perhaps the Board can visualize the land sloping to the south, away from the site, which would be in the direction from the building, the main building on the property, towards the words Google Earth. And see the substantial slope as well on the west side of the building, which is in, in the direction of Harford Road.

I wanted the Board to see the, the land that's, that's cleared on the property at the entrance, or from the, along the entrance drive, toward the building. And I wanted the Board to see the, the forested slope working its way down to Harford Road and the adjoining houses.

MR. HOLZER: Could I ask you two questions. One question is, does, can, can you identify where the tennis courts are?

MR. JAKUBIAK: Yes. The tennis courts are just about

a hundred and twenty feet to the west of the building. There's a, there's a paved area, I guess I would be apt to describe it that way.

MR. HOLZER: Okay.

MR. JAKUBIAK: That's between the tree line and the, the building.

MR. HOLZER: All right and I'm really confused in regard to where the existing entrance is now. Can you describe where that is? Because it certainly doesn't show up very clearly in these pictures.

MR. JAKUBIAK: Well, the, the existing entrance is, is not shown on this particular exhibit. It's just too focused of an image. I do have a photograph that shows the existing entrance if that would help.

MR. HOLZER: Yes, I'd like, I'd like, so the Board can have a perspective of it. Can I offer 102?

CHAIR: It was already admitted.

MR. HOLZER: Okay.

CHAIR: Yes.

MR. HOLZER: Thank you.

MR. SCHMIDT: Thank you.

MR. HOLZER: This would be 103.

CHAIR: And for the record, how are we identifying 103?

MR. HOLZER: Can you identify this picture and how

you got it?

MR. JAKUBIAK: This is a Google Earth image focused on the intersection of the existing driveway and Harford Road.

MR. HOLZER: Can, can you point out, I think there is a circle in the middle of the driveway. Do you see that on this picture?

MR. JAKUBIAK: Yes, it's a landscape circle.

MR. HOLZER: Okay and is it, I just want to make sure, is it sort of in the center of the photo?

MR. JAKUBIAK: Yes. If you look at the, the driveway surface, it appears to form a triangle essentially in the, the, the island that you're referring to is in the center of that triangle.

MR. HOLZER: All right, thank you. Any objection?

MR. SCHMIDT: No objection.

CHAIR: So admitted.

MR. HOLZER: 103. Do you have any other exhibits related to this specific question?

MR. JAKUBIAK: Yes, I do.

MR. HOLZER: Okay.

MR. JAKUBIAK: Before I would leave this exhibit, exhibit number --

MS. DOPKIN: 103.

MR. HOLZER: 103.

MR. JAKUBIAK: Thank you. Exhibit 103, it is worth

mentioning that any traffic that uses, particularly leaving this site, but uses this entrance at this location, would impact the, the house across the road considerably with, particularly with traffic, headlights and even noise. This site in its present or previous use has been a single family residence. The, the conversion of it into an institutional use certainly adds a great deal of traffic that will impact the landowners across the road.

MR. SCHMIDT: Objection. Just to the extent that the witness is not testifying as a traffic expert. So, I just note that for the record.

CHAIR: Well, I would say that some of the items that Mr. Jakubiak had testified about there, I don't think require expertise.

MR. SCHMIDT: Um hm.

CHAIR: Such as lights or sounds. I, as to whether, what reaches the house, obviously, that's a bit more uncertain. But the fact that lights would be directed in that manner and that sound could be directed in that manner, I don't think we need an expert on those --

MR. SCHMIDT: Sure.

CHAIR: -- points, those common experiences.

MR. HOLZER: Yeah, thank you.

CHAIR: So, technically overruled.

MR. SCHMIDT: Okay, thank you.

MR. HOLZER: Mr. Jakubiak, are there, is there any, are there any more exhibits that you would like to show the Board?

MR. JAKUBIAK: And so, on this question I'd like to show the Board one more exhibit.

MR. HOLZER: Okay.

CHAIR: And 103 is admitted, just to make sure.

MR. HOLZER: Thank you.

MR. JAKUBIAK: On this exhibit, just to describe it, it says distance to nearby houses.

CHAIR: Okay.

MR. HOLZER: Sorry.

CHAIR: That's okay. First time (inaudible).

MR. HOLZER: This would be 104?

CHAIR: Yes.

MR. MCCOMAS: Yes.

CHAIR: Just so you know, Mr. Jakubiak, when the next time you come, if you possibly remember to have one copy for counsel, both your counsel, opposing counsel, then we need four for the Board.

MR. JAKUBIAK: Four.

CHAIR: Because one would be the exhibit to the file and then three for the Board members so they all have copies. I appreciate your efforts in trying to meet that but just so you know for future reference.

MR. JAKUBIAK: Got it, thank you. I appreciate that.

MR. HOLZER: Thank you.

CHAIR: Sure.

MR. HOLZER: Mr. Jakubiak, this appears to be another Google Earth photo, is that correct?

MR. JAKUBIAK: Yes, it is, with some notations that I've made.

MR. HOLZER: Okay and the notations would be reflected at the top of the picture?

MR. JAKUBIAK: Yes.

MR. HOLZER: And I see there appears to be some lines drawn. Could you articul, or explain that?

MR. JAKUBIAK: Well, there is one line drawn and it's a line that I drew using Google Earth, Google Earth Pro, Professional actually. There was a yellow line that just ex, essentially, from the rear yard close to the Clark residence, to the side yard close to the main building on the subject site. And that line measures four hundred and sixty feet long.

CHAIR: Four hundred sixty?

MR. JAKUBIAK: Four hundred sixty-five feet long.

CHAIR: Okay.

MR. HOLZER: Right.

MR. JAKUBIAK: The, the sites differ in elevation. I wrote there one hundred and twelve feet. I prepared this thinking I was going to testify a couple days ago --

CHAIR: Just when you reference to a hundred twelve feet, you're talking about the difference in elevation from one structure to the next, as to Clark's house?

MR. JAKUBIAK: Yes, from the ground where the structures sit, yes.

CHAIR: Only because you used one hundred twelve feet in isolation, so for the transcript that's why I'm tying this back, that's all.

MR. JAKUBIAK: Thank you. But the actual elevation is a hundred and twenty-two feet, not one hundred and twelve feet.

CHAIR: Okay.

MR. JAKUBIAK: That's a mistake I made and I noticed it last night in reviewing this for this case so, when we're talking about the difference between two hundred and eighty feet at the low end and four hundred and two feet at the high end.

CHAIR: So, on Protestant's Exhibit 104, the reference to one hundred twelve should read one twenty-two?

MR. JAKUBIAK: Yes.

CHAIR: Okay.

MR. JAKUBIAK: Therefore, the grade between the building, main building on the property, to the Clark residence is twenty-six percent. Over the course of that four hundred and sixty-five feet.

CHAIR: Can, so on the exhibit Mr. McComas has marked that's supposed to read one twenty-two. Can you put your initials next to the changes on the, on the Court exhibit?

MR. JAKUBIAK: Yes.

MR. HOLZER: Thank you. And what about the twenty-four percent?

CHAIR: Sorry.

MR. MCCOMAS: Yeah, I changed that.

MR. HOLZER: Okay.

CHAIR: Yeah, please initial all the, whatever corrections were needed and then make Mr. Schmidt is tracking the changes.

MR. SCHMIDT: So, it's one twenty-two instead of one twelve and twenty-six percent instead of twenty-four?

MR. HOLZER: Correct.

MR. SCHMIDT: Okay, thank you.

CHAIR: That makes sense.

MR. HOLZER: Now, --

CHAIR: Sorry, just to make sure that's clear as to what's going on for the actual exhibit.

MR. HOLZER: Now, Mr. Jakubiak, what, what was the purpose in going through that exercise?

MR. JAKUBIAK: The purpose is twofold, because later I'm going to testify about the grades and how water flows downhill and certainly water flows downhill faster when the

land is steeper. I'm going to testify to the impact of sound at this location.

Effectively, there's very little buffer that could prevent noise from traveling off this site. And we know that sounds travels in waves. It's not as if the, a sound will travel and go right over the Clark residence, because the Clark residence is lower. When we deal with buffers, we think about the distances and the, the type of buffer and here the buffer is not adequate to address the sound impacts.

MR. SCHMIDT: Mr. Garber, I didn't want to interrupt the witness but I would object and move to strike. Mr. Jakubiak is not an acoustical engineer, or at least he's not been presented as such. And expert testimony regarding sound, how it travels and how it may be impacted by buffer, I've certainly been before this Board on other cases where acoustical engineers have testified about those conclusions. Mr. Jakubiak is a land planner and although I, I mean, he, he can speak as a land planner, but the conclusions that he is expressing, I believe, are those more properly from an acoustical engineer.

CHAIR: I would say to start, just to follow-up there, some of the concepts, again, he testified to, I don't think require expertise. I agree that this can bleed into that expertise, I don't know that we're there yet. It, it, I certainly, in my experience, I'm aware that sound travels in

waves. I'm certainly aware that distance and types of buffers can help insulate from sound. I agree that we're walking a tightrope at some point on this. I don't think we're there yet. So I'm going to overrule the objection for now. Obviously, you're aware of the tightrope, --

MR. HOLZER: We're not going on the tightrope any further.

CHAIR: Okay.

MR. SCHMIDT: Yeah, and, and I would just point out in addition, and just so the record is clear, Mr. Garber, I don't believe the witness has testified that he's been on the subject property, which to me would almost be a requisite foundation to do a sound analysis in terms of determining what, you know, I think you would have to go to where the source of the sound would be, which would be on the subject property. Obviously to do an analysis of how it may travel and the impact of the buffer and I don't want to go on and on but I don't think there's a foundation for the question, I don't think the witness has (inaudible).

CHAIR: I, I would say that I don't think we have had, and correct me if I'm wrong, but I didn't think we heard testimony yet as to any particular impact as of yet.

MR. SCHMIDT: Well, he testified, I believe he said that there's, what he described, I think he used the word an inadequate buffer or that there was very little buffer. And

since, just looking at Protestant's exhibit number 104, there is certainly a line of trees and a line of woods on the subject property next to Harford Road. The effectiveness of that buffer and his conclusions, if he hasn't been on the subject property, I don't know how he can testify about it. But I've made my point.

CHAIR: Okay. So, --

MR. SCHMIDT: I didn't want to belabor it.

CHAIR: -- let's, let's do this. Mr. Holzer, if you could address whether or not he's been on site, let's start with that as part of it, see if we can resolve the objections to whatever --

MR. HOLZER: Well, I can ask him, but --

CHAIR: That's what I'm saying.

MR. HOLZER: -- the fact of the matter is, it's not our property to go on and, anyone, so. Mr. Jakubiak, have you been on the site?

MR. JAKUBIAK: Only within the driveway turnaround.

MR. HOLZER: Okay, fine.

CHAIR: Okay. I would say that the, those matters are for cross examination. It's understood he's not an expert. It's understood that whatever opinions he may have or, or come from his expertise as a, as a land planner and zoning expert and not from any type of engineering background.

MR. HOLZER: Agree.

CHAIR: And so, with that in mind, you may proceed and of course you may cross, as necessary.

MR. SCHMIDT: Thank you, Mr. Garber.

MR. HOLZER: Have, have you finished talking about the particular property?

MR. JAKUBIAK: One thing I didn't mention was the, the size of the existing house. It's sixty-five hundred, or six thousand five hundred seventeen square feet.

CHAIR: On the subject property?

MR. JAKUBIAK: On, on the subject property, that's (inaudible) source of that information is SDAT. So that's the square footage above grade. And I guess perhaps I didn't mention but there are tennis courts and a swimming pool and several outbuildings on the site, including a historic barn on the lower part of the, the site.

MR. HOLZER: When you say a historic barn, and how, how did you characterize the barn as opposed to the house?

MR. JAKUBIAK: Well, the barn is on the Maryland Inventory of Historic Places. It's a designated historic structure. The house was built after the 1933 fire that destroyed the previous house, which was built in 1895 and certainly if that house remained I would imagine it would, too would be a historic structure. The site itself is a, is on the Maryland Inventory of Historic Places. So, the site, you know, it certainly encompasses the house, but the, the site itself

speaks to the, the historic, or the, speaks to the, the objective of preserving historic locations and locales and sites.

MR. HOLZER: Now, how does that, your testimony just now, how does that fit in with your definition of cultural that you gave earlier in your testimony? Is that a, a factor which fits into the cultural approach that you've talked about already?

MR. JAKUBIAK: Yes. It certainly demonstrates that other entities beyond me recognize the historic significance of this property and its location. It, in terms of culture, this person that occupied and developed this building was a famous person and developed a house that has a, a, its, even in its replacement house, it still has an important visual, cultural connection with the landscape.

MR. HOLZER: Okay. Can, if we can, I'd like to move on now for your discussion about what the zoning of the property is and, and ancillary questions related to the zoning and its, its purpose, etcetera.

MR. JAKUBIAK: Okay.

MR. HOLZER: So, you understand what area I'm asking you about?

MR. JAKUBIAK: Yes.

MR. HOLZER: Okay. So, could you describe what the zone is and where the zone goes, if that's an appropriate way

to characterize it?

MR. JAKUBIAK: The property is zoned resource conservation two. The focus of this particular resource conversation district is ag preservation, protecting the landscape for the agricultural uses and for rural preservation generally. I have an exhibit, Mr. Holzer.

CHAIR: 104, just so are we wrapped up with that?

MR. HOLZER: Yes, I thought we introduced it?

CHAIR: Yeah, I just wanted to make sure.

MR. HOLZER: That was the last photo.

CHAIR: Right. There's no objection to 104, correct?

MR. SCHMIDT: No, sir.

CHAIR: Right. So, just to be clear, it's admitted.

MR. HOLZER: Thank you.

CHAIR: And understood it's been amended here in Court.

MR. HOLZER: Yes.

CHAIR: Yes.

MR. HOLZER: For purposes for the record, the witness has corrected in terms of the hundred and twelve --

CHAIR: Right.

MR. HOLZER: -- figure to a hundred and twenty-two and twenty-four percent to twenty-six percent.

CHAIR: Yes.

MR. HOLZER: And the Board has requested that he

admit, initial --

CHAIR: Right.

MR. HOLZER: -- the change, which he has done, I believe.

CHAIR: Yes. It was handed to him, I assume that's what he did with it.

MR. HOLZER: Yes, um hm. I'm sorry.

MR. JAKUBIAK: I would like to apologize first to the Board. I only made one copy of this particular ten page exhibit, so, but I'm not going to refer to it any specific detail.

CHAIR: Well, let's identify what it is first without testimony yet, because then we have to give it to Mr. Schmidt to read.

MR. JAKUBIAK: I understand. It's a set of Baltimore County MyNeighborhood zoning maps printed on eight and a half by eleven. There are ten maps, ten pages.

CHAIR: Okay.

MR. HOLZER: And you don't have copies of those, of all ten pages?

MR. JAKUBIAK: Correct.

CHAIR: Is that, is it necessary to track the photos during the course of your testimony, the maps?

MR. JAKUBIAK: No.

CHAIR: Only because I want Mr. Schmidt to be able to

follow along. So, why don't we do this, if Mr. Schmidt doesn't have a problem with this, I can go make a copy of it, you'll have black and whites, but at least you'll be able to follow.

MR. SCHMIDT: That'd be helpful, I'm sure.

CHAIR: Right. So, why don't we just take --

MR. SCHMIDT: Do you want to take a break and, and do that?

CHAIR: -- ten minute break. I should ask before we do that, are there other exhibits to come that where we don't have sufficient copies? (inaudible) resolve all that all at once.

MR. HOLZER: Mr. Jakubiak, are there any other exhibits that you think you don't have enough copies of?

CHAIR: And take, take your time, whatever time you need to, to find that out because we, I think it's more efficient to do it like this at the moment.

MR. HOLZER: I agree. I agree.

CHAIR: So.

MR. JAKUBIAK: Two copies, two exhibits.

CHAIR: Okay.

MR. HOLZER: Two exhibits?

MR. JAKUBIAK: Two possible exhibits, in addition.

MR. HOLZER: Could we just identify those exhibits for the, a number right now?

CHAIR: I, I, I think that's a good idea. So, 105

are the ten pages of maps from MyNeighborhood, 106 will be, what are, what are we identifying 106 as?

MR. HOLZER: And it's a, a, looks like a history trails 1977 document called Mr. Bonaparte's Farm.

CHAIR: Okay, that will be 106.

MR. HOLZER: And I think it includes a picture, was that part of it?

MR. JAKUBIAK: It's separate.

CHAIR: Is that going to be made part of that exhibit?

MR. JAKUBIAK: It's a separate exhibit.

CHAIR: So that will be three? So you need that, okay. So, 107 would be the photo that's related to 106.

MR. HOLZER: That's correct.

CHAIR: Understood. Oh, that's eleven pages.

MS. DOPKIN: How many pages is 106?

CHAIR: I don't know yet. How many, how, do you have 106 in?

MR. HOLZER: 106 is (inaudible).

CHAIR: Okay. So, 106 is two pages, 107 is one and then Mr. McComas, when you're ready for 106 and 107, (inaudible).

MR. MCCOMAS: (inaudible).

MR. HOLZER: I wrote it down. No, I got it.

CHAIR: All right. Now that we have all that sorted

out, we can go on our little break.

MR. HOLZER: Yes, thank you.

CHAIR: And then photocopy them.

MR. HOLZER: And will, will the Board's secretary be able to do it or?

CHAIR: Yeah, I'm just going to do it now.

MR. HOLZER: Okay. I just wanted to know whether I had to impose on Mr. Zimmerman's office.

CHAIR: No, we'll just take care of it, so we just want to keep it moving.

MR. HOLZER: Right.

CHAIR: That'll be fine.

MR. HOLZER: Right. All right, thank you.

CHAIR: So, here, I'll take them, that's fine. Thanks.

MR. SCHMIDT: So, are we taking a, a break?

CHAIR: We're taking a break and if you guys have extra time during the course of that break, and you want to start resolving some of those other --

MR. HOLZER: Yeah.

CHAIR: -- exhibits with the authentication or whatever else is needed, that'd be ideal.

MR. HOLZER: Right.

CHAIR: Okay.

MS. DOPKIN: We are off the record.

(RECORDING PAUSED – 10:18:14 AM)

(ON RECORD – 10:29:42 AM)

CHAIR: Everyone can be seated. So, I've been told to say normally we charge fifty cents per copy, so next time please have these ready and available for the copy. But obviously we're just needed to move through this today.

MS. DOPKIN: Do we take cash or checks?

CHAIR: We, yes.

MR. HOLZER: I was going to say, will you accept free labor.

CHAIR: Well, I would say, just to be clear for the record. Checks only, no cash, yes.

MR. HOLZER: Or free labor?

CHAIR: Free labor, okay. I mean, that's not terrible, right? So here we go. Now, when walking, I did splash a little drop of coffee on the top but outside of that, there should be no other alteration.

MS. DOPKIN: You can give that one to Mr. Garber.

MR. HOLZER: Yeah.

CHAIR: Well, that's the file copy, luckily enough. I'll do that to my own copy.

MR. HOLZER: All right, all right. I'm just going to give this to him. Could, --

CHAIR: Do you want to just hand out, hand out a copy to everybody now with everything? Because this way we already

know what 105, 106 and 107 are.

MR. HOLZER: Okay.

MR. MCCOMAS: It's all sorted.

CHAIR: Yeah.

MR. HOLZER: I'll try, I'll try to do that.

CHAIR: I think it's sorted out so it's easy to do.

MR. HOLZER: Can I use your table?

MR. SCHMIDT: Sure.

CHAIR: No, I think it's actually in order. If you, if you look down it's a stack of 105, 106 and 107 in order.

MR. HOLZER: Okay.

CHAIR: So, here, I'll show you what I mean.

MR. HOLZER: Yeah, I'm not, I don't want to mess up what you've already done.

CHAIR: All right, no problem. So, I understood this to be, this should be, since you've given the witness the one copy there, hold on.

MS. DOPKIN: Does Mr. Schmidt have copies?

ATTORNEY: That's what we're doing now.

MR. MCCOMAS: Mr. Schmidt, do you have three exhibits there?

MR. SCHMIDT: No, sir.

CHAIR: Here you go. That's for Mr. Schmidt.

MR. HOLZER: This is his whole packet?

CHAIR: Yes.

MR. MCCOMAS: Then you probably want to give us back what you have (inaudible).

CHAIR: This is for the witness, these two. That's for the witness. This is for Mr. McComas, that's for Mr. Holzer.

MR. HOLZER: Thank you.

MR. MCCOMAS: He needs the one page or (inaudible).

CHAIR: He has that.

MR. MCCOMAS: Oh, he's got it in his hands.

MS. DOPKIN: I don't have 105.

CHAIR: (inaudible).

MR. HOLZER: So, the picture is 107, the other documents are 105.

CHAIR: So we're all on the same page now, everyone has their copies?

MR. HOLZER: Yes.

MR. JAKUBIAK: I don't have, I don't have (inaudible).

CHAIR: All right.

MR. JAKUBIAK: (inaudible).

MR. MCCOMAS: This is 105, this is 106 and 107.

MR. JAKUBIAK: Yeah, I have, I have not gotten 106 back yet (inaudible).

MR. HOLZER: Okay.

CHAIR: Okay, hold on. These are copies, I don't

know where the originals, I thought I handed, handed back the originals. You got that? Okay. The ones with the sticker tabs that is. And Mr. Schmidt, whenever you're ready, please let us know.

MR. SCHMIDT: Okay.

CHAIR: Whatever time you need.

MR. SCHMIDT: No, I'll, I mean, I'll, I'll follow along, I, I see, I mean, I see what it is, so we can go forward.

CHAIR: Okay. Mr. Holzer, then back to you.

MR. HOLZER: I'm ready. All right. Mr. Jakubiak, you, before the break, you mentioned that you had a number of documents that you would like to refer to. The first one was Protestant's Exhibit 105-A through K, everyone has received a copy of that. It, it, it appears to be a Baltimore County MyNeighborhood map that also has about nine or, total ten, I think it's around ten pages, is that correct?

MR. JAKUBIAK: Yes.

MR. HOLZER: All right.

CHAIR: And before, before you start testimony, one last point. Mr. Jakubiak, you have the only color copy of Exhibit 105. So, if you're going to refer to something as if you look at the green area or something like that, that's going to mean nothing to the rest of us. So, just in keep in mind that little, little tidbit and away we go.

MR. HOLZER: I, for the record, I would think that the County could afford a color copier for the Board.

MS. DOPKIN: At fifty cents a page, we could.

MR. HOLZER: I'll work it off. All right. Mr. Jakubiak, we're back. And 105-A through K, Baltimore County MyNeighborhood, why did you produce this document now?

MR. JAKUBIAK: I, I'm producing this document for the Board to convey the sense, and the fact that the RC-2 district is substantially large. I, I would, my, I think that it covers more territory than any other zoning district in, outside the URDL, the rural side of the URDL.

Just these ten exhibits show how the very same district extends. It's never closed off, it's continuous. It extends south of the current site, all the way north and west, well beyond Jarrettsville Pike, Manor Road, up Old York Road, past Monkton Road. I stopped at some point, just because it didn't make sense. But I just simply want to convey how much land is available in RC-2 for special exceptions, for religious and other buildings of worship. And that within this vast array of the County, there are lands that are not so constrained and conflicted and impacted by the geology and the steep slopes that you find on this particular site.

MS. DOPKIN: Can you distinguish for me between your pages D and E, because they look identical?

MR. JAKUBIAK: Okay.

MR. HOLZER: After you answer the question, I'm going to suggest that the colored documents be given to the Board.

CHAIR: Yes, they're the ones, I believe, with the stickers on them. So, yes, they would have to be given back because they're going to be the record.

MR. HOLZER: Right, yeah.

CHAIR: That's correct.

MR. HOLZER: I mean, the Board, they're of no value if the Board can't see what he's talking about.

CHAIR: Right. But also for the record, so it can, yeah, whatever is needed for that.

MR. HOLZER: Yes, right.

MR. JAKUBIAK: Your Honor, I believe they are identical. So, --

MR. SCHMIDT: So, so, D, D and E are the same? That's what it looked like to me.

MR. JAKUBIAK: Yes.

MR. SCHMIDT: I, I just have one other question, just may help. Is, is the subject property on any of these maps?

MR. HOLZER: Mr. Jakubiak, that was a question. I don't object to him asking a question.

MR. SCHMIDT: I'm just trying to orient myself, that's all. It might be helpful for the Board.

MR. JAKUBIAK: The subject property is on Item C, page C. You can see the hairpin turn at Harford Road, just

south of Mount Vista.

CHAIR: Yes, and where, I see the, where it says, I want to say Glen Arm Road and Bonaparte Road?

MR. SCHMIDT: Ah.

MR. JAKUBIAK: Yes.

MR. HOLZER: C.

MR. JAKUBIAK: Well, just south of there.

CHAIR: Right.

MR. JAKUBIAK: It's actually just to the right of the words Harford Road on that map.

MR. HOLZER: Could you put them back in order, Mr. Jakubiak?

MR. JAKUBIAK: They are.

MR. HOLZER: Okay. Could you give them to me? Because I want to show them to Mr. Schmidt so he can understand what was just said.

MR. SCHMIDT: Ah, okay. Let me just look at C.

MR. HOLZER: Yeah, I (inaudible).

MR. SCHMIDT: Yeah, C, I'm sorry. My, my copy quality just is, I can't --

CHAIR: It, it's quite all right.

MR. SCHMIDT: It's really hard to see.

CHAIR: Mr. Schmidt, it's quite all right.

MR. SCHMIDT: Yeah, I'm just trying to figure out where we are. Okay, I see. So, it's, there it is, which is,

doesn't show up on this. Okay, okay. Thank you, Mr. Holzer.

MR. HOLZER: Two more pages.

MR. SCHMIDT: Oh.

MR. HOLZER: Right there.

MR. SCHMIDT: Yes, okay. Thank you.

MR. HOLZER: I want to give these back to the Board so you got them.

CHAIR: Thank you. We received 105 back. Mr. Schmidt, any objection to 105?

MR. SCHMIDT: No, no, sir.

CHAIR: It is admitted.

MR. SCHMIDT: And just so that I understand, this is just RC-2 all around? Well, it speaks for itself in to, terms of where it is?

CHAIR: I would say it speaks for itself.

MR. SCHMIDT: Thank you.

CHAIR: But I also understood the testimony to be consistent with that representation.

MR. SCHMIDT: Right, okay.

MR. HOLZER: Yes.

MR. SCHMIDT: Thank you.

MR. HOLZER: Mr. Jakubiak, if we can move on, --

CHAIR: One point, before you, before you get to your question. We attached the front page as the third page for Exhibit 106.

MR. HOLZER: Yes.

CHAIR: So, this would ordinarily have been the front page but the reason why we attach it as the third, we obviously knew what Mr. Jakubiak wanted to get to, but we still needed to know where it came from.

MR. HOLZER: I, well, I, when I was produced with that, I came back and asked your secretary if, if you wanted it.

CHAIR: I was wondering how that came up, but there you go.

MR. HOLZER: It came up because I was diligent.

CHAIR: Yes, and I, thank you. And I, and I do believe it makes more sense to have the source attached to it, so.

MR. HOLZER: Right, right. Now, Mr. Jakubiak, 106 originally was just a one page document, captioned Mr. Bonaparte's Farm. However, upon reflection we found that the history trails, the first page, made more sense to include that with 106. So, would you like to explain why you produced this document for us?

MR. JAKUBIAK: Yes. I found this article to be very interesting and informative about the, the landscape and the, the, the history of the, the, this narrow vall, valley along Harford Road and the particular property.

Of special interest is a, is just a section that I'd

like to read to the Board --

CHAIR: Before you do, could you please identify it for Mr. Schmidt?

MR. HOLZER: Tell us where you're reading from.

MR. JAKUBIAK: Oh. The left column, beginning with the words, the purchase was made by, which is about a third of the way up from the bottom.

CHAIR: Third of the way up.

MS. DOPKIN: Purchase was made from.

MR. JAKUBIAK: The purchase was made from, yes, William (inaudible).

CHAIR: Mr. Schmidt, have you found that yet?

MR. HOLZER: I haven't found it.

VOICE: Are we on the first page?

MR. JAKUBIAK: Oh, I'm --

CHAIR: Hold on. Just wait, wait one second. Can you just point to where, roughly about where it is?

MR. HOLZER: Oh, I see it, I see it.

MR. SCHMIDT: Oh, got it, got it. Thank you.

CHAIR: All right. Are we all on the same page?

MR. HOLZER: Yes.

CHAIR: Ms. Dopkin, you're good? Mr. McComas, you're good?

MR. MCCOMAS: Yes.

CHAIR: All right.

MR. HOLZER: Thank you. You wanted to start with the purchase at the, on the second major paragraph on the left side of the page?

MR. JAKUBIAK: Yes.

MR. HOLZER: GO ahead.

MR. JAKUBIAK: The purchase was made from William H. Bosley, who in turn had secured the property from the Lambert Giddings Estate. The plan is on the Harford Road --

CHAIR: Place.

MR. HOLZER: Place.

MR. JAKUBIAK: Sorry, the place is on the Harford Road and is midway between Towson and Belair and about ten miles from each town and fifteen miles from Baltimore. In selecting his site, Mr. Bonaparte was anxious for an un, unobstructed view and he got it. His house stands on an eminence and from the porches, the County, the country can be seen from, for miles around on every side. I'll just stop there.

It continues to discuss the house being on a crest of the hill. I wanted to say this because, or, or bring this to your attention. It shows that this site has been in this condition for a long time. Even in, in 1977, they were describing his decision making and, locating his estate at that particular location, its prominence. So there's a, dating from 1895 till today, this landscape is largely unaffected by any

incompatible intrusions into, into it. So, I just wanted to highlight that to you to show the, the, the legacy that is attached to this property and this landscape.

MS. DOPKIN: At the end of the article, it indicates it's from September 1904, not actually originally from 1977. Is that correct?

MR. JAKUBIAK: Oh, I was referring to the, the, the journal itself or the, the piece, it's summer of 1977 is the date.

CHAIR: But if you turn to page two, at the conclusion, I'm assuming that, where it says Mr. Bonaparte's Farm, if you follow the second column on the first page it goes into another page because it is sequential in terms of pages twenty-one and twenty-two, that, and it obviously identifies General Bonaparte's barn in the photos, that that's a continuation and then it's attributed to the Baltimore County Union, September 10th, 1904, page three.

MR. JAKUBIAK: Yes, I understand, I understand what Your Honor is saying.

MS. DOPKIN: So, it was reprinted in 1977 as part of this historic journal?

MR. JAKUBIAK: Yes, that's how I understand it.

MR. HOLZER: But that, the amendment in terms of the date, that doesn't affect what you previously just testified to, does it?

MR. JAKUBIAK: No, not at all. I, I, reenforces it, actually, in my view.

MR. HOLZER: Okay and that was the purpose for Protestant's Exhibit 106. Could we talk about 107 and then move of them? Protestant's Exhibit 107 is a picture of a house, with the caption being the country house Bella Vista. Is that a document that you prepared or brought to the hearing this morning?

MR. JAKUBIAK: I only brought it to the hearing. It's a black and white image of the, the, the house we've been discussing. Before its, the original house on the site, and I, (inaudible) from the architecture, which is attractive, I wanted to, you to see what I see in terms of the landscape and the prominence of this location and how it overlooks this valley and how it overlooks the trees surrounding the site.

MR. HOLZER: Okay. Is that the only --

MR. JAKUBIAK: yes.

MR. HOLZER: -- testimony about that? I --

CHAIR: Was one, 107 part of 106? That's how I understood it initially. Is that the case or no?

MR. HOLZER: I don't believe it is.

MR. JAKUBIAK: No, no.

CHAIR: Okay. So, they're separate.

MR. HOLZER: Two, but they relate to the same part of the testimony, so I'd move 106 and 107.

MR. SCHMIDT: Mr. Garber, I don't have any objection to 106.

CHAIR: So that'll be admitted.

MR. SCHMIDT: One, 107, just from a foundational standpoint, do, and I don't want to ask the witness questions, but do, do we know when, where this is from, when it was taken? As I understand it, this was the original house, which was burned down in 1933, I believe. So, I think it, there should be some, I, I think that's the case, but I think there should be a little more foundation. I just don't know what it is.

MR. HOLZER: I'll be glad to ask him the question.

MS. DOPKIN: Was 105 admitted?

CHAIR: 105 was admitted, 106 is admitted, 107 is where the question is as to --

MR. HOLZER: Right.

CHAIR: -- I guess the source --

MR. HOLZER: Yes.

CHAIR: -- information (inaudible) --

MR. SCHMIDT: And, and to confirm what it actually is.

MR. HOLZER: Mr. Jakubiak, I mean, I think Mr. Schmidt and I share the same question. Is this a picture of the original house that was burned in 1933 and if so, why did you introduce that or, or comment upon that as opposed to the current house?

CHAIR: Sorry, if I can, I believe we got that testimony. Because he's, he wanted to show the house in relation to the surrounding land.

MR. HOLZER: Right.

CHAIR: Right. It is, where did you get it from, I think is, was Mr. Schmidt's question. So that we know for a fact that it's the property at issue.

MR. HOLZER: Correct.

MR. JAKUBIAK: I was provided with this image from, this photograph, from Ms. Robin Beards (phonetic), who is a resident in the community, who's done quite a bit of research on her own about the history of the area. And I thought when I saw it, this is something I, I thought the Board would appreciate seeing to understand the lay of the land.

CHAIR: Mr. Schmidt, I understand you're going to have questions on cross examination, I'm going to reserve a ruling to admissibility and I'll leave it for now where it is.

MR. HOLZER: Thank you, that's fine.

CHAIR: Leaving this as i.d. only, I guess, at the moment, pending further examination.

MR. HOLZER: Well, before we got a little sidetracked on all these last documents and exhibits, you were talking about the zoning of the property as RC-2. And in fact, you were talking about, and one of the exhibits shows, that RC-2 is a very extensive zoning district in, in Baltimore County. Can

you then discuss the RC-2 zoning and how it might relate to this case?

MR. JAKUBIAK: When the R-2 zone, RC-2 zone is a resource conservation zone. It's intent is to fost, foster conditions favorable for the continuation of agricultural within the area. And to prevent incompatible uses and, more specifically, to prevent dense commercial, residential or institutional uses. So, that's the, the purpose. And then the RC districts were established in the, with the general intent as laid out in the zoning ordinance, to minimize the outward and scattering of low density development into the rural areas.

MR. HOLZER: Okay. Now, in terms of that, laying of that foundation, is the County master plan relevant in the present case?

MR. JAKUBIAK: Yes, I believe it is.

MR. HOLZER: Can you explain why?

MR. JAKUBIAK: The County master plan is the, the guidance document for development and growth and conservation, and for decision making concerning special exceptions. It is not the standard, it's not a 502.1 standard but it is a guidance document that cannot be dismissed when reviewing applications for special exceptions or for any development, in my view.

The, the master plan 2020 provides for land preservation outside of the, the URDL as a general policy.

Within the Harford Road corridor, and the, we've been discussing today from roughly Hartley Mill up to and beyond actually, Mount Vista, the road, Harford Road, is a Baltimore County scenic route. It's map twenty-six in the Baltimore County master plan.

And scenic routes are to be, as a matter of policy, protected through sparing, sparingly use, through sparingly using the special exception authority. The, in fact, the, the, the Board must, well, excuse me, the master plans says that special exceptions should be granted sparingly when along a rural road or scenic vista, scenic route, like, like Harford Road. So, it raises the level of importance in review because of its location on this road.

The, the property is also within the Long Green Valley Rural Legacy Area. And there are, of course, a number of rural legacy areas within the County and that is a, a program that the County has embraced, which is a State program, that seeks to preserve intact, these rural areas that are characteristic of the heritage of, of Maryland. So, the Long Green Valley Rural Legacy Area includes the, the subject site and the, I'd like to read a couple things that are relevant from the, the master plan.

CHAIR: Do, do you have copies of that?

MR. JAKUBIAK: No.

CHAIR: Okay. I think he needs to show Mr. Schmidt

what he's about to read before he reads it.

MR. SCHMIDT: And, and Mr. Garber, I do have a copy of the master plan, so at the least, if he could us what page he's on that might be helpful.

CHAIR: So, before you start reading, if you could direct Mr. Schmidt to the particular section you want to read from.

MR. JAKUBIAK: Page one sixty-nine.

CHAIR: All right. Before you start, wait till Mr. Schmidt has the opportunity to get there and then review it first. And then we'll deal with everything else after that.

MR. SCHMIDT: Okay. Yes, sir, I, I have the page.

CHAIR: Are you ready?

MR. SCHMIDT: Yes, sir.

CHAIR: All right. So, Mr. Jakubiak, you may begin. I'm assuming your question will be to him, and what does it say?

MR. HOLZER: That's my question. I've got it right here.

CHAIR: Okay. You're good to begin.

MR. JAKUBIAK: Oh. The Maryland General Assembly adopted the Rural Legacy Program to address the continuing loss of natural resources and productive agricultural lands to development. The goals of the program are to protect and maintain the rural character, rural character, permanently

preserved land through easement programs and limit new residential growth in these areas.

The, one of the, the policy that's attached to that statement of recommendation is to manage growth within designated rural legacy areas and seek permanent preservation of undeveloped properties through easement programs.

CHAIR: Well, let me stop you there. I would say if you can think about this at some point to provide copies of whatever it is you testified to, I'm assuming it's going to be important to your case?

MR. HOLZER: Sure.

CHAIR: Thank you.

MR. HOLZER: That's, I, I have page one sixty-nine here so we can make copies --

CHAIR: Yeah, or, and you can provide it at a later date but just, it doesn't have to be in evidence, it's, it's part of the County record generally speaking, so.

MR. HOLZER: I might just attach it to my memo, that would make more sense.

CHAIR: I, right, that's fine.

MR. HOLZER: Yeah, thank you. In looking at this one sixty, page one sixty-nine, at the end of the paragraph that you just read from, does it indicate for five rural legacy areas in the County?

MR. JAKUBIAK: Yes, it does.

MR. HOLZER: And which, which, which are they?
MR. JAKUBIAK: Coastal.
MR. HOLZER: Right.
MR. JAKUBIAK: The Piney Run, the Gunpowder, Long Green and Manor.
MR. HOLZER: And which one does this property fall under?
MR. JAKUBIAK: Long Green Rural Legacy Area.
MR. HOLZER: Okay. All right, thank you. And I will make sure that we attach that. Now, having finished those, those documents, are there any other documents we need at this point before I move on to the next topic?
MR. JAKUBIAK: There are no other documents on this topic but there's another point I want to make about the --
MR. HOLZER: Okay. Would you go ahead --
MR. JAKUBIAK: -- master plan.
MR. HOLZER: Yeah, we're talking about the master plan. You've discussed rural legacy, you've discussed scenic route. Do you have another point that is necessary to fill out your testimony?
MR. JAKUBIAK: The master plan contains a, a map and a section of text that discusses land management areas. These are, the intent of this is to designate in the very generalized way the intent and purpose of large tracts of land or sections of the County.

So, the subject property is within the agricultural preservation area, which is a land management area, and it calls for lands to be agricultural, agricultural primarily, and it specifically says that it's not suitable for dense residential commercial or, or institutional uses.

CHAIR: And you're saying, you're referring to the master plan. Are you referring to a particular page of the master plan?

MR. JAKUBIAK: The, what I just quoted is on a page in the master plan.

CHAIR: Yes.

MR. JAKUBIAK: I don't know what page.

CHAIR: Okay.

MR. JAKUBIAK: But I, in preparation for the case, I wrote down that quote to remind myself. The --

CHAIR: So, when you say land management areas, just, to, just to follow-up real quick, are there designated land management areas?

MR. JAKUBIAK: Oh, yes.

CHAIR: Okay.

MR. JAKUBIAK: Yes.

CHAIR: And then, just so I understand how this relates to this case, you're saying that this is within a designated land management area?

MR. JAKUBIAK: And, and it's in a particular land

management area.

CHAIR: Okay.

MR. JAKUBIAK: That's relevant to the zoning category that's been applied to the property.

CHAIR: Okay.

MS. DOPKIN: You referenced a map. Does that map, is that map identified in any particular way in the master plan?

MR. JAKUBIAK: Yes, thank you. It's called the land management areas and it's within the Baltimore County master plan.

MS. DOPKIN: Page? Do you have a page?

MR. JAKUBIAK: I'm sorry, I don't have the page with me.

MR. SCHMIDT: For the benefit of the Board, it's on page forty of the master plan.

MS. DOPKIN: Thank you.

MR. SCHMIDT: Is the land management areas map.

MR. HOLZER: I'm waiting for you.

CHAIR: I'm sorry. He was, he was looking down, I didn't know if he was, Mr. Jakubiak was looking for something and so --

MR. HOLZER: No, he, he testified he didn't have it.

CHAIR: Right.

MR. HOLZER: And Mr. Schmidt gave him the page, gave the page to him.

CHAIR: Right.

MR. SCHMIDT: I, I was just telling the Board where it is.

CHAIR: Right, page forty.

MR. HOLZER: Yeah, yeah.

CHAIR: And, I mean, I thought he was looking for something else, so, my --

MR. HOLZER: No, I was, and I was waiting for you.

CHAIR: Okay, sorry. Yes, please proceed, Mr. Holzer.

MR. HOLZER: No problem. Mr. Jakubiak, can you tell us about the particular circumstances and facts about the use and location and how the impacts of the use will be more adverse at the location here than are inherently associate, associated with it, within an RC-2 zone? You understand my question?

MR. JAKUBIAK: I do.

MR. HOLZER: Okay. Good, if you would like to state it in a more succinct way, you're certainly welcome, as a preface.

MR. JAKUBIAK: I don't know that I need to. I, but I, I'll get around to that.

MR. HOLZER: Okay.

MR. JAKUBIAK: So, we're looking, essentially this is where the rubber hits the road, right? Special exceptions,

essentially. Are there any circumstances or facts about the use of the location that make the impacts more adverse here than they are inherent in a, in a church or a building for religious worship?

I mentioned the, the narrow valley and the location of this site at a promontory. I mention that because, and because the noise related to any outdoor religious or cultural or institutional uses will travel off the site and will travel off the site without the benefit of barriers or buffers that will prevent the sound from impacting adjoining residents.

MR. SCHMIDT: Objection and move to strike. That, that is a conclusion that an acoustical engineer would need to make when he talks about barriers and buffers.

CHAIR: Mr. Holzer?

MR. HOLZER: No, this, this is an expert in land planning. He does that all the time in regard to multiple municipalities, multiple counties, in this State, where --

CHAIR: When you say that, you're referring to buffers and barriers or whatnot?

MR. HOLZER: Yes. It's, he's not technically providing how many decibels will, will be there, which would be under an acoustical engineer and I've handled acoustical engineers. What he's saying is from a general land planning, zoning way in preparation of not only writing zoning, zoning laws but doing planning, it's certainly, he's already testified

that it's relative in regard to sound, sound waves. He's testified in regard to relationship of, of homes in the vicinity and why they would be, would hear noise. We've already heard from the, from the owners of property that they could hear thumping, banging, --

CHAIR: We heard audio and --

MR. HOLZER: -- audio --

CHAIR: -- whatnot.

MR. HOLZER: -- so what he's doing is summarizing, obviously, the adjacent property's testimony in, in the terms of a land planner who has to take all that into account when he creates certain zones, when he, when he develops a plan for any community. So, it's not that he's an expert on acoustical engineering. It's not that. He's, he's looking at it from the, from the way of a land planner.

CHAIR: From land planning.

MR. HOLZER: Yes.

CHAIR: Right, okay.

MR. HOLZER: I mean, I could go on but --

CHAIR: So, with, with that understanding, it'll be received. It will not be received, again, as bearing any expertise when it relates to sound.

MR. HOLZER: Right.

CHAIR: Or acoustical engineering.

MR. HOLZER: Right.

CHAIR: And those kind of things. It is understood that it is for solely, as it relates to land planning, and however sound mitigation impacts the land planning and vice versa, okay.

MR. HOLZER: Correct.

CHAIR: So, overruled on that basis. Of course, you may cross examine on these points and you may proceed.

MR. HOLZER: Thank you. Do I need to ask you a question or can you pick up where you left off?

MR. JAKUBIAK: I can pick up where we left off.

MR. HOLZER: Good, thank you.

MR. JAKUBIAK: The, the valley wall is, is very steep. So, the, the ability to install sound barriers on the property is limited. The noise will leave the site as, as been testified by the adjoining property owners.

This particular use is, is more than the use of the building for religious worship. And I gathered from the testimony that if they, as I said, three or four multiple day festivals will happen at this location. Those festivals introduce noise beyond the building. So, they, there are no walls to contain the sounds of any activities that happen on the property.

These festivals will naturally occur during the times that residents can be expected to be at home. The plan, as I've seen it, provides thirty-eight parking spaces. Those

parking spaces are diagonal, designed to be diagonally, diagonal parking spaces off of the main drive. Any special events that introduce or, or create a demand for more than thirty-eight parked cars will require that cars be parked in an overflow situation.

In reviewing the engineer's testimony, the, the, the grounds, the lawn would be used for overflow. Overflow parking is certainly a reasonable use of land for special events. It certainly minimizes the amount of permanent paved surface on a site. But it comes at real risk too.

In the present case, the land slopes away from the, the top and particularly to the west, it slopes and as I said before, on a twenty-six percent grade. That means that parked vehicles that compact, the compaction of the ground that may result from parking of vehicles, will, will certainly not, would, would reduce the ability for the land to, the ability of the rain to permeate into the ground.

MR. SCHMIDT: Objection. If I can be heard, Mr. Garber?

CHAIR: Yes.

MR. SCHMIDT: Mr. Garber, this is an --

CHAIR: Well, let me ask you this. What's the nature of your objection first?

MR. SCHMIDT: The nature of the objection is that this witness does not have the level of expertise to be able to

discuss this. And if I could be heard very briefly?

CHAIR: I would say I'm inclined to agree with you at the moment. So, I will --

MR. SCHMIDT: Okay.

CHAIR: -- if you want to stop there, I'll let Mr. Holzer respond.

MR. SCHMIDT: Quit while I'm ahead.

CHAIR: So, Mr. Holzer?

MR. HOLZER: Yeah, I mean, as a land planner, he has experience with parking requirements, impervious surface. He's familiar with land in terms of the soil and so forth, lawns and so forth. All he said was, it could, parking three or four times a year on, three or four times during these festivals, whether they're three or four times a year or just whenever, it will, will create a potential for impervious, to allow water to runoff faster. It, it will, as the previous testimony of Mr. Clark, it certainly can impact the, the grass, the ground and so forth. He's not, he's not an environmental ground expert that we're talking about and again, it's a situation where, as a land planner, as a person who creates land planning and zoning laws, he got, he's got to take into account this kind of a situation. I'm not asking him the percentage of --

CHAIR: I, I'll cut you off there only --

MR. HOLZER: Yeah.

CHAIR: -- to, sensing yes, I don't disagree with

what you're saying in that regard.

MR. HOLZER: Right.

CHAIR: It, what got my attention was the compaction of the ground without knowing, of course, soils and whatever else that comes with it and then its contribution to any water runoff. I think, I can understand in the general sense of maybe the water runoff but you have to get to the first point of the compaction of the soil that would be permanent, that would influence and change what is going on presently.

MR. HOLZER: It's, it's a simple answer. My answer is simple. Cars are heavy, they weigh heavy. If they park on grass or they park on dirt, they're going to compact whatever kind of soil it is.

CHAIR: And its impact on storm, on the, excuse me, on the water, on the water drainage from that area.

MR. HOLZER: Yes.

CHAIR: I think we're, we're, I think we're starting to get to areas that maybe beyond, and I'm not disputing he, whether or not he could have opinions as to parking on grass surfaces, generally speaking. I get that.

MR. HOLZER: Okay. Well, --

CHAIR: But it's as to, when we talk, start talking about compaction of the ground and then how it changes the water drainage, is where we start running afoul that --

MR. HOLZER: I'll ask another question.

CHAIR: Thank you.

MR. HOLZER: So, Mr., --

CHAIR: So, I'm going to sustain it on that basis, you may continue.

MR. HOLZER: Mr. Jakubiak, first of all, is parking on grass a, a preferred method of accommodating vehicles in, in regard from a planning activity, or from a planning perspective?

CHAIR: He did testify to that.

MR. HOLZER: Well, I'm asking him to get it, do it again so he --

CHAIR: For foundation, okay.

MR. HOLZER: -- can lead into his answer.

MR. JAKUBIAK: It's, it's not preferred when a hard surface is feasible and, and can be accommodated.

MR. HOLZER: Okay and why, from a planning standpoint, if you were to design and planning, or zoning laws or whatever, what, how would you interpret that concept that it's not favored? Because of what?

MR. JAKUBIAK: A couple factors that bear on the particular cir, circumstance and that is the slope of the land. While it may appear that the land is flat on the top, it's not flat, it, it, you know, the, the house is at the four hundred foot elevation and it slopes down twenty feet before you get to the next contour. So, it slopes in all directions. So, we

know --

MR. SCHMIDT: Objection.

CHAIR: Hold on, sir.

MR. SCHMIDT: We're trying to get back to this and, and Mr. Garber, this is an area that I would classify as, what is called storm water management under the Baltimore County Code. That the, the County has regulations, as you well know I'm sure from other cases, that relate to storm water management which governs the discharge of water and how water will be disposed of when it runs off of a property. A storm water management plan, which is required for much development, is by definition required to be prepared by an engineer. In other words, in order to even prepare and to submit a storm water management plan or a storm drain plan, you need to be an engineer because the plan has to be sealed. The fact of the matter is, I respect Mr. Jakubiak's planning and his zoning expertise, but he's not an engineer and he's not a storm water management expert, which is what these questions are coming to.

CHAIR: I, except, I'm sorry --

MR. SCHMIDT: I understand that we can all say that water runs downhill, and we can all say that cars weigh more than people and I understand all that. But the conclusions that the witness is attempting to offer is that from a storm water management perspective, this proposed use will be detrimental on surrounding properties. That's the criteria and

that's what he is trying to say, I think obviously that's where he's going.

CHAIR: You'll have your chance --

MR. SCHMIDT: He's simply, he's simply, does not have the expertise and he's never even been on the property, but he's not an engineer and he's not a storm water management expert or that the County requires in order to do this. This isn't something where when you submit a plan to the County, I, as an attorney or someone else who's not an expert, can get the County to approve a storm water management plan or a storm water management concept. It has to be prepared by an engineer. The man is not an engineer.

CHAIR: I, I, I understand the objection. Mr. Holzer, do you wish to respond?

MR. HOLZER: Yes. The purpose of him testifying to this is not as an expert engineer, not as a ground water, not as County code requirements for a land, land use and so forth. The purpose is to show his opinion why this project has more of an impact on the neighborhood than, than that elsewhere. And you're not letting him articulate that and I think he has a right to do that.

CHAIR: Yes, to, to the extent that it goes to land planning as to factors that he would consider for, for land planning and its impact, I understand that. But when we start getting into how present drainage can change and compactions of

soils and whatnot, I think those do go to the points Mr. Schmidt is saying. So, there is some testimony that you can elicit on this basis and there is some that we can, you will be crossing a line. So, yes, I do agree that you can ask questions about what factors in to land planning analysis when it comes to off, parking on, I guess, pervious surface, non-perv, or non, --

MR. HOLZER: Non-pervious.

CHAIR: Whatever the appropriate way to phrase that, non-paved surfaces.

MR. HOLZER: Right.

CHAIR: What impacts do you evaluate for purposes of land planning.

MR. HOLZER: Correct.

CHAIR: I would agree with that, that that is not objectionable. But when we start talking about the specific potential storm water management issues on this particular property, I think we are starting to get into an area that is beyond what Mr. Jakubiak may be able to testify about.

MR. HOLZER: Thank you.

CHAIR: Yes, so overruled in part, sustained in part.

MR. HOLZER: Mr. Jakubiak, you've heard the Chairman.

MR. JAKUBIAK: Yes.

MR. HOLZER: Obviously, you can testify as a land planner and a zoning expert as to why you believe the impacts

of this proj, proposed project will be greater here than elsewhere. You have testified to one basis for that. Now you're testifying in the area of parking on the grass. Without saying what is obvious to everyone, that a car can compact the grass and soil below it, without getting into the fact that water runs downhill, which everybody understands, can you explain why the impact of this project with the parking on the grass can have a greater impact at this location than elsewhere?

MR. SCHMIDT: Objection. Same objection. How can he reach a conclusion since he's not an expert?

CHAIR: Well, again, hold on. We have general understanding as to certain points. The specific application to this property is, again, where we would run afoul. However, the question that was asked, actually, I don't believe to be objectionable based on the prior rulings.

MR. HOLZER: Right.

CHAIR: So, Mr. Jakubiak, can you please answer the question?

MR. JAKUBIAK: This is the way I'd like to answer it. I put my planner cap on and explain how I would approach this off the review development plans frequently, weekly. I would look at this project and its description and I'd say is thirty-eight parking spaces adequate to support the use? And I'd say, well, the use, if it's a temple, you know, has an occupancy of

a hundred and fifty, and that's sort of what the design standards are for parking in the code. But the use is more than that building. The use is a series of multiple day festivals, which is fine. But it, the use is something broader. So, I would look at this plan and I'd say, thirty-eight parking spaces, surely not adequate to support the likely attendance at multiple day events. So where would folks park? They'd likely park in an overflow situation on the grass --

CHAIR: Okay. If I can, so then do I understand the testimony to be as a land planner, you would suggest that you don't simply go by the, the minimum standard set by the County, that you would actually have more, more paved parking if this were to go forward? That is, from a land planning perspective only?

MR. JAKUBIAK: Yes, I, that, I would review it as something broader than just that use within that building. But, you know, I'm not applying the code, I'm not working for the County, I'm not making that determination.

CHAIR: Understood.

MR. JAKUBIAK: But that's how I would approach it. In other words, I would have a reasonable conclusion that onsite parking would take the form of overflow on grass for a considerable amount of the site's use.

CHAIR: Okay.

MR. JAKUBIAK: Okay? I would say that it's likely

that, in fact, the, the parking would take place off of the designated parking area in the grass. In fact, the engineer said as much and explained that, in addition to a couple spots behind the building, parking would be on the grass. And Mr. Holzer, on cross, cross examination inquired about how much and where and the, the engineer didn't explain as far as I, I read, didn't give any context to that.

So, for large events, I would imagine there'd be a lot of land devoted to parking the, the, the cars, for the attendees.

My next conclusion would be is the grounds generally suitable? Is the land suitable to accommodate, without an evaluation of the quality of storm water or the, the, the, the flow of water, the quantity, is it suitable? And I would say well, I'm concerned because the land slopes. I'm concerned with multiple, multiple day events, cars parking there and having impact and making it less permeable.

I know enough about storm water management to have a conclusion about the impaction that takes place over time when something is used, when something is placed on grass or other types of surfaces.

I'd, then I'd be concerned about multiple day events, particularly when the weather is adverse, creating a muddy situation. Certainly, I'm not concerned about mud impacting the users of the site but the, the distribution of soils off

the site, or at least off of the place where cars are parked. That you would, can imagine and we've all, I've been to many outdoor events where the grass parking area turns to mud. On a slope that is, you know, adverse. It's not something that you would experience on a flat field.

So, that's, from a planning standpoint what I, how I would approach this. And my reservations about approving it as is, if I was sitting as the decision maker, and I am in some locations, would be the lack of parking for the proposed use. And necessity, therefore, to park in a less than ideal location on a sloping terrain.

MR. HOLZER: Okay.

MR. SCHMIDT: And just for the record, objection, move to strike. And I just say that for the, for the record.

CHAIR: Yes, and you, you, and you obviously can get into some of these matters on cross examination.

MR. SCHMIDT: Yes, sir. Thank you. I just wanted to put that on the record.

MR. HOLZER: Should I object also on the basis of the Board's ruling that he's been limited by your comments, so he can't get into what he wants, or just for the record.

CHAIR: You may absolutely object to, to, it is your record as much as Mr. Schmidt's.

MR. HOLZER: Right, thank you.

CHAIR: Sure.

MR. HOLZER: All right. Let's, let's move on, if we can. Now, the, the original question was, what circumstances and facts will be more adverse in this location than elsewhere in the zone. And you've already, you've already mentioned noise, you've already mentioned what we just went through. Are there any other areas that you think make this have an impact, more adverse here than elsewhere?

MR. JAKUBIAK: Yes. And the road is winding, there's no question about that. They're very sharp, might call them hairpin turns at the approach to this location from the south. The speed limit is fifty miles an hour headed north, forty-five headed south. And while there are caution signs in both directions, should, should suggest to a driver to, that, to moderate speeds, is the fact that the, the, the, the road system is not adequate or I'm sorry, the road system has a substandard quality to it.

MR. SCHMIDT: Objection. Move to strike. Now we're a traffic engineer.

CHAIR: I didn't get the sense that we're talking about traffic engineering matters. I, yet. What I understood is the common observations, as everyone else has already testified to in this case.

MR. HOLZER: Yes.

CHAIR: So, on that basis, I'll overrule the objection. But again, as before, there are limits to this.

MR. SCHMIDT: Just let me know my objection, continuing, Mr. Garber. I don't mean to keep popping up, but.

CHAIR: No, I, I would actually at the moment, I would still prefer that, only because I don't know if we're going to go down a road where there's specific testimony that would trigger perhaps a more, an expert who would be an expert in traffic engineering. So, if we don't get there, then there's no need to have a continuing objection and guess at what is being objected to and what is not. But if, certainly if they, if there is testimony you believe to run afoul of that, you can object and then ask for it at that time.

MR. SCHMIDT: Yes, sir. I, and for the record, I believe the testimony already given is objectionable as to the roads, but I understand your ruling. Thank you.

CHAIR: You may proceed.

MR. HOLZER: I can?

CHAIR: Yes.

MR. HOLZER: Mr. Jakubiak, as a planner, somebody involved in zoning, but particularly planning, are roads relative to a planner trying to evaluate a project or development? Is that something that a planner would normally look at, the road system?

MR. JAKUBIAK: Yes. Yes, we would.

MR. HOLZER: Okay and in this particular case, you're not holding yourself out as a traffic engineer, are you?

MR. JAKUBIAK: No, I'm not.

MR. HOLZER: But you are holding yourself out as a planner who has to deal with the nature of roads, the speed on the roads, the amount of traffic on the roads for purposes of planning, is that not correct?

MR. JAKUBIAK: Yes, I am.

MR. HOLZER: Okay. Now, let's go back and what is your opinion as a planner dealing with the road system at the subject site.

MR. JAKUBIAK: Right.

MR. HOLZER: Go ahead.

MR. JAKUBIAK: And I, I will say as a, that my opinion is also based on doing transportation planning. I had mentioned in my resume that I, I did the transportation plan for Calvert County. It's a very rural community. So, I, I have dealt with roads that turn and hills and how land use has to be balanced with the available facilities.

CHAIR: So, just to follow-up on that point, just because I think this needs to be then clarified, you're saying that transportation planning then is part of your land planning expertise?

MR. JAKUBIAK: Yes.

CHAIR: Or is a separate, separate area of expertise?

MR. JAKUBIAK: No, I think it's part and parcel. Throughout my career, we've done land use planning and

transportation planning in combination.

CHAIR: Okay.

MR. JAKUBIAK: I'm not suggesting I'm an engineer, but I factor in transportation planning and the planning of roads, adequacy of roads to serve land use.

CHAIR: So, if I were to refer to it as adequate public facilities, that is, you would look at, you know, in that, in that kind of vein as it relates to transportation? That is, are these roads capable of handling the development?

MR. JAKUBIAK: Sure, yes.

CHAIR: All right. Let's see where that, where that goes.

MR. JAKUBIAK: So, in order to your question, I, --

MR. HOLZER: Go ahead and answer the question, please.

MR. JAKUBIAK: The road at the approach to this site is not flat, it is not straight, it doesn't afford long site distances. In fact, the intersection of this driveway at Harford Road is just askew from Bonaparte Lane, which is generally a situation we like to avoid. Particularly when we expect higher traffic volumes at a, at an intersection. For a residential single family use, there's something at a lower scale use, having intersections askew provides really great, very little hazard. Introducing a lot of traffic, leaving or entering a site, on a curve, certainly introduces the risk for

accidents that is greater than you would find on a straight, free and clear approach. So, that's, that's my testimony regarding the, the road situation.

There, this is not a straight, wide open expansive road like many roads are in the RC-2 district. This is a, a road that covers two hundred feet of elevation in a relatively short time, riding along the ridge to bypass an extreme promontory. And as that road passes and, and heads up that promontory, there's a side driveway that leads into this particular site.

MR. SCHMIDT: Objection. Move to strike.

CHAIR: I'm going to overrule. We'll, I guess we can speak to that on cross examination.

MR. HOLZER: Now, Mr. Jakubiak, from the, from your review of the proposed use at this location, do you, what do you believe, do you believe will there be determine, to the general welfare of the locality due to the nature of its use and the risk of, of all of the things that you've said, under 502.1(A)?

MR. JAKUBIAK: Well, that, 502.1(A) is the first in the standards for evaluating a special exception. I think the project, as proposed, and I stress as proposed, particularly given the, the, the outdoor events and festivals, I, is adverse or is a detriment to the general welfare.

MR. HOLZER: Could you explain why?

MR. JAKUBIAK: The previous explanation I've offered on the road conditions, on the overflow parking, on the, the grade differences between the residential at the low end and the proposed use up high, over a hundred and twenty-two feet above, all speak to the risk for adverse impacts extending beyond the property. And general welfare as applied to a, a rural area, in my view, speaks to tranquility, the quietness, those elements of the historic and sort of cultural landscape that has evolved over time. This is a very rural area and there's an expectation for a certain amount of tranquility and the extent to which festivals and other activities impact, send the noise and send traffic into this area, the general welfare will be negatively impacted.

MR. HOLZER: And do you have an opinion as to the proposed use in the RC-2 district as to whether it is inconsistent with the spirit and intent of the zoning regulations under 502.1(G)?

MR. JAKUBIAK: Yes, I, the proposed use would impact the, the community in a way, as I've described, and I find that to be counter to the spirit and intent of the, the zoning ordinance. Not just the zoning ordinance looked discreetly but the zoning plan or the, the, the combination of zoning and master planning that seeks to preserve these natural and rural landscapes and minimize the intrusion of dense, or intense, development into them.

MR. HOLZER: Do you have any other points that you care to make in regard to this issue that I've missed?

CHAIR: Which issue?

MR. HOLZER: As to whether or not the special exception should be granted?

MR. JAKUBIAK: No, no further points.

MR. HOLZER: No further questions.

CHAIR: Mr. Schmidt, would you like a couple minutes to organize?

MR. SCHMIDT: No, sir.

CHAIR: Or anything? You're ready to go?

MR. SCHMIDT: What I might suggest, I'm not sure how long I'll be with Mr. Jakubiak because it's 11:30 right now, but I do have, I know certain sort of topics that I can cover. So, maybe --

CHAIR: Start and see where it takes us?

MR. SCHMIDT: Start, and when I get to a point where I'm going to move on to another topic, if the Board wants to take a lunch hour at that point, I'll leave it up to you.

CHAIR: My, my inclination would be to get through the cross in its entirety --

MR. SCHMIDT: Okay.

CHAIR: -- if, if, I mean, --

MR. SCHMIDT: We'll try.

CHAIR: Yeah, right. I mean, if you have (inaudible)

three hours of cross, --

MR. SCHMIDT: Sure.

CHAIR: -- maybe that's not as feasible. But --

MR. SCHMIDT: Okay.

CHAIR: -- so.

MR. SCHMIDT: Okay, thank you.

CHAIR: Sure.

MR. SCHMIDT: Okay. I think I'm ready to go, but just give me one minute or so. Okay. Okay. Okay, Mr. Jakubiak, Mr., were you here for Mr. Clark's testimony?

MR. JAKUBIAK: I, the last one and a half days.

MR. SCHMIDT: Okay. I believe you've talked about the property's location in the, in a rural legacy area, correct?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: Mr. Clark testified that the property is located within the Long Green Valley Historic District. Were you here for that testimony?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: Do you agree with that, that the subject property is within the Long Green Valley Historic District?

MR. JAKUBIAK: No.

MR. SCHMIDT: You don't agree with him?

MR. JAKUBIAK: I don't.

MR. SCHMIDT: In fact, it's not in the Long Green Valley Historic District, is that correct?

MR. JAKUBIAK: Well, if I answer with a, a bit of a caveat. It is not within, it's very close to, but I think, although I can't confirm and I, I had sought to confirm it before this meeting that the Bona, Bonaparte Farm, the original farm, actually part of it was within that. But this subject property is not.

MR. SCHMIDT: Well, when you look at the exhibit, how big is the subject property?

CHAIR: Hold on, which exhibit are you referring to?

MR. SCHMIDT: Well, I'm not quite there yet, Mr. Garber.

CHAIR: Sorry.

MR. SCHMIDT: How big is the subject property?

MR. JAKUBIAK: Thirty point eight six acres.

MR. SCHMIDT: Okay. How big was the original Bonaparte Farm?

MR. JAKUBIAK: Two hundred thirty-five, I believe.

MR. SCHMIDT: Well, let me draw your attention to Protestant's exhibit number thirty-six.

MR. HOLZER: Objection. You know, that's why you, your --

CHAIR: Hold on, what's your objection?

MR. HOLZER: That's why the witness should have been

told what the exhibit was rather than defer till this point. I'm sorry, but what's good for the goose is good for the gander.

CHAIR: I'm not following what, what the problem is.

MR. HOLZER: He didn't identify the document so the witness could look at it and, and not be mistaken as far as the acreage.

CHAIR: Okay. If he needed to use a document for that, he certainly could testify to that. That I can't tell you the answer unless I see a document. And you can always rehabilitate him on re-direct to the extent you need to do so.

MR. HOLZER: I'd rather him not be misled in the beginning.

MR. SCHMIDT: I'm not misleading --

CHAIR: Hold on. Let me just respond to that. It, it, this is cross examination. He's asking him if he wants to test his memory. He also could test his memory and if he, and if Mr. Jakubiak needs to refer to a document, Mr. Jakubiak can certainly refer to a document, he can certainly answer I don't know the answer, or whatever the case may be. This is not misleading and I will overrule the objection. You may continue.

MR. SCHMIDT: Thank you, Mr. Garber.

MR. MCCOMAS: You may want to correct just the exhibit reference, because I think I heard you as thirty-six.

MR. SCHMIDT: I, I apologize, I did mis, misspeak. Mr. Jakubiak, I'm going to show you Protestant's exhibit number thirty-six. And for the record, this is the exhibit that was introduced through your direct examination, which contained several articles from I think the Baltimore County Historical Society Publication, is that correct?

CHAIR: Wait, hold on. I'm not following your question. You said Protestant's Exhibit 36 --

MR. SCHMIDT: I keep saying thirty-six, I mean 106.

CHAIR: 106, thank you.

MR. SCHMIDT: I apologize.

CHAIR: So, Protestant's Exhibit 106, now you may continue.

MR. SCHMIDT: Sorry, let me start again. I'm going to show you Protestant's exhibit number 106, and I apologize, Mr. Jakubiak, I didn't mean to confuse you. And that is, I believe, portions of publications that you obtained through or by the Baltimore County Historical Society, is that a fair statement?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: Okay. I'm going to draw your attention to page one of Exhibit 106 and if you go down under the column of Mr. Bonaparte's Farm, probably about sixty percent of the way down, and I'll show it to you if I can, and maybe you can pick up on it.

MR. JAKUBIAK: Yes.

CHAIR: Can you please show Mr. Holzer the section you're referring to before --

MR. HOLZER: I understand what section he's dealing with.

MR. SCHMIDT: I will.

MR. HOLZER: I don't need to see it.

MR. SCHMIDT: It ind, it indicates, does it not in that section, how big Mr. Bonaparte's farm was, at least as of September the 10th of 1904 when this article was written, correct?

MR. JAKUBIAK: It says he purchased three hundred and sixty acres fertile land in the Long Green Valley.

MR. SCHMIDT: Okay. So, at least at some point in time, Mr. Bonaparte had three hundred and sixty acres, correct?

MR. JAKUBIAK: Yes, according to this.

MR. SCHMIDT: Okay. The subject property is --

CHAIR: I'm sorry, I couldn't hear your answer.

MR. JAKUBIAK: According to this document, yes.

MR. SCHMIDT: Okay.

CHAIR: Thank you.

MR. SCHMIDT: The subject property is now, you've testified, about thirty acres, correct?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: So, the subject property, if my math is

correct, is about one-twelfth of the farm holdings, correct?

MR. JAKUBIAK: I accept that.

MR. SCHMIDT: Okay. So, when you indicated before that a part of a farm may be within the historic district, do you know where the three hundred and sixty acres encompassed? Do you know where that was? Could you draw it on a map?

MR. JAKUBIAK: No, I can't draw it on a map.

MR. SCHMIDT: Okay.

MR. JAKUBIAK: I, I have a very vague idea but not sufficient to (inaudible).

MR. SCHMIDT: Okay. So, you have a vague idea of where the three hundred and sixty acres is, but is it fair to say that the thirty acres, which is the subject of this hearing, is not in the Long Green Valley Historic District?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: Okay and I'll return this to Mr. McComas. As a matter of fact, I'm going to show you --

CHAIR: Sorry, just, what we're just talking about is that there's a line that runs down the side of the first page on Exhibit 106, page twenty-one at the top. And that the original copy has a blue line and we're questioning as to when that was put on there, but it's on every copy, so obviously before it was copied. So, everyone will be familiar with that line and just, that's what we were just trying to get to the bottom of.

MR. HOLZER: I don't have it on mine.

CHAIR: You don't have it on your, well, was that made back here? Because it was on mine.

MR. HOLZER: I don't know.

MR. MCCOMAS: I didn't think I had it on one of mine, so I may have had one (inaudible).

MR. HOLZER: That's what I gave the, the Board's secretary.

MS. DOPKIN: Do you see, mine has it?

CHAIR: Yeah, mine had it too. Plus, see yours doesn't --

MR. SCHMIDT: Mine has it as well.

CHAIR: Your, this is not, this was not given to the Board because it doesn't have the --

MR. HOLZER: Yes, it was.

CHAIR: -- hold on.

MR. MCCOMAS: You gave me one, I think I have his, I think I had yours.

MR. HOLZER: Yeah.

CHAIR: Only, only because it doesn't have the exhibit tab, where ours are all photocopied on.

MR. HOLZER: I gave it to the Board's secretary for page one.

CHAIR: Yes.

MR. HOLZER: Not to, not for the whole document, just

for page one.

CHAIR: Right, well, the exhibit that was given to us has the black line running down the front page. The third page is, of Exhibit 106, you provided in addition to Ms. Cannington.

MR. HOLZER: Right.

CHAIR: But it would have already been copied with the first two.

MR. HOLZER: Oh, okay.

CHAIR: Right, just to, so we're all on the same page as to how this came about so there's no question or confusion.

MR. HOLZER: Is that relevant?

CHAIR: No.

MR. MCCOMAS: No.

CHAIR: But that's what we were just discussing up here, just so counsel is aware.

MR. HOLZER: I under, I'm sorry, I understand.

CHAIR: And I'm sorry, Mr. Schmidt, to interrupt your cross examination.

MR. SCHMIDT: No problem, no problem.

CHAIR: But I wanted to, in case the microphones were picking up what we were saying, that's what we were talking about.

MR. SCHMIDT: Yes, sir. Can I proceed?

CHAIR: Yes.

MR. SCHMIDT: Okay. I'm going to mark, I'm going to

give to Mr. McComas, if I can, I believe it's Exhibit 44?

MR. MCCOMAS: Yes.

MR. SCHMIDT: Okay, for the Petitioner. If you can mark that for identification purposes. And I'm going to ask --

CHAIR: Mr. Holzer, do you have a copy?

MR. HOLZER: Yes.

MR. SCHMIDT: I did give a copy to Mr. Holzer. Mr. Jakubiak, I assume you recognize the form of this document as a planner, that it would be an application for a designation on the National Register of Historic Places, is that correct?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: Have you seen this document before?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: Okay and is this the document that was submitted when the Long Green Valley Historic District was designated as a national historic district?

MR. JAKUBIAK: That was my conclusion when I read it.

MR. SCHMIDT: Okay. So, you've seen the document?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: At the rear of the document, on the last two pages of the document, is a map, or I believe maps, indicating the historic district, is that correct?

MR. JAKUBIAK: Yes, that's, it's copied on to two pages so you'd have to put them together to see the entire district.

MR. SCHMIDT: Yeah, and I've got another map that I've done that, just so it's a little easier to read. And does this confirm that, in fact, the subject property is outside the area of the historic district?

MR. JAKUBIAK: Yes, close but outside.

MR. SCHMIDT: Close but outside. Additionally, there are a number of circles with numbers written inside them on these two pages of maps. Do you know what those are?

MR. JAKUBIAK: I can't remember what, what they are but my --

MR. SCHMIDT: Okay. Would they be the identification or list of contributing structures, which would support the designation of this area as an historic --

MR. HOLZER: Objection.

MR. SCHMIDT: -- district, if you know?

CHAIR: Hold on.

MR. HOLZER: Objection.

CHAIR: Hold on.

MR. HOLZER: He already said he didn't know.

MR. SCHMIDT: I'm just refresh, I'm asking him if that refreshes his --

CHAIR: He's asking does he know that that's where that's derived from or not?

MR. HOLZER: He already said he did not know. So, shouldn't that end it.

CHAIR: Hold on. This is --

MR. SCHMIDT: Okay. I'll strike the question. Mr. Jakubiak, if I can, --

CHAIR: So, it's withdrawn, the question is withdrawn?

MR. SCHMIDT: Yes, sir. Mr. Jakubiak, I am going to, you've seen this document before, correct?

MR. JAKUBIAK: Yes, I have.

MR. SCHMIDT: Okay and you work with, as an expert land planner and expert in zoning, I assume you're pretty familiar with applications such as this, and this one in specific, is that correct?

MR. JAKUBIAK: Yes, I've prepared one myself.

MR. SCHMIDT: Okay. I'm going to direct your attention to what is labeled on the bottom as see continuation sheet number thirteen, which is about in the middle of the document, I think that means it's actually page twelve continuation --

CHAIR: I'll note there is a page twelve (inaudible).

MR. SCHMIDT: Up at the top right hand corner.

CHAIR: Top right hand corner, more or less.

MR. SCHMIDT: It's just a little easier to --

CHAIR: Yes.

MR. SCHMIDT: -- see it at the bottom, so I want to get the witness, you, you under --

MR. JAKUBIAK: I'm there.
MR. SCHMIDT: -- stand what I'm saying?
MR. JAKUBIAK: I'm, I'm with you.
MR. SCHMIDT: Okay.
CHAIR: Hold on. Mr. Holzer, are you there yet?
MR. HOLZER: I see it, thank you.
CHAIR: All right.
MR. SCHMIDT: Okay. Now, that lists, beginning on page twelve, does it not, non-contributing structures and objections, correct?
MR. JAKUBIAK: Yes.
MR. SCHMIDT: And then it continues on in the lower half of that page a list of continuing structures, correct?
CHAIR: Contributing.
MR. SCHMIDT: Contributing structures, excuse me. Is that correct?
MR. JAKUBIAK: Yes.
MR. SCHMIDT: And that continues on for several pages. Do you know if the Bonaparte mansion is listed as a contributing structure?
MR. JAKUBIAK: No, it's not.
MR. SCHMIDT: Okay and if you know, sir, that the, the contributing structures which are referenced on pages twelve, thirteen, fourteen and fifteen with certain numbers, would that refer, if you know, sir, to the numbers which are on

the two maps at the end of the report?

MR. JAKUBIAK: It's not unusual to present it that way with these applications, say that.

MR. SCHMIDT: Okay. I would, I would mark that, or ask that be submitted as Petitioner's exhibit number forty-four.

MR. HOLZER: No objection.

CHAIR: So admitted.

MR. SCHMIDT: Mr. Jakubiak, similarly, I'm going to ask Mr. McComas to mark this as Petitioner's exhibit number forty-five. And I would represent to the witness and to the Board that his is simply a consolidation of the, of the two maps in the previous exhibit. Mr. Jakubiak, I'll ask you, can you identify this? Would this be the Long Green Valley District on a single page, as opposed to the two pages that we had before?

MR. JAKUBIAK: Yes, it is. I can attest to that.

MR. SCHMIDT: Okay, okay. And sir, can you tell us, and you might reference in the lower right hand corner, where it says in green letters, DISTR and then below that NO, which I believe is district number. Is the subject property in that area of any of those green letters, if you know? Just for the Board's ed, edification.

MR. JAKUBIAK: It's between the letters I and S. You can see the red line, how it makes a sharp turn.

MR. SCHMIDT: And that's Harford Road, is the red line?

MR. JAKUBIAK: Yes, that's, that's, that's, that is the subject property.

MR. SCHMIDT: Okay. All right. I would offer that then as Petitioner's exhibit number forty-five.

MR. HOLZER: No objection.

CHAIR: So admitted.

MR. SCHMIDT: Insofar as the, you indicated it's not in the historic district, you did indicate, however, it's on a scenic route, correct?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: Is there any, where are, in Baltimore County law or regulation, the regulations as they relate to the protection of scenic routes?

MR. JAKUBIAK: I've not found specific regulations protecting scenic routes.

MR. SCHMIDT: Okay. So you do not know if there is any section of the County law that relates to the protection or preservation of scenic routes?

MR. JAKUBIAK: Not within the zoning framework, as I understand it.

MR. SCHMIDT: Okay. In any other document, the Zoning Commissioner's Policy Manual, the Comprehensive Manual, Development Policies, any of the other various manual, policies

or regulations of Baltimore County?

CHAIR: If I can, you're, you're asking multiple questions right now.

MR. SCHMIDT: No, --

CHAIR: Is it just one general question? Is there any other source? Yes. But you're asking individual items.

MR. SCHMIDT: Okay. Is there any other source of regulation as it relates to scenic routes? I think you've said there is not?

MR. JAKUBIAK: Yeah, there's not. There's, I think there's reference to it but there's not a specific standard as you might find within the zoning code.

MR. SCHMIDT: Okay, okay. Since there is no regulation that you are aware of, then I assume there is no regulation that prohibits or in any way limits a church use adjacent to a scenic highway or a scenic route?

MR. JAKUBIAK: No, there's not.

MR. SCHMIDT: There's not. Similarly, you indicated that the property is within a rural legacy area as discussed in the County master plan, is that correct?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: And you specifically, I think, drew us, our attention to page one sixty-nine of the master plan, is that correct?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: Is there any language or any re, was there any language in that discussion, within the master plan, related to church uses in rural legacy programs?

MR. JAKUBIAK: The only reference that I was able to gather would be the institutional uses.

MR. SCHMIDT: Okay. So, it does talk about institutional uses on page one sixty-nine?

MR. JAKUBIAK: Well, I'll have to have one sixty-nine in front of me, but I, I thought it was the section --

CHAIR: Well, hold on. Then get it, then get it out in front of you.

MR. JAKUBIAK: Okay, okay. I may be mistaken but that's (inaudible) one sixty-nine in front of me, please, if you could?

MR. SCHMIDT: Sure.

CHAIR: Can you please show Mr. Holzer?

MR. HOLZER: I, I'm familiar with it.

MR. SCHMIDT: Okay. I'm going to show the witness just page one sixty-nine of the County master plan. Mr. Jakubiak, I believe, this was the page in your direct examination that you discussed, that you discussed, correct?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: Okay.

CHAIR: I'm sorry, speak up.

MR. JAKUBIAK: Yes, that's correct.

CHAIR: Thank you.

MR. SCHMIDT: Okay and so there is a section of page one sixty-nine which bears the title rural legacy program, is that correct?

MR. JAKUBIAK: Right, yes.

MR. SCHMIDT: And what I'm asking for, to you if you can point us to a section or language within this section of the master plan which talks about churches or even institutional uses if you can tell me where it is?

MR. JAKUBIAK: Right, I, when I mentioned that earlier, I got mixed up. I was referencing in my mind another standard, so it's not specifically referenced in churches or institutional uses in this paragraph.

MR. SCHMIDT: Okay. So, your, your testimony before about the rural legacy program providing or inferring or indicating that it somehow restricted, impacted, prohibited churches or institutional program, churches or institutions is, you're taking that testimony back?

MR. JAKUBIAK: I don't think I said that the rural legacy program would prevent that. I, it was referencing the rural legacy program as part of the planning framework that speaks to the, the intensity of development within the rural areas and --

MR. SCHMIDT: Well, is, isn't the rural legacy program --

CHAIR: Mr. Schmidt, again, just to remind you. Let him finish his answer before you start your question.

MR. SCHMIDT: Oh, I thought he did. I apologize. Mr. Jakubiak, would you disagree with me if I said isn't the intent of the rural legacy program for there to be a mechanism by which either a public or a private entity can purchase properties, or if not purchase, pay for easements on properties that would thereafter prohibit development? Isn't that what the rural legacy program does?

MR. JAKUBIAK: That's an element. That's an implementation aspect of the program.

MR. SCHMIDT: Okay. In other words, like the, the, the, the Maryland Preservation Trust may very well give money or pay money to a landowner in exchange for that landowner placing a perpetual easement on his or her property, which would limit or prohibit development in the future, is that correct?

MR. JAKUBIAK: Yes, and it wouldn't apply County wide, it just applies in the area where the rural legacy is sought to be preserved.

MR. SCHMIDT: Right.

MR. JAKUBIAK: Such as this location.

MR. SCHMIDT: And there is no easement or preservation program or preservation document as it relates to this subject property, is there?

MR. JAKUBIAK: No.

MR. SCHMIDT: This property has never been encumbered with an easement which would prohibit the development of the property with the proposed use, is that correct?

MR. JAKUBIAK: It has not been.

MR. SCHMIDT: Okay.

CHAIR: Well, is that correct was the question.

MR. JAKUBIAK: It is correct.

MR. SCHMIDT: Okay. Okay. While we're on the master plan, do you know what a transect designation is?

MR. JAKUBIAK: Yes, I do.

MR. SCHMIDT: What is that?

MR. JAKUBIAK: That's a land use designation that's applied within the Baltimore County land use framework. That seeks to characterize the County, the County's land use, within various character areas. So, there's a, on a transect, meaning most rural, wide open, sparsely populated to the most developed at the higher end so --

MR. SCHMIDT: It's a, oh, I'm sorry.

MR. HOLZER: Objection.

CHAIR: Hold on.

MR. SCHMIDT: I'm sorry, didn't mean to interrupt. I thought he was done. Go ahead, sir.

MR. JAKUBIAK: I was only going to finish by saying that, that each property, not, without any specific, you know,

zoning or land use evaluation, but each property falls within a, a transect.

MR. SCHMIDT: Okay. Do you know what the transect is for this property?

MR. JAKUBIAK: I think it's T-2, I believe it's T-2, the rural preservation or rural, some kind of, or natural rural preservation area.

MR. SCHMIDT: Did you evaluate or look to ascertain what the transect designation is in this case in preparation for your testimony?

MR. JAKUBIAK: No, I did not.

MR. SCHMIDT: So, is it, since you didn't look at that, I assume then it was not important for the purposes of formulating your testimony, what the transect designation is in this case?

MR. JAKUBIAK: No, no, it wasn't.

MR. SCHMIDT: Okay. Now, you also indicated that the property is within a land management area designation, and specifically you, it is within what you called an agricultural priority preservation area, correct?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: And that's the map, to be fair to you, I'll show it to you and I --

CHAIR: Please show Mr. Holzer first.

MR. HOLZER: I've, I've seen it.

MR. SCHMIDT: That's the map that appears on page forty of the master plan, does it not?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: Okay. Now, you testified, let me see if I can find my note, that there was language in the master plan about the significance of this property being in a agricultural priority preservation area. But I think when you were attempting to explain that, I think as a result of an objection I made, you, you could not identify where that language is, is that correct? Did, did I misunderstand that during your direct? Is there some, to, to make the question simple and I'm not trying to trick you, is there some language in the master plan somewhere that talks about what it means for a property to be in an agricultural priority preservation area, particularly as it relates to this case?

MR. JAKUBIAK: Well, there's language that speaks to the, the intent of the land management area.

MR. SCHMIDT: Okay. Where's that?

MR. JAKUBIAK: I don't have the, the master plan in front of me. It might take a minute or two.

MR. SCHMIDT: (inaudible).

CHAIR: Do you need to see it first, Mr. Holzer?

MR. HOLZER: No, I, --

MR. JAKUBIAK: Sure.

MR. SCHMIDT: To be fair to you. And I've given the

witness the master plan.

MR. JAKUBIAK: I haven't read it to confirm, but my memory takes me to page ninety-two.

MR. SCHMIDT: Okay.

MR. JAKUBIAK: And there's a heading that says agriculture priority preservation areas.

MR. SCHMIDT: Okay. That's my only copy, so I'm going to look over your shoulder, if I can.

MR. JAKUBIAK: Okay, sure, yeah.

CHAIR: Hold on one second. Mr. Holzer is standing up.

MR. HOLZER: I would like him to have the opportunity just to read.

MR. SCHMIDT: Sure, sure.

MR. HOLZER: Before any questions --

CHAIR: I, I would agree with Mr. Holzer.

MR. SCHMIDT: Absolutely.

MR. HOLZER: Thank you.

MR. SCHMIDT: Just let me know when you've had a chance to read that section. Have you had a chance to read it?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: Is there any language on page ninety-two, which you referred us to, which discusses institutional uses or churches?

MR. JAKUBIAK: No.

MR. SCHMIDT: Is there any language on page ninety-two which prohibits or restricts churches in an agricultural preservation priority area, if I said that correctly?

MR. JAKUBIAK: No, there's not.

MR. SCHMIDT: Okay, okay. In fact, is this property in agriculture at the present time?

MR. JAKUBIAK: No.

MR. SCHMIDT: Do you know when it was last used for agricultural purposes?

MR. JAKUBIAK: I don't.

MR. SCHMIDT: So, the use of this property as a church will not be taking the property out of agricultural use at the present time, will it?

MR. JAKUBIAK: Not out of active agriculture use.

MR. SCHMIDT: Do you know where the closest agriculture, prop, the closest property to the subject property is that is being used for agricultural purposes?

MR. JAKUBIAK: No, not specifically.

MR. SCHMIDT: Okay. So, is it fair to say, Mr. Jakubiak, since this property is not being used for agricultural purposes and you don't even know where the nearest property is that is used for agriculture, that the use of this property for, as a church will not impactly, will not adversely impact agriculture?

MR. JAKUBIAK: The only impact that's potential to

the production, or the use of land for agriculture is potentially on the adjoining road system and perhaps interfering with farm implements that are actually on the road too. This is a, a property in the midst of land that's in agriculture use. I can't pinpoint any specific location from here, but it's in an agricultural area.

MR. SCHMIDT: So, it could impact the traffic generated by, by a farm nearby?

MR. JAKUBIAK: It, it could impact, yes, --

MR. SCHMIDT: Some farmer driving his tractor up the road?

CHAIR: Well, again, Mr. Schmidt, please let him finish his answer.

MR. SCHMIDT: Okay.

MR. JAKUBIAK: That's right.

MR. SCHMIDT: That's the only impact from an agricultural standpoint?

MR. JAKUBIAK: Well, that's the direct potential impact. But there's, the broader incursion of development within farming communities, does work against the land preservation strategies to keep intact large agricultural areas.

MR. SCHMIDT: Well, doesn't, --

MR. JAKUBIAK: So, as a matter of policy, there's the, there's the planning policy that's at stake, as well as

the specific impact.

MR. SCHMIDT: Okay, okay. All right. Now, Mr. Jakubiak, I think you indicated on your direct examination that the County master plan is a, I think you called it a visionary document?

MR. JAKUBIAK: I don't think I said that.

MR. SCHMIDT: Okay. Well, how would you characterize the master plan?

MR. JAKUBIAK: As a guide to decision making.

MR. SCHMIDT: A guide. Published every ten years?

MR. JAKUBIAK: Updated every ten years, yes.

MR. SCHMIDT: Okay and the relevant master plan at the present time is master plan 2020, correct?

MR. JAKUBIAK: Correct.

MR. SCHMIDT: Which was adopted in when, if you know?

MR. JAKUBIAK: Two thousand nine, I believe, two, 2011, I, right about that period.

MR. SCHMIDT: Okay. To cover the period of what, the, the year period of what?

MR. JAKUBIAK: Going out from that point to 2020.

MR. SCHMIDT: Okay. In addition to the County master plan which you've discussed, are there also area plans that the County Planning Department has published?

MR. JAKUBIAK: Yes, there are area plans that cover, a large handful, let's say of specific communities, small area

plans.

MR. SCHMIDT: And are those area plans, do they, when adopted, properly adopted by the County, do they then become part of the master plan?

MR. JAKUBIAK: Yes, they do.

MR. SCHMIDT: And is it fair to describe the area plans as focusing or identifying a specific community within the County where, unlike the master plan which broadly covers the entire area of Baltimore County, these area plans focus on a specific neighborhood or community?

MR. JAKUBIAK: Yes, that's fair to say.

MR. SCHMIDT: Okay. Is the subject property within the area of any community plan or area plan?

MR. JAKUBIAK: Yes, it is.

MR. SCHMIDT: Okay and what area plan is that?

MR. JAKUBIAK: It's the Kingsville area plan.

MR. SCHMIDT: Okay. Have you reviewed the Kingsville area plan in contemplation of your testimony today?

MR. JAKUBIAK: Yes, I reviewed sections of it.

MR. SCHMIDT: Okay and I noted that you did not refer to any sections of it within your direct examination, is that correct?

MR. JAKUBIAK: Right.

MR. SCHMIDT: Okay. I'm going to ask that Mr. McComas mark as Petitioner's exhibit, I believe we're at number

forty-six.

MR. MCCOMAS: Forty-six.

MR. SCHMIDT: And this is in the interest of completeness, the entire King, greater Kingsville area community plan. Mr. Jakubiak, I have a copy. Do you need it or do you have it with you?

MR. JAKUBIAK: I don't have the entire copy with me.

MR. SCHMIDT: Well, then I will give you a copy.

CHAIR: Before you, I mean, if you're going to ask him a particular question, --

MR. SCHMIDT: Yes, sir, I am.

CHAIR: I note that the ones handed up here have a yellow tab. I see the same thing on --

MR. SCHMIDT: All of them.

MR. HOLZER: Yeah.

CHAIR: -- the exhibit for, for Mr. Holzer as well.

MR. SCHMIDT: And you may, yes, and you may remove that tag but I just did that for the ease of the witness. Mr. Jakubiak, I'm going to refer you to page twenty-seven of the greater Kingsville area community plan. Do you have that in front of you, sir?

MR. JAKUBIAK: I do.

MR. SCHMIDT: And on that page, there is a recommendation, which is identified in number twenty-four and I would ask that you would read that into the record for us.

MR. JAKUBIAK: Okay. Would you like only the capitalized paragraph?

MR. SCHMIDT: Yes, well, let's, yeah, let's, let's start with that, yeah.

MR. JAKUBIAK: Okay. Twenty-four, that special forms of development such as, such as churches and recreational facilities, while beneficial to the residents, should be located in close proximity to major roadways, such as Harford and Belair Roads, and provide a suitable buffer commensurate with size and usage from neighboring properties.

MR. SCHMIDT: Okay. So, unlike the rural legacy language that you referred us to, and the agricultural preservation priority areas that you referred us to in the master plan, here in this document, this document being Petitioner's exhibit number forty-five, forty-six, excuse me, there is specific reference to churches in the Kingsville plan, correct?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: And that language encourages or recommends, does it not, that churches be located quote, in close proximity to major roadways, such as Harford Road and Belair Road, correct?

MR. JAKUBIAK: It does.

MR. SCHMIDT: So, would you agree, sir, that this document is telling us that unlike locating a church say on a

neighborhood street or a smaller residential street, that churches in the greater Kingsville area should be located on one of the two major roadways, which bisect that area, namely either Belair Road or Harford Road, correct?

MR. JAKUBIAK: With some caveats, but generally yes, and I could explain those in more detail.

MR. SCHMIDT: I'm sure Mr. Holzer can get you to explain whatever he would like. But in answer to my question, this is what that's telling us, correct?

MR. JAKUBIAK: Provided the offsite conditions are addressed and particularly the adverse impacts to neighboring properties from its use and size.

MR. SCHMIDT: And where did, and where does it say provided that the offsite impacts are addressed and there's no detrimental impact to neighboring properties?

MR. HOLZER: Objection.

CHAIR: Hold on, sir, hold on.

MR. HOLZER: Objection. The basis is, he's trying to explain that it doesn't, it doesn't have to be in the plan. It, it, it's implicit in why we're here.

MR. SCHMIDT: Thank you, Mr. Holzer, for --

CHAIR: Well, certainly you can ask that on re-direct.

MR. HOLZER: Oh, I will.

CHAIR: Yes.

MR. HOLZER: I will.

CHAIR: Mr. Schmidt, this is, this is cross examination so --

MR. SCHMIDT: It, it is.

CHAIR: -- with that in mind, overruled. But I expect we'll hear from it again.

MR. HOLZER: I think so.

MR. SCHMIDT: Okay. Okay. But there's nothing that talks about the language that you just used about considering adverse impacts, at least in the body of this language, is there?

MR. JAKUBIAK: I, there is, I disagree with your, your statement that (inaudible) --

MR. SCHMIDT: Okay. Well, where is the word adverse impact?

MR. JAKUBIAK: Adverse impact is, is my word but it's a reasonable way to interpret this language. That says to the, to the fragility of the rural environment and to the characteristics of the rural community, special consideration should be given to the access to the development and the protection of the adjacent environmental features and neighboring properties.

CHAIR: So, we're going to stop here for one second. Only because now we're reading a separate paragraph than what was read into the record before. Just to note that for

purposes of this record that's being recorded here, that that is a separate paragraph that has not yet been read into the record. But obviously, Mr. Jakubiak has an interpretation of that that impacts his testimony.

MR. HOLZER: No, I object to that characterization. It is the paragraph directly under paragraph number twenty-four.

CHAIR: We're saying the same thing.

MR. HOLZER: I, I, I know we are, but in a slightly different tone.

CHAIR: Okay, I'm sorry.

MR. HOLZER: And, and so when he read paragraph twenty-four in bold and it was five lines, if you go down and read the analysis of that, those five lines --

CHAIR: In italics, in the, right, right, --

MR. HOLZER: -- in italics, it, it explains and that's consistent with his answer previously, that it's subject to the terms and conditions of special exception.

MR. SCHMIDT: Are we, Mr. Garber, are we offering argument at this point or are we addressing an objection?

CHAIR: Mr. Schmidt, --

MR. HOLZER: I'm doing what you do all the time.

CHAIR: -- I'm only putting, I'm putting into the record where it was read from so it's understood where that information is coming from.

MR. SCHMIDT: Yeah.

CHAIR: Mr. Holzer, if you have questions you wish to ask on re-direct about that section, obviously you will have that opportunity. So now we can proceed.

MR. SCHMIDT: Okay. Mr. Jakubiak, wouldn't you agree, sir, from a general planning principal, that it would, and consistent with the greater Kingsville area community plan, that generally speaking, it would be preferable to have a church within the area encompassed, within the greater Kingsville area community plan, to be located and accessed from Harford Road and, or Belair Road, as opposed to a comm, smaller community road?

MR. JAKUBIAK: Well, I would generally agree with that but the conditions of Harford Road are such that there's a, there's a caveat to that. Mount Vista Road might be a better road, for instance, to accommodate those types of institutions.

MR. SCHMIDT: Okay.

MR. JAKUBIAK: Because of its better design, or more modern design.

MR. SCHMIDT: Okay, thank you. I would offer exhibit number forty-six --

CHAIR: Six.

MR. SCHMIDT: -- I believe, and we'll certainly --

MR. HOLZER: No objection.

MR. SCHMIDT: -- argue about what it means in our memorandum.

CHAIR: So admitted, thank you.

MR. SCHMIDT: Okay. Mr. Jakubiak, the subject property is not proposed for any new building, is it?

MR. JAKUBIAK: No.

MR. SCHMIDT: So, the existing improvements that are located on the property other than some that are going to be removed, which I think there was previous testimony about which ones will be removed, will be how the property will be used in connection with the church, correct?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: So, and the main building, the mansion, the old Bonaparte dwelling, is located in the center of the property, correct? Essentially the center of the property?

MR. JAKUBIAK: It's at the focal point of the property, --

MR. SCHMIDT: Okay. Have you done any analysis of the distance from, well, I think you did in one of your exhibits, but the distance between the subject property and the nearest property line?

MR. JAKUBIAK: Yes, I did. I, I reviewed the, the plan that was submitted.

MR. SCHMIDT: The site plan?

MR. JAKUBIAK: Petition's Exhibit 1.

MR. SCHMIDT: Okay.

MR. JAKUBIAK: And I saw that there were quite a few measurements on it.

MR. SCHMIDT: Um hm.

MR. JAKUBIAK: That, that showed that and, of course, you saw the exhibit that I introduced this afternoon, or this morning.

MR. SCHMIDT: Okay.

MR. JAKUBIAK: That had a measurement as well.

CHAIR: With the yellow line?

MR. JAKUBIAK: Yes.

CHAIR: So, just for purposes of that, for the record, that would be Exhibit 104. Thank you.

MR. SCHMIDT: Thank you. And Mr. Jakubiak, were you here for Mr. Clark's testimony? I think you said most of it or parts of it?

MR. JAKUBIAK: Yeah, I would imagine at least the half or a third of it.

MR. SCHMIDT: Okay. How about Dr. Clark's testimony, his wife?

MR. JAKUBIAK: No, I was not.

MR. SCHMIDT: Okay. Do you know if you can see the Bonaparte mansion from Mr. Clark, Dr. Clark's house? Is it visible?

MR. JAKUBIAK: I don't know that.

MR. SCHMIDT: You don't know?

MR. JAKUBIAK: I have not been on that property to, to, to, to look in that direction.

MR. SCHMIDT: Okay. You haven't been on their property?

MR. JAKUBIAK: Correct.

MR. SCHMIDT: And you haven't been on the subject property?

MR. JAKUBIAK: Except for the driveway.

MR. SCHMIDT: Driveway. Okay. So, you don't, do, do you know one way or the other, if the Bonaparte mansion is visible from any of the dwellings which surround it, which are located on the surrounding properties? Have you looked at that at all?

MR. JAKUBIAK: I have not looked at the, at that, so I don't know that answer.

MR. SCHMIDT: Okay. Is, is the visual impact of a use important in considering the 502.1 criteria?

MR. JAKUBIAK: I guess it could be.

MR. SCHMIDT: Well, you've spent time this morning discussing about how the Bonaparte mansion is visible from section, I think you said sections of Harford Road, correct?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: And you indicated, I thought the import of that testimony was that the Bonaparte mansion is a visual

feature, which is important in this locale or neighborhood, is that correct?

MR. JAKUBIAK: Yes, yes.

MR. SCHMIDT: Okay. With that being said, wouldn't it be important to know if you can see the Bonaparte mansion from any of the houses which surround it?

MR. JAKUBIAK: That seemed less important to me than what happens on the grounds and the, the impact of noise and the other factors that I brought to the Board's attention.

MR. SCHMIDT: Okay. Well, did you do, have you been to any of the other adjacent properties? Dr. Clark's property, Mr. Poehler's property, any of the other neighbors who have test, testified?

MR. JAKUBIAK: No, I testified that I have not been on their properties.

MR. SCHMIDT: Okay. Do you know if you can see the area surrounding, the lawn area surrounding the Bonaparte neighborhood, the Bonaparte mansion from any of those properties?

MR. JAKUBIAK: Like I said, I've not been there, so I've not had the benefit of that vantage point.

MR. SCHMIDT: Okay. So, you don't know what you can see either the mansion or the lawn, from any of the adjacent neighbors or nearby neighbors?

MR. JAKUBIAK: No, I don't have a very good feel for

that.

MR. SCHMIDT: Okay. Okay and you've never been on the subject property?

MR. HOLZER: Objection, asked and answered.

CHAIR: I think we, Mr., Mr. Holzer, --

MR. SCHMIDT: Asked and answered, I'm sorry. Thank you, thank you.

CHAIR: I heard the same thing.

MR. SCHMIDT: Okay.

CHAIR: Mr. Schmidt, while you're sitting there looking through things, you indicated that on Exhibit 17 you wanted to ask questions on cross examination. 107 would be the photo of that, of what's been represented as the house prior to the fire in 1933.

MR. SCHMIDT: Sure, I'll, I'll cover that now.

CHAIR: Yeah, I'm just reminding you of it. Whether you do it now or --

MR. SCHMIDT: Sure.

CHAIR: -- I just saw you looking through things and figured I'd bring that to your attention. So we can get a resolution on that perhaps.

MR. SCHMIDT: And, and Mr. Jakubiak, thanks to the Chairman's prompting, I'll ask you about Exhibit 107. And for your reference, that is the photograph that you got, I think, from one of the other Protestants, which is a, I believe, a

photograph of the original Bonaparte mansion, correct?

CHAIR: Yes.

MR. JAKUBIAK: It is.

MR. SCHMIDT: Okay. And I think you said you got that from, I don't know if it was Ms. Shaw or someone else you mentioned.

MR. JAKUBIAK: I mentioned Robin Behrs.

MR. SCHMIDT: Robin Behrs, excuse me, I apologize. Do, do you, other than you having gotten this from Ms. Behrs, do you know where this is from or what source, the source of this photograph?

MR. JAKUBIAK: No, I don't know the source.

MR. SCHMIDT: Okay. Do you know what year it was taken?

MR. JAKUBIAK: I, I, there's no citation on it for me to, to approximate that.

MR. SCHMIDT: Okay. Now, I know you haven't been on the property, but I assume you've looked at photographs of the subject property, correct?

MR. JAKUBIAK: Yes, I have.

MR. SCHMIDT: Is the condition in terms of number of trees and vegetation in the area of the property, which is shown on Protestant's Exhibit 107, the same as the conditions are today?

MR. JAKUBIAK: No, there are a number of trees, as

you might expect on sort of an estate lot that are positioned near and around the driveway and some of the open spaces.

MR. SCHMIDT: Right. This, if it's fair to say, this exhibit shows but one tree immediately in front of the house, correct?

MR. JAKUBIAK: Correct.

MR. SCHMIDT: And at the present time, the driveway area, which is shown in this photograph as well as the area immediately around the house is significantly more treed and buffered than it was at this time, is that correct?

CHAIR: At the time of the, what, what --

MR. SCHMIDT: At the time of the photograph. At least since we know it had to be taken in 1933 or before --

CHAIR: Before.

MR. SCHMIDT: -- because the house burned down then, so even though we don't know when the photograph was taken, is it fair to say that at the time this photograph was taken and the conditions today, there are significantly more trees and buffer then there are at the time this photograph was taken?

MR. JAKUBIAK: Well, I, I'm looking at exhibit number 104 to answer that question. And I, that is a Google Earth image and there's a 2018 copyright. I, the image may have been from 2017, but it's obviously recent. There's a scattering of, of trees on this site. I wouldn't characterize that as a significant, and I wouldn't characterize it as a buffer either.

But I would say there's certainly more trees on the property than existed there.

CHAIR: In 107?

MR. SCHMIDT: Well, it's more than --

MR. JAKUBIAK: In 107.

MR. SCHMIDT: -- it's more than one, isn't it?

MR. JAKUBIAK: It's considerably more than one.

MR. SCHMIDT: Okay and is it fair to say also that the perimeter of the site, of the property, is also wooded?

MR. HOLZER: Object. Asked and answered repeatedly.

MR. SCHMIDT: He didn't answer this.

MR. HOLZER: Are you referring to the wooded along Harford Road or are you referring to wooded in the picture? Which doesn't show --

CHAIR: I think that that's a fair question as to which, where, what are you referring to in terms of what it, are you talking about --

MR. SCHMIDT: Okay. I'll, I'll re-ask the --

CHAIR: -- 104 or 107?

MR. SCHMIDT: I'll re-ask the question for the witness. Let me, let me draw your attention, if I can, Mr. Jakubiak, to, and you can use either Exhibit 102 or Exhibit 104. And let's start at 102, if I can. Do you have that in front of you? And to be fair to you, that's the one that's taken from Google Earth and it shows the subject property,

superimposed on there the address of, of 12231 Harford Road, is superimposed. And there are also three buildings which are offsite and I believe in the center page is Harford Road, is that, is that correct?

CHAIR: Do, do you have that in front of you?

MR. JAKUBIAK: Just to confirm, because mine, mine is not marked, but is this the exhibit we're referring to?

CHAIR: I have this as 104, it has all your corrections on it with the, right?

MR. JAKUBIAK: Well, 102 is what he's --

CHAIR: Or 102, excuse me. I apologize, 102. Yes, 102, that one would be 102.

MR. SCHMIDT: Yes, sir. You got the right one.

MR. JAKUBIAK: Okay, thank you.

MR. SCHMIDT: Okay. Let me ask you about 102. Okay. Now, do you know which one of the houses that's offsite is Mr. Clark's?

MR. JAKUBIAK: Yes, I do.

MR. SCHMIDT: Which is it?

MR. JAKUBIAK: It's the, it would be the second house from the bottom of this image. It's gray, it has a detached garage.

MR. SCHMIDT: Okay. Do you know who owns, it appear to be, well, how many other houses are shown on this property?

MR. JAKUBIAK: Three, three other houses are shown on

the west side of Harford Road.

MR. SCHMIDT: Okay and you have not been on any of those lots?

MR. JAKUBIAK: No, I have not.

MR. HOLZER: Objection.

MR. SCHMIDT: Okay.

MR. HOLZER: Asked and answered just ten minutes ago.

CHAIR: Mr. Holzer, it clarifies which lots it, so I'm going to overrule the objection. I understand your frustration. It's cross examination.

MR. HOLZER: (inaudible) frustrated.

CHAIR: Before it was a general term, now we have specificity.

MR. SCHMIDT: Mr. Jakubiak, between Harford Road and the Nepali mansion, the Bonaparte mansion, there is, is there not, sir, a stand of trees or woods, which is on the subject property, is that correct?

MR. JAKUBIAK: I've referred to this as the, the, the valley wall, the wooded valley wall and it's roughly a hundred and twenty feet wide, maybe a hundred and forty.

MR. SCHMIDT: Okay. So, all right. So, there is a, a, I don't, a valley wall that's a hundred and forty feet or so wide on the subject property, is that what I understand you to say?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: Okay and the subject property, do you know how tall the trees are that are in the valley wall?

MR. JAKUBIAK: I do not know.

MR. SCHMIDT: Okay. Do you, do you have any estimation? I mean, are they over ten feet, are they mature? Maybe I can ask it that way.

MR. HOLZER: Objection.

MR. SCHMIDT: Are they mature or are they --

CHAIR: Hold, hold on, Mr. Schmidt, --

MR. HOLZER: He said he doesn't --

MR. SCHMIDT: -- have they recently been planted?

CHAIR: I will sustain the objection. He said he didn't know. I don't think he's going to be able to get more specific. If you have another question that's related to it, then --

MR. SCHMIDT: Okay. Do the trees in the valley wall appear to be mature trees?

MR. JAKUBIAK: I don't think they've reached their maturity yet. They, I believe they're a second cut, second growth trees or, or began growing sooner than that. The answer to the specific question they generally range probably from twenty to thirty, forty feet tall.

MR. SCHMIDT: Okay. Thank you, sir. And the ground, the land upon which the valley wall, as you've described it, sits, is higher in elevation then the dwellings owned by Mr.

Clark and his neighbors across Harford Road, correct?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: So, from a visual standpoint, is it fair to say that the trees in the valley wall, if they were thirty feet, you said twenty, thirty, forty, would actually visually appear to be much taller from the Clark and other residences because they would be sitting on the upside of a hill, correct?

MR. JAKUBIAK: That's a reasonable assessment.

MR. SCHMIDT: Okay. I think I referenced this in some of my objections, but just for the record, Mr. Jakubiak,--

CHAIR: Hold on, Mr. Schmidt. I think I know where Mr. Holzer is going about 107, right?

MR. HOLZER: Exactly.

CHAIR: As to where, where do we stand --

MR. HOLZER: Is it in or out?

CHAIR: -- as to 107?

MR. HOLZER: Right.

CHAIR: Are you objecting or no?

MR. SCHMIDT: I'll object to it.

CHAIR: Okay. What is the basis for the objection?

MR. JAKUBIAK: I don't think there's any foundation for it. He doesn't know when it was taken, he doesn't know he got it other than somebody gave it to him.

CHAIR: Mr. Holzer?

MR. HOLZER: The purpose of the document was --

CHAIR: I, the purpose is one thing, he's objecting because he doesn't know the source information as to how it came to be and, therefore, there's a question as to whether or not this would depict the actual property, even back between 1895 and 1933.

MR. HOLZER: Of course it doesn't depict the property at, from the stand, that standpoint. It's an historical picture to show that there was an existing building there before the current one occupied this spot. It's, it's obviously relevant.

CHAIR: No, again, he, he's questioning the source of the information, that is how do we know that this shows --

MR. HOLZER: I can put another witness on. If you want to continue this --

CHAIR: Mr. Holzer, I'm not the one who's objecting. There's an objection on the table. It is what it is.

MR. HOLZER: It came from the Baltimore County Historic Society Library. I can produce a witness who will testify to that. If it's that important to know that it's from the Baltimore County Historic Society.

CHAIR: There is an objection as, as to that. Mr. Schmidt, with that representation, does that resolve your objection?

MR. SCHMIDT: Sure.

CHAIR: Then it is admitted.

MR. HOLZER: Thank you.

MR. SCHMIDT: I, I hate to be so prickly about trying to observe the rules of evidence, I apologize.

CHAIR: And Mr. Schmidt, it's, it's, Mr. Schmidt, we don't need comment. It is admitted, we can move on.

MR. HOLZER: Thank you.

MR. SCHMIDT: Mr. Jakubiak, are you a civil engineer?

MR. JAKUBIAK: No.

MR. SCHMIDT: Are you a surveyor?

MR. JAKUBIAK: No.

MR. SCHMIDT: Are you a sanitarian?

MR. JAKUBIAK: No.

MR. SCHMIDT: Are you a traffic engineer?

MR. JAKUBIAK: I am not.

MR. SCHMIDT: Are you an acoustical engineer?

MR. JAKUBIAK: I am not.

MR. SCHMIDT: Can you seal or prepare a site plan or zoning plan in Baltimore County?

MR. JAKUBIAK: No.

MR. SCHMIDT: Can you seal or prepare a zoning plan in Baltimore County?

MR. JAKUBIAK: I can't seal any plans that are submitted for development approval.

MR. SCHMIDT: Okay. Including a development plan or

a plan to accompany a Petition for Special Exception, correct?

MR. JAKUBIAK: Correct.

CHAIR: And that, just because you asked it in the disjunctive, that would apply to both.

MR. JAKUBIAK: I understand.

CHAIR: That, that did not change your answer, correct?

MR. JAKUBIAK: Correct.

MR. SCHMIDT: Mr. Jakubiak, where are the parking regulations in Baltimore County found?

MR. JAKUBIAK: I can't recall the, the zoning section, but they're in the Baltimore County zoning regulations.

MR. SCHMIDT: Okay. You don't know what zoning section they are?

MR. JAKUBIAK: I can't recall right now.

MR. SCHMIDT: Do you know what the requirement is for a church?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: What is it?

MR. JAKUBIAK: It's one parking space for every four seats.

MR. SCHMIDT: Okay. And Mr. Garber, I apologize, I'm just trying to go through my notes.

CHAIR: It's nothing to apologize for.

MR. SCHMIDT: As, as a matter of fact, Mr. Garber, and it might make the rest of my cross examination a little bit shorter if, if, if the Board would like to take a, a break here, it may be appropriate.

CHAIR: I will defer to counsel as to what your wishes are in terms of a break.

MR. HOLZER: I don't object to anything.

MR. SCHMIDT: I mean, it just might help me organize my thoughts a little bit and get through it a little quicker.

CHAIR: Well, apparently there's no objection to breaking now.

MR. HOLZER: No.

CHAIR: So, with, Mr. Schmidt, if that, if you feel that that would be best for your case and best to make this more efficient, then I'm sure from this Board's perspective, that we wouldn't have any problem with that. So, with that said, why don't we come back forty-five minutes from now.

MR. SCHMIDT: Yes, sir.

CHAIR: At 1:15 and, again, to the extent you guys, the two of you can resolve any type of issue as to, thank you, you knew where I was going with it, the exhibits and any type of authentication or other issues that would help resolve where these exhibits are in relation to this record.

MR. HOLZER: I, I've had a conversation with Mr. Schmidt, provided this information to him, he is to get back to

me and tell me if he's having any problem. And I don't think he's had time to, to --

MR. SCHMIDT: No, and with that said, --

CHAIR: And I understand that, you haven't, you haven't had --

MR. SCHMIDT: -- no, but we did resolve --

CHAIR: -- you haven't had sufficient time necessarily.

MR. SCHMIDT: Yeah, and we did resolve, let me just say this, I think Mr. Holzer, page three of that document had a number of exhibits on it, which are identified as the proffer exhibit.

MR. HOLZER: Yes.

MR. SCHMIDT: And I would continue to object to them and I think they would be marked as a proffer. The only exhibit on page three which is not a proff, which is not designated as a proffer, is the transcript of the ALJ's hearing, which is sort of down towards the bottom of the page.

MR. HOLZER: Third from the bottom.

MR. SCHMIDT: Mr. Clark actually delivered to me a copy of that transcript yesterday at my office and in view of that, since it's complete, I would, I do not object to the transcript being submitted.

CHAIR: Well, I would only add to it that we need to receive the entire transcript, of course.

MR. SCHMIDT: I'd be, I'd be happy, I got it from Mr. Clark yesterday.

CHAIR: Yes.

MR. SCHMIDT: And I haven't made a bunch of copies, but I'd be happy to give the Board a copy of it.

CHAIR: Well, I think it's incumbent upon Protestants to provide, since it's their exhibit, but obviously, for this record, if it's going to be agreed upon as an exhibit, then we need to receive the whole thing.

MR. HOLZER: ALJ four copies, one copy already delivered to Mr. Schmidt in here. Can I hand it to the Board now so I don't have to lug it back?

CHAIR: Yes, you may.

MR. HOLZER: Thank you.

CHAIR: And I assume, Mr. Schmidt, you've already--

MR. SCHMIDT: Yes, sir, I got it from Mr. Clark yesterday.

CHAIR: -- (inaudible) with it? Very well. So, that will be admitted. So ninety --

MR. SCHMIDT: So page three is resolved.

CHAIR: Hold on.

MR. HOLZER: Well, you and I have to talk --

MR. SCHMIDT: Yeah.

MR. JAKUBIAK: -- after, after lunch.

CHAIR: So, ninety-six is, --

MR. HOLZER: That is --

CHAIR: -- resolved. And you still object to the affidavits that were identified for the proffer, Facebook postings proffer, yeah, okay. Exhibits 91 and 93, that, they are all still proffer. I will note that ninety-three, is that, was that the separate exhibit? Isn't that 46-B and C, just to be clear? It does reference Exhibit 46, 46-A was in, 46-B and C were not. So, that goes to number ninety-three.

MR. HOLZER: I'm sorry, I, I missed what you --

CHAIR: I'm just clarifying the sheet here.

MR. HOLZER: Because I, I'm not ready to go through all this.

MR. SCHMIDT: Okay.

CHAIR: Yes. I was just, the representation that that whole page --

MR. HOLZER: Oh.

CHAIR: -- has been now resolved, I don't know that we're there yet.

MR. HOLZER: No.

CHAIR: But I saw something here, or a couple things here, but these are just your notes, these, this isn't evidence anyway.

MR. HOLZER: Right.

CHAIR: But B and C for forty-six, which I believe is included for ninety-three, that is, that is i.d. only at the

moment. But 46-A, which is referenced, is already admitted.

MR. HOLZER: Yes.

CHAIR: Thank you.

MS. DOPKIN: Off the record?

CHAIR: We will go off the record now?

MR. SCHMIDT: Yes, sir.

(RECORDING PAUSED – 12:30:26 PM)

(ON RECORD – 01:32:08 PM)

MS. DOPKIN: Ready? We're recording.

CHAIR: Yes. And we're back on the record. Everyone please make sure your cell phones are on mute or off. Same instructions as the beginning of the day. Please minimize any type of talking, gesturing, etcetera, from those who are here in attendance. I believe we last left off, Mr. Schmidt was still in the middle of his cross examination. And Mr. Schmidt, are you ready to proceed?

MR. SCHMIDT: Yes, sir.

CHAIR: All right.

MR. SCHMIDT: Mr. Jakubiak, you have given some testimony about noise and the impact, the potential impact of noise caused by the subject use on the surrounding locale. And you also have talked about generally special exceptions. Is it fair to say that all special exception uses have inherent impacts associated with them?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: And is it fair to say that because special exceptions have inherent uses associated with them, the mere fact that there are these impacts does not warrant a denial of the special exception?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: Okay and noise can be such an impact of a special exception, correct?

MR. JAKUBIAK: It can be.

MR. SCHMIDT: Are there any regulations in Baltimore County regulating noise and levels of noise which are permissible as they may impact other properties?

MR. JAKUBIAK: I'm not aware of any.

MR. SCHMIDT: Okay. Okay and to the best of your knowledge, your client has not commissioned or undertaken any noise analysis from an acoustical engineer related to this proposed property or proposed use?

MR. HOLZER: Objection.

MR. SCHMIDT: If you know.

MR. HOLZER: He doesn't know.

MR. SCHMIDT: Well, if he doesn't know, he says I don't know.

CHAIR: Mr. Holzer, you, I understand the purpose of your question --

MR. HOLZER: It's an irrelevant question anyway.

CHAIR: Well, if he consulted with somebody to come

to any, to con, contribute to any type of opinions, that, I'm sure he would have elicited that.

MR. HOLZER: That's a better question.

CHAIR: May, we're not grading the questions in that regard. But Mr. Jakubiak still has to provide the answer that you have offered up if that is the case. Mr. Jakubiak, can you answer the question?

MR. JAKUBIAK: I can answer the question.

CHAIR: And what is your answer, sir?

MR. JAKUBIAK: I don't know.

MR. SCHMIDT: Okay, very good. Mr. Jakubiak, are there other religious institutions or uses near the subject site?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: Which ones are those?

MR. JAKUBIAK: Those are Redeemer Church and Beachwood Christian Camp.

MR. SCHMIDT: Anything else?

MR. JAKUBIAK: No.

MR. SCHMIDT: Okay. Those, so those are the only two churches or religious uses that are nearby in your view?

MR. JAKUBIAK: In, in my view, that's right.

MR. SCHMIDT: Okay.

MR. JAKUBIAK: Nearby.

MR. SCHMIDT: Does the existence of those uses

nearby, did that impact or did that form any basis of any of the conclusions that you've reached in this case?

MR. JAKUBIAK: No, no, it didn't.

MR. SCHMIDT: Okay. Wouldn't that be a relevant consideration to, in determining the potential impacts of this property on the surrounding locale to know if there were similar uses in the locale?

MR. JAKUBIAK: Do you mean in evaluating a cumulative impact or something like that?

MR. SCHMIDT: Well, the, I guess my question is, wouldn't the existence of similar uses in the locale be a factor which you, as a land planner, would consider relevant in considering the subject request? Or you don't think it's important?

MR. JAKUBIAK: I don't think it's particularly relevant in reviewing the special exception, so.

MR. SCHMIDT: Okay. So, the mere fact that there are similar uses around doesn't have any bearing on the proposed special exception? In formulating your opinions?

MR. JAKUBIAK: It didn't in this case.

MR. SCHMIDT: Okay. Fair enough. You had indicated that special exceptions, I think you said in the RC-2 zone, and along a scenic route, should be, I wrote down, quote, sparingly granted, is that correct?

MR. JAKUBIAK: That's essentially correct, that's

right.

MR. SCHMIDT: Okay, okay. What, if I haven't stated that accurately, can you tell me why I haven't stated it accurately? You said it's essentially correct, I'm, you sound like you're qualifying your answer.

MR. JAKUBIAK: I think the statement includes variances and other types of relief, should be granted sparingly.

MR. SCHMIDT: Were there any variances proposed in this case?

MR. JAKUBIAK: No.

MR. SCHMIDT: Okay. So, I go back to my original question, which, which was, I think you indicated that special exceptions in the RC-2 zone should be sparingly granted, correct?

MR. JAKUBIAK: I believe my, my comment was more focused on the, the locale along a scenic road, not so much within an RC-2 zone.

MR. SCHMIDT: Okay. So, special exceptions that are located along an RC-2, I'm sorry, located along a scenic road should be sparingly granted?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: Okay. You said previously, I believe, that you, you were unaware of any regulation as it relates to scenic routes in Baltimore County. You didn't know that there

was any regulation governing scenic routes in Baltimore County, correct?

MR. JAKUBIAK: Correct, yeah.

MR. SCHMIDT: If I can then, what's, what's the basis of your decision, or your opinion, excuse me, that they should be sparingly granted. Does it say that somewhere?

MR. JAKUBIAK: I was quoting, or attempting to quote a section from the master plan. As part of the description of the scenic roads, and scenic vistas, the master plan alludes to that sparingly comment.

MR. SCHMIDT: Can, can you tell us where, where it says that?

CHAIR: Do you have the, pardon me, do you have the master plan in front of you, sir?

MR. JAKUBIAK: I, I believe I have the section that references that --

CHAIR: Take whatever time you need to find it, whatever you need. You ready to go?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: And sir, if you could just direct me to the page?

MR. JAKUBIAK: I will. Let's try master plan 2020, pages ninety-nine and one hundred and one.

CHAIR: Mr. Holzer, do you need to see?

MR. HOLZER: No.

MR. SCHMIDT: Yes, sir.

MR. JAKUBIAK: There is a, a list there of multiple points and, or I guess we'd call them enumerated paragraphs. And number nine says for purposes, or for properties along scenic routes or within scenic view sheds, variances, amendments and special exceptions should be granted sparingly.

MR. SCHMIDT: Okay, very good. Okay. Thank you, sir. As one of the Protestant's exhibits, I think Mr. Clark submitted a copy of the decision for the nearby Grace Fellowship Church. Are you familiar with that case at all?

MR. JAKUBIAK: No, no.

MR. SCHMIDT: Okay.

MR. JAKUBIAK: Not really, no.

CHAIR: Can you please keep your voice up?

MR. JAKUBIAK: No, no, I'm sorry.

CHAIR: Thank you.

MR. SCHMIDT: Okay. In, in, whether in that case or not, that, that case specifically referenced the fact that that particular church was going to have a gymnasium as part of its facility. If you know, is that typical of churches or do churches frequently have gymnasiums or other recreational components associated with their buildings or missions?

CHAIR: Before you answer.

MR. HOLZER: Objection. It's irrelevant to this issue. He had already discussed what was being proposed here

and there's no gymnasium being proposed here.

CHAIR: What's your response, Mr. Schmidt?

MR. SCHMIDT: My response is I asked him if other churches have gymnasiums or other recreational components as a part of their missions, what, what I would call the mission. And I think it has some relevance as it relates to the volleyball court.

CHAIR: Okay. (inaudible) for now. Overruled. You may answer it.

MR. JAKUBIAK: Okay. Well, it strikes me that a gymnasium or other recreational entity is certainly an accessory to a religious use. The question is whether it's an integral accessory, whether it's integral to the mission of, the practice of religion or not. In Hunt Valley Baptist Church, that case the additional proposed a gymnasium and the Board of Appeals didn't grant the special exception on account of this use being above and beyond what the, was a house of worship.

CHAIR: I would just note that none of these Board members up here, including myself, were a part of that case. My understanding is what you're referring to is specific to the gymnasium, as opposed to the special exception or whatever else was requested there. Is that your understanding?

MR. JAKUBIAK: My understanding is the special exception was not approved.

MR. SCHMIDT: And, but, and that's, following up on what Mr. Garber said, obviously there's no gymnasium proposed, proposed here, is that correct?

MR. JAKUBIAK: Yes, that's correct.

MR. SCHMIDT: Okay. But there is a volleyball court which is in existence, correct?

MR. JAKUBIAK: It, the volleyball court that's on the tennis courts?

MR. SCHMIDT: Yes, sir.

MR. JAKUBIAK: Yes.

MR. SCHMIDT: Okay and that's used by the church members and could arguably, or properly be considered part of their program, if they minister to youth and bring kids in to play, to get them, to get them to come to church sometimes, I know that's what some churches do.

MR. HOLZER: Objection.

CHAIR: Hold on, sir.

MR. HOLZER: Objection. Mr. Ghimire testified the volleyball court was not needed and they could remove it in his testimony.

MR. SCHMIDT: Okay.

MR. HOLZER: So, I don't think it's appropriate to ask a hypothetical question based on his own client's testimony that they don't need it and that they're going to remove it, so.

CHAIR: I, I recall the same testimony as what you just said. At the same time, this is cross examination of an expert witness in land planning and, therefore, given the requested special exception for religious institution in this case, it's okay to ask the hypothetical but as it relates to, as it relates back to the specifics of this case, obviously there may be other facts in this case that will determine how this plays out in the end.

MR. HOLZER: I, I think it's only fair that the witness knows that the, that the Petitioners, who he's testifying about, have already indicated that they didn't want a volleyball court.

CHAIR: I don't know the significance of the question necessarily to Mr. Schmidt. Understanding where we are with the testimony and everything to that degree, I will overrule the objection. You may answer the question.

MR. JAKUBIAK: I'll need to have that question presented again. Thank you.

MR. SCHMIDT: I think the question is, Mr. Jakubiak, I'll try to ask the same question if I can remember it. Is that, I think what I was trying to get you to address is the fact that there's a volleyball/tennis court on the property now. Is that correct?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: And, and there's been some testimony

that that is used, and I know you weren't here for the entire case, but by members of the congregation, or of the church at times. And I'm just asking you to confirm, and I think you've said already that such a facility, and I'm not going to a gymnasium, but such a facility might, might in some circumstances, be considered properly accessory to the use of the overall property for religious purposes? I think that's what you said.

MR. JAKUBIAK: And you're, we're speaking hypothetically as a, --

MR. SCHMIDT: Yes, sir.

MR. JAKUBIAK: -- yes, not in this particular location.

MR. SCHMIDT: Yes, sir.

MR. JAKUBIAK: Sure.

MR. SCHMIDT: Yes, sir. Were you here for any of Mr. Collagero's testimony?

MR. JAKUBIAK: No.

MR. SCHMIDT: Okay. Harford Road is a State highway, is that correct?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: As a land planner, do you know which agency of government has jurisdiction over State highways?

MR. JAKUBIAK: Over the design and the access to State highways, the State Highway Administration.

MR. SCHMIDT: Okay.

MR. JAKUBIAK: Maryland Department of Transportation.

MR. SCHMIDT: Okay. Mr. Jakubiak, I want to refer to you, refer you, if I can, sir, to Protestant's Exhibit 105, just so you know which number it is. It's the exhibit with a series of maps that were taken from MyNeighborhood, which all show areas of Baltimore County zoning, zoned RC-2. And I, I'm trying to understand the significance of acreage in Baltimore, of, of substantial acreage in Baltimore County zoned RC-2 is relevant as to this case how?

MR. JAKUBIAK: The, it's relevant because it shows the full extent of this particular zoning category and how there are ample opportunities to locate religious institutions that don't have the similar site characteristics as this one. In other words, there are locations where the impacts associated with a church or other building of religious worship would not impact adjoining property owners.

MR. SCHMIDT: Okay. So, for example, I assume what your conclusion is then if there was an RT, R2, RC-2 zoned property say in Monkton or in the Monkton area, because I think one of your maps is actually from that area, --

MR. JAKUBIAK: Yes.

MR. SCHMIDT: -- that would be relevant for the Board to consider the existence of that property in considering that special exception?

MR. JAKUBIAK: It's, it's, it's relevant, yes.

MR. SCHMIDT: Okay and how far is Monkton from the subject property?

MR. JAKUBIAK: I think about six miles, five, six miles.

MR. SCHMIDT: Okay. Would you consider Monkton to be in the neighborhood of this subject property?

MR. JAKUBIAK: No.

MR. SCHMIDT: Okay. In the, in the criteria listed in 502.1 of the Baltimore County regulations, is there any reference to, specific reference to his, historical considerations?

MR. JAKUBIAK: No.

MR. SCHMIDT: Okay. Now, you also talked about parking and I think you indicated that the parking calculation here requires four parking spaces for, I'm sorry, requires one parking space for each four seats in the, in, in what would be called, commonly called a sanctuary, correct?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: Do you know what the capacity is of the subject building in terms of seating?

MR. JAKUBIAK: No, I don't.

MR. SCHMIDT: Okay. Do you, do you have an opinion as a land planner, are the hundred and thirty-eight parking spaces sufficient for this property?

CHAIR: You said a hundred and thirty-eight space, parking spaces.

MR. SCHMIDT: I mean, thirty-eight parking, I'm sorry.

CHAIR: Yes. I understood, yeah.

MR. SCHMIDT: I'm looking at my numbers. The thirty-eight parking spaces which are proposed sufficient for the subject property in terms of its use as a building for religious worship?

MR. JAKUBIAK: It's not clear to me that it is because I, I, I know from the testimony that the application is more than just the church building, or more than just the temple building. And so, to the extent that festivals are an integral part of the practice of religion on this site, the project may need more parking.

MR. SCHMIDT: Okay. Well, you do agree that the festivals, the religious festivals, are integral to the practice of religion on this site?

MR. HOLZER: Objection.

MR. SCHMIDT: Under the Hindu and Buddhist religion?

MR. HOLZER: Objection.

MR. SCHMIDT: If you know.

MR. HOLZER: That's not what he testified --

CHAIR: Hold on, hold on. Please state your objection. No, no, state your objection, I, everyone was

talking over so I want you to state your objection.

MR. HOLZER: The question, that was not an appropriate question for him to ask in terms of the, the issue that he's trying to, trying to address.

CHAIR: I will say, Mr. Schmidt, I would agree with Mr. Holzer, though he did use specific words about it being integral to religious practice, or something to that effect, so I understand that's probably where you got those words from.

MR. SCHMIDT: Yes, sir.

CHAIR: However, he's not here to give opinions as to festivals and their relationship to the religious practices, unless you can establish with him that he would otherwise know that one way or the other, other than, or how he knows that.

MR. SCHMIDT: Well, Mr. Garber, I don't think that makes the question objectionable. I think the answer of the witness is then I don't know, if he doesn't know. What I'm, what I'm asking him is if he knows if, under this proposal, festivals which may, may occur out of doors or may have an out of doors component, are integral to the religious practices proposed for this site.

CHAIR: And I think, okay, --

MR. SCHMIDT: And if the answer is I don't know, then that's fine.

CHAIR: Yes. I think we're actually kind of saying the same thing.

MR. SCHMIDT: Yeah, but it's not an objectionable question.

CHAIR: Well, I would say it, I would have otherwise sustained it, however, he used those exact words.

MR. SCHMIDT: Right, and that's why I'm asking him about it.

CHAIR: So, that's what I'm saying is be careful here as to where we're going in terms of is he going to be giving any type of opinions as to religious practices? Because he's not being, obviously, that was not his direct, that was not otherwise, that's not otherwise why he's up on the stand is where I'm going with it. But if you want to ask the question you just asked, I would agree with you, it is not an objectionable question.

MR. SCHMIDT: Okay, thank you. Mr. Jakubiak, you can answer.

MR. JAKUBIAK: Some may, some may not. Some parts of some pay, some may not. I don't know enough about the, the festivals to make a reasonable opinion.

MR. SCHMIDT: Okay. So, given that, do you have any opinion as to the amount of paved parking which ought to be provided for this prop, for this proposal?

MR. JAKUBIAK: I don't think the Board has been presented with enough information to judge what the impact of the festivals would be. So, I can't, without evidence in the

record, make a determination. If we're just looking at the, the building itself and it's limited to an occupancy of a hundred and fifty, I think thirty-eight parking spaces is adequate, at least the zoning ordinance says so. But even the, the engineer didn't review the 502.1 standards in the context of the entire use of the site. His analysis, from my read of the testimony, was focused on the building, just like I've described to you.

So, there is this other aspect of the site that's relevant to our evaluation here. And I don't have enough information on it, except to raise questions about risk and concern of adverse impacts. I can't tell you how many parking spaces it would require, for instance.

MR. SCHMIDT: Board's indulgence for just a second.

CHAIR: Yes.

MR. SCHMIDT: Mr. Garber, just a minute. I'm just reviewing my notes.

CHAIR: Take whatever time you need.

MR. SCHMIDT: Thank you.

CHAIR: To collect your thoughts.

MR. SCHMIDT: There is something else I wanted to ask you, Mr. Jakubiak. You talked about the special exception criteria. Does that, in considering the special exception, is there an analysis of the impact of the use on the subject property required?

MR. JAKUBIAK: No, there's not.

MR. SCHMIDT: Okay. I don't have any other questions. Thank you.

CHAIR: Re-direct, Mr. Holzer?

MR. HOLZER: Mr. Jakubiak, would you pull out your Petition's Exhibit 46, greater Kingsville plan? Do you have it in front of you?

CHAIR: You said forty-six?

MR. HOLZER: I think that's what I --

CHAIR: Petitioner's Exhibit 46, sorry.

MR. HOLZER: I hope it's the right one.

CHAIR: I, it could very well be, that I just didn't pick up on that.

MR. HOLZER: You got it? Okay.

CHAIR: Thank you.

MR. HOLZER: And you were, your attention was directed to page twenty-seven.

MR. JAKUBIAK: Yes, it was.

MR. HOLZER: Okay and you read a, your, your attention was directed to paragraph twenty-four, do you recall that?

MR. JAKUBIAK: I do recall that.

MR. HOLZER: Okay and you qualified the, it being on major roadways such as Harford and Belair Road. And then we started to get into the italics subpart of that doc, of that,

paragraph twenty-four. And you started with the word due to the, the fragility of the rural environment, is that correct?

MR. JAKUBIAK: Yes.

MR. HOLZER: So, it, that's where you combined your answer in regard to protection of adjacent environmental features and on neighboring properties, is that right?

MR. JAKUBIAK: Yes.

MR. HOLZER: Could you explain that again, just briefly?

MR. JAKUBIAK: Recommendation number twenty-four there in all caps is described, or yeah, describe, characterized, by the italics, the smaller font underneath.

MR. HOLZER: Right.

MR. JAKUBIAK: And so, I was familiar with the recommendation and I answered with familiarity with the recommendation to, to offer the qualification and even the recommendation itself has an, a final fragment that says and provide a suitable buffer commensurate with, you know, the size and usage. So, I, I thought it was important to make that distinction.

MR. HOLZER: Well, I would direct your attention to the paragraph above the, paragraph twenty-four where it talks about special development. And take a section to take a look at that, if you would.

CHAIR: Take whatever time you need.

MR. HOLZER: Have you had an opportunity?

MR. JAKUBIAK: Yes.

MR. HOLZER: Okay. Now, this paragraph, in effect, goes above and before paragraph twenty-four, and then the subpart of the italics and my question was, is it appears that the Kingsville, greater Kingsville community plan, went to great lengths to single out churches, community centers and recreational facilities, did it not? Because it's specifically labeled in that paragraph?

MR. JAKUBIAK: And described as special.

MR. HOLZER: And described as special.

MR. JAKUBIAK: Right.

MR. HOLZER: Okay and further on, could you tell us what it says in regard to adequate, adequate roads and tracts of land sufficient to yield ade, adequate water without endangering wells? Does that specifically represent or suggest limitations?

MR. JAKUBIAK: Yes. It suggests a balancing act with respect to the existing facilities and, in this case, the reference to water, potable water and wells.

MR. HOLZER: Right.

MR. JAKUBIAK: Yes.

MR. HOLZER: So, just because it said it should be located on major roadways such as Harford and Belair Road, it qualifies those two designation routes, does it not?

MR. JAKUBIAK: It certainly does, yes.

MR. HOLZER: All right. Look at the, look at what the community plan thinks about residential, or residences, versus these types of, of activities, or construction of new, new construction, or old construction. Does it say something?

MR. JAKUBIAK: Yes. It, it refers, well, it says because of the more intensive usage of the land compared to dwellings, --

MR. HOLZER: Right.

MR. JAKUBIAK: -- so it states the obvious that churches, community centers, etcetera, are far more intense on the landscape than houses.

MR. HOLZER: So that, doesn't that sort of fit with your testimony on a prior basis insofar as the, as the subject site and the need to comply with five, specific issues related to the site?

MR. JAKUBIAK: Yes, I, I think it provides the policy basis for the answers I gave about why this site, at its, at this location, has adverse offsite impacts.

MR. HOLZER: Okay. One last thing about that is that no one talked about, nor did I notice it at the time, but take a look at Appendix E, which is in the same document. It's at the rear. Can you, it's on page E-1. Did you find it?

MR. JAKUBIAK: Yes.

MR. HOLZER: It says scenic vistas and significant

structures. And I ask you, looking down the list of significant structures, do you find one that fits the subject property?

MR. JAKUBIAK: Well, the, the first on the list is Bella Vista site.

MR. HOLZER: Correct.

MR. JAKUBIAK: Which is the, the site that's at issue in this case.

MR. HOLZER: Okay. So, in effect, the Kingsville community plan is calling that a significant structure for purposes of the Kingsville community plan.

MR. JAKUBIAK: At a significant vista, I'm sure it's in that list, yes.

MR. HOLZER: Okay, thanks. That's all I have for that document. I, I'm, I'm a little unclear as to where you are after the cross examination questions dealing with the RC_2 and the significance of agriculture, because you've testified that agriculture, you don't have any knowledge of whether it's still being conducted on the subject site or not, is that correct?

MR. JAKUBIAK: Correct, yes.

MR. HOLZER: Okay. So, can you explain to me why or why you commented on that, on the direct examination when you said, even though it's an agricultural RC-2 purpose, how does it affect this case, in your opinion?

MR. JAKUBIAK: Are you asking how the RC-2 designation affects this case?

MR. HOLZER: And how, and why you felt that even though it talked about agriculture, how the issue was broader than that when you testified on direct? If you understand my question.

MR. SCHMIDT: Objection, I mean, objection. I just don't understand the question. Maybe the witness does.

CHAIR: I'm, I'm not sure I'm following either and I want to make sure we get it right.

MR. HOLZER: In, in the, if I can try --

CHAIR: Yes, yes.

MR. HOLZER: In your direct examination, dealing with the RC-2 zone, you talked about the agricultural aspect of the RC-2 zone. But you also testified that agriculture was not being, it wasn't being used as a farm.

MR. JAKUBIAK: Right.

CHAIR: This property is not used as a farm, right.

MR. HOLZER: Right. So, how does that fact that it's not being used as a farm currently, impact your testimony about why it's not consistent with the RC-2 zone, as you testified under 502.1?

CHAIR: That the proposed use is not consistent with the five, with the RC-2 zone?

MR. HOLZER: Yes.

CHAIR: Thank you.

MR. HOLZER: Yes.

MR. JAKUBIAK: The RC-2 zone does seek to preserve land for agricultural use. But it's not intended entirely to preserve individual parcels in their use, rather the objective is to preserve an area in agricultural use. So, it's, it's not necessarily just the active farming operations, but it's the farming area and I think it's a relevant factor because when the farming area is fragmented by development activities, or any uses that potentially, you know, are incompatible, it works against the land preservation goals of the master plan.

MR. HOLZER: Okay. So you're not limiting your testimony, your focus is simply on agriculture and the fact that there's no farming on the subject, subject property but it's beyond that, is that right?

MR. JAKUBIAK: Yes, that's right.

MR. HOLZER: Okay.

MR. JAKUBIAK: That's right.

MR. HOLZER: And just, just two, one, two more questions.

CHAIR: Whatever time you need.

MR. HOLZER: In terms of the master plan, the RC zone, the historic district, all of those different documents, the Kingsville plan, all of those different documents that have been addressed either separately or combined, do all of those

documents and, and master plans, do they form this, what you called quote, cultural analysis, and explain just briefly, because you've already, I think, addressed it in, in your direct, but just briefly so there's no misunderstanding after cross.

CHAIR: Well, if I can, split up your question. You asked a foundational question but then asked him to explain as if he already had, gave the answer to your foundational question.

MR. SCHMIDT: Yeah, I would object. I think that's been asked and answered. He covered this on direct.

CHAIR: Well, I, let's hear it, him just split it up and then we can figure out if there's still an objection to it or not. But I mean, I, I didn't want the, the answer suggested already to get to, I understand where you were going with that.

MR. HOLZER: I (inaudible) --

CHAIR: I just want to make it clear for the record what's going on with that question.

MR. HOLZER: Take the master plan, the RC zone, the historic district, the Kingsville community plan, taking all of those documents separately, when you combine them all in terms of their purpose, you're familiar. Let me just stop there. When you combine all those as to their purpose, do you understand or draw part of your opinion from all of those documents?

MR. SCHMIDT: Objection. Asked and answered. Mr. Holzer is just testifying. He, he can argue this, he's testifying.

MR. HOLZER: I'm not testifying --

CHAIR: No, no, --

MR. SCHMIDT: Geez.

CHAIR: -- stop with the back and forth. I'm going to overrule the objection.

MR. SCHMIDT: Okay.

CHAIR: You may answer the question.

MR. JAKUBIAK: The, the, all of these documents and policies form the, the, the framework, or the, they provide the, the basis for guiding a special exception decision, zoning decision, a development decision. They are, in total, the policy framework for considering development activities within an area. They work together, it's the, the zoning scheme, or the zoning planning scheme that we often talk about when we talk about planning and zoning. I only mention that, the historic site and historic building are obviously present and available. The historic district is adjoining the site and that is a national register district.

MR. HOLZER: Right. But, and, and so, based on your answer just now, when you used the word cultural analysis, does that define what you just testified to as the documents that support that approach?

MR. JAKUBIAK: Well, my description early, early in the testimony about the cultural landscape, and that's where I used the word cultural, was to, to describe the existing conditions. What I've, the items that you've listed and that I've reviewed, help define how that ought to be preserved and protected in light of development activities moving forward.

MR. HOLZER: Okay.

MR. JAKUBIAK: So, it, those policies are made in reaction to the existing conditions with an effort to protect and preserve.

MR. HOLZER: Okay, thank you. That answers my question. You have acknowledged on cross examination that there are no new proposed buildings on the site, is that correct?

MR. JAKUBIAK: Yes.

MR. HOLZER: Okay. Is it true that future development is not precluded by the Board granting this special exception?

MR. SCHMIDT: Objection. That's a, that's a legal conclusion beyond this witness' scope of expertise.

CHAIR: Well, the objection you just said, I think is certainly well within his ability to at least given an opinion as to the effect of, if the special exception is granted, what would that mean for the property. He is an expert in land planning and zoning. That's, so I think that that question is

proper but I think it'd be better, I think you would be better served asking it not for a yes or no answer, as much as a broader question for him to tell us what it means. So, I will sustain the object, or excuse me, overrule the objection but--

MR. HOLZER: Okay. Do you understand the question? Because if you don't, I'll just ask it another way.

MR. JAKUBIAK: I thought I did for a second, then focusing on Mr. Garber's analysis --

CHAIR: Then I start talking, yeah.

MR. JAKUBIAK: -- I lost my train of thought.

MR. HOLZER: The, the simple question I have is the only request now in the special exception request is no new buildings. In the future, could they, Petitioners come back and ask for a new, new gymnasium or a new building of some sort?

MR. JAKUBIAK: The way that I, in my practice, we handle those as an amendment to the special exception and the submittal of a development plan for review. So that it would go through a similar proceeding as we've had here for the past ten sessions.

CHAIR: Hold on. Those are two different things that I just heard. I don't know if you want to follow-up with him but or we need to do that?

MR. HOLZER: No, I, I, basically, I just, I just wanted him to establish that there could be development in the

future, that's all.

CHAIR: What I heard was that there's a, that it would be treated as an amendment to a special exception and we go through the same process, development review, in that which we have here. This isn't a development review process necessarily, we're here on the special exception so that's why I'm, we're talking about two different things so, if you could (inaudible) --

MR. JAKUBIAK: I was just explaining in my, in my experience, how I would approach it. It would be an amendment to the special exception and it would require, in laymen's terms, a site plan review. It's different than the development review procedures established here in Baltimore County. But I'm saying, it would have required a review of the project, along with an amendment to the special exception, if this were an approved special exception.

CHAIR: And I think the question is, what is the review, I think that's what Mr. Holzer was getting at. That wasn't his direct question, but it's the implication of his question is what review are you talking about?

MR. JAKUBIAK: What review of --

CHAIR: You used the word review. I'm trying to understand review.

MR. JAKUBIAK: Oh, oh, someone would have to provide a technical analysis of the proposed development plan, the

submittal, the, the, the site plan that showed the building or the additional parking or the grading that would be necessary or the change in figuration of the lot. Someone would have to provide a technical review of that and provide that information to the decision maker to evaluate. That's what I meant.

MR. HOLZER: He answered my question, thank you.

CHAIR: Okay.

MR. HOLZER: I have no further questions.

MR. SCHMIDT: Just two --

CHAIR: Do you need any follow-up on, based on that?

MR. SCHMIDT: Yeah, just two, two short questions. Mr. Jakubiak, let me draw your attention, again, to page twenty-seven of the Kingsville plan. And you, you have it in front of you?

MR. JAKUBIAK: Yes.

MR. SCHMIDT: Let me know when you do.

MR. JAKUBIAK: Okay, I do.

MR. SCHMIDT: Okay. You specifically referred, and I think in answer to one of Mr. Holzer's questions, referred to the paragraph under special develop, under the title saying special development, which is above the recommendation. And specifically, the third paragraph, I'm sorry, the third sentence in that paragraph. And that reads, and I quote, new construction of these forms of development should be directed to areas served by adequate roads and be located on tracts of

land sufficient to yield adequate water without endangering the wells of neighborhood residents, correct? See that?

MR. JAKUBIAK: Yes, I see that.

MR. SCHMIDT: Is there any, is there any new construction proposed here?

MR. JAKUBIAK: Well, --

MR. SCHMIDT: Let me ask, let me ask you the question, Mr. Jakubiak.

MR. JAKUBIAK: Okay.

MR. SCHMIDT: Is there any new construction proposed on this site under this proposal?

MR. JAKUBIAK: Rehabilitation of the existing site to make it usable, livable. So, the construction is inside, the site, the construction on the outside is limited to removing existing buildings and building parking.

MR. SCHMIDT: Okay. Okay. It says what it says, all right. Thank you.

CHAIR: Any follow-up based on that?

MR. HOLZER: I was going to but I don't think I need to.

CHAIR: Okay. (inaudible) before he gets off the stand, I do have a question. You indicated prior, sorry, you have a question actually, so why don't you go first?

MS. DOPKIN: You talked about the RC-2 zone being an agri, agricultural preservation zone and protecting the

landscape for agricultural uses.

MR. JAKUBIAK: Yes.

MS. DOPKIN: And I think you also testified that you know of no adjoining agricultural uses?

MR. JAKUBIAK: Yeah, I, I, I, nothing comes to mind in terms of the, the property that adjoins the, whether it's in agricultural use.

MR. SCHMIDT: Ms. Dopkin, I think he actually said he doesn't know where the nearest farm is.

MS. DOPKIN: Thank you.

MR. SCHMIDT: Is what I asked him directly.

MR. HOLZER: But he also testified --

CHAIR: Hold on. I, I know, --

MS. DOPKIN: I was asking the question, please.

MR. SCHMIDT: I'm sorry.

MR. HOLZER: But that's, --

CHAIR: Ms. Dopkin, you want to ask, I understand, Mr. Holzer.

MR. HOLZER: Yeah.

CHAIR: But Ms., Ms. Dopkin will ask the questions, Mr. Schmidt. And then --

MR. SCHMIDT: Yes, yes, sir.

CHAIR: -- based on her recollection and her notes.

MS. DOPKIN: And I believe on cross examination you said that the rural legacy program was also one of the

implementation devices is the imposition of easements?

MR. JAKUBIAK: Yes, that's right.

MS. DOPKIN: Is this property adjacent to any land subject to easements that the, that there would be any benefit in having continuous blocks, do you know?

MR. JAKUBIAK: I will say that I, I can't say specifically but I have seen the, the, the mapping that shows these deed restricted conservation areas in the vicinity. I don't know precisely --

MS. DOPKIN: But they don't adjoin the property?

MR. JAKUBIAK: It's something worth looking into but I can't help you with that.

MS. DOPKIN: You don't (inaudible), okay. You also said that you thought a larger paved area would be less detrimental than parking on the grass. Am I to, for these events, where there's overflow parking?

MR. JAKUBIAK: No, no, that's, that's, that's not what I said.

MS. DOPKIN: I think it's pretty much what you said. That it would require a larger paved area, I wrote it down. So, maybe I misheard you.

MR. JAKUBIAK: That, --

MS. DOPKIN: Are there other areas on the high elevation, the flat part of the site, where parking could be accommodated?

MR. JAKUBIAK: I believe parking could be accommodated within the, the traffic circle, in front of the, the building. If you can remember how the, the lane heads up and then --

MS. DOPKIN: I do.

MR. JAKUBIAK: -- there's a circle around it, yes, within that area. Outside of that, I, I, I've, I would believe that the, the opportunities are rather limited.

MS. DOPKIN: Well, if you look at your, the top, whatever it was, the topographical maps?

MR. JAKUBIAK: Yes.

MS. DOPKIN: It looks like there's a large flat sort of tabletop up there.

MR. JAKUBIAK: Yeah, it, it looks like it's flat --

MS. DOPKIN: Unimproved.

MR. JAKUBIAK: That's right. But, but actually it, it slopes. So, over the length of it, you'll see that the --

MS. DOPKIN: Are you saying between the contour line there's actually --

MR. JAKUBIAK: Yes, it's a twenty foot distance.

MS. DOPKIN: But it looks like it's a lot of land between lines, is all I'm saying. It looks like there's a large expanse that's, if sloping, very gentle and all I was asking is if that would be an area that could be used suitably for overflow parking.

MR. JAKUBIAK: No, in fact, that's what the applicant is proposing to do and it probably could be used suitably for that purpose. But with the concerns that I raise about the, the disruption of the, the, the lawn and the overflow of water off the site.

MS. DOPKIN: As a land planner, what uses are typically accessory to church uses? I've seen lots of things approved as part of a religious facility --

MR. JAKUBIAK: Sure.

MS. DOPKIN: -- without much questioning.

MR. HOLZER: Objection. Is this related to the site itself or --

MS. DOPKIN: Well, he testified to accessory uses.

MR. HOLZER: Yeah.

MS. DOPKIN: That, at religious facilities and he, he was limited to recreational uses.

MR. HOLZER: Right.

MS. DOPKIN: And I was interested in knowing what other accessory uses he would consider typical and you're objecting to my question?

MR. HOLZER: No, I'm asking that it, Ms. Dopkin, I never object to you.

MS. DOPKIN: Uh huh.

MR. HOLZER: What I'm asking, --

MS. DOPKIN: Okay.

MR. HOLZER: -- for you is to quantify, if you're talking about the subject site or if you're talking about churches in general all over the RC-2 zone. That's, that's all.

MS. DOPKIN: Well, I'll take your second choice. Churches all over the RC-2 zone.

MR. HOLZER: Okay. Well, that, that makes me feel better.

MS. DOPKIN: Just generally accessory to church uses in the RC-2 zone?

MR. JAKUBIAK: Religious education. You can imagine that an accessory use within an existing building so you have an accessory use without an accessory structure. But the basement is being used for religious education. You can imagine a, a, a fellowship hall on a site, where meals are provided and, and the community gathers to discuss their ministry. There are food banks and other aspects of churches where the practice of religion can be advanced. So, there's a, three that come to mind right away. Certainly, there are others as well.

MS. DOPKIN: In discussing the 502.1 criteria, you said that the intrusion of intense development was inconsistent with the spirit and intent of the zoning --

MR. JAKUBIAK: Yes.

MS. DOPKIN: -- of that classification.

MR. JAKUBIAK: Yes.

MS. DOPKIN: And I'm having a problem with your use of the word development, which you used a lot in your discussion of the master plan and some of its goals. So, I guess, as a planner, is there a definition of development that you're relying on that's in the Baltimore County code or regulations?

MR. JAKUBIAK: The definition I'm relying on is one that I'm familiar with in my practice as a planner.

MS. DOPKIN: Well, --

MR. JAKUBIAK: Which is the conversion of land, for the improvement of land typically resulting in more intense use.

MS. DOPKIN: And do you know if that comports with whatever definition there is in the Baltimore County Code?

MR. JAKUBIAK: I don't think it differs in any meaningful way. I, but I just can't recall the specific definition if, in fact, there is one.

MS. DOPKIN: I asked you about easements. You said the original purchase back in, whatever was over three hundred acres. Do you know what the current use of any of the three hundred and thirty acres that have been divided off are? Have they gone to farms, housing, institutions? Do you know?

MR. JAKUBIAK: I, I'd, I'd only be speculating. I, no.

MS. DOPKIN: And you mentioned schools, community halls, whatever, are any of those facilities, to your knowledge, in existence at either of the nearby religious facilities?

MR. JAKUBIAK: Yes. So, there's a, when I was mentioning religious education, I was actually referring to simply religious education, rather than a parochial school, which is, of course, more than religious education. But yes, there is a school at the Redeemer Church.

MS. DOPKIN: I think those are all my questions. Thank you.

CHAIR: Do you have any follow-up, Mr. Holder, based on that?

MR. HOLZER: Yes, yes. I just want to ask, in terms of Redeemer Church that he just use, utilized, I believe that's in an RC-5 zone, is it not?

MR. JAKUBIAK: It is.

MR. HOLZER: Okay. So, it's a different zone.

MS. DOPKIN: Thank you.

MR. HOLZER: You're welcome. Thank you.

CHAIR: Mr. Schmidt, any follow-up?

MR. SCHMIDT: No, sir.

CHAIR: Mr. McComas has follow-up.

MR. MCCOMAS: Just one question. As a land planner, what tools would you have available if somebody says hey, I

want to reduce the noise coming off of my (inaudible)?

MR. JAKUBIAK: Yeah. Good question. There are a couple. Ideally, the, the buffer or any type of tool that's being used is positioned as close as possible to the source of the noise. And between the source of the noise and the impacted properties. So, examples are berms, walls or distance, substantial distance. And it all depends on, of course, the extent of the, the anticipated noise impact.

MS. DOPKIN: That raises one more question. I'm sorry.

MR. JAKUBIAK: Sure.

MS. DOPKIN: Talking about noise, and this is just sort of trying to reconcile my experience with your testimony, my experience is the noise travels up and out, such as in a concert hall and amphitheater, a stadium, an arena, not up and down. How do you reconcile your testimony that the noise will travel that way and not that way to be more intrusive?

MR. JAKUBIAK: I understand that noise travels in all directions from the source. In most, the way that we experience noise, just me projecting my voice to you, it's being compelled this way. Even though the noise is going behind me too, but my head is blocking it. So, someone can hear it behind me but not as loud. Noise can travel around a corner as well. Just like the flow of water or most waves. So, noise would, would not travel over a ground based receiver.

The wave will, fills up the space that's allocated to it. And that doesn't make sense, I guess, but the, it travels in all directions and if it, if it goes over something, the wave drops down and, and you'll hear it from the source. It's, it's, it doesn't drive, or it doesn't continue in a linear fashion, it fills up the space allocated. If you could imagine noise --

MS. DOPKIN: Oh, I can imagine.

MR. JAKUBIAK: Yeah.

MS. DOPKIN: I remember my high school physics so, thank you.

MR. JAKUBIAK: Okay, okay.

CHAIR: Are you done?

MS. DOPKIN: Yes, I'm sorry.

CHAIR: Any follow-up, Mr. Holzer?

MR. HOLZER: No, I appreciate that.

CHAIR: Mr., Mr. Schmidt?

MR. SCHMIDT: No.

CHAIR: Okay. I have one housekeeping matter to, before this gentleman leaves the stand. Before break, you indicated, you put on the record an objection that you were not able to get into certain testimony with Mr. Jakubiak.

MR. HOLZER: I don't --

CHAIR: Okay.

MR. SCHMIDT: I don't either.

CHAIR: Okay. Well, maybe I was hearing things or I

don't know.

MR. HOLZER: I apolo, I apologize but I don't really recall. I mean, this has been such a long --

CHAIR: Okay.

MR. HOLZER: -- time frame, I, I really just don't remember.

CHAIR: Okay.

MR. HOLZER: The fact that I'm getting older.

MR. SCHMIDT: I, I don't recall it either.

CHAIR: Okay. Again, --

MR. HOLZER: Thank you.

CHAIR: -- maybe I'm wrong. Okay.

MR. HOLZER: Yes.

CHAIR: So, with that in mind, I guess there's nothing further.

MR. HOLZER: Can Mr. Jakubiak be excused?

CHAIR: Thank you, Mr. Jakubiak.

MR. JAKUBIAK: You're welcome. Thank you.

CHAIR: Yes.

MR. HOLZER: All right, thank you.

CHAIR: All right. So, now that we're done Mr. Jakubiak, what, well, I guess we'll address a road map as to what we're doing for the rest of today and then what will happen, what's that? Yes, and then, I'm putting this on the record. And then what we'll do with, maybe on the 13th to the

extent whatever is necessary. So, Mr. Holzer, the floor is yours.

MR. HOLZER: Thank you. I'm not so sure I really want to take it but I must.

CHAIR: Understood.

MR. HOLZER: I have one witness here that will be very brief. And you will recall that the Kingsville Community Association document, and I don't remember which one it was here, --

CHAIR: Number forty-eight or thereabouts?

VOICE: It is forty-eight, sir.

MR. HOLZER: Forty-eight. Was not permitted because questions were asked by Mr. Schmidt, and I have Ila Christianberry (phonetic) here as a witness. She has also produced affidavits to try to cover as many questions as he has as possible. And she must leave in a few minutes, so.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: If, if we can, if you show me the affidavit, maybe we --

MR. HOLZER: Sure.

MR. SCHMIDT: -- can stipulate to it.

MR. HOLZER: Why don't I just show it to the Board at the same --

CHAIR: I would agree. Show it to Mr. Schmidt, show it to the Board and perhaps we can have this witness go on her

merry way without the need of taking the stand and --

MR. SCHMIDT: As I recall, and I'm trying to remember, I, I think the affidavit that was sub, or the exhibit that was previously submitted, did not have a --

CHAIR: A map or, there was that aspect. Mr. Clark provided some testimony.

MR. SCHMIDT: -- discussion of some of the rule eight things.

CHAIR: Right.

MR. SCHMIDT: If this covers it, then --

MR. HOLZER: See, see if it does.

CHAIR: So, even, I, I recall it as the number of, of, sorry?

MS. DOPKIN: Members?

CHAIR: Right, well, number of members and then the map issue. I believe that Mr. Clark, Dr. Clark, testified to some of those boundaries for that, to resolve that part as to the map, or boundaries, and then as to the number of members, I don't, I, I seem to recall there was an additional question or two.

MR. HOLZER: Something like that, and I think it might all be in here, if you take a look at, at it and let me know.

CHAIR: So, we will mark this --

MR. HOLZER: Protestant's 108?

MR. MCCOMAS: Yes.

CHAIR: So, I have an original here.

MR. MCCOMAS: So do I.

CHAIR: Okay.

MR. HOLZER: Yeah, I gave you two.

CHAIR: There are multiple originals, okay.

MR. HOLZER: Yeah.

MR. SCHMIDT: Okay. This, this, Mr. Garber, this, this looks appropriate to me upon quick inspection, so.

CHAIR: I will note that apparently Ms. Cristenberry (phonetic) is also present here in Court.

MR. SCHMIDT: Right.

MR. HOLZER: Yes.

CHAIR: And she's waving to me hello. Thank you for coming. So, therefore, do we have a stipulation as to the admission, then, of forty-eight and now 108?

MR. SCHMIDT: Yes, I think it's, yes, yes, sir.

CHAIR: Okay, very well. It will be received as a stipulation, both Exhibits 48 and 108 are hereby admitted. Now, Mr. Holzer, if you need Ms. Cristenberry for anything else?

MR. HOLZER: No, no, I believe, --

CHAIR: I leave it to you then to excuse her if you believe that's necessary or appropriate.

MR. HOLZER: Thank you. She, she had a doctor's

appointment earlier, I couldn't put her on then but you may be excused, ma'am.

VOICE: Thank you.

MR. HOLZER: You're welcome.

CHAIR: Thank you very much for attending.

MR. SCHMIDT: Mr. Holzer, did you have that other thing that you talked to me about during the break?

MR. HOLZER: Yes.

MR. SCHMIDT: Did you, did you want to approach or go off the record or?

MR. HOLZER: Yes, yes, I'd like to approach the bench, if I could. Just, let me find it.

CHAIR: What, okay, so, how about this? Because it sounded like you were saying something about a break. Why don't we just then take a break. If counsel then wants to address the Board, I'm assuming this is something that's not supposed to be on the record --

MR. HOLZER: I've already talked to, yeah, and I'd prefer it not be on the record.

CHAIR: Okay. So, with that, we'll just take a brief break of five minutes.

(RECORDING PAUSED – 02:31:46 PM)

(ON RECORD – 02:40:12 PM)

CHAIR: -- counsel are ready, then I'm ready. And if you guys are ready, of course.

MR. MCCOMAS: Yeah.

MS. DOPKIN: We're recording.

CHAIR: And we're back on the record. So, again, please check your cell phones. So, now that we've heard from, I'm sorry, if I say her name wrong, Ms. Cristenberry, with respect to her affidavit and the stipulations, where does that leave us?

MR. HOLZER: We have a number of documents that I, you already have at the Board, were delivered yesterday. And Mr. Schmidt also was sent them. The one thing is the new disc, which was referred to in the testimony on January 29th. And Mr. Schmidt already had received this so he could listen to it and I'd like to offer that as the next exhibit.

CHAIR: Okay. Mr. McComas?

MR. MCCOMAS: Didn't we already identify that disc?

MR. HOLZER: We may have, we may --

CHAIR: There was a disc that was handed up last week.

MR. MCCOMAS: I think it's seventy-three. I think I have a placeholder for it. Let me just go double check.

MS. DOPKIN: Yep.

MR. MCCOMAS: Or I may already have it.

MR. HOLZER: I don't think you have it.

CHAIR: Was it moved into evidence though? I guess that would be the next question.

MR. MCCOMAS: Here, here's seventy-three and I have it admitted as evidence. And it says here new, --

MR. HOLZER: New disc?

MR. MCCOMAS: (inaudible) take another one.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: I, I thought, I thought it was in, but I, --

CHAIR: Well, it, it would seem to me since there is a question, and I'm going on your representation here that --

MR. HOLZER: Yes.

CHAIR: -- this is the exact same stuff that we reviewed in Court last week.

MR. HOLZER: Yes.

CHAIR: Is embodied on one disc.

MR. HOLZER: Yes.

CHAIR: Then just to make sure that we're not accidentally omitting evidence that should be in, why don't we admit this as another exhibit just to be on the safe side, though recognizing it may be the exact same as seventy-three.

MR. HOLZER: Yes.

CHAIR: If there are matters on this disc that are not supposed to be there, and not supposed to be in evidence, I'm sure Mr. Schmidt will bring it to our attention the next time we are here.

MR. HOLZER: Well, and it was, as I say, he had

gotten a copy of it but I just didn't know whether it was admitted as the new disc.

CHAIR: Yes.

MR. HOLZER: So, I'll put it in.

CHAIR: Yes.

MR. MCCOMAS: You guys have a copy of, of seventy-three?

MR. SCHMIDT: I, I did get a copy last time, or whenever that was. Yes, sir.

MR. MCCOMAS: So, if you, somebody does a comparison of the two discs, that would be a solution.

MR. HOLZER: Right.

CHAIR: Yes.

MR. HOLZER: I can --

MR. MCCOMAS: So, this is Exhibit 109.

MR. HOLZER: Mr., one of my, one of my clients says it's exactly the same.

CHAIR: So, as seventy-three?

MR. HOLZER: Yes.

CHAIR: All right. Well, since we've already put that on the record, I'm not going to change it because that's only going to lead to a change in other exhibits to follow and, on the list and we already have enough things to get through with the evidence.

MR. HOLZER: Right. Now, the next thing is --

CHAIR: We're going to, so that's admitted, even though it's understood now to be a, basically, the exact same.

MR. HOLZER: Right, right. You recall during the presentation of the case, that there were certain documents, letters, from the County, etcetera, that were not going to be admitted but for purposes of exhausting administrative remedies, you suggested that I put a packet together and that packet, I have here. I've also delivered to the Board. We probably should mark that as a proffer exhibit, the next exhibit.

CHAIR: Mr. Schmidt, I know that you would probably only receive this yesterday, because we received it yesterday.

MR. HOLZER: Yes, yes, he did.

CHAIR: Have you had the opportunity to review those documents?

MR. SCHMIDT: I, I have not. I mean, if you want to mark it as proffer exhibit, which as I understand, the way you're using the --

CHAIR: Yes.

MR. SCHMIDT: -- term, would mean that it's part, it's within the record of the case for appellate purposes, but it is not evidence that the Board is going to consider.

CHAIR: It is not substantive evidence for the Board's consideration.

MR. SCHMIDT: I don't have an objection to doing that

and I'll take a look at it.

MR. MCCOMAS: We'll call it i.d. only.

MR. SCHMIDT: I.d. only.

CHAIR: Yes.

MR. HOLZER: Yes.

CHAIR: So, one ten --

MR. SCHMIDT: I think he's using the term proffer and identification only --

MR. MCCOMAS: Right, I was just using that because that's what (inaudible).

MR. SCHMIDT: That's what I use. I, I'm with you, Mr. McComas.

MR. MCCOMAS: One ten i.d. only.

MR. SCHMIDT: Yeah.

MR. HOLZER: One ten i.d.

CHAIR: All right.

MR. HOLZER: Fine, that takes care of that.

MR. MCCOMAS: Can, can you give us, can you give me, is that a copy of the complete set? I have one here but I printed it out, just want to make sure I got (inaudible) --

MR. HOLZER: Well, actually I've got two that I can share with the Board.

MR. SCHMIDT: Mr. Holzer, that's what I got by e-mail yesterday, right?

MR. HOLZER: Yes, um hm.

MR. SCHMIDT: Okay.

MR. HOLZER: Exactly.

MR. SCHMIDT: Same thing?

MR. HOLZER: Same thing.

MR. SCHMIDT: Okay.

MR. HOLZER: And so, that's one ten.

MR. MCCOMAS: One ten.

MR. HOLZER: Let's see. One, two, we already took care of the ALJ transcript, right?

MR. SCHMIDT: Yes.

MR. MCCOMAS: Yes.

MR. SCHMIDT: That's in.

MR. HOLZER: Okay. So, that's --

MR. SCHMIDT: And I have a copy.

MR. HOLZER: We already have put in the proposed conditions, which you, the Board, requested.

CHAIR: I'm sorry?

MR. MCCOMAS: I think (inaudible), I mean, I don't think we have it in. Do we, we don't have it in?

MS. DOPKIN: That's not in the record.

CHAIR: Hold on. I'm sorry, what are we talking about? I, I missed it.

MR. HOLZER: We're talking about I forwarded, you'll recall Mr. Clark testified about conditions that he wanted.

CHAIR: Yes.

MR. HOLZER: And then we, I put together a list of the proposals that you --

CHAIR: Yes.

MR. HOLZER: -- at your request.

CHAIR: Yes.

MR. HOLZER: And we submitted that to the Board a couple days ago.

CHAIR: Yes.

MR. HOLZER: So, that perhaps should be marked as an exhibit. It wasn't at that time.

CHAIR: Mr., well, I think the, the purpose was just to accurately record --

MR. HOLZER: Yes.

CHAIR: -- what Dr. Clark requested so that there's not a confusion as to what was being requested.

MR. HOLZER: Right.

CHAIR: Because there were --

MR. HOLZER: Yeah.

CHAIR: -- numerous ones and then trying to write down exactly what he was requesting leads to transcription errors.

MR. HOLZER: Correct. And I also forwarded those to Mr. Schmidt.

MR. SCHMIDT: I, I mean, I got that two days ago, Mr. Garber. I'll leave that up to you. I mean, it's not really

evidence, it was, it would be something that I would typically say would come in attached to a memorandum as argument. If you want to mark it as an exhibit just that it is what it is.

CHAIR: Well, there was testimony.

MR. SCHMIDT: No, but what I'm saying is it's, it's a list of the desired conditions, is not really evid, I don't, in my --

CHAIR: I understand what you're saying.

MR. SCHMIDT: I mean, it's, it's not evidence of anything other than conditions that they want, I guess. But I don't have an objection to putting it in. I mean, my intention was I was probably going to respond to that in my memorandum.

CHAIR: That's --

MR. SCHMIDT: Which is where I think it would normally come, but if you want to put it in, put it in.

CHAIR: I would, I would say that yes, I will call it evidence to the extent that it was testimony --

MR. SCHMIDT: Yes.

CHAIR: -- therefore, otherwise it wouldn't be in, I asked it be reduced to writing so that's why it's being presented in this form. Mr. Holzer has asked to use that as an exhibit.

MR. HOLZER: Yes.

CHAIR: Since there was already a matter of cross examination and everything I feel that there's not, it's not

inappropriate so therefore, we will receive it as an, as an exhibit, I guess, that's one eleven.

MR. SCHMIDT: And I'll, I'll address those conditions, obviously, in my memorandum.

MR. HOLZER: Sure.

CHAIR: Yes.

MR. HOLZER: You may or may not agree with (inaudible).

MR. MCCOMAS: Do you have an original there?

MR. HOLZER: Yes, I have to check.

CHAIR: And yes, Mr. Schmidt, please do so.

MR. SCHMIDT: Yeah, I mean, that, that to, to me, I think, would be the appropriate place to address it.

CHAIR: Ordinarily, I would say yes. But again, given the specific requests I had last week, --

MR. SCHMIDT: Right.

CHAIR: -- I can understand why the --

MR. SCHMIDT: Since you, since you re, since you, as the Chair, requested it, that's fine.

CHAIR: Yes.

MR. MCCOMAS: Do you want it with the e-mail or without it (inaudible)?

MR. HOLZER: I'll just give you a list.

CHAIR: Yeah.

MR. HOLZER: That makes sense. Other than going

through this chart and figuring out which are, ones are in or which ones are not in, there were two Motions that I forwarded to the Board.

CHAIR: Yes, we're going to get to those now.

MR. HOLZER: One, okay. Would you rather get to those --

CHAIR: I'd rather go, start with them before we get to the other --

MR. HOLZER: I agree.

CHAIR: Yes.

MR. HOLZER: I agree.

CHAIR: And so, I'm going to start with thirty, the one concerning thirty-four.

MR. HOLZER: Yes.

CHAIR: All right.

MR. HOLZER: And that --

CHAIR: When you're ready with that. You have yours (inaudible)?

MS. DOPKIN: I have, I'm okay.

CHAIR: Okay. So, we have the Motion to Strike Petitioner's Exhibit 34 as ex parte, we have Petitioner's Response to the Motion to Strike and we have Protestant's Reply to the Response.

MR. HOLZER: That's right.

CHAIR: Everyone on the same page?

MR. SCHMIDT: Yes, sir.

MR. HOLZER: Yes.

CHAIR: All right. So, I'll start with this. All right. Number one, I, to suggest that this is an odd duck would be an understatement. However, not so odd that I haven't seen it before. This is actually in another case recently, within the last six to nine months, I've seen something very similar to this executed in more or less the same manner. And I, I'm alerting you to that because I'm going to be consistent with, I believe, what I said, my comments in that matter here.

I would find that the July 2nd letter, but more particularly, the July 3rd signed portion by ALJ Beverungen to actually have zero effect. And what I mean by that is, it seems to me that it's modifying the earlier Order and it was done with a lack of public hearing, public notice, notice to counsel, all those things. So, to me it would be a complete non-event, as it never happened and it should not have been used for any reason.

I don't know what, what, if any, reason it may have been used for in connection with this property and I don't believe we even need to go down that road. When received into evidence into this case, I, frankly, had the same thoughts. That it would have no impact here whatsoever.

As to whether or not this needs to be considered as an ex parte communication for purposes of how we address this

Motion, I don't believe we need to go down that road at all because, again, I believe that this has no effect in any substantive manner whatsoever. I understood the use of it was for rebuttal in conjunction with testimony regarding, I know this has been talked about as the code enforcement issues that have been the undercurrent to much of this case. Having said my piece on that, it was received in evidence solely to be rebuttal for whether or not to see if any of my colleagues up here had any ideas as to how they wanted to use that letter and response from Judge Beverungen.

So, I've given my piece. I, I believe this to be consistent with what I commented on earlier in another case.

MR. SCHMIDT: Which case is that, Mr. Garber?

CHAIR: I don't recall specifically off the top of my head. I could say I have, I have an idea as to which one it may be, but you know, I'm not positive as to which one. But I have seen it before, Mr. Kotroco was involved, so I'll leave it there. So, with that in mind, Ms. Dopkin, do you have any thoughts as to what to do about the July 2nd, July 3rd letter and its impact, if any, in this matter?

MS. DOPKIN: Well, I would agree with you --

MR. SCHMIDT: So, Mr. Garber, before you get to Ms. Dopkin, I just, I'm, I'm, I apologize but, just to understand what you're saying. Are you saying you're going to strike it or not strike it?

CHAIR: I'm waiting to hear from my colleagues at this point.

MR. SCHMIDT: Oh, I'm sorry, okay. Thank you.

CHAIR: Because I had an idea when I received it, I'm like wait a minute, I've seen this sometimes before, I don't feel comfortable with what occurred, how this came to be. Not saying anything was done with any type of, you know, anything was done necessarily to be underhanded or whatever the case may be, I don't want to give that implication. I'm going to say that to me, it just had no effect.

MR. SCHMIDT: Okay.

MS. DOPKIN: I would agree with you that it has no effect. To that extent, I don't think it matters whether it's in or not.

CHAIR: Mr. McComas?

MR. MCCOMAS: I have not seen this before and, and I, I, (inaudible) had any effect on me and for me, I, I would let it come in, in this matter.

CHAIR: So, with that in mind, I'm going to leave the ruling as is, that it'll be in for rebuttal but you have an understanding as to where we stand as to its impact in this case. Because it's already been accepted and I realize at the time that you did it, you indicated that you had a Motion coming along the way. Because I went over the testimony before today. With that in mind I think you understand as to what it

means to this case in particular, because I don't know what other relief there can be other than to say sitting here in the moment this is no effect. So, in terms of where this property is today, the July 3rd, 2018 clarification, modification, whatever it is, has no bearing on this property whatsoever and no one should be using it for any reason for the, for the property.

MR. HOLZER: Members of the Board, I take exception to that ruling for the simple reason that it shows, it was a document that was not only ex parte, forget that for a moment. It was, according to the response, and according to the facts, it was a document that was created when Administrative Law Judge had no jurisdiction to even --

CHAIR: Absolutely agree with what you just said.

MR. HOLZER: Right. And so, therefore, it should be stricken from the record. If it is not stricken from the record, it is still there. I would also say that this document was read but not introduced on the first day of the hearing and it was read to oppose the granting of a Motion for Postponement until the subject matter of that first Motion was addressed. And that's how it was used. And it was also used in regard to the case in chief of the Petitioners when they relied upon the, the narrowing by the Administrative Law Judge to the point where it, it, where he said it could only be used as a, as a church, or it could not be used as a church until this, the

Board or the case decided. And yet, it was used. So it did have an effect on this Board at the time it was utilized.

CHAIR: Other, I mean, I'm glad you brought that to my attention. I did not put two and two together with the beginning of the case in terms of the postponement.

MR. HOLZER: Right.

CHAIR: So, leaving that part aside with it, you know, I don't know what else happened as a result of that letter. I don't believe it's necessary for this Board, for purposes of the special exception hearing. Now, as to that particular point on the postponement aspect of it, probably need to at least take another look to see about that. So, before I, before there's an official ruling, I will go back and I will review that part. I'm anticipating it'll be done today before we, before we adjourn today.

MR. HOLZER: I would also say that on the basis of the Petitioners own memo in this matter, that, and on the facts, that that letter, Exhibit 34, was issued after the Administrative Law Judge did not have jurisdiction. The appeal was already filed.

CHAIR: I would agree, and --

MR. HOLZER: And, and so the --

CHAIR: -- just for the record, I agree with you--

MR. HOLZER: -- so then to have --

CHAIR: -- on that, a hundred percent.

MR. HOLZER: -- that document, and that opinion, of the ALJ in the record when it goes beyond this Board I think is prejudicial that it's there.

CHAIR: Well, I, we can't, as you know by now, unfortunately, that we can't just remove it from the record. It's either in for i.d. or it's in, it's in evidence as it was received for rebuttal use. Now, we've given, this Board has told you what it considers in terms of its substantive effect.

MR. HOLZER: I understand that, Mr. Chairman.

CHAIR: Okay.

MR. HOLZER: But if it's, if it's in the record, then have it marked as i.d.

CHAIR: Okay.

MR. HOLZER: At least.

CHAIR: Okay.

MR. HOLZER: Not that I want it, that I want to totally delete it. I do want it totally deleted, but if you're not going to do that, then at least it should not be a substantive document that you consider.

CHAIR: Okay.

MR. HOLZER: Thank you.

CHAIR: Sorry, bless you.

MR. SCHMIDT: Thank you.

CHAIR: And Mr. Schmidt, whenever you're ready to respond to Mr. Holzer on that.

MR. SCHMIDT: I respectfully submit this is much ado about nothing in view of what you've said, Mr. Garber. But it has been admitted, I think it should be admitted. I would agree with Mr. McComas. It, I mean, it, it was, I think the context of why it was offered was, at least my recollection is, that at, at the time there was a lot of back and forth between the parties about the code enforcement proceeding and whether my client had acted properly and so on and so forth. And I took the position that that was irrelevant but the Board allowed some of the testimony in. And I, I understand the Board's ruling.

And because I found myself in a position of having to respond to the evidence that the Board had accepted, I felt like it was appropriate rebuttal evidence. And so, I offered it for that purpose, not for the truth of the matter asserted to the extent, it's not hearsay, but I didn't offer it, I don't think, sub, substantively, substantively as a, for a prime facie proof or, I don't know how else to say it. But it was done because of the context of the, of the testimony that Protestants were putting in at that time.

So, I think it's a property exhibit but you've said you're going to give it the weight, essentially, you're going to give it the weight that you think it deserves and I'm hearing you say we're not going to give it very much weight. So, I, I'm okay with that and I'll argue whatever it means or

doesn't mean, but I know where you're coming from.

CHAIR: Right.

MR. SCHMIDT: I think it should be in the record.

CHAIR: Okay. I, I, and again, understanding, I agree with you what the representation was, or at least your recollection as to the record, but that's, in fact, what it shows.

MR. SCHMIDT: Right.

CHAIR: That that's how it was introduced. Now, as to the original point though, as it was used like for the sake of argument day one for the postponement, I do think I need to go back and take a look at that.

MR. HOLZER: You, you should also --

MR. SCHMIDT: Well, Mr. Garber, why don't you do that and, I'm sorry, Mr. Holzer. I mean, why don't you do that? I think we're going to come back here for one more day next week and, I mean, why don't you take a look at the record on the first day and make your decision based on that.

CHAIR: Well, I am, --

MR. SCHMIDT: And I'm fine with that.

CHAIR: -- I'm giving the benefit of the doubt --

MR. HOLZER: Thank you.

CHAIR: -- because that is not something that was brought to our attention before.

MR. SCHMIDT: Sure.

CHAIR: And perhaps has some other impact so we should take another look.

MR. HOLZER: Yes.

CHAIR: So, yes.

MR. HOLZER: It was also used by Mr. Kotroco and Baltimore County to permit the July --

CHAIR: I, I understand there could have been other uses for it outside of this hearing. We can't do anything about it. Whether its effects, or how it was used, if it was used, or anything else, --

MR. HOLZER: Okay.

CHAIR: -- they're not part of this case. We indicated what we think about it and our position as to how this came about and everything else under the sun. I take it that you guys have your own ideas as to what that would ultimately mean.

MR. HOLZER: Yeah. Yeah, I'm, I'm personally offended by what took place.

CHAIR: You, you've, you've heard our comments.

MR. HOLZER: Now, you haven't heard the situation that the Board is in. I took an appropriate appeal within thirty days of that letter to this Board.

CHAIR: Yes.

MR. HOLZER: As a separate case from, from this case. So, I don't know how the Board plans to deal with that and you

may want to consider that at the time you're considering this because nothing has been acknowledged by the Board in terms of whether it was given the same number as this or a new number, new Board number.

CHAIR: I will follow up in the back on that point. I understood the last time we were here there was some request, perhaps, to consolidate the two matters?

MR. HOLZER: I was going to file a Motion to Consolidate and I did not because under the circumstances, I didn't know how this Board was going to handle just the document itself and my Motion to Strike the exhibit. So, I'm open to suggestions as to how to deal with that. But I'm, I'm going to be using that no matter how the Board postures it. I, I am offended by what happened.

CHAIR: Well, again, I, we're not making any specific finding as to intent, as, as much as there is, again, it should not have happened, in terms of having any effect.

MR. HOLZER: Right.

CHAIR: Because and for the reasons already stated, there is no jurisdiction, no public hearing, no public notice, no notice to counsel, etcetera. And it has the effect of what appears to be modifying the earlier Order.

MR. HOLZER: Yes.

CHAIR: Even if whatever the intent was in terms of it, the effect of it is it would modify, it would seem to me it

would modify the Order.

MR. HOLZER: I, I agree, I agree with the Board.

CHAIR: So, with that in mind, we will reserve again on thirty-four, to go back to take a look at day one of the request, but also as to the impact as to the second related appeal.

MR. HOLZER: I appreciate that, members of the Board. I, I do. I --

CHAIR: Just so you know, when you write Motion to Strike, I literally had interpreted as you wanted it out of the record. It can't possibly be out of the record in its entirety. It's either in for i.d. or it's admitted into evidence.

MR. HOLZER: Right, right.

CHAIR: But as Mr. Schmidt has pointed out, we've already indicated where each of us now, well, I guess we deliberated on that.

MR. HOLZER: Right.

CHAIR: That we now know where each of us stand as to its substantive effect in this case.

MR. HOLZER: Okay, thank you. The, the last Motion that I have to deal with was the Motion to Reconsider the Board's decision and re-admit Protestant's Exhibit 22 and 23, which were the police report. And I'll make it very brief. And the document, the SDAT document, I believe, my clients

believe, establishes the relationship between Ghimire Homes and also Mr. Ghimire, as President, and it was signed under oath and it lists the number of pages in the, in the document set forth, I think, the connection between what you saw in the, in the police report, what you saw in the subsequent pictures that we produced last time and then this new document. Having said that, I would move to --

CHAIR: I would, okay, thank you. I will note Mr. Schmidt has not had the opportunity to respond. Having said that, I believe we can certainly dispose with at least part of this. I'm going to have to ask my colleagues where they stand on the issue. But we've already ruled twice on Exhibits 22 and 23. And I want to make sure it's clear, because I don't, I'm getting a sense here that it was not made clear the last time we were here on this Motion.

There was a question as to why the police reports were being directed to Mr. Ghimire. I went through the testimony over the weekend to figure out the entire course of events as to what went on then and, and everything else under the sun.

So, there was the open question as to why is this being directed to Mr. Ghimire? There were a series of questions directed to Mr. Ghimire about his potential relationship or the organization, Petitioner that is, relationship to whatever events are in the police report.

The resolution of that question is not dispositive of whether or not it's admissible. The police reports themselves can only ever be used for a purpose that, from what I see, can only ever be used for a purpose that is not appropriate. And particularly, it can only ever be construed as there's something that happened offsite, we can expect that to happen onsite because some of the people who have attended these hearings, were also in attendance or had some role in relation to that event where there was some offsite problem.

I don't think that can be used in this case in any way, shape or form to speak to what these Petitioners, what Petitioner would do, what the individuals here will do. All we know is that there was a, an altercation between a couple of individuals who are not present in Court who, to, I guess, from your own Motion and the Motion for Reconsideration, there's no indication even that they're affiliated with Petitioner, the people who were involved in that altercation. Whether or not they were involved with the event, but the people involved in the altercation and I'm not going to use that altercation to come to some type of conclusion where, even if it's an inference, but ultimately, at a conclusion that there's going to be ultimate, there will be additional problems on site because of that event and the, whatever happened at the restaurant afterwards.

So, it would not be admissible for those reasons. If

you have another purpose that you want to use any of the information that's in your Motion for Reconsideration, I'm willing to listen to what you have to say about it. But as to the police reports themselves, I, there is no way in my mind this will ever be admissible because it could only ever be used for an inappropriate purpose. Ms. Dopkin, your thoughts?

MS. DOPKIN: I would not disturb our earlier ruling.

MR. MCCOMAS: I, I agree with what (inaudible).

CHAIR: All right. So, Mr. Holzer, I will give you another opportunity to say anything else you want to say on the record as to the Motion to Reconsider and those police reports. There's no other purpose you want to use any of the information that's attached?

MR. HOLZER: No, no. Members of the Board, police reports, having say what they say, and the people involved are involved so I have nothing else to say. I understand your ruling, so, let's, can we move on?

CHAIR: We can. I assume, Mr. Schmidt, you would now, not have a need to file a written response.

MR. SCHMIDT: Yes, sir.

CHAIR: All right. So, the Motion to Reconsider then is denied.

MR. HOLZER: Thank you.

CHAIR: Okay.

MR. MCCOMAS: So, twenty-two and twenty-three remain

as i.d. only?

MR. HOLZER: Yes.

MS. DOPKIN: That's correct.

CHAIR: Yes. So, where does that leave us? We're back to the exhibit list?

MR. HOLZER: Leads us back to this. If we can, I think I've got everything else done.

CHAIR: Okay and just for purposes of (inaudible), are you done with your case now that we've had the last witness that we resolved these Motions? Was there anything else further that you needed to do other than this list?

MR. HOLZER: Other than this list, no.

CHAIR: Okay. Now, Mr. Schmidt, I intend, I, I expect that you're going to have some type of rebuttal or, or some other evidence that's coming forward?

MR. SCHMIDT: Probably.

CHAIR: Okay. Without trying to reveal too much, --

MR. SCHMIDT: Most, most likely. Let me say this, Mr. Garber, just by way of suggestion. Since I got Mr. Holzer's list of exhibits that are questionable today, if, what I would suggest, I think we resolved the third page with the transcript and the ones in proffer, we've resolved forty-eight, which was the Kingsville thing. I'd be happy to take a look at that further and I'll deal, I'll call or e-mail Mr. Holzer and if we can resolve some of those, we can certainly try to do

that between now and next week when we come back.

CHAIR: Well, I, I understood from Mr. Holzer that we're ready to some degree to get a lot of those resolved today. Is it, was I, did I misread that situation?

MR. HOLZER: No, you, you were, that's what you wanted to do. I have no problem if Mr. Schmidt --

CHAIR: And you're, you're ready --

MR. HOLZER: -- wants to sit down or take a look at it and just tell me which ones we have to resolve now. I mean, I can, I can do it now but it's up to you.

CHAIR: I'm asking for purposes of, how long do you think you may be? I understand it's, I'm asking --

MR. SCHMIDT: No, --

CHAIR: -- just for an estimate on that.

MR. SCHMIDT: -- let me ask, let me say, here's what my preference would be. We've resolved some of the exhibits, the other ones I haven't looked at because I just got his list, I, I got his summary table this morning. I would be more than happy to take a look at them, call Mr. Holzer between now and next week and see which ones we can resolve. If there are any that are unresolved, we can take that up at the first order of business and get it resolved next week. I think we can probably, possibly get, we got some resolved today. Maybe we can get the rest of them resolved, but I'd like to take the time to look at it instead of trying to argue about it.

I would anticipate that my rebuttal, my rebuttal evidence will be fairly short. I am absolutely, totally confident that we will finish this hearing next week. As a matter of fact, I believe we'll finish it before lunch time.

CHAIR: Well, that all depends on how we resolve all the exhibits, because it still may need additional work on Mr. Holzer's part and I would like for him to know that as much as possible going into that day, as opposed to reacting that day so I'm going to say for the next, why don't we take twenty minutes, if you could start narrowing it down. I, if you could come to a full resolution today, that'd be great. And if you can't, let's see where we stand at the end of that.

MR. HOLZER: Okay.

CHAIR: I realize, if you want to, I'm not going to force you to come to agreements on things. At the same time, you do need to review it, you do need to see where there is agreement so we have less things to do for the 13th. Because I don't want to run a risk that we need another day when I already know, based on other people's schedules, that it is going to be impossible to schedule a day in March.

MR. SCHMIDT: I can assure you that we will be done next week. I don't know how to say it any other --

CHAIR: No, I --

MR. SCHMIDT: -- any plainly, any more plainly.

CHAIR: -- I, I hear you, I hear you, Mr. Schmidt,

but I'm also, we have to be sensitive to what Mr. Holzer's needs are with respect to the evidence and that's still an uncertainty.

MR. HOLZER: Mr. Chairman, I, I wish we would have done this for yours, but see all these yellow markers? They indicate to fix i.d. These, and Larry if you can see it, --

MR. SCHMIDT: Yeah.

MR. HOLZER: -- these mean that we either have to have an affidavit to resolve the, the exhibit to get it in and so forth. So, on page one, very few, on page two and then I marked all the ones that are a proffer in orange and I think we've covered the last page.

CHAIR: Right.

MR. HOLZER: So, other than basically these yellow things there, they're the ones that we might need an affidavit to come in or something like that.

CHAIR: They're, from what I recall, from my review, that there were certain photographs, whether they be the aerial drone photographs, whether they be photographs of driving up and down Harford Road.

MR. HOLZER: Yeah.

CHAIR: Whatever the case may be, it seems like some of those things can be resolved. You may not need an affidavit because they show what they show.

MR. HOLZER: Yeah.

CHAIR: And, --

MR. HOLZER: I've just given the form to Mr. Schmidt and he can take a look at it now. If the Board wants to take a break --

CHAIR: We're taking a, well, that's where I'm going with it. That, that it seems to me that we may be able to narrow this down --

MR. HOLZER: Yes.

CHAIR: -- more so, so there's less to resolve the next time.

MR. HOLZER: I agree. I don't have any problem with that.

CHAIR: So, why don't we take a twenty minute break with that in mind and see where that leaves us?

MR. HOLZER: Okay.

CHAIR: And then, we will go back and take care of some other things.

MR. MCCOMAS: Mr. Holzer, just keep in mind number seventeen is actually on my record here as already being in, I think you have it as i.d. only.

CHAIR: Seventeen, from what I recall, was moved into evidence on January 30th.

MR. HOLZER: Yes, I have it marked.

MR. MCCOMAS: You do?

MR. HOLZER: You told us that earlier, so I have that

marked.

MR. MCCOMAS: (inaudible).

MR. HOLZER: And Mr. Schmidt has my stuff.

MR. MCCOMAS: And the same with the transcript.

MR. HOLZER: Yes.

(RECORDING PAUSED – 03:13:37 PM)

(ON RECORD – 03:35:22 PM)

MS. DOPKIN: Are we ready?

CHAIR: Yes.

MS. DOPKIN: Okay.

MR. SCHMIDT: Mr. Garber, I've had an, an opportunity and I've gotten some documents from Mr. Holzer and his clients. And in view of the documentation which completed some exhibits and authenticated some exhibits, I think where we are is as follows. And Mr., we are okay with the admission of Exhibits 4, 10, 14, 19 and 21. So, that's four, ten, fourteen, nineteen and twenty-one. Exhibits 22 and 23 continue to be --

MR. MCCOMAS: You said fourteen, right?

MR. SCHMIDT: Yes, sir.

MR. MCCOMAS: And nineteen and twenty-one?

MR. SCHMIDT: Four, ten, fourteen, nineteen and twenty-one.

MR. MCCOMAS: Okay.

MR. HOLZER: Do you have those exhibits?

CHAIR: I mean, when you ask do we have them --

MR. SCHMIDT: Yes.

MR. HOLZER: Yeah.

MR. SCHMIDT: Yes.

CHAIR: -- do you mean does Mr. McComas have them?

MR. HOLZER: Yes.

MR. MCCOMAS: They're in here.

CHAIR: Yeah.

MR. SCHMIDT: Yeah.

MR. HOLZER: Okay, because I (inaudible).

MR. SCHMIDT: Exhibits, Exhibits, --

CHAIR: I was going to say I hope we have them here.

MR. SCHMIDT: Okay, Exhibits 22 and 23 remain for identification only, okay? Then going over to the second page of Mr. Holzer's list that he gave us this morning. He, he gave us several affidavits which authenticate a number of these photographs, etcetera, which I have and I think he's going to give to you, but. With, with the submission of that, we're okay with forty-five, forty-eight is already in because that's been cured by the affidavit --

CHAIR: Yes.

MR. SCHMIDT: -- from the lady from Kingsville who was here today and fifty. So, forty-five and fifty are okay. Forty-eight was previously designated as okay. Forty, --

CHAIR: So, go ahead.

MR. SCHMIDT: -- forty-seven and then, which is a

proffer exhibit, as well as sixty-six, sixty-seven, sixty-eight, sixty-nine --

MR. MCCOMAS: Wait a minute, Mr. Schmidt. So, is forty-seven i.d. only?

MR. SCHMIDT: Forty-seven is i.d. only.

MR. MCCOMAS: And 46-B and C is i.d. only?

CHAIR: Hold on, sorry. Forty-seven is i.d. only.

MR. SCHMIDT: Yes.

CHAIR: 46-B and C, i.d. only.

MR. SCHMIDT: Is i.d. only, right.

MR. MCCOMAS: All right, go ahead.

MR. SCHMIDT: Forty-eight is already in.

CHAIR: Yes.

MR. SCHMIDT: Fifty is okay.

CHAIR: Okay.

MR. SCHMIDT: And then all the ones on the last page, which are indicated by proffer, I can read those to you if you want.

CHAIR: Sixty-six through sixty-nine, seventy-one, seventy-two.

MR. SCHMIDT: Right.

CHAIR: Right?

MR. SCHMIDT: Seventy-seven.

CHAIR: I'm sorry, seventy-seven.

MR. SCHMIDT: Ninety-one.

MR. MCCOMAS: Okay. You, I'm not looking at that list, you have to give me the number. So, sixty-six is okay.

MR. SCHMIDT: No, no, these are, these are all i.d. only.

MR. MCCOMAS: Sorry, sorry. Okay, okay.

MR. SCHMIDT: Sixty-six, sixty-seven, sixty-eight, sixty-nine, seventy-one, seventy-two, seventy-seven, ninety-one and ninety-three are all what Mr. Holzer has called proffer exhibits, which remain proffer exhibits. And then ninety-six is in now.

CHAIR: Right.

MR. SCHMIDT: And we've resolved that. So, I think that resolves all of the exhibits.

MR. HOLZER: Other than me putting these in.

MR. SCHMIDT: Mr. Holzer is going to put --

CHAIR: One second, one second. There's a question.

MS. DOPKIN: Sixty-three?

CHAIR: Okay. So, sixty-three is still i.d. only.

MR. SCHMIDT: Yes.

CHAIR: Picture (inaudible), right.

MR. MCCOMAS: And what about 7-A and C, which I think is exactly the same as 36-A through C? I have that as i.d. only.

MR. SCHMIDT: If thirty-six is in, which I believe it's in, --

MR. MCCOMAS: Yes.

MR. SCHMIDT: Then 7-A should likewise be in, 7-A through C.

MR. HOLZER: Yes, right.

MR. SCHMIDT: Yes.

MS. DOPKIN: Okay.

MR. HOLZER: And, --

MR. MCCOMAS: You guys want me to go, I'll read down what I have here, if you want.

CHAIR: Oh, I was going to do the same, yeah.

MR. MCCOMAS: All right. So, so on mine I have, the first i.d. only is twelve. I'm only going to read the i.d. only.

CHAIR: Hold on, well, let, let's do this. Let's make sure everyone is caught up here. Let's, let's get, let's receive the evidence on the affidavits, because that's going to be part of the record too. So, make sure that's cleared. Then we figure out what is i.d. only at that point.

MR. HOLZER: Okay and this is, Larry, Mr. Schmidt, --

MR. SCHMIDT: I got that.

MR. HOLZER: -- has copies, yes.

MR. SCHMIDT: I was given that.

MR. HOLZER: So, here's an affidavit for number four, fourteen and twenty-one.

CHAIR: So, this, by my understanding is Exhibit 112.

MR. MCCOMAS: Yeah, that's what was I was going to do.

MR. HOLZER: Yes.

MR. MCCOMAS: So, so this is basically Exhibit 112.

MR. HOLZER: Right.

MR. MCCOMAS: A through, so it's how many, how many of them are here?

MR. HOLZER: Should be four.

MR. MCCOMAS: So, it's 112-A through --

MR. SCHMIDT: D.

MR. MCCOMAS: Yeah, thanks.

CHAIR: And it speaks to exhibit numbers?

MR. HOLZER: Four, four, fourteen and twenty-one.

MR. MCCOMAS: Affidavits.

MR. HOLZER: And this next pile of four is number nineteen.

CHAIR: So, Exhibit 113 will speak to Exhibit 19?

MR. SCHMIDT: Yes.

MS. DOPKIN: Twelve?

CHAIR: No, we're, he's handing up another one now.

MS. DOPKIN: Ah, sorry.

MR. HOLZER: What's the next one?

MR. SCHMIDT: Then another, the next one goes, I think, to fifty.

MR. HOLZER: Fifty part one --

CHAIR: There's forty-five, forty-eight and fifty. Oh, and, if I --

MR. SCHMIDT: Forty eight is already in.

CHAIR: Sorry, you're right.

MR. SCHMIDT: Forty-five there is no affidavit for but I'm satisfied with that based on an explanation.

CHAIR: No, that's, that's, thank you for that.

MR. SCHMIDT: And then fifty is the complete exhibit. I had objection because the exhibit was not complete. That's the complete set.

CHAIR: Very well.

MR. HOLZER: And the, this is for fifty part one and part two, there's four for each part.

CHAIR: Okay and so this is one fourteen.

MR. HOLZER: Did you get that, Mary? It's the whole, they're, they're labeled part one and part two.

MR. MCCOMAS: So, so the, the rest of its copies?

MR. HOLZER: No, they're all yours.

CHAIR: Yes.

MR. SCHMIDT: It's just four copies.

CHAIR: The ones (inaudible).

MR. HOLZER: There's four.

MR. MCCOMAS: That's what I'm getting at, so it's, so here, this is part one and part two and then these are all copies?

MR. HOLZER: Right, exactly.

MR. MCCOMAS: Okay.

CHAIR: All right. Now, what about Exhibit 10? Was there any affidavit needed for Exhibit 10?

MR. MCCOMAS: Can we just call it one fourteen and one fifteen here?

MR. SCHMIDT: Yes.

CHAIR: Whatever works for you.

MR. MCCOMAS: Yeah, because it's all stapled here. So, it's one fourteen --

CHAIR: Did you hear that, Mr. Holzer?

MR. HOLZER: Yes, Mr. --

CHAIR: One fourteen and one fifteen. That'll be part one and part two.

MR. HOLZER: Yes.

CHAIR: Okay.

MR. HOLZER: And you asked about Exhibit 10, traffic crashes Baltimore County, January of '16 to April '18, authenticate sources, Baltimore County Police. Apparently Mr. Schmidt has seen this and is satisfied.

MR. SCHMIDT: Yes.

CHAIR: Right, there's nothing else further needed.

MR. SCHMIDT: There's a, there's a note on the bottom of the page that they've added --

CHAIR: That identifies the source.

MR. SCHMIDT: Yes.

CHAIR: Understood.

MR. HOLZER: Okay. What's next? Okay. The next would be Carol Shaw's corrected affidavit as to the date, and it goes to Exhibit 72 and 98. And there's four copies.

CHAIR: All right. Having heard no objection to the original exhibit, the last time --

MR. SCHMIDT: Right, those, those are, those are in.

CHAIR: Well, that's what I'm saying. The, there's a correction here so we're making this a separate, are we substituting or are we using it as a new exhibit?

MR. HOLZER: I don't care how you, what do you think, Larry?

CHAIR: I just want to make sure it's clear for the record.

MR. SCHMIDT: Just make it a new exhibit.

MR. HOLZER: New exhibit.

CHAIR: So, there's no objection on that for the reasons stated so, therefore, that's admitted too. So, one twelve, one thirteen, one fourteen, one fifteen and one sixteen are now all admitted.

MR. HOLZER: Okay and I, is that it? I don't have any more documents in front of me.

MR. SCHMIDT: I think that's, I think that's it with, with my statement going through that I, that I --

CHAIR: Yes.

MR. SCHMIDT: -- think Mr. McComas wrote down.

MR. HOLZER: Yes, right.

CHAIR: Yes.

MR. HOLZER: Okay.

CHAIR: And then whenever you're ready you let me know so we can identify those --

MR. MCCOMAS: Mr. Holzer, did you give me three affidavits here? A copy, are these copies, is this one page, is that what this is?

MR. HOLZER: Copies of one page.

MR. MCCOMAS: Is that what it is?

MR. HOLZER: Yeah.

MR. MCCOMAS: So, they're copies, and so this is for, do you have Exhibit 72 and seventy, and ninety-eight, is that what it is?

MR. HOLZER: Yes, um hm. I, I believe that covers everything on my (inaudible) and I'm ready to rest.

CHAIR: One second. I'm, I'm marking down just again, just to reiterate which ones then are i.d.

MR. HOLZER: Yes.

CHAIR: Slash proffer only.

MR. HOLZER: Yeah, that would be fine. Because that, okay.

CHAIR: And then wait for Mr. McComas, whenever he's

ready for that.

MR. MCCOMAS: Right. Well, first I'm going to start with the Petitioners. There's forty-six exhibits, all of them are in, no i.d. only.

MR. SCHMIDT: Yes, yes.

MR. MCCOMAS: All right. On the Protestants, I have a hundred and sixteen exhibits, and I'm just going to read the i.d. only ones starting with number one, --

CHAIR: One second.

MR. MCCOMAS: -- I'm sorry, i.d., I'll just read i.d. only.

CHAIR: Hold on. Let me, I'm updating my chart provided by Mr. Holzer on that to make sure we match. All right.

MR. MCCOMAS: First i.d. only I have is, is Exhibit 12, looks like the State Highway Administration access management submission checklist. The next one I have is the Baltimore County Police report, twenty-two, Baltimore County Police report, twenty-three.

MR. SCHMIDT: Right.

MR. MCCOMAS: The next one that I have is 46-B and C.

MR. SCHMIDT: Right.

MR. MCCOMAS: Information on 2906 Taylor Avenue.

MR. SCHMIDT: Right.

MR. MCCOMAS: Forty-seven, website naccbaltimore.org

is i.d. only, that's number forty-seven. The next one I have is 63-A through G.

MR. SCHMIDT: Right.

MR. MCCOMAS: Picture of lens and text, is what I, is what I (inaudible) that one.

MR. SCHMIDT: Sixty-six.

MR. MCCOMAS: The next one I have, and this is the one that I, I think I was, I was, is, I was, is sixty-six I have as i.d. only?

MR. SCHMIDT: Yes.

MR. MCCOMAS: Sixty-seven I have as i.d. only.

MR. SCHMIDT: Yes.

MR. MCCOMAS: Sixty-eight I have i.d. only.

MR. SCHMIDT: Yes.

MR. MCCOMAS: Sixty-nine I have i.d. only.

MR. SCHMIDT: Right.

MR. MCCOMAS: Seventy-one I have i.d. only.

MR. SCHMIDT: Right.

MR. MCCOMAS: Seventy-two I have i.d. only.

MR. SCHMIDT: Right.

CHAIR: Except for one caveat to seventy-two, because seventy-two later becomes ninety-eight and then it's one sixteen.

MR. SCHMIDT: Yes.

MR. MCCOMAS: We're okay with it being i.d. only

though, right?

MR. SCHMIDT: Yes.

CHAIR: Seventy-two was marked as i.d. only.

MR. MCCOMAS: Yeah.

CHAIR: But ninety-eight and one sixteen were put into evidence.

MR. MCCOMAS: So, then 77-A through D i.d. only, Facebook postings.

MR. SCHMIDT: Ninety-one and ninety-three.

MR. MCCOMAS: Yes, ninety-one is the, is a letter dated 10/12, appreciation and then ninety-three looks like a listing for 2906 Taylor Avenue, that's i.d. only, that's Exhibit 93. And then the last one is the proffer of materials to, to the (inaudible).

MS. DOPKIN: (inaudible).

CHAIR: Good call.

MR. HOLZER: I'm sorry, I didn't hear that last one?

CHAIR: One ten, what was done today, what --

MR. MCCOMAS: For proffer.

CHAIR: For the exhaustion of administrative remedies.

MR. HOLZER: Oh, okay.

MR. MCCOMAS: Yeah, sorry.

CHAIR: Is that your understanding, Mr. Schmidt?

MR. SCHMIDT: Yes.

CHAIR: Is that your understanding, Mr. Holzer? And I'll wait for, if you, if you need a minute there.

MR. SCHMIDT: Mr. Garber, may I be excused? I'm going to let (inaudible) to wrap that up. I, unfortunately, have a call I have --

CHAIR: Very well.

MR. SCHMIDT: -- a call I have to be on. I believe that is my understanding.

CHAIR: I'm, the one thing, just, we are going to address the record from, concerning Exhibit 34, what was on day one, so just so you know that. But then, number two, just so you know also, keep in mind that in light of where we are with the schedule and the balancing of that schedule, when it comes to doing memo there may be a shorter schedule than normal.

MR. SCHMIDT: That's fine. I've been working on mine already.

CHAIR: And I wanted to make sure you were aware of that and certainly Mr. Holzer be aware of it.

MR. HOLZER: Yeah, I didn't, I didn't hear what you said, memos?

CHAIR: That there's going to be a, probably a shorter memo, or a shorter time frame to come up with your closing memo, shorter than normal.

MR. HOLZER: What's, what's shorter?

CHAIR: Well, we can discuss that too --

MR. HOLZER: Normally I'd ask for, are four weeks.

CHAIR: Right. So, so I don't know that yet but I'm just alerting Mr. Schmidt now because he's on the way out the door.

MR. HOLZER: Right.

CHAIR: So, we can discuss that but I wanted to make sure that he was aware that that is the intent --

MR. HOLZER: Okay.

CHAIR: -- going forward at the, which I've already alluded to in hearings before.

MR. SCHMIDT: Yes.

CHAIR: But this way, sitting here February 5th, he's aware that that's a possibility, there, there you go. So, there's no time set, you know, we haven't figured that out certainly, because we don't, the record isn't even closed.

MR. SCHMIDT: Yes.

CHAIR: But that's where we're at, okay?

MR. SCHMIDT: I'm aware of everything you said and Mr. Wilkins has been working with me on these exhibits if there's any questions.

CHAIR: Very well.

MR. HOLZER: Yeah, there is a question --

MR. SCHMIDT: If I, if I may be excused?

CHAIR: One second. Mr. Holzer said he has a question.

MR. SCHMIDT: Zach can handle it if that's okay.

MR. WILKINS: Yeah, that's fine.

CHAIR: Thank you, Mr. Schmidt.

MR. SCHMIDT: Thank you, thank you.

MR. HOLZER: Ms. Clark indicates to me that if ninety-eight and one sixteen are in, then her exhibit of seventy-two and ninety-eight should be in.

CHAIR: It really doesn't matter. It was just, that was the way it read in the transcripts, so that was just in the interest of harmony for that, but it really, if you would prefer that it just be designated as admitted, I, I, I don't think it makes a difference one way or the other because the substance is in.

MR. WILKINS: That's fine.

CHAIR: Mr. Wilkins?

MR. WILKINS: Yeah, that's fine.

CHAIR: So, seventy-two will be changed to admitted.

MR. HOLZER: Very good and, and also ninety-eight.

CHAIR: Oh, no, ninety-eight was admitted.

MR. MCCOMAS: Yeah, ninety-eight was already admitted.

MR. HOLZER: Ninety-eight was --

CHAIR: There was, well, yes. There was no objection to it on the record when we went through it so, therefore, it was admitted.

MR. HOLZER: Gotcha.

CHAIR: And then the only, the one thing I caught was the change in the date.

MR. HOLZER: And ninety-seven was also in? Yes, it's marked in.

CHAIR: Did I say ninety-eight?

MR. MCCOMAS: Ninety-seven and ninety-eight are both in.

MR. HOLZER: Ninety-seven and ninety-eight are both in.

CHAIR: All my prior references there to ninety-eight was actually ninety-seven, because it concerned Ms. Shaw's affidavit.

MR. HOLZER: Right.

MR. MCCOMAS: Well, there are two Ms. Shaws and both ninety-seven and ninety-eight.

MR. HOLZER: Right.

CHAIR: You're right.

MR. HOLZER: Right.

CHAIR: Stand corrected on that too. Thank you, Mr. McComas.

MR. HOLZER: I think, members of the Board, I think this chart has helped greatly. I believe we're all in accord with what's in and what's out and with that, I have nothing further.

CHAIR: Well, I will add one thing before you close out your case and that is all remaining exhibits for Protestants, to whatever extent that, whatever was said in the record previously, all records here today agreed by both sides would indicate that they're all admitted.

MR. HOLZER: Right.

CHAIR: So, to the extent that if it was absent in the record that it says admitted or so received, they are all admitted.

MR. HOLZER: Great.

CHAIR: With the exceptions of the ones specifically delineated today.

MR. HOLZER: Yes.

CHAIR: As i.d. only or proffer.

MR. HOLZER: I call them proffers.

CHAIR: Yes.

MR. HOLZER: Mr. McComas calls them --

CHAIR: Mr. Wilkins, is that your understanding?

MR. WILKINS: That's correct.

CHAIR: And Mr. Holzer, that's your understanding?

MR. HOLZER: Yes, um hm.

CHAIR: Okay.

MR. HOLZER: Perfect.

CHAIR: So, now, you, you are done with your end of the case, is that correct?

MR. HOLZER: Yes.

CHAIR: Very well. Mr. Wilkins, that leads us to rebuttal for Petitioner.

MR. WILKINS: Yes, I mean, we're going to reserve some time for next week.

CHAIR: Yes.

MR. WILKINS: But nothing for today.

CHAIR: I figured that that was going to be the case.

MR. WILKINS: Yeah, yeah.

MS. DOPKIN: How many witnesses, do we know?

CHAIR: Do you, well, is there any way you can shed some light as to the number of witnesses?

MR. WILKINS: I think at this time we either have one or two.

CHAIR: Okay.

MR. WILKINS: Yes.

CHAIR: Very well. And I know Mr. Schmidt indicated that he thinks we could be wrapped up in its entirety before--

MR. WILKINS: Noon.

CHAIR: -- before noon, right.

MR. WILKINS: Yeah.

MS. DOPKIN: Before lunch.

CHAIR: Before lunch.

MR. WILKINS: Yeah, lunch. That's true.

MR. HOLZER: Lunch here lately has been --

CHAIR: Well, I'm, I'm going to stick to noon. I'm going to stick to noon as someone who eats lunch later.

MR. HOLZER: I was going to say, lunch here lately has been later than noon.

CHAIR: Yes. So, you guys can be seated, sorry.

MR. HOLZER: Oh, okay. Thank you.

CHAIR: So, going back now to Exhibit 34. During the break, we reviewed the testimony or, testimony, reviewed the hearing transcript, thank you very much, regarding this issue. The way I understand upon review how everything unfolded was there was a request made for a postponement. There was back and forth about code enforcement matter, code enforcement proceeding, whatever. The event to be held and then Mr. Schmidt brought up the, what ultimately became Exhibit 34, identifying the content or summarizing the content for the record but there was no letter put forward to the Board at that time. It was indicated that there would be copies put forward at some point in the future.

As we went through everything, there were some other things that were interspersed within, but ultimately, the takeaway from the testimony, or the hearing transcript, not testimony, was that, and I am going to turn to page thirty, because that's where I think this begins. That the bottom line is, whatever happens with the code enforcement proceeding hearing, we do not have original jurisdiction.

So, I'm going to read it into the record starting at page twenty-nine. Number one, it seems to me some of these issues being raised are code enforcement issues and they are not in front of us today as code enforcement violations. We don't have original jurisdiction over those matters. It is not much that we sitting here today or in the scheduled six days to follow and just to clarify what that meant, references is, the next hearing date after the transcript from which I'm reading occurred six days later, to, to follow can do anything about.

Visited by the ALJ first, guessing there's a transcription error, and then property appealed before we continue on those matters. In other words, the understanding it seems from the Board at the time was, there was a request for a postponement because there would be future code, potential code matters that could come up and the request was denied because we can only deal with what was in front of us at that time.

Therefore, it does not change my opinions as to my previous, what I previously stated before our break, as to where we stand with thirty-four. I, I will say during the break, I have thought of this, and I'm going to voice it here for the first time because I didn't voice it earlier, that I believe it has to be in evidence because we have now all given our opinions as to the substantive effect of it. Because we are, if it was not going to be in evidence, we would not have

to have our, what we believe are the substantive effect to be, to be in the record.

So, because it's now in the record, I believe it has to be made part of the evidence though, Mr. Holzer, as you are well aware, of what it means to us for purposes of this case. But, that's my take as to why I think it now needs to be, to remain in evidence, even with all those things I said previously about it. Ms. Dopkin?

MS. DOPKIN: I would agree. And just to clarify, you had raised the issue, Mr. Holzer, of whether it was relied on in our not postponing the continuation of these hearings. And my recollection is, based on the transcript, we did not make the decision to go forward, it was not affected by that piece of correspondence.

CHAIR: Whether the letter was identified or not had no bearing as to our --

MS. DOPKIN: Correct.

CHAIR: -- denial of that requested postponement.

MS. DOPKIN: Thank you.

CHAIR: Mr. McComas, I know you weren't there for this day but I know you read the transcript.

MR. MCCOMAS: Read the transcript and, and I agree with, with both of your position on it. I believe that Mrs. Dopkin's, from looking at it, that it appears from the, from the, in the transcript that it wasn't relied on.

CHAIR: Okay. So, with that in mind, we will leave it in evidence. We will not, there's no further action to be taken on it. But you also do not need to argue it in your Motion, or your closing memo.

MR. HOLZER: Oh, I wasn't planning to argue it.

CHAIR: Right, or anything that comes from it.

MR. HOLZER: It's going to be argued later.

CHAIR: I'm sure that you will have some further commentary on this point.

MR. HOLZER: Yes, indeed.

CHAIR: But as to these proceedings, it's not, --

MR. HOLZER: Thank you.

CHAIR: -- it has no affect and will not move the Board, the fact that it's in, we've already stated our opinions, where we stand on that. So, with that in mind, is there anything further for today?

MR. HOLZER: No.

MR. WILKINS: No.

CHAIR: Oh, sorry, yes. The other appeal. There is something else. The second appeal. So, each of us individually reviewed the file --

MR. HOLZER: I would suggest you not make any decision on that today because I wouldn't have thirty days to file an appeal from that so I would appreciate it if you're going to --

CHAIR: I'll do, I'll do you one better.

MR. HOLZER: Okay.

CHAIR: I'll do you one better right now. So, reviewed the file. In light of the fact that the appeal is premised upon Exhibit 34 having an effect, you've heard our opinions on that subject. What is it that you, Mr. Holzer, wish for us to do today with respect to it?

MR. HOLZER: Nothing, because I would, if you're going to do something, I want, would like you to do it when you render a decision in this case, because I don't want to have two appeals going up to the Circuit Court.

CHAIR: Do I hear an oral motion to consolidate that appeal with the other matter?

MR. HOLZER: No, I'm not making a motion, I'm saying there is an outstanding appeal. If you want to deal with it based on how you want to deal with it, --

CHAIR: I need, I need to know because for purposes of a notice that goes, a public notice that we have to generate, --

MR. HOLZER: What do you mean, a notice for what?

CHAIR: For a deliberation, whether or not it's going to be the subject as part of that deliberation.

MR. HOLZER: Yeah, I would, I would, if, if the Board is required to make a decision and whatever your decision is, I would like it to be made at the time your other, your

deliberation is made and, and then subsequently, when the Board Issues its decision.

CHAIR: So, we are not issuing a decision today, to be clear. It is merely a matter as to when it should be disposed of.

MR. HOLZER: Okay.

CHAIR: And, therefore, you're asking for us to join it with the case that we did for ten days so that it can be deliberated at the same, on the same date.

MR. HOLZER: Yes.

MS. DOPKIN: Why can't we deliberate it now and not reduce it to writing because if we deliberate now and reduce it to writing as, as of the same date as our decision on this case?

CHAIR: I'm going, I'm going to say we can't do that because there's no public notice that we have, we're having a deliberation.

MS. DOPKIN: Having a deliberation, okay.

MR. HOLZER: Yeah, yeah.

CHAIR: So, I think we need to have that first.

MS. DOPKIN: All right.

MR. HOLZER: Right, I agree.

CHAIR: And so, case, --

MR. HOLZER: I'm not, not moving to consolidate the cases, I'm moving to consolidate the Board's analysis,

deliberation and --

MS. DOPKIN: Keep them in sync.

MR. HOLZER: Yeah.

CHAIR: Okay and, and, and maybe consolidate was a poor choice of words on my part.

MR. HOLZER: Yes.

CHAIR: But just so that they can be resolved the same day, same time kind of thing.

MR. HOLZER: Yes, yes.

CHAIR: It's CBA-19-004 for purposes of the record.

MR. HOLZER: Yes.

CHAIR: So, I guess, you know, the question is, whether or not we need to know if there's anything else to be, that's, should be received further on that case.

MR. HOLZER: Not to my knowledge. I mean, basically, what you've already seen in Exhibit 34, 34, is it, I'm getting lost in the, thirty-four, would be applicable to, to that.

CHAIR: So, it would seem to --

MR. HOLZER: I'm not going to, I'm not going to say that the Board didn't hold a hearing on it.

CHAIR: I, I, I know but I never want to cut those corners because it is, well, especially, especially considering the, how this comes to be.

MR. HOLZER: Right.

CHAIR: I mean, leaving that aside, I would otherwise

always say that no, we need to make sure those I's are dotted and those T's are crossed. So, in this instance, it would seem to me that there should be some type of identification or incorporation of the arguments relating to thirty-four into this matter.

MR. HOLZER: Well, to be honest with you, I wasn't prepared to think about that today. If I could do it next week, that would be --

MR. WILKINS: That would be preferred.

CHAIR: And here's where I'm going with that. Is that there should be a notice generated regarding that.

MS. DOPKIN: From our office.

CHAIR: From our office to say that the, the case number 19-004, there will also be a hearing held in connection with that matter, so we can discuss this as, as to its record.

MR. HOLZER: Right.

CHAIR: For the next time, so that it may proceed to deliberation.

MR. HOLZER: I, I agree.

MR. WILKINS: Yeah, I agree.

CHAIR: Mr. Wilkins, okay?

MR. WILKINS: I agree.

CHAIR: As long as we're all on the same page on that at how this has to unfold without getting to decision making at this time.

MR. HOLZER: Right.

MS. DOPKIN: Is there a time, how much notice do we have to give of the hearing?

CHAIR: Well, they can waive that because it goes, they're the parties. So, you would have to, well, we can address this the next time but in terms of a waiver on the notice issue as to timing, because if you need ten days for the sake of argument, you obviously will have less.

MR. WILKINS: Um hm.

MR. HOLZER: Right. No, I'm willing to work with the Board in terms of that because I don't see the value in having two separate --

CHAIR: Tracts.

MR. HOLZER: -- tracts and they probably should be, at some point, done together.

CHAIR: You want to exhaust all your administrative remedies.

MR. HOLZER: Oh, I'm laying the foundation for them.

CHAIR: I understand. All right. So, with that in mind, since we're all, we're all of the same understanding as we leave here today, is there, unless there's anything further, we can adjourn.

MR. HOLZER: No, I have nothing further.

MR. WILKINS: Nothing further.

CHAIR: Thank you, Mr. Wilkins. Thank you, Mr.

Holzer.

MR. HOLZER: Thank you.

MR. WILKINS: Thank you.

MR. HOLZER: Thank you. I appreciate the Board's (inaudible).

CHAIR: I thank you everyone who has attended here today.

MR. HOLZER: Thank you.

(OFF THE RECORD - 04:04:14 PM)

CERTIFICATE OF TRANSCRIBER

I hereby certify that the hearing in the matter of Nepali American Cultural Center, case number 18-122-X and CBA-19-004, heard before the Board of Appeals of Baltimore County, February 5, 2019 were recorded by means of audiotape.

I further certify that, to the best of my knowledge and belief, page numbers 1 through 252 constitute a complete and accurate transcript of the proceedings as transcribed by me.

I further certify that I am neither a relative to nor an employee of any attorney or party herein, and that I have no interest in the outcome of this case.

In witness thereof, I have affixed my signature this 8th day of December, 2020.

Christine R. Leary

Transcriber

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BALTIMORE COUNTY
BOARD OF APPEALS

IN THE MATTER OF:

NEPALI AMERICAN CULTURAL CENTER

CASE NUMBER: 18-122-X and CBA-19-004

Hearing Date: January 30, 2019

Pursuant to Notice, the above-entitled hearing was held before the Board of Appeals for Baltimore County at the Jefferson Building, Second Floor, Suite 203, 105 West Chesapeake Avenue, Towson, Maryland 21204.

PANEL PRESIDING:

JASON S. GARBER, CHAIR

WILLIAM A. MCCOMAS, BOARD

DEBORAH C. DOPKIN, BOARD

PRESENT ON BEHALF OF THE PARTIES:

LAWRENCE E. SCHMIDT, ESQUIRE
Counsel for Petitioners

J. CARROLL HOLZER, ESQUIRE
Counsel for Protestants

Christine R. Leary
crleary1@comcast.net

TABLE OF CONTENTS

Description	**Page**
Direct exam of DeWitt Clark by Mr. Holzer.....	8
Cross exam of Mr. Clark by Mr. Schmidt.....	216
Re-direct exam of Mr. Clark by Mr. Holzer.....	326
Re-cross exam of Mr. Clark by Mr. Schmidt.....	338

(ON RECORD – 09:16:33 AM)

CHAIR: Please be seated.

MS. DOPKIN: We are recording.

CHAIR: All right. We are back again today for day nine of Nepali American Cultural Center, case number 18-122-X. As you all may be able to tell, I've been losing my voice. So, so for today, obviously I'll still be doing the same things I normally do, but Ms. Dopkin will be aiding me in certain respects because I'm not able to consistently amplify my voice. Ms. Dopkin, is there anything you want to say?

MS. DOPKIN: I do. As Mr. Garber has repeatedly stated, this is a quasi-judicial body. We take our job seriously. We expect a modicum of decorum from the lawyers and the parties and the witness. We would like you to respect that for us. With that in mind, we want to proceed today efficiently, in a business like and professional manner so that there is a minimum of extraneous back and forth. We want to hear what our witnesses have to say so we can move forward. Mr. Garber is a font of patience. I am not.

So, if you have an objection, stand up so we and the witness know that you have an objection, state the basis for it. We don't want your argument per extended or testimony, we want to know why you're objecting. We'll deal with it. If we have questions, we'll ask you. We'd like to move forward a little more efficiently than we did yesterday without eclipsing

anyone's right to speak and be heard. We're much more interested in hearing the case then all the rumble underneath. So, with that in mind, I hope you will not force Mr. Garber to lose his voice any further. And conduct yourselves accordingly.

CHAIR: Thank you. All right. So, the next two days beyond today, February 5th, February 13th, when the notices went out, the time listed was 10:00. We have an amended notice that it will be, the times will be moved to 9:00. Mr. Kotroco is not here, Mr. Schmidt, this is your copy.

MR. SCHMIDT: May I approach?

CHAIR: Yes, of course. Mr. Ghimire is not here. Do you expect him?

MR. SCHMIDT: I, I will give it to him. Yes, he sends his regrets but because of the school delay he's (inaudible).

CHAIR: It's quite all right, it, it's quite all right. Mr. Holzer, this is your copy.

MR. HOLZER: Thank you.

CHAIR: Hold on. I'm going to give you the copy for the Clarks, since Dr. Clark is at your table. And others will be mailed because those individuals are not here. That is, who are on the notice, particularly Mr. Kotroco, David Hartman, David Poehler, Morgan Minor and Carol Shaw. Oh, sorry.

MR. HOLZER: Ms. Shaw is here.

CHAIR: Ms. Shaw? Good news, I have one with your name on it. So, Ms. Shaw is here and has received, so the ones that have not received it are Mr. Hartman, Mr. Poehler, Ms. Minor and Mr. Kotroco.

MR. HOLZER: If the Board would like, I certainly can deliver those to my clients. I don't know whether you have to mail them or whatever. But I can accept service for them.

CHAIR: If you're affirmatively representing on the record that you are accepting service for those individuals.

MR. HOLZER: Yes.

CHAIR: Other than Mr. Kotroco, --

MR. HOLZER: Yes.

CHAIR: -- I assume, then that's fine and they will not be mailed.

MR. HOLZER: I understand. That's why I'm trying to save the Board some extra work.

CHAIR: I appreciate it.

MR. SCHMIDT: And I can likewise do the same for Mr. Kotroco.

CHAIR: Very well. You have helped, both of you. This is Mr. Kotroco's. And I'm handing Mr. Holzer, excuse me, I think we have one for Motsco too.

MR. SCHMIDT: Yes, and I can do the same for him.

CHAIR: I apologize. And then, so this is for Ms. Minor, this is for Mr. Poehler.

MR. HOLZER: Thank you.

CHAIR: And Mr. Hartman. And again, the only change is the time being moved from 10:00 a.m. to 9:00 a.m. start. The only change.

MS. DOPKIN: And before we start, we would ask again that you silence all your devices.

CHAIR: Yes. Is there any other preliminary matter that needs to be discussed at the start?

MR. SCHMIDT: Just very briefly. During the course of the proceedings this morning, a young man from my office, who is a member of the Maryland Bar, Zachary Wilkins, may be joining me at the trial table. I don't want to disrupt the proceedings then, but if you see a young man come in and sit next to me, it's Mr. Wilkins and he may be assisting me. He is a member of the Bar and a member of my firm.

CHAIR: Thank you for, for letting us know in advance.

MR. HOLZER: Is Tim still going to be in the case or is he --

MR. SCHMIDT: Mr. Kotroco is still in the case but he's just not here, at least yesterday and today, obviously.

MR. HOLZER: So, I still have to, if I need to copy you guys, I still have to copy him?

MR. SCHMIDT: Yeah, you should still copy him. Yes.

MR. HOLZER: That's all I needed to know.

MR. SCHMIDT: Yeah, thank you.

MR. HOLZER: Okay.

CHAIR: All right. Anything else?

MR. HOLZER: No.

CHAIR: All right. Where we last left off was the conclusion of the 502.1 factors. Is that everyone's understanding?

MR. HOLZER: That's correct.

CHAIR: All right. So, Mr. Holzer, it is your witness.

MR. HOLZER: Thank you.

CHAIR: Thank you, Dr. Clark.

MS. DOPKIN: Do you want to re-swear the witness?

CHAIR: Mine as well just do it because we're here and --

MS. DOPKIN: Mr. Clark, do you swear and affirm under the penalties of perjury, that the testimony you are about to give is true and correct to the best of your knowledge and belief?

MR. CLARK: I do.

MS. DOPKIN: And if you'd state your name for the record?

MR. CLARK: Oh, yeah. DeWitt S. Clark.

MS. DOPKIN: Thank you.

CHAIR: Thank you. Mr. Holzer?

MR. HOLZER: Yes?

CHAIR: Your witness.

MR. HOLZER: Mr. Clark, now we are at the end of the 502.1 conditions and you've been testifying on behalf of the community association, is that correct?

MR. CLARK: Correct.

MR. HOLZER: Okay. So, that testimony in regard to the 502.1 conditions have been as the representative of the association from late yes, or yesterday afternoon.

MR. CLARK: Correct.

MR. HOLZER: Okay. The, and when we ended last night at approximately 6:30, there was one other section left and that was inconsistent with the purs, purpose of the property zoning classification.

MR. CLARK: Correct.

MR. HOLZER: Is that correct?

MR. CLARK: Correct.

MR. HOLZER: Okay. Now, there, as I understand it, your desire, your association desires to introduce one document which would be the Beachmont decision. Could you, and, and RC, and Grace Church. Are you familiar with that?

MR. CLARK: Yes, I am.

MR. HOLZER: Okay.

CHAIR: Mr. Holzer, just for purposes of the record.

MR. HOLZER: Yeah.

CHAIR: It may be a good idea to have Dr. Clark identify the zoning classification, because if he's going to testify to matters that are going to be inconsistent, just by foundational, he would have to establish what his understanding of the zoning classification is.

MR. HOLZER: Do you know what the classification is of the, well, let's say Grace Church?

MR. CLARK: Yes, RC-5.

MR. HOLZER: Okay and you know the zoning classification for the subject property?

MR. CLARK: RC-2.

MR. HOLZER: All right. I'm going to provide this document to, now, if Mr. Kotroco --

MR. SCHMIDT: Thank you.

MR. HOLZER: -- was here, he would be very familiar with this document.

MR. MCCOMAS: Exhibit 78.

MR. HOLZER: All right, that's Exhibit 78. And are you, do you have it front of you?

MR. CLARK: No, I do not.

MR. HOLZER: Sorry.

CHAIR: Here's another copy here if you need it. Let's mark it --

MR. MCCOMAS: Seventy-eight.

CHAIR: The formal exhibit, Mr. McComas has, but just

so you have the copy that says seventy-eight on it.

MR. HOLZER: Thank you. Okay.

CHAIR: And I see Mr. Schmidt has his copy.

MR. HOLZER: Yes.

CHAIR: Thank you.

MR. CLARK: Okay. So, this is the Grace Church decision --

MR. HOLZER: Yes.

MR. CLARK: -- I have here.

MR. HOLZER: And now, could you tell me why you believe this is relevant to the proceedings that we're here to, today on?

MR. CLARK: Yeah. This is a house of worship in the general area.

MR. HOLZER: And when, when you say general area, I want you to be more specific.

MR. CLARK: Okay. It's on, it's on Belair Road, it's within the Kingsville Civic Association cacheman area.

MR. HOLZER: When you say it's on Belair Road, is it in a residential area or more, when, when you say Belair Road I think of commercial.

MR. CLARK: Yeah, yeah, no. It, it, it's in, it's past the URDL, it is at 11611 Belair Road.

CHAIR: I, I missed the part, you said it was in with, with the what, cacheman zone?

MR. CLARK: The Greater Kingsville Civic Association cacheman zone.

CHAIR: Thank you.

MR. CLARK: Okay?

CHAIR: Sorry about that.

MR. SCHMIDT: Mr. Garber, just for the record, I've looked at the decision quickly and I have an objection.

CHAIR: Okay. What's the nature of the objection?

MR. SCHMIDT: The nature of the objection is, first of all, I don't believe it's appropriate for this witness to be giving a legal interpretation of this decision. I think it's more properly argument.

CHAIR: I think that objection is premature at this time. I don't know where we're going with this exhibit with this witness. That may be an objection on a future question, I don't know. But, so for now, I'll overrule that objection.

MR. HOLZER: Thank you.

MR. SCHMIDT: Yes, and there's one other basis, if I may be heard?

CHAIR: Yes.

MR. SCHMIDT: I notice that the property is zoned RC-5, which is not the same zoning classification as is the issue in this case. And I also think as importantly, as I'm looking at the first page of the decision that we've been provided in the actual middle of the first paragraph it indicates that the

matter is before, was before the zoning commissioner on a development plan. And it indicates further the use of the subject property is a church, is a use permitted in the RC-5 zone, therefore, no special zoning relief is necessary. And then it continues. So, I believe that the standard that would have been applied in this case, as it relates to whether the development plan should be granted or approved, is a different legal standard than the special exception.

CHAIR: I understand the difference between the RC-5, RC-2 zones, I understand this may be a development decision, but I don't know what use or purpose we have for this exhibit as of yet. And so, Mr. Holzer, --

MR. HOLZER: Thank you.

CHAIR: -- I'll, I'll overrule it for now but you may, of course, object again when appropriate.

MR. SCHMIDT: Thank you for hearing from me.

MR. HOLZER: Mr., Mr. Clark, I want to direct your attention to page twenty-four, and twenty-five and twenty-six, of that document.

MR. CLARK: Um hm.

MR. HOLZER: Which is signed by Timothy Kotroco.

MR. CLARK: Um hm.

MR. HOLZER: The hearing officer at the time and currently one of the attorneys involved in this, in this case. Directing your attention specifically to his imposing certain

terms and conditions. Are you familiar with those terms and conditions?

MR. CLARK: Yes.

MR. HOLZER: Okay. I do not want you to opine in regard to any legal zoning questions. But I want you to define where the, is the Grace Church in an area similar to the proposed site here on Harford Road?

MR. CLARK: It is on a State highway. It is in a, a similar residential, rural residential area. It is in with, it is within the locale.

MR. HOLZER: Okay, all right. Now, in looking, this will, this will lead us into the next questions that I have for you, the next area. But did you review the terms of the conditions imposed by Mr. Kotroco?

MR. CLARK: Yeah.

MR. HOLZER: All right. Did you find those conditions consistent or relative to the same kinds of concerns your association would have in regards to the proposed project?

MR. CLARK: Yeah.

MR. HOLZER: And can you just explain instead of saying yeah. Just a little bit.

MR. CLARK: Okay, yeah.

MR. HOLZER: I don’t want a long diatribe, a little bit. Go ahead.

MR. CLARK: Okay. Well, no, it, it has to do with

the size capacity of, of the house of worship, it has to do with traffic management, it has to do with recreational facilities, it has to do with kitchens, has to do with noise, it has to do with outdoor activities, no outdoor concerns, carnivals permitted on the grounds, landscaping, so on and so forth. I mean, I mean, the, the Board can read it for themselves. I, I don't need to --

MR. HOLZER: And --

CHAIR: Do I understand correctly here that you're identifying these conditions as ones that could have some influence on --

MR. CLARK: Yes, sir.

CHAIR: -- this matter in the event there's an approval?

MR. CLARK: Yes, sir.

CHAIR: All right. And you're using this by way of example?

MR. CLARK: And, and Petitioner, or Protestant's counsel was involved with this, their legal team, right.

CHAIR: Well, that aside, --

MR. CLARK: Right, yeah.

CHAIR: -- that's the purpose for this exhibit is to say hey --

MR. CLARK: Yes, yes, sir, yes, sir, yes, sir.

CHAIR: -- look, here's an example, the way this,

something similar has been treated, even if there are differences in the way it unfolds. But there are conditions imposed here, ones that you think could be --

MR. CLARK: Yes, sir.

CHAIR: -- applied here?

MR. HOLZER: Absolutely.

CHAIR: Okay.

MR. HOLZER: That's the sole purpose of putting it in. I think the added value is the fact that Mr. Kotroco was the one that, that imposed those conditions. So, it shows that he --

CHAIR: Yes.

MR. HOLZER: -- is sympathetic to those kinds of, of issues or arguments by the neighbors. I, that's all it's put, put in for.

CHAIR: Mr. Schmidt, any objection to seventy-eight?

MR. SCHMIDT: No, sir. Although I obviously point out that Mr. Kotroco, at the time, was deputy zoning commissioner and not private counsel.

CHAIR: It, it's understood.

MR. HOLZER: Yes.

CHAIR: The difference in position and in no way does that influence anything up, you know, for purposes of this hearing. So, yes, it's admitted.

MR. HOLZER: Thank you. The next document, which I

sort of thought of out of order, would be the Beachmont approval and it's also, excuse me, so I can get this right. It's also authored by the deputy zoning commissioner, Mr. Kotroco. And I'm going to make sure everybody has a copy first before, one, two, --

CHAIR: And sir, if you could hand back the exhibit?

MR. CLARK: Oh, that wasn't mine, yeah.

CHAIR: Seventy-eight. So, Mr. McComas would have his own.

MR. CLARK: Yeah.

MR. MCCOMAS: I already got one. Oh, for my, for my --

CHAIR: Right, for your, for your personal file.

MR. CLARK: Okay.

CHAIR: That was yours.

MR. MCCOMAS: It was.

MR. HOLZER: That will be seventy-nine.

CHAIR: Thank you.

MS. DOPKIN: This is case number 94-50-SPH, a Petition for Special Hearing?

MR. HOLZER: Yes.

MS. DOPKIN: For Beachmont Inc.?

MR. HOLZER: Yes. And, well, I'll let Mr. Schmidt have an opportunity.

MR. SCHMIDT: I note at, at the beginning, just of

the decision, and I have not read the decision, that this case apparently was an approval of an amendment of orders in two prior cases, 75-83-X and 89-489-SPH. Mr. Holzer, just out of a matter of completeness, are we going to get all three of the dec, zoning decisions as they relate to Beachmont?

MR. HOLZER: No, I didn't, the only one that I have for now is this one.

CHAIR: Let me ask, are you using seventy-nine in a similar fashion to seventy-eight as it relates to conditions imposed on the Beachmont property, that is, something that Dr. Clark would feel --

MR. HOLZER: Yeah.

CHAIR: -- would be perhaps something to be considered in this case, should there be approval?

MR. HOLZER: Yes. And those, and those restrictions were found on page nine of this document, seventy-nine, nine and ten. And if the Board looks at that, you, you can see that it follows pretty much his testimony on exhibit number seventy-eight. But I'll ask him --

CHAIR: Well, the purpose of my asking that question is it resolves the issue --

MR. HOLZER: Exactly.

CHAIR: -- that Mr. Schmidt has raised as to the two prior case numbers.

MR. HOLZER: Exactly.

CHAIR: At least, it would seem on its face. Do you have any objection to seventy-nine then, other than the issue as to case numbers 75-83-X and 89-499-SPH in light of the proffered relevance of this document?

MR. SCHMIDT: No, I, I think, I'm sure you're going to have a consistent ruling with the prior exhibit, so I don't object. Maybe the way to handle it is I may have my office see if they can pull those cases and --

CHAIR: Very well.

MR. SCHMIDT: -- offer them just so that you have all the cases related.

CHAIR: I appreciate that.

MR. SCHMIDT: I think that's appropriate.

CHAIR: Thank you.

MR. HOLZER: I have no objection if he does that.

CHAIR: Okay. So, seventy-nine will be admitted, you may ask your questions to Dr. Clark.

MR. CLARK: May I have a copy?

MR. HOLZER: Yes. I keep forgetting that you don't have one. And Mr. Clark, would you look at the last couple pages? Because I've --

MR. CLARK: Yeah.

MR. HOLZER: -- suggested to the Board that that's the reason that we're introducing them. Could you address the, first of all, where is Beachmont?

MR. CLARK: Beachmont is located, as the crow flies, about a half a mile from the subject property. It is not on a State highway, it is on a County road.

MR. HOLZER: What's the County road? Mount Vista?

MR. CLARK: Mount Vista, thank you.

MR. HOLZER: All right.

CHAIR: I was going to say, it was already read into the record.

MR. HOLZER: Okay.

MR. CLARK: It was a trick question.

CHAIR: That's okay.

MR. CLARK: All right. And it adjoins another property from which it was split off, owned by the Standifer's, I believe, and that has operated as Redeemer School. There's been some confusion about this Redeemer/Beachmont complex. But as these decisions will show, they are two separate entities. And Mr. Kotroco, I think, was well aware of that. But the, the, the conditions are, again, appropriate for, we feel, we feel, the board feeds, that the GFWPA board feels, that these conditions are very similar to what we would like, that would satisfy our concerns on the subject property.

CHAIR: Before we go down another road, because I don't know if this is yet to come, as an individual, because you're here testifying in both capacities, that is, on behalf of the association and yourself --

MR. CLARK: No, I, I think we can pretty much say that --

CHAIR: You're not going to offer any other testimony as an individual as it relates to seventy-eight or seventy-nine?

MR. CLARK: Oh, I see what, I see what you're asking. Other than some rebuttal to testimony, to prior testimony.

CHAIR: Sorry, as it relates to these two exhibits?

MR. CLARK: Well, this exhibit may be brought in as a rebuttal. I would, I --

CHAIR: Mr. Holzer, do you understand my question?

MR. HOLZER: I understand your question.

CHAIR: Could you --

MR. SCHMIDT: I, I'm sorry, I don't, Mr. Garber.

CHAIR: We've had testimony, Dr. Clark as an individual, we have testimony from Dr. Clark on behalf of the association. I don't want to go, talk about his testimony as the association and then find out two hours from now as an individual he also has opinions --

MR. SCHMIDT: Oh, I'm sorry.

CHAIR: -- about the same exhibits.

MR. SCHMIDT: Yes, sir, I'm sorry. I just didn't follow you at first.

CHAIR: I, I want, yeah, so right, so I apologize for not being clear.

MR. SCHMIDT: I got it.

CHAIR: I want to see if the testimony is coextensive.

MR. CLARK: Now, --

MR. HOLZER: I, I can answer the question. In regard to some prior testimony by various witness Petitioners and so forth, there was confusion or an attempt to combine these properties and even though Mr. Clark is testifying right now for the conditions that could be attached, if the Board so chose, he also subsequently wants to go back when I go back to his personal testimony and explain the confusion that was generated by the Petitioners as to these two properties. That's all he wants to do. He's not going to re-address the decisions or anything.

MS. DOPKIN: Is he speaking for himself individually or still as the spokesperson for the Gunpowder Falls Watershed Preser --

MR. HOLZER: He would speaking, at that time, for himself, trying to clarify some of the misunderstandings that occurred in the Petitioner's case.

MR. MCCOMAS: And, and why is that relevant to this case?

MR. HOLZER: Why is?

MR. MCCOMAS: That he --

MR. HOLZER: That they made mistakes testifying, they

made mis --

MR. MCCOMAS: No, no, the issue of, of the property that's in this case, why is that relevant to this case?

MR. HOLZER: Oh, it's not relevant. It's not --

CHAIR: He's addressing points made earlier by other witnesses, I believe is what Mr. Holzer is saying.

MR. MCCOMAS: Oh, okay. I thought he was talking about the case in here where they're talking about there was some confusion (inaudible).

MR. HOLZER: I'm, no, but I'm sorry, I misunderstood what your confusion was.

MR. MCCOMAS: Yeah, yeah, no, I got the past testimony. What I was talking about is I thought he was going to testify about that there's some confusion in the prior case over --

MR. HOLZER: No.

MR. MCCOMAS: -- the division of land.

MR. HOLZER: No. All he's, all he's doing at this purpose, for the, for the association, is to say many of these conditions also would apply and be acceptable to us in this case. He will then, I will then take him back to go into the testimony as an individual of why there was previous testimony that may have confused the Board in regard to these two properties, that's all.

CHAIR: So, and just to put a, a, an exclamation

point at the end of all this discussion, what I'm hearing is he has something separate to say about Beachmont and Redeemer.

MR. HOLZER: Yes.

CHAIR: That relates to Exhibit 79. But does he hold an opinion as an individual as to the conditions reflected in seventy-eight and/or seventy-nine --

MR. HOLZER: He just says he did.

CHAIR: -- as an individual?

MR. HOLZER: (inaudible) yes.

CHAIR: And we're, that's what I want to elicit now.

MR. HOLZER: Right.

CHAIR: Because the stuff later to come is for impeachment or rebuttal purposes.

MR. HOLZER: Right.

CHAIR: So, while we have this out, if he has separate opinions about it, as an individual or whatever, that's what, all I'm trying to get onto the record.

MR. HOLZER: Mr. Chairman, he just answered your question by saying it's my personal opinion as well as the association.

CHAIR: I, thank you. I, that's why I'm saying, I want to put an exclamation point at the end of that --

MR. HOLZER: Right.

CHAIR: -- so we can all move on.

MR. HOLZER: Yes.

CHAIR: Thank you. Okay.

MR. HOLZER: So, I would offer this seventy-nine also, like I offered --

CHAIR: It's already been admitted.

MR. HOLZER: Oh, it has, okay. I'm sorry.

CHAIR: Yes. Because Mr. Schmidt did not have any objections other than the one we discussed. And since he said the ruling for seventy-eight would be applicable to seventy-nine he understood.

MR. HOLZER: Okay.

CHAIR: So, it is admitted.

MR. HOLZER: Okay. Thank you. In regard to, continuing under the inconsistence with the purpose of the property zoning classification, are there any other points that you want to make on behalf of the association or have we completed that part?

MR. CLARK: Can, can I just re-echo the, you know, the use of the recreation, as a recreational facility --

CHAIR: I think you should answer Mr. Holzer's question.

MR. CLARK: Okay. So, I want to say yes. Ask the question again. I'm sorry.

MR. HOLZER: Are there any other evidence in that relates to the association's concern about the inconsistency of the property's zoning classification?

MR. CLARK: Yes.

MR. HOLZER: And what are they?

MR. CLARK: They are the, the string of volleyball events that have been held there and there are the multiple events above and beyond the, the July 29, August 3, including while this proceeding was taking place, the use of it for a community political activism where some seventy-five people attended and we have the video of that in there. And --

MR. HOLZER: Has that video been shown?

MR. CLARK: I don't think completely.

CHAIR: It has not been paid during the course of any hearing --

MR. CLARK: We, we showed parts of it.

CHAIR: Hold on.

MR. CLARK: Yes, sir.

CHAIR: It has not been played during the course of any hearing because it's, that's news to me.

MR. HOLZER: Okay.

MR. CLARK: Okay and the November 4th of use of the property by a group called Belmont Volleyball Group, for a volleyball game. And again, they posted on Facebook for us.

MR. HOLZER: Do we need to show a video of that at this point or would --

CHAIR: Well, please bear in mind Mr. Schmidt, if, I'm assuming these are not on the disc previously because you

called them new.

MR. CLARK: And they were given last night.

CHAIR: Okay. So, I'm going to give Mr. Schmidt the benefit of the doubt, as hard working as an individual as he is, and last night we ran a bit late, so he may not have had the opportunity to view them. So, with that in mind, do you have still photos?

MR. CLARK: I think we, yeah, yes.

CHAIR: I want, in other words, I'm trying to give you the opportunity to see the video ahead of time, to, to the maximum extent possible, but of course, our time is limited.

MR. SCHMIDT: Thank you. I, I seem to recall a video where there was someone from the governor's office who was at the property and we did see a video of that. I assume this is something different than that?

CHAIR: I would, I would say that my rec --

MR. SCHMIDT: When he said, used the word political, that's what I was thinking.

CHAIR: And my understanding was consistent with yours, that is, it does not refer to that, that one.

MR. SCHMIDT: That event, okay.

MR. CLARK: The Belmont Volleyball Group does not.

CHAIR: No, the pol, the one that, --

MR. CLARK: The one on October 6, --

CHAIR: The political activism one.

MR. CLARK: Yeah, where there were about seventy-five people in attendance.

CHAIR: Well, so, we'll stop there. Mr. Holzer, trying to clarify the video. Mr. Schmidt has asked a question. Is this the one that concerned a representative from the governor's office or was it even the lieutenant governor?

MR. SCHMIDT: I believe, as I recall, I think it was someone from the governor's office and I remember there was a video about six or seven people sitting at a table --

CHAIR: Yes.

MR. SCHMIDT: -- outside and there was some question and answer. I just didn't know if that was what we were talking about or if it was something else.

CHAIR: Mr. Holzer, so the question --

MR. HOLZER: It was not shown yet.

CHAIR: It was not shown yet.

MR. HOLZER: It's, it's on the document that you have, that you have already, what was shown and what was not. And it was not.

CHAIR: Okay. So, then it's a new one. Just to establish that for the record, that that would be a new video.

MR. HOLZER: Yes.

CHAIR: Different than what Mr. Schmidt is referring to. Thank you.

MR. HOLZER: It was on the original disc.

CHAIR: Oh, okay. We're back to square one.

MR. HOLZER: Yes.

CHAIR: So, apparently you did receive whatever it is before. So, it's --

MR. HOLZER: It's listed on the, on the list sheet.

CHAIR: Okay.

MR. HOLZER: As having been on the old documents that were submitted to Mr. Schmidt.

CHAIR: Okay.

MR. HOLZER: But for right now, I'd like --

CHAIR: But go, please, please move ahead. I will search for the list and we will untangle that.

MR. HOLZER: These are the photographs of --

MR. CLARK: No, you have to give them to them.

MR. HOLZER: Well, I've got some to give to them.

CHAIR: As long as Mr. Schmidt has it, we have it and there's no question pending, it's fine.

MR. CLARK: Okay, thank you.

MR. SCHMIDT: Yep.

CHAIR: Thank you.

MR. SCHMIDT: Just trying, maybe make this earlier, Mr. Garber, --

CHAIR: Go for it.

MR. SCHMIDT: -- this is exactly what I think we were talking about and if you look at page two --

CHAIR: Hold on. We have to mark it first. Mr. McComas?

MR. SCHMIDT: Oh, I'm sorry.

MR. MCCOMAS: (inaudible) B, C, D, E, F, G, H, I, J. So, it's going to be A through J.

CHAIR: What, what number?

MR. MCCOMAS: Eighty.

CHAIR: So, Petitioner's Exhibit 80-A through K are photographs, or excuse me, Protestant's Exhibit 80-A through K. Now, Mr. Schmidt?

MR. SCHMIDT: I believe, I guess it's B, the second page.

CHAIR: Okay.

MR. SCHMIDT: Is, I know we've seen the video of that already.

CHAIR: Yes. That, yes.

MR. SCHMIDT: Because it's, I mentioned the governor's office but appar, I, --

CHAIR: Secretary of State.

MR. SCHMIDT: -- apologize, it was the deputy secretary of state.

CHAIR: Yeah, right, understood.

MR. CLARK: Right.

MR. SCHMIDT: And I'm assuming, and again, to be consistent with your rulings yesterday, this is not about a

code violation or an illegal event, but it, I don't think --

CHAIR: I don't know why we're discussing it right now.

MR. SCHMIDT: Yes, sir.

CHAIR: I'm going to leave that to Mr. Holzer to ask Dr. Clark.

MR. HOLZER: Dr. Clark, you've seen Exhibit 80. What is the purpose for showing this?

MR. CLARK: Well, if you look at, I guess it would be C, page C.

MR. HOLZER: Yes.

MR. CLARK: Okay. It shows a large crowd and it is being used for a purpose other than what the special exception is asking.

MR. HOLZER: Okay. So, I would offer --

CHAIR: Mr. Schmidt, any objection?

MR. SCHMIDT: I believe the video is in and to the extent that this is still photos taken from the video, it's already in evidence so I don't have any objection.

CHAIR: Well, let's, let's separate the two. The photos alone, do you have any objection without reference to the video? And I ask that, because I don't know off the top of my head with all the videos that are identified, what was in and what was out. So, of the photos alone, do you have any objection?

MR. SCHMIDT: No, I'll make this easy. I do not have any objection.

CHAIR: So admitted.

MR. HOLZER: Thank, thank you.

CHAIR: A through K.

MR. HOLZER: And I'm not going to worry about the video. It is what it is.

CHAIR: Yeah, and I, just off the top of my head, because there's so many I don't know what was specifically ruled upon or not. That's the reason why I asked for a separate consideration from Mr. Schmidt.

MR. HOLZER: Now, I'd like to go to one, oh, I'm sorry. You've already had an opportunity to make a, a comment about Exhibit 80 that we just entered into evidence, is that --

MR. CLARK: Correct.

MR. HOLZER: Is there anything further you need to say about that? Can we move on?

MR. CLARK: About this exhibit?

MR. HOLZER: Yes.

MR. CLARK: No.

MR. HOLZER: No?

MR. CLARK: No.

CHAIR: We can move on.

MR. CLARK: We can move on.

CHAIR: Thank you.

MR. HOLZER: All right. Now, let's go to what the, your association board concluded in terms of the special exception.

MR. CLARK: I would like to introduce one more thing, the Belmont Video Group. We did, we, we, we mentioned that and we didn't introduce the pictures from that.

MR. HOLZER: Oh, okay.

CHAIR: That was on November 4, 2018, while, while these proceedings were going on.

MR. HOLZER: I'm sorry --

MR. CLARK: And that will also be introduced for rebuttal purposes, I should say, Your Honor, Mr. Garber.

CHAIR: Deal with it one step at a time.

MR. CLARK: Right.

MR. HOLZER: Yeah, let's do one thing at a time. This, has this, has there, these are photographs from a video, is that correct?

MR. CLARK: From a new video that is on the discs that were distributed last night.

MR. HOLZER: Okay, so they're new.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: I, I did not watch the, the new disc last night.

CHAIR: Right, and it's understandable. Let's start with the photos and see where that takes us.

MR. HOLZER: Yeah.

MR. SCHMIDT: Yes, sir. I haven't seen those, but I'll be happy to look at them.

CHAIR: And this is Exhibit 81.

MR. SCHMIDT: Mr. Garber, obviously not having seen these, I, I guess I would have a technical objection just in terms of the foundation of what this is and where, where it came from, etcetera, because it appears to be a photograph of a computer screen, I am surmising. I guess the other, and I can address this in cross examination, but just to the extent it goes to relevance and I'll try to be very, very brief. I'm not quite sure what I understand the relevance is of people playing volleyball.

CHAIR: Well, if I can, if I could jump in real quick. Mr. Holzer hasn't had the opportunity to try to lay a foundation.

MR. SCHMIDT: Yes, sir.

CHAIR: So, at the time the objections are premature, I would say so they're overruled at this moment.

MR. SCHMIDT: Yes, sir, thank you.

CHAIR: Mr. Holzer, if you want to lay a foundation?

MR. HOLZER: Yes. Mr. Clark, do we have a video from which these pictures were taken?

MR. CLARK: Yes, sir.

MR. HOLZER: Have we shown that video at this point?

MR. CLARK: No, sir.

MR. HOLZER: We have?

MR. CLARK: Not.

MR. HOLZER: We have not shown that video. That video is on the, the disc that was created as a quote, new disc, that was provided to the parties last night?

MR. CLARK: Well, as you can from the date --

CHAIR: The ans, hold on, answer his question.

MR. HOLZER: Yeah, answer --

MR. CLARK: Yeah, I, yes.

MR. HOLZER: Okay.

MR. CLARK: And as you can see from the date, the reason for that is the video was posted on November 4.

MR. HOLZER: Okay and does that, does the date show on the, Protestant's eighty-one, of November 4th?

MR. CLARK: Yes, it is, --

MR. HOLZER: Where is it?

MR. CLARK: -- it is on their video screen under Belmont Volleyball Park was live at Hindu Temple Mandere November 4 at 8:58.

CHAIR: If you go above the center photo, you'll see it says Belmont --

MR. HOLZER: I see.

CHAIR: Okay.

MR. HOLZER: I see. Thank you.

CHAIR: Yep.

MR. HOLZER: All right. Does, what is your purpose for showing, or discussing Protestant's Exhibit 81 and do we need, in your opinion, the video to show this document?

MR. CLARK: Not unless we need it during cross, but the, the purpose of it is, again, it's a use other than applied for in the special exception.

MR. HOLZER: The, could, could we, in order to avoid Mr. Schmidt's objection, could we show the video now?

MR. CLARK: It is on the USB drive, it's ready to go.

CHAIR: Well, if I could just ask the question. Is what we're about to watch basically what you just said, that is, people were playing volleyball? How long of a video is it?

MR. CLARK: Well, there's, there's two different ones. One is the full thing of twelve minutes and the other is two minutes and eleven seconds.

CHAIR: Okay. So, Mr. Schmidt, you've heard the proffer as what's to be shown on the video. I will leave it to you to decide whether you would like to see that before any further examination.

MR. SCHMIDT: I, I, I really don't need to see people playing video, I, if I could, --

CHAIR: You mean volleyball, the video of the volleyball?

MR. SCHMIDT: I mean, I'm sorry, playing volleyball.

And I don't want to ask anything improper. I note that it was apparently posted on November the 4th, according to the date on the document. But I'm looking, for example, at the, the second page and, at least there's one participant who's in a pair of shorts and they look like most of them are in short sleeves and it is November. So, this may have been posted in November. I'm wondering if Mr. Clark knows when this actually happened, whether it was then or whether it was just a video from the summer.

CHAIR: I would say you'll have to wait till cross examination for that.

MR. SCHMIDT: Okay. And then the other, the other point and I, and if I should wait till cross examination please tell me. But from a relevance standpoint, they were playing volleyball. Is, is there an allegation that that's illegal or immoral or improper somehow?

CHAIR: No, I think, okay, so I understand the objection. I'm going to overrule the objection. We've heard from Dr. Clark, why he, he thinks that this is relevant to this case. So, --

MR. SCHMIDT: Yes, sir.

CHAIR: -- as, as for the other question, you can ask that on cross examination.

MR. SCHMIDT: Thank you.

CHAIR: And certainly you can explore whatever you

need on cross examination.

MR. SCHMIDT: Yes, sir.

MR. HOLZER: Thank you.

CHAIR: So, Exhibit 81 then will be admitted.

MR. HOLZER: All right.

CHAIR: And Mr. Schmidt has indicated he did not need to see the video of people playing volleyball.

MR. HOLZER: Thank you, members of the Board. Now, sorry, I, I jumped to the board's 502.1 conclusions and as a result of the board having these opinions, could you tell me in terms of what the board considered, if they have at all, as to what kind of conditions could be imposed by the Board?

CHAIR: Before you answer, you're referencing the board, just to be clear, --

MR. HOLZER: Yes.

CHAIR: -- because he's providing testimony on behalf of an association, the board you're referring to is the Board of Appeals. And you're asking --

MR. HOLZER: I'm sorry.

CHAIR: -- the board for the association's opinion as to what the Board of Appeals should be doing as to conditions, is that correct?

MR. HOLZER: That's correct, that's correct. I apologize.

CHAIR: That's okay. We're using the board --

MR. HOLZER: But, in two different fashions.
CHAIR: Right.
MR. CLARK: I am testifying for the Gunpowder Falls Watershed --
CHAIR: Yes.
MR. CLARK: -- Preservation Association.
MR. HOLZER: Yes.
MR. CLARK: That these were authorized by, by the board.
CHAIR: That's undisputed.
MR. CLARK: Okay.
CHAIR: It was just to clarify Mr. Holzer's double use of the --
MR. CLARK: I, I know.
MR. HOLZER: Yeah.
CHAIR: -- board referencing both boards.
MR. CLARK: Right.
MR. HOLZER: Right. Go ahead.
MR. CLARK: I don't know if this would be a good place to talk about how, how this whole thing started, or if you want me to go right into our conclusions.
CHAIR: I want you to answer his question directly.
MR. HOLZER: Answer, answer the question.
MR. CLARK: Okay, okay, okay.
MR. HOLZER: And go into the, the, --

MR. CLARK: Yeah, we have, we have, we have a number, we, we, we, I'm just going to read it, Your Honor.

CHAIR: Read?

MR. SCHMIDT: Is, is there a question pending?

CHAIR: Hold on. He has something he wants to read. Mr. Holzer, do you know what he's ready to read?

MR. HOLZER: I hope it's the same thing I have here, which are some possible conditions that the Board could impose.

CHAIR: Okay.

MR. HOLZER: Just like the other two exhibits that we submitted.

CHAIR: Okay.

MR. CLARK: All right. The, so this, this is the position of the board.

CHAIR: Go ahead.

MR. CLARK: Okay? We understand it is very unusual for a special exception to be denied, okay? However, there are grounds to decline. One, this application is defective. The Petitioners clearly want to and repeatedly have used the property for purposes other than that stated in their application, okay? B, and I can provide this to you as a written statement. B, --

CHAIR: Hold, hold on. If you're to provide that as a written statement, then you need to provide Mr. Schmidt with it now, before it's going to be put into evidence.

MR. HOLZER: I, just read what you've written for the association.

MR. CLARK: Okay, so just, just read it, okay. Okay. This development provides no benefit to the surrounding community. 502.1 is not concerned about the needs of Parkville, Maryland or the Mid-Atlantic. It is concerned about the impacts of the surrounding community and the locale. Given that the zoning enforcement is non-existent and we dealt with that separately, I understand. You could stand and refute, you could take a stand and refuse to decide this, that you cannot, and refuse to decide this case until the County can guarantee a mechanism that will enforce your decisions. We understand your frustrations.

If you decline these outcomes, Protestants ask that you give the Petitioners exactly what they have testified they want, a place where to ten to fifteen people a day can come to pray. If that had been the case, we would not be here today. This means a well or septic for a maximum of fifty people, parking for ten cars, maximum twenty visitors per day with a controlled entrance and a verifiable count, restrict all improvements to the existing footprints and purpose, place money in escrow to execute equitable relief --

MR. HOLZER: Excuse me. When you, the last one, restrict all improvements to the existing --

MR. CLARK: Oh, okay.

MR. HOLZER: -- could you tell us where the community association got that kind of consideration?

MR. CLARK: Yes, I will do that for now on. Grace Church decision.

MR. HOLZER: Okay.

MR. CLARK: Place money in escrow, in, in escrow to execute equitable relief, no recreational facilities, Grace Church, remove the pool, remove the volleyball court. I believe Mr. Ghimire said he was amenable to that. No outdoor lighting. That again is Grace Church. Protestants and their representatives can enter the property for inspection and verification purposes. And that's in Grace Church too, by the way. No day care or educational facility. Grace Church. They had referenced they want to have yoga, language, cultural classes there. Reclaimed buildings to be used only for the original purpose, other than the mansion. Nothing is to be converted to a new use, such as the barn for a venue for a thousand people as Mr. Clarke wrote in one of his letters. That's from the Grace Church. No food kitchen. Again, that's in Grace Church.

We would strongly like you to require an SHA access permit prior to any further use. Headlight screening for the Poehler and Foxworth properties. Submit landscape, signage and road improvements to, to the community association. Signage that fits within the historic nature of the property and the

community.

CHAIR: I'm sorry, what was that last one?

MR. CLARK: Signage that fits within the historic nature of the property and the community. The sign that they have put up, it does not fit either the historical context of the property or the community. Regarding to control runoff onto the Foxworth property. No outdoor services of any kind. No outdoor concerts, carnivals permitted on the grounds. There shall be no outdoor out, loudspeakers, outdoor pavilions, temporary or permanent, i.e., tents. That comes out of Grace Church.

All lighting to be approved, if it should be approved, will be limited to light standards, limited to twenty feet in height utilizing cutoff versus flood lighting. Lighting to be turned off no later than 10:00 p.m. Grace Church.

CHAIR: If I could just jump in. Mr. Holzer, I assume you'll be itemizing each condition in detail that you, that may be requested?

MR. HOLZER: You mean in a memo or some --

CHAIR: In your memo.

MR. HOLZER: Well, I can.

CHAIR: And the reason why I'm asking that is --

MR. HOLZER: Oh, sure.

CHAIR: -- because I'm trying to write down the

specific, specific requirements or suggestions from Dr. Clark and I'm not going to capture every little bit of it and I don't want to go down a road that in the event it's approved and we start talking about conditions, that if we think something is appropriate, we're not actually meeting what is being specifically stated. So if you could itemize them all, and I'm not saying you can't continue to read, I just want to make sure that it's recorded --

MR. CLARK: I just have two more.

CHAIR: -- accurately and for the Board's review, that we have an accurate recitation of these itemized factors.

MR. HOLZER: I think it's a perfectly reasonable request. It makes a lot of sense and what I was going to suggest was, I can take this, put it on a separate piece of paper and make copies for you, the Board and counsel.

CHAIR: Okay.

MR. HOLZER: Because it, it seems to me, it is the thing that might provide an, a proper analysis of what the community is asking for, so.

CHAIR: But there were also a lot of specifics--

MR. HOLZER: Yes, yeah.

CHAIR: -- to it and there's both quantity, there's, we have the quantity of it.

MR. HOLZER: Yeah.

CHAIR: But also, there are very specific details

within --

MR. HOLZER: Yes, right.

CHAIR: -- some of these that I don't want to get lost trying to keep up with writing down the list.

MR. HOLZER: You're not.

CHAIR: So, I want to make sure that everything is accurate and please continue to read --

MR. CLARK: Thank you, sir.

CHAIR: -- the remainder but --

MR. HOLZER: I'm going to take care of that.

CHAIR: Thank you.

MR. HOLZER: Um hm.

CHAIR: It'll just make it easier.

MR. HOLZER: Yes.

MR. CLARK: All driveway parking to be constructed as permeable surfaces, not impermeable surfaces. Visitors must use the left lane to exit south and the right lane to exit north. Entrance to the property will be by a dedicated lane, not a shared lane. In both Beachmont decision and Grace Church decision, Mr. Kotroco found that uses such as this should be restricted to five, to RC-5 zones. Okay?

MR. HOLZER: Now, Mr. Clark, what, what I'm suggesting and the Chairman has suggested is that I take this list with all amplifications that you've adopted and provide a sec, a separate document that I submit to Mr. Garber and the

Board and also to Mr. Schmidt. Do you agree we can do that?

MR. CLARK: Yeah, yeah.

MR. HOLZER: Okay. So, that's what we will do.

CHAIR: Thank you.

MR. HOLZER: Okay. Does that complete the, the Board, the association board's request and testimony?

MR. CLARK: Those are the statement, those are statements that were approved by the board, those (inaudible).

MR. HOLZER: Okay.

MR. CLARK: And, and I have no intention of revisiting them personally.

MR. HOLZER: Okay.

CHAIR: Hold on. Now I have to ask you, when you say you have no intention of revisiting them personally, you're saying individually, you're not going to go recap that testimony, correct?

MR. CLARK: Correct.

CHAIR: All right.

MR. HOLZER: Okay. Now, what I'd like to do --

CHAIR: Hold on. I think Ms. Dopkin has a question, please.

MR. HOLZER: Yes.

MS. DOPKIN: Does that conclude the testimony on behalf of the Gunpowder Falls Watershed Preservation Association?

MR. HOLZER: That's what I understand.

CHAIR: That's my understanding.

MS. DOPKIN: Before we leave it, I have a question regarding the association. How does one obtain membership? By just owning property within your cacheman area?

MR. CLARK: No, no, no. It's an affirmative act.

MS. DOPKIN: And what is that act?

MR. CLARK: It is either a donation or giving us your e-mail.

MS. DOPKIN: So, there are no membership fees, dues, --

MR. CLARK: No, no, ma'am.

MS. DOPKIN: It's all voluntary?

MR. CLARK: Correct, ma'am.

MS. DOPKIN: That was my question. And so you're telling me it's an unincorporated, voluntary association for anyone living within your boundaries who provides their e-mail address or gives you money?

MR. CLARK: Yes, ma'am. And, and can, can I amplify on that a little bit?

MS. DOPKIN: No, that's all I wanted to know.

MR. CLARK: Okay.

MS. DOPKIN: Thank you.

MR. SCHMIDT: Ms. Dopkin, I don't believe there's a geographic limitation. I don't think he testified about that

in terms of where you have to live.

MR. HOLZER: Objection. He did.

MS. DOPKIN: Yes, he did.

CHAIR: Hold on.

MR. SCHMIDT: Did he? Okay. I missed that. I apologize.

CHAIR: (inaudible) the record. He indicated Gunpowder north and south --

MR. SCHMIDT: Oh, that's right, I'm sorry. I, I apologize,

CHAIR: Glen Arm and Belair. Is that accurate?

MR. CLARK: Yeah, and then Long Green Pike out to (inaudible).

CHAIR: Long, right, because I, I asked a follow-up question (inaudible). Okay.

MS. DOPKIN: Thank you.

CHAIR: And I want to be clear as to the conditions that you just identified and read from.

MR. CLARK: Yes, sir.

CHAIR: Those are on behalf of the association?

MR. CLARK: Yes, sir.

CHAIR: Are, with respect to you in, individual capacity, are you going to offer any other testimony regarding conditions that you would like to see as an individual that's different in any way from what you've just identified?

MR. CLARK: I promise not.

CHAIR: Okay. So, any conditions on your individual behalf would be included within what has already been testified to?

MR. CLARK: Yes, sir.

CHAIR: All right.

MR. CLARK: I, in other words, I have no individual conditions.

CHAIR: Okay.

MR. HOLZER: All right. Let's, let's go back, because we sort of were diverted initially by the requirement to go to 502.1 yesterday. Are there, are there reasons why you as an individual question the Petitioner's testimony in regard to what they're doing, what, what's going to happen on the property that caused concern to you individually?

MR. SCHMIDT: Objection. I just don't understand the question.

CHAIR: And I'm sorry, Mr. Holzer, if you could repeat your question.

MR. HOLZER: Are there any, is, is there any testimony, documents from, presented by the Petitioners that cause you to question the, their, either their voracity or what their future intentions will be if this is approved?

CHAIR: Now that you've hear the question again, is there any objection?

MR. SCHMIDT: No, sir.

MR. HOLZER: Thank you. You can answer the question.

MR. CLARK: Yes.

MR. HOLZER: All right. Can you take them one at a time and tell us what you're discussing first and whether there are any documents that we need to submit along with your testimony?

MR. CLARK: Yes, sir. Okay.

MR. HOLZER: Okay.

MR. CLARK: The, there was testimony that there was an event held in July of 2017 that was a fundraiser. In fact, it was advertised and received as the first annual family fun day.

MR. SCHMIDT: Mr. Garber, I'm sorry to interrupt. I, I am going to object now that I'm hearing what he's talking about. If, trying to be consistent, I, we keep going back to these events which we can certainly argue whether they were proper or improper, or illegal or legal, but the point I think is the proposed special exception going forward and what happened in July 17th to be consistent, I, I'm just trying to avoid getting back as to whether that was a zoning violation and it sounds like where we're going.

CHAIR: Well, I would, I would put it like this. He is now providing, as I understand it, the proffer here, is to provide evidence that some of the way, some of the testimony

evidence presented in Petitioner's case, the characterization may not be fully accurate, from his perspective. So, therefore, I don't believe it does go to a code violation or code enforcement matter. It goes, basically, as impeachment, I suppose, as to the testimony and evidence presented by Petitioner. And so, on that basis, I will overrule the objection.

MR. HOLZER: Thank you.

MR. SCHMIDT: Thank you.

CHAIR: Now, he may, the, there may not be agreement as to Dr. Clark's perception or whatever. But you have a case in rebuttal still yet to come so.

MR. HOLZER: Thank you.

CHAIR: Yes. Eighty-two?

MR. MCCOMAS: Eighty-one.

MR. HOLZER: Eighty-one?

MR. MCCOMAS: Oh, eighty-two, yeah, yeah, I'm sorry.

MR. HOLZER: Eighty-two?

MR. MCCOMAS: Yes.

CHAIR: Can you please identify Protestant's Exhibit 82?

MR. CLARK: Yes. It is a screenshot of, taken from Dr. Clarke's Facebook page. It was in his timeline from July 27, 2017 and it shows an advertisement for a first summer family fun festival. That they had characterized that event in

testimony that it was a fundraiser. And they said this fund, these fundraisers will not be regular events.

MR. HOLZER: Do you recall who testified about the fund, that as being a fundraiser?

MR. CLARK: Mr. Ghimire, I believe.

MR. HOLZER: Ghimire. Okay. Thank you. Is that all you have to say about this?

MR. CLARK: That's it.

MR. HOLZER: I'd move to admit that document.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: I would technically object.

CHAIR: And what is the basis for the objection? I don't need an, I don't need any argument, I just need to know the reason for it.

MR. SCHMIDT: I believe the witness indicated at the beginning of this line of testimony that this was being offered because the Petitioners were being untruthful about their plans. This doesn't say first annual summer --

CHAIR: If I could summarize for you, Mr. Schmidt, if I could summarize where you're going? You're going to suggest that the first summer family fun festival is equally consistent with a fundraiser or is not, or not being a fundraiser or something, somewhere in between.

MR. SCHMIDT: Well, not only that, but it doesn't say this is the first in a series of annual events, which is what I

thought the witness was going to.

CHAIR: So, I'm going to overrule the objection --

MR. SCHMIDT: Yes, sir.

CHAIR: -- because you're going to be able to put on rebuttal evidence if necessary.

MR. SCHMIDT: Okay.

CHAIR: It is Dr. Clark's understanding that it is not a fundraiser.

MR. CLARK: Correct.

CHAIR: And so, if you believe that that is not the case, you will have an option of presenting evidence on that point.

MR. SCHMIDT: Okay, thank you. And I, and, and maybe to avoid repetition, I'm just going to say, if I can, and I'll just note a continuing objection. I, I still can't, and I don't want to get into argument but a property owner can use their property for, for different things. There's nothing illegal about having a party at my house.

CHAIR: I believe --

MR. SCHMIDT: It doesn't make my house a catering hall.

CHAIR: I believe that that will be a matter that will be expressed --

MR. SCHMIDT: The memorandums, yes.

CHAIR: -- in, in full detail in your closing brief.

MR. SCHMIDT: Thank you.

MR. CLARK: Can, can I --

CHAIR: No, there's no question pending.

MR. CLARK: Okay.

MR. HOLZER: All right. Moving on. In terms of other errors or misrepresentations, what is next in terms of your documentation?

MR. CLARK: Well, Mr. Ghimire was adamant in his testimony that volleyball games did not occur on the property.

MR. HOLZER: Okay.

MR. CLARK: And certainly not on a regular basis and that they were, at best, pickup games during maintenance and yet we have a, a, I believe it's twenty-four instances between April 1st and June a volleyball, and then the --

CHAIR: Is that 2018?

MR. CLARK: I'm sorry?

CHAIR: April to June 2018?

MR. CLARK: Two thousand eighteen, yes, sir.

CHAIR: Thank you.

MR. CLARK: And then, you know, of course we've got the now infamous solitude video that has already been played. And then we have some screenshots of a tournament that was held there.

MR. HOLZER: Okay. Do you have volleyball dates and could you tell us how, how you did it? After I give you the

documentation.

MR. CLARK: Thank you, thank you.

CHAIR: And this is eighty-three?

MR. MCCOMAS: Yeah.

CHAIR: Protestant's Exhibit 83.

MR. HOLZER: Now, after everybody has had an opportunity to look at this, Mr. Schmidt, can I go?

MR. SCHMIDT: I've, yes, sir, I've looked at it.

MR. HOLZER: Oh, okay.

MR. SCHMIDT: I mean, I don't even know what it is but I've looked at it.

MR. HOLZER: Well, that's what I --

CHAIR: Well, I believe Mr. Holzer is about to get there.

MR. HOLZER: Right. Could you tell us, Mr. Clark, what this, what this document is, how it was constructed and how you can verify the dates or how you came to be able to list these dates?

MR. CLARK: Okay. What you're looking at is there's a function in windows that is called snippet, where you can take a picture of your computer screen. And so this is the folder, Bonaparte file history, Bonaparte audio rec center, okay? Where I had stored all of the movies I had recorded on different dates of them playing volleyball. These are very similar to the solitude movie where you don't see them but you

hear them, all right? So, you, you've got the sound, you've got, you've got the traffic going by to verify that yes, this isn't a made up thing. And, and all that kind of stuff. And so what you're looking at are dates when volleyball games occurred.

CHAIR: Well, I'm going to jump in just to ask a question because it's going to, your answer will obviously affect what the questions coming forward from it. How were you able to determine that there were volleyball games being played on those dates?

MR. CLARK: By the sound.

CHAIR: Okay and you said by the sound, what makes it volleyball as opposed to some other activity?

MR. CLARK: Bump, bump, bump, yelling, screaming.

CHAIR: So, your perception is drawn from the bump, bump, bump and the yelling and screaming is that volleyball games were being played on these dates?

MR. CLARK: Correct. Yes, sir.

CHAIR: So, would you have video of volleyball, other than what we've seen just prior, do you have any video of the volleyball games on these dates?

MR. CLARK: Of the players, no.

CHAIR: All right.

MR. CLARK: Because, because I didn't, yeah, I didn't trespass onto their property.

CHAIR: And I asked the question because it looks like this is in an audio folder, because it's labeled audio.

MR. CLARK: Right.

CHAIR: So, these are all the, these were all the audio files?

MR. CLARK: No, they're movies so you can see that, in fact, I was, --

CHAIR: Right, to cap, you'll play the movie, you're not going to see volleyball?

MR. CLARK: No.

CHAIR: You will hear things that you say are indicia of volleyball?

MR. CLARK: That I, that, that I, that I represent as volleyball.

CHAIR: Sorry, I just want to clarify so we don't go down a road where we're going to start talking about the videos, I want to know what they, everything was ahead of time.

MR. HOLZER: Yeah.

CHAIR: And his perceptions.

MR. SCHMIDT: Based on the Chair's questions, I object.

CHAIR: We're, well, right now there's no question pending. I don't know what we're objecting to just quite yet so I'll, I'll, I'll --

MR. SCHMIDT: I object to the introduction of the

exhibit.

CHAIR: He's explaining the exhibit. I don't know what we're using it for yet. Mr. Holzer?

MR. HOLZER: Mr. Clark, would you finish your testimony in regard to what these, what this document reflects, how you developed it and how you can be sure that there was volleyball activity on the site at that time?

MR. CLARK: Pretty much what I, what I said. When, if you viewed the vid, and, and I believe most, if not all, of these are already in evidence in, on, in, in the library. But just like solitude, if you play it, to me it's self-evidence.

MR. HOLZER: No, but I think that the question was how do you know it wasn't, wasn't baseball or football but it was volleyball?

MR. CLARK: Okay. Well, --

MR. HOLZER: What makes the distinction?

MR. CLARK: All right. First, first of all, the, the, there, there, there is no baseball court up there or, or soccer field. They have testified that they can't play soccer because of, of the grade. The, the location of the volleyball court is directly across from my property. There is a berm behind the volleyball court which reflects all the sounds down onto my property. And it is that hard impact on the, hard, it is that impact on the hard surface that we, that we have seen in the videos. It is the cheering, it is there, there, there

used to be, the, it's a, it's converted from an old tennis court, hard surface tennis court. We used to hear a lawyer of some repute playing tennis up there, missing the ball quite a bit, but, but we know the difference between tennis and volleyball. What else, I, I mean, that's --

MR. HOLZER: No, that's fine.

CHAIR: If, if those are the factors that form the basis for you to conclude that this was volleyball as opposed to another activity, that's fine.

MR. CLARK: Okay.

CHAIR: That's his, that was his question.

MR. HOLZER: Yes. So, I would now, and the number, I didn't count on this whole list there. How many --

CHAIR: And some of them have duplicative dates, so it may reflect the same event or not and --

MR. SCHMIDT: And times.

MR. HOLZER: Right.

MR. SCHMIDT: Dates and times.

MR. HOLZER: So, my, my question is, based on that list, based on the other date and the other analysis, how many times on different days do you believe volleyball was played in 2018?

MR. CLARK: I think I had counted twenty, twenty-four separate dates.

MR. HOLZER: Okay, okay and are you willing to live

with that, those, that number?

MR. CLARK: Yes.

MR. HOLZER: Okay.

MR. MCCOMAS: Mr. Clark, I, I just have a clarification because I, so is, you're saying volleyball dates here, so looking at this chart here, it implies that somebody was playing volleyball from 4:15 in the morning to 6:35 in the morning. Is that, --

CHAIR: Which line are you on?

MR. MCCOMAS: Number five, on May 6th. Is that, is that what you're asking us to, in terms of volleyball days?

MR. CLARK: That's probably the camera setting for the time.

CHAIR: Would the dates, to the best of your recollection and knowledge --

MR. CLARK: Yes, the, the --

CHAIR: -- be accurate, the times --

MR. CLARK: -- the dates, the dates, the dates would be accurate.

CHAIR: And the times you feel may not be?

MR. CLARK: Correct.

CHAIR: Okay.

MR. HOLZER: Okay. I would offer Protestant's eighty-three.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Objection.

CHAIR: And the basis for your objection, please?

MR. SCHMIDT: The document is so inherently unreliable that it has no probative value. As the witness just indicated the dates, and I think as Mr. McComas indicated, the times certainly cannot be correct. I don't believe that on, I'd have to check the Almanac, but I do not believe that on May the 6th they would have been playing volleyball at 4:14 in the morning.

Additionally, these dates are dates of the camera setting and, and not necessarily the date or time of the event, or at least it hasn't been established with that.

And perhaps, also, I would indicate that the witness has indicated that he and, and this exhibit does not disclose any visual evidence of volleyball, just what his perception is and, and I guess I would say with the same objection, which I know we'll deal with in closing argument before the record. I'm still struggling with the fact that somehow people playing volleyball on their property is somehow illegal, immoral or unethical.

CHAIR: You know the argument to that, I'll say it'll be admitted, understanding, of course, the, what, you know, the testimony from Dr. Clark. As to whether or not it's volleyball, as to whether or not what times it occurred and all that stuff, I imagine you'll explore on cross examination, so.

MR. SCHMIDT: There's no way I can explore it. I, yes, sir. Yes, sir, I understand the Chair's ruling.

CHAIR: Right.

MR. HOLZER: Okay.

MR. SCHMIDT: And Mr. McComas, what's this number, I apologize?

CHAIR: This is eighty-three.

MR. MCCOMAS: (inaudible).

MR. SCHMIDT: Eighty-three? Thank you, sir.

CHAIR: It'll be admitted.

MR. HOLZER: Thank you. Now, there, there is another volleyball point which relates to the Belmont Volleyball Group. Could you explain what that is, when that occurred?

MR. CLARK: Yes. That was, that was November 4.

MR. SCHMIDT: Of what year?

MR. CLARK: Of 2018.

CHAIR: That's (inaudible) Protestant's eighty-one?

MR. CLARK: Right.

MR. HOLZER: Yes, yes.

MR. CLARK: And that --

MR. HOLZER: Do, do you want, we don't need to show that (inaudible) --

MR. CLARK: No, we don't, no, no, it's just that it rebuts testimony that there, there are no uses, you know, there's not, there's no regular volleyball up there permitted.

CHAIR: And Mr., Mr. Schmidt objected to that previously and we'll incorporate the same objection to the testimony as it relates to Protestant's Exhibit 81 just now.

MR. SCHMIDT: Thank you.

MR. CLARK: Okay. There is another point of rebuttal.

MS. DOPKIN: Mr. Holzer, would you ask a question? Your witness is sort of rambling. If you would ask him about Belmont Volleyball?

MR. HOLZER: I was letting the question, the objection be finished before I asked the next question.

MS. DOPKIN: Thank you. Thank you.

CHAIR: I think what Ms. Dopkin is suggesting is there was no question pending at that moment.

MR. HOLZER: I understand. I've tried to slap him on the wrist, but he doesn't realize the proper protocol, but he's learning.

MS. DOPKIN: Thank you, I appreciate that.

MR. HOLZER: He's learning. Or trying to learn, let me put it that way. All right, where was I? Let me just address, have you address this last point. As I understand it, the reason why you and the last exhibit had to interpret what was going on was because you didn't trespass on their property, is that correct?

MR. CLARK: Correct.

MR. HOLZER: Okay. Has that been an issue by the Petitioners that they told you not to get on their property?

MR. SCHMIDT: Objection. I just don't know what the relevance of that could be.

MR. HOLZER: Well, it's because it goes to the argument that you had about the exhibit.

CHAIR: I will, I will put it like this. It was certainly understood why he would not be on the property.

MR. HOLZER: Right, okay.

CHAIR: In other words, any testimony about that point, is not going to shed any new light on anything else.

MR. HOLZER: Right, I understand.

CHAIR: And it is understood why he has the audio, for example, of the volleyball games and not a video of people playing volleyball. I call it volleyball games because that's how it's been labeled and identified.

MR. HOLZER: Sure. So, the, basically the only way that the community and you, as an individual, have to determine what's going on on the property is through presentations or videos initiated by the Petitioner themselves, is that correct?

MR. SCHMIDT: Objection. Isn't that the same question that you just sustained the objection?

CHAIR: No, he's, he's asking him for a framework as to why he's come to some of the conclusions he has, drawing largely upon videos that have been posted for some of these

conclusions, is that, that's my understanding.

MR. SCHMIDT: Okay, thank you.

CHAIR: So, overruled. You may answer the question.

MR. HOLZER: Can you answer it, Mr. Clark?

MR. CLARK: Can you ask it again?

MR. HOLZER: Yes. Did you, since you have never trespassed on the property, is your only way of knowing what's going on is to view the videos posted by the Petitioners themselves?

MR. CLARK: There are other ways.

MR. HOLZER: What other ways?

MR. CLARK: Social media postings.

MR. HOLZER: Oh, I'm sorry. Yeah, I, I lumped all that together.

MR. CLARK: Both on Nextdoor and on Facebook pages and it's, it's very difficult because, and, and I understand why, but a lot of the communication is in Nepali and there's not a good translation program for it. And, and in the, you know, as Mr., as Petitioner has pointed out, much of the audio of, of the videos are not useful because we don't know what they are saying, even though they are present in this room.

MR. HOLZER: Right, right. I just wanted to set the, the, the reason why a lot of these documents are not personal photos that you've taken on their property but are off of --

CHAIR: If it helps matters, at, at least from my

perspective, it's well understood why they were not on the property.

MR. HOLZER: Okay.

CHAIR: And Dr. Clark has tried to do what he can with any other source --

MR. HOLZER: Okay.

CHAIR: -- with respect to the events and activities that are going on at the property.

MR. HOLZER: Thank you. Yeah, I, that's, that's all, because Mr. Schmidt keeps objecting to certain things and --

CHAIR: Hold, hold on, let's not comment on Mr. Schmidt's objections.

MR. SCHMIDT: Thank you.

MR. HOLZER: Now, could you, am I okay to ask?

CHAIR: As long as Mr. Schmidt has had the opportunity to review.

MR. SCHMIDT: Yes, I've reviewed the photographs, thank you.

CHAIR: Thank you.

MR. MCCOMAS: And it's 84-A through D.

CHAIR: Thank you.

MR. HOLZER: Thank you. Now, could you tell us how you obtained these photographs and can you tell me what relationship does this have with the Belmont Volley Group, Volleyball Group?

MR. CLARK: Actually, this does not have to do with the Belmont Volleyball Group.

MR. HOLZER: Oh, okay, I'm sorry.

CHAIR: Why don't you identify for the record --

MR. HOLZER: Identify.

CHAIR: -- what 84-A through D is?

MR. CLARK: It is a, from a video that I believe we have introduced. And it is from July 23rd and --

CHAIR: Of what year?

MR. SCHMIDT: Of what year?

MR. CLARK: Of 2018, thank you. And it is showing an organized volleyball game on the property. And --

MR. HOLZER: How do you know it's organized?

MR. CLARK: When you go to the second page, you start to see a ceremony where people are being awarded medals and then at the very end, it looks like there is a trophy.

MR. HOLZER: Okay.

MR. CLARK: And its purpose, again, is to rebut testimony by Mr. Ghimire that there were no tournaments on the property.

MR. HOLZER: Okay. When, in Mr. Ghimire's testimony, did he indicate to the Board that there were, that they did not have tournaments at, on the site?

MR. CLARK: I believe so.

MR. HOLZER: Okay.

MR. SCHMIDT: Mr. Holzer, are you moving 84-A through D --

CHAIR: Sorry, thank you. Thank you, Mr. Schmidt.

MR. SCHMIDT: -- into evidence?

MR. HOLZER: I'm going to move it when I'm ready to move it.

MR. SCHMIDT: I'm sorry.

CHAIR: Well, let's just keep it for housekeeping purposes, is there a reason why you were holding off?

MR. HOLZER: Yeah, because this is relative to it.

CHAIR: Okay, sorry.

MR. HOLZER: Yeah.

CHAIR: Thank you.

MR. MCCOMAS: Eighty-five, one, two, three, four.

MR. HOLZER: Could you, after Mr. Schmidt's had a chance to look at it, this is eighty-four, is it?

CHAIR: Five.

MR. HOLZER: Oh, eighty-five.

MR. CLARK: Oh, --

CHAIR: Hold on. No question yet, no answer yet.

MR. MCCOMAS: We'll call it eight, 85-A through C.

CHAIR: Thank you.

MR. HOLZER: May I start?

CHAIR: Mr. Schmidt, you ready?

MR. SCHMIDT: Yes, sir.

MR. HOLZER: All right. Can you identify this document and, and where you got it?

MR. CLARK: Yeah, again, this is from a Facebook post. You can see the url at top. And it belonged to someone named Hameed Nepali. And you can see again, the advertisement for first summer family fun day, you can see volleyball tournament clearly advertised, and then you can see Belmont Team A, Belmont Team B, Columbia Team A, Columbia Team B.

CHAIR: If I can jump in? We've already seen this exhibit before.

MR. HOLZER: I don't recall --

MR. CLARK: I don't think so.

CHAIR: I recall seeing those names for the teams.

MR. HOLZER: It was only page one.

CHAIR: Only page one, sorry.

MR. HOLZER: Yes, okay.

CHAIR: We already reviewed page one and that I recall seeing page one previously.

MR. HOLZER: Okay.

CHAIR: I believe it's already in evidence.

MR. HOLZER: I, I am not sure, but --

CHAIR: But, Mr. Schmidt, do you have a recollection?

MR. SCHMIDT: Yes, sir. I believe we've seen it.

MR. CLARK: Okay.

CHAIR: Is it, do you recall if it's in evidence?

MR. SCHMIDT: I would have to look at my exhibit list, I'm sorry.

CHAIR: That's quite all right. It's fine. Please continue.

MR. HOLZER: Yes, thank you. And on page one, even if that page had been submitted, --

MR. SCHMIDT: Excuse me.

CHAIR: Bless you. Bless you.

MR. HOLZER: -- Mr. Clark, it does appear that it was July 29, 30 of 2017, is that right?

MR. CLARK: Yes, and --

MR. HOLZER: So it was a year before 2018, right?

MR. CLARK: Right.

MR. HOLZER: Okay and it does say volleyball tournament and at the bottom it appears to show --

CHAIR: Bless you.

MR. SCHMIDT: I'm sorry.

MR. HOLZER: -- it appears to show at least nine different teams.

MR. CLARK: And it lists the address of the property and it says it's at the Hindu Buddha, Buddha Mandeer.

MR. HOLZER: Okay. Now, page two has a discussion and some photos. But page,--

MR. CLARK: Okay.

MR. HOLZER: And if you look at paragraph two.

MR. CLARK: Right.

CHAIR: On page two?

MR. HOLZER: On page two.

MR. CLARK: This is a page from Kris Ghimire's timeline.

MR. HOLZER: And it appears to, in the second paragraph, describe how many attendees from across state line came to be part of this festival over two days. We had volleyball teams from New York, Pennsylvania, Columbia, Baltimore, New Jersey, Virginia. And then on page three, you can see a board which sort of lists the process of elimination of the teams from the various teams --

MR. CLARK: Right.

MR. HOLZER: -- that were listed.

MR. CLARK: Right.

MR. HOLZER: All right and what, what is the, what is your concern or why is this document being introduced?

MR. CLARK: Well, there, it, it rebuts two points in testimony. One is, again, there, there are not, there, there are no and have been no volleyball tournaments, okay? The second is, well, there's actually three points. But, but the second point is it rebuts the, the notion that this property is to just serve local needs. The third is it rebuts testimony that, that there have only been two or three hundred people in attendance on the property at any given time. And as you can

see, this is Mr. Ghimire's own Facebook page.

MR. HOLZER: I would now offer the last two exhibits, because I do think they relate to each other.

CHAIR: They're tied together. Mr. Schmidt?

MR. SCHMIDT: Objection.

CHAIR: And basis?

MR. SCHMIDT: Same as I've voice previously.

CHAIR: Okay.

MR. SCHMIDT: Authentication, relevance, etcetera.

CHAIR: Overruled. It will be received.

MR. HOLZER: Thank you. Now, if I, if I may, hopefully we're finished with volleyball and we can go onto community events that have been held there. And again, this is just not to show that an event was held, it is, is it to rebut prior testimony of someone for the Petitioner?

MR. CLARK: Yes.

MR. HOLZER: And explain.

MR. CLARK: They have testified that they have only been there for maintenance and construction purposes and that they have not used the property for anything else other than what was billed as a fundraiser from July 29 to August 3rd, 2018. There are a list of events that we have that are documented by video and I believe most of them are in the record. The, go back and, and, and I, I understand, I do understand the problems with, with whatever exhibit this was.

The exhibit of my --

MR. SCHMIDT: It's been admitted though.

MR. CLARK: Yeah, yeah.

CHAIR: Yes.

MR. CLARK: Yeah, but what I, I do understand the problems with that. But, --

CHAIR: I want to say eighty-three, (inaudible).

MR. MCCOMAS: Yeah, that's (inaudible).

CHAIR: Eighty-three.

MR. CLARK: In, in, we, in, in 2017, or actually I was referring to something else. All right. The, the, the --

CHAIR: Well, hold on. Let's do this. Mr. Holzer's question was --

MR. CLARK: Yeah, thank you.

CHAIR: -- what are you, what are you trying to rebut, or impeach --

MR. CLARK: Right, right.

MR. HOLZER: Yeah.

CHAIR: -- right now with respect to the community events that have been held there?

MR. CLARK: Yeah.

CHAIR: You identified certain testimony that you believe --

MR. CLARK: Okay.

CHAIR: -- illustrates some limitations as to how the

property has been used.

MR. CLARK: Okay.

CHAIR: That's where we were --

MR. HOLZER: Yes.

CHAIR: -- before we got sidetracked with some of the other points.

MR. HOLZER: Yes.

MR. CLARK: Thank you.

MR. HOLZER: Do you understand the question?

MR. CLARK: Yeah, I do, I got, I got sidetracked.

CHAIR: Yeah, so now let's go back to the, to Mr. Holzer's question.

MR. CLARK: Okay.

MR. HOLZER: Do you know who testified, can you name the, the, name of the Petitioner's side that testified?

MR. CLARK: Yes, I, I believe Mr. Ghimire testified that there was no other use for the property than maintenance and sprucing things up.

MR. HOLZER: And when you say property, do you mean thirty acres or do you mean the building or do you know what he meant?

MR. CLARK: I would assume it was everything.

MR. HOLZER: Okay. So, what do we have, what do you have to show that that is mistaken?

MR. CLARK: Okay. We dealt with this earlier as not

appropriate for here, other than proffering. But on December 2017, I sent Mr. VanDomelin a series of pictures showing the Protestants exiting the, the property en masse at night and that's where that left hand turn nighttime shot came from. They had the open house in February. There was an event on April 30th that we, there was an event on June 10th, there was an event on June 19th, there was a Jul, event on July 4, there was an event on July 11th. I'm slowing down, I'm sorry. I realize I'm going very fast.

CHAIR: I have June 10, 19, July 4 and 11.

MR. CLARK: Right. There was an event on July 25, there was the event on October 6 and there was the event on November 4. And then they had scheduled an event for 4/19, 4/22/2018.

CHAIR: Hold on, 4/19 to 22.

MR. CLARK: Twenty eighteen.

CHAIR: Twenty eighteen.

MR. CLARK: That they canceled and we have a screenshot of that.

CHAIR: All right. So, the questions that were asked about the volleyball, that is, how you perceived it to be volleyball, I'm going to ask about the dates that you just identified because you referred to them as events.

MR. CLARK: Right.

CHAIR: Number one, what do you mean by event?

MR. CLARK: Where there were more than fifty people.

CHAIR: Okay and two, how did you perceive that there were more than fifty people at these, on these dates?

MR. CLARK: From videos.

CHAIR: Okay.

MR. CLARK: That they provided.

MR. HOLZER: Have they, have we seen those videos?

MR. CLARK: That I'm not sure of.

MR. HOLZER: Well, we don't want to repeat something if we've already --

MR. CLARK: Right, I, I get that, but we --

MR. HOLZER: Would these dates that you've just given the Board, would they be reflected on the video list or screen shots that you have of each one of them?

MR. CLARK: Yeah, and they would also be reflected on, on the annotated sheet for the video control sheet.

MR. HOLZER: Okay.

CHAIR: Protestant's Exhibit 51.

MR. HOLZER: Yes. Now, on Protestant's fifty-one --

CHAIR: Hold on. If we're going to, are we going to go through fifty-one in any detail right now?

MR. HOLZER: I hope not.

CHAIR: No, what I mean is, to follow along for all of us, should we have it in front of us?

MR. HOLZER: Well, let me, let me ask the witness.

I'll try to keep this simple.

CHAIR: Because I want to make sure that --

MR. HOLZER: Yeah.

CHAIR: -- we have the testimony clear.

MR. HOLZER: So, Mr. Clark, if all of these dates you gave the Board relate to a video of some shape or form, so are those videos in the videos that have been admitted into evidence? Do you know?

MR. CLARK: Yes.

MR. HOLZER: Okay.

MR. CLARK: They will be in the library.

MR. HOLZER: Okay.

CHAIR: When you say library, you're referring to fifty-one?

MR. CLARK: No, I'm referring to that --

CHAIR: Or you're referring to the earlier hearing that we had on November 29th.

MR. HOLZER: Yes.

CHAIR: Okay.

MR. HOLZER: The library is defined as the multiple, the video --

CHAIR: Four discs, whatever.

MR. HOLZER: -- which were submitted.

MR. CLARK: Well, and, and, and, and, and the appendices to it from the, where (inaudible) video.

MR. HOLZER: Okay.

CHAIR: Mr. Schmidt, are you following along with that?

MR. SCHMIDT: Yes, sir, I'm here.

CHAIR: I just want to make sure you're, you understood because I see you searching through your file looking for something. Are you following along?

MR. SCHMIDT: Yes, sir.

CHAIR: All right. Sorry, Mr. Holzer.

MR. HOLZER: Okay. Then, so, so these dates you've testified to, these dates are all in the library previously submitted and admitted in an earlier day, okay? Is there any, what's the matter?

MR. CLARK: Charlie horse, go ahead.

CHAIR: Okay. Do you want to take a five minute break?

MR. HOLZER: Yeah.

MR. CLARK: Actually, for other reasons, that's probably good.

CHAIR: Okay. Why don't we take a ten minute break.

MR. HOLZER: Ten minute break, okay. Thank you.

CHAIR: All right. So, we'll be back here at --

(RECORDING PAUSED – 10:47:39 AM)

(ON RECORD – 11:00:31 AM)

MS. DOPKIN: Ready?

CHAIR: Please be seated. Thank you. I see Mr. Ghimire, I saw you come in earlier. There was a notice amending the time --

MR. SCHMIDT: He's received it.

CHAIR: Right. Thank you, Mr. Schmidt.

MR. HOLZER: How's your leg?

MR. CLARK: Walked it off, thank you.

MR. HOLZER: (inaudible).

MR. CLARK: Thank, thank you to the Board.

CHAIR: No problem.

MR. HOLZER: In regard to these multiple dates that, that you just gave the Board, instead of looking at any videos from them, we do have some screen pictures, is that correct?

MR. CLARK: I believe so, yes.

MR. HOLZER: Okay. At this point, would you like me to present what we have to the Board?

CHAIR: Mr. Schmidt, do you want to say something?

MR. SCHMIDT: I just don't know that that's a proper question of a witness.

CHAIR: Okay.

MR. HOLZER: Well, I'm trying to make this a lot faster --

CHAIR: Mr. Holzer?

MR. HOLZER: Yes?

CHAIR: I understood what you were doing.

MR. HOLZER: Yeah.

CHAIR: We don't need comment, I understand exactly what you're doing.

MR. HOLZER: Okay.

CHAIR: So, the question is, why don't you just show him the photo and then we can just move on.

MR. HOLZER: Okay.

CHAIR: And then, --

MR. MCCOMAS: Mr. Clark, (inaudible) is how would you categorize those events?

MR. CLARK: Events. You know, --

MR. MCCOMAS: Do, or, is what the volleyball testimony, is that one of the events here?

MR. CLARK: No, that's not one of the events in here, other than the Belmont Volleyball Group on November 4. But the open house was an open house. They advertised it as an open house. And then the June 19th, July 4th, they, they advertised those as get togethers and events. July 11th, and we, we can document all that in the memorandum of law. I don't know that we need to --

CHAIR: No, I, I believe we have testimony about --

MR. CLARK: Yeah, yeah.

CHAIR: -- (inaudible) --

MR. CLARK: Yeah, yeah.

CHAIR: And if there's, and I'm sure you'll have

cross examination and then there will be some argument, I anticipate, about some of it.

MR. CLARK: (inaudible).

CHAIR: So, all right.

MR. MCCOMAS: Eighty-six A through D.

MR. HOLZER: Can you relate Protestant's Exhibit 86--

CHAIR: Hold on, one second. Mr. Schmidt, we can hear you up here.

MR. SCHMIDT: Oh, I'm sorry.

CHAIR: And I understand you're trying to under, trying to make sense of 86-A through D. But we can hear you up here and it's --

MR. SCHMIDT: I, I apologize.

CHAIR: -- interfering with the questioning.

MR. HOLZER: All right. May I proceed?

CHAIR: Yes.

MR. HOLZER: Okay. On this, Protestant's Exhibit 86, which has just been marked by Mr. McComas, what date does this refer to you in your list of dates that you --

MR. CLARK: July, July 4.

MR. HOLZER: July 4th.

MR. CLARK: Twenty eighteen.

MR. HOLZER: And to your knowledge, what does this depict? I mean, we can obviously see four or five pages, but just tell us what you believe it reflects?

CHAIR: For purposes of the record, I, what I have is A through D, so four.

MR. HOLZER: A through D, okay.

CHAIR: Just to make sure there's not an E, because you mentioned four to five pages.

MR. HOLZER: I'm sorry, A, A through D.

CHAIR: Thank you.

MR. HOLZER: Thanks.

MR. CLARK: Depicts a Fourth of July celebration by a group of people.

MR. HOLZER: Well, and what is that building in the background?

MR. CLARK: That's the, the mansion.

MR. HOLZER: Okay.

CHAIR: And that's on B.

MR. HOLZER: Is there, is there anything else in regard to the lighting, for instance? Was, was that one of your con, association's conditions?

MR. CLARK: Well, yeah. The, I mean, the, the, the, the use, the use of, of outdoor lighting.

MR. HOLZER: Okay. Can I move on? And, and --

CHAIR: Hold on.

MR. HOLZER: -- do you have anything else to say?

MR. CLARK: Yeah, I, I, I, again, it goes to the testimony that the property is not being used for anything else

other than.

CHAIR: Okay. You indicated that this is going to speak to the lighting condition that you discussed?

MR. CLARK: Well, we can strike that.

CHAIR: All right.

MR. CLARK: We, but we can strike it.

CHAIR: Okay. Mr. Schmidt, any objection to 86-A through D?

MR. SCHMIDT: Yes, sir. For all the grounds that I've been asserting, not to be repetitious and these exhibits, I, I just don't know how one would say that these exhibits reflect the use of the property with, with a group of people.

CHAIR: If, if I can?

MR. SCHMIDT: Eighty-six, if I can just be heard, Mr. Garber.

CHAIR: If your objection is relevance, I'm asking you for --

MR. SCHMIDT: No, now I'm --

CHAIR: -- what the ground for your, your objection is.

MR. SCHMIDT: Well, one of the grounds of my objection is relevance, yes. And whether any of it is relevant. But the, the purpose of the exhibit, as it has been explained to, by the witness, is to show a gathering of people on the property. It --

CHAIR: Please don't gesture, Dr. Clark.

MR. CLARK: Oh, sorry, sorry, sorry, sorry.

CHAIR: Please.

MR. SCHMIDT: That's what I understand the purpose of the exhibit is. And so, and I'll try to articulate this, Mr. Garber, as best as I can --

CHAIR: I understand you disagree with, as to the characterization by this witness.

MR. SCHMIDT: Yes, but how, I just, I don't mean to ask the rhetorical question but how does a picture of a single person with a dark background, how, how does one get from that picture, that this is evidence of a gathering on the property? So, it's, it's beyond relevance. It's, it's a picture of Dr. Clarke. This could have been taken at his house, this could have been taken anywhere.

CHAIR: Okay. If I could --

MR. SCHMIDT: And it's, so it's beyond relevance.

CHAIR: -- if I could answer your question, if I could answer your question as to that. I don't know what relevance 86-A has. B, C and D have been, I believe, Dr. Clark has testified as to what he believes the relevance to be. If there is a, a, an argument as to his perception or his conclusions drawn, those are matters for cross examination and argument. So, other than relevance, what I'm hearing, the other matters that you raised can be addressed elsewhere. On

the grounds of relevance, I understand the relevance as being proffered by Dr. Clark, therefore, they'll be admitted.

MR. HOLZER: Okay.

CHAIR: And the objection overruled.

MR. SCHMIDT: Thank you for allowing me to address the Board.

MR. HOLZER: Thank you.

CHAIR: Sure. This is eighty-seven?

MR. MCCOMAS: Yes.

CHAIR: We have eighty-seven and there are three pages.

MR. HOLZER: Yes.

MR. MCCOMAS: (inaudible).

CHAIR: Thank you. Mr. Schmidt, you ready to proceed?

MR. SCHMIDT: Yes, sir. I've reviewed the documents.

MR. HOLZER: Thank you. Mr. Clark, could you tell us what Protestant's Exhibit 87 relates to in terms of the community events that you have given the prior list?

MR. CLARK: It is an open house. The video itself has been removed, but you can see the url in the scroll bar and on the last page, you can see the same url with sorry, this content isn't available.

CHAIR: Do you have the date?

MR. CLARK: The date of --

CHAIR: Dates, sorry.

MR. HOLZER: Date, yes.

MR. CLARK: The, the date of, of the picture?

MR. HOLZER: Yes.

MR. CLARK: Yeah, no, I tried to authenticate it, I tried to go back and that's when I ran into this content isn't available.

CHAIR: We'll note it just says last Sunday where you expect to find a date.

MR. CLARK: Right, right, right.

MR. HOLZER: Okay and so, so you cannot, other than open house ceremony, you cannot give it one of the dates that you list to the Board earlier?

MR. CLARK: No, no.

MR. HOLZER: All right. What does it depict in terms of your, your impeachment of any prior testimony?

MR. CLARK: Again, it is, I don't see any maintenance going on, I don't see any work being done on the, on the building. So, the testimony that the only thing being done on the property is, is work, I would question that.

MR. HOLZER: All right.

CHAIR: And I'm sorry if I didn't catch this, but the third page reflects what you would see now if you entered in the same url as --

MR. CLARK: Yes.

CHAIR: -- pages A and B?

MR. CLARK: Yeah, yeah.

CHAIR: All right. Mr. Holzer, any other questions?

MR. HOLZER: In terms of the lighting on, I assume that's the building on the subject site, is that correct?

MR. CLARK: Yes.

MR. HOLZER: The (inaudible) house?

MR. CLARK: Yes.

MR. HOLZER: Yeah, okay. And the lighting, and for purposes of this particular picture, seems to show a number of people standing on the front lawn.

MR. CLARK: Yes.

MR. HOLZER: Okay. I would move that, eighty-seven.

CHAIR: Eighty-seven A through C, Mr. Schmidt?

MR. SCHMIDT: Objection.

CHAIR: Same grounds as previous?

MR. SCHMIDT: Well, not only that and I, I apologize, Mr. Garber.

CHAIR: That's okay.

MR. SCHMIDT: I'm, I'm just trying to preserve the record in this case.

CHAIR: It's understandable, no need to apologize.

MR. SCHMIDT: And since the witness has admitted, or acknowledged, that there is no date of this photograph, this photograph arguable could have been taken prior to my client's

ownership of the property. I mean, quite frankly, we don't know when it was taken.

CHAIR: I, I, sorry --

MR. SCHMIDT: And so, I'm not quite sure, since the purpose of the photograph is to impeach, as I understand it, testimony that members of, of the Nepali organization, Nepali Community Center of Baltimore, have illegally or unethically or improperly, or whatever the characterization is, used the property and we don't know when this photograph was taken, how do we know that these people are associated with, with my client and how do we know that they used the property at a time after they acquired it? There's no foundation for the document. Thank you.

CHAIR: Mr. Holzer, that's fine. It'll be received and admitted into evidence.

MR. HOLZER: Thank you.

CHAIR: Understanding that you will be able to cross examine and understanding, of course, the, whatever frailties that you point out would, of course, go to the weight or the significance of the particular exhibit.

MR. SCHMIDT: Thank you.

MR. HOLZER: Thank you.

CHAIR: Eighty-eight, right?

MR. MCCOMAS: Yeah, eighty-eight (inaudible).

CHAIR: Okay. We've been handed Protestant's Exhibit

88, two pages.

MR. HOLZER: Thank you.

CHAIR: Mr. Schmidt has it, copies I see.

MR. HOLZER: The witness has a copy.

CHAIR: Please identify Protestant's Exhibit 88.

MR. CLARK: Okay. Is a screenshot from the video of July 11th. And it shows the, it, it shows, I believe it was a promo, this, I believe this is from the promo of July 11th and it shows how many people, it, it shows the property being used for things other than maintenance or caretaking, which again, rebuts testimony.

MR. HOLZER: It'll, does it show the, on the first page, the purpose of that picture, is it for parking, parking on the grass, etcetera?

MR. CLARK: Yes.

MR. HOLZER: All right. Second picture is an effort, I guess, and again, I am assuming the building in sight is the building that's the original home and it shows the number of people on the lawn, is that correct?

MR. CLARK: Yes, and it shows the building in its current colors.

MR. HOLZER: What are the current colors?

MR. CLARK: A, a yellow with, with orange detailing.

MR. HOLZER: Was that the original color of the --

MR. CLARK: No, no, and a, and it shows the windows

not boarded up, all right?

MR. HOLZER: Okay.

MR. CLARK: It shows the building rehabilitated.

MR. HOLZER: So, would that show on the previous Exhibit 87, because the color of the building in that picture is the same, it would have had to have been under the Petitioner's --

MR. CLARK: I, I believe, I believe a reasonable person could date that picture from --

MR. HOLZER: Okay. Any other questions that, any other comments you would have on Protestant's eighty-eight? I think you've articulated --

MR. CLARK: Yeah, yeah.

MR. HOLZER: Okay. I would offer them.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Same objection. And I just don't, Mr. Garber, maybe to save the Board time as we go through all these various exhibits, I'll just note a continuing objection and that way you don't, I don't need to bore the Board with my ramblings.

CHAIR: Not bored. I would just say, I would prefer if you just incorporate the prior objections for exhibit --

MR. SCHMIDT: Then I will do that.

CHAIR: -- because I don't know what's coming next and I don't know if there will be differences. So there may be

something that you're going to want to do differently, so I would prefer if we just, you can say I incorporate my prior objections and we can move on.

MR. SCHMIDT: Yes, sir.

MR. HOLZER: I think that's fair.

CHAIR: Right.

MR. HOLZER: I accept any objection he has.

CHAIR: So, this will be admitted, that is eighty-eight.

MR. HOLZER: All right. I understand the tedious nature of what's, this has been going on.

CHAIR: It's quite all right.

MR. HOLZER: I think I may have given the Board.

CHAIR: Here is an extra copy of eighty-eight. I had two (inaudible) and there's already enough for the Board. So, this is eighty-nine, and I'll give you back the two extra copies.

MR. HOLZER: And --

CHAIR: Wait one second. Mr. Schmidt is trying --

MR. HOLZER: -- oh, I'm sorry.

CHAIR: -- to make heads or tails of it. Thank you. You ready?

MR. SCHMIDT: Yes, yes, sir, I'm sorry.

CHAIR: No, it's quite, nothing to apologize for. Mr. Holzer?

MR. HOLZER: Are, can you identify this, this picture?

MR. CLARK: Yes, this is from a promotional film ad, advertising an April 19 to 22, 2018 event. Again, this is the, the video itself is in evidence.

MR. HOLZER: And is this the one that you'd previous, previously said you believe was canceled?

MR. CLARK: Yes.

CHAIR: Just to clarify to, the testimony was it was in 2018, April 19th through 22nd.

MR. HOLZER: That's correct.

CHAIR: It is not reflected upon Protestant's Exhibit 89 what year.

MR. CLARK: I'm sorry.

MR. HOLZER: Twenty eighteen.

MR. CLARK: Twenty-eighteen.

CHAIR: Yes. It ties back to that testimony?

MR. HOLZER: Yes.

MR. CLARK: Yes.

CHAIR: Thank you.

MR. HOLZER: Um hm.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Same objection, doesn't show the year and just, quote honestly, I don't know what, I don't know what it shows but don't know that it has any probative value. But,

objection.

CHAIR: I, understood. It will be admitted and again, the weight of it will be given its due amount.

MR. HOLZER: I think this is the last one for this pile.

CHAIR: Mr. Holzer, do you want an extra copy back or no?

MR. HOLZER: Sure.

CHAIR: Sorry, I was trying to catch you before you sat down.

MR. HOLZER: That's okay. Thank you.

CHAIR: Sure thing.

MR. HOLZER: This is ninety?

CHAIR: Yes. And so, Mr., Dr. Clark, please identify what exhibit, Protestant's Exhibit 90 is?

MR. CLARK: Protestant's Exhibit 90 shows, is a screenshot from, is a photo taken from Dr. Clarke's Facebook page, which has since been removed. It shows the kitchen of, of, of the building. Those urns you see, you can see being used in a video that's in evidence and it goes back to the testimony by Mr. Ghimire that, it goes back to that whole thing about the, the, the, the temple gate being open and closed and all --

MR. HOLZER: What about the use of the kitchen?

MR. CLARK: Well, and that there was no use of the

kitchen.

MR. HOLZER: And you say this, this has been removed from online?

MR. CLARK: Yes, yes, yes. The last time I checked, it was missing.

MR. HOLZER: Okay.

MR. CLARK: As a matter of fact, almost everything from 2018 was removed.

MR. HOLZER: Do you, do you remember the date of this, because you have on, in your original testimony to the Board, July 28 through August the 3rd.

MR. CLARK: Right.

MR. HOLZER: Is this during that time frame?

MR. CLARK: It is. It was, and, and as I said, you can see these, these urns being used in an opening day ceremony.

MR. HOLZER: Okay. I would move that document too.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Objection. To, to, maybe just for clarification, Mr. Clark, when you say being used?

CHAIR: I think it's a fair question, just to figure out what he means by the word used. Do you want him to do that now?

MR. SCHMIDT: What, what do you mean, what, what do you mean being, being used?

MR. CLARK: Well, first of all, they had testified the building would not be opened during the event, that the building would not be used.

MR. SCHMIDT: I'm, I'm sorry, sir. But I'm just trying to ask you one direct question and if, when you said the urn --

CHAIR: Well, this is not cross examination. He just wants to get to the point of --

MR. SCHMIDT: Objection. I don't have anything further.

CHAIR: -- hold on, what do you mean by the word used?

MR. CLARK: It's pretty self-evident. There are people in the kitchen.

CHAIR: So, any use at all?

MR. CLARK: Yeah.

CHAIR: All right.

MR. HOLZER: I have no further questions on that point.

CHAIR: Thank you.

MR. HOLZER: Now, we, we want to go to potential future uses because I, I gather that because the community association, in its testimony in terms of possible conditions that they would agree to or suggest that the Board incorporate in any decision, you, there is some testimony by you as an

individual as to future uses. Can we, can we address those?

MR. CLARK: Yeah.

MR. HOLZER: Go ahead, please.

MR. CLARK: Well, --

CHAIR: I'm sorry, to, to clarify, as an individual or for the association?

MR. HOLZER: Yes.

MR. CLARK: Yes, yes, sir, as an individual.

MR. HOLZER: As individual.

CHAIR: Okay.

MR. HOLZER: But it'll, as, as you know, it'll relate to the association as well.

CHAIR: Well, that's why I want to clarify, that I understand what the testimony that's --

MR. CLARK: Well, yeah.

CHAIR: -- what, hold on. The testimony to come on whose behalf it's being offered.

MR. HOLZER: Yes. Whose behalf is it being offered? Mr. Clark?

MR. CLARK: No, no, it's being offered on mine. I, I'm just processing Mr. Garber's --

CHAIR: Mine, individually?

MR. CLARK: Yeah, mine, mine individually, but I'm just processing Mr. Garber's, I, I, I understand what your concern is. I think a lot of it has already been covered in,

in, in the testimony that I offered for --

CHAIR: The association?

MR. CLARK: -- the association. And I promised I wouldn't go back and deal with it again.

CHAIR: So, there was testimony regarding conditions and other such concerns for future use.

MR. HOLZER: Yes.

CHAIR: During the course of your testimony for the association.

MR. HOLZER: Let, let me try to articulate them and he can either, and you can either say --

CHAIR: That's all right, that's fine. I prefer that you --

MR. HOLZER: -- we don't have to get into it --

CHAIR: -- I prefer that you do it. I'm just trying to figure out what he's saying.

MR. HOLZER: Yeah.

MR. CLARK: Yeah.

MR. HOLZER: Okay. Mr. Clark, is there any reason to go over the number of, of events and the number of people?

MR. CLARK: No, we already covered that.

MR. HOLZER: Is there any reason to go over the yoga classes?

MR. CLARK: That, I believe, is in Protestant's Exhibit 25.

MR. HOLZER: Already an exhibit?

MR. CLARK: Yep.

MR. HOLZER: Okay. So, there's no reason to go over that?

MR. CLARK: Right.

MR. HOLZER: Is there any reason to go over language classes?

MR. CLARK: That, I believe, in Protestant's Exhibit 25.

MR. HOLZER: Okay. What about the hall for rentals?

MR. CLARK: That refers to the barn. I believe that's in Exhibit 44. I don't know if we have the actual Facebook posts where Dr. Clarke talks about that in the barn.

MR. HOLZER: All right. But what is, what is your personal, individual desire in regard to --

MR. CLARK: Well, the barn is not too far from me. And Dr. Clarke has stated he would like to see it turned into a venue for a thousand people.

CHAIR: I remember this testimony, I remember the Facebook posts, I remember Mr. Schmidt's objections to that, that testimony, whatever that may be, is what you're incorporating right now?

MR. CLARK: Yeah, yeah.

MR. HOLZER: And I'm looking at Protestant's Exhibit 44 and that's what it was, the barn use issue. So, there's no

reason to go back into that.

CHAIR: Very well.

MR. HOLZER: Kitchen, the soup kitchen and visitors. We've already seen some of your photos.

MR. CLARK: Well, and, and that was, that, that was dealt with in our asks.

CHAIR: In your --

MR. CLARK: For the Board asks.

MR. HOLZER: Requests?

MR. CLARK: Right.

MR. HOLZER: Possible conditions, is that right?

MR. CLARK: Yes, yes.

MR. HOLZER: You have to use a proper word.

CHAIR: Thank you, Mr. Holzer.

MR. HOLZER: And it was in Protestant's Exhibit 25. I'm looking at it. Okay. Regional and international advertising.

MR. CLARK: Yeah, we have a, a, a slick from, I'm sorry, you know, a promotional slick from 2016.

MR. HOLZER: Okay.

MR. CLARK: I think it's like four pages.

MR. HOLZER: Okay.

MR. CLARK: That denotes intent.

MR. HOLZER: And, and what is the relevance of that? I have it, I can submit it, but before I do, what is the

significance of that in relationship to your personal testimony?

MR. CLARK: There has been testimony that they intend to do nothing but have a house of worship there.

MR. HOLZER: Okay and I'll then take this document.

CHAIR: Inevitably, the question is going to come up where did you obtain this document?

MR. CLARK: I obtained it from the internet.

CHAIR: Where particularly?

MR. CLARK: I, let, let me see it and, and see if --

MR. HOLZER: Excuse me.

CHAIR: Very well. No, it's fine. I already know the --

MR. CLARK: No, I, I, I get it. I, I, I get it. Yeah.

CHAIR: -- question that will come up, so. Thank you. Ninety-one.

MR. HOLZER: And this would be number?

CHAIR: Ninety-one.

MR. MCCOMAS: Ninety-one.

MR. HOLZER: Thank you.

MR. CLARK: All right. I --

CHAIR: Hold on, one second, sir.

MR. CLARK: Okay.

CHAIR: We're waiting for Mr. Schmidt to review.

Before you start, Mr. Holzer, there's one point of clarification. I understood you said that this is from 2016. The only date I see on Exhibit 91 is October of 2014.

MR. CLARK: Right, right, right. But I, I wouldn't have obtained it before, be, before we actually got interested in this issue.

CHAIR: So, it was still available at whatever time that you became available or became interested in this issue.

MR. CLARK: Right, right.

CHAIR: Okay.

MR. CLARK: Now, now before, I honestly can't remember where I got it, when I got it, all that kind of stuff.

CHAIR: All right. Mr. Holzer, you want to ask questions?

MR. HOLZER: Yes. If you cannot remember where you got a copy of this, is that correct?

MR. CLARK: Yes, sir.

MR. HOLZER: Did you attend any Nepali events where they handed this thing out?

MR. CLARK: No.

MR. HOLZER: Did you see it online?

MR. CLARK: I saw it online.

MR. HOLZER: Okay and when you saw it online, did you try to make a, a paper copy of what was online?

MR. CLARK: Yes, I did.

MR. HOLZER: And is that where this would have come from?

MR. CLARK: Yes, it is.

MR. HOLZER: All right. And in, in, in looking at this document, I, I just want to ask you about, and, and I'm not interested in the list of donors and the money. That's really not what I'm --

MR. CLARK: Yeah.

MR. HOLZER: -- I'm interested in. But on page three, the introduction at the top of the page, Nepali in Baltimore Metro, if you look at the second paragraph, okay?

MR. CLARK: Um hm.

MR. HOLZER: it says through many community meetings, teams have been formed to further plan and initiate the building of a community center.

MR. CLARK: Yep.

MR. HOLZER: Is that what brought your attention to this document to begin with?

MR. CLARK: That and the, the second bullet, what are our options, buy or build?

MR. HOLZER: Okay and, and in terms of, in terms of that, what relevance does that have in relationship to the request for the special exception?

MR. CLARK: Well, --

MR. SCHMIDT: Objection. If I may be heard?

CHAIR: Okay, hold on. Hold on. Yes, Mr. Schmidt?

MR. SCHMIDT: When Mr. Holzer has now asked what does it have --

MR. HOLZER: I'll withdraw the question. I'll withdraw the question.

MR. SCHMIDT: Objection anyway. If I could be heard?

CHAIR: Well, the question has been withdrawn.

MR. SCHMIDT: Yes, sir.

CHAIR: Mr. Holzer?

MR. HOLZER: I would now offer this document.

MR. SCHMIDT: Objection.

CHAIR: Sorry.

MR. SCHMIDT: The witness has indicated that he doesn't know where he got this and doesn't know how he got it, my words, not his.

CHAIR: We recall the testimony of him.

MR. SCHMIDT: So there is no foundation to this document to be evidence, even under, in my view, the relaxed administrative rules of evidence before an administrative body such as the Board of Appeals. But perhaps as importantly, this is a publication, at least if we take the document to be self-authentic, authenticating of the Baltimore Nepalese Community Center. That is not the Petitioner in this case. The Petitioner in this case is the --

CHAIR: Right, Nepali American Cultural Center of

Baltimore, Inc.

MR. SCHMIDT: -- Nepali American Cultural Center of Baltimore. This would be as if you had a publication from Burger King and you have a McDonald's case before you. It's a different entity. So, how there could be any relevance to what another organization, which is not the Petitioner, may or may not publish, I do not believe it would be appropriate evidence. Thank you.

CHAIR: Mr. Holzer?

MR. HOLZER: Take a look at the list of donors --

CHAIR: Please stand up to object, to address.

MR. HOLZER: I'm, I apologize. Take a look at the list of the donors. Many on the list of donors (inaudible) --

CHAIR: Okay. Thank you for bringing that up. I will say that there is indicia that this is, this document, Exhibit 91, has some relationship to this case. It's a Petitioner, though actually not the Petitioners, it is understood. It is understood it was created at a time before the Petitioner's organization was even formed, is a document that was created before the property was even on the market.

As it may reflect an intent by some to find a place for a community center for the Nepalese community. But realistically speaking, there's evidence in this case already that there was a desire to have a religious temple and community center and from others, it has whittled down to a

religious temple and that is the subject matter of the Petition, therefore, October 2014 the intent reflected within whether (inaudible) sixteen or not, I, I do believe is too attenuated. The purpose for the, its inclusion is already covered by the record. Therefore, I will sustain Mr. Schmidt's objection.

MR. HOLZER: I would like to put on the record, for purposes of my taking exception to that, is that the individuals are clearly, are listed in this document, number one. Number --

CHAIR: And I will, and I echoed that, that is, I echo what you're saying. That it, there, my, my comment about there is indicia that there is a relationship to Petitioner is derived from that list.

MR. HOLZER: Number two, number two, I believe you're in error in regard to the timing, in regard to, of this particular piece of property and when this occurred and how this occurred. So, I would just take exception. I will, I will put it under the heading of proffering and we will take it further.

CHAIR: Well, Mr. Holzer, if you believe that there's an error as to the timeline, what has been established by the testimony is what I, what my understanding is is already reflected in the ruling. If there, if that's an error please, you may ask the questions of this witness. And if that

clarifies the points, perhaps then there's another approach to this. But my understanding is, based on the date of October 2014, that's when this document was created and that Dr. Clark downloaded it or somehow obtained it in 2016 but that's what the testimony and evidence thus far establishes.

MR. HOLZER: In 2014, was the property on the market? Do you know?

MR. CLARK: I don't know, I never paid attention to it.

MR. HOLZER: Okay. Just leave it marked as a proffer.

CHAIR: Very well.

MR. MCCOMAS: So, ninety-one is i.d. only?

CHAIR: I.d. only.

MR. HOLZER: Pardon?

CHAIR: I.d. only.

MR. HOLZER: I.d. only, yes.

MR. MCCOMAS: You use proffer, I use i.d. only.

MR. HOLZER: Yes, yeah.

CHAIR: Yes.

MR. HOLZER: That's fine, thank you.

CHAIR: And, and, and the Board is interpreting, when you say proffer as i.d. only.

MR. HOLZER: Yes, um hm.

CHAIR: So any references to the same can be read as

that.

MR. HOLZER: Okay.

CHAIR: Very well.

MR. HOLZER: For future reference.

CHAIR: Yes.

MR. HOLZER: Now, do you have any of consistent with what we've been talking about over the last few, number of minutes, relative to reasons to question the Petitioners' voracity, so to speak, that relates to regard for common safety?

MR. SCHMIDT: For what? For compensation?

MR. HOLZER: Common safety.

MR. SCHMIDT: Common safety.

MR. CLARK: I'm trying to respect Mr. Garber's, without killing my opportunity to be heard, it's a dance.

CHAIR: I would just, I would, all I can say is please answer Mr. Holzer's question and we'll see where that takes us.

MR. CLARK: All right. Yes.

MR. HOLZER: I was going to tell him, just say yes and then you can go into the, --

CHAIR: Right.

MR. HOLZER: -- next analysis.

CHAIR: Well, what's the, so what's the follow-up question then for him?

MR. HOLZER: The follow-up question is then what concerns have not, have already been raised on behalf of the community association that you as an individual want to raise that may differ from the community association's point of view? And is there anything you need to establish or show in regard to that? Do you understand my question?

MR. CLARK: Yeah, no, I do.

MR. HOLZER: Okay.

MR. CLARK: I do and, and maybe I'm overthinking a lot of stuff, I don't know. But anyway, the, the, the, the Zeller communication about the property should not be in use, however, you know, lack, that's a lack of regard for common safety. You know, because there are no sight, there, there are no safe sight lines for that entrance.

CHAIR: I'm sorry, just to, I want to just clarify. You're incorporating your prior testimony under the association on that point as to you as an individual?

MR. CLARK: And, and the other, and, and we also introduced Zeller somewhere else and --

CHAIR: Yes, I understand.

MR. CLARK: Yeah, and --

CHAIR: Do, do I understand your testimony correctly as an individual that it will be consistent or coextensive with what you previously testified as the association?

MR. CLARK: Yeah, yeah. Yes, sir. Yes, sir.

CHAIR: On the point of safety?

MR. CLARK: Yeah. Yes, sir. Yes, sir.

CHAIR: Was that what you were trying to get at, Mr. Holzer?

MR. HOLZER: Yes. Now, is that, is, when you say safety, does that talk about the doors were opening in the wrong way, overcrowding, fire extinguishers, etcetera? I don't want to waste time going into all of that if it's already been covered with the, on behalf of the association.

MR. CLARK: Yes, but, --

MR. HOLZER: Explain the but.

MR. CLARK: Going back to safety at the entrance, all right? There's been no police support for those events and the reason that there has been no police support is because I have an e-mail from the precinct saying that if SHA has not approved the, the, the entrance, they will not be providing police support, okay?

MR. HOLZER: Now, in other, in other words --

CHAIR: I'm sorry, just so, just to clarify one point before you get to the next question. You said these events. By these events were those the ones that you specifically identified by date?

MR. CLARK: Yeah, and I think particularly this one, this refers, I had been in contact with them for a ---

CHAIR: I'm just trying to clarify what you meant by

these.

MR. CLARK: This, this probably refers specifically to the July 29, August 3rd event.

CHAIR: Okay.

MS. DOPKIN: Which precinct?

MR. CLARK: Precinct 8. Captain Martin, Lieutenant Franzoni, Officer Gorbitz.

MS. DOPKIN: Thank you.

MR. HOLZER: And I'm handing a document, which --

MR. CLARK: Parkville Precinct.

MR. HOLZER: -- to the witness, or to Mr. Schmidt, also to the Board, also to the witness.

CHAIR: Ninety-two? I'll note that perhaps one or more of the e-mails attached in Exhibit 92 have already been either put into evidence or at least proffered into evidence.

MR. HOLZER: Yeah, I'm not sure, I'm not sure that what's in evidence is the complete follow-up from the witness to the police department and back. And in looking at the July 6th, 2018, to Mr. Clark from the Baltimore County Police Department declining the request for traffic control.

CHAIR: Well, right. What I was referring to were the Zeller e-mail chain.

MR. HOLZER: Oh, we had those, yes.

CHAIR: That's, that is contained within this exhibit. That was just to identify --

MR. HOLZER: Yes, that's at the bottom of the exhibit.

CHAIR: Thank you.

MR. HOLZER: But what you don't have, didn't have in that is the top two pages (inaudible).

CHAIR: Yes, good. Mr. Schmidt, did you follow that?

MR. SCHMIDT: I, I did, but it sounds incomplete and, and --

CHAIR: We'll get to the objections. I'm just making sure you understand --

MR. SCHMIDT: Yes, sir.

CHAIR: -- where we are with this. We haven't laid the foundation yet. I'm not saying you can't object. Mr. Holzer?

MR. HOLZER: Thank you. Mr. Clark, what does this document, which is marked as --

CHAIR: Ninety-two.

MR. HOLZER: -- as Protestant's ninety-two, what does this document, how did it get started and what was the final result? If you could lead us through that, briefly.

MR. CLARK: It was, it was all related to when I was trying to get somebody from the County to pay attention to what was going on.

MR. HOLZER: What do you mean? What do you mean?

MR. CLARK: Well, the large scale events with, with,

with no, in this particular case, at an unsafe entrance with, at an unimproved, all right? SHA does, does call a commercial access and at a, at a, and it had changed from a residential access --

CHAIR: Hold on, I'm going to stop you there.

MR. CLARK: Okay.

CHAIR: The question is, what did, what are these, what is this exhibit?

MR. CLARK: Okay.

CHAIR: My understanding is it shows e-mails.

MR. CLARK: Right, it shows, it shows --

CHAIR: And you, you are thehistorictimekeeperss@gmail.com?

MR. CLARK: Yep.

CHAIR: And you are sending and receiving e-mails in connection with what you just testified to.

MR. CLARK: Thank you, thank you.

CHAIR: As to what the e-mails say, they say what they say. Mr. Holzer, was that what you were trying to get at? Was that what you were trying to get at?

MR. HOLZER: Yes.

CHAIR: For identification?

MR. HOLZER: Yeah.

CHAIR: Now, I understand, Mr. Schmidt, you had something to say. Now, that we've id, what, what it is.

MR. SCHMIDT: Well, I don't, I understood the witness to say this is not the full chain of e-mails. I thought I heard him say that at the beginning. Maybe I misunderstood.

CHAIR: Well, I'm going to, I'm going to take it one step back. You objected yesterday to the introduction of e-mails or documents relating to matters that could be something for code enforcement or --

MR. SCHMIDT: Which, which is --

CHAIR: -- why code enforcement did or did not do its job. There was a ruling yesterday already on that. Is, does this speak to an impeachment or rebuttal type of aspect that, that otherwise differs this chain of e-mails, whatever it may be, whether complete or not yet, to, is there a reason to treat this differently than how we treated the ones from yesterday?

MR. HOLZER: Yes.

CHAIR: And what is that?

MR. HOLZER: It's, it's a, the Zeller comments are not relevant to whether or not the Baltimore County Police Department would provide support in terms of an event on traffic on Harford Road. And that's what this shows.

CHAIR: I'll do you one better. The Zeller stuff is already in.

MR. HOLZER: Yes.

CHAIR: Okay. But the remainder of the stuff it went to, whether or not more should have been done by the County is

out.

MR. HOLZER: Right.

CHAIR: So, if that's the purpose for this, then ninety-two should be out, as I understand it. But I'm giving you the opportunity to identify for me what the difference is between this document and those ruled upon yesterday with respect to what code enforcement should have done or paid more attention to, to Mr. Clark's complaints.

MR. HOLZER: It has nothing to do with Baltimore County code enforcement or Baltimore County government. It has to do with the unavailability of police to protect the neighborhood and the community on Harford Road when there's an event coming. And I have, that's, that's never been discussed up until this point.

CHAIR: Okay. Mr. Schmidt?

MR. SCHMIDT: Mr. Garber, I appreciate you asking Mr. Holzer to, in effect, rehabilitate his witness but --

CHAIR: It was more of a proffer.

MR. SCHMIDT: -- but Mr. Clark said this was all as a result of me trying to get code enforcement action. He just said that. I, I heard him say that. I mean, not only that, there were police there at this event. I mean, --

CHAIR: Well, that's a matter for cross examination and rebuttal.

MR. SCHMIDT: But the, that doesn't mean even if it's

time for cross examination or rebuttal that you can submit an exhibit and mischaracterize what it's saying and what the purpose of it is and submit an incomplete exhibit that's not full.

CHAIR: Hold on. Those are two different objections. As to the completeness, we haven't discussed that. As to the first, I was asking Mr. Holzer what the proffered purpose of this document is. I'm still not quite --

MR. SCHMIDT: The witness said --

CHAIR: Hold on, Mr. Schmidt. It's still not fully clear to me what the purpose is, other than to show that police were not at, made available for a particular event.

MR. SCHMIDT: But they were there.

CHAIR: Okay. So, Mr. Schmidt, I imagine you'll be addressing that on cross examination or rebuttal. Whatever Mr. Clark, whatever his perception was as to the police presence may be right, may be not right, may be somewhere in between. I am confident your ability to try to figure out and get to the bottom of that. So, on that basis, I will overrule that objection now that I understand it's not directly related to code enforcement.

MR. HOLZER: Yeah, right.

CHAIR: As to completeness, you have another argument.

MR. SCHMIDT: I believe it's not a comp, it's not the

complete train of e-mails is what I believe I thought I heard. Maybe I misheard that.

CHAIR: Mr. Holzer, would you please clarify that?

MR. HOLZER: I'll ask the witness.

CHAIR: That's why, yes.

MR. HOLZER: If I can.

CHAIR: Thank you.

MR. HOLZER: Since I'm not testifying, --

MR. CLARK: I --

CHAIR: No, there is no question pending.

MR. HOLZER: Mr. Clark, you've heard the question and the objection. Is this the full extent of the e-mails that relate to the police department of Baltimore County having nothing to do with code enforcement or Mr. Zeller?

MR. CLARK: Correct. I apologize for --

CHAIR: The answer is yes.

MR. CLARK: All right. The answer is yes.

MR. HOLZER: Okay.

CHAIR: Thank you. So, on that basis, that objection will be overruled.

MR. HOLZER: Thank you.

CHAIR: And you're, you're offering ninety-two?

MR. HOLZER: Yes.

CHAIR: Okay.

MR. CLARK: Thank you.

CHAIR: Ninety-two is admitted.

MR. HOLZER: Going back to where we were in regard to the safety in buildings, the safety at events. I want to very carefully have you review your notes, --

MR. CLARK: Sir, --

MR. HOLZER: -- so that we're not wasting time on something that has already been discussed. With that understanding, take a look at comments in regard to safety at, at, at events because I believe some of this is already been raised or discussed.

CHAIR: I can confirm that.

MR. CLARK: And I agree.

MR. HOLZER: Can you tell us what has not been raised or not discussed or that you have a different testimony, not that of the association?

MR. CLARK: I believe, no.

MR. HOLZER: Okay. So we can get past that.

CHAIR: I understood that question to be rhetorical. Thank you.

MR. HOLZER: Thank you. Now, we're getting into another area of what you choose to call misrepresentation of facts. Could, and, and one category under that is the County. Do you, do you understand what I'm asking you?

MR. CLARK: I, I know, we're going into --

MR. HOLZER: Okay. Now, if it has anything to do

with code enforcement, with the County dealing with something prior to this hearing, I want you to skip it. But if it has anything to do with the, the Petitioner's testimony then please feel free to address it. If it differs from what you've already said on behalf of the community.

MR. CLARK: Okay. The only one on there.

CHAIR: Okay.

MR. CLARK: Again, this goes to voracity.

CHAIR: Okay.

MR. CLARK: Okay? It would be the Archia sign permit, okay? He promised the County --

CHAIR: Hold on, make sure, pay attention to Mr. Holder's question. This testimony that I'm, that we're about to here is different from you as an individual than the association that we've already discussed?

MR. CLARK: Yes, I, I believe so.

CHAIR: All right.

MR. CLARK: I believe so.

CHAIR: And you mentioned sign permit or the signage issue. What is it that you believe the, what was misrepresented --

MR. CLARK: I believe he misrepresented to the County the sign that they intended to put up. He presented to the County --

CHAIR: I'm going to stop you there. This is getting

into more of a code enforcement matter because that matter is not in front of us today. We didn't hear testimony from Mr. Archia as to the sign, from what I recall. So, I, I'm straining to figure out where we're going with this as it relates to testimony that we've heard that relates to the way the property is being used, whatever, whatever is represented in the sign petition is not in front of us.

MR. CLARK: Okay. Can I, --

CHAIR: Mr. Holzer, do you want to ask a question to follow-up on that point?

MR. HOLZER: No.

MR. CLARK: Okay. That settled that.

MR. HOLZER: No. And I'm looking at another comment that, I don't believe is appropriate to ask this Board since it occurred at another location, another venue, which is the ALJ. Okay.

MR. CLARK: We actually covered a lot --

CHAIR: Sir, there's no question pending, please.

MR. CLARK: I'm sorry.

MR. HOLZER: I'm, I'm looking where facts were presented to the, to this Board, I don't care about anyplace else, but to this Board. Are there areas that you would like to discuss about facts presented to this Board that are not covered by the community association comments? But these would be your personal comments.

CHAIR: Or his other testimony --

MR. HOLZER: Exactly.

CHAIR: -- as an individual throughout his time on the stand.

MR. HOLZER: Right.

CHAIR: Here.

MR. HOLZER: Yeah, correct.

MR. CLARK: Yes. The answer is yes.

MR. HOLZER: Okay. Could you tell us what area you are answering yes to?

MR. CLARK: In testimony, Mr. Ghimire asserted he had nothing to do with the, and he had no knowledge of the event held at St. John's Church on January 28, 29. We have evidence of --

MR. SCHMIDT: Objection.

CHAIR: I, I anticipated this --

MR. HOLZER: Wait a minute.

CHAIR: -- objection from Mr. Schmidt.

MR. HOLZER: If that relates to the police reports, then it --

CHAIR: It does.

MR. HOLZER: -- is not permitted.

CHAIR: I will note, and I noted this yesterday during the course of the ruling, that Mr. Ghimire did give testimony that would indicate that at first he may have had

some role and then he didn't have some role.

MR. HOLZER: Right.

CHAIR: And then when asked questions directly, that he, neither he nor the organization, the Petitioner that is, had any, any sponsorship, leadership or management role in connection with those events. I then understand that Mr. Holzer, as part of that, produced something that showed Ghimire Homes. There is no evidence in the record whatsoever that establishes Ghimire Homes as any connection to Mr. Ghimire. On that basis, I will sustain what I anticipate, I guess, was Mr. Schmidt's objection, so.

MR. HOLZER: You did a lot and I had already said --

CHAIR: What's that?

MR. HOLZER: I'd already said it wasn't appropriate.

CHAIR: I understand. I've been trying to, I'm trying to address what Mr. Schmidt was about to say. I cut him off so we don't have to have extended argument on the point.

MR. HOLZER: Okay. Mr. Clark, I, I know a lot of this is confusing in terms of what you want to present, but again, I must ask you to look at what you want to testify. If it relates to the police reports, you cannot because the Board has ruled.

MR. CLARK: Right.

MR. HOLZER: If it relates to testimony that you've already given you cannot.

MR. CLARK: Right.

MR. HOLZER: If it relates to testimony that you gave on behalf of the community association you cannot, unless it differs from what the community association position was, okay? So, the question is, is there anything else in relationship to any of the areas of issue that have been discussed, that you need to address subject to those conditions?

MR. CLARK: I, I guess the, the issue of testifying, the, the, the, the testimony of Petitioner, that events will be, that, that they plan to have events held at the new community center.

MR. HOLZER: What new community center?

MR. CLARK: The community center at Taylor Ave. I believe Mr. Ghimire referenced that in particular.

CHAIR: Okay. What about that testimony do you wish to address?

MR. CLARK: I wish, and we started to enter it and then there were problems with the, the documentation.

CHAIR: Okay.

MR. CLARK: But that it simply doesn't have the capacity for the kind of crowd --

CHAIR: I, Mr. Holzer, I seem to recall there was an objection by Mr. Schmidt because that property is not subject of this proceeding or the Petition. So, if there's an occupancy or any type of other issue that may exist at that

community center and its capacity to hold whatever amount of events, I seem to recall that there were objections sustained on these points because it is not, it is not, it does not concern the subject property.

MR. HOLZER: Fine. And so, I want to proffer.

CHAIR: Well, I mean, I, I mean, --

MR. HOLZER: I want to proffer this document.

CHAIR: Hold on. Is that your understanding? Let's start with that.

MR. HOLZER: No, but it's your understanding so I'll abide by it and under the circumstances, instead of wasting this Board's time and everybody else's, I am just going to proffer what had previously been marked as Protestant's forty-six, which I believe is what was for identification only, and I want to add this new, this new document for purposes of --

CHAIR: All right. Let's start, can we do one at a time?

MR. MCCOMAS: Let's do one thing, Mr. Holzer. I have 46-A as being admitted, 46-B and C i.d. only and 46-A is a photo on 2906 Taylor Avenue.

MR. HOLZER: I'm sorry. I, I have this as the photo.

CHAIR: Okay.

MR. HOLZER: And that's in?

CHAIR: That's what this shows.

MR. MCCOMAS: That's what this shows, it shows here.

CHAIR: I, I will let everyone know, I, I do intend to go through the transcripts to confirm what is in evidence and what is not before the record closes in this matter.

MR. HOLZER: All right and pages two and --

MR. MCCOMAS: 46-B and C, I think, is what you're interested in, I suspect and --

CHAIR: I, and if I can, Mr. Holzer? I have recollection now that I've seen you hold it up, that was objected to because we didn't know the source of the information and its completeness for the record, from what I recall.

MR. HOLZER: Gotcha.

MR. MCCOMAS: And this is B here.

CHAIR: Yes, we're discussing B and C.

MR. MCCOMAS: Is that what you have, is that what you have there?

MR. HOLZER: Yes, B and C.

MR. MCCOMAS: And I have C here.

MR. HOLZER: And, and what I'm about to proffer --

CHAIR: Let me, we'll stop for a second. Do you recall what I just said as it relates to B and C? Those were the objections by Mr. Schmidt were sustained on those, on that basis?

MR. HOLZER: Yes, they were not permitted. I don't know what basis they were denied.

CHAIR: Mr. Schmidt, is that consistent with your recollection?

MR. SCHMIDT: I have a copy of the list that I've been keeping and it shows 46-A admitted and B and C identification only.

CHAIR: Can you show Mr. Schmidt 46-B and C?

MR. SCHMIDT: Yes, sir, and they are the --

CHAIR: Just so that we can follow along.

MR. SCHMIDT: -- print, printouts.

CHAIR: I'm going to let you give your proffer to be clear.

MR. HOLZER: I, I understand. But it's sort of a waste of time what took place then because --

CHAIR: I have to worry about the record too.

MR. HOLZER: I know.

CHAIR: Do you want to just show that to him? Is that B and C?

MR. SCHMIDT: Thank you. May I approach, Mr. Garber?

CHAIR: Yes, of course. Mr. Schmidt, do you recall those documents? Do you recall the objections and the discussion?

MR. SCHMIDT: I, I do.

CHAIR: Okay. So, my recollection is that objections were --

MR. SCHMIDT: Thank you, thank you.

CHAIR: -- sustained on the basis that it, we didn't know the source of the information that was contained within and its completeness. Now, Mr. Holzer has a proffer as it relates to 46-A, excuse me, B and C and is tendering here a new document.

MR. HOLZER: That's correct. This, this --

CHAIR: Have you, have you provided that to Mr. Schmidt, the new document?

MR. HOLZER: I already did.

CHAIR: Okay, just confirming.

MR. HOLZER: The new document is, could we mark this?

CHAIR: Ninety-three.

MR. HOLZER: As what?

CHAIR: This will be ninety-three.

MR. HOLZER: Ninety-three. But it actually gets consolidated with forty-six.

CHAIR: It relates to forty-six but for purposes of this record it will be ninety-three because just, they're listed sequentially by the dates of the hearing and so we can't obviously then squeeze this in between, going back.

MR. HOLZER: I understand. I understand. But I'm connecting it to forty-six.

CHAIR: And for the record, it is connected to forty-six.

MR. HOLZER: Right.

CHAIR: Now, with respect to ninety-three, since there's no ruling on ninety-three, even if there isn't one on forty-six, --

MR. HOLZER: Yes.

CHAIR: -- what is it you want to ask this witness to do with ninety-three?

MR. HOLZER: Mr. Clark, you have Exhibit 93 in your hand. How did you get this document? Where did you get this document? And do you believe it complies with, with the requirement that was rejected on the two pages of the previous Exhibit 46?

MR. CLARK: This is the listing as it was on Zillow.com.

MR. HOLZER: Okay.

MR. CLARK: And it shows the details of the building. The, the size and all that.

CHAIR: 2906 Taylor Ave building?

MR. CLARK: Right.

MR. HOLZER: Yes.

CHAIR: Mr., sorry.

MR. HOLZER: And, and what would you like, or do you want me to offer it now or should I ask him a question?

CHAIR: I'm not, I don't want to interrupt you if you're still laying the foundation.

MR. HOLZER: Okay.

CHAIR: If you're still laying the foundation, go, go do that.

MR. HOLZER: And, and you, you now understand that Protestant's forty-six, which is a picture of the building, and now you have Protestant's ninety-three, excuse me, which, which provides certain information, what is your testimony in regard to the use of this property as a, --

MR. CLARK: I don't have any --

MR. SCHMIDT: Objection.

CHAIR: Hold on, sir, sir, sir, hold on.

MR. CLARK: Okay.

MR. SCHMIDT: Objection.

CHAIR: Mr. Schmidt, your objection?

MR. SCHMIDT: Yes, sir. I, I believe --

MR. HOLZER: As the community, look, I mean, --

CHAIR: Mr. Holzer, hold on.

MR. HOLZER: Having that --

CHAIR: Hold on.

MR. HOLZER: -- before I even get --

CHAIR: Mr. Holzer, Mr., Mr. Holzer, you know how this process works.

MR. HOLZER: Yes, I do.

CHAIR: He, hold on, he, --

MR. HOLZER: And it's not being complied with.

CHAIR: Mr. Holzer, please. He's objected. He's, I

asked him to state his objections. I will turn to you for a response. I'm not cutting you off from, from whatever you intend to try to get (inaudible) this witness or put in the record in terms of a proffer. So, I want to hear from Mr. Schmidt because he stood up, as he is supposed to, when objecting. Mr. Schmidt, what is your objection?

MR. SCHMIDT: My understanding, Mr. Garber, is that this property is owned presently by an organization that is not the Petitioner and is not related to the Petitioner. I understand the prior Board rulings that, to a certain extent, if it's, has the char, if, if the property or exhibit relates to the interest of, of people from Nepali that it's admissible. But this case, or from Nepal, the, the Board believes it's proper evidence. But in this case, this is, this is a property that's not owned by the Petitioner and it's, this is a property that is not before the Board today on a Petition. It's on Taylor Avenue. So, I don't know what the relevance of what the condition or use of this property could be to the instant case.

CHAIR: Thank you.

MR. SCHMIDT: Thank you.

CHAIR: Mr. Holzer, would you wish to respond to the objection?

MR. HOLZER: Test, testimony by Mr. Ghimire was that commercial or community events will be held at 2906 Taylor Avenue.

CHAIR: I have the same recollection.

MR. HOLZER: That's his testimony.

CHAIR: That it was and, just if I can add to that. The, again, my recollection of the prior objection as to why they were sustained was to establish the fact that the number of parking spaces within, when we don't have the source of information or, or in the other, for the other reasons stated and I know that there was some discussion, which Mr. Schmidt just alluded to as well, that it concerned a property other than the one that's the subject of this Petition. Having said that, it, I understand it relates to Mr. Ghimire's prior testimony that community events will be held there. What is it you seek to do with Exhibit 93?

MR. HOLZER: Introduce it to show the Board in their opinion, your opinion, whether or not the events that are being carried about or proposed to be carried out on Harford Road would be consistent with the use at this site. And if, and it, if you can't wrap your head around that, it seems that Mr. Ghimire, in order to show that we're, he, that the Harford Road site is just a religious facility and is not a place for community events, this seems to dispel that testimony.

CHAIR: I see Mr. Schmidt is standing. You wish to address a point there?

MR. SCHMIDT: So, do I understand that the relevance of this document is that if my client chooses to utilize

another property or might use another property, then the Board will allow an inquiry as to the suitability of that other property? So, for example, Mr. Ghimire testified, for example, that there would not be food preparation at the subject property. And so, I think he testified that, for example, during some of the events, the rice feeding, for example, --

CHAIR: Um hm.

MR. SCHMIDT: -- which is somewhat akin to a baptism in the Christian religion.

CHAIR: I recall the testimony.

MR. SCHMIDT: So, Mr. Ghimire, I think, testified in that case, in those instances, that the family may very well then go to a restaurant to host a social gathering following the rice feeding ceremony at the subject property because it would be traditional for the family to have a meal and to share fellowship after that. And so, are we then going to hear testimony akin to this, that the restaurant may not suitable, be suitable, that the kitchen facilities at the restaurant may not be suitable, I mean, that's the path --

CHAIR: Well, I think you're taking it a step too far with that. I understand your point.

MR. SCHMIDT: Well, that's the path that we seem to be going down.

CHAIR: I, I understand your point. It seems to me where everything is getting lost here is the testimony, which

as I indicated for, when Mr. Holzer, back and forth with him, that Mr. Ghimire did give that said that community events would be held off site at this community center at 2906 Taylor Avenue. The question then is what events? It's obvious by its size, there's only a certain number of events or types of events that could ever be held at the 2906 Taylor Avenue. Then Mr. Holzer is trying to use it to show because of its size, that means there's the potential for these other larger events to be held on the subject property site.

However, we are now so far down the speculative well, I don't think we even need this in evidence. It doesn't aid us in any way, shape or form. This property doesn't have any relevance to us. Mr. Holzer's evidence, or arg, from which he could have that same argument is already in the record. So, he's not going to suffer from a loss of being able to arg, make that point based on the other evidence. For these reasons, and in the reasons already, already stated, as to 46-B and C, it will be, your objection is sustained. It will not be admitted. You may continue with your proffer.

MR. HOLZER: I would proffer that this document goes to the voracity and, and the potential for this Board to analyze the two properties, number one. Number two, it's not, it, it, it is provided for a basis upon which the Board of Appeals can say, well, Mr. Ghimire said that many of the events that we're holding out there, and I'm putting in (inaudible)

that the community objects to, the reason that he testified to that is because oh, it'll be on Taylor Avenue. So, what I'm saying is the value of these documents relates to the imposition of conditions that you could put on the Harford Road property.

For instance, you could put, you could say since Mr. Ghimire testified that the, much of the community activity will be at the community center, therefore, there could be a reduction in number of people attending. There could be a reduction in the number of parties that, big events that we're holding. Therefore, we can alleviate some of the community's concerns. That's the relevance of this. And it also puts the Board of Appeals into a position of saying well, look, you know, everything doesn't have to be at Harford Road. There are events and numbers of people, etcetera, that can be held on Taylor Avenue.

So, the purpose of his presenting that material, was precisely relevant to the Board's action in granting or denying this special exception. That's my proffer and I proffer Exhibit 46 and 93 together.

CHAIR: To be clear, --

MR. HOLZER: I know forty-three --

CHAIR: -- 46-A is in evidence.

MR. HOLZER: I understand that.

CHAIR: 46-B and C are not.

MR. HOLZER: I understand.

CHAIR: Ninety-three, we just had that ruling. But you want to make clear for the record that ninety-three is related to 46-A through C, is that?

MR. HOLZER: In my proffer, I'm connecting them so that any future analysis of it doesn't get so totally screwed up they'll never understand it. So, forty three and, and ninety, forty, forty-six and ninety-three are related in that respect. I understand forty-three was admitted --

CHAIR: Forty-six.

MR. HOLZER: Forty-six was admitted.

CHAIR: A.

MR. MCCOMAS: A.

MR. HOLZER: I do understand that, A.

CHAIR: 46-A was admitted.

MR. HOLZER: I understand and part of, part of the analysis in the future is whether or not it was correct for you to deny this, period.

CHAIR: That, understood. Thank you. All right. Next line of questions and/or exhibits?

MR. HOLZER: In regard to amplification of, on Harford Road, --

CHAIR: One second, Mr. Holzer, just wait to the, to this passes, please.

MR. SCHMIDT: I'm sorry.

CHAIR: All right. Sorry, Mr. Holzer. In relation to amplification on Harford Road.

MR. HOLZER: Right. There was testimony, as I understand it, from Mr. Ghimire in regard to the number of microphones in, during the course of his testimony. Do you recall whether there was a condition by the Administrative Law Judge on outside speakers or outside noise from a microphone at all?

MR. SCHMIDT: Objection. That would have been a matter of code enforcement as to whether there would be an enforcement action instituted against my client for violation of Judge Beverungen's Order.

CHAIR: Hold on, Mr. Holzer, --

MR. HOLZER: Why do you let him object at that point because --

CHAIR: Mr. Holzer, Mr. Holzer, Mr. Holzer.

MR. HOLZER: -- I hadn't even clarified it --

CHAIR: One second. What is it that you want to establish with this question? We can eliminate this objection, because I think I know where you're trying to go. What is it you are trying to establish?

MR. HOLZER: The objection was premature because what I was simply --

CHAIR: I, I, I, I want you just to, first to answer my question.

MR. HOLZER: And this has been going on, Mr. Chairman --

CHAIR: I want you to answer my question what, where are you going with this, with, with this question to this witness?

MR. HOLZER: I was going to the point of, first of all, just trying to recall myself whether there was a condition imposed on the approval by the Administrative Law Judge. Simple, very simple. It had nothing to do with code enforcement.

CHAIR: It is foundational then.

MR. HOLZER: Yes.

CHAIR: Okay. That's step one. Number two, Dr. Clark here has already testified about amplification in terms of a condition. If that's where the direction you're going, perhaps to see if there's a distinction between him as an individual and an association. If that's not where you're going, I'm not quite sure the, the purpose for it. So, if you could continue with your foundation. But recognize, there's only so far we're going to go before it does cross over to the code enforcement aspect.

MR. HOLZER: I am tired, Mr. Chairman, I am tired of hearing about code enforcement. I understand, after eight days of this hearing, that you allege that you do not have authority to consider code enforcement. I am, obviously, also interested

in that aspect from a legal perspective. But I am not going there. I am not going for a code enforcement --

CHAIR: What did I just say? Continue with your foundation. I just said be wary of, if you're trying to get, if it may touch on those grounds, you will hear from Mr. Schmidt again and you'll hear from me again. So, if you're not going in that direction, by all means, ask your question to the witness.

MR. HOLZER: My question was very simple.

CHAIR: I understood that, I, --

MR. HOLZER: Does he recall --

CHAIR: -- I'm sorry, I am going to, I will rehash this one last time. I understood now your question to be foundational. I was allowing you to ask your question because it was foundational. I asked you to proceed and I just said, as a caution, if you start going down the code enforcement road, you will hear from Mr. Schmidt and me. You may proceed with your next question. I'm overruling the objection to the first question now that I understand it was foundational.

MR. HOLZER: Thank you. Mr. Clark, my original question was, do you recall having attended the Administrative Law Judge hearing and have, and having received what his decision was, was there any discussion or condition imposed by him which related to amplification?

MR. CLARK: Yes.

MR. HOLZER: And do you recall what that condition was?

MR. CLARK: No outdoor amplification.

MR. HOLZER: Okay.

MS. DOPKIN: Can you please speak into the microphone?

MR. CLARK: Oh, I'm sorry, I'm sorry. No outdoor amplification.

MS. DOPKIN: Thank you.

MR. HOLZER: Okay. Now, if, let's not get into the question of whether on an appeal whether that condition applies or doesn't apply. Do you understand that?

MR. CLARK: Oh, I do.

MR. HOLZER: Okay. Now, is amplification, outdoor amplification, a concern to you as an individual?

MR. CLARK: Yes.

MR. HOLZER: And why?

MR. CLARK: This section, this, this part of my testimony is about voracity and, and --

MR. HOLZER: No --

MR. CLARK: No, no --

MR. HOLZER: Objection to my own question. Answer the question.

CHAIR: Dr. Clark, we could get through this --

MR. CLARK: I would love to just testify.

CHAIR: -- a lot faster if you just answer directly to the --

MR. CLARK: Yeah, yeah.

CHAIR: -- questions that are being posed to you.

MR. CLARK: Yeah.

CHAIR: I understand this is a, a very big experience for you, it's frustrating, there's a lot going on. We'll get through this quicker if you just answer the question --

MR. CLARK: All right, okay, okay.

CHAIR: -- that's posed to you.

MR. CLARK: Ask me again.

MR. HOLZER: Why is amplification important to you as an individual?

MR. CLARK: Because it affects my property, it destroys my solitude.

MR. HOLZER: Thank you. Now, as a result of those foundational questions, during the course of the testimony by the Petitioners, was there any discussion by Mr. Ghimire about the use of outdoor microphones?

MR. SCHMIDT: Just a clarification, prospectively or in the past?

CHAIR: That's fair, --

MR. HOLZER: I don't care prospectively or what.

CHAIR: -- no, hold on, hold on. Let's just make sure we're talking about the same timeframe. That is not an

unfair insertion into this because it would make it, the record clear as to what we're referring to. So, when you say amplification, are you referring to that which is, that which has already occurred, or that that may occur in the future?

MR. HOLZER: Both.

CHAIR: Well, let's take it one at a time and you may ask both questions.

MR. HOLZER: No, because the question is, did Mr. Ghimire say something about the use of a microphone. I don't need to distinguish when.

CHAIR: And, it, it's the same --

MR. HOLZER: He testified.

CHAIR: All right. Well, you know what? Dr. Clark, you've heard the question as posed.

MR. CLARK: Yes.

CHAIR: Do you understand the question?

MR. CLARK: I --

CHAIR: Can you answer the question?

MR. CLARK: Yes, I can.

CHAIR: Please answer the question.

MR. HOLZER: And speak up so that --

MR. CLARK: Right.

MR. HOLZER: -- Ms. Dopkin can hear you and sit up straight.

MS. DOPKIN: And the recording can hear him.

MR. HOLZER: Yes.

CHAIR: Dr. Clark?

MR. CLARK: Mr. Ghimire testified that there would be no amplified, amplification of any kind.

MR. HOLZER: As, was that, to your knowledge, relative to a microphone? Did he mention anything about a microphone?

MR. CLARK: Yes, he, he said, he said no microphone, no loudspeakers.

MR. HOLZER: Okay and was that presented as a way, to your knowledge, for the Board to consider that as a condition to any approval?

MR. SCHMIDT: Objection.

CHAIR: What is the basis of the, stand up, please.

MR. SCHMIDT: It, I, I believe, I did rise for that, sat down very quickly. I believe the question is asking why Mr. Ghimire testified.

CHAIR: I didn't understand it that way.

MR. SCHMIDT: I think he said, and was that presented for, and then he went on.

CHAIR: Hold on. We'll clarify that.

MR. SCHMIDT: That, and that being what Mr. Ghimire said.

CHAIR: We will clarify that. Mr. Holzer, what was your question again, please?

MR. HOLZER: Could it be repeated? We all, we don't have a stenographer here.

CHAIR: Correct.

MR. HOLZER: I don't even remember at this point.

CHAIR: What question do you, would you want to ask?

MR. HOLZER: You know, --

CHAIR: It was about microphones, loudspeakers, conditions, that's where you were going with this.

MR. HOLZER: Yes. That's got, that's off the track of what these last two questions were. But I'll go back. Did Mr. Ghimire indicate in his testimony there would be no outdoor speakers system --

MR. CLARK: Yes.

MR. HOLZER: -- or microphones?

MR. CLARK: Yes.

MR. HOLZER: And in his testimony before this Board?

MR. CLARK: Yes.

MR. HOLZER: Okay. What, if anything, have you reviewed, either past or future, that would address whether or not that is correct or true or not?

MR. CLARK: Well, we, and, and they're introduced as evidence, we have videos of the events --

CHAIR: We've seen the videos.

MR. CLARK: We've got that.

CHAIR: We went, counted the microphones, we did all

that stuff.

MR. CLARK: Right. But I'm offering it to rebut that testimony.

CHAIR: Wasn't that already offered for that purpose? I know, I know we --

MR. CLARK: I, I, I, I don't know.

CHAIR: -- we reserved this section as rebuttal but didn't we already go through the video to count the microphones to show this is different than what was represented?

MR. CLARK: I don't, I, I --

CHAIR: Mr. Holzer, is that your recollection?

MR. HOLZER: No, but if it's yours, that's fine. I'm, I've had it.

CHAIR: I understood, I understood at the time, whether expressly stated or not, that this shows that there's outdoor amplification by virtue of these microphones and speaker system and we sat there, we counted the microphones, we pointed out the speakers.

MR. HOLZER: Correct.

MR. CLARK: Yeah, we did do, we did do that, I know.

CHAIR: Yes.

MR. HOLZER: Correct.

CHAIR: And there were photographs and video.

MR. HOLZER: But was that considered, at the time, going to the voracity or the witness in terms of the witness'--

CHAIR: By implication, that's how it was understood and that was to address that very point.

MR. HOLZER: Okay, fine. Then I'm going to drop, I'm, I'm going to drop this anymore. I'm tired of dealing with this. As an individual who lives across the street from this site, would, what would your request be to this Board in regard to outdoor amplification and use of either microphones, drums outside, anything else that produces noise, normal than the human voice?

CHAIR: And I, we need to split that question. When you talked about amplification, let's stick to microphones, speakers and that stuff. If you want to address music separately, address that separately.

MR. HOLZER: Well, drums and noise.

CHAIR: I'm not, I'm not disputing, I'm not disputing what you're saying. But you called it amplification. A drum without a speaker system or microphone is different than with.

MR. HOLZER: Correct.

CHAIR: So, that's why I'm saying let's split your question in two.

MR. HOLZER: Can you handle it, two questions?

MR. CLARK: I can answer it very easily. It's already been subsumed in my testimony as a representative of the board.

CHAIR: Okay. So, you would like a condition

relating to those both, that is, one the outdoor amplification aspect and two, any outdoor music and that kind of --

MR. CLARK: And I believe they're already in there.

CHAIR: You did specify both during the course of your testimony on behalf of the association with respect to possible conditions?

MR. CLARK: I did not.

CHAIR: You did.

MR. CLARK: Oh, I did? Yes, I thought I did.

CHAIR: Yes, you did.

MR. HOLZER: All right.

CHAIR: At least that's how I recall it.

MR. HOLZER: Will you put that on the record?

CHAIR: No, actually I have it written down because he said no rock concerts, no outdoor events, those kind of things.

MR. HOLZER: Okay, okay.

CHAIR: It's understood that that would include playing drums outside and whatnot.

MR. HOLZER: Okay. So, in the Board's opinion, that would be included --

CHAIR: That, that is his testimony already covered that ground.

MR. HOLZER: Gotcha. All right. I'm finished there.

CHAIR: Thank you. All right. You said you

finished?

MR. HOLZER: There.

CHAIR: Yeah. I, I, I seized upon the finished part, sorry. What else do we have to go through? Because I, I have to think we have exhausted nearly everything, nearly. I'm leaving, I'm leaving room open there for you.

MR. HOLZER: I still have comments in regard to development expertise and the entire process.

CHAIR: I, I don't know what you mean by those things.

MR. HOLZER: But I do have more testimony.

CHAIR: Okay.

MR. HOLZER: There is more testimony.

CHAIR: I, so, --

MR. HOLZER: I will try to limit it, if I can, at lunch time, whenever that is, I don't --

CHAIR: Well, my, my inclination is to finish up his direct.

MS. DOPKIN: Now?

CHAIR: Yes.

MR. SCHMIDT: Before the lunch break?

CHAIR: Before the lunch break.

MR. SCHMIDT: Yes, sir.

CHAIR: Because I, I want this case to be moving. I don't want to come back to hear we have another two or three

hours of testimony or whatever. I'd rather just get through the testimony and then deal with cross after lunch. And if that means that lunch has to be much later than normal for some people, so be it. I see you trying to call a time out.

MR. CLARK: Thank you, sir.

CHAIR: And it looks like it's a full time out, so. Do you need a break?

MR. CLARK: Yeah, just a five minute, yeah.

CHAIR: Understood. Okay. We'll go on a five minute break.

MR. CLARK: Thank you, sir.

(RECORDING PAUSED – 12:22:59 PM)

(ON RECORD – 12:32:28 PM)

MS. DOPKIN: We're on the record.

CHAIR: Okay. We are back on the record, thank you. Mr. Holzer, where are we with the end of direct?

MR. HOLZER: We were diverted because of going to the 502.1 criteria, so now I have to go back where we were talking about Mr. Collagero and Mr. Motsco's testimony, I passed --

CHAIR: I, I will, I will add to that, I understand you want to introduce some things or talk about some things for impeachment purposes or rebuttal purposes or whatever the, however you want to classify it or characterize it. To the extent that that information and testimony has already been provided by this witness, that would be impeachment, we don't

need to have it identified a second time as impeachment if it's already in the record. What I mean by that is, take the microphone example.

MR. HOLZER: Um hm.

CHAIR: We just had. Even if it's not specifically designated as impeachment evidence at the time given, certainly you're going to be able to argue that it is, in fact, able to be used for impeachment and whatever substantive value this witness had to say about that.

MR. HOLZER: Okay.

CHAIR: So, just to help streamline things, you don't, we don't need to designate one for one us and have a second use if the same piece of evidence can be used for both, because you're able to certainly make that argument, --

MR. HOLZER: I just wanted to make sure because the Board it, itself, made that distinction and I wanted to make sure that my questions, that was broken down that way.

CHAIR: The reason why we did is because that was what was alerted to us as to how it was organized for Dr. Clark's testimony.

MR. HOLZER: Okay.

CHAIR: If it's going to be the same evidence that's used for one purpose, it could be used for any purpose and we don't need to hear about it a second time, third time or whatever the case may be and I use the microphone example just

because that's a recent example of it.

MR. HOLZER: I'll try to, as I've been doing all day, trying to limit --

CHAIR: This is not a critique of your performance.

MR. HOLZER: I understand, I understand. So, can I get started.

MS. DOPKIN: Please.

CHAIR: Please do.

MR. HOLZER: Okay. Mr. Clark, before we got into the 502.1 criteria discussion, before we got into the community association analysis and their testimony, you were talking about as an individual clarification of certain facts, okay? And I want to get to the question of the NACCB, Inc. in terms of who they are, what they are and what, if anything, you've done to analyze that and present it to the Board. So, that's the topical area of --

MR. CLARK: Got it.

MR. HOLZER: -- where we are. Okay? Have you viewed the, the NAACB Articles of Incorporation?

MR. CLARK: I have.

MR. HOLZER: And where did you get that?

MR. CLARK: Well, actually, it's marked as Petitioner's Exhibit 5.

CHAIR: It has been accepted in evidence.

MR. HOLZER: Okay and as a result of that, what

comments, if any, in regard to Petitioner's Exhibit 5 do you have as an individual that has not been expressed?

MR. CLARK: Yeah, and, and these have not been expressed.

CHAIR: Well, okay, I, I want to make clear, if this is argument about what they should or should not do or anything like that, that I think is better reserved for Mr. Holzer in his closing brief. If there's something more specific factual that you want to identify for us, obviously you're just laying your foundation for it, so I'm going to see where this goes.

MR. HOLZER: Okay.

MR. CLARK: I think that's the case.

CHAIR: But if you're just reading something to say, again, here's, I like this or whatever the case may be, --

MR. CLARK: Oh.

CHAIR: -- we don't, we don't need to hear that. Because Mr. Holzer will take care of that.

MR. HOLZER: No, Mr. Chairman, I apologize, but I may not even file a brief. So, I don't think we can proceed in that fashion.

CHAIR: Well, I'm not allowing him to answer questions about his interpretation of what the Articles of Incorporation say. So, if there's something factual you want to, you want to elicit from him for the record, by all means, go for that.

MR. HOLZER: That's what I tried to do.

CHAIR: But I'm not going to stand here for, for a critique of Articles of Incorporation unless there's some other foundation laid as to why this witness would be appropriate for that fact, which you can also raise in terms of an argument as to they are supposed to do x, y, z, not a, b, c. Because we will be reading the Articles of Incorporation and have an opinion and an interpretation of the Articles of Incorporation.

MR. HOLZER: And all I'm asking for is him to be able to point out something in the Articles that he believes he's concerned about.

CHAIR: Very well.

MR. HOLZER: That's it.

CHAIR: I, I was only cautioning him about the testimony. Mr. Clark, please proceed.

MR. CLARK: All right. Two things. I would like you to look at the purpose of the, of the corporation, okay?

CHAIR: Okay.

MR. CLARK: I would like you to look at the name of the corporation.

MR. HOLZER: Where, where would they find that in Petitioner's Exhibit, Petitioner's exhibit number five?

MR. CLARK: It would be on the second page.

MR. HOLZER: Okay.

MR. CLARK: It's the second article and then the

third article.

MR. HOLZER: Okay.

MR. CLARK: Okay? I would like you to see on the next page, on page three, where they previously held service, that --

MR. HOLZER: Well, could you just tell us what it is? It's in the document, right?

MR. CLARK: Yeah, well, but he doesn't want me --

CHAIR: Hold on.

MR. CLARK: Yeah.

CHAIR: My, so I'll explain this. We can read the Articles of Incorporation.

MR. CLARK: Right.

CHAIR: I'm trying to remove that from the purpose of your testimony.

MR. CLARK: Right.

CHAIR: Because we can read that.

MR. CLARK: Right.

CHAIR: What is it about the Articles of Incorporation --

MR. CLARK: Okay.

CHAIR: -- that you feel you need to tell, tell the Board that's --

MR. CLARK: The, the fifth item.

CHAIR: Okay.

MR. CLARK: Principal place of worship happens to be Mr. Ghimire's real estate office so that served their purposes, okay?

MR. SCHMIDT: Objection. Objection. This, this has no relevance at all, Mr. Garber. If he's talking about --

CHAIR: Okay. Your objection is relevance, I got that. Mr. Holzer, do you wish to respond?

MR. HOLZER: I'm not going to argue anymore.

CHAIR: Okay.

MR. HOLZER: Do what you're going to do.

CHAIR: Mr. Holzer, I would just ask that you reconsider your tone to this Board.

MR. HOLZER: I'm sorry, but that's been the way I've been treated --

CHAIR: Starting immediately, starting immediately.

MR. HOLZER: Fine, thank you.

CHAIR: Okay. The question was the principal place of worship and you've identified Mr. Ghimire's address.

MR. CLARK: Right.

CHAIR: There is an objection pending as to the relevance of that. Mr. Holzer, do you wish to ask another question?

MR. HOLZER: Yes, sure. Is there anything else that you would like --

CHAIR: This is to avoid the objection. If you

cannot avoid the objection, do you wish to proffer something?

MR. HOLZER: No, I don't want to do anything.

CHAIR: Okay. There is no question pending. Your objection is sustained.

MR. HOLZER: Okay. What other area of the Articles of Incorporation would you like to point out to the Board?

MR. CLARK: The leadership and also I would point out that my understanding as a layman from what I read on the website from the State, okay?

CHAIR: Okay.

MR. CLARK: Is that if you wish to incorporate as a house of worship, you must, you must, in purpose of the corporation, include that you will have a congregation.

MR. SCHMIDT: Objection, move to strike. That's a legal conclusion. I think it's best reserved for argument as to what's required under Maryland law.

CHAIR: I would agree with you. I will say though I would have sustained the objection but the answer is already out there in the record.

MR. SCHMIDT: Well, I move to strike it, Mr. Garber.

CHAIR: I understand you're moving to strike. It's in the record now. It does not matter. I, but please caution your testimony.

MR. CLARK: Yeah, all right.

CHAIR: Because I would have sustained that from the

outset.

MR. CLARK: All right.

MR. HOLZER: Do you have any other concerns about the Articles of Incorporation?

MR. SCHMIDT: Objection. I don't want to be late on this one and I don't know where we're coming from, --

CHAIR: I understand, thank, thank you.

MR. SCHMIDT: -- but if it's discussion about the Articles of Incorporation, I don't believe Mr. Clark is a member of the Bar, which would possibly allow him to render some legal opinion about what is required under State of law. The Articles of Incorporation are what they are.

CHAIR: The, Mr. Schmidt, I, I understand your objection.

MR. SCHMIDT: Thank you.

CHAIR: What my comment was directed to was, yes, it sounded to me that he is reading the Articles of Incorporation and/or the SDAT website, coming to some conclusions and asking the Board, or telling the Board about his conclusions when the Board is going to have to do the same thing and is more ripe for the parties' counsel to argue during the course of argument.

MR. SCHMIDT: Yes, sir, thank you.

CHAIR: Yes. So, on that basis, to the extent that that's where the question was going, I would sustain the

objection. However, Mr. Holzer, if that was not the purpose of the question, you may ask another question about the same subject matter.

MR. HOLZER: No, I don't want to ask the same question.

CHAIR: Very well. The objection is sustained. You may move on.

MR. HOLZER: All right. In terms of that area, I am not going to ask any further questions.

MR. CLARK: Yeah.

MR. HOLZER: Do you understand?

MR. CLARK: Yeah.

MR. HOLZER: Mr. Clark?

MR. CLARK: Yeah.

MR. HOLZER: Okay.

CHAIR: And to be clear, Mr. Holzer can argue that in a brief, if he chooses to do so.

MR. CLARK: I understand that, Your Honor.

MR. HOLZER: There was, there was testimony about the de, well, there was discussion about development expertise. Do you understand?

MR. CLARK: Yeah.

MR. HOLZER: Okay.

MR. CLARK: Yep.

MR. HOLZER: What, if anything, do you want to

testify to about the, the development of this project by the Petitioner?

CHAIR: Before you start, I saw Mr. Schmidt trying, starting to get up. Mr. Schmidt, just succinctly, what is your objection?

MR. SCHMIDT: Yes, sir. Primarily, relevance and when I say that, I'll try to be brief, Mr. Garber. I know there's a requirement, for example, when a development plan is being considered, and I'm sure the Board has had cases that there has to be shown as part of the proof a reasonable expectation that the development will occur. That's part of a development plan approval. There is no such requirement, to the best of my knowledge, insofar as a Petition for Special Exception. So, whether the Petitioners in this case know nothing about the development process, or whether they know how to develop property, they may very well retain experts who do. But I don't believe there's a requirement under 502.1

CHAIR: Okay.

MR. SCHMIDT: That's my objection, thank you.

CHAIR: I, I am going to hit the pause button on that because I have a question, just to, I understand and, and I don't know if Ms., we'll have Ms. Dopkin and Mr. McComas as well, when we're referring to development expertise, what are you referring to?

MR. CLARK: To the original purchase of the property.

CHAIR: Okay and what about the purchase, or the original purchase of the property, I, I'm trying to figure out where we're going with this --

MR. CLARK: Yeah, no, no, I know, I know.

CHAIR: -- and what this, this development expertise, I don't know what we're referring to yet.

MR. CLARK: Right, right.

MS. DOPKIN: Excuse me. Mr. Holzer, it would help me if when you frame these questions you could give us an indication of what we're trying to demonstrate, if it's, as in the last series of question, impeachment or misrepresentation. That way we might eliminate some of this back and forth, if that's not too much to ask.

MR. HOLZER: Thank you.

CHAIR: Okay.

MR. CLARK: Okay. To answer Ms. Dopkin's question, the whole issue of due diligence and where that falls, where the consequences of a lack of due diligence falls, okay? That, that, that's what I want to address with this.

CHAIR: Okay. I, I just need to know what you're, where we're about to go.

MR. CLARK: Yeah.

CHAIR: Mr. Schmidt, on your objection I will overrule it for the moment.

MR. SCHMIDT: Okay.

CHAIR: I'm still trying to assess what's happening here but --

MR. SCHMIDT: Can I --

CHAIR: Go ahead.

MR. SCHMIDT: Just to clarify, as I understand, at least I, where I think Mr. Clark is going on this, is he is a, he's going to assert in terms of due diligence that my clients did not do the appropriate due diligence before they purchased this property.

CHAIR: Please don't gesture when you --

MR. CLARK: No, I'm sorry.

CHAIR: Thank you.

MR. SCHMIDT: As to the, the legal requirements. If that's what he is asserting, I don't think that's relevant. But then I would say that I would understand then that I would be able to argue the Board that my client's would be prejudiced since they purchased the property, the Board should grant the special exception.

CHAIR: I, I, I got to be honest. I, I have no idea where we're going with this yet. So, because of that, I will overrule your objection at the moment but I, you know, obviously you have the ability to object to further questions.

MR. SCHMIDT: Yes, sir, thank you.

CHAIR: Mr. Holzer, do you wish to direct a question to --

MR. HOLZER: I'm advising my client on the basis of what's occurred not to get into anything in regard to development expertise.

MR. CLARK: Okay.

MR. HOLZER: So, that takes care of that.

CHAIR: Okay.

MR. HOLZER: I believe that leaves us with one last area that you wanted to talk about?

MR. CLARK: Yeah, I would.

MR. HOLZER: All right. In terms, I would, this question goes to, and his proposed testimony, goes to whether or not the entire process has been corrupted in this case.

CHAIR: By process, I'm trying to understand where --

MR. HOLZER: (inaudible) I'll, I'll make sure you understand.

CHAIR: Okay, because we have, we have the ALJ hearing plus the Board of Appeals, right? So the Petition itself, or is this going to date back to the purchase of the property, you see what I'm saying? There's, there's a lot that could be within there.

MR. HOLZER: I understand.

CHAIR: Okay.

MR. HOLZER: All right. The, basically the area that you wanted to address relates to the, initiating with the Van Domelin letter, the Zeller letter, no response from the zoning,

and, and again, it's what you've already said you're not here to do. It relates to the code enforcement issues. He feels, and this is, in effect, almost a proffer. He feels that the County has intentionally avoided reacting to the State Highway Administration letter, allowed a certain situation to occur, which all related back to the code enforcement.

That he has not received any zoning compl, response to his zoning complaints from people in the zoning office, including and all the way up to the director. That, in fact, that at the director's level he believes and wants to proffer that the director intentionally did not pursue the zoning violations and so forth.

He wants to indicate that the County Councilman had interrupted and interfered with this matter, and this case, and the process in the very beginning of this. He wants to identify the fact that there has been a political analysis and situation occurring, which created the reason why the community's efforts to ensure the neighborhood back in the very beginning were not protected.

He also wants to testify or re, or comment upon what he calls the secret letter, what I call the letter that I was not as a, as a representative of the, of the Protestants, Mr.--

CHAIR: Exhibit 34?

MR. HOLZER: -- Mr., yeah, the Motion.

CHAIR: The subject of your Motion?

MR. HOLZER: The subject of my Motion. That Mr. Kotroco addressed Mr. Beverungen without notifying me, that Mr. Beverungen made a decision without, without notifying me. I took an appeal from that decision and we heard nothing from this Board in regard to whether or not that could be consolidated with this hearing. I had a Motion to consolidate it but, as a matter of fact, I didn't file it at that, at that point because we had already gotten involved in the case.

CHAIR: Let me say, and let me, let me just jump in. As to the Motion for Exhibit 33, or 34, the testimony that you would like to elicit from Mr. Clark --

MR. HOLZER: I want to testimony, get any testimony from him. It's in the Motion.

CHAIR: There, I thought you, you were giving us a road map as to the matters that perhaps you would be going down with his testimony.

MR. HOLZER: No.

CHAIR: I was only going to suggest that why don't we have resolution of that Motion prior to exploring it because it may or may not be needed as a result of whatever happens for that Motion. But out of fairness to Mr. Schmidt, he hasn't had the ability to respond in writing as of yet.

MR. HOLZER: That's not where I was going.

CHAIR: Okay.

MR. HOLZER: I'm giving you an outline of what he

would have said, his comments, so we're not going to present him --

MR. SCHMIDT: I'm, I'm not objecting, Mr. Holzer. Ask your questions.

MR. HOLZER: I didn't, I didn't ask you to. I'm not intending to have him answer any of these questions. I'm doing this for purpose of a proffer of what he would have said --

MR. SCHMIDT: Well, put it, put it on. Put it on. You can't, I mean, my understanding --

CHAIR: Well, no, hold on, hold on. Mr. Schmidt, I understand where you're going with it. I'm waiting for him to finish.

MR. SCHMIDT: Yes, sir.

CHAIR: Let him finish.

MR. SCHMIDT: Then, then I'll be heard at that time. Thank you, Mr. Garber.

MR. HOLZER: That's fine. In regard to Mr. Ghimire's testimony and Mr. Marks being involved in day one, Ghimire's testimony bragging about Brochins, who was a candidate for County Executive at the time, interfering with County employees' performance of their duty and repeated, and repeated --

CHAIR: And correct me if I'm wrong, there is some, there's something in the record about that already?

MR. HOLZER: I know, just a little bit. It was just

a comment, I think.

CHAIR: Is that your recollection too --

MR. HOLZER: Yes.

CHAIR: -- is what I'm asking?

MR. HOLZER: Yeah.

CHAIR: Okay.

MR. HOLZER: And finally, the Petitioners' repeated attempts to make this case about something other than land use, basically, racial or religious or, you know, efforts to show, to characterize the Protestants in that fashion.

CHAIR: Understood.

MR. HOLZER: That's the proffer. I am not going to permit the witness to testify to any of that. At this point it's irrelevant, I don't want it ruled on and as a result, the matter will be raised, as you indicated, in some subsequent action.

CHAIR: There cannot be a proffer of, of testimony that you're not going to attempt to elicit. However, having said that, I will note as to, as it relates to the Zeller letter and SHA and the code enforcement matters that we discussed yesterday, what I recall from the rulings was no, we are not going down the road of the code enforcement or anything like that.

MR. HOLZER: Right.

CHAIR: However, to the extent that something ties to

a special exception factor, which I believe is what the Zeller e-mails did, that came into evidence --

MR. HOLZER: Right.

CHAIR: -- whereas the code enforcement, particularly of Mr. VanDomelin and whomever else, that did not, base, so the ruling was consistent and what has been received is consistent with that ruling. As to the code enforcement matters, we covered that yesterday as to what this Board could do with respect to the non-action or inaction or disregard of any requested action. There's not much we can do sitting here about that.

As to the County Councilman stuff, I don't believe that's appropriate for us to address what the County Councilman should/should not have done or anything to that degree. Plus it doesn't speak to the Petition itself.

As to whatever political analysis that may have been done in terms of why things happened the way they did, once again, that is not something we can, accept, accepting even for the moment, all true, all accurate, that we can do anything about sitting here today and I believe I expressed yesterday I understand the frustration for Mr. Clark, Dr. Clark, based on these e-mails and everything as to the lack of what he, he is, based on your proffer, would say would be a corrupt process, in quotes. I understand that frustration but there's only so much we can do sitting here today and that's discuss the Petition

filed by Petitioner plus whatever evidence Dr. Clark and the other Protestants have put in regarding the subject matter of that Petition.

So, with that in mind, do you wish to end, end, ask any questions on that basis with the, that following guardrails?

MR. HOLZER: No, because you just testified, or commented upon all, each of the issues that I touched on and said that they are improper or not to be received by the, by the Board. So, I will leave it at that. And --

CHAIR: And that's, to be clear, that's not what I said, but the record will speak for itself.

MR. HOLZER: Well, the record will show what you just said and it was various denials of, of anything I would call him to say anyway.

CHAIR: Except for, again, the Zeller letter which was admitted into evidence.

MR. HOLZER: Yes.

CHAIR: Because it spoke to a specific --

MR. HOLZER: Right.

CHAIR: -- special exception factor. So, if you had anything in that vein, that is, something that speaks to a special exception factor, you know, that has not been ruled upon.

MR. HOLZER: This is what the witness wanted to say

and based on your ruling just now, if, if he wanted to talk about the interference of the County Council or County representative, you would not permit that. If it was related to improprieties in, in regard to enforcement, that would not be permitted. So, in effect, you have, what I tried to do is to make the proffer of what he wanted to say, knowing that it would just generate another three hours' worth of discussion and, and you know, at this point I didn't see the relevance of doing that.

CHAIR: I, I don't think you mean relevance but I understand what you mean by that.

MR. HOLZER: Yes.

CHAIR: So, the bottom line is this. I've asked you if there's any other evidence to present along these lines. I understand there is no more evidence to be forthcoming along those lines.

MR. HOLZER: That's correct.

CHAIR: Does that then conclude the direct testimony of Dr. Clark?

MR. HOLZER: Well, I want to ask him if there's anything else at this point. I've gone through his different lists of what he wanted to present and I have precluded him from presenting the other, and now I've precluded him from presenting this on the basis of the proffer. So, I just want to ask him a few general questions to, to close up.

MR. SCHMIDT: And I'd just like the record to reflect that I raised no objection or said very little during this most recent exchange and I agree with the Chair's comment that a proffer in these circumstances is a statement to the Court, or in this case to the Board, of what the testimony would be upon the Board ruling that it will not accept the testimony. I'm not quite sure how Mr. Holzer makes a proffer when he says he doesn't want to offer the evidence. So, I'm not quite sure procedurally how he can do that. I've never, quite honestly, heard of such a thing. But if Mr. Clark wants to testify and allege all different kinds of corruption in Baltimore County and name names and so on and so forth, I have no objection to it.

CHAIR: Well, I, --

MR. HOLZER: Thank you. I will accept that -=

CHAIR: -- I, I'm just going to clarify what Mr. Schmidt said.

MR. HOLZER: I understood what he said, Mr. Chairman.

CHAIR: No, I am clarifying it for the record --

MR. HOLZER: And I'll accept it.

CHAIR: -- so my, the ruling that I just elicited, given the subject matter identified by Mr. Holzer, incorporated rulings from yesterday based on objections from yesterday.

MR. SCHMIDT: Yes, sir.

CHAIR: So, in, in the matter of consistency and

efficiency, I have identified that for the record but have asked for any other questions to follow, that Mr. Holzer, Dr. Clark believe could be made part of this record subject to the same rulings that have been applied in this case.

MR. HOLZER: Thank you.

CHAIR: With that in mind, Mr. Holzer, if there's anything further --

MR. HOLZER: Yes.

CHAIR: -- you wish to say?

MR. HOLZER: Mr. Clark, you are now prepared to testify in regard to the entire process has been corrupted, so please begin, start at the beginning and say what you want to say relative to Mr. Ghimire's testimony first and then the VanDomelin letter and let the Board rule on it.

MR. CLARK: In, Mr. Ghimire has testified that Arnold Jablon connected him with Mr. Kotroco at the ALJ, okay? I don't know how to proceed here, that, that's, that's --

MR. HOLZER: Well, why do you think that was wrong?

MR. CLARK: I don't know whether it was right or wrong, it's just, it's just that Mr. Ghimire testified to that. And then we have a letter from VanDomelin dated November 2017 sometime, where he was actually advising the clients on how --

CHAIR: Advising who?

MR. CLARK: The, the, advising the Petitioner.

CHAIR: Thank you.

MR. CLARK: How best to apply for a special exception that will get them what they want. And then I didn't understand why there was a cc to whom I have since learned is, is a politician, Bendary, okay? There was a, he, he initialed on it, cc'd Bendary.

MR. HOLZER: Do you, do you, did you obtain that document?

MR. CLARK: By a FOIA request.

MR. HOLZER: Okay and --

CHAIR: Ninety-four.

MR. SCHMIDT: And I show you a copy.

CHAIR: We have multiple, multiple extra copies, Mr. Holzer, if you'd like this back?

MR. HOLZER: Sure, thanks.

CHAIR: Yes. Okay, sir. Could you please identify the one page document that is now marked as Exhibit 94?

MR. CLARK: Yeah, this is, this is a letter to Hindu Buddha Temple complaints and you can read it for yourself.

MR. HOLZER: I want you to point out what, in the letter, that you think is, produced your comment.

MR. CLARK: Okay.

MR. HOLZER: You don't have to read it, just point it out.

MR. CLARK: However, the purpose of, the, the, the last paragraph, also the, the, starting in the middle of the

second paragraph, Mr. Jablon, that you meet with the community, which was never done. And then at the top, you'll see that it was also, someone wrote to the, at, at the top in pencil, and this is on the original document, also to Harry Bendary, Nepali Public Affairs Counsel and Tim Kotroco.

CHAIR: Who is also copied at the bottom.

MR. CLARK: Yes, Tim Kotroco is copied at the bottom, yes, yes.

CHAIR: And as I understand it, you don't know whose handwriting that is?

MR. CLARK: I do not.

CHAIR: Very well.

MR. CLARK: It, it was on the original document --

CHAIR: In pencil.

MR. CLARK: Right.

CHAIR: Right, understood.

MR. HOLZER: Okay.

MR. SCHMIDT: Mr. Schmidt, any objection to ninety-four?

MR. SCHMIDT: No, sir.

CHAIR: So admitted.

MR. HOLZER: Okay. Let's, let's move down the list then. In regard to non-response to zoning complaints.

MR. CLARK: Yeah, there was, it was prior to that letter and this is a little bit out of sequence but prior to

that letter, I had met with Mr. VanDomelin and he told me that he wanted to know of any events, of any large events held on the property and he would act. So, the pictures that you saw of the nighttime from September 2017 there were about seventy-five, eighty pictures and, and that, and, and I included them in a letter that I sent to him. And in a subsequent meeting, he told me, you know, sometime later, I can't remember, well, yeah, I can't act on that, it's not enough, okay?

MR. HOLZER: Did you receive any notification in regard to that?

CHAIR: To what he just discussed?

MR. HOLZER: Yes.

CHAIR: You used the word that, that's why --

MR. HOLZER: Oh, I'm, I'm sorry.

MR. CLARK: Well, yeah, the, the --

MR. HOLZER: Well, stop.

MR. CLARK: Okay.

CHAIR: Remember, we have to wait till the copies are passed out first.

MR. CLARK: Yeah, sorry.

CHAIR: Thank you. Thank you. This is ninety-five? Right, Mr. McComas?

MR. MCCOMAS: Yes, yeah.

CHAIR: One, two, three, four, five pages. All right. Dr. Clark, please identify what Protestant's Exhibit 95

is.

MR. CLARK: What these are is, I call them the green cards. They're the certified receipt --

CHAIR: Yes.

MR. CLARK: Okay.

CHAIR: We're familiar with what green cards --

MR. CLARK: Yes, I'm sure. These are, are the, are to document that I had sent, and it's already in the other thing, okay? The, the letter I had sent. And we got a re, from these letters we got a response from no one.

CHAIR: Okay.

MR. CLARK: It was crickets.

CHAIR: Well, it may be helpful if you can identify the addressees because I'm having a hard time reading it.

MR. CLARK: Okay.

CHAIR: And perhaps that's because I don't have my reading glasses on but also because the nature of the copy.

MR. CLARK: Okay.

CHAIR: So, if you could just give an example, like several examples of who, where these were sent?

MR. CLARK: All right. County Ex Moeller, Robin Clarke, Baltimore County Code Enforcement, Councilman Wade Koch, Councilman David Marks, Colonel John, I was really, Colonel John Garvelis (phonetic), who's at the, at MDOT, Arnold Jablon, Richard Zeller, Lionel VanDomelin, Karen Lewis, Matt

Goelle, Vince Gardenia, Ed Reiser, Jan McCook, Tracy Davis, Donna Kilduff, Dennis Kennedy and Lieutenant Yingling of the, of the Baltimore County Fire Marshal's Office.

MR. HOLZER: Okay.

MR. CLARK: Not one response.

CHAIR: Okay. When, and again, I know there are stamps on these cards. Can you give just the, the rough date range when these were sent?

MR. CLARK: Yeah, they were all, June 27th it looks like they were all date stamped.

CHAIR: Well, not Bates stamp but they were stamped by post office as being --

MR. CLARK: Yes.

CHAIR: -- received and mailed on the 27th?

MR. CLARK: Yes, yes. And while, no, now I'm seeing June 2nd, various dates, various dates, June 2nd to June 27th, the month of June 2018.

CHAIR: You got where I was going with it. I just want to make clear for the record that's the time frame --

MR. CLARK: Right.

CHAIR: -- you're referring to when these were sent.

MR. CLARK: Right.

MR. HOLZER: All right.

CHAIR: Any objection?

MR. SCHMIDT: No, sir.

CHAIR: So admitted.

MR. HOLZER: Thank you. Next, I believe I mentioned the secret letter. And so, the Board has the Motion, my Motion in regard to that. I think it is appropriate not to get into that until counsel has had an opportunity to replay, I've had an opportunity to reply to that and then the Board can take it up.

CHAIR: I, I would like that completed by next hearing date. So, in other words, I would like to see your response ASAP and then to give Mr. Holzer at least some adequate time for a response, for a written response.

MR. SCHMIDT: You'll have it by the end of this week.

CHAIR: Okay. Mr. Holzer, so, I don't, where's the calendar?

MR. HOLZER: I don't have the calendar.

CHAIR: February 5th is Tuesday.

MR. SCHMIDT: The 1st is Friday, you'll have it by Friday if that's soon enough. If not, I'll get it to you by tomorrow.

CHAIR: I would pre, yeah, okay. So, I'll get it, so as long as Mr. Holzer can get it by the 1st, so I would request that not only do you --

MR. SCHMIDT: I'll e-mail it.

CHAIR: -- serve it normal process but certainly e-mail Mr. Holzer.

MR. SCHMIDT: Yes, sir.

CHAIR: So he has the opportunity to at least try to file a written response by the 5th. So that we can rule and add this, Mr. Holzer, I understood previously, based on your proffer, you did not intend to go into any questions or testimony with Dr. Clark as to the content of that Motion, however it's disposed of?

MR. HOLZER: Correct.

CHAIR: Okay. So, then, because otherwise, you know, we have, there'd be no need to keep him, Dr. Clark's, testimony open for that purpose.

MR. HOLZER: Well, I might say, just, I, I don't want to cause any more problem, more delay, but Mary Clark and Mr. Clark because of the first day hearing where it was referred to but it was not introduced into evidence, caused me to say what are they talking about? What doc, what letter from Mr. Kotroco? So, I asked them, both of them, to go over to Beverungen's office to get me a copy and there was some things that subsequently took place that we were not able to get it initially, but then subsequently, after being told they didn't have it, we were able to go back and get it and that's how we got the, the, the document --

CHAIR: So, you may elicit testimony as to those efforts?

MR. HOLZER: Yes, yes.

CHAIR: Depending on how the Motion goes.

MR. HOLZER: Exactly. So, the, other than that, there would be no need for them to do anything else, most of it's my, my business.

CHAIR: Do you intend then to call Dr. Clark on the stand in connection with that, depending on how this resolves?

MR. HOLZER: Yeah, or Mary because I know Mary at one point --

CHAIR: I, I, the reason I'm asking is because I'm trying to get through Dr. Clark's testimony --

MR. HOLZER: Yes.

CHAIR: -- be done with him.

MR. HOLZER: Right.

CHAIR: But obviously, if there's still a point that would remain open --

MR. HOLZER: Yes.

CHAIR: -- then it will be subject to whatever that is and --

MR. HOLZER: To the very limited --

CHAIR: And that's my point is, --

MR. HOLZER: Yeah.

CHAIR: -- then any cross and all that would be limited to that issue.

MR. HOLZER: Absolutely.

CHAIR: Okay.

MR. HOLZER: Absolutely.

CHAIR: As long as we're all on the same playing field with that, that's fine.

MR. HOLZER: Yes.

CHAIR: We'll address it that way. But I do expect that we will go and, and discuss and deliberate the Motion on February 5th so that, again, I urge, I know you may not, maybe within where we are with the time for you guys, and I realize that we have a condensed schedule, so I'm asking to please get it to Mr. Holzer as early as possible.

MR. SCHMIDT: Yes, he'll have it either tomorrow or, or Friday.

CHAIR: Thank you.

MR. SCHMIDT: And I will e-mail it to him and I'll also provide it, hard copy and an e-mail copy to Ms. Cannington.

CHAIR: Of course.

MR. SCHMIDT: If she wants to e-mail, further forward that e-mail to any of the Board members.

CHAIR: In normal course, yes.

MR. SCHMIDT: Yes, sir.

CHAIR: And the same thing for any written res, reply by yourself as well, for the Board's consideration and to address during the course of the hearing on February 5th.

MR. HOLZER: Yes.

CHAIR: Again, normal course. All right.

MR. HOLZER: Now, now, as a result of that, Mr. Clark, I believe, has some comments about the use of the secret letter that might not be relevant to the argument or my request. But it is, he does have some, some testimony he'd like to give.

CHAIR: I would prefer that be reserved to that, to that day following the written response and reply, because that may influence how that is handled.

MR. HOLZER: Okay. Well, then --

CHAIR: In other words, I'm not shutting the door on what you were saying, I just think that that is the more appropriate time to address that.

MR. HOLZER: That's fine with me. I, I don't have a problem with that. There's also the use of a letter to relate to this Board and I think under your, your ruling, I will just include that at, for the time.

CHAIR: I'm going to just follow up real quick. I, just so I understand what you're referring to, and without getting into testimony --

MR. HOLZER: Yeah, I, I, I don't want to, to get into it.

CHAIR: Okay, that's fine.

MR. HOLZER: If it, if it relates to this quote, secret letter, --

CHAIR: That's fine. We'll reserve.

MR. HOLZER: I just want to preserve it for that point.

CHAIR: We'll reserve it to the 5th.

MR. HOLZER: I, I don't think it's appropriate to get into it now.

CHAIR: No, that's fine.

MR. HOLZER: Okay. All right. Mr. Clark, do you understand what I just told the Board?

MR. CLARK: I do.

MR. HOLZER: All right. So then there is comments about Mr. Ghimire's testimony (inaudible) that you wanted to talk about.

MR. CLARK: Well, in the ALJ below, he testified that Mr. Marks had been involved from day one. Mr. Marks told us at two Greater Kingsville Civic Associations that he could not be involved in any way, shape, manner or form with this whole process.

MR. HOLZER: Okay and do you have copies of the testimony below?

MR. CLARK: Yeah.

MR. HOLZER: Okay and is it just one, one, just one page? I think it is. I hope that's (inaudible).

CHAIR: Ninety-six?

MR. MCCOMAS: Yeah, ninety-six, ninety-six.

CHAIR: Okay. Mr. Schmidt, I'll give you the opportunity to review it.

MR. SCHMIDT: I did. I mean, it, it says what it says, but it's one of these things where lines one through twenty are not in there and then the, the full answer isn't even in there.

CHAIR: Okay. So, your objection is to completeness?

MR. SCHMIDT: Yes, sir. I mean, I'd like to see --

CHAIR: Do you have a copy of that transcript?

MR. SCHMIDT: I do not have a copy of that transcript.

CHAIR: Do you have a full, copy of the full transcript, Mr. Holzer?

MR. HOLZER: Yeah, we do.

CHAIR: Okay. So, we are not going to rule on that as of yet because we are going to provide Mr. Schmidt with the full transcript so that he may review the testimony before and at the complete answer, so that, to see if that resolves whatever issue Mr. Schmidt may have. I will ask Mr. Holzer, while Dr. Mary Clark is doing that, --

MR. HOLZER: Yes.

CHAIR: -- to proceed to the next question or topic.

MR. SCHMIDT: Yeah, and just, I'll just say, if, if Ms. Clark wants to just give me the transcript, I'm happy to have a copy of it made over the lunch break even and then give

it right back to her.

CHAIR: I, I will leave that to --

MR. SCHMIDT: If that's easy enough.

CHAIR: -- the parties to sort out. I'm just requesting that we move on.

MR. SCHMIDT: Sure.

CHAIR: Because we can't resolve that sitting here in the moment.

MR. SCHMIDT: Yeah, I mean, what I'm, and not to belabor the point, but as I read it, I mean, the rest of the answer is not there.

CHAIR: Well, I prefer to not here what's going on with it --

MR. SCHMIDT: Yeah, yeah, I'd just like to know what it is.

CHAIR: -- other, other than I understand there's a completeness argument because the answer itself is not complete, nor are you aware of what the testimony or questions or whatever they were, the context of how it came up.

MR. SCHMIDT: Yes, sir.

MR. HOLZER: Why don't you let the witness testify what he wants to say? Because otherwise, once they get it and they read it, then I'll have to bring him back for that.

CHAIR: I, I'm more comfortable with having Mr. Schmidt have the opportunity to review it because if he needs

to cross examine on it, we're going to be stuck here anyway. So, it would be just better to move on for the moment, try to resolve that during the course of a break.

MR. HOLZER: Okay, all right. All right. Well, this also relates to the question involved, that he started to answer.

CHAIR: I, I'm sorry, can you be more specific just so we have an idea?

MR. HOLZER: Yes. There are affidavits from Carol Shaw and, that she was there and heard the Councilman say that he couldn't get involved.

CHAIR: I, I will note that Ms. Shaw is present in the courtroom.

MR. HOLZER: That's correct.

CHAIR: But you want to hand up an affidavit of Ms. Shaw?

MR. HOLZER: Yes, because it certainly saves a lot of the Board's time. If you want me to call her as a witness --

CHAIR: Hold, hold on, hold on.

MR. HOLZER: Okay. Mr. Schmidt, how do you wish to address this?

MR. SCHMIDT: Can I see the affidavit first?

CHAIR: Yes.

MR. HOLZER: That's why I was getting them ready.

CHAIR: I, I, --

MR. HOLZER: And Mary Clark, --

CHAIR: -- I understand.

MR. HOLZER: -- Mary Clark is also here and has her affidavit. So, both of them are here, both of them can testify.

CHAIR: To date, there have been objections to all affidavits.

MR. HOLZER: I know.

CHAIR: Which is why I established this --

MR. HOLZER: I know, --

CHAIR: -- I am establishing this point.

MR. HOLZER: I understand. I'm not being critical. One, two, four.

MR. MCCOMAS: I'll make that ninety-seven.

CHAIR: Ninety-seven.

MR. MCCOMAS: Yeah, ninety-six, I just did i.d. only waiting for the full transcript.

CHAIR: Right, because we're not, there's no ruling on that as of yet.

MR. HOLZER: Oh, okay.

MR. MCCOMAS: So, this is ninety-seven.

MR. HOLZER: And ninety-seven, for the record, would include two affidavits, Ms. Shaw and Mary, Mary Clark.

CHAIR: Hold on.

MR. SCHMIDT: No objection.

CHAIR: Just to be clear, we have two pages. One says affidavit of Carol Shaw, the one underneath also says affidavit of Carol Shaw but it's actually Mary Clark's.

MR. HOLZER: You're right, you're right.

CHAIR: I, just for purposes of the record, so when someone's flipping through and they see two Carol Shaw's, if they, if you continue on it's actually from Dr. Mary Clark.

MR. HOLZER: Correct.

CHAIR: All right. And there is no objection by Mr. Schmidt, therefore, we'll, we will admit the affidavits that are Exhibit 97.

MR. HOLZER: Okay, thank you.

MR. MCCOMAS: Can, can I just get some clarification on this exhibit?

MR. HOLZER: Sure.

MR. MCCOMAS: So, I have Carol Shaw's, this is Exhibit 72, on September 19, 2019 I observed the following. I attended the Greater Kingsville Civic Association --

MR. HOLZER: Right.

MR. MCCOMAS: On September 20th, 2017, so she's attended two, this is two separate --

CHAIR: Well, hold on and wait, let me back up. Because seventy-two is not in evidence. So, all that's been received in evidence is the one about September 20th.

MR. MCCOMAS: (inaudible) checking to make sure that

they weren't (inaudible).

CHAIR: Right, no, understood.

MR. HOLZER: Okay.

CHAIR: If there's a problem, there's got to be another way to address it.

MR. MCCOMAS: Yeah.

CHAIR: Okay. This is ninety-seven so it's already in. So, Mr., Mr. Clark, you have Exhibit 97, which has not been objected to.

MR. SCHMIDT: That's the affidavits, right?

MR. HOLZER: The affidavits.

CHAIR: Well, as, as I understand it then, these are basically stipulations as to the, here's what these people would say if called to testify.

MR. HOLZER: Right, but I need him to articulate what the result of the, his discussion with the transcript --

CHAIR: You're not asking what was said in the affidavits.

MR. HOLZER: Right, right.

CHAIR: That's where I thought you were going, I'm sorry.

MR. HOLZER: No.

CHAIR: You may proceed.

MR. HOLZER: With the testimony document that was tentatively identified and these two statements, what is your

comment, what is your purpose of bringing that to the attention?

MR. CLARK: It's just, I, I can't reconcile it, I can't, --

CHAIR: You can't reconcile what?

MR. CLARK: Re, reconcile his statements to, to --

CHAIR: Whose statements --

MR. CLARK: Yeah, sorry, sorry. I can't reconcile Mr. Marks' statements with his active involvement, with his, no. I can't reconcile Mr. Marks' statements to the Greater Kingsville Civic Association with his apparent active involvement in promoting and, and, and assisting --

CHAIR: Well, we'll characterize it as this it seems. That, that is taken from testimony from Mr. Ghimire, correct? That understanding?

MR. CLARK: Correct.

CHAIR: So, before we classify it as attributable to Councilman Marks directly, that is your understanding based on the testimony of Mr. Ghimire?

MR. CLARK: Yes.

CHAIR: Could you, just to be clear on this point, you don't have any other information other than what Mr. Ghimire provided in terms of his testimony as to Councilman Marks' apparent involvement one way or another? That's why, that's what --

MR. CLARK: I, I, I, I, I know.

CHAIR: I'm sorry, I just want to make sure that was clear that you are reconciling those two events.

MR. CLARK: The, yes, yes.

CHAIR: Okay.

MR. CLARK: I want to leave it there.

CHAIR: Okay.

MS. DOPKIN: Excuse me. Mr. Clark, were you at the September 20th meeting?

MR. CLARK: Yes, I was.

MS. DOPKIN: Thank you.

CHAIR: Thank you, both.

MR. CLARK: I spoke, oh, and I spoke directly with Mr. Marks.

CHAIR: To be clear, we understood that you had personal knowledge as to what was communicated with the Greater Kingsville Association.

MR. CLARK: Correct.

CHAIR: And then you had personal knowledge as to your, in your individual capacity as to what Mr., Councilman Marks has sent to you personally?

MR. CLARK: I spoke with him personally.

CHAIR: Okay.

MR. CLARK: And among other things, he, he informed me that Mr. Ghimire had been invited to attend that meeting and

that Mr. Ghimire declined to attend and he was, he, he seemed rather vexed by that, by that, by that non-attendance. Because that was the meeting where the, the board, where, where the association took the vote on its position.

CHAIR: Okay. That, what I'm hearing is, you're just recapping more of the --

MR. CLARK: Correct.

CHAIR: -- information as it relates to your personal experience and firsthand knowledge --

MR. CLARK: Right.

CHAIR: -- as to the communications from Councilman Marks to Greater Kingsville and you personally?

MR. CLARK: Right.

CHAIR: Okay.

MR. HOLZER: Thank you. This is not a duplicate, this in regard to October 20th, but it's the same two affidavits of the same two witnesses, rather.

MR. SCHMIDT: Once again, it says Carol Shaw.

MR. HOLZER: Yes, yeah. This would be?

MR. MCCOMAS: Ninety-eight.

CHAIR: A and B, sure.

MR. MCCOMAS: (inaudible).

CHAIR: Whatever works for everybody, I mean, we're going to be able to identify by who the person is. And we have an extra copy if you need one back, Mr. Holzer.

MR. HOLZER: Okay. I, I have one.

CHAIR: Oh, okay, thank you. So, Mr. Holzer, is there, I guess if you could illustrate for the record what the difference is for ninety-seven compared to ninety-eight?

MR. HOLZER: I'd rather have the witness.

CHAIR: I'm not asking you to do it, I'm asking you to ask him that.

MR. HOLZER: I, oh, right. Mr. Clark, there are, there are two different affidavits by Mary Clark and also Carol Shaw. Can you articulate the difference between them so the record is clear?

MR. CLARK: The dates?

MR. HOLZER: Yes. And, --

MR. CLARK: Okay, September, these, these relate to a meeting that I, that I did not attend, okay? On September 19th, 2018.

MR. HOLZER: And was Mr. Marks there at the same, at that meeting also?

MR. CLARK: Apparently.

MR. HOLZER: Oh, I, I know you weren't there.

MR. CLARK: Right.

MR. HOLZER: But according to the affidavits, --

MR. CLARK: According to the affidavits, --

MR. HOLZER: -- it indicates that he was, was there.

MR. CLARK: Right.

MR. HOLZER: Okay. Is there anything further that you wanted to articulate or express about --

MR. CLARK: Apparently, Mr. Marks said again that he could not be involved in the NAACCB matter.

MR. HOLZER: Okay.

MR. MCCOMAS: Can I just get clarification here? Because I, from the duplication, is, is there any difference between seventy-two Carol Shaw affidavit and 98-A?

MR. HOLZER: The years, is it the years?

MR. MCCOMAS: No, no, Exhibit 72, Carol --

CHAIR: Does that appear to be the exact same?

MR. MCCOMAS: Appear to be exactly the same. I'd be interested to know what the differences are.

MR. HOLZER: Oh.

CHAIR: Referencing, --

MR. MCCOMAS: Same (inaudible) if you can you're your witness tell us the difference between ninety, seventy-two and ninety-eight.

CHAIR: And by, by way of reference, just for the record, we dealt with Exhibit 72 yesterday, which was not admitted into evidence. We have Exhibit 98 in front of us now. I have another question about ninety-eight though because it states on September 19, 2018, I observed the following and it references an event that took place the following day. So, one of those two dates would appear to not be accurately recorded.

MR. HOLZER: I, I don't have either one of them --
CHAIR: I, I'm just alerting you to this --
MR. HOLZER: Can I ask him? Can I ask the witness?
CHAIR: You could ask the witness.
MR. MCCOMAS: You need Exhibit 72 as well? (inaudible).
MR. HOLZER: We don't have seventy-two here.
MR. MCCOMAS: Here's seventy-two.
MS. DOPKIN: Seventy-two and ninety-eight are the same.
CHAIR: Yeah, there is app, it appears to the Board members that seventy-two and ninety-eight may be the same.
MR. HOLZER: And was that admitted --
CHAIR: Everyone, one at a time, sorry. Mr. Holzer?
MR. HOLZER: Was seventy-two admitted?
CHAIR: It was not.
MS. DOPKIN: I.d. only.
MR. HOLZER: It was not?
CHAIR: It was not admitted into evidence. It is identified for the record.
MR. HOLZER: Okay.
CHAIR: Now, Ms. Dopkin, did you have something you wanted to add?
MS. DOPKIN: If you'll look at paragraph two, what Mr. Garber was pointing out is it is prefaced on September 19th,

2018 I observed the following. Attending a meeting of the Greater Kingsville Civic Association --

MR. HOLZER: On September the 20th.

MS. DOPKIN: On the 20th.

MR. HOLZER: I see that.

CHAIR: If, if you look at Mary Clark's affidavit, it refers to both dates as September 19th.

MR. HOLZER: Right.

CHAIR: I assume that, that the affidavit of Ms. Shaw would be amended to the 19th?

MR. HOLZER: Yes.

CHAIR: So, for purposes of the record, Dr. Clark, did the meeting take place, the Greater Kingsville Civic Association semi-annual meeting, take place on September 19th or the 20th, if you recall?

MR. CLARK: The 19th.

CHAIR: Okay. So, understanding that there would be an amendment to the affidavit --

MR. HOLZER: Correct.

CHAIR: -- at 98-A, September 19th, with that in mind, Mr. Schmidt, any objection to ninety-eight?

MR. SCHMIDT: No, sir. I mean, along these lines, Mr. Garber, you know, none of this is really about my client. It's, it's an attack, or allegations about Baltimore County. I'm not here to defend Baltimore County. Certainly, it's up to

the Board to decide. I was looking at your rules of practice and procedure, and I don't think you need to do it based on an objection, but you can exclude improper testimony if you believe it to be improper for any reason. But I'm not raising an evidentiary objection.

CHAIR: I will comment as, well, my comment to that is as follows. I had been waiting to see if you have any objection because, again, as I already, as I already stated for the record, we made rulings for the subject matter. I would make those rulings consistent, but you have not objected. Therefore, in the absence of objection, objection, I am free to receive whatever evidence or whatever, subject to whatever discretion we have in terms of a stopping point for that r whatever the case may be. Because we are this far down the road on that point, I will admit ninety-eight, but if you have a reservation or another type of objection to some of this material, I would ask that you articulate it.

MR. SCHMIDT: I will be honest, I, I think it's improper and inappropriate to besmirch the reputation of Mr. Marks and other County officials and allege that they're corrupt in this proceeding, when they are not here, nor is a County attorney here to defend themselves. I think it's inappropriate, I don't think it assists the Board in deciding the Petition for Special Exception. If Mr. Holzer and Mr. Clark believe that it furthers their case to label the County

people corrupt and criminal and indifferent or whatever the allegation is, then, then again, I don't think it has any relevance to it.

Certainly, I would object to anything that's been consistent with your rulings as it relates to a violation case and I haven't seen these exhibits related to a violation case. Maybe I'm misunderstanding the nature of the exhibit. I do not think it's, I don't think it's appropriate evidence. I certainly wouldn't offer it in this Board but it's not my call.

CHAIR: Well, whether it's something, whether you would offer it, I --

MR. SCHMIDT: It's not my call.

CHAIR: Your objection, I seem to recall yesterday there was a brief objection and discussion about the propriety of going into matters as it relates to people who are not here, particularly Councilman Marks or some others. Those objections were sustained. However, in light of the questions and, and evidence that have come this afternoon, because there were no objections and Mr. Holzer, in response to, to what has been said about the proffer, was going through this, that is why we, this has unfolded the way it has unfolded.

MR. SCHMIDT: But this, Chairman Garber, with all due respect, this is your hearing and you, you are going to run this hearing the way that you think it's appropriate and decide what evidence is appropriate. It's, it's not my hearing. The

distinction in terms of people here or not here is that the affidavits that have been submitted today have been signed by Ms. Shaw and Ms. Clark, who are both here. And as I understood Mr. Holzer's comments, in lieu of having them come up and testify and to save time he was going to do the affidavits.

I would continue, like I did yesterday as it relates to Ms. Foxworthy and other individuals who are not here, object to them, those affidavits. That was part of the objections that I raised this year.

CHAIR: You mean, yesterday and today?

MR. SCHMIDT: Yes, yes, sir, if I misspoke.

CHAIR: You said this year.

MR. SCHMIDT: I mean, yesterday or today, if I misspoke.

CHAIR: Sorry?

MS. DOPKIN: It just seems like a year.

MR. SCHMIDT: Yes. But my point being that the affidavits that have been introduced have been signed by people who are here.

CHAIR: That has been noted for the record.

MR. SCHMIDT: And Mr. Holzer, I believe, --

CHAIR: By both Mr. Holzer and, and the Boar.

MR. SCHMIDT: -- said instead of calling them, he would just give the affidavits and since they're here, I can, if I felt that was improper and wanted to cross examine them, I

could do so. So, I did not object to that. But in saying that, I mean, I will tell you, I do not think it's relevant evidence but it does not relate to my client to call the officials of Baltimore County corrupt and inefficient.

CHAIR: I, and again, --

MR. SCHMIDT: I'm not here to protect Baltimore County.

CHAIR: And that's understood. The purpose, as I have understood it, is in response to the argument that you can't just proffer something, you have to make an attempt and then move forward. Since we are at this point where the last several minutes have been spent introducing this evidence and eliciting testimony as part of that proffer --

MR. HOLZER: Right.

CHAIR: -- it is not up to the Board to then address that point for purposes of the proffer, proffer. I indicated that I would make rulings consistent with what has been done before. There, since there have been objections, that's why it has come in in furtherance of Mr. Holzer's proffer.

MR. HOLZER: That's correct.

MR. SCHMIDT: And that --

CHAIR: So, we're now at a crossroads, it would seem, because you would now object going forward to continuation along these lines for the reasons you've already stated.

MR. SCHMIDT: I guess it depends on what's being

offered. But Chairman Garber, let me, let me just say this. And I mean this with all --

MR. HOLZER: Could I ever get a chance?

CHAIR: Let, that's fair, Mr. Holzer. Go ahead.

MR. SCHMIDT: Obviously, I have not agreed with all your rulings on evidence.

CHAIR: What?

MR. SCHMIDT: But you are the Chair, and I respect your rulings.

MR. HOLZER: Geez.

MR. SCHMIDT: I have not, I have tried very hard today to respond to the comments that I interpreted this morning that Ms. Dopkin was directing them specifically at me regarding the nature of objections. I do not believe that the Chair, I believe that the Chair has sometimes conducted direct examination of witnesses during this case, which I do not believe to be appropriate, recognizing that the Chair can certainly ask questions, as the panel members can, but Mr. Holzer is more than capable of putting his case on and I don't believe that, that the Board has to assist him to do that, as they have. I point all those things out to just merely say that you're sitting in those seats up there and as Judge Gordon Boone told me one time when I said to Judge Boone, Judge, you can't do that. He said, Mr. Schmidt, I'm wearing the dress, meaning his robe, --

CHAIR: Understood.

MR. SCHMIDT: -- I can do whatever the hell I want in open court. And so, and I don't mean to be flippant, but you're running in the hearing. If there's evidence that you believe is inappropriate or improper, it doesn't take an objection by Larry Schmidt to mean that it can't come in. If you believe it to be inappropriate then the Chair, as the presiding body in this hearing, can certainly make that ruling and your rules of proper, rules of procedure say as much, that you can exclude and limit repetitive and immaterial testimony. That's exactly what it says in there.

CHAIR: I'm, I'm familiar with what the rules say.

MR. SCHMIDT: I, I don't believe, I, I don't believe that, I'll say it this way. I don't believe this testimony is appropriate for this hearing --

CHAIR: I've already comm, I've already made comments --

MR. SCHMIDT: -- whether it's admissible --

CHAIR: Hold on. I've already made comments as to what I personally had thought and what the prior rulings have been. But in light of the issue as to the proffer, that's why we're at where we're at. If there's any, if there are other objections to the materials and testimony to follow, it is understood basically, number one, what you are, what you would object to because you've now stated for the record. But

secondly, his proffer is already put in properly then for the record to be preserved for future use. That was the entire exercise.

MR. HOLZER: Right, right.

CHAIR: It was (inaudible) critique as to you can't put a proffer in without making attempts.

MR. SCHMIDT: Which is what you said, I believe.

CHAIR: Right, which he then went down the road. If there were objections made at that time, perhaps there would have been a different understanding. I actually don't think, some of this stuff is not going to be helpful, I would agree, as to the resolution, as to any matter within the Petition for Special Hearing.

MR. SCHMIDT: I don't think it's got anything to do with the resolution of the Petition for Special Exception.

CHAIR: It may speak to certain matters as to credibility of certain witnesses. I could be open to that argument, which as I understood, to some degree, what Mr. Holzer was trying to accomplish.

MR. HOLZER: That's correct.

CHAIR: So, --

MR. SCHMIDT: If David Marks is a liar and a thief, it doesn't matter, it doesn't bear on the issue as to whether the Petition for Special Exception should be granted.

CHAIR: I will not characterize Councilman Marks in

any way, shape or form in that regard.

MR. SCHMIDT: I, I'm not, I'm saying, but if that's the allegation --

MR. HOLZER: Well, I would object, I'm going to object to that.

CHAIR: Hold on, hold on, hold on.

MR. HOLZER: Come on.

CHAIR: We are, we now have an understanding of where we all are and why this is where we are at at this time.

MR. HOLZER: Right.

CHAIR: With that in mind, Mr. Holzer, do you have any further questions?

MR. HOLZER: There is one more area that I think he would have covered --

MR. MCCOMAS: Not to go back down the bunny hole here. The, but Exhibit 98, --

CHAIR: That was admitted.

MR. MCCOMAS: Admitted. Does that mean seventy-two is now admitted?

CHAIR: It's the same thing.

MR. MCCOMAS: It's i.d. only, it's only i.d. only at the moment.

CHAIR: Well, ninety-eight is admitted so the substance is already in so it doesn't make a difference. We'll leave the prior ruling alone so we're not disturbing the record

in any more detail. But it is in the record.

MR. HOLZER: And it's in the record, Mr. McComas, it's in the record for purposes of a proffer. That's the difference between --

CHAIR: Yes, you said it far more eloquently and succinctly than I could have. Thank you.

MR. HOLZER: I doubt that. I, you've, Mr. Chairman, you have expressed exactly. The only reason, if you'll recall, I didn't want to get into this but when that ruling was required that I try, --

CHAIR: Yes.

MR. HOLZER: -- that's why I did it and, and --

CHAIR: And that's what was understood.

MR. HOLZER: I know. And I have, there's one more area that I could ask him a question about and then we're done. At least finish the proffer. I hope we're finished everything but --

CHAIR: Okay.

MR. HOLZER: -- the proffer. Mr. Clark, there is, in your, in my proffer, there was something about testimony of Mr. Ghimire and Mr. Brochin.

MR. CLARK: Yes.

MR. HOLZER: Who was, at that time, was a State Senator and he was running for County Executive. Within that context, be brief, --

MR. CLARK: Yeah.

MR. HOLZER: -- and just explain what took place?

MR. CLARK: In, in, in his day five testimony, Mr. Ghimire asserted that Mr. Brochin approached a County employee in the performance of her duties and basically said, and, and I, the, the quote I have, he said to her, if I had a fundraiser at my house, I'm running for office right now, would you come to my house?

CHAIR: I'm, I recall the testimony.

MR. CLARK: Okay? So, that's the proffer.

MR. HOLZER: Okay and what's the significance of him doing that? As a result of --

MR. SCHMIDT: Of who, Mr. Brochin or Mr. Ghimire or the person who's having the fundraiser?

MR. HOLZER: Of anything that the witness has, has drawn a conclusion from that statement.

MR. CLARK: I don't know. All, all, all, alls I do know is that when, this was a County health inspector, she was responding to our request that she, she go out and insure that sanitation was, requirements were being met. And alls I know is she, she called me and said anything, anything related to this is going to have to go through somebody else's, I think it was Mueller's office.

MR. HOLZER: Okay.

MR. CLARK: That's all I know.

MR. HOLZER: All right, thank you. Members of the Board, I believe in terms of the proffer, that's all that we need at this point and I have no further questions in regard to the proffer. Can I ask one or two last questions if he has anything else that he wanted to address that has not been addressed?

CHAIR: You may ask whatever question you feel appropriate at this time.

MR. HOLZER: Thank you.

CHAIR: And we'll see where that takes us.

MR. HOLZER: Thank you. I hope it takes us to the end. Mr. Clark, you've testified for two, three days now. You've testified on behalf of yourself, your neighborhood and Mary insofar as the effect of this on, on your property and yourself. You have testified on behalf of the community association in terms of their objections. You testified in regard to the community association in regard to their possible request for conditions to be attached. You have acknowledged that your conditions, personally, would coincide with those conditions set forth in the, in the comm, community association. Is there anything else that you are here today to testify that has not been covered by, is it two or three days, I can't remember how many?

MR. SCHMIDT: Three.

MR. HOLZER: Three.

CHAIR: This, yes.

MR. CLARK: I think it might be worth five minutes to, to say, to, to describe how Gunpowder Falls Watershed Preservation Association got formed and --

CHAIR: Correct me if I'm wrong, did we not have that testimony yesterday?

MR. HOLZER: No, he didn't testify, he testified about what the, how the community association, what their by-laws, etcetera, were, but he didn't go into how it was formed.

CHAIR: I understand.

MR. HOLZER: And that was one of my questions that I was supposed to ask him.

CHAIR: I, I, I understand now. Okay. The difference --

MR. CLARK: Just, just, just history and background. The Greater Kingsville Association in, in the summer of 2017, hosted a couple community meetings. And it was in response to the neighbor awareness of, of events on the subject property. And what Greater Kingsville Association wanted to know is how disturbing it was to everybody and give the community a chance to come together. Now, I would point out that none, I, that I saw none of the Protest, none of the Petitioners' witnesses at those, at those meetings although they, they may, they would, I don't know if they would have been invited, you know. It was, they did a mass mailing, I don't know what they did. I don't

know how I got there, okay?

At any rate, four or five of us decided that since this was in our locale, that we would be best to form our own action with the technical assistance and financial support of Greater Kingsville Civic Association, okay? So, we became an independent organization and we included members of their board on our board to do liaison. I've had some organizational work in my background.

And so, we got together in early September. I ran down and gave Mr. Holzer a retainer check and that started his involvement, September 2017, and we started to organize. We, by the end of January, we had, oh, well, or we decided, this, this goes to Ms. Dopkin's question, we decided that we were not going to handle funds. All funds would be sent directly to Mr. Holzer's office and put into --

MR. HOLZER: Escrow.

MR. CLARK: -- an escrow account, thank you, for this case. So, we, we handle absolutely no funds. And so, we didn't need to incorporate. Plus, and, and, and we didn't bother with a website. We're all fairly old school and tired of computers, you know. And we eventually wound up drawing a hundred and twenty landowners in the area. Those are people who own property in the area. There were several meetings where there was confusion about whether it was appropriate for Mr. Ghimire or Mr. Kotroco to attend. The decision was taken

no, the opportunity, this is now an opposition group, there is no point in you being there.

There, there, there are, there, there was some fairly aggressive language used about not being, not being denied access to our meeting, okay? So, we, we had our meetings, we took our positions, we started to organized. We formed, we, we, we formed the board. We made --

CHAIR: Let me stop, let me stop you there, because now I think we're caught up to where the testimony was.

MR. CLARK: Right.

MR. HOLZER: Yes, I think so.

CHAIR: So now we have why the group was formed.

MR. CLARK: Yes.

MR. HOLZER: That's, and that was my only purpose for the question.

CHAIR: And, because now, like I said, because now we're caught up to what happened after formation --

MR. HOLZER: Right.

CHAIR: -- with respect to the rule eight papers and the positions taken by the association.

MR. CLARK: Well, --

MR. HOLZER: And I respectfully request that you not say anymore because the Board has, in effect, ruled, but they are accurate. So, enough is enough. As far as I'm concerned, that's the end (inaudible).

MR. CLARK: Okay.

CHAIR: End of direct for Dr. Clark. Okay. I'm assuming you may have a question or two on cross examination?

MR. SCHMIDT: I might have just a question or two.

MS. DOPKIN: I have a question for Dr. --

CHAIR: Hold on, before we get to that.

MS. DOPKIN: Before we go to cross, I have one question. I was looking back to your November 1st testimony and you gave us a lot of background about yourself.

MR. CLARK: Yes, ma'am.

MS. DOPKIN: And your education, but I think I missed what you did professionally after school.

MR. CLARK: Okay.

MS. DOPKIN: Just to fill in the gap here.

MR. CLARK: No, and, and I worked for a U.S.A. I.D. program out of Hopkins for a couple years, then I worked at, I was building a career. Then I moved to the Maryland State Department of Education where I did a couple, where I did a, actually it was a very important study, on the question of whether or not special ed students are stigmatized by being in special ed. And it turned out the, the results were no different than their other cohorts, I won't go into that with details but it shut down Bennett. And from there, I went to Harford Community College where, among other things, I served on the Affirmative Action Committee. And then --

MS. DOPKIN: Were you teaching? Were you teaching?

MR. CLARK: I, I, I was the Director of Institutional Planning.

MS. DOPKIN: Thank you.

MR. CLARK: And yeah, I, I did teach, but the, and then I went, I had an opportunity to become involved with a $5 million grant to look at the process of undergraduate medical education, which is the four years of medical school. During the, during the course of that, that was to be my coming out party and during the course of that, the principal investigator had the nerve to die of a drop dead heart attack. A lot of the other vice presidents were very scared about what Lou and I were doing and so, and so I was told to sit in my office and read the newspaper until they figured out what to do with me. At which point, they gave me a non-disclosure agreement to sign --

CHAIR: Hold on, I feel the need to jump in at this point.

MR. CLARK: Yeah, yeah, yeah.

CHAIR: I hope, if, if that non-disclosure agreement is in place, anything you just discussed does not --

MR. CLARK: No, no, no, no, no, no, no, it doesn't.

CHAIR: Okay.

MR. CLARK: It doesn't. What --

MS. DOPKIN: This is Harford Community College?

MR. CLARK: No, no, this is for the Association of American Medical Colleges, I'm sorry.

MS. DOPKIN: Oh.

MR. CLARK: It, it, it involved the, the data that Lou and I had acquired.

CHAIR: That was the non-disclosure?

MR. CLARK: Right, that was the non-disclosure.

CHAIR: The data.

MR. CLARK: Right.

CHAIR: Okay and so, now I did publish, as, as a result of, in there and it's published, for example, in 1992, medical schools, U.S. medical schools, were drip, were dipping into their third and fourth time appliers to fill seats, okay? That was the kind of thing Lou and I were looking at.

MS. DOPKIN: Who is Lou?

MR. CLARK: Lou Kettle, he was my vice president.

CHAIR: The one who dropped dead of a heart attack?

MR. CLARK: He was the principal investigator, yeah. And so, and so they, they were fairly nerv, you know, other vice presidents were fairly nervous about what we were doing so when he died, they took the opportunity to clean out his office, had me read a newspaper, I signed a non-disclosure agreement, they, they paid up my retirement and because I was also in the middle of all those health problems that were going on at the time, I just said to heck with it, you know. And I

signed a non-disclosure and I took the money and went on from there.

MS. DOPKIN: Thank you.

CHAIR: Anything further then?

MR. HOLZER: Absolutely not.

CHAIR: All right. So, I, again, I understand there will be cross examination of this witness. It is almost 2:00. Mr. Schmidt?

MR. SCHMIDT: Yes, sir?

CHAIR: How long would you like for lunch?

MR. SCHMIDT: Forty-five minutes.

CHAIR: I'm, because I'm trying to give you the benefit of the doubt to also help with whatever you need to organize for purposes of the cross examination.

MR. SCHMIDT: Sure.

CHAIR: Without trying to stretch our schedule boundaries as best as possible.

MR. SCHMIDT: Forty-five minutes is fine with me if that's okay with, --

CHAIR: Okay. So, --

MR. SCHMIDT: -- you know, I'll defer to you.

CHAIR: For, forty-five minutes would be, hold on. Twenty of three?

MR. SCHMIDT: Yes, sir.

CHAIR: Do I have that correct?

MR. SCHMIDT: That's, that's great. That's fine, thank you.

CHAIR: Is my math, does that add up?

MR. HOLZER: I, it's close enough for me.

MR. MCCOMAS: That's fine. You're rounding, you're rounding, that's all right.

CHAIR: Okay.

MR. MCCOMAS: You're rounding up.

CHAIR: So, all right. So, we'll do twenty of three we'll be back.

MR. SCHMIDT: Thank you, sir.

MR. CLARK: Ms. Dopkin, do I have to eat by myself?

MS. DOPKIN: I'm sorry.

CHAIR: You're on cross examination, so you can't talk about your testimony.

MR. CLARK: So, I have to eat by myself?

MS. DOPKIN: You're still on the stand, yes.

MR. CLARK: Yeah, okay. Thank you.

MS. DOPKIN: And you're still under oath.

MR. CLARK: Thank you.

(RECORDING PAUSED – 01:52:06 PM)

(ON RECORD – 02:44:28 PM)

CHAIR: Everyone please double check your phones to make sure that they are off. Or any device for that matter.

MS. DOPKIN: We're on the record.

CHAIR: We're back on the record. Everyone is gesturing towards one another. Mr. Holzer?

MR. HOLZER: No, I, that's okay. I believe, Mr. Schmidt and I have talked about what he's going to do. He's going to cross for a while, I don't know how long. He said it may not be that long. At 4:00, Mr. Jakubiak would have been my next witness. Unfortunately, he has to leave by 4:00. He --

CHAIR: I'll save you, I'll save you because it makes no sense to me to start Mr. Jakubiak at 4:00.

MR. HOLZER: Thank you. He has to, he's an, he's the attorney for the Town of Centreville Planning Commission and they have a meeting.

MR. SCHMIDT: The planner.

CHAIR: Yes, exactly.

MR. HOLZER: A planner.

CHAIR: We know he's not an attorney, but I understood from his prior testimony he is a planner.

MR. HOLZER: Okay, right. And he has a prior commitment that he has to be in Centreville --

CHAIR: No, again, I see no reason to start him at 4:00.

MR. HOLZER: I will say this so that the Board has some comfort. I will put him on at the very beginning of February 5th, unless you choose to address some of these other issues that could, maybe could wait and then when he's

finished, the only other possible witness that I have is someone from Kingsville to authenticate the, the letter that has just been marked for i.d. at this point.

CHAIR: That relate --

MR. HOLZER: That relates to their position.

CHAIR: Right. Well, if I could offer a suggestion to try to accelerate that.

MR. HOLZER: Uh huh.

CHAIR: If you come up with an affidavit or stipulation as to what may be said, perhaps you can come to an agreement with Mr. Schmidt on that, maybe you can't. But even then, that witness will be very brief.

MR. HOLZER: Yes, it'll, I was going to say, it'll be about two, two or three minutes at most.

CHAIR: Okay. As it relates to exhibits that you would use in connection with Mr. Jakubiak, to the extent that they are not in the record, to whatever you would feel comfortable sharing in advance.

MR. HOLZER: Right.

CHAIR: For example, his c.v. If you get agreement with Mr. Schmidt as to those things, we can blow past --

MR. SCHMIDT: I'll stipulate he's an expert planner.

MR. HOLZER: Because he's used him.

MR. SCHMIDT: I've used him before.

CHAIR: Yes. Before we put that affirmatively, what

we're doing with that, but I mean, I'm just giving an example as to --

MR. HOLZER: Right.

CHAIR: -- documents that you feel comfortable sharing at this point, perhaps to help streamline again that process.

MR. HOLZER: No, no problem. When I get the stuff from him on the other --

CHAIR: Yes.

MR. HOLZER: -- thing that he has to deliver --

CHAIR: Yes.

MR. HOLZER: -- I'll also try to get together whatever possible I can share with --

CHAIR: Yes, and I figured that there would be some agreement as to those matters --

MR. HOLZER: Yeah.

CHAIR: -- in advance. And lastly, to pick up on the Motion aspect of it, it would be my inclination or preference to resolve that at the top of the morning on the 5th, just to get it out of the way. And then, because there may be things that fall out from there that you're going to, or you're going to or however this plays out, you know, cause some adjustments for perhaps some people you would want present. Sorry, Ms. Dopkin?

MS. DOPKIN: Exhibit 96, the transcript excerpt.

MR. MCCOMAS: Yeah, I was just going to ask you, did they ever pull the transcript?

CHAIR: Ah. Going back to the issue as to Exhibit 96, the tran, the ALJ transcript as well.

MR. HOLZER: Yes, yes.

CHAIR: Has that been shared with Mr. Schmidt yet?

MR. HOLZER: No, we haven't, haven't had time.

CHAIR: It, it's okay if it has not happened.

MR. HOLZER: No, it has not.

CHAIR: I, I'm just asking if it has happened.

MR. HOLZER: I, we certainly will do that by the end of the week when --

MR. SCHMIDT: They can send me a copy or --

MR. HOLZER: Yeah.

MR. SCHMIDT: -- give me an original and I'll copy it and return it, whatever they want to do.

CHAIR: Yeah, nobody's rights will be waived as to that particular issue as well.

MR. HOLZER: Right.

CHAIR: In conn, in connection also as we set forth earlier, as to the Motion on Exhibit 34.

MR. HOLZER: Mr. Chairman, if I could lend experience of forty-five years --

CHAIR: Yeah, please.

MR. HOLZER: I think, respectfully submit --

CHAIR: It's okay.

MR. HOLZER: That putting Mr. Jakubiak on first, letting him testify, letting him get cross examined, is going to be done, I think not well before lunch time, but maybe by 11:00, 11, whatever. And then go into the secret letter discussion because, frankly, that could be very, I don't want to say explosive but it could get us involved in all sorts of things.

CHAIR: I, I'm sorry if I was not clear. It was my, it would be my inclination, it is by no means set in stone.

MR. HOLZER: Okay.

CHAIR: And it could very well be that the, the response and reply or whatever that comes forward, makes it apparent that that is an impossibility and it would be far more efficient to have Mr. Jakubiak on first.

MR. HOLZER: Okay, thank you.

CHAIR: So, I'm, if it's something that was, something that really did not take a long time, that's the reason why I say that. If it's apparent that it will not, it will take longer, obviously I would, I, I would probably more defer to that position.

MR. HOLZER: Yeah, I just think it's potentially more explosive, if that's an appropriate word --

CHAIR: Understood, okay.

MR. HOLZER: -- to use.

CHAIR: No problem. We'll, --

MR. HOLZER: Okay.

CHAIR: -- we'll deal with it, that's fine.

MR. HOLZER: But Mr. Jakubiak has been sitting here, if he --

CHAIR: He is excused at your will.

MR. HOLZER: Mr. Jakubiak, you're available to go, you're aware of the fifth, you're aware of, call me tomorrow.

CHAIR: We are, we are starting at 9:00 on the 5th.

VOICE: I'll be here, thank you.

CHAIR: Thank you.

MR. SCHMIDT: Mr. Jakubiak, before you leave, and I noticed this from my other case in which you were involved, I don't have a copy of your resume.

VOICE: Would you like a copy now?

MR. SCHMIDT: Could you send, could you e-mail it to me? Mr. Holzer, I need it for the other case.

MR. HOLZER: Yeah.

VOICE: There's a copy right there on the desk.

MR. SCHMIDT: Okay, okay.

MR. HOLZER: Glad to be of service in another case.

CHAIR: I understand.

MR. SCHMIDT: Thank you.

CHAIR: All right. So, now we have all those preliminary matters aside --

MR. HOLZER: Yes, yes.

CHAIR: -- for the afternoon?

MR. HOLZER: Thank you.

CHAIR: We can, Mr. Schmidt, I'm assuming you're ready for cross examination of Mr., excuse me, Dr. Clark?

MR. SCHMIDT: Yes, sir. Mr. Clark, let me ask you, and let me start by asking you, do you go by Dr. Clark or Mr. Clark?

MR. CLARK: I actually go by Dewey, just call me Dewey.

MR. SCHMIDT: Well, I, the formality would require me to use your last name, but are you a Ph.D.?

MR. CLARK: Yes, I am.

MR. SCHMIDT: You are. Do you go by Dr. Clark or do you prefer Mr. Clark, you tell me?

MR. CLARK: I prefer Mr. Clark.

MR. SCHMIDT: Mr. Clark, that's fine, okay. I'll try not to jump around too much but, and I'll try to be as brief as I can. You introduced during the course of your direct examination exhibit number seventy-eight, which is the decision that Mr. Kotroco issued in the matter related to the Grace Community Church.

MR. CLARK: Um hm.

MR. SCHMIDT: And just so that we're clear, how far is the Grace Community Church from the subject property?

MR. CLARK: As the crow flies?

MR. SCHMIDT: Yes, sir.

MR. CLARK: Well, it's not to where Mr. Clarke's property was, it's about, so if he was two miles, mile and a half?

MR. SCHMIDT: Okay. Would you describe it as being in Kingsville?

MR. CLARK: Um hm.

MR. SCHMIDT: Would you describe it as being in the neighborhood, your neighborhood?

MR. CLARK: I would describe it as being in my locale.

MR. SCHMIDT: In your locale. How about your neighborhood?

MR. CLARK: No.

MR. SCHMIDT: Okay. What's your neighborhood?

MR. CLARK: My, my neighborhood community is, and this is going to sound very --

CHAIR: Just answer the question.

MR. CLARK: -- yeah, yeah, you know, I, I am emotionally focused from say Mount Vista down to, down, down into the park.

MR. SCHMIDT: Okay.

CHAIR: Please specify.

MR. CLARK: Gunpowder Falls Park, down Harford Road.

To me, that, that's, that's where I spend most of, most of my time when I'm at home, that's where, that's where I look, that's, all that stuff.

MR. SCHMIDT: Okay.

CHAIR: Mount Vista Road to Gun, Gunpowder Falls Park.

MR. SCHMIDT: Okay, that's what you describe as your neighborhood? But you --

MR. CLARK: I live, yeah, but, go ahead --

MR. SCHMIDT: But you would describe the Grace Church as being within the, I think you used the word locale?

MR. CLARK: Correct.

MR. SCHMIDT: Okay. Are you familiar with the Grace Church property?

MR. CLARK: No, not personally.

MR. SCHMIDT: Okay. Have you ever been there?

MR. CLARK: No.

MR. SCHMIDT: Okay. Do you know, if you know, do you know if the, according to Mr. Kotroco's decision, the property is about 16.1 acres of land, is that correct to the best of your knowledge?

MR. CLARK: Do I need to --

MR. SCHMIDT: No, I just, if you know or does that sound correct based on your knowledge of it? Does that sound about --

MR. CLARK: Yeah, yes, that sounds correct.

MR. SCHMIDT: So, about half the size of the subject property?

MR. CLARK: Yeah.

MR. SCHMIDT: Yes?

MR. HOLZER: Do you want the document --

MR. CLARK: Yeah, yeah, why, why don't you --

MR. SCHMIDT: Yeah, I'm sorry, yeah.

MR. CLARK: -- why, why don't you? Thank you.

CHAIR: Would it be fair to say the information you have as to its size comes from that exhibit?

MR. CLARK: Correct, yes, sir. Yes, sir.

CHAIR: So, Exhibit 78.

MR. SCHMIDT: And I'm looking --

MR. CLARK: Seventy, yeah.

MR. SCHMIDT: Mr. Clark, just to be fair to you, on page one of the decision, about the middle of the first paragraph, it indicates it's 16.1 acres.

MR. CLARK: Okay.

MR. SCHMIDT: And it indicates that, at least at the time, was zoned RC-5.

MR. CLARK: Correct.

MR. SCHMIDT: Do you know if that zoning has changed?

MR. CLARK: No, I, I believe it has not --

MR. SCHMIDT: You, you don't know? It has not?

MR. CLARK: I believe it has not.

MR. SCHMIDT: Okay. It also indicates on the decision, within the decision, on page twelve, it's sort of as a result, and I'm looking at the second full paragraph on page twelve.

MR. CLARK: Um hm.

MR. SCHMIDT: After much, quote, after much opposition from the surrounding community, and it goes on to say that the project was redesigned so it was proposed to be a forty-seven thousand two hundred and fifty-seven square foot building. Is that, based on your knowledge, does that sound about right? Is that what actually was built, if you know?

MR. CLARK: I do not know.

MR. SCHMIDT: You don't know. Okay. It indicates on the property as, or in the decision as well, that it is such size as to handle a five hundred seat sanctuary. And that's actually, you were talking about the, the restrictions and I'd just draw your attention to page twenty-four. I think you talked about some of those. Restriction number three indicates that the sanctuary will be no more five hundred seats.

MR. CLARK: Correct.

MR. SCHMIDT: You see that?

MR. CLARK: I see it.

MR. SCHMIDT: And is that what, in fact, is that, is the property still in compliance with that, if you know?

Within that limitation?

MR. CLARK: Seeing as how Kingsville is the monitoring organization, I would assume yes.

MR. SCHMIDT: Okay and there's also, as part of that, a fellowship hall and a gymnasium? I'm looking at restriction number four?

MR. CLARK: Um hm.

MR. SCHMIDT: Okay and also in Petitioner's exhibit number seven, they were prop, I'm sorry, not seven, --

MR. CLARK: Right.

MR. SCHMIDT: In restriction number seven, I'm sorry, restriction number seven, it indicates that, as I, as I read it, that there were two hundred and forty-four parking spaces that were proposed, macadem parking spaces, or paved parking spaces it calls them, for this property, is that right?

MR. CLARK: I think that's what it was reduced to, yes.

MR. SCHMIDT: Yes, it was reduced to that number.

MR. CLARK: Yes.

MR. SCHMIDT: Two forty-four. And then also, if you go down within seven as well, that restriction number seven, it further provides that the, about five lines, six lines from the bottom of that restriction, the owner/developer shall be permitted to use grassy open areas of the subject property for overflow parking, correct?

MR. CLARK: But there's a condition on that.

MR. SCHMIDT: Yes, only during certain holidays, the, the high --

MR. CLARK: For, for, for two holidays, for two holidays.

MR. SCHMIDT: No, Christmas and Easter holidays.

MR. CLARK: Yeah, two holidays.

MR. SCHMIDT: This is, this is obviously a Christian church.

MR. CLARK: Yeah, but it's two days.

MR. SCHMIDT: Okay. Okay. So, needless to say, this, this church, the Grace Church is significantly larger than, than the Nepali conversion of the building, the existing building?

MR. CLARK: To the State.

MR. SCHMIDT: Pardon me?

MR. CLARK: To the State.

MR. SCHMIDT: To the State, yes, sir. And that, okay. Were there, is there any proposal under the current Petition that you're aware of to enlarge or increase the footprint of the existing building on the, on the Bonaparte property, on the subject property?

MR. CLARK: No.

MR. SCHMIDT: Okay, okay. Now, Mr. Clark, in, I think the last question that you were asked during your cross

examination was about some of the jobs that you have done and your occupation --

MR. CLARK: Um hm.

MR. SCHMIDT: -- since your graduation from school and the completion of your education. And it sounds to me, is it fair to say, that many of those have involved the field of education?

MR. CLARK: Yes.

MR. SCHMIDT: Okay and, and you're, I guess I would call it vocation, as opposed to occupation, is, at least one of them, is that you're a, you described it as quote, a naturalist, correct?

MR. CLARK: Yeah.

MR. SCHMIDT: Okay. That's not, as I understand it, that's not a paid position?

MR. CLARK: No, it is not.

MR. SCHMIDT: Okay.

MR. CLARK: It's a volunteer position with the State.

MR. SCHMIDT: Okay and you are not a civil engineer?

MR. CLARK: I am not.

MR. SCHMIDT: You are not a surveyor?

MR. CLARK: I am not.

MR. SCHMIDT: You are not a sanitarian?

MR. CLARK: I am not.

MR. SCHMIDT: You have no credentials, sir, that

would allow you to prepare plans or render opinions on the adequacy of say storm water management plans?

MR. CLARK: No, I do not.

MR. SCHMIDT: Nor could you prepare or submit to Baltimore County for approval plans that might be required for the design or development of a septic system?

MR. CLARK: I do not.

MR. SCHMIDT: Nor the providing of well water or the drilling of a well?

MR. CLARK: I do not.

MR. SCHMIDT: Okay. So, all of your opinions about any potential environmental damage are rendered as a layman and not as an ex, matter with expertise as either an engineer, surveyor, sanitarian or any of those types of occupations?

MR. CLARK: Just as a trained naturalist.

MR. SCHMIDT: Yes. Does a naturalist have to be licensed by the State of Maryland?

MR. CLARK: The, the program is a certified master naturalist by the State. You take a, you go through a course and you serve an apprenticeship. The course is down at the Department of Natural Resources and it is taught by the staff at the Wildlife (inaudible) Services. You address a number of issues and my specific area of interest in that has been forest health and as an, I, I, invasive species. Invasive species is not the end all and be all of forest health, forest health is

bigger than that, but that's a big part of where I spend my time.

MR. SCHMIDT: Okay, okay. But you don't have any kind of seal as a naturalist, where you would seal plans? When I say seal --

MR. CLARK: No, no, no, no, no.

MR. SCHMIDT: Okay. Insofar as, now, there is forest on the subject property, correct?

MR. CLARK: That's a stretch.

MR. SCHMIDT: You don't believe it's a forest?

MR. CLARK: No, there, there are woods.

MR. SCHMIDT: Okay.

MR. CLARK: A lot of them are, what we would term weed, weedy trees.

MR. SCHMIDT: Okay.

MR. CLARK: There are a couple oaks. And there is a fair bit of ailanthus.

MR. SCHMIDT: Okay. Now, there's no new --

CHAIR: What was that word you used about the trees, I'm sorry?

MR. CLARK: Oh, scrubby trees, weedy trees, weedy trees, weedy trees, you know, like black gum and, and --

CHAIR: Could you say that word again?

MR. CLARK: Weedy, W-E-E-D --

CHAIR: As in weed?

MR. CLARK: Yeah.

CHAIR: Okay. Sorry.

MR. CLARK: Trees that are native but are undesirable.

CHAIR: Understood. I just had not heard that before and I didn't know what that meant.

MR. CLARK: Yeah.

CHAIR: Okay.

MR. SCHMIDT: Okay. There's no new building proposed? When I say building, unlike for example the Grace case, or other cases, where a church may be proposed and a, a structure is going to be built. You've been here for all the days of the testimony, you're aware, sir, are you not, that there's no building proposed here?

MR. CLARK: Correct.

MR. SCHMIDT: And that there's no, there will be no loss of trees but for what might be required to expand the driveway, I think we heard testimony about that as well.

MR. CLARK: Correct.

MR. SCHMIDT: Okay. You, you also mentioned that this property has some historic designation.

MR. CLARK: Yes.

MR. SCHMIDT: Okay and what is that?

MR. CLARK: It falls within the National Historic District of Long Green Valley.

MR. SCHMIDT: Okay. Do you know what the boundaries of that district are?

MR. CLARK: Yeah, they, they, Mount Vista Road, it intentionally, it looks like it was intentionally drawn around the property, the, the subject property.

CHAIR: Mount Vista Road was?

MR. CLARK: No, no, no, the historic district boundaries.

CHAIR: I'm sorry, okay.

MR. CLARK: All right? The meets and bounds. And then it goes down the center of Harford Road to the park and then it extends over into Glen Arm and Baldwin.

MR. SCHMIDT: How big is it, if you, if you know, in terms of the square miles or acres? If you know. If you don't know, you don't know. That's fine.

MR. CLARK: We, yeah, we, we do have the, the document was provided in evidence, but --

MR. SCHMIDT: Okay, that's fine.

MR. HOLZER: Do you remember what exhibit? We can find it.

MR. CLARK: No.

MR. SCHMIDT: Okay. Are there any limitations which would relate to the Petitioner's plans by virtue of the designation of within a historic district? In other words, does it say by virtue of being within the Long Green Historic

District you can't have churches or you can't have Nepalese churches or you can't convert houses to churches or any similar restrictions that you're aware of?

MR. CLARK: I'm not sure of the underlying purpose of the question.

MR. SCHMIDT: Well, the purpose of the question is you've indicated during direct examination that the property is within Long Green Valley Historic District.

MR. CLARK: Right.

MR. SCHMIDT: And there is a suggestion or an inference that that somehow bears on whether this Board should grant the special exception.

MR. CLARK: I am just bringing it to the Board's attention.

MR. SCHMIDT: Okay. So, my question is, if you know, sir, and I assume you've researched this, you've done a lot of research on this project, is there any limitation or restriction or other language or requirement by virtue of this designation that would bear on this Board's ability to grant this special exception? In other words, they, the designation says you can't have Nepalese churches within the district, I know that's a ridiculous example, but I'm just trying to give you an example. Is there anything like that?

MR. CLARK: I, I don't understand why we keep going back to Nepalese.

MR. SCHMIDT: Well, is there any restriction of any type or nature as it relates to the operation of a place of worship within the Long Green Valley District?

MR. CLARK: Not that I am aware of.

MR. SCHMIDT: Okay. So, being, being in the district, doesn't mean that this church can, property cannot be used for religious purposes?

MR. CLARK: No.

MR. SCHMIDT: And indeed --

MR. CLARK: Or I don't, I don't believe so. I don't know.

MR. SCHMIDT: Okay. Well, you're the one who indicated that you thought it was important for the Board to understand that was in an historic district. And I'm just trying to figure out why that is if it doesn't matter whether it's in a historic district.

MR. CLARK: Well, it was of interest because Mr. Motsco did, in his endorsement, said it does not lie within any national historic districts. So, I presume there is a reason why that is required on the endorsement.

MR. SCHMIDT: What's the endorsement?

MR. CLARK: The endorsement on the plans that he submitted to the County in support of this application.

MR. SCHMIDT: Okay. Are any other historic designations or districts affixed to this property? Not

Federal, but State or local, if you know?

MR. CLARK: The, the mile marker that was introduced.

MR. SCHMIDT: Okay and what is that?

MR. CLARK: That's a, that's an MHT, Maryland Historic Trust, and it's the mile marker that was introduced yesterday and has been introduced before.

MR. SCHMIDT: Okay. Now, that marker, that, that actual, the physical marker that we have photographs of, that is what a historic structure, or historic object, is that what you're saying?

MR. CLARK: I, I, I think, I, I, well, in trail work, it's called a structure, anything that is man-made is a structure.

MR. SCHMIDT: Okay. How big is it?

MR. CLARK: It's about, above ground, it's about five feet.

MR. SCHMIDT: Five feet square?

MR. CLARK: No, tall.

MR. SCHMIDT: Tall? Five feet tall, okay.

MR. CLARK: It's, it's a, it's white, I assume it's granite or marble, whatever they were using in the day, it's basically a pylon. The pylon goes down, generally pylons, you plant them as much down as you should, as you have exposed.

MR. SCHMIDT: Okay and you indicated that it's design, it's a designated mile marker by the Maryland Historic

Trust?

MR. CLARK: It's designated by them in, as, as a, it's on their inventory for the Maryland Historic Trust.

MR. SCHMIDT: Okay and I'd ask you the same thing, is by virtue of being on the Maryland Historic Trust, or by virtue of the fact that this pylon or marker is on the MHT designation, does that in any way restrict or limit the development of this property as a church?

MR. CLARK: My understanding is that there can be no excavation without MHT, MHT approval within six hundred feet of that monument. And that impacts any kind of entrance made, entrance changes made to the property.

MR. SCHMIDT: Okay and where is that authority?

MR. CLARK: That's, that's in the, that, that's in the Maryland Historic Trust. That's in the, yeah. If you're asking me to cite code and verse, no, I can't.

MR. SCHMIDT: You don't know, okay. How about any local designation? Is there any local historic designation of anything on the property?

MR. CLARK: I'll leave, you know, a lot of these questions I don't know. Mr. Jakubiak will address them, I'm sure.

MR. SCHMIDT: Okay, very well. Thank you. Now, you talked a little bit about your, I guess, advocations, including being a naturalist, which I understand is a, is a volunteer

position, correct?

MR. CLARK: Um hm.

MR. SCHMIDT: What is it, Mr., Mr. Clark, that you do for a living or are you employed?

MR. CLARK: I'm a watchmaker.

MR. SCHMIDT: And are you self-employed or do you work for someone else?

MR. CLARK: Self, self-employed.

MR. SCHMIDT: Okay and where is your business located?

MR. CLARK: It's located in my home, which is a, it's a permitted activity in an RC-2 zone and I have my business license.

MR. SCHMIDT: Okay and your property is zoned RC-2, is it not?

MR. CLARK: Yep.

MR. SCHMIDT: Okay and how is your business loc, well, let me strike that. If you know, do you know what the RC-2 zone is, what type of zone it is?

MR. CLARK: Yes.

MR. SCHMIDT: What is it?

MR. CLARK: It is a rural, it is a density designation and it's one lot, one, one house on two acres.

MR. SCHMIDT: Okay. So, if you have six acres, you can have three houses in the RC-2 zone?

MR. CLARK: No, because they can't be subdivided anymore, I believe. I, I'm not a zoning expert. I've already, I've already test, I've already been qualified as not a zoning --

CHAIR: Dr. Clark, just answer the question and if you can't answer the question, I don't know is a perfectly fine answer.

MR. CLARK: Okay.

MR. SCHMIDT: Mr. Clark, you've rendered a number of opinions about the spirit and intent of the subject use and whether it is compatible with the spirit and intent of the zoning regulations, which is one of the criteria in 502.1. And since you've rendered those opinions, I am trying to explore the depth of your knowledge as it relates to the County zoning regulations.

MR. CLARK: I believe you already established that I am a lay witness.

CHAIR: Hold on, let me make this easy. Don't have an argument back and forth --

MR. CLARK: Okay.

CHAIR: Please just answer his question directly again.

MR. CLARK: Okay.

CHAIR: This will make things go smoother and faster.

MR. CLARK: You promise?

CHAIR: Yeah, well, I, that would be my expectation.

MR. SCHMIDT: Your, you've indicated that the RC-2 zone allows one house for every two acres of land.

MR. CLARK: Um hm.

MR. SCHMIDT: Is that correct?

MR. CLARK: Um hm.

MR. SCHMIDT: There, therefore, just by way of an example, if one owned ten acres of RC-2 land, one would be able to create five building lots, is that correct? Just on the --

MR. CLARK: I have --

MR. SCHMIDT: -- mathematical formula?

CHAIR: Let him finish, please.

MR. CLARK: Okay, sorry.

CHAIR: And sorry, Mr. Schmidt, do jump in there but before he did, if you would like to restate your question just so it's clear for the record or you think you're fine.

MR. SCHMIDT: No, I'm happy to restate it. Not trying to trick you, Mr. Clark.

MR. CLARK: No, I know.

MR. SCHMIDT: You indicated, I believe, that your, your opinion is that the RC-2 zone, which is the zone of your property, allows utilization of that zone at a ratio of one house for every two acres or the, every, every house has to be on a lot that is a minimum of two acres, is that right?

MR. CLARK: I misstated that.

MR. SCHMIDT: Okay.

MR. CLARK: Unless, thank you for the opportunity.

MR. SCHMIDT: Yes, sir.

MR. CLARK: One, one dwelling on the property that is, that, that is in an RC-2 zone, that, that is zoned RC-2, that is my understanding.

MR. SCHMIDT: I'm sorry, can you say that again?

MR. CLARK: Well, yeah, yeah, yeah, yeah. One dwelling on a property that is zoned RC-2.

MR. SCHMIDT: Does, does size have anything to do with it, lot size, the acreage of the lot?

MR. CLARK: No, no, no, I misspoke. I was not focusing.

MR. SCHMIDT: Okay. So, I'm not trying to be difficult and I want to move on because it's, it doesn't relate to the subject property as much as I'm just trying to find your understanding of the zoning regulations upon which you, you provided lay opinion --

MR. CLARK: Right.

MR. SCHMIDT: -- that you understand the zoning regulations and so on and so forth. So, --

MR. CLARK: Can, can I just tell you that basically is my, my, my understanding is not a heck of a lot more than of a typical homeowner in the County.

MR. SCHMIDT: Okay. Well, I would beg to differ with

Mr. Clark. After two and a half days of listening to you about the zoning regulations, I would suspect you may know more than the typical homeowner but we're not going to go there.

MR. CLARK: All right, okay.

MR. SCHMIDT: If I can mark this as the next exhibit?

MR. MCCOMAS: Thirty-five.

CHAIR: Thirty-five, Petitioner thirty-five.

MR. SCHMIDT: Yes, sir. Thank you, Mr. McComas, and I'll hand up three copies for the Board. And Mr. Clark, I'm showing you just a printout from a, the public domain --

MR. CLARK: Yep.

MR. SCHMIDT: -- Maryland business address, which identifies down at the bottom of the first page as a business, the business known as Historic Timekeepers, Inc.

MR. CLARK: Correct.

MR. SCHMIDT: And is that your business?

MR. CLARK: That is my business.

MR. SCHMIDT: And that indicates that the principal office of Historic Timekeepers, Inc. is it 12150 Harford Road?

MR. CLARK: Correct.

MR. SCHMIDT: Okay and how long have you been in business at your property 125, I'm sorry, 1, 12150 Harford Road?

MR. CLARK: Since '93, '94.

MR. SCHMIDT: Okay and if I could mark as, as the

next exhibit --

CHAIR: Mr. Schmidt, do you want to move for admission?

MR. SCHMIDT: Yes, I would offer Exhibit 35 and it's only to, I think, confirm what Mr. Clark has said, that his business is located at his home.

CHAIR: Mr. Holzer?

MR. HOLZER: Contrary to my other counsel, I have no objection.

MR. SCHMIDT: Okay.

CHAIR: Well, thank you, sir. It will, it will be admitted.

MR. SCHMIDT: Keep it going, Mr. Holzer. I would give to the Board, I'll ask that they mark as exhibit, Petitioner's --

CHAIR: Thirty-six.

MR. SCHMIDT: -- Exhibit 36, this is a, I think this was actually taken, maybe Mr. Clark, from your web page, does that sound right?

MR. CLARK: Yeah, yep.

MR. SCHMIDT: Okay and I assume, I offer it because I assume, and as a matter of fact, on page, and it might be, well, I guess it's page four or five and six, maybe the famous microscope that you were looking at that plan with, I'm not sure.

MR. CLARK: Oh, yeah, yeah, okay. Yeah, yeah, yeah.

MR. SCHMIDT: Okay? But in any event, it in, indicates that I think one of the things that you do in addition, I suspect, to watch repair is that you sell all types of equipment and other information related to your business? In other words, it says watchmake, watchmaker, microscopes, microscopes for sale and so on and so forth, is that accurate? Does this accurately describe, at least, that part of your business?

MR. CLARK: Not quite. It's all mail order.

MR. SCHMIDT: Okay, okay.

MR. CLARK: In, in, including, including my customer base.

MR. SCHMIDT: Okay. So, you mail these things to people? People don't come to the house, I'm assuming?

MR. CLARK: They do not.

MR. SCHMIDT: Okay. You keep these, keep products, I assume, since you have pictures of them and all, you keep the products at your house but then they would be mailed to somebody who would buy them, is that the way it works?

MR. CLARK: Yes, and it's, and for example, with microscopes, as you can see from the sold, --

MR. SCHMIDT: Right.

MR. CLARK: -- it's maybe one or two at a, at a time.

MR. SCHMIDT: Okay.

MR. CLARK: It's not, it's not a massive inventory of stuff.

MR. SCHMIDT: Okay. But, and again, you don't have folks coming to the house to buy pro, buy this, it's mailed from your property to them?

MR. CLARK: If you, if you paid attention closely to my website --

MR. SCHMIDT: Um hm.

MR. CLARK: -- you will note that I do not have an address on it, I only have a phone number.

MR. SCHMIDT: Okay.

MR. CLARK: That's for security reasons.

MR. SCHMIDT: Okay. If I would want to get my watch fixed, could I come to your house, drop it off --

MR. CLARK: No, no, no.

MR. SCHMIDT: I would mail it to you?

MR. CLARK: Correct.

MR. SCHMIDT: Okay and just, I would offer that as thirty-six.

CHAIR: Mr. Holzer?

MR. HOLZER: No objection.

CHAIR: So admitted.

MR. SCHMIDT: This is again, I think this is all taken from Mr. Clark's website. I'll off, mark thirty-seven, this is the last one.

CHAIR: Do you, Mr. Schmidt, do you have copies for Mr. McComas, in addition, --

MR. SCHMIDT: Yes, sir. Do you need it, I gave three, but I'll give you another one as well.

CHAIR: It would be better because obviously when considering this case, each Board member would like to review the exhibits.

MR. SCHMIDT: Sure.

CHAIR: I mean, that would be the preferred practice.

MR. SCHMIDT: Sure.

MR. CLARK: This is the free advertising.

MR. SCHMIDT: It's a very nice website.

MR. CLARK: Well, thank you.

MR. SCHMIDT: Mr. McComas, I'll approach and I, I think these are the three that I've given you and I have an extra copy as well.

MR. MCCOMAS: Thank you.

CHAIR: Thank you, Mr. Schmidt.

MR. SCHMIDT: Certainly. So, okay. So, Mr. Clark, I assume these documents that I've introduced, and I would offer the, thirty-seven?

MR. MCCOMAS: It's thirty-seven.

MR. SCHMIDT: Thirty-seven as well.

CHAIR: And I'm sorry, just to be clear, what is thirty-seven?

MR. SCHMIDT: It's another page from Mr. Clark's website, generally describing some of the services and particularly, some of the goods that can be purchased as he indicated by mail that would be sent from his business as opposed to people coming there.

CHAIR: Understood. Mr. Holzer?

MR. CLARK: And were available.

MR. HOLZER: I, I would just like to know what the purpose of this is, other than to introduce the fact that he does some activity out of his house. What, what's the purpose of these three documents?

CHAIR: Hold, hold on. So, you would object to the document as for relevance?

MR. HOLZER: I don't, I don't want to object to the document. If it, if there is a stated purpose why he's introducing it. I, I, I mean, the witness has already, honestly, answered the first two. I'm just curious as to where we're going with this.

CHAIR: Okay. But as to this, as to this particular exhibit, are you objecting, awaiting a response?

MR. HOLZER: Yes.

CHAIR: Okay, fair enough. Mr. Schmidt, what is your response?

MR. SCHMIDT: Sure. There, the purpose is twofold. One is I think the character of the local, of, of the locale

and of the neighborhood is certainly at issue. Mr. Clark testified on direct examination that the area is dominated by farms and I think dwellings. In fact, the Clark property is a business. I do recognize that Mr. Clark lives there but, in fact, is a business. So, I think an understanding of the nature of the locale and what's going on in the locale certainly would be important to the Board. That the Board should note what's, what the type of, of activities that are occurring on the lots.

The second reason is, I think from a, we heard an awful lot about credibility and voracity and things like that, and one, one would think it would be important that a witness who is testifying that this church should only operate and should be in strict compliance with the zoning regulations, would he him, he himself, his own property should be compliant with the zoning regulations.

CHAIR: Well, on the first, on the first grounds so offered, it'll be received and admitted. I'm not going to comment on the second set of grounds offered.

MR. SCHMIDT: And I haven't asked all the questions about that yet.

CHAIR: Understood. And obviously, it'll be given whatever weight this is due with this case.

MR. HOLZER: I, I just wanted to say the, obviously, in regard to all three documents, there are no customers coming

there --

CHAIR: It, it's already established in the record.

MR. HOLZER: It's all established, so.

CHAIR: All that.

MR. HOLZER: And, and there has been no showing of any zoning violations by the County.

CHAIR: We're, I would agree that the record at present doesn't show anything to the contrary.

MR. HOLZER: Right.

CHAIR: Although, I will note that Dr. Clark has testified, in fact, to the contrary, that his house is in compliance with zoning.

MR. HOLZER: Yes, thank you.

MR. SCHMIDT: Which leads me to my next question, actually. Thank you, Mr. Garber.

CHAIR: Um hm.

MR. SCHMIDT: Mr. Clark, you indicated that your, you believe your business, I believe, on your property to be permitted under the County zoning regulation.

MR. CLARK: Right.

MR. SCHMIDT: If I can, what's the basis of your belief?

MR. CLARK: Yeah. And I'm looking for my resource holder, because I anticipated this line --

CHAIR: Your?

MR. CLARK: My resource folder, because I anticipated this question.

CHAIR: I'm sorry, what is your --

MR. CLARK: Resource folder.

CHAIR: What is that?

MR. CLARK: Just some documents in, in, in anticipation of this kind of questioning.

CHAIR: Okay.

MR. CLARK: Okay? You will find under permitted activities in RC-2 in the zoning code an explanation of the kinds of small businesses that are allowed in an RC-2 zone.

MR. SCHMIDT: Okay.

MR. CLARK: And mechanics and workshops are part of, are, are among them.

MR. SCHMIDT: Are you referring to the use that is known in the zoning regulations and designated as a home occupation? If you know?

MR. CLARK: No, I don't know.

MR. SCHMIDT: You don't, you don't, --

MR. CLARK: I wish, I wish I could put my hands on the document. I did anticipate this. I'm sorry.

CHAIR: Dr. Clark, if you can't find it at the present moment, it's fine. At a break, you can certainly search for it and if it, if it becomes a matter that needs to be explored further by Mr. Schmidt, I'm sure he will --

MR. CLARK: Okay, thank you.

MR. SCHMIDT: Okay. Okay, all right. So, just, and I'll perhaps move on. But you do not believe you are a quote, home occupation, end of quote, under the zoning regulations? You believe you're some other use?

MR. CLARK: I don't know what that means.

MR. SCHMIDT: Okay. Well, I can tell you, a, a home occupation is a use that's conducted entirely which, within a dwelling, which is incidental to the main use of the building for dwelling purposes and doesn't have any exterior evidence other than a permitted sign, which would indicate that the building is being utilized for any purpose other than a dwelling.

MR. CLARK: Okay. That fits me.

MR. SCHMIDT: Okay and then which goes on to say, there cannot be within the dwelling any commodity which is kept for sale on the premises, which would not fit you because you've just testified, Mr. Clark, that you, in fact, sell commodities which are stored within your house, as I under, heard your testimony by mail order.

MR. HOLZER: Objection.

CHAIR: Hold on.

MR. HOLZER: The question is it's not on the premises.

CHAIR: Thank you. Sorry, --

MR. HOLZER: He read the code, which says for sale, materials for sale on the premises.

MR. SCHMIDT: Right.

MR. HOLZER: They are not sold on the premises based on the testimony, they are mail ordered, both receiving and sending.

CHAIR: If I may, Mr. Schmidt?

MR. SCHMIDT: Okay.

CHAIR: I would say that this witness does not know what the definition is and how it's interpreted --

MR. SCHMIDT: I'll move on.

CHAIR: That would be a matter for any argument down the line to the extent it's necessary.

MR. SCHMIDT: I will move on.

CHAIR: Thank you.

MR. HOLZER: Thank you.

MR. SCHMIDT: Just a couple other questions, if I can, Mr. Clark. How many employees do you have in your business?

MR. CLARK: Just me.

MR. SCHMIDT: Okay and you do, do you have, other than the equipment that you have, that you sell from the property, the commodities, the things that you sell, which you've previously described, do you have any other mechanical equipment on the property? Lathes, ---

MR. CLARK: Yeah, in my shop.

MR. SCHMIDT: Yeah, --

CHAIR: Again, sir, please don't jump on top of Mr. Schmidt's question.

MR. CLARK: Okay, (inaudible).

MR. SCHMIDT: Okay. What, and can you describe what that equipment is?

MR. CLARK: They are watchmaker lathes, they are instruments for calibrating watches, they are parts washers, I do have a small floor mill and a medium size, the designation would be an eight inch toolmakers lathe.

MR. SCHMIDT: Okay, okay. Is that it in terms of equipment?

MR. CLARK: Yeah, do you have something for me to respond to?

MR. SCHMIDT: No, sir, just, just if you --

MR. CLARK: Okay, okay, okay.

MR. SCHMIDT: -- have given us an exhaustive list.

MR. CLARK: Do, do, do you want all my little screwdrivers and tweezers and --

MR. SCHMIDT: No, sir. No, sir, that's fine.

CHAIR: And again, as best as you can answer the question, please do.

MR. CLARK: Okay.

CHAIR: But you can't fire back questions to Mr.

Schmidt.

MR. CLARK: Okay, okay.

MR. SCHMIDT: Okay. Thank you, Mr. Clark.

MR. CLARK: I mean, I've got, I've got drawers full of tools, yeah.

CHAIR: Thank you.

MR. SCHMIDT: And obviously, that, the equipment you've described is used in connection with the business?

MR. CLARK: Yes, it is.

MR. SCHMIDT: Okay. Mr. Clark, do you know Robin Clark who works for the Code Enforcement Division of Baltimore County?

MR. CLARK: No, I don't, as a matter of fact.

MR. SCHMIDT: Okay. She is not related to you to the best of your knowledge?

MR. CLARK: No, no.

MR. SCHMIDT: Okay.

MR. CLARK: No.

MR. SCHMIDT: Now, Mr. Clark, you've, you indicated that you have never been on the subject property.

MR. CLARK: Yep.

MR. SCHMIDT: Have you ever been invited to come to the subject property by, by anyone on behalf of the Petitioner? Who has asked you to come to any of the fundraising events or just to come to the property to see what the Petitioners are

proposing and what they're doing?

MR. CLARK: Early on in the process --

MR. SCHMIDT: Uh huh.

MR. CLARK: -- right after the ALJ hearing, Mr. Ghimire and I decided that we would try and keep the doors of communication open. And that was during the period in which we were also had to file the appeal. In that period, I, I agreed to come up to the property. There was an incident where he attributed words to me on, on the Nextdoor site that were not mine and I asked him to correct that. And being in business, I take trust very, very seriously and once people, I, I take people at face value until I find I can't. And when Mr. Ghimire did that, and it was, also an incident at the time where, this was also the time period where they were posting that, the Protestants, apparently the Protestants --

CHAIR: Petitioner?

MR. CLARK: Petitioners, thank you. The Petition, the apparent, apparently the Petitioners were posting en masse using the property as their address for Nextdoor. That was a violation of terms of use. Someone, not me, reported that as a, as a violation and I talked to the moderator about this. Her name is Izzy Franzon, and, and, Ibby, I can't remember her last name. But, she told me somebody had pulled them down. Mr. Ghimire e-mailed me and asked me what I knew, you know, what, what I knew. I actually went to Nextdoor and posted

whoever, and this is before we understood fully what happened, whoever pulled all those posts down, that is incorrect. And should not have happened. So, during that time, Mr. Ghimire had also attributed words to me. I had gone out on a limb for him and I said, you know, Kris, there, there, Mr. Ghimire, there, there's no reason for me to come up there.

MR. SCHMIDT: Okay. Is that the only time you were invited to the property, that one occasion by Mr. Ghimire?

MR. CLARK: Other than an open invitation on, in, in February, they issued to the community for an open house.

MR. SCHMIDT: Okay. So, you were invited once by Mr. Ghimire to come to the property before Mr. Ghimire and for the reasons that you've described, you declined. You were also as part of the general community invited to an open house that the Petitioner was having to reach out to its neighbors and you declined that as well?

MR. CLARK: Correct.

MR. SCHMIDT: Did you ever receive a, an additional invitation to come to the property from Mr. Kotroco? Do you recall receiving an e-mail from Mr. Kotroco inviting you to come up to the property?

MR. CLARK: I, I, I don't, there were several invitations from Mr. Kotroco and --

MR. SCHMIDT: To come to the property?

MR. CLARK: Well, I, I, I, I don't, you're, I, I

recall, I just recall several invitations from him to meet with people like Mr. Marks and, and Senator Brochin. They, they, and they wanted me to appear without counsel and all, you know, so I, I don't know. It, it, it all blurs together.

MR. SCHMIDT: Okay. Was that, were those extended to you by e-mail to Mr., or via an e-mail from Mr. Kotroco? If you recall?

MR. CLARK: Yeah, yeah, oh, yeah, yeah, I think, I think we have the e-mails.

MR. SCHMIDT: Okay.

MR. CLARK: I would, I would, I would have cc'd Carroll on, Mr. Holzer on them.

MR. SCHMIDT: Okay. So, the, the, the e-mail that Mr. Kotroco sent to you, and just for your reference, on January 22nd of 2018 at 9:53 a.m., which invited you and others --

CHAIR: Hold on. If, if you're reading from your phone the e-mail, I think it's only fair to show Mr. Holzer--

MR. SCHMIDT: Sure.

CHAIR: -- the e-mail.

MR. SCHMIDT: See it.

MR. HOLZER: Do we have a copy of this?

MR. SCHMIDT: I do not have a paper copy because I just got that, based on his comments this morning. But I'm, I'll, I'll print it and submit it at the next hearing.

MR. HOLZER: How, how do I, how do I know what the date was so I can check?

MR. SCHMIDT: January the 22nd of 2018 at 9:53 a.m. There's an e-mail, I believe, to Mr. DeWitt and other neighbors from Mr. Kotroco inviting them to, it might also be helpful for those concerned neighbors to be able to see the property and the improvements that have been made thus far.

MR. CLARK: I, I --

CHAIR: Hold on, hold on, sir. You, Mr. Schmidt, you are quoting directly from that e-mail --

MR. SCHMIDT: Yes, sir.

CHAIR: -- with your question? Thank you. Mr., Dr. Clark?

MR. HOLZER: Could --

MR. CLARK: If, if, if I recall, all right? I'm not saying that as a fudge factor, if I recall, I was advised by Carroll --

CHAIR: Mr. Holzer?

MR. CLARK: Mr. Holzer, that that was inappropriate at that point in time, because we were filing, we were getting ready to file --

CHAIR: Sir, without going into advice that you may have received from your counsel --

MR. CLARK: Okay, okay.

CHAIR: -- you elected to not attend?

MR. CLARK: Yes. Because we, we were in the process of filing the appeal.

MR. SCHMIDT: Okay.

MR. HOLZER: Just on that point, for the record, I was an attorney of record at that point and I never received a copy of the invitation. That goes along with the secret letter type --

CHAIR: We will, we'll deal with that part separately. I understand.

MR. HOLZER: That's all.

CHAIR: Okay.

MR. HOLZER: I didn't, I didn't need any dialogue on it.

MR. SCHMIDT: That's fine.

CHAIR: Okay, thank you.

MR. SCHMIDT: Okay. So, I guess at the end of the day, Mr. Clark, you, you've been invited to the property by the Petitioners at least three times, once by Mr. Ghimire, once as part of an open invitation to the neighbors and once by Mr. Kotroco and yet as of today, you've never been to the property?

MR. CLARK: Yep.

MR. SCHMIDT: Okay. Since you've never been to the property, do you have any personal knowledge of the condition of the property at the time my client purchased the property?

MR. CLARK: No.

MR. SCHMIDT: Okay. You have, you are not aware, not just of the property, you are not aware, and I think there were some photographs submitted, but, which you may or may not have seen, you are not aware of the condition of the structure at the time that the, my clients purchased the property?

MR. CLARK: Other, other than the pictures that I have seen and the descriptions by board members who had visited it when it was on sale.

MR. SCHMIDT: And is it fair to --

CHAIR: When you say board, which board?

MR. CLARK: Oh, yeah, by GFWPA board members who had visited it when it, when it, when it was offered for sale.

CHAIR: Thank you.

MR. SCHMIDT: Okay and at the time it was offered for sale, is it, is it fair to say that the building on the property, the main building and the outbuildings as well, were in a significant state of disrepair?

MR. CLARK: That is what I am told.

MR. SCHMIDT: And is it fair to say that those buildings had been vandalized by, by some persons with, I guess we don't know who?

MR. CLARK: No, we do not know who, but yes.

MR. SCHMIDT: Okay, okay.

MR. CLARK: As was the farmhouse that was originally part of the property down by me. And when that was purchased

thirty years ago, forty years ago, it was in complete, the kids had been using it as a skating rink and the windows were all broken out and --

CHAIR: Is this the barn?

MR. CLARK: No, no, no, no. This is, this is, this is another property --

CHAIR: Oh, another property, sorry.

MR. CLARK: Yeah, that sat abandon and --

MR. SCHMIDT: Not the Nepali property?

MR. CLARK: No, no, not, not the NAACB, Inc. property, no.

MR. SCHMIDT: Okay and you certainly have had drones and videos and Facebooks, so you've seen the condition of the property now, is that correct?

MR. CLARK: Yep.

MR. SCHMIDT: Is it fair to say that my client has significantly repaired and rehabilitated the property since then?

MR. CLARK: We have a photograph of, from October 6th, of large holes in the roof with people on the roof.

MR. SCHMIDT: Repairing the roof?

MR. CLARK: No, no, having a gathering.

CHAIR: Which structure had that much holes?

MR. CLARK: The, the, the main house.

MR. SCHMIDT: Okay.

MR. CLARK: We have photos.

MR. SCHMIDT: Okay.

MR. CLARK: I'm sorry?

MR. HOLZER: Why don't you identify the year?

MR. CLARK: Oh, oh, oh, oh, October 6th, 2018, the, the meeting at, at the property with the Maryland Deputy Department of State. If you go towards the end of that, they all, they, they go through the house --

CHAIR: Hold on. The photos, if they're not in evidence or anything, we don't need a description of them unless Mr. Schmidt asks --

MR. SCHMIDT: Actually, the question that I asked, I'm sorry, I was just very, very clear and --

CHAIR: No, please, it's, it's okay.

MR. SCHMIDT: -- if, if we can just get an answer to the question that I've asked. Would you, I'll make it simple, Mr. Clark, would you agree or disagree, you can give us a one word answer if that works, that since the property has been acquired by my clients, it has, they, have been significant efforts to rehabilitate and repair the property, the buildings on the property? And the grounds even, in terms of --

MR. CLARK: I don't know if they're significant.

MR. SCHMIDT: Okay.

MR. CLARK: But when I see a hole in the roof, I'm not sure that's significant.

MR. SCHMIDT: You don't think they've done much, okay. Fair enough. Fair enough. There have been two fundraisers on the property since my clients have owned the property, correct? Two fundraising events that you've described, one in 2017 and one in 2018, is that right?

MR. CLARK: The one in 2017 I think we've established was a family fun day.

MR. SCHMIDT: Okay.

MR. CLARK: And a, and a, and a volleyball tournament.

MR. SCHMIDT: Okay and the one, there was another larger event in 2018, is that correct?

MR. CLARK: Yep.

MR. SCHMIDT: Were there police at either of the occasions directing traffic or assisting with traffic at either of those occasions, to the best of your knowledge?

MR. CLARK: I believe the Blue Iris videos will show that --

CHAIR: Answer the question.

MR. CLARK: Okay. No.

MR. SCHMIDT: They were not?

MR. CLARK: No, I did not, I did not see, did not observe, did, did not photograph, did not videotape.

MR. SCHMIDT: Okay.

CHAIR: No police helping with traffic on the 2017

event?

MR. CLARK: That I would not know.

MR. SCHMIDT: Oh, you don't know about that?

MR. CLARK: No.

CHAIR: And no, no police helping with traffic at the 2018 event?

MR. CLARK: The videos that we took show, show that--

CHAIR: I mean, yes or no? That, that's, I just want to clarify --

MR. CLARK: Right.

MR. SCHMIDT: To the best of your knowledge, no?

MR. CLARK: Correct.

CHAIR: Thank you.

MR. SCHMIDT: Okay, fair enough. Okay. I'm not trying to be silly with these questions. When one exits the Nepali property, one could turn right onto Harford Road and go north, or left onto Harford Road and go south, correct?

MR. CLARK: Correct.

MR. SCHMIDT: And if one would turn left onto Harford Road to go south, one would need to cross over the northbound lane of Harford Road to go south, to get to the southbound lane, correct? Pretty simple. When you come out of, onto a road, if you're going to turn left, you have to cross a lane of traffic going the other way to make your left hand turn, is that correct?

MR. CLARK: You would go, the way I execute turns is I go perpendicularly across and make my turn.

MR. SCHMIDT: Mr. Clark, I'm, I don't mean to cut you off, but I'm not asking what your driving habits are. If you could just please listen to my question and answer it. And my question is, would one need to cross a lane of traffic going, in this case, the northbound direction of Harford Road in order to get to the southbound lane of Harford Road?

MR. CLARK: Yeah.

MR. SCHMIDT: Okay and depending on how one operates their motor vehicle, there may very well be a photo taken of that person appearing to drive down the wrong side of the street because they are turning left to get into the southbound lane, is that possible?

MR. CLARK: Do you have something for me to respond to?

CHAIR: Respond to the question.

MR. SCHMIDT: That's all I want you to do.

CHAIR: Respond to the question. He's, as I understood the question, and by all means, Mr. Schmidt, if I've said it wrong, please jump in, is, is it possible that when you're turning out there, when you're making that left hand turn, that people are going through the northbound lane and that's when you capture them on camera?

MR. CLARK: Can I answer your question?

CHAIR: I believe that was his question but in different words.

MR. SCHMIDT: Answer Mr., I'm happy for you to answer Mr. Garber's question.

MR. CLARK: Where that photograph was taken --

MR. SCHMIDT: Sir, I'm not asking you --

MR. CLARK: No, I'm asked, you asked, you said I could answer Mr. Garber's question.

CHAIR: Hold on, it's is it possible?

MR. CLARK: Is what poss, I'm sorry?

CHAIR: Is it possible that the moment the cam, the camera captures the vehicle turning, exiting the property heading left, therefore south, as it crosses over the northbound lane of traffic, is it possible that the camera captures that vehicle in the northbound lane of traffic as it's proceeding into its turn into the southbound lane?

MR. CLARK: From what I know of the circumstances in which that photograph was taken, no.

CHAIR: Okay. You may ask --

MR. SCHMIDT: Can, can we, can we, Mr. Garber, can you please ask the witness to answer the question that I've asked, asked and I believe what you've asked, which is, I believe, when one is exiting the Nepali property to go southbound on Harford Road, one would need, to access the southbound lane, one would need to cross the northbound lane of

traffic on Harford Road, is that correct, Mr. Clark?

MR. CLARK: You would have to cross the, the northbound lane to go southbound.

MR. SCHMIDT: Right, right. And depending on the habits and the skill and the, I suppose, the amount of traffic and other conditions, the time of day, the lighting conditions, etcetera, one may cross the road as apparently you do by proceeding perpendicularly and turning in a ninety degree angle or they may cut, common, like what we would commonly say cut that angle or cross over and appear in a photograph that might be taken at that instant, to be in the wrong lane and headed in the wrong direction, is that correct? It's possible, is it not?

MR. CLARK: At what distance from the, the entrance?

CHAIR: I need to know. The question is, is it possible?

MR. HOLZER: Objection, that isn't the question.

CHAIR: Hold on.

MR. HOLZER: The question has referred to specifically a photograph, so it ought to be tied to that.

MR. SCHMIDT: It has not.

MR. HOLZER: So it ought to be tied to that.

CHAIR: Mr. Holzer, Mr. Holzer, he's just asking is it possible that the camera would capture it at that moment, a camera. Okay? So, we're not talking about --

MR. HOLZER: He's referring to a camera.

CHAIR: You, you and I both know that there's a photo that's been introduced --

MR. HOLZER: Yes, yeah.

CHAIR: -- but he is referring to a camera that would capture a vehicle in a particular position at a particular moment. Is it possible that it reflects something different than what is understood by this witness?

MR. HOLZER: I would stipulate that he has --

CHAIR: He has said no --

MR. HOLZER: -- to cross the northbound lane to go southbound, that's not what he's driving at. He's trying to say that the photograph that's already in was taken during that time and that's why I'm --

CHAIR: I'll make this, I'll make this clear, because I understand his answer to be no, and he has an explanation as to why the answer is no.

MR. CLARK: Okay. No.

CHAIR: And why, why is that?

MR. CLARK: Where I was standing was, when that photograph was taken, was --

CHAIR: What, okay, now you're referring to the specific photograph.

MR. CLARK: Correct.

CHAIR: That we've seen.

MR. CLARK: Correct.

CHAIR: Do you have that in, handy in terms of the number?

MR. HOLZER: I don't remember what the number was but you've all been discussing it.

MR. SCHMIDT: I believe it's 35-A.

CHAIR: Let's bring the photo out to make this then easier, which I understand --

MR. SCHMIDT: Or 35-B, there are a couple of them around that time.

CHAIR: -- what, that's what you want to go, I know.

MR. HOLZER: That was my point.

CHAIR: But the question as asked did not ref, reference the specific exhibit, but now we're there.

MR. HOLZER: What is it?

MR. SCHMIDT: I believe it's Petit, is it Petitioners or Protestants? Protestants, I believe, Mr. McComas?

MR. HOLZER: 35-A.

MR. MCCOMAS: Yeah, here it is, here's one and I think we have another one.

MR. HOLZER: There it is.

MR. SCHMIDT: And I think he's got a copy of it.

MR. CLARK: I do.

MR. HOLZER: I just handed him a copy.

CHAIR: Thank you. Thank you, Mr. Holzer. Okay.

Have you had the opportunity --

MR. SCHMIDT: Now, Mr. Clark, you took that photo --

CHAIR: -- have you had the opportunity to review the photos?

MR. CLARK: I did.

CHAIR: Mr. Schmidt, back to you.

MR. SCHMIDT: Okay and Mr. Clark, you took those photos personally?

MR. CLARK: I did.

MR. SCHMIDT: Okay and is it your testimony that, that those vehicles were proceeding, let me make sure I get my directions correct, southbound in the northbound lane of Harford Road?

MR. CLARK: I think that's what the photo shows.

MR. SCHMIDT: Okay. Let's try this again. Is it your testimony that when you were there observing the traffic, that there were vehicles traveling southbound in the northbound lane of Harford Road?

MR. CLARK: Yes.

MR. SCHMIDT: Okay. For what distance were they traveling?

MR. CLARK: Well, as you can see, I'm, I'm past the telephone pole at the entrance, at, at the intersection of Mark Lane and Harford Road. I am maybe seventy-five feet south of that, okay? So, that means I'm seventy-five feet south of the

entrance easily. And assuming they have driven correctly, that coming out of the traffic by going, ex, exiting from the north side of, what do you call that?

CHAIR: Their entrance and exit way --

MR. CLARK: The circle, the stone, the, --

CHAIR: Okay.

MR. CLARK: Yeah, assuming that, that, that they were, that they exited out off of that correctly, as Mr. Collagero has testified is the correct practice, then this is probably another what, forty feet from that.

CHAIR: Where the vehicle in 35-A is depicted is thirty-five to forty feet away?

MR. CLARK: No, it would be about a hundred and ten, hundred and fifteen.

CHAIR: I'm, I'm trying to understand what you meant by this, I heard this.

MR. CLARK: Yeah, yeah, the, the, sole circle, in--

CHAIR: Take your time.

MR. CLARK: -- that divides the driveway. It has been testified that the proper way to leave there is to go, is to make a left hand turn from the north side of that stone circle. That nobody should be making a left hand turn from the south side of that circle. And so, this is, at this point in time, --

CHAIR: What is this?

MR. CLARK: At this point in time, this car --
CHAIR: You're pointing to 35-A.
MR. CLARK: 35-A.
CHAIR: And the vehicle depicted in 35-A.
MR. CLARK: And the vehicle depicted in 35-A, is probably a hundred and twenty-five feet from the entrance.
MR. SCHMIDT: Okay.
MR. CLARK: And the --
MR. SCHMIDT: Was there an accident as a result of that driving?
MR. CLARK: No.
MR. SCHMIDT: Okay. All right, thank you, Mr. Clark.
CHAIR: Are you done with that exhibit?
MR. SCHMIDT: Yeah, I think he gave that to, Mr. Holzer gave it to him, take it back, yes, sir.
MR. CLARK: Yeah, this goes, yeah, yeah, thank you.
CHAIR: That's why I just want to make sure it gets returned to its proper owner.
MR. HOLZER: Thank you, thank you. I'm the proper owner.
CHAIR: Thank you.
MR. SCHMIDT: Mr. Clark, I know we had some preliminary comments before we picked up this afternoon, that Mr. Jakubiak is going to testify. Who retained Mr. Jakubiak to testify in this matter?

MR. CLARK: Kingsville, Greater Kingsville Civic Association.

MR. SCHMIDT: Okay. Did Greater Kingsville retain any other experts, to the best of your knowledge, related to this Petition for Special Exception, whether they are going to testify or not?

MR. HOLZER: Objection. That's irrelevant to the proceedings.

CHAIR: Mr. Schmidt? Well, first of all, please stand up.

MR. HOLZER: I apologize. I object on the basis that that's irrelevant to these proceedings.

MR. SCHMIDT: I think it's, certainly the witness has offered all types of testimony regarding the issues in this case on behalf of Kingsville, on behalf of Falls, not Falls, I say Falls Road, --

CHAIR: Gunpowder?

MR. SCHMIDT: -- Gunpowder and himself personally. And I think understanding what the basis of his knowledge and how he determined his, the opinions that he's given, is certainly appropriate. And so, if he has consulted experts and has retained or, and has retained experts, I think that's appropriate cross examination for me to determine how he got so, his self-deprecating comments that he's, doesn't know anything about zoning notwithstanding, I think he's testified

that he's obviously spent a lot of time educating himself as to the issues surrounding this case.

CHAIR: The, --

MR. SCHMIDT: So, my question is, did part of that education come about from consulting expert witnesses.

CHAIR: I think it's fair to ask about the sources of information that forms the basis of the opinions expressed. The question as asked asked to disclose potential, what may be argued as matters for litigation strategy for Greater Kingsville or for Gunpowder or even for Dr. Clark. In other words, as stated, I will sustain the objection. You can explore what sources from which he got information for purposes of his testimony. Just the manner you asked it --

MR. SCHMIDT: Okay, I understand.

CHAIR: Okay.

MR. SCHMIDT: And I will try to abide by Mr. Garber's dir --

MR. HOLZER: I have no objection to that.

MR. SCHMIDT: -- direction. In, you looked at traffic issues as part of your testimony. Obviously, you've taken lots of videos related to road conditions, correct?

MR. CLARK: I did.

MR. SCHMIDT: And you, as a matter of fact, along those lines, just so we're clear, the videos that you take, have taken, I believe were generally of Harford Road, Mount

Vista, there was a part where some were on Mount Vista Road.

MR. CLARK: Right.

MR. SCHMIDT: And Glen Arm Road.

MR. CLARK: Right.

MR. SCHMIDT: There were some of them that included Glen Arm Road, is that a fair statement, Mr. Clark?

MR. CLARK: Yeah.

MR. SCHMIDT: And I think you characterized those roads and the videos, as sort of the typical country rural roads in this part of the County. I mean, kind of, this is what we see, one lane --

MR. CLARK: Yep.

MR. SCHMIDT: -- traffic, you don't have a median in the middle and the conditions with the topography and curves are sort of typical of what we see in this part of Kingsville and if I'm being --

MR. CLARK: No.

MR. SCHMIDT: -- if I'm not describing it correctly, please correct me, but I think that's what you sort of --

MR. CLARK: I agree with what you just said.

MR. SCHMIDT: -- said, this is sort of what, what we get in a rural area such as this. Okay. So, my question is, and those, these roads are pretty typical of a rural area, actually, wouldn't you say?

MR. CLARK: Yeah, yeah, --

MR. SCHMIDT: Yeah, I mean, you get what you get --

MR. CLARK: -- yeah, yes.

MR. SCHMIDT: -- with them, they're not speedways, or shouldn't be speedways.

MR. CLARK: Well, in, in fact, Ryan McIntyre insisted they stay this way.

MR. SCHMIDT: Sure, okay.

CHAIR: Former Councilman McIntyre?

MR. CLARK: Yes.

MR. SCHMIDT: Yeah, so in, in answering that, did, in formulating your opinion, did you have any consultation or discussion with any traffic engineering experts about, about educating yourself about traffic issues relating to this case?

MR. CLARK: Well, we, we, we tried to, to --

CHAIR: Hold on. The question was directed to you, sir.

MR. CLARK: Okay.

CHAIR: You're answering we.

MR. CLARK: Okay.

CHAIR: So there is ambiguity as to whom you are answering for.

MR. CLARK: Right. I tried to engage traffic engineers, both in Baltimore County, in the State and I have a friend who ran, who, who developed a company that turned out to be a fairly major regional traffic, civil engineering company.

And I tried to engage them and what it came down to, especially the last one, was no one wanted to threaten their developer work, so --

CHAIR: I'm, I'm sorry. It doesn't answer --

MR. CLARK: Right.

CHAIR: -- Mr. Schmidt's question as to whether or not, and I, if I get it wrong, please jump in.

MR. SCHMIDT: Yes, sir.

CHAIR: But it was whether or not you had any information from these, from any person, from traffic engineering. You then started talking about the process in attempting to --

MR. CLARK: Okay.

CHAIR: -- retain, so we're looking for the source of information and what the information was from that source. Is that a fair way to summarize it?

MR. SCHMIDT: Yes, sir, it is.

CHAIR: So, we can move on from the --

MR. CLARK: Yeah, --

CHAIR: -- I understand what you're trying to get at with the attempt at retention, but that's not the question that was asked.

MR. CLARK: Okay and we, I, I did have a very short consultation with, I can't remember his name, --

MR. SCHMIDT: If you can't remember you're the one on

the stand and nobody else can answer.

MR. CLARK: Yeah, okay, okay, okay. Out, out of, a, a small guy up in Pennsylvania and, in fact, we, I, I consulted with him in preparation for Mr. Collagero's testimony. In fact, he met Mr. Collagero up there at the, up at the property.

MR. SCHMIDT: Do you know his name?

MR. CLARK: Wheels are spinning and, and I can't, I can't ask Mr. Holzer.

CHAIR: That's true.

MR. CLARK: I'm looking pleadingly but.

CHAIR: If you don't recall, no, that's fine.

MR. SCHMIDT: If you don't recall and you don't know, that's, that's an acceptable answer.

MR. CLARK: But, but, but, but, but yeah, I, I found his, his, to tell you the truth, I thought we came up with better cross examinations for Mr. Collagero then, then he gave us.

MR. SCHMIDT: He wasn't helpful?

MR. CLARK: He wasn't. A waste of money.

MR. SCHMIDT: Waste of money, okay. And, okay.

MR. CLARK: And that's on the record.

MR. SCHMIDT: Okay. Other than in, in, in terms of your prepar, preparation, I assume you've met and discussed this matter with Mr. Jakubiak?

MR. CLARK: No, I have, I, no.

MR. SCHMIDT: You have not?

MR. CLARK: No, because the, I have been, since, since the beginning of November, I have been under an order to not discuss my testimony.

MR. SCHMIDT: Okay.

MR. CLARK: And, you know, --

CHAIR: The answer was no.

MR. SCHMIDT: The answer is no.

MR. CLARK: The answer is no.

CHAIR: Thank you.

MR. SCHMIDT: And I guess I, should I take it then that Mr. Jakubiak was retained after you took the stand in November?

MR. CLARK: Yes.

MR. SCHMIDT: Okay. Other than Mr. Jakubiak and the unknown, unnamed traffic engineer --

MR. CLARK: I'm sorry.

MR. SCHMIDT: -- who you did consult, but --

CHAIR: That's okay.

MR. SCHMIDT: -- quote, wasn't worth the money, have, have you had any discussions with any other expert witnesses about issues related to this case as you were formulating your testimony?

MR. CLARK: Me personally, no.

MR. SCHMIDT: Okay. Have there been any discussions

with any members of either the organizations which are affiliated with, namely, the Gunpowder Falls Watershed Preservation Association or the Greater Kingsville Group, with expert witnesses, since you answered the last question me personally, no.

MR. CLARK: Correct.

MR. SCHMIDT: Has anybody from those groups consulted any experts to help you formulate your opinions in this case? To the best of your knowledge?

MR. CLARK: I really don't know.

MR. SCHMIDT: You don't know, okay.

MR. CLARK: I, I, I know what we, what I, what November I had asked for, before November, but I don't know what anybody did after that.

MR. SCHMIDT: Okay.

MR. CLARK: Oh, the only other expert would have been the, the, the drone driver.

MR. SCHMIDT: The what driver?

MR. CLARK: The drone driver.

MR. SCHMIDT: The drone driver.

MR. CLARK: Yeah.

MR. SCHMIDT: And that was about taking the aerial photographs that were taken?

MR. CLARK: Right, right.

MR. SCHMIDT: Okay. Mr. Clark, let me ask you, if I

can, you, your property is about two acres, correct?

MR. CLARK: Yeah.

MR. SCHMIDT: And it's improved with a single family dwelling in which you and your wife live, correct?

MR. CLARK: And a garage.

MR. SCHMIDT: And a garage. Are there any other improvements on the property?

MR. CLARK: I, no.

MR. SCHMIDT: Okay. Do you have a tennis court?

MR. CLARK: No.

MR. SCHMIDT: Under the zoning regulations, if you know, could you have a tennis court?

MR. CLARK: Don't know.

MR. SCHMIDT: Okay.

MR. CLARK: I know I couldn't have pigs.

MR. SCHMIDT: Okay. Do, okay. Is it your assertion that the Nepali property cannot have what's been called the volleyball court?

MR. CLARK: No.

CHAIR: Hold on. Is that your, is that your assertion, is that what you said?

MR. SCHMIDT: Yes, is he contending that the, the owners of the Nepali cannot have the volleyball court on their, on the property that exists there. Is that illegal?

MR. CLARK: No.

MR. SCHMIDT: Or somehow contrary or not compliant with some zoning or other standards?

MR. CLARK: I don't even consider it immoral.

MR. SCHMIDT: Okay.

CHAIR: That wasn't the question.

MR. CLARK: I, but, but I've, I heard --

CHAIR: I, we've heard Mr. Schmidt's arguments in the past. The question asked to you was consistency with the zoning regs, basically, --

MR. CLARK: Yeah, yeah, yeah.

CHAIR: -- it is not in conflict with the zoning regs.

MR. CLARK: As far as I know.

MR. SCHMIDT: As a matter of fact, when we look back at the Grace Church case, that I think I started my cross examination with you about, they, in fact, have a gymnasium, or at least Mr. Kotroco's decision indicates that they have a gymnasium, correct?

MR. CLARK: I, I, I agree that I remember seeing that in there, yes.

MR. SCHMIDT: So, so is it fair, fair to say, and I, and I won't try to invade your privacy and ask if you are a church goer or what your religious faith, if any, is but is it fair to say or can you, can you say that many churches have, what I would call recreational type amenities, gymnasiums or

other things that they may use as part of their missions program, that the children may play in or, I think, I'm thinking of Fellowship of Christian Athletes, those kinds of organizations, which combine a religious purpose with a recreational purpose?

MR. HOLZER: Objection. I don't understand the question.

MR. SCHMIDT: The question is, if he's --

CHAIR: Please stand when you object.

MR. SCHMIDT: I'll try to rephrase it if it's confusing.

CHAIR: Well, let's see if we rephrase it, if it solves whatever issue.

MR. SCHMIDT: Is it fair to say, Mr. Clark, based on your own personal experience, and again, I don't know whether you go to church or not, or how familiar you are with churches, but based, and you may not know, but is it, do you believe it accurate to say that many churches, as part of their program of spreading the gospel or spreading the good news according to whatever the faith is, may have some recreational type of amenity or facility associated with their religious program on their property, just as Grace has a, apparently a gymnasium and Nepali has a volleyball court. Part of the, that, that being part of the church ministry as, as it were, as it would, as it were, is that a fair statement or is that inaccurate?

MR. CLARK: I really don't know what many, most do. I, I know in my experience what I have encountered.

CHAIR: Well, that's exactly what he's asking you.

MR. CLARK: Okay. I grew up Episcopalian --

CHAIR: No, hold on. We, we, without going into --

MR. CLARK: Okay.

CHAIR: -- your personal journey and background on this --

MR. CLARK: Okay.

CHAIR: -- what is your experience, what is your awareness of how oper, religious institutional operations go in terms of recreation facilities or amenities?

MR. CLARK: The, the parishes to which I belonged did not.

MR. SCHMIDT: Okay. Have you ever been to a religious institution that has, that does?

MR. CLARK: Yes, yes.

MR. SCHMIDT: Which? Any, any in Baltimore County or the Baltimore Metropolitan area?

MR. CLARK: No.

MR. SCHMIDT: Okay. Do you believe that to be, that having such a recreational facility or having such a recreational component is inappropriate or not permissible for whatever reason?

MR. HOLZER: Objection.

CHAIR: There's an objection. Don't answer the question quite yet.

MR. HOLZER: The objection is, he has already said what he's familiar with or whatever, the question is now speculation, is do you think it's okay in effect, to have that. And that's the very issue that we're involved in here, that the community expressed its concern about. So, I object to that question.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: I believe the witness made it exceedingly clear on direct examination, I, and I may have the quote, I tried to write down verbatim some of which he said, that they didn't, they being Nepali, didn't ask for this or didn't request this.

CHAIR: Didn't ask, sorry, you used the word this.

MR. SCHMIDT: This being the volleyball court. And so, since he has, he has opined on direct examination about this issue related to what I would call part of the Nepali ministry, i.e., having children play volleyball there, whether, I'm just trying to see if he agrees with that proposition or not. He's expressed an opinion about it on direct.

CHAIR: Are you suggesting that --

MR. SCHMIDT: I'm trying to flush that out a little bit.

CHAIR: -- in a, in a general sense or specific to

the subject property --

MR. SCHMIDT: Well, I'm going to start off general --

CHAIR: That, I think that's maybe where one part of the confusion is.

MR. SCHMIDT: Yeah, well, I was asking him generally whether he would, I'll try to make this as succinct, if I can, whether he would agree with the proposition that many churches, and when I use the word church, I mean, I don't mean to restrict it to a Christian facility. It could be a synagogue, it could be a temple, it could be affiliated with any religion. But, if you know, Mr. Clark, are there many religious buildings and religious uses and institutions which have what I would call a recreational component or part of their ministry, or mission program?

MR. HOLZER: Objection.

CHAIR: He's already answered the, that question saying that --

MR. HOLZER: Yes.

MR. SCHMIDT: He said he didn't know.

CHAIR: He said he personally, the ones he's been to, do not.

MR. SCHMIDT: Do not.

CHAIR: But he is aware that others have.

MR. SCHMIDT: Are, okay. So, then my next question would be in this case, related to this property, is it your

opinion, Mr. Clark, that the Petitioner should be allowed to have a recreational component or amenity, however, whatever you want to, however you want to style it, in association with their religious program?

MR. HOLZER: Objection. Mr. Ghimire already told a member of this Board, who used to be on there, Ms. Murphy, that they would get rid of the volleyball court. It's in the transcript, on his questioning. So, if, there's no need for the witness to answer that question because they have indicated to this Board that they would get rid of the volleyball court.

CHAIR: Mr. Schmidt, do you wish to respond?

MR. SCHMIDT: I, I, frankly, don't recall whether Mr. Ghimire testified about that and under what circumstances that he had. But even if it was not a volleyball court, my question would remain the same. Even if it was some other amenity.

CHAIR: If I --

MR. SCHMIDT: There was a swimming pool, which they, I know, are getting rid of and my question is, to the witness is, I, I don't think it's inappropriate and I think it's in line with his testimony on direct, which he spent a lot of time on, and that is does he oppose what I would call a recreational amenity, volleyball court, swimming pool, basketball court, something like that, on this property as part of the religious program, which is being proposed by my clients. I don't think that's an unfair question.

CHAIR: And for, and forgive me, I'm looking through here because I seem to recall this was covered as a potential condition that would be requested on behalf of the association. So, for that reason, the question, I'm going to overrule the objection because I believe that that was testified to as part of the conditions potentially requested. Sorry, Mr. Schmidt?

MR. SCHMIDT: Yes, so I've asked the question.

CHAIR: Yes.

MR. SCHMIDT: Do I need to do it again?

CHAIR: The, the objection is overruled because of that.

MR. CLARK: I understand, I understand it.

CHAIR: Okay. You may answer the question.

MR. CLARK: Okay. I would have no objection if it were fairly and properly included in the request for the special exception.

MR. SCHMIDT: So, you, if, if it was within, if it was within the language on the Petition for Special Exception, then you would not object to it, is that what you're saying, Mr. Clark?

MR. CLARK: And it was, and it was shown on the plans.

MR. SCHMIDT: Okay and was shown on the plans. Okay, all right. With that caveat, then that would be acceptable to have a recreational amenity of some type?

MR. CLARK: Subject to the whole issue of noise and--

CHAIR: I, I would anticipate that's where we were going to go. We're just focusing on the existence.

MR. CLARK: Right.

CHAIR: As to its operation, that would be a separate matter. So, as to the existence of one, could you answer Mr. Schmidt's question? If you had a problem with the noise and lights, that's not, that would not be considered --

MR. CLARK: Yeah, no, no, no, I, I, I, yeah, because this is me personally, yeah. Yes, I would have a problem with it.

MR. SCHMIDT: Now, wait a minute. I thought you said you wouldn't have a problem with it if it was in the Petition and on the plan, but you would have a problem with it?

MR. CLARK: Mr., Mr. Garber just helped, just helped me understand the, the question --

MR. SCHMIDT: Thank you, Mr. Garber.

CHAIR: I was, sorry, I'm trying to, he started down the noise and lights. I realize that's a separate matter because that deals with operations.

MR. CLARK: Right.

CHAIR: I understood Mr. Schmidt's question and maybe I should just let this go and let Mr. Schmidt re-ask his question, I understood his question to relate to the existence of any recreational facility independent of all the factors --

MR. CLARK: Yes, yes, I would.

CHAIR: -- hold on, independent of all factors as it relates to its operation.

MR. CLARK: Yes, I would.

MR. SCHMIDT: Okay and, and you would likewise, Mr. Clark, as I understand it, I think one of the restrictions that you said would be to basically prohibit any outdoor activity associated with the temple, is that a fair statement?

MR. CLARK: Correct.

MR. SCHMIDT: Do I understand you correctly? Okay. So, just by way of analogy and I just want to make sure I understand, Mr. Clark, and pardon me for, just, I'm just trying to understand when we talk about outdoor activity, that we're sort of on the same wavelength and I'll just say this as, as a very brief preamble. I'm a member of a, of a Methodist church. We have a tradition of, at Halloween time we sell pumpkins and on the front lawn of the church, are delivered pumpkins and then volunteers from the church there, and people from the neighborhood come and buy a pumpkin. It happens for about two weeks every year in October and it's sort of part of the outreach to the community, etcetera, and it's a fundraiser.

MR. CLARK: Um hm.

MR. SCHMIDT: If Nepali had some outdoor function of that nature, which would be seasonal or short term, you would be opposed to anything like that because it's outdoors, is that

correct?

MR. CLARK: Yes.

MR. SCHMIDT: Okay. Mr. Clark, you offered as part of your direct examination one of the zoning decisions as it relates to the Beachmont property.

MR. CLARK: I did.

MR. SCHMIDT: Okay. Can you tell us where the Beachmont property is in terms of its proximity, let's start off, to your property and then to the Nepali property.

MR. CLARK: It is by car maybe five minutes from my property.

MR. SCHMIDT: Okay.

MR. CLARK: Cutting through the woods, you know, maybe a mile, mile and a half.

MR. SCHMIDT: Okay. Are you familiar with that property?

MR. CLARK: Yeah.

MR. SCHMIDT: Have you been to the property before?

MR. CLARK: The Beachmont property?

MR. SCHMIDT: Yes, sir.

MR. CLARK: Visited it briefly.

MR. SCHMIDT: Okay. I'm going to show you, thirty-eight. Mr. McComas, if I can approach? And I will give you a fourth but I just want to give one to, to be fair to the witness, and I'd like to have one in front of me as well if I

can.

MR. CLARK: Cool, I like this.

MR. SCHMIDT: Mr., I'm sorry, Mr. Clark, you said it's about a five minute car drive from your property, correct?

MR. CLARK: Yep, yep.

MR. SCHMIDT: Is the subject property closer, is the Nepali property closer to Beachmont or for, farther away than you are?

MR. CLARK: Closer.

MR. SCHMIDT: Okay. So, okay. Now, so, is, is the Beachmont property in the neighborhood?

MR. CLARK: Yeah.

MR. SCHMIDT: Okay. Now, I'm going to refer you to the last page of the exhibit that I gave you, which is page five of five, which indicates that down at the bottom, that this printout, which I would just say to you is taken again from the public domain of the Beachmont web page, is a Beachmont, it's the Beachmont Christian Ministry so this is a Christian facility, is it not?

MR. CLARK: I don't know what you mean by a Christian, and I'm not being difficult --

MR. SCHMIDT: Well, it's not Jewish, it's not Hindu--

MR. CLARK: Right.

MR. SCHMIDT: -- it's not Buddhist, --

MR. CLARK: Right, right.

MR. SCHMIDT: -- it's Christian.
MR. CLARK: Right.
MR. SCHMIDT: And it's a religious facility since it uses the word Christian ministries, is that fair?
MR. CLARK: I would say, no, I would say that's not fair.
MR. SCHMIDT: It, so, so it's not a religious facility?
MR. CLARK: They do not have a pastor on the property.
MR. SCHMIDT: Do they, do they have what you and I would call a church on the property?
MR. CLARK: I don't think so.
MR. SCHMIDT: You don't think they have a church on the property?
MR. CLARK: No, they do not. The church is on Redeemer property.
MR. SCHMIDT: Which is next door?
MR. CLARK: Which is a different organization altogether and that's --
CHAIR: The, the, the question was, is it next door?
MR. CLARK: Yes.
MR. SCHMIDT: Does, does, does it --
MR. CLARK: It's an adjoining property.
MR. SCHMIDT: Okay, all right. So, there's a church

building, we can argue whether it's on the Redeemer property or on the Beachmont property, but there's a church building on the, you believe on the Redeemer property?

MR. CLARK: No, not believe, I know.

MR. SCHMIDT: Okay. Okay. In, insofar, but, but the Beachmont property, or at least the Beachmont organization as identified as the Beachmont Christian Ministries, which is, would you agree with me at least to that extent, that this is a religious affiliated institution of some type?

MR. CLARK: I would say that they invite families of, of, of an identified value set.

MR. SCHMIDT: Okay.

MR. CLARK: I don't know that they, well, I know that they don't have a preacher on site, pastor and I, I have, in fact, I, I, I had the, the sad duty to, to have them resolve an out of compliance issue with, in relationship to the corn maze.

MR. SCHMIDT: Okay.

MR. CLARK: And I have, we have the letter for that.

MR. SCHMIDT: Okay. Let's, let's start at the beginning of the exhibit, if I can. So, they have a corn maze on the property?

MR. CLARK: Um hm.

MR. SCHMIDT: It draws people --

CHAIR: That's a yes, sir?

MR. CLARK: Yes, yes, they do.

MR. SCHMIDT: Okay. That's an outdoor activity?
MR. CLARK: Yes, yes, it is.
MR. SCHMIDT: And it occurs during how many months of the year?
MR. CLARK: Six weeks.
MR. SCHMIDT: Around the Halloween time or the fall season?
MR. CLARK: Yep.
MR. SCHMIDT: Okay. Have you ever been to that?
MR. CLARK: Nope.
MR. SCHMIDT: Okay. I, it looks like in the picture on page one of the young couple holding the baby that they may be standing in the corn maze or near the corn maze?
MR. CLARK: Could be.
MR. SCHMIDT: Is that a fair representation of what the corn maze looks like to the best of your knowledge?
MR. CLARK: Could be.
MR. SCHMIDT: Okay. On page two, it indicates that Beachmont also has a summer camp at the Beachmont Christian Camp, is that correct?
MR. CLARK: Correct.
MR. SCHMIDT: Likewise, they have a flag football league or program or game or something, correct?
MR. CLARK: Correct.
MR. SCHMIDT: They also have dodge ball games going

on at, at, at Beachmont, correct?

MR. CLARK: Correct.

MR. SCHMIDT: Matter of fact, they have the best dodge ball games in Kingsville going on at Beachmont --

MR. CLARK: Do they?

MR. SCHMIDT: -- according to the literature. Now, the golf tournament, I would admit to you, if you look at page three, is that at a golf course, not at Beachmont, and there is not a golf course at Beachmont, okay. Turning to page three, they have a, a, a, I mentioned the eight week program and it indicates in flag football. They have an archery program there, correct?

MR. CLARK: Um hm.

MR. SCHMIDT: They have a home school --

CHAIR: Yes?

MR. SCHMIDT: -- physical education program there?

MR. CLARK: Yes, yes, yes, yes, yes.

MR. SCHMIDT: Okay. Turning to the next page, they have a men's softball program at Beachmont, correct?

MR. CLARK: Yes.

MR. SCHMIDT: Swimming lessons at Beachmont?

MR. CLARK: Yep.

MR. SCHMIDT: Okay and they have an Easter morning 6:30 a.m. --

MR. CLARK: Sunrise service.

MR. SCHMIDT: -- sunrise service. Now, that's an exterior service, correct?

MR. CLARK: Yes.

MR. SCHMIDT: Okay and since it says the rising of the son and it's spelled S-O-N, I would assume that would be somewhat of a double entendre that they are celebrating not only the rising of the sun from which we get our light and heat, but under the Christian theology the rising of Jesus Christ on that morning, is that correct?

MR. CLARK: I don't know their intent.

MR. SCHMIDT: Okay. Well, could, would, wouldn't you say that's fair to interpret since they say the rising of the son, S-O-N, meaning a person?

MR. CLARK: I have no opinion on that.

MR. SCHMIDT: You don't know? And they have a volleyball court there?

MR. CLARK: They do.

MR. SCHMIDT: Okay, okay. Do you know the zoning of the Beachmont property?

MR. CLARK: It's RC-5.

MR. SCHMIDT: Okay. Is this, in your opinion, the activities at Beachmont detrimental to the health, safety and welfare of the community?

MR. CLARK: They have been, which is why we have, why, why we had to come, why we had to have, why we had to

contact code enforcement, why their director and I came to a resolution about how they were going to resolve it. Basically, I told them that they needed to work with their community, they agreed to that. How, how they and their community are going to resolve it, I don't know.

MR. SCHMIDT: Okay, okay.

MR. CLARK: But they were exceeding the limit of visitors for the corn maze.

MR. SCHMIDT: Okay. I would offer that as the next exhibit.

CHAIR: Mr. Holzer?

MR. HOLZER: I, I think I can resolve the questions by asking some additional questions of the witness when it's my time, so --

CHAIR: So, do I understand you have reservations at the present time as to the admissibility of --

MR. HOLZER: Yes.

CHAIR: -- Exhibit 38?

MR. HOLZER: Yes.

CHAIR: And that you are asking that the matter be held open --

MR. HOLZER: Yes, until I have a chance to --

CHAIR: -- until you, and so therefore, we would have to rule at that time.

MR. HOLZER: Yes.

CHAIR: Mr. Schmidt, I assume that that would not pose an objection to you since you still have the opportunity to have it reviewed and made --

MR. SCHMIDT: Sure. Well, let me ask, let me ask the witness this. Mr., Mr. Clark, the exhibit that I gave you and it's, I'm not trying to trick you, but I, I believe it's a fair representation of the activities at Beachmont. And is it, you are a resident, you've been there, you worked to try to enforce them with the size of the corn maze, so I assume you have some familiarity, living in the neighborhood for thirty years, as to what goes on at Beachmont. Is the exhibit that I gave you inaccurate? Those things don't happen at Beachmont?

MR. HOLZER: Objection. I objected --

MR. SCHMIDT: I mean, is that what he's saying? Is that --

MR. HOLZER: I object.

CHAIR: Hold on, Mr. Schmidt, for one second.

MR. HOLZER: I tried to make it easy for the wit, for the counsel, by saying I would like to ask some questions to fully explore the issue before it gets introduced. And instead of that, I get this feedback where he's trying to do the very same thing and force it into evidence now.

CHAIR: I, I would say we resolved that matter --

MR. HOLZER: Thank you.

MR. SCHMIDT: I'm just --

CHAIR: Hold on. But the question that was asked was a proper question, because it doesn't just speak to the exhibit itself, it goes to this witness' understanding of the activities over at Beachmont. So, with that in mind, I'll overrule the objection and you may ask.

MR. SCHMIDT: I think the question was does the exhibit fairly and accurately show the activities that are occurring at the Beachmont property?

MR. CLARK: The only, the only thing I observed was, I guess it was one of the day camp sessions, and the kids were down at, at the pond, at the pool.

MR. SCHMIDT: Okay. The next exhibit, I'm, I will --

MR. MCCOMAS: So, is, is this i.d. only?

CHAIR: At the moment.

MR. HOLZER: Yes.

CHAIR: And again, Mr. Schmidt, because that's i.d. only, I'm going to address this point a little bit later. Just put a little asterisk so we know to go back to the admissibility of that.

MR. SCHMIDT: Sure, sure.

MR. MCCOMAS: This is thirty-nine.

MR. SCHMIDT: Thirty-nine and I'll give you a fourth copy. I'm going to give you the same kind of thing. Let me give you another one that doesn't have marks all over it, Mr.--

MR. CLARK: Clark.

MR. SCHMIDT: -- Clark, I'm sorry.

MR. CLARK: That's all right.

MR. SCHMIDT: I don't want to give you one with writing all over it. And not to be duplicitous, but I believe that this is also taken from the Beachmont --

MR. CLARK: Yep.

MR. SCHMIDT: -- website and just generally describes, again, the type of activities that are occurring on the, on, on the, the Beachmont property and, you know, my question would --

MR. CLARK: No, I, I, I agree, it is what it is.

MR. SCHMIDT: And, and that's, they say what they do and this is the kinds of things that they do?

MR. CLARK: Right.

MR. SCHMIDT: Okay.

MR. CLARK: Now, can --

CHAIR: There's no question pending.

MR. CLARK: Okay.

MR. SCHMIDT: But, well, you do agree, just so we're clear, that the activities that are shown on Petitioner's exhibit number thirty-nine reflect the activities that are occurring at the Beachmont property?

MR. CLARK: Yeah, yeah.

MR. SCHMIDT: Okay, thank you.

CHAIR: Move for the admission of thirty-nine then,

Mr. Schmidt?

MR. SCHMIDT: Yes, sir.

MR. HOLZER: Same, same request.

CHAIR: All right. We will reserve a ruling on thirty-nine on the same basis.

MR. HOLZER: Yes.

MR. SCHMIDT: And then finally, I have one more page. And Mr. Clark, sort of same drill. And this would be number forty. Thank you, Mr. McComas. And this is just their page related to --

MR. CLARK: Yep.

MR. SCHMIDT: -- to the sunrise service, except they actually give coffee, hot chocolate and donuts after the service.

MR. CLARK: (inaudible).

MR. SCHMIDT: Unlike Nepali, so if you're hungry that morning, Mr. Clark, you can go up there. Have you ever attended the sunrise service?

MR. CLARK: No.

MR. SCHMIDT: Okay. Do you know if there is, indeed, a sunrise service, is that an accurate --

MR. CLARK: I, I have been told by people from Kingsville --

MR. SCHMIDT: People in the neighborhood?

MR. CLARK: -- yeah, and people from Kingsville, you

know, that --

MR. SCHMIDT: That they go to the sunrise service?

MR. CLARK: Yeah, yeah, yeah.

CHAIR: Please let him finish his answer.

MR. SCHMIDT: I'm sorry.

CHAIR: I, I know that, I know you're trying to move along.

MR. CLARK: I'm going to need a break in a minute.

MR. SCHMIDT: Okay. We need to take, he wants --

CHAIR: You are familiar, you have heard from other people in the, in, from Kingsville that this occurs at this site?

MR. CLARK: Yeah.

MR. SCHMIDT: Okay.

MR. MCCOMAS: And Mr. Schmidt, this is actually from a Google e-mail, looks like an e-mail (inaudible) on the website, just from, just for (inaudible).

MR. SCHMIDT: Yes, yes. I'm, I apologize, it is. Although it's, yes, it came via an, my understanding was it's a link on their website where if you want additional information you e-mail this info@beachmont and this is what you get back.

CHAIR: And Mr. Kotroco is a subscriber to that service.

MR. SCHMIDT: Yes, yes. He is the one that actually obtained it.

CHAIR: Exhibit 40.

MR. HOLZER: Same, same request.

MR. SCHMIDT: Mr. Clark indicated he would like a break and I'm, I'm, think I'm coming somewhat near the end, but I'd be happy to take a break, let me get my thoughts on it, organized and maybe we can be done shortly.

CHAIR: If you would like a break, then that's fine.

MR. CLARK: Yeah, yeah, thank you.

CHAIR: Why don't we do that, five minutes. Before we --

MR. CLARK: Thank you, Mr. Schmidt.

MR. SCHMIDT: Yes, sir.

CHAIR: Mr., Mr. Clark may step out because I know he has other business to attend to. You can go --

MS. DOPKIN: Off?

CHAIR: Actually stay on for a moment. So, real quick, to Mr. Schmidt and Mr. Holzer, as we just discussed with Petitioner's Exhibits 38, 39 and 40, we have a little asterisk next to them, like I said, so we know to go back. Also, just for purposes of the record, there were numerous instances throughout Protestant's case, whether we were in Petitioner's case or during the course of your case, where certain exhibits were offered up, withdrawn, were offered up, objected to, in i.d. only. You indicated that you were going to go follow-up with one or more witnesses to establish proper authentication.

We're trying to, I asked Ms. Cannington, but I'm going to go through to identify which ones are still in this limbo status so that, pardon me, the record can be completed, we all know what is in, what is out. So, for purposes of any future proceedings, there's not going to be a question as to where we stand as to any one exhibit. Having said that, I would request the same of counsel to make sure that everyone's records match as best as possible.

MR. HOLZER: Yes.

CHAIR: Because I do not want there to be some confusion on any particular exhibit. I want us to all have the same --

MR. HOLZER: I think what you're asking is, is fair, I mean, because we went so late yesterday and because it's late today, I'm going to try to have Mary, if at all possible, to take my notes and make the same kind of list, as far as each exhibit, what is in, what, what is not in and what, if it's not in, is it part of the proffers that I made. I think that will clarify --

CHAIR: And I think yesterday was fairly clear as to where we stand with yesterday's exhibits.

MR. HOLZER: Yes.

CHAIR: It's the earlier ones --

MR. HOLZER: Yes.

CHAIR: -- where certain exhibits were identified or

shown to other witnesses and then you wanted to withdraw them so that you could authenticate them through the person who may have taken the photos.

MR. HOLZER: Right.

CHAIR: And those kind of things. I'm just bringing that back around because you had expressed the intent to do that --

MR. HOLZER: Yeah, I --

CHAIR: -- and there was question as to where those exhibits stand and we need to get resolution on all that before the, the record closes.

MR. HOLZER: I agree, I understand, yes.

MS. DOPKIN: One minor question relating to that is when Mr. Morgan testified, he had presented some e-mail posts and, on --

CHAIR: Right.

MS. DOPKIN: -- Nextdoor?

CHAIR: Yes. I believe that was like Exhibit 50 or thereabouts.

MS. DOPKIN: And I had asked if he had the post that it responded to, his original post. Was he in, were you intending to provide that to us?

MR. HOLZER: Well, I, yeah, I, there's a number of things that I think that have been deferred that we need to get --

MS. DOPKIN: Would you please add that to your list of, to address?

MR. HOLZER: -- add, and we can add that to the list. So we can --

MS. DOPKIN: All right.

MR. HOLZER: -- go get all of that straight, because I do want the record straight when, when we finish. Did we --

CHAIR: We're, no, we're on, we're still on break. I just wanted to address that on the record so everybody is aware. Let's make sure that we all have an agreement as to where we stand as to some of those exhibits that are still in this limbo.

MR. HOLZER: Yes.

CHAIR: Okay.

MR. HOLZER: Can I take a five, --

CHAIR: No, we're taking a break. We're still, we're still (inaudible), yes.

MR. HOLZER: Okay. I didn't want to leave.

CHAIR: No, that was not your five minute break.

MS. DOPKIN: And we're off the record.

(RECORDING PAUSED - 04:25:59 PM)

(ON RECORD - 04:40:47 PM)

CHAIR: Everyone, please be seated. And to the extent I need to say it again, make sure your cell phones are off. I'm sorry. That should be on the record. Please make

sure your cell phones are off. And Mr. Schmidt, we are back to you with cross examination.

MR. SCHMIDT: Thank you. In an effort to try to move this along a little bit, Mr. Clark, I showed you some information which I believe was from the Beachmont website.

MR. CLARK: Agreed.

MR. SCHMIDT: And I just wanted to, similarly, I've got some information from the Redeemer property, which is located immediately adjacent to Beachmont?

MR. CLARK: Correct.

MR. SCHMIDT: You indicated that Beachmont was in your neighborhood. Is Redeemer Classical Christian School in your neighborhood?

MR. CLARK: Yes.

MR. SCHMIDT: Okay. You're familiar with that property? That's the one that actually in, according to your testimony, has a church on it?

MR. CLARK: Correct.

MR. SCHMIDT: Okay and that, in addition, that has a school, does it not?

MR. CLARK: Correct.

MR. SCHMIDT: Okay and I'm going to just give you, again, this is taken from the public domain and I'll give a copy to, four copies to Mr. McComas. But this, and I ask you to take a --

CHAIR: Forty-one?

MR. MCCOMAS: Yeah, forty-one.

CHAIR: Thank you.

MR. SCHMIDT: -- take a look at it as, and having marked it as forty, forty-one, which generally sort of describes, I believe, the, bless you --

MR. CLARK: Bless you.

CHAIR: Thank you.

MR. SCHMIDT: -- the activity at the, at the school and apparently the school, according to the information here, was founded in, founded in 1996, is that correct? So, that, that was there --

MR. CLARK: That, that's my understanding.

MR. SCHMIDT: Yeah, that, that started after you were a resident of the neighborhood?

MR. CLARK: Correct.

MR. SCHMIDT: Okay and has two hundred and fifty children in it?

MR. CLARK: Correct.

MR. SCHMIDT: And, okay. And similarly, I got, you can see from the first page of that exhibit, there were some information about student life.

MR. CLARK: Um hm.

CHAIR: Yes?

MR. CLARK: Yes, yes, yes, yes, yes.

CHAIR: Thank you.

MR. CLARK: Sorry.

MR. SCHMIDT: And I'll mark this as the next sequential exhibit.

CHAIR: Forty-two.

MR. SCHMIDT: Forty-two. And again, it just talks about the kind of things that they do there. Now, this is a Christian school, is it not? If you know.

MR. CLARK: Yeah, yeah, yeah, yeah, yeah, Ron, Ron, Ron is a pastor.

MR. SCHMIDT: Okay.

CHAIR: Who?

MR. CLARK: Ron Standifer.

CHAIR: Thank you.

MR. CLARK: And basically, though, he, he, it's, he really focuses on rhetoric and logic and Latin. They don't, I don't believe they teach religious classes in the school.

MR. SCHMIDT: But it is, it is at least affiliated with the --

MR. CLARK: With the church there.

MR. SCHMIDT: -- with the church?

MR. CLARK: Yeah.

MR. SCHMIDT: Okay and then finally, the third page would be athletics, the athletics page, and that would generally be that they have an athletic program there, I

believe, which is described on this web page.

MR. CLARK: Yeah, and, and I've observed them playing volleyball there.

MR. SCHMIDT: They play volleyball?

MR. CLARK: Soccer, soccer, the soccer.

MR. SCHMIDT: Okay. Soccer and other sports as described in there?

MR. CLARK: Yeah.

MR. SCHMIDT: And so those web pages fairly and accurately depict what's going on at the property at the present time, in terms of the activity of the school and the church?

MR. CLARK: Yeah, for, from my understanding, yes.

MR. SCHMIDT: Okay and is the church an active church? And when I say that, does it conduct services on a routine basis, if you know?

MR. CLARK: Yeah, yes, yes, he does.

MR. SCHMIDT: Okay and it's a Christian church, so I assume that the services are on, are on Sundays typically?

MR. CLARK: Yes, I believe there are.

MR. SCHMIDT: Do you know how many services they have on each Sunday, Sunday? One or more?

MR. CLARK: I think one. I, I know it's a very small congregation.

MR. SCHMIDT: Okay and you believe it's one?

MR. CLARK: Yeah.

MR. SCHMIDT: Okay. I would offer those exhibits as well. Just, again, they say what they say and the witness has indicated they describe what's happening on that property generally.

CHAIR: Mr. Holzer, Exhibits 41 through 43?

MR. HOLZER: I would like them just to be marked for identification till I ask questions about them but --

CHAIR: Same as the Beachmont.

MR. HOLZER: Same as the Beachmont.

CHAIR: Very well.

MR. SCHMIDT: And I, I don't, I'm sorry, Mr. Holzer, didn't mean to interrupt.

MR. HOLZER: No, I'm, I'm inclined to let them go in, just so that the Board knows.

CHAIR: We understand where we're at with this.

MR. HOLZER: Thank you.

CHAIR: Thank you very much.

MR. SCHMIDT: Let me ask you, if I can, kind of switching gears, Mr. Clark, have you spoken to Councilman Marks about this project? Or any, or anyone in his office?

MR. CLARK: I tried to at, at, at that civic center and he told me he can't talk to me about it.

MR. SCHMIDT: Okay. Did he attempt to broker or arrange a meeting between the parties to discuss the issues?

MR. CLARK: That, that would be, that, that was very interesting.

CHAIR: Hold on, answer the question first.

MR. CLARK: Yes, yes.

MR. SCHMIDT: He did?

MR. CLARK: Yes.

MR. SCHMIDT: Did the meeting occur?

MR. CLARK: No.

MR. SCHMIDT: Okay. Did, did the meeting occur, or do you know why the meeting didn't occur?

MR. CLARK: Yes.

MR. SCHMIDT: Okay.

MR. CLARK: Okay. So, he called me on Friday morning, on a Friday morning, I don't remember the exact date, but it's easy enough to figure out, and requested my appearance at a meeting with him, Mr. Kotroco, Kris Ghimire and Senator Brochin. I called Carroll Holzer.

CHAIR: You called Mr. Holzer.

MR. CLARK: I called Mr. Holzer.

CHAIR: Okay.

MR. CLARK: Mr. Holzer said well, I'm going to, I'm not going to be away and you're not going there without me present, okay? So, --

CHAIR: And just so, I don't want you to go into conversations you had --

MR. SCHMIDT: Yeah, I don't want to have any kind of attorney/client --

CHAIR: I, I know, I know, I know. I'm just letting him know in advance so he doesn't go off script or far afield here --

MR. SCHMIDT: That's, and I think we can say --

CHAIR: -- (inaudible).

MR. SCHMIDT: -- Mr. Clark, you didn't, you didn't attend because you were instructed not to by counsel?

MR. CLARK: No, that isn't quite the case.

MR. SCHMIDT: Oh, okay. I'm sorry.

MR. CLARK: So, after that, and I explained that to actually, to, to Mr., to, to Senator Brochin. He said he, he would call Mr. Marks and set something up for Monday.

CHAIR: Senator Brochin said that?

MR. CLARK: Yes. So, my, on Sunday, Senator Brochin told me that Mr. Marks was going on his vacation and he wasn't going to cancel it --

CHAIR: Mr. Marks?

MR. CLARK: Mr. Marks, okay? He, and, and I wasn't going to change it for this. So, then Senator Brochin said, well, what, why don't you, why don't you, Dewey Clark and Carroll Holzer and I think one or two other representatives?

MR. HOLZER: Yes.

MR. CLARK: Meet in Mr. Holzer's office on Tuesday.

We're all sitting there wait, waiting for Mr. Brochin, for Senator Brochin to show up and it wasn't until the day later that we got his regrets.

MR. SCHMIDT: From Senator Brochin?

MR. CLARK: From Senator, I think that's fair, is that accurate? I, --

CHAIR: Well, he can't, you can't ask --

MR. CLARK: Yeah, yeah, I know, I know.

CHAIR: -- questions of Mr. Holzer.

MR. CLARK: Right.

CHAIR: It's the best recollection that you have of it.

MR. CLARK: Yes, yes. I believe that is accurate.

MR. SCHMIDT: Okay. Were there any other meetings prior, prior to that or attempted meetings back at, more so kind of at the beginning of this process that you're aware of?

MR. CLARK: Well, we covered, we covered the, the, the one with Mr. Kotroco and then we covered the ones with Mr. Ghimire inviting me up to the property to, to meet and discuss.

MR. SCHMIDT: Right.

CHAIR: Correct me if I'm wrong, but you also identified one with Councilman Marks where Councilman Marks, as you put it in your words, appeared vexed by the absence of --

MR. CLARK: No, that, that, that was at the Kingsville meeting and he was vexed that Mr. Ghimire had not

shown up and at the ALJ, Mr. Ghimire --

CHAIR: I, I just want to confirm.

MR. CLARK: Okay.

CHAIR: That's yet another example here?

MR. CLARK: Yeah.

CHAIR: Is that accurate?

MR. CLARK: Yeah, yeah.

MS. DOPKIN: Just to clarify, you said Senator Brochin suggested meeting in Mr. Holzer's office?

MR. CLARK: Yep.

MS. DOPKIN: Was, was that meeting supposed to include Brochin and Kotroco and Ghimire? Who was supposed to attend?

MR. CLARK: Yeah, I, I, I don't think, I don't think Kotroco was, was going to be there, because he, he didn't show, yeah, no, I don't think Mr. Kotroco was supposed to be there.

MS. DOPKIN: So, it would have just been you and Mr. Holzer and Senator Brochin?

MR. CLARK: Yeah, and I think Ms. Shaw was there and I, I think a representative from Kingsville was there.

MS. DOPKIN: But nobody from the Petitioner and neither the Councilman nor the Senator?

MR. CLARK: Correct. Yes, ma'am.

MS. DOPKIN: Okay, thank you.

MR. SCHMIDT: Okay, thank you, Mr. Clark. Mr. Clark,

I think I'm in the home stretch so, and I would move those exhibits, if I had not formally, --

CHAIR: We have the same --

MR. SCHMIDT: -- but I know Mr. Holzer wanted to wait.

CHAIR: Yes.

MR. SCHMIDT: And if there's a foundational issue or something, I'll address it.

CHAIR: We will revisit, again, it's, there's no ruling at all on them at this point.

MR. SCHMIDT: Okay, okay. Now, Mr. Clark, the Gunpowder Falls Watershed Preservation Association, I, I just want to make sure I understand, that's not a corporation?

MR. CLARK: Correct.

MR. SCHMIDT: Not an LLC?

MR. CLARK: Correct.

MR. SCHMIDT: Not registered with the State Department of Assessments and Taxation?

MR. CLARK: Correct.

MR. SCHMIDT: Doesn't handle any kind of money?

MR. CLARK: Nope.

MR. SCHMIDT: Doesn't file a tax return?

MR. CLARK: Nope.

MR. SCHMIDT: Is not a, a 503-C, I believe?

CHAIR: 501-C-3.

MR. CLARK: It's not a non-profit.

MR. SCHMIDT: I'm not a tax lawyer. Non, it's not, it's not a non-profit?

MR. CLARK: It's not a, right, it is not a non-profit.

MR. SCHMIDT: It's, and, and I, please don't --

CHAIR: Just wait for his question.

MR. SCHMIDT: I don't mean to, to be insulting, but this is, essentially, an organization that was established by, I think you said four or five people at the beginning, to, to fight this particular project?

MR. CLARK: It was more than that.

MR. SCHMIDT: Okay. Well, I mean, I think you said on direct, I wrote down, there were four or five, four or five of us who decided to establish this. I understand that more people are in it now, but it was the brain, is it safe to say, it was the brainchild of you and several others who were leading the charge in opposition to this request?

MR. CLARK: No, the, the, the reason we formed was more than just this. It was a sense of community.

MR. SCHMIDT: Okay. Has the organization taken a position on any other zoning cases?

MR. CLARK: We don't have any that are of, well, we, we probably would have, no, the answer is no.

MR. SCHMIDT: Okay. So, the --

MR. CLARK: Oh, wait, no, no, no, no, I did.

CHAIR: Hold, hold on, hold on.

MR. HOLZER: I can't tell you.

CHAIR: Could we, could we, just to make --

MR. CLARK: Right.

CHAIR: -- this abundantly clear, what is your best recollection --

MR. CLARK: Yes.

CHAIR: -- on that point?

MR. CLARK: We took a position on the Beachmont violation of the zoning where they were exceeding, as, as you saw on Exhibit --

MR. SCHMIDT: The corn maze attendance, I think you said.

MR. CLARK: Right, right. But if you see on the exhibit, on the exhibit related to the corn maze, there is a, a ticket thing. They are, they are required to keep a count of visitors so that they don't exceed their, their, their mail, their daily maximum of I believe five hundred. We had evidence that they were exceeding that. So, the Gunpowder Falls filed a zoning complaint and in order to remove that zoning complaint, that is when I then, the GFWPA then entered into an agreement with Beach, with, with Beachmont camp on how to resolve that issue.

MR. SCHMIDT: Is there, was there a zoning hearing on

that?

MR. CLARK: Nope. No, no, no, because we withdrew it because we, we came to a --

CHAIR: A resolution.

MR. CLARK: -- a resolution, thank you, sir.

MR. SCHMIDT: Okay.

MR. CLARK: And we have that letter here.

MR. SCHMIDT: Okay, all right. But that was, ob, obviously that complaint about Beachmont occurred after you were involved in this particular case, or the issues surrounding this particular property? Because you were, you were formed as a result of this particular Petition for Special Exception.

MR. CLARK: We were formed in 2017.

MR. SCHMIDT: Okay.

MR. CLARK: And we filed the, the, the notice of complaint in, I believe it was June 2018, --

CHAIR: Thank you.

MR. CLARK: -- for the, the, --

CHAIR: Beachmont.

MR. SCHMIDT: Beachmont.

MR. CLARK: -- Beachmont Christian camp violation.

MR. SCHMIDT: Okay. But you were, I'm not trying to beat a dead horse, the pur, when Gunpowder Falls Watershed Preservation Association was formed, it was largely in response

to the instant Petition for Special Exception --

MR. CLARK: No.

MR. SCHMIDT: -- not Beachmont?

MR. CLARK: No, I, I, I think if you look at our purposes in, you know, that was crafted for, for very specific reasons, our purposes. We, we were very thoughtful in how we did that and --

MR. SCHMIDT: Okay. Now, I under, I'm sorry, didn't mean to interrupt, thought you were finished.

MR. CLARK: -- and, and the, the main purpose was not this, it was the preservation of the watershed, it was the whole sense of community. We, among other things, what we have done, and we were just talking about it during the break, is we have a series of programs, speaker series, for the community. One was on the World's End Hill, the, the history of, of Gunpowder Road, or of Harford Road, the Harford Turnpike. I will be, guess what I'll be presenting on?

CHAIR: I have an idea.

MR. CLARK: Forest, forest health, right? You know, and so on and so forth. And it's a way of bringing the community together because that has been lost to a large extent.

MR. SCHMIDT: Okay and there's no, I think you indicated there's no dues?

MR. CLARK: No.

MR. SCHMIDT: And actually, if I lived within the geographic confines and I give you my e-mail address I can get in, I'm in?

MR. CLARK: Yep.

MR. SCHMIDT: Okay. Insofar as the, some, one of the conditions, you, you ask as a condition, I think, for my client to put some money or equitable relief.

MR. CLARK: Um hm.

MR. SCHMIDT: I, I just don't --

CHAIR: That's a yes?

MR. CLARK: Yes, yes, yes.

MR. SCHMIDT: -- I just don't understand what that is.

MR. CLARK: Okay. The idea is that as this Board knows, it, the rubber hits the road with conditions when it comes time for someone to, to file and to get something done, to get something corrected. And given what we have experienced, we would like an escrow account set up so that should we have to take action it doesn't come out of our pockets.

MR. SCHMIDT: Okay. Have you ever heard of the admin, the Office of the Administrative Hearings, which includes Mr. Beverungen and Mr. Stahl's office, or this Board, ever imposing such a requirement before?

MR. CLARK: That was totally my thought as a

businessman.

MR. SCHMIDT: So, the answer is no?

MR. CLARK: No.

MR. SCHMIDT: Okay, okay. You also want the Protestants to be able to enter the property?

MR. CLARK: Um hm.

MR. SCHMIDT: Okay. Is there anything prohibiting people from coming on to the property or accepting the invitations that have been extended to this point?

MR. CLARK: I'm not trying to think of how to answer that, I'm just trying to, I'm just trying to think of --

CHAIR: You don't need to explain your pause.

MR. CLARK: Yeah.

CHAIR: Or your --

MR. CLARK: Okay.

CHAIR: -- (inaudible) reflection.

MR. CLARK: No, no, yeah, yeah. No.

MR. SCHMIDT: Okay. Also, this came up during someone else's testimony and I apologize, there was a lady who was a resident of the area and I, and I was trying to find the name and I can't find my note, who apparently has annual maybe or regular concerts on her property, do you remember that testimony?

CHAIR: These questions were asked of Mr. Poehler.

MR. SCHMIDT: Of Poehl, of Mr. Poehler, yes. Thank

you, Mr. Garber.

CHAIR: Yes.

MR. SCHMIDT: Do you know who that is?

MR. CLARK: No, I don't, I, first of all, I, I have never heard that music.

MR. SCHMIDT: Okay.

MR. CLARK: And second of all, I don't think it was identified where the music was coming from.

MR. SCHMIDT: My client told me. Do you know Patty Thorn?

MR. CLARK: I've met her once?

MR. SCHMIDT: Do you know where she lives?

MR. CLARK: No, actually I don't.

MR. SCHMIDT: Okay. So, you don't know how far her house is from you?

MR. CLARK: She lives, I know, I know she lives adjoining the property, --

CHAIR: Which?

MR. SCHMIDT: Adjoining your property?

MR. CLARK: -- adjoining, adjoining, adjoining, adjoining the, no, adjoining the, the --

CHAIR: Subject property?

MR. CLARK: The --

CHAIR: Subject property?

MR. CLARK: -- subject property.

CHAIR: And just to close the loop, Patty Thorn is the name of the woman --

MR. SCHMIDT: Yes.

CHAIR: -- whose property was asked to Mr. Poehler.

MR. SCHMIDT: Okay. Do you know, do, do you know how close Patty Thorn's property is to you?

MR. CLARK: I would assume it's probably no further than the, the farthest bound of their property, of, of the subject property.

CHAIR: You're going to have to explain that.

MR. CLARK: Yeah. All right. I, I, I, I since, since I know her property adjoins subject property, --

MR. SCHMIDT: Yes.

MR. CLARK: -- I would assume that her property is no further than the furthest bound of their property from mine.

CHAIR: The southernmost point of their property along Harford Road, is that --

MR. CLARK: Or, or eastern, or eastern, I don't know.

CHAIR: You don't know, okay.

MR. SCHMIDT: Okay. But you don't know where her property is?

MR. CLARK: No, I've never visited it.

MR. SCHMIDT: Okay and you've never heard any music come from her property before?

MR. CLARK: I have not.

MR. SCHMIDT: Suffice it to say then, if she does have concerts and you've never heard them, then at least you can't hear anything that's occurring of that nature on her property given the distance and the topography involved?

MR. HOLZER: Objection. He's already testified.

CHAIR: I'll, I'll say this, Mr. Holzer. I understand your frustration on this. You can save that part of it. Your objection is sustained because obviously it goes to various conditions that we have no idea about. So, as to --

MR. SCHMIDT: And, and I, I built those into my question, Mr. Garber.

CHAIR: That's all right. I understood you said topography and what else we don't know what type of amplification --

MR. SCHMIDT: Yeah.

CHAIR: -- we don't know the volume, we don't know what instruments, we don't know a whole bunch of factors and variables that can play into it. The fact of the matter is this witness has said he has never heard it.

MR. SCHMIDT: Right.

MR. CLARK: I don't think it's going to aid anyone to then say well, given those other factors, if he's never heard it in the first place.

MR. SCHMIDT: Okay. I'll save it for argument. All right. Mr. Kotroco asked me about this. The t-shirts that say

save our valley that everybody is wearing, which valley is that?

MR. CLARK: The, it, it is the little haystack valley, it's the valley that follows Harford Road.

MR. SCHMIDT: Okay. It's called the Little Haystack Valley?

MR. CLARK: Yeah, --

MR. SCHMIDT: Okay.

MR. CLARK: -- historic in some of the historic records. There isn't really a name for it.

MR. SCHMIDT: Okay, so it's not the Long Green Valley?

MR. CLARK: No.

MR. SCHMIDT: Okay and, and when it says save ours, our valley, Mr. Kotroco asked me to ask these, who is the our? Who is the owner of the haystack valley?

MR. CLARK: Those who own property on it.

MR. SCHMIDT: Is, is the, is the Nepali property part of it?

MR. CLARK: Yes, I would say it is.

MR. SCHMIDT: Okay. So, okay, all right.

MR. CLARK: The, the, the haystack flows, is, is, is the, is the stream that flows on their eastern, not, and, and they don't own the stream but it is on the, on the east, it is on the eastern bound of, of their property.

MR. SCHMIDT: Okay. Thank you, sir. I have no other questions, Mr. Garber. And saved, I, I just want to make sure that all of the exhibits that I introduced through my cross examination of this witness have been marked, they've all been offered. I understand that some have not yet been, been permitted, but other than the fact that addressing those issues relating to the admission of those documents I would be complete in my cross examination.

CHAIR: Thank you. And again, I also, you, we would also have reservation for cross examination on any potential matter that may arise from other things to occur in this case, such as resolution of that Motion that's pending --

MR. SCHMIDT: Yes, sir.

CHAIR: -- and all the other, the testimony from the ALJ that's still pending and just to whatever other --

MR. SCHMIDT: Yeah, I'd like to --

CHAIR: -- exhibits that are still in this limbo --

MR. SCHMIDT: Right.

CHAIR: -- still yet to resolve. So you certainly would be, have the right to cross examine during that time frame as well.

MR. SCHMIDT: Thank you. I don't believe I have any exhibits that are identification only.

CHAIR: Other than, --

MR. SCHMIDT: Other than the ones we just put in.

CHAIR: And to be clear, it's not a question as to what's identification only, there were a whole bunch of start and stops with certain exhibits --

MR. SCHMIDT: Right.

CHAIR: -- that are left in limbo. That, those are the ones I'm more concerned about then what's been already definitively ruled upon as i.d. only.

MR. SCHMIDT: Right. I, I'm, I'm going to check my--

CHAIR: Your last six fall into that category at the moment.

MR. SCHMIDT: Yes, sir. But I'm, was going to say, I think my recollection is, I'll have to check again, but I think all the exhibits that I put in in my case in chief, I think were all in without any question, but I'm going to look at it again.

CHAIR: Yes, and that's, that is my recollection. I, I don't profess to have full command over it.

MR. SCHMIDT: Yes, sir.

CHAIR: But that's my recollection too.

MR. SCHMIDT: We'll, we'll, we'll definitely find out the answer by next time.

CHAIR: Yes.

MR. SCHMIDT: Thank you, sir.

CHAIR: Back to you, Mr. Holzer, as I know you at least have re-direct as to the exhibits that we were just

referencing.

MR. HOLZER: (inaudible).

CHAIR: And I assume you may have others.

MR. HOLZER: I'm going to be very quick.

CHAIR: Yes.

MR. HOLZER: Trust me.

CHAIR: Okay.

MR. HOLZER: I don't want to miss dinner like I did yesterday.

CHAIR: Understood.

MR. SCHMIDT: Yeah, and I have a, I have a meeting downtown at 6:30, so.

MR. HOLZER: Well, you can leave now, I (inaudible).

MR. SCHMIDT: No, I mean, if I could get out of here at 5:30, that'd be great, it's 5:05.

CHAIR: All right. So, let's get to it, this way we can help everybody.

MR. HOLZER: Okay, thank you.

CHAIR: Thank you, Mr. Holzer.

MR. HOLZER: The first question, the first question was, by counsel, and when I say that, I mean Mr. Schmidt, was in regard to Protestant's Exhibit 78, which dealt with the Grace Church. He specifically wanted us to look at page twenty-five and in the first paragraph.

CHAIR: Do you have that in front of you, sir?

MR. CLARK: I am looking, sir.

CHAIR: Here, I have (inaudible).

MR. CLARK: Oh, no, I do, I found it, I found it.

CHAIR: You do? Okay. Thank you.

MR. HOLZER: Okay. On, in that, we looked at item number seven and I, the only thing I recognized was they cited, or Mr. Clark cited the statement, the owner/developer shall be permitted to use grassy open areas of the subject property for overflow parking only during Christmas and Easter services. However, in our case, there has been testimony in regard to the grassy areas that there should not be parking on those grassy areas. I just wanted to clar, have you clarify that point. Was that not something that was of a concern to the Protestants?

MR. CLARK: Yes, it is because it, because of the topography and the sheet flow and the, the stream on the eastbound, all that, car, car fluids winds up going down. This, this, this is a, yeah, that's it, that's it.

MR. HOLZER: You've exceeded my authority to go beyond that.

MR. CLARK: Okay.

MR. HOLZER: Okay, now the last sentence in that paragraph is there shall be no overflow parking permitted on the open fields of this property at any other time during the year. So, in effect, while they were talking about parking in

open fields, our testimony related to the grassy area and the fields that you've shown one of the last pictures of all the cars parked on the grass.

MR. CLARK: Correct.

MR. HOLZER: Is that right? Okay, fine. There. In here, there was a question about any proposal or any development suggestion in, in that document related to there shall be no additional buildings --

MR. CLARK: Correct.

MR. HOLZER: -- in the Grace Church (inaudible). In our situation, there has been testimony by the Petitioners that there are no current proposals, and I underline current, because that would, as you understand, would allow additional potential development to come in at a later date or hearing, okay? Is that correct?

MR. CLARK: That is precisely what we're concerned about.

MR. HOLZER: Yes. So, one of the restrictions that I believe you've already covered, was that there would be no additional development. Now, there has been testimony by diff, different witnesses for the Petitioner that they were going to eliminate the swimming pool, or eliminate the tennis court, etcetera. But our position, when I say our, I mean the Protestants, would be that there would be no, not just current proposal to develop an additional building, but a limitation

that there should be none on the conditions if some are given, is that correct?

MR. CLARK: Yes, sir.

MR. HOLZER: Okay. The question, that takes care of number two. Question number three related to the historic district. I pulled a, a, Protestant's exhibit number thirty-nine, because there were questions raised by Mr. Schmidt about that. And, as, as to what it encompassed, how big it was, etcetera. And I'll leave it to the Board, but I would just point out, the historic district is six thousand sixty-six acres of agricultural area and would, and it describes gently rolling fields with crossroad villages such as Glen Arm and Baldwin and farm complexes.

CHAIR: Is there a question?

MR. SCHMIDT: I mean, this is really argument, I mean, all this is.

CHAIR: I, I, I, I'm, I understood. I assume Mr. Holzer is getting to that.

MR. HOLZER: Yeah, this is the, this is the, this is the reason that this historic district is relevant. On the last sentence of the first para, first page, approximately a hundred and twenty-five individual buildings, complexes, objects stand in the district, with the majority contributing to the significance of the district. The major intrusions or non-intrusive elements are industrial complexes around Glen Arm

and groupings of post 1930 housing, so --

CHAIR: Okay. Is there a question directed to the witness about that?

MR. HOLZER: Is that, is that what you were referring to --

MR. CLARK: Yes, sir.

MR. HOLZER: -- when you were talking about the National Historic Registry?

MR. CLARK: Yes, sir.

MR. SCHMIDT: The question is, did I just read that to you? I'm sorry, I don't mean to be smart but --

CHAIR: Well, I think what, I think what, hold on, hold on.

MR. SCHMIDT: -- this is all legal argument.

CHAIR: Hold on, hold, everyone --

MR. SCHMIDT: I'd be happy to address it.

MR. HOLZER: You asked the question.

CHAIR: -- everyone. Mr. Holzer.

MR. HOLZER: Geez.

CHAIR: Calm down. I understand Protestant's Exhibit 39, it's already in evidence --

MR. HOLZER: Yes.

CHAIR: -- as best as I recall. Is, if Mr. Holzer wants to say is this what you meant when you were discussing your testimony with the district, fine.

MR. HOLZER: That's all.

CHAIR: That, it doesn't matter what was just read, it is what it is.

MR. HOLZER: That's right, it is what it is. And I'm trying to get through it so --

CHAIR: So, overruled on the objection, although please make sure to, show him the, you can just show him the document the next time and then you could have eliminated all that.

MR. HOLZER: Okay. Let me directly to the point, Petitioner's Exhibit 38, 39 and 40 for i.d. This all relates to Beachmont corn maze, etcetera.

CHAIR: Just to be clear, thirty-eight, thirty-nine and forty?

MR. HOLZER: Yes.

MR. CLARK: May I see that? May, may --

CHAIR: Right? Okay.

MR. HOLZER: Those three.

MR. CLARK: -- may I have a copy?

MR. HOLZER: Pardon?

MR. CLARK: May I have a copy? Thank you. I, I will return them.

CHAIR: Thank you. I've just handed my copies of thirty-eight, thirty-nine and forty and the handwriting on the bottom reflects the number.

MR. HOLZER: Would you, because they've been set up by the Petitioners as, in request of, or in an analysis of Beachmont, my question to you is, can you explain if there is a difference between the effects of Beachmont on those documents, the corn maze, etcetera, Beachmont, how it affects your property and your neighboring property as it relates to the subject site being developed in that fashion?

MR. SCHMIDT: Ob, just objection. Isn't, I don't, I don't know. A lot of this is just legal argument, which Mr. Holzer, I can certainly allow, allow him to, to say --

CHAIR: I, I, I didn't understand the question as it was.

MR. SCHMIDT: But I'm not sure what the question is.

CHAIR: I didn't understand your question.

MR. HOLZER: The question is, the question is, now that this has been introduced by the Petitioners, thirty-eight, thirty-nine and forty.

CHAIR: Understood.

MR. HOLZER: How is the relationship of Beachmont affecting its neighbors different from how it affects yours?

CHAIR: Okay. I understand the question.

MR. CLARK: I, I, I would broaden that to say how it affects the communities.

CHAIR: I would answer Mr. Holzer's question.

MR. CLARK: Okay.

MR. HOLZER: Just answer my question first, please.

MR. CLARK: Okay, okay. But, but the Beachmont property where all, where they hold all the activities, it's down in a bowl, okay? And all the sound is contained within that bowl. There are, in fact, Reverend Standifer acts as their alarm bell for, for when things get too loud, that would disturb the, the property owners across the road.

MR. HOLZER: Okay. I'm sorry, --

MR. CLARK: Okay. Yeah, and, and --

MR. HOLZER: -- you're, you're not finished, go ahead.

MR. CLARK: -- and, and the subject site is on a pinnacle that, as you could see from some of the photos, looks straight down haystack valley. And the sound just travels. So, that, that's a difference in, in, in the sites and how they impact their, their communities.

MR. HOLZER: So there's no, so there's no question that in Beachmont, and as shown in these three exhibits, there's no question that they conduct this kind of activity, is that --

MR. CLARK: Correct.

MR. HOLZER: The question is, if this kind of activity were to be placed on the subject property, would that be a problem in your perspective?

MR. CLARK: Yes.

MR. HOLZER: Okay. I have no objection to these documents being admitted.

CHAIR: Thirty-eight through forty are admitted.

MR. HOLZER: That's correct.

MR. CLARK: Thank you.

MR. HOLZER: Now, let's, let's, if we can, --

CHAIR: Hold on. Are you going to do Redeemer next?

MR. HOLZER: Yes.

CHAIR: I'm handing out my exhibits for forty-one through forty-three to the witness for that point.

MR. HOLZER: Okay. Now, on Exhibits 41, 42 and 43 for the Petitioner, you understand what that is?

MR. CLARK: Yes.

MR. HOLZER: Okay. That is in regard to what takes place at Redeemer?

MR. CLARK: Yes, sir.

MR. HOLZER: Redeemer has a church on the property, is that --

MR. CLARK: Yes, sir.

MR. HOLZER: Beachmont, Beachmont has no church or other religious facility on their property?

MR. CLARK: And the two are unrelated.

MR. HOLZER: Well, that was going to be my next question. Is there any relationship between the Redeemer Classic Christian School and the Beachmont project?

MR. CLARK: Other than the fact that the land acquired for the Beachmont property came from Ron Standifer.

MR. HOLZER: Ron Standifer being, for the record, the pastor of Redeemer Christian School.

MR. CLARK: Right.

MR. HOLZER: Is that correct?

MR. CLARK: Correct.

MR. HOLZER: All right. So, on, on these, on Petitioner's forty-one in regards to the activities that take place, a lot of the sporting activities, do you know whether they take place outside or inside the facility? If you know?

MR. CLARK: Well, I, I, I testified I know, I, I have seen, you know, them with the soccer, at the soccer field. I should, yes, yes, and there's, I'll wait for your next question.

MR. HOLZER: Are, are there any activities that take place inside, to your knowledge?

MR. CLARK: I don't think they, other than classroom, I don't think they have --

CHAIR: He's asking whatever your knowledge is.

MR. CLARK: Yeah, right, right, right, right.

CHAIR: So, if you don't know, you don't know.

MR. CLARK: No, no, no, I, --

MR. HOLZER: If you don't know, you don't know.

MR. CLARK: No, I, no, I, I don't think so.

MR. HOLZER: Okay. That's not a problem. In regard to exhibit number forty-three, which are the sporting activities, you've already covered that, is that correct?

MR. CLARK: Well, and, and, and the, the fields are in, in a corner that are far, are far away from most, from most of the housing. They went through the process of dealing with the community in setting those things up.

MR. HOLZER: When you say the community, do you mean an organized community?

MR. CLARK: Yeah, yeah, yeah, yeah, there was Mount Vista Civic Association was very involved in setting the, the parameters for, for Redeemer and I don't know who decided that case.

MR. HOLZER: But for, but for, it, we don't really need to know any of that information.

MR. CLARK: Yeah.

MR. HOLZER: But otherwise, they resolved the issue, the fields --

MR. CLARK: And the fields were located where they, where, where, and I believe he's got a berm there.

MR. HOLZER: Okay.

MR. CLARK: To, to, to deflect some of the sound.

MR. HOLZER: Okay. So, there were conditions that were attached to Redeemer and their facility also?

MR. CLARK: Right.

MR. HOLZER: And we're not saying how it was attached or whether there was a case or not.

MR. CLARK: Right.

MR. HOLZER: I have no objection to Petitioner's one, forty-one, forty-two --

CHAIR: Forty-one, forty-two, forty-three.

MR. HOLZER: -- or forty-three.

MR. CLARK: Thank you.

CHAIR: Thank you. They are admitted.

MR. HOLZER: And one thing that has been brought up in regard to the efforts to meet with you, all the questions related to, you know, were you invited here, were you invited there, do you understand where I am?

MR. CLARK: I do.

MR. HOLZER: Okay. Do you recall me advising you for the last thirty, forty years, I tell every Protestant group that I represent that I desire that they meet with the other side to determine whether there's any way to resolve any issues. Do you remember me telling you that?

MR. CLARK: You made it abundantly clear that we were to listen whenever somebody wanted to talk.

MR. HOLZER: All right. And so, did you follow that advice?

MR. CLARK: Yes.

MR. HOLZER: Okay. No further questions at all.

CHAIR: Anything further?

MR. SCHMIDT: Just very quickly. You're not an acoustical engineer?

MR. CLARK: No.

MR. HOLZER: I am.

CHAIR: Hold on.

MR. SCHMIDT: Did you hire an acoustical engineer to do any analysis of the decibels?

MR. CLARK: No, no.

MR. SCHMIDT: At either Beachmont or Redeemer or the subject property?

MR. CLARK: We considered it and --

MR. SCHMIDT: But you didn't. The answer is no.

MR. CLARK: Okay.

MR. HOLZER: Well, let him answer.

CHAIR: Hold, hold, hold on. It's really, I, I understand what you're saying.

MR. HOLZER: Yes.

CHAIR: However, I also understand what Mr. Schmidt is saying, it's not that complicated. Did you retain some, an acoustical engineer --

MR. CLARK: We, we, we considered it.

CHAIR: Did you retain?

MR. CLARK: We consulted.

CHAIR: Okay.

MR. CLARK: In an attempt to retain.

MR. SCHMIDT: Okay.

CHAIR: Did that, as a result of that consultation, did that form any of your, or go to forming any of your opinions? Because that was a question that was asked earlier.

MR. SCHMIDT: And, --

MR. CLARK: No, because the, the, the events were so sporadic that we wouldn't be able to set up equipment to actually measure.

CHAIR: Mr. Schmidt, back to you.

MR. SCHMIDT: Yeah, just very quickly. I think what I tried to do during my cross examination on this top, topic, Mr. Clark, is I was trying to identify expert witnesses that you had consulted in connection with this case as you were preparing for your presentation. And you identified Mr. Jakubiak, who is going to testify, an unnamed traffic engineer --

MR. CLARK: Right.

MR. SCHMIDT: -- who you said wasn't worth the money and you decided, whom actually, I think you said, met Mr. Collagero out at the property or when Mr. Coll, Collagero was there --

MR. CLARK: Um hm.

MR. SCHMIDT: -- but you didn't, you didn't, he's not here or he hasn't, he's not going to testify. And now there's

this acous, at least an acoustical engineer who you dis, talked to but you didn't retain.

MR. CLARK: Attempted to retain.

MR. SCHMIDT: Okay. Is there, just so we know, --

MR. CLARK: Right.

MR. SCHMIDT: -- is there any other witnesses, any other expert witnesses? I tried to be broad before.

MR. CLARK: No, I, I know, I know, --

MR. SCHMIDT: And you didn't tell us about the acoustic guy.

MR. CLARK: Well, and the, the, you know, this, this was a direct respond to, you, you stimulated me.

MR. SCHMIDT: Right. Have you talked to any septic people or?

MR. CLARK: Go, yeah, go, no, no septic.

MR. SCHMIDT: No septic.

MR. CLARK: No civil engineers.

MR. SCHMIDT: No landscape architects?

MR. CLARK: No landscape architects.

MR. SCHMIDT: No surveyors?

MR. CLARK: No surveyors.

MR. SCHMIDT: No sanitarians?

MR. CLARK: No sanitarians.

MR. SCHMIDT: Okay.

MR. CLARK: No, no, you know, I, it's fair and, you

know, --

MR. SCHMIDT: Okay, fair enough.

CHAIR: So then it's fair to say that sitting here in the moment, there's nobody else that you would have tried to retain or like a, in terms of consultant or an expert witness, that you not otherwise have identified?

MR. CLARK: That I can, this is --

CHAIR: I said sitting here right now in this moment.

MR. CLARK: The, not as a fudge word, that I can recall.

CHAIR: Okay. Mr. Holzer, do you have any follow-up as a result of all that?

MR. HOLZER: No, I hope we're done.

CHAIR: And I take it that's it from you, Mr. Schmidt?

MR. SCHMIDT: Yes, sir.

CHAIR: Because you're packing up.

MR. SCHMIDT: Yes, sir.

MR. HOLZER: I was going to say, don't give him another chance.

CHAIR: Yes. So, well, I wanted to make sure the record was clear that everyone's --

MR. SCHMIDT: Let the record reflect that I was about two hours, less than that, after two and a half days of direct examination.

MR. CLARK: And I appreciate it.

MR. HOLZER: Let the record reflect that he's wonderful. He's a wonderful attorney.

CHAIR: All right. So, you are done on the stand.

MR. CLARK: Even with the potential for cross?

CHAIR: There are the, still minor issues to be resolved, so but as for his testimony he is literally a witness who is done testifying at the moment, but there is the right, obviously, to recall him on those other points.

MR. HOLZER: On the limited issues.

CHAIR: On, for those very limited issues.

MR. HOLZER: Exactly. I don't want him on the stand any longer than --

CHAIR: I'm sure he would also agree with that.

MR. CLARK: And, and, but, but I just want to be clear. I'm pretty much free of all encumberments?

CHAIR: I'm not going to give you advice, other than to say you would be better served to listen to what Mr. Holzer tells you.

MR. CLARK: Okay, okay.

MR. HOLZER: I certainly will tell him.

MR. CLARK: You will.

CHAIR: Very well.

MR. HOLZER: Thank you.

CHAIR: So, with that in mind, we are adjourned for

today. We are meeting again 9:00 a.m. February 5th. We all know the, we'll call them, we call them minor matters, that are still out there and open and we also have Mr. Jakubiak that day. I'm not asking you today as to what you intend to do with rebuttal because we still have some substantive matters to get through.

MR. SCHMIDT: Thank you.

MS. DOPKIN: We're off the record.

(OFF THE RECORD - 05:23:24 PM)

CERTIFICATE OF TRANSCRIBER

I hereby certify that the hearing in the matter of Nepali American Cultural Center, case number 18-122-X and CBA-19-004, heard before the Board of Appeals of Baltimore County, January 30, 2019 were recorded by means of audiotape.

I further certify that, to the best of my knowledge and belief, page numbers 1 through 343 constitute a complete and accurate transcript of the proceedings as transcribed by me.

I further certify that I am neither a relative to nor an employee of any attorney or party herein, and that I have no interest in the outcome of this case.

In witness thereof, I have affixed my signature this 5th day of December, 2020.

Christine R. Leary

Transcriber

IN THE MATTER OF:

NEPALI AMERICAN CULTURAL CENTER

CASE NUMBER: 18-122-X and CBA-19-004

Hearing Date: January 30, 2019

Pursuant to Notice, the above-entitled hearing was held before the Board of Appeals for Baltimore County at the Jefferson Building, Second Floor, Suite 203, 105 West Chesapeake Avenue, Towson, Maryland 21204.

PANEL PRESIDING:

JASON S. GARBER, CHAIR

WILLIAM A. MCCOMAS, BOARD

DEBORAH C. DOPKIN, BOARD

PRESENT ON BEHALF OF THE PARTIES:

LAWRENCE E. SCHMIDT, ESQUIRE
Counsel for Petitioners

J. CARROLL HOLZER, ESQUIRE
Counsel for Protestants

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TABLE OF CONTENTS

Description	**Page**
Direct exam of DeWitt Clark by Mr. Holzer.....	8
Cross exam of Mr. Clark by Mr. Schmidt.....	216
Re-direct exam of Mr. Clark by Mr. Holzer.....	326
Re-cross exam of Mr. Clark by Mr. Schmidt.....	338

(ON RECORD – 09:16:33 AM)

CHAIR: Please be seated.

MS. DOPKIN: We are recording.

CHAIR: All right. We are back again today for day nine of Nepali American Cultural Center, case number 18-122-X. As you all may be able to tell, I've been losing my voice. So, so for today, obviously I'll still be doing the same things I normally do, but Ms. Dopkin will be aiding me in certain respects because I'm not able to consistently amplify my voice. Ms. Dopkin, is there anything you want to say?

MS. DOPKIN: I do. As Mr. Garber has repeatedly stated, this is a quasi-judicial body. We take our job seriously. We expect a modicum of decorum from the lawyers and the parties and the witness. We would like you to respect that for us. With that in mind, we want to proceed today efficiently, in a business like and professional manner so that there is a minimum of extraneous back and forth. We want to hear what our witnesses have to say so we can move forward. Mr. Garber is a font of patience. I am not.

So, if you have an objection, stand up so we and the witness know that you have an objection, state the basis for it. We don't want your argument per extended or testimony, we want to know why you're objecting. We'll deal with it. If we have questions, we'll ask you. We'd like to move forward a little more efficiently than we did yesterday without eclipsing

anyone's right to speak and be heard. We're much more interested in hearing the case then all the rumble underneath. So, with that in mind, I hope you will not force Mr. Garber to lose his voice any further. And conduct yourselves accordingly.

CHAIR: Thank you. All right. So, the next two days beyond today, February 5th, February 13th, when the notices went out, the time listed was 10:00. We have an amended notice that it will be, the times will be moved to 9:00. Mr. Kotroco is not here, Mr. Schmidt, this is your copy.

MR. SCHMIDT: May I approach?

CHAIR: Yes, of course. Mr. Ghimire is not here. Do you expect him?

MR. SCHMIDT: I, I will give it to him. Yes, he sends his regrets but because of the school delay he's (inaudible).

CHAIR: It's quite all right, it, it's quite all right. Mr. Holzer, this is your copy.

MR. HOLZER: Thank you.

CHAIR: Hold on. I'm going to give you the copy for the Clarks, since Dr. Clark is at your table. And others will be mailed because those individuals are not here. That is, who are on the notice, particularly Mr. Kotroco, David Hartman, David Poehler, Morgan Minor and Carol Shaw. Oh, sorry.

MR. HOLZER: Ms. Shaw is here.

CHAIR: Ms. Shaw? Good news, I have one with your name on it. So, Ms. Shaw is here and has received, so the ones that have not received it are Mr. Hartman, Mr. Poehler, Ms. Minor and Mr. Kotroco.

MR. HOLZER: If the Board would like, I certainly can deliver those to my clients. I don't know whether you have to mail them or whatever. But I can accept service for them.

CHAIR: If you're affirmatively representing on the record that you are accepting service for those individuals.

MR. HOLZER: Yes.

CHAIR: Other than Mr. Kotroco, --

MR. HOLZER: Yes.

CHAIR: -- I assume, then that's fine and they will not be mailed.

MR. HOLZER: I understand. That's why I'm trying to save the Board some extra work.

CHAIR: I appreciate it.

MR. SCHMIDT: And I can likewise do the same for Mr. Kotroco.

CHAIR: Very well. You have helped, both of you. This is Mr. Kotroco's. And I'm handing Mr. Holzer, excuse me, I think we have one for Motsco too.

MR. SCHMIDT: Yes, and I can do the same for him.

CHAIR: I apologize. And then, so this is for Ms. Minor, this is for Mr. Poehler.

MR. HOLZER: Thank you.

CHAIR: And Mr. Hartman. And again, the only change is the time being moved from 10:00 a.m. to 9:00 a.m. start. The only change.

MS. DOPKIN: And before we start, we would ask again that you silence all your devices.

CHAIR: Yes. Is there any other preliminary matter that needs to be discussed at the start?

MR. SCHMIDT: Just very briefly. During the course of the proceedings this morning, a young man from my office, who is a member of the Maryland Bar, Zachary Wilkins, may be joining me at the trial table. I don't want to disrupt the proceedings then, but if you see a young man come in and sit next to me, it's Mr. Wilkins and he may be assisting me. He is a member of the Bar and a member of my firm.

CHAIR: Thank you for, for letting us know in advance.

MR. HOLZER: Is Tim still going to be in the case or is he --

MR. SCHMIDT: Mr. Kotroco is still in the case but he's just not here, at least yesterday and today, obviously.

MR. HOLZER: So, I still have to, if I need to copy you guys, I still have to copy him?

MR. SCHMIDT: Yeah, you should still copy him. Yes.

MR. HOLZER: That's all I needed to know.

MR. SCHMIDT: Yeah, thank you.

MR. HOLZER: Okay.

CHAIR: All right. Anything else?

MR. HOLZER: No.

CHAIR: All right. Where we last left off was the conclusion of the 502.1 factors. Is that everyone's understanding?

MR. HOLZER: That's correct.

CHAIR: All right. So, Mr. Holzer, it is your witness.

MR. HOLZER: Thank you.

CHAIR: Thank you, Dr. Clark.

MS. DOPKIN: Do you want to re-swear the witness?

CHAIR: Mine as well just do it because we're here and --

MS. DOPKIN: Mr. Clark, do you swear and affirm under the penalties of perjury, that the testimony you are about to give is true and correct to the best of your knowledge and belief?

MR. CLARK: I do.

MS. DOPKIN: And if you'd state your name for the record?

MR. CLARK: Oh, yeah. DeWitt S. Clark.

MS. DOPKIN: Thank you.

CHAIR: Thank you. Mr. Holzer?

MR. HOLZER: Yes?

CHAIR: Your witness.

MR. HOLZER: Mr. Clark, now we are at the end of the 502.1 conditions and you've been testifying on behalf of the community association, is that correct?

MR. CLARK: Correct.

MR. HOLZER: Okay. So, that testimony in regard to the 502.1 conditions have been as the representative of the association from late yes, or yesterday afternoon.

MR. CLARK: Correct.

MR. HOLZER: Okay. The, and when we ended last night at approximately 6:30, there was one other section left and that was inconsistent with the purs, purpose of the property zoning classification.

MR. CLARK: Correct.

MR. HOLZER: Is that correct?

MR. CLARK: Correct.

MR. HOLZER: Okay. Now, there, as I understand it, your desire, your association desires to introduce one document which would be the Beachmont decision. Could you, and, and RC, and Grace Church. Are you familiar with that?

MR. CLARK: Yes, I am.

MR. HOLZER: Okay.

CHAIR: Mr. Holzer, just for purposes of the record.

MR. HOLZER: Yeah.

CHAIR: It may be a good idea to have Dr. Clark identify the zoning classification, because if he's going to testify to matters that are going to be inconsistent, just by foundational, he would have to establish what his understanding of the zoning classification is.

MR. HOLZER: Do you know what the classification is of the, well, let's say Grace Church?

MR. CLARK: Yes, RC-5.

MR. HOLZER: Okay and you know the zoning classification for the subject property?

MR. CLARK: RC-2.

MR. HOLZER: All right. I'm going to provide this document to, now, if Mr. Kotroco --

MR. SCHMIDT: Thank you.

MR. HOLZER: -- was here, he would be very familiar with this document.

MR. MCCOMAS: Exhibit 78.

MR. HOLZER: All right, that's Exhibit 78. And are you, do you have it front of you?

MR. CLARK: No, I do not.

MR. HOLZER: Sorry.

CHAIR: Here's another copy here if you need it. Let's mark it --

MR. MCCOMAS: Seventy-eight.

CHAIR: The formal exhibit, Mr. McComas has, but just

so you have the copy that says seventy-eight on it.

MR. HOLZER: Thank you. Okay.

CHAIR: And I see Mr. Schmidt has his copy.

MR. HOLZER: Yes.

CHAIR: Thank you.

MR. CLARK: Okay. So, this is the Grace Church decision --

MR. HOLZER: Yes.

MR. CLARK: -- I have here.

MR. HOLZER: And now, could you tell me why you believe this is relevant to the proceedings that we're here to, today on?

MR. CLARK: Yeah. This is a house of worship in the general area.

MR. HOLZER: And when, when you say general area, I want you to be more specific.

MR. CLARK: Okay. It's on, it's on Belair Road, it's within the Kingsville Civic Association cacheman area.

MR. HOLZER: When you say it's on Belair Road, is it in a residential area or more, when, when you say Belair Road I think of commercial.

MR. CLARK: Yeah, yeah, no. It, it, it's in, it's past the URDL, it is at 11611 Belair Road.

CHAIR: I, I missed the part, you said it was in with, with the what, cacheman zone?

MR. CLARK: The Greater Kingsville Civic Association cacheman zone.

CHAIR: Thank you.

MR. CLARK: Okay?

CHAIR: Sorry about that.

MR. SCHMIDT: Mr. Garber, just for the record, I've looked at the decision quickly and I have an objection.

CHAIR: Okay. What's the nature of the objection?

MR. SCHMIDT: The nature of the objection is, first of all, I don't believe it's appropriate for this witness to be giving a legal interpretation of this decision. I think it's more properly argument.

CHAIR: I think that objection is premature at this time. I don't know where we're going with this exhibit with this witness. That may be an objection on a future question, I don't know. But, so for now, I'll overrule that objection.

MR. HOLZER: Thank you.

MR. SCHMIDT: Yes, and there's one other basis, if I may be heard?

CHAIR: Yes.

MR. SCHMIDT: I notice that the property is zoned RC-5, which is not the same zoning classification as is the issue in this case. And I also think as importantly, as I'm looking at the first page of the decision that we've been provided in the actual middle of the first paragraph it indicates that the

matter is before, was before the zoning commissioner on a development plan. And it indicates further the use of the subject property is a church, is a use permitted in the RC-5 zone, therefore, no special zoning relief is necessary. And then it continues. So, I believe that the standard that would have been applied in this case, as it relates to whether the development plan should be granted or approved, is a different legal standard than the special exception.

CHAIR: I understand the difference between the RC-5, RC-2 zones, I understand this may be a development decision, but I don't know what use or purpose we have for this exhibit as of yet. And so, Mr. Holzer, --

MR. HOLZER: Thank you.

CHAIR: -- I'll, I'll overrule it for now but you may, of course, object again when appropriate.

MR. SCHMIDT: Thank you for hearing from me.

MR. HOLZER: Mr., Mr. Clark, I want to direct your attention to page twenty-four, and twenty-five and twenty-six, of that document.

MR. CLARK: Um hm.

MR. HOLZER: Which is signed by Timothy Kotroco.

MR. CLARK: Um hm.

MR. HOLZER: The hearing officer at the time and currently one of the attorneys involved in this, in this case. Directing your attention specifically to his imposing certain

terms and conditions. Are you familiar with those terms and conditions?

MR. CLARK: Yes.

MR. HOLZER: Okay. I do not want you to opine in regard to any legal zoning questions. But I want you to define where the, is the Grace Church in an area similar to the proposed site here on Harford Road?

MR. CLARK: It is on a State highway. It is in a, a similar residential, rural residential area. It is in with, it is within the locale.

MR. HOLZER: Okay, all right. Now, in looking, this will, this will lead us into the next questions that I have for you, the next area. But did you review the terms of the conditions imposed by Mr. Kotroco?

MR. CLARK: Yeah.

MR. HOLZER: All right. Did you find those conditions consistent or relative to the same kinds of concerns your association would have in regards to the proposed project?

MR. CLARK: Yeah.

MR. HOLZER: And can you just explain instead of saying yeah. Just a little bit.

MR. CLARK: Okay, yeah.

MR. HOLZER: I don’t want a long diatribe, a little bit. Go ahead.

MR. CLARK: Okay. Well, no, it, it has to do with

the size capacity of, of the house of worship, it has to do with traffic management, it has to do with recreational facilities, it has to do with kitchens, has to do with noise, it has to do with outdoor activities, no outdoor concerns, carnivals permitted on the grounds, landscaping, so on and so forth. I mean, I mean, the, the Board can read it for themselves. I, I don't need to --

MR. HOLZER: And --

CHAIR: Do I understand correctly here that you're identifying these conditions as ones that could have some influence on --

MR. CLARK: Yes, sir.

CHAIR: -- this matter in the event there's an approval?

MR. CLARK: Yes, sir.

CHAIR: All right. And you're using this by way of example?

MR. CLARK: And, and Petitioner, or Protestant's counsel was involved with this, their legal team, right.

CHAIR: Well, that aside, --

MR. CLARK: Right, yeah.

CHAIR: -- that's the purpose for this exhibit is to say hey --

MR. CLARK: Yes, yes, sir, yes, sir, yes, sir.

CHAIR: -- look, here's an example, the way this,

something similar has been treated, even if there are differences in the way it unfolds. But there are conditions imposed here, ones that you think could be --

MR. CLARK: Yes, sir.

CHAIR: -- applied here?

MR. HOLZER: Absolutely.

CHAIR: Okay.

MR. HOLZER: That's the sole purpose of putting it in. I think the added value is the fact that Mr. Kotroco was the one that, that imposed those conditions. So, it shows that he --

CHAIR: Yes.

MR. HOLZER: -- is sympathetic to those kinds of, of issues or arguments by the neighbors. I, that's all it's put, put in for.

CHAIR: Mr. Schmidt, any objection to seventy-eight?

MR. SCHMIDT: No, sir. Although I obviously point out that Mr. Kotroco, at the time, was deputy zoning commissioner and not private counsel.

CHAIR: It, it's understood.

MR. HOLZER: Yes.

CHAIR: The difference in position and in no way does that influence anything up, you know, for purposes of this hearing. So, yes, it's admitted.

MR. HOLZER: Thank you. The next document, which I

sort of thought of out of order, would be the Beachmont approval and it's also, excuse me, so I can get this right. It's also authored by the deputy zoning commissioner, Mr. Kotroco. And I'm going to make sure everybody has a copy first before, one, two, --

CHAIR: And sir, if you could hand back the exhibit?

MR. CLARK: Oh, that wasn't mine, yeah.

CHAIR: Seventy-eight. So, Mr. McComas would have his own.

MR. CLARK: Yeah.

MR. MCCOMAS: I already got one. Oh, for my, for my --

CHAIR: Right, for your, for your personal file.

MR. CLARK: Okay.

CHAIR: That was yours.

MR. MCCOMAS: It was.

MR. HOLZER: That will be seventy-nine.

CHAIR: Thank you.

MS. DOPKIN: This is case number 94-50-SPH, a Petition for Special Hearing?

MR. HOLZER: Yes.

MS. DOPKIN: For Beachmont Inc.?

MR. HOLZER: Yes. And, well, I'll let Mr. Schmidt have an opportunity.

MR. SCHMIDT: I note at, at the beginning, just of

the decision, and I have not read the decision, that this case apparently was an approval of an amendment of orders in two prior cases, 75-83-X and 89-489-SPH. Mr. Holzer, just out of a matter of completeness, are we going to get all three of the dec, zoning decisions as they relate to Beachmont?

MR. HOLZER: No, I didn't, the only one that I have for now is this one.

CHAIR: Let me ask, are you using seventy-nine in a similar fashion to seventy-eight as it relates to conditions imposed on the Beachmont property, that is, something that Dr. Clark would feel --

MR. HOLZER: Yeah.

CHAIR: -- would be perhaps something to be considered in this case, should there be approval?

MR. HOLZER: Yes. And those, and those restrictions were found on page nine of this document, seventy-nine, nine and ten. And if the Board looks at that, you, you can see that it follows pretty much his testimony on exhibit number seventy-eight. But I'll ask him --

CHAIR: Well, the purpose of my asking that question is it resolves the issue --

MR. HOLZER: Exactly.

CHAIR: -- that Mr. Schmidt has raised as to the two prior case numbers.

MR. HOLZER: Exactly.

CHAIR: At least, it would seem on its face. Do you have any objection to seventy-nine then, other than the issue as to case numbers 75-83-X and 89-499-SPH in light of the proffered relevance of this document?

MR. SCHMIDT: No, I, I think, I'm sure you're going to have a consistent ruling with the prior exhibit, so I don't object. Maybe the way to handle it is I may have my office see if they can pull those cases and --

CHAIR: Very well.

MR. SCHMIDT: -- offer them just so that you have all the cases related.

CHAIR: I appreciate that.

MR. SCHMIDT: I think that's appropriate.

CHAIR: Thank you.

MR. HOLZER: I have no objection if he does that.

CHAIR: Okay. So, seventy-nine will be admitted, you may ask your questions to Dr. Clark.

MR. CLARK: May I have a copy?

MR. HOLZER: Yes. I keep forgetting that you don't have one. And Mr. Clark, would you look at the last couple pages? Because I've --

MR. CLARK: Yeah.

MR. HOLZER: -- suggested to the Board that that's the reason that we're introducing them. Could you address the, first of all, where is Beachmont?

MR. CLARK: Beachmont is located, as the crow flies, about a half a mile from the subject property. It is not on a State highway, it is on a County road.

MR. HOLZER: What's the County road? Mount Vista?

MR. CLARK: Mount Vista, thank you.

MR. HOLZER: All right.

CHAIR: I was going to say, it was already read into the record.

MR. HOLZER: Okay.

MR. CLARK: It was a trick question.

CHAIR: That's okay.

MR. CLARK: All right. And it adjoins another property from which it was split off, owned by the Standifer's, I believe, and that has operated as Redeemer School. There's been some confusion about this Redeemer/Beachmont complex. But as these decisions will show, they are two separate entities. And Mr. Kotroco, I think, was well aware of that. But the, the, the conditions are, again, appropriate for, we feel, we feel, the board feeds, that the GFWPA board feels, that these conditions are very similar to what we would like, that would satisfy our concerns on the subject property.

CHAIR: Before we go down another road, because I don't know if this is yet to come, as an individual, because you're here testifying in both capacities, that is, on behalf of the association and yourself --

MR. CLARK: No, I, I think we can pretty much say that --

CHAIR: You're not going to offer any other testimony as an individual as it relates to seventy-eight or seventy-nine?

MR. CLARK: Oh, I see what, I see what you're asking. Other than some rebuttal to testimony, to prior testimony.

CHAIR: Sorry, as it relates to these two exhibits?

MR. CLARK: Well, this exhibit may be brought in as a rebuttal. I would, I --

CHAIR: Mr. Holzer, do you understand my question?

MR. HOLZER: I understand your question.

CHAIR: Could you --

MR. SCHMIDT: I, I'm sorry, I don't, Mr. Garber.

CHAIR: We've had testimony, Dr. Clark as an individual, we have testimony from Dr. Clark on behalf of the association. I don't want to go, talk about his testimony as the association and then find out two hours from now as an individual he also has opinions --

MR. SCHMIDT: Oh, I'm sorry.

CHAIR: -- about the same exhibits.

MR. SCHMIDT: Yes, sir, I'm sorry. I just didn't follow you at first.

CHAIR: I, I want, yeah, so right, so I apologize for not being clear.

MR. SCHMIDT: I got it.

CHAIR: I want to see if the testimony is coextensive.

MR. CLARK: Now, --

MR. HOLZER: I, I can answer the question. In regard to some prior testimony by various witness Petitioners and so forth, there was confusion or an attempt to combine these properties and even though Mr. Clark is testifying right now for the conditions that could be attached, if the Board so chose, he also subsequently wants to go back when I go back to his personal testimony and explain the confusion that was generated by the Petitioners as to these two properties. That's all he wants to do. He's not going to re-address the decisions or anything.

MS. DOPKIN: Is he speaking for himself individually or still as the spokesperson for the Gunpowder Falls Watershed Preser --

MR. HOLZER: He would speaking, at that time, for himself, trying to clarify some of the misunderstandings that occurred in the Petitioner's case.

MR. MCCOMAS: And, and why is that relevant to this case?

MR. HOLZER: Why is?

MR. MCCOMAS: That he --

MR. HOLZER: That they made mistakes testifying, they

made mis --

MR. MCCOMAS: No, no, the issue of, of the property that's in this case, why is that relevant to this case?

MR. HOLZER: Oh, it's not relevant. It's not --

CHAIR: He's addressing points made earlier by other witnesses, I believe is what Mr. Holzer is saying.

MR. MCCOMAS: Oh, okay. I thought he was talking about the case in here where they're talking about there was some confusion (inaudible).

MR. HOLZER: I'm, no, but I'm sorry, I misunderstood what your confusion was.

MR. MCCOMAS: Yeah, yeah, no, I got the past testimony. What I was talking about is I thought he was going to testify about that there's some confusion in the prior case over --

MR. HOLZER: No.

MR. MCCOMAS: -- the division of land.

MR. HOLZER: No. All he's, all he's doing at this purpose, for the, for the association, is to say many of these conditions also would apply and be acceptable to us in this case. He will then, I will then take him back to go into the testimony as an individual of why there was previous testimony that may have confused the Board in regard to these two properties, that's all.

CHAIR: So, and just to put a, a, an exclamation

point at the end of all this discussion, what I'm hearing is he has something separate to say about Beachmont and Redeemer.

MR. HOLZER: Yes.

CHAIR: That relates to Exhibit 79. But does he hold an opinion as an individual as to the conditions reflected in seventy-eight and/or seventy-nine --

MR. HOLZER: He just says he did.

CHAIR: -- as an individual?

MR. HOLZER: (inaudible) yes.

CHAIR: And we're, that's what I want to elicit now.

MR. HOLZER: Right.

CHAIR: Because the stuff later to come is for impeachment or rebuttal purposes.

MR. HOLZER: Right.

CHAIR: So, while we have this out, if he has separate opinions about it, as an individual or whatever, that's what, all I'm trying to get onto the record.

MR. HOLZER: Mr. Chairman, he just answered your question by saying it's my personal opinion as well as the association.

CHAIR: I, thank you. I, that's why I'm saying, I want to put an exclamation point at the end of that --

MR. HOLZER: Right.

CHAIR: -- so we can all move on.

MR. HOLZER: Yes.

CHAIR: Thank you. Okay.

MR. HOLZER: So, I would offer this seventy-nine also, like I offered --

CHAIR: It's already been admitted.

MR. HOLZER: Oh, it has, okay. I'm sorry.

CHAIR: Yes. Because Mr. Schmidt did not have any objections other than the one we discussed. And since he said the ruling for seventy-eight would be applicable to seventy-nine he understood.

MR. HOLZER: Okay.

CHAIR: So, it is admitted.

MR. HOLZER: Okay. Thank you. In regard to, continuing under the inconsistence with the purpose of the property zoning classification, are there any other points that you want to make on behalf of the association or have we completed that part?

MR. CLARK: Can, can I just re-echo the, you know, the use of the recreation, as a recreational facility --

CHAIR: I think you should answer Mr. Holzer's question.

MR. CLARK: Okay. So, I want to say yes. Ask the question again. I'm sorry.

MR. HOLZER: Are there any other evidence in that relates to the association's concern about the inconsistency of the property's zoning classification?

MR. CLARK: Yes.

MR. HOLZER: And what are they?

MR. CLARK: They are the, the string of volleyball events that have been held there and there are the multiple events above and beyond the, the July 29, August 3, including while this proceeding was taking place, the use of it for a community political activism where some seventy-five people attended and we have the video of that in there. And --

MR. HOLZER: Has that video been shown?

MR. CLARK: I don't think completely.

CHAIR: It has not been paid during the course of any hearing --

MR. CLARK: We, we showed parts of it.

CHAIR: Hold on.

MR. CLARK: Yes, sir.

CHAIR: It has not been played during the course of any hearing because it's, that's news to me.

MR. HOLZER: Okay.

MR. CLARK: Okay and the November 4th of use of the property by a group called Belmont Volleyball Group, for a volleyball game. And again, they posted on Facebook for us.

MR. HOLZER: Do we need to show a video of that at this point or would --

CHAIR: Well, please bear in mind Mr. Schmidt, if, I'm assuming these are not on the disc previously because you

called them new.

MR. CLARK: And they were given last night.

CHAIR: Okay. So, I'm going to give Mr. Schmidt the benefit of the doubt, as hard working as an individual as he is, and last night we ran a bit late, so he may not have had the opportunity to view them. So, with that in mind, do you have still photos?

MR. CLARK: I think we, yeah, yes.

CHAIR: I want, in other words, I'm trying to give you the opportunity to see the video ahead of time, to, to the maximum extent possible, but of course, our time is limited.

MR. SCHMIDT: Thank you. I, I seem to recall a video where there was someone from the governor's office who was at the property and we did see a video of that. I assume this is something different than that?

CHAIR: I would, I would say that my rec --

MR. SCHMIDT: When he said, used the word political, that's what I was thinking.

CHAIR: And my understanding was consistent with yours, that is, it does not refer to that, that one.

MR. SCHMIDT: That event, okay.

MR. CLARK: The Belmont Volleyball Group does not.

CHAIR: No, the pol, the one that, --

MR. CLARK: The one on October 6, --

CHAIR: The political activism one.

MR. CLARK: Yeah, where there were about seventy-five people in attendance.

CHAIR: Well, so, we'll stop there. Mr. Holzer, trying to clarify the video. Mr. Schmidt has asked a question. Is this the one that concerned a representative from the governor's office or was it even the lieutenant governor?

MR. SCHMIDT: I believe, as I recall, I think it was someone from the governor's office and I remember there was a video about six or seven people sitting at a table --

CHAIR: Yes.

MR. SCHMIDT: -- outside and there was some question and answer. I just didn't know if that was what we were talking about or if it was something else.

CHAIR: Mr. Holzer, so the question --

MR. HOLZER: It was not shown yet.

CHAIR: It was not shown yet.

MR. HOLZER: It's, it's on the document that you have, that you have already, what was shown and what was not. And it was not.

CHAIR: Okay. So, then it's a new one. Just to establish that for the record, that that would be a new video.

MR. HOLZER: Yes.

CHAIR: Different than what Mr. Schmidt is referring to. Thank you.

MR. HOLZER: It was on the original disc.

CHAIR: Oh, okay. We're back to square one.

MR. HOLZER: Yes.

CHAIR: So, apparently you did receive whatever it is before. So, it's --

MR. HOLZER: It's listed on the, on the list sheet.

CHAIR: Okay.

MR. HOLZER: As having been on the old documents that were submitted to Mr. Schmidt.

CHAIR: Okay.

MR. HOLZER: But for right now, I'd like --

CHAIR: But go, please, please move ahead. I will search for the list and we will untangle that.

MR. HOLZER: These are the photographs of --

MR. CLARK: No, you have to give them to them.

MR. HOLZER: Well, I've got some to give to them.

CHAIR: As long as Mr. Schmidt has it, we have it and there's no question pending, it's fine.

MR. CLARK: Okay, thank you.

MR. SCHMIDT: Yep.

CHAIR: Thank you.

MR. SCHMIDT: Just trying, maybe make this earlier, Mr. Garber, --

CHAIR: Go for it.

MR. SCHMIDT: -- this is exactly what I think we were talking about and if you look at page two --

CHAIR: Hold on. We have to mark it first. Mr. McComas?

MR. SCHMIDT: Oh, I'm sorry.

MR. MCCOMAS: (inaudible) B, C, D, E, F, G, H, I, J. So, it's going to be A through J.

CHAIR: What, what number?

MR. MCCOMAS: Eighty.

CHAIR: So, Petitioner's Exhibit 80-A through K are photographs, or excuse me, Protestant's Exhibit 80-A through K. Now, Mr. Schmidt?

MR. SCHMIDT: I believe, I guess it's B, the second page.

CHAIR: Okay.

MR. SCHMIDT: Is, I know we've seen the video of that already.

CHAIR: Yes. That, yes.

MR. SCHMIDT: Because it's, I mentioned the governor's office but appar, I, --

CHAIR: Secretary of State.

MR. SCHMIDT: -- apologize, it was the deputy secretary of state.

CHAIR: Yeah, right, understood.

MR. CLARK: Right.

MR. SCHMIDT: And I'm assuming, and again, to be consistent with your rulings yesterday, this is not about a

code violation or an illegal event, but it, I don't think --

CHAIR: I don't know why we're discussing it right now.

MR. SCHMIDT: Yes, sir.

CHAIR: I'm going to leave that to Mr. Holzer to ask Dr. Clark.

MR. HOLZER: Dr. Clark, you've seen Exhibit 80. What is the purpose for showing this?

MR. CLARK: Well, if you look at, I guess it would be C, page C.

MR. HOLZER: Yes.

MR. CLARK: Okay. It shows a large crowd and it is being used for a purpose other than what the special exception is asking.

MR. HOLZER: Okay. So, I would offer --

CHAIR: Mr. Schmidt, any objection?

MR. SCHMIDT: I believe the video is in and to the extent that this is still photos taken from the video, it's already in evidence so I don't have any objection.

CHAIR: Well, let's, let's separate the two. The photos alone, do you have any objection without reference to the video? And I ask that, because I don't know off the top of my head with all the videos that are identified, what was in and what was out. So, of the photos alone, do you have any objection?

MR. SCHMIDT: No, I'll make this easy. I do not have any objection.

CHAIR: So admitted.

MR. HOLZER: Thank, thank you.

CHAIR: A through K.

MR. HOLZER: And I'm not going to worry about the video. It is what it is.

CHAIR: Yeah, and I, just off the top of my head, because there's so many I don't know what was specifically ruled upon or not. That's the reason why I asked for a separate consideration from Mr. Schmidt.

MR. HOLZER: Now, I'd like to go to one, oh, I'm sorry. You've already had an opportunity to make a, a comment about Exhibit 80 that we just entered into evidence, is that --

MR. CLARK: Correct.

MR. HOLZER: Is there anything further you need to say about that? Can we move on?

MR. CLARK: About this exhibit?

MR. HOLZER: Yes.

MR. CLARK: No.

MR. HOLZER: No?

MR. CLARK: No.

CHAIR: We can move on.

MR. CLARK: We can move on.

CHAIR: Thank you.

MR. HOLZER: All right. Now, let's go to what the, your association board concluded in terms of the special exception.

MR. CLARK: I would like to introduce one more thing, the Belmont Video Group. We did, we, we, we mentioned that and we didn't introduce the pictures from that.

MR. HOLZER: Oh, okay.

CHAIR: That was on November 4, 2018, while, while these proceedings were going on.

MR. HOLZER: I'm sorry --

MR. CLARK: And that will also be introduced for rebuttal purposes, I should say, Your Honor, Mr. Garber.

CHAIR: Deal with it one step at a time.

MR. CLARK: Right.

MR. HOLZER: Yeah, let's do one thing at a time. This, has this, has there, these are photographs from a video, is that correct?

MR. CLARK: From a new video that is on the discs that were distributed last night.

MR. HOLZER: Okay, so they're new.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: I, I did not watch the, the new disc last night.

CHAIR: Right, and it's understandable. Let's start with the photos and see where that takes us.

MR. HOLZER: Yeah.

MR. SCHMIDT: Yes, sir. I haven't seen those, but I'll be happy to look at them.

CHAIR: And this is Exhibit 81.

MR. SCHMIDT: Mr. Garber, obviously not having seen these, I, I guess I would have a technical objection just in terms of the foundation of what this is and where, where it came from, etcetera, because it appears to be a photograph of a computer screen, I am surmising. I guess the other, and I can address this in cross examination, but just to the extent it goes to relevance and I'll try to be very, very brief. I'm not quite sure what I understand the relevance is of people playing volleyball.

CHAIR: Well, if I can, if I could jump in real quick. Mr. Holzer hasn't had the opportunity to try to lay a foundation.

MR. SCHMIDT: Yes, sir.

CHAIR: So, at the time the objections are premature, I would say so they're overruled at this moment.

MR. SCHMIDT: Yes, sir, thank you.

CHAIR: Mr. Holzer, if you want to lay a foundation?

MR. HOLZER: Yes. Mr. Clark, do we have a video from which these pictures were taken?

MR. CLARK: Yes, sir.

MR. HOLZER: Have we shown that video at this point?

MR. CLARK: No, sir.

MR. HOLZER: We have?

MR. CLARK: Not.

MR. HOLZER: We have not shown that video. That video is on the, the disc that was created as a quote, new disc, that was provided to the parties last night?

MR. CLARK: Well, as you can from the date --

CHAIR: The ans, hold on, answer his question.

MR. HOLZER: Yeah, answer --

MR. CLARK: Yeah, I, yes.

MR. HOLZER: Okay.

MR. CLARK: And as you can see from the date, the reason for that is the video was posted on November 4.

MR. HOLZER: Okay and does that, does the date show on the, Protestant's eighty-one, of November 4th?

MR. CLARK: Yes, it is, --

MR. HOLZER: Where is it?

MR. CLARK: -- it is on their video screen under Belmont Volleyball Park was live at Hindu Temple Mandere November 4 at 8:58.

CHAIR: If you go above the center photo, you'll see it says Belmont --

MR. HOLZER: I see.

CHAIR: Okay.

MR. HOLZER: I see. Thank you.

CHAIR: Yep.

MR. HOLZER: All right. Does, what is your purpose for showing, or discussing Protestant's Exhibit 81 and do we need, in your opinion, the video to show this document?

MR. CLARK: Not unless we need it during cross, but the, the purpose of it is, again, it's a use other than applied for in the special exception.

MR. HOLZER: The, could, could we, in order to avoid Mr. Schmidt's objection, could we show the video now?

MR. CLARK: It is on the USB drive, it's ready to go.

CHAIR: Well, if I could just ask the question. Is what we're about to watch basically what you just said, that is, people were playing volleyball? How long of a video is it?

MR. CLARK: Well, there's, there's two different ones. One is the full thing of twelve minutes and the other is two minutes and eleven seconds.

CHAIR: Okay. So, Mr. Schmidt, you've heard the proffer as what's to be shown on the video. I will leave it to you to decide whether you would like to see that before any further examination.

MR. SCHMIDT: I, I, I really don't need to see people playing video, I, if I could, --

CHAIR: You mean volleyball, the video of the volleyball?

MR. SCHMIDT: I mean, I'm sorry, playing volleyball.

And I don't want to ask anything improper. I note that it was apparently posted on November the 4th, according to the date on the document. But I'm looking, for example, at the, the second page and, at least there's one participant who's in a pair of shorts and they look like most of them are in short sleeves and it is November. So, this may have been posted in November. I'm wondering if Mr. Clark knows when this actually happened, whether it was then or whether it was just a video from the summer.

CHAIR: I would say you'll have to wait till cross examination for that.

MR. SCHMIDT: Okay. And then the other, the other point and I, and if I should wait till cross examination please tell me. But from a relevance standpoint, they were playing volleyball. Is, is there an allegation that that's illegal or immoral or improper somehow?

CHAIR: No, I think, okay, so I understand the objection. I'm going to overrule the objection. We've heard from Dr. Clark, why he, he thinks that this is relevant to this case. So, --

MR. SCHMIDT: Yes, sir.

CHAIR: -- as, as for the other question, you can ask that on cross examination.

MR. SCHMIDT: Thank you.

CHAIR: And certainly you can explore whatever you

need on cross examination.

MR. SCHMIDT: Yes, sir.

MR. HOLZER: Thank you.

CHAIR: So, Exhibit 81 then will be admitted.

MR. HOLZER: All right.

CHAIR: And Mr. Schmidt has indicated he did not need to see the video of people playing volleyball.

MR. HOLZER: Thank you, members of the Board. Now, sorry, I, I jumped to the board's 502.1 conclusions and as a result of the board having these opinions, could you tell me in terms of what the board considered, if they have at all, as to what kind of conditions could be imposed by the Board?

CHAIR: Before you answer, you're referencing the board, just to be clear, --

MR. HOLZER: Yes.

CHAIR: -- because he's providing testimony on behalf of an association, the board you're referring to is the Board of Appeals. And you're asking --

MR. HOLZER: I'm sorry.

CHAIR: -- the board for the association's opinion as to what the Board of Appeals should be doing as to conditions, is that correct?

MR. HOLZER: That's correct, that's correct. I apologize.

CHAIR: That's okay. We're using the board --

MR. HOLZER: But, in two different fashions.
CHAIR: Right.
MR. CLARK: I am testifying for the Gunpowder Falls Watershed --
CHAIR: Yes.
MR. CLARK: -- Preservation Association.
MR. HOLZER: Yes.
MR. CLARK: That these were authorized by, by the board.
CHAIR: That's undisputed.
MR. CLARK: Okay.
CHAIR: It was just to clarify Mr. Holzer's double use of the --
MR. CLARK: I, I know.
MR. HOLZER: Yeah.
CHAIR: -- board referencing both boards.
MR. CLARK: Right.
MR. HOLZER: Right. Go ahead.
MR. CLARK: I don't know if this would be a good place to talk about how, how this whole thing started, or if you want me to go right into our conclusions.
CHAIR: I want you to answer his question directly.
MR. HOLZER: Answer, answer the question.
MR. CLARK: Okay, okay, okay.
MR. HOLZER: And go into the, the, --

MR. CLARK: Yeah, we have, we have, we have a number, we, we, we, I'm just going to read it, Your Honor.

CHAIR: Read?

MR. SCHMIDT: Is, is there a question pending?

CHAIR: Hold on. He has something he wants to read. Mr. Holzer, do you know what he's ready to read?

MR. HOLZER: I hope it's the same thing I have here, which are some possible conditions that the Board could impose.

CHAIR: Okay.

MR. HOLZER: Just like the other two exhibits that we submitted.

CHAIR: Okay.

MR. CLARK: All right. The, so this, this is the position of the board.

CHAIR: Go ahead.

MR. CLARK: Okay? We understand it is very unusual for a special exception to be denied, okay? However, there are grounds to decline. One, this application is defective. The Petitioners clearly want to and repeatedly have used the property for purposes other than that stated in their application, okay? B, and I can provide this to you as a written statement. B, --

CHAIR: Hold, hold on. If you're to provide that as a written statement, then you need to provide Mr. Schmidt with it now, before it's going to be put into evidence.

MR. HOLZER: I, just read what you've written for the association.

MR. CLARK: Okay, so just, just read it, okay. Okay. This development provides no benefit to the surrounding community. 502.1 is not concerned about the needs of Parkville, Maryland or the Mid-Atlantic. It is concerned about the impacts of the surrounding community and the locale. Given that the zoning enforcement is non-existent and we dealt with that separately, I understand. You could stand and refute, you could take a stand and refuse to decide this, that you cannot, and refuse to decide this case until the County can guarantee a mechanism that will enforce your decisions. We understand your frustrations.

If you decline these outcomes, Protestants ask that you give the Petitioners exactly what they have testified they want, a place where to ten to fifteen people a day can come to pray. If that had been the case, we would not be here today. This means a well or septic for a maximum of fifty people, parking for ten cars, maximum twenty visitors per day with a controlled entrance and a verifiable count, restrict all improvements to the existing footprints and purpose, place money in escrow to execute equitable relief --

MR. HOLZER: Excuse me. When you, the last one, restrict all improvements to the existing --

MR. CLARK: Oh, okay.

MR. HOLZER: -- could you tell us where the community association got that kind of consideration?

MR. CLARK: Yes, I will do that for now on. Grace Church decision.

MR. HOLZER: Okay.

MR. CLARK: Place money in escrow, in, in escrow to execute equitable relief, no recreational facilities, Grace Church, remove the pool, remove the volleyball court. I believe Mr. Ghimire said he was amenable to that. No outdoor lighting. That again is Grace Church. Protestants and their representatives can enter the property for inspection and verification purposes. And that's in Grace Church too, by the way. No day care or educational facility. Grace Church. They had referenced they want to have yoga, language, cultural classes there. Reclaimed buildings to be used only for the original purpose, other than the mansion. Nothing is to be converted to a new use, such as the barn for a venue for a thousand people as Mr. Clarke wrote in one of his letters. That's from the Grace Church. No food kitchen. Again, that's in Grace Church.

We would strongly like you to require an SHA access permit prior to any further use. Headlight screening for the Poehler and Foxworth properties. Submit landscape, signage and road improvements to, to the community association. Signage that fits within the historic nature of the property and the

community.

CHAIR: I'm sorry, what was that last one?

MR. CLARK: Signage that fits within the historic nature of the property and the community. The sign that they have put up, it does not fit either the historical context of the property or the community. Regarding to control runoff onto the Foxworth property. No outdoor services of any kind. No outdoor concerts, carnivals permitted on the grounds. There shall be no outdoor out, loudspeakers, outdoor pavilions, temporary or permanent, i.e., tents. That comes out of Grace Church.

All lighting to be approved, if it should be approved, will be limited to light standards, limited to twenty feet in height utilizing cutoff versus flood lighting. Lighting to be turned off no later than 10:00 p.m. Grace Church.

CHAIR: If I could just jump in. Mr. Holzer, I assume you'll be itemizing each condition in detail that you, that may be requested?

MR. HOLZER: You mean in a memo or some --

CHAIR: In your memo.

MR. HOLZER: Well, I can.

CHAIR: And the reason why I'm asking that is --

MR. HOLZER: Oh, sure.

CHAIR: -- because I'm trying to write down the

specific, specific requirements or suggestions from Dr. Clark and I'm not going to capture every little bit of it and I don't want to go down a road that in the event it's approved and we start talking about conditions, that if we think something is appropriate, we're not actually meeting what is being specifically stated. So if you could itemize them all, and I'm not saying you can't continue to read, I just want to make sure that it's recorded --

MR. CLARK: I just have two more.

CHAIR: -- accurately and for the Board's review, that we have an accurate recitation of these itemized factors.

MR. HOLZER: I think it's a perfectly reasonable request. It makes a lot of sense and what I was going to suggest was, I can take this, put it on a separate piece of paper and make copies for you, the Board and counsel.

CHAIR: Okay.

MR. HOLZER: Because it, it seems to me, it is the thing that might provide an, a proper analysis of what the community is asking for, so.

CHAIR: But there were also a lot of specifics--

MR. HOLZER: Yes, yeah.

CHAIR: -- to it and there's both quantity, there's, we have the quantity of it.

MR. HOLZER: Yeah.

CHAIR: But also, there are very specific details

within --

MR. HOLZER: Yes, right.

CHAIR: -- some of these that I don't want to get lost trying to keep up with writing down the list.

MR. HOLZER: You're not.

CHAIR: So, I want to make sure that everything is accurate and please continue to read --

MR. CLARK: Thank you, sir.

CHAIR: -- the remainder but --

MR. HOLZER: I'm going to take care of that.

CHAIR: Thank you.

MR. HOLZER: Um hm.

CHAIR: It'll just make it easier.

MR. HOLZER: Yes.

MR. CLARK: All driveway parking to be constructed as permeable surfaces, not impermeable surfaces. Visitors must use the left lane to exit south and the right lane to exit north. Entrance to the property will be by a dedicated lane, not a shared lane. In both Beachmont decision and Grace Church decision, Mr. Kotroco found that uses such as this should be restricted to five, to RC-5 zones. Okay?

MR. HOLZER: Now, Mr. Clark, what, what I'm suggesting and the Chairman has suggested is that I take this list with all amplifications that you've adopted and provide a sec, a separate document that I submit to Mr. Garber and the

Board and also to Mr. Schmidt. Do you agree we can do that?

MR. CLARK: Yeah, yeah.

MR. HOLZER: Okay. So, that's what we will do.

CHAIR: Thank you.

MR. HOLZER: Okay. Does that complete the, the Board, the association board's request and testimony?

MR. CLARK: Those are the statement, those are statements that were approved by the board, those (inaudible).

MR. HOLZER: Okay.

MR. CLARK: And, and I have no intention of revisiting them personally.

MR. HOLZER: Okay.

CHAIR: Hold on. Now I have to ask you, when you say you have no intention of revisiting them personally, you're saying individually, you're not going to go recap that testimony, correct?

MR. CLARK: Correct.

CHAIR: All right.

MR. HOLZER: Okay. Now, what I'd like to do --

CHAIR: Hold on. I think Ms. Dopkin has a question, please.

MR. HOLZER: Yes.

MS. DOPKIN: Does that conclude the testimony on behalf of the Gunpowder Falls Watershed Preservation Association?

MR. HOLZER: That's what I understand.

CHAIR: That's my understanding.

MS. DOPKIN: Before we leave it, I have a question regarding the association. How does one obtain membership? By just owning property within your cacheman area?

MR. CLARK: No, no, no. It's an affirmative act.

MS. DOPKIN: And what is that act?

MR. CLARK: It is either a donation or giving us your e-mail.

MS. DOPKIN: So, there are no membership fees, dues, --

MR. CLARK: No, no, ma'am.

MS. DOPKIN: It's all voluntary?

MR. CLARK: Correct, ma'am.

MS. DOPKIN: That was my question. And so you're telling me it's an unincorporated, voluntary association for anyone living within your boundaries who provides their e-mail address or gives you money?

MR. CLARK: Yes, ma'am. And, and can, can I amplify on that a little bit?

MS. DOPKIN: No, that's all I wanted to know.

MR. CLARK: Okay.

MS. DOPKIN: Thank you.

MR. SCHMIDT: Ms. Dopkin, I don't believe there's a geographic limitation. I don't think he testified about that

in terms of where you have to live.

MR. HOLZER: Objection. He did.

MS. DOPKIN: Yes, he did.

CHAIR: Hold on.

MR. SCHMIDT: Did he? Okay. I missed that. I apologize.

CHAIR: (inaudible) the record. He indicated Gunpowder north and south --

MR. SCHMIDT: Oh, that's right, I'm sorry. I, I apologize,

CHAIR: Glen Arm and Belair. Is that accurate?

MR. CLARK: Yeah, and then Long Green Pike out to (inaudible).

CHAIR: Long, right, because I, I asked a follow-up question (inaudible). Okay.

MS. DOPKIN: Thank you.

CHAIR: And I want to be clear as to the conditions that you just identified and read from.

MR. CLARK: Yes, sir.

CHAIR: Those are on behalf of the association?

MR. CLARK: Yes, sir.

CHAIR: Are, with respect to you in, individual capacity, are you going to offer any other testimony regarding conditions that you would like to see as an individual that's different in any way from what you've just identified?

MR. CLARK: I promise not.

CHAIR: Okay. So, any conditions on your individual behalf would be included within what has already been testified to?

MR. CLARK: Yes, sir.

CHAIR: All right.

MR. CLARK: I, in other words, I have no individual conditions.

CHAIR: Okay.

MR. HOLZER: All right. Let's, let's go back, because we sort of were diverted initially by the requirement to go to 502.1 yesterday. Are there, are there reasons why you as an individual question the Petitioner's testimony in regard to what they're doing, what, what's going to happen on the property that caused concern to you individually?

MR. SCHMIDT: Objection. I just don't understand the question.

CHAIR: And I'm sorry, Mr. Holzer, if you could repeat your question.

MR. HOLZER: Are there any, is, is there any testimony, documents from, presented by the Petitioners that cause you to question the, their, either their voracity or what their future intentions will be if this is approved?

CHAIR: Now that you've hear the question again, is there any objection?

MR. SCHMIDT: No, sir.

MR. HOLZER: Thank you. You can answer the question.

MR. CLARK: Yes.

MR. HOLZER: All right. Can you take them one at a time and tell us what you're discussing first and whether there are any documents that we need to submit along with your testimony?

MR. CLARK: Yes, sir. Okay.

MR. HOLZER: Okay.

MR. CLARK: The, there was testimony that there was an event held in July of 2017 that was a fundraiser. In fact, it was advertised and received as the first annual family fun day.

MR. SCHMIDT: Mr. Garber, I'm sorry to interrupt. I, I am going to object now that I'm hearing what he's talking about. If, trying to be consistent, I, we keep going back to these events which we can certainly argue whether they were proper or improper, or illegal or legal, but the point I think is the proposed special exception going forward and what happened in July 17th to be consistent, I, I'm just trying to avoid getting back as to whether that was a zoning violation and it sounds like where we're going.

CHAIR: Well, I would, I would put it like this. He is now providing, as I understand it, the proffer here, is to provide evidence that some of the way, some of the testimony

evidence presented in Petitioner's case, the characterization may not be fully accurate, from his perspective. So, therefore, I don't believe it does go to a code violation or code enforcement matter. It goes, basically, as impeachment, I suppose, as to the testimony and evidence presented by Petitioner. And so, on that basis, I will overrule the objection.

MR. HOLZER: Thank you.

MR. SCHMIDT: Thank you.

CHAIR: Now, he may, the, there may not be agreement as to Dr. Clark's perception or whatever. But you have a case in rebuttal still yet to come so.

MR. HOLZER: Thank you.

CHAIR: Yes. Eighty-two?

MR. MCCOMAS: Eighty-one.

MR. HOLZER: Eighty-one?

MR. MCCOMAS: Oh, eighty-two, yeah, yeah, I'm sorry.

MR. HOLZER: Eighty-two?

MR. MCCOMAS: Yes.

CHAIR: Can you please identify Protestant's Exhibit 82?

MR. CLARK: Yes. It is a screenshot of, taken from Dr. Clarke's Facebook page. It was in his timeline from July 27, 2017 and it shows an advertisement for a first summer family fun festival. That they had characterized that event in

testimony that it was a fundraiser. And they said this fund, these fundraisers will not be regular events.

MR. HOLZER: Do you recall who testified about the fund, that as being a fundraiser?

MR. CLARK: Mr. Ghimire, I believe.

MR. HOLZER: Ghimire. Okay. Thank you. Is that all you have to say about this?

MR. CLARK: That's it.

MR. HOLZER: I'd move to admit that document.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: I would technically object.

CHAIR: And what is the basis for the objection? I don't need an, I don't need any argument, I just need to know the reason for it.

MR. SCHMIDT: I believe the witness indicated at the beginning of this line of testimony that this was being offered because the Petitioners were being untruthful about their plans. This doesn't say first annual summer --

CHAIR: If I could summarize for you, Mr. Schmidt, if I could summarize where you're going? You're going to suggest that the first summer family fun festival is equally consistent with a fundraiser or is not, or not being a fundraiser or something, somewhere in between.

MR. SCHMIDT: Well, not only that, but it doesn't say this is the first in a series of annual events, which is what I

thought the witness was going to.

CHAIR: So, I'm going to overrule the objection --

MR. SCHMIDT: Yes, sir.

CHAIR: -- because you're going to be able to put on rebuttal evidence if necessary.

MR. SCHMIDT: Okay.

CHAIR: It is Dr. Clark's understanding that it is not a fundraiser.

MR. CLARK: Correct.

CHAIR: And so, if you believe that that is not the case, you will have an option of presenting evidence on that point.

MR. SCHMIDT: Okay, thank you. And I, and, and maybe to avoid repetition, I'm just going to say, if I can, and I'll just note a continuing objection. I, I still can't, and I don't want to get into argument but a property owner can use their property for, for different things. There's nothing illegal about having a party at my house.

CHAIR: I believe --

MR. SCHMIDT: It doesn't make my house a catering hall.

CHAIR: I believe that that will be a matter that will be expressed --

MR. SCHMIDT: The memorandums, yes.

CHAIR: -- in, in full detail in your closing brief.

MR. SCHMIDT: Thank you.

MR. CLARK: Can, can I --

CHAIR: No, there's no question pending.

MR. CLARK: Okay.

MR. HOLZER: All right. Moving on. In terms of other errors or misrepresentations, what is next in terms of your documentation?

MR. CLARK: Well, Mr. Ghimire was adamant in his testimony that volleyball games did not occur on the property.

MR. HOLZER: Okay.

MR. CLARK: And certainly not on a regular basis and that they were, at best, pickup games during maintenance and yet we have a, a, I believe it's twenty-four instances between April 1st and June a volleyball, and then the --

CHAIR: Is that 2018?

MR. CLARK: I'm sorry?

CHAIR: April to June 2018?

MR. CLARK: Two thousand eighteen, yes, sir.

CHAIR: Thank you.

MR. CLARK: And then, you know, of course we've got the now infamous solitude video that has already been played. And then we have some screenshots of a tournament that was held there.

MR. HOLZER: Okay. Do you have volleyball dates and could you tell us how, how you did it? After I give you the

documentation.

MR. CLARK: Thank you, thank you.

CHAIR: And this is eighty-three?

MR. MCCOMAS: Yeah.

CHAIR: Protestant's Exhibit 83.

MR. HOLZER: Now, after everybody has had an opportunity to look at this, Mr. Schmidt, can I go?

MR. SCHMIDT: I've, yes, sir, I've looked at it.

MR. HOLZER: Oh, okay.

MR. SCHMIDT: I mean, I don't even know what it is but I've looked at it.

MR. HOLZER: Well, that's what I --

CHAIR: Well, I believe Mr. Holzer is about to get there.

MR. HOLZER: Right. Could you tell us, Mr. Clark, what this, what this document is, how it was constructed and how you can verify the dates or how you came to be able to list these dates?

MR. CLARK: Okay. What you're looking at is there's a function in windows that is called snippet, where you can take a picture of your computer screen. And so this is the folder, Bonaparte file history, Bonaparte audio rec center, okay? Where I had stored all of the movies I had recorded on different dates of them playing volleyball. These are very similar to the solitude movie where you don't see them but you

hear them, all right? So, you, you've got the sound, you've got, you've got the traffic going by to verify that yes, this isn't a made up thing. And, and all that kind of stuff. And so what you're looking at are dates when volleyball games occurred.

CHAIR: Well, I'm going to jump in just to ask a question because it's going to, your answer will obviously affect what the questions coming forward from it. How were you able to determine that there were volleyball games being played on those dates?

MR. CLARK: By the sound.

CHAIR: Okay and you said by the sound, what makes it volleyball as opposed to some other activity?

MR. CLARK: Bump, bump, bump, yelling, screaming.

CHAIR: So, your perception is drawn from the bump, bump, bump and the yelling and screaming is that volleyball games were being played on these dates?

MR. CLARK: Correct. Yes, sir.

CHAIR: So, would you have video of volleyball, other than what we've seen just prior, do you have any video of the volleyball games on these dates?

MR. CLARK: Of the players, no.

CHAIR: All right.

MR. CLARK: Because, because I didn't, yeah, I didn't trespass onto their property.

CHAIR: And I asked the question because it looks like this is in an audio folder, because it's labeled audio.

MR. CLARK: Right.

CHAIR: So, these are all the, these were all the audio files?

MR. CLARK: No, they're movies so you can see that, in fact, I was, --

CHAIR: Right, to cap, you'll play the movie, you're not going to see volleyball?

MR. CLARK: No.

CHAIR: You will hear things that you say are indicia of volleyball?

MR. CLARK: That I, that, that I, that I represent as volleyball.

CHAIR: Sorry, I just want to clarify so we don't go down a road where we're going to start talking about the videos, I want to know what they, everything was ahead of time.

MR. HOLZER: Yeah.

CHAIR: And his perceptions.

MR. SCHMIDT: Based on the Chair's questions, I object.

CHAIR: We're, well, right now there's no question pending. I don't know what we're objecting to just quite yet so I'll, I'll, I'll --

MR. SCHMIDT: I object to the introduction of the

exhibit.

CHAIR: He's explaining the exhibit. I don't know what we're using it for yet. Mr. Holzer?

MR. HOLZER: Mr. Clark, would you finish your testimony in regard to what these, what this document reflects, how you developed it and how you can be sure that there was volleyball activity on the site at that time?

MR. CLARK: Pretty much what I, what I said. When, if you viewed the vid, and, and I believe most, if not all, of these are already in evidence in, on, in, in the library. But just like solitude, if you play it, to me it's self-evidence.

MR. HOLZER: No, but I think that the question was how do you know it wasn't, wasn't baseball or football but it was volleyball?

MR. CLARK: Okay. Well, --

MR. HOLZER: What makes the distinction?

MR. CLARK: All right. First, first of all, the, the, there, there, there is no baseball court up there or, or soccer field. They have testified that they can't play soccer because of, of the grade. The, the location of the volleyball court is directly across from my property. There is a berm behind the volleyball court which reflects all the sounds down onto my property. And it is that hard impact on the, hard, it is that impact on the hard surface that we, that we have seen in the videos. It is the cheering, it is there, there, there

used to be, the, it's a, it's converted from an old tennis court, hard surface tennis court. We used to hear a lawyer of some repute playing tennis up there, missing the ball quite a bit, but, but we know the difference between tennis and volleyball. What else, I, I mean, that's --

MR. HOLZER: No, that's fine.

CHAIR: If, if those are the factors that form the basis for you to conclude that this was volleyball as opposed to another activity, that's fine.

MR. CLARK: Okay.

CHAIR: That's his, that was his question.

MR. HOLZER: Yes. So, I would now, and the number, I didn't count on this whole list there. How many --

CHAIR: And some of them have duplicative dates, so it may reflect the same event or not and --

MR. SCHMIDT: And times.

MR. HOLZER: Right.

MR. SCHMIDT: Dates and times.

MR. HOLZER: So, my, my question is, based on that list, based on the other date and the other analysis, how many times on different days do you believe volleyball was played in 2018?

MR. CLARK: I think I had counted twenty, twenty-four separate dates.

MR. HOLZER: Okay, okay and are you willing to live

with that, those, that number?

MR. CLARK: Yes.

MR. HOLZER: Okay.

MR. MCCOMAS: Mr. Clark, I, I just have a clarification because I, so is, you're saying volleyball dates here, so looking at this chart here, it implies that somebody was playing volleyball from 4:15 in the morning to 6:35 in the morning. Is that, --

CHAIR: Which line are you on?

MR. MCCOMAS: Number five, on May 6th. Is that, is that what you're asking us to, in terms of volleyball days?

MR. CLARK: That's probably the camera setting for the time.

CHAIR: Would the dates, to the best of your recollection and knowledge --

MR. CLARK: Yes, the, the --

CHAIR: -- be accurate, the times --

MR. CLARK: -- the dates, the dates, the dates would be accurate.

CHAIR: And the times you feel may not be?

MR. CLARK: Correct.

CHAIR: Okay.

MR. HOLZER: Okay. I would offer Protestant's eighty-three.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Objection.

CHAIR: And the basis for your objection, please?

MR. SCHMIDT: The document is so inherently unreliable that it has no probative value. As the witness just indicated the dates, and I think as Mr. McComas indicated, the times certainly cannot be correct. I don't believe that on, I'd have to check the Almanac, but I do not believe that on May the 6th they would have been playing volleyball at 4:14 in the morning.

Additionally, these dates are dates of the camera setting and, and not necessarily the date or time of the event, or at least it hasn't been established with that.

And perhaps, also, I would indicate that the witness has indicated that he and, and this exhibit does not disclose any visual evidence of volleyball, just what his perception is and, and I guess I would say with the same objection, which I know we'll deal with in closing argument before the record. I'm still struggling with the fact that somehow people playing volleyball on their property is somehow illegal, immoral or unethical.

CHAIR: You know the argument to that, I'll say it'll be admitted, understanding, of course, the, what, you know, the testimony from Dr. Clark. As to whether or not it's volleyball, as to whether or not what times it occurred and all that stuff, I imagine you'll explore on cross examination, so.

MR. SCHMIDT: There's no way I can explore it. I, yes, sir. Yes, sir, I understand the Chair's ruling.

CHAIR: Right.

MR. HOLZER: Okay.

MR. SCHMIDT: And Mr. McComas, what's this number, I apologize?

CHAIR: This is eighty-three.

MR. MCCOMAS: (inaudible).

MR. SCHMIDT: Eighty-three? Thank you, sir.

CHAIR: It'll be admitted.

MR. HOLZER: Thank you. Now, there, there is another volleyball point which relates to the Belmont Volleyball Group. Could you explain what that is, when that occurred?

MR. CLARK: Yes. That was, that was November 4.

MR. SCHMIDT: Of what year?

MR. CLARK: Of 2018.

CHAIR: That's (inaudible) Protestant's eighty-one?

MR. CLARK: Right.

MR. HOLZER: Yes, yes.

MR. CLARK: And that --

MR. HOLZER: Do, do you want, we don't need to show that (inaudible) --

MR. CLARK: No, we don't, no, no, it's just that it rebuts testimony that there, there are no uses, you know, there's not, there's no regular volleyball up there permitted.

CHAIR: And Mr., Mr. Schmidt objected to that previously and we'll incorporate the same objection to the testimony as it relates to Protestant's Exhibit 81 just now.

MR. SCHMIDT: Thank you.

MR. CLARK: Okay. There is another point of rebuttal.

MS. DOPKIN: Mr. Holzer, would you ask a question? Your witness is sort of rambling. If you would ask him about Belmont Volleyball?

MR. HOLZER: I was letting the question, the objection be finished before I asked the next question.

MS. DOPKIN: Thank you. Thank you.

CHAIR: I think what Ms. Dopkin is suggesting is there was no question pending at that moment.

MR. HOLZER: I understand. I've tried to slap him on the wrist, but he doesn't realize the proper protocol, but he's learning.

MS. DOPKIN: Thank you, I appreciate that.

MR. HOLZER: He's learning. Or trying to learn, let me put it that way. All right, where was I? Let me just address, have you address this last point. As I understand it, the reason why you and the last exhibit had to interpret what was going on was because you didn't trespass on their property, is that correct?

MR. CLARK: Correct.

MR. HOLZER: Okay. Has that been an issue by the Petitioners that they told you not to get on their property?

MR. SCHMIDT: Objection. I just don't know what the relevance of that could be.

MR. HOLZER: Well, it's because it goes to the argument that you had about the exhibit.

CHAIR: I will, I will put it like this. It was certainly understood why he would not be on the property.

MR. HOLZER: Right, okay.

CHAIR: In other words, any testimony about that point, is not going to shed any new light on anything else.

MR. HOLZER: Right, I understand.

CHAIR: And it is understood why he has the audio, for example, of the volleyball games and not a video of people playing volleyball. I call it volleyball games because that's how it's been labeled and identified.

MR. HOLZER: Sure. So, the, basically the only way that the community and you, as an individual, have to determine what's going on on the property is through presentations or videos initiated by the Petitioner themselves, is that correct?

MR. SCHMIDT: Objection. Isn't that the same question that you just sustained the objection?

CHAIR: No, he's, he's asking him for a framework as to why he's come to some of the conclusions he has, drawing largely upon videos that have been posted for some of these

conclusions, is that, that's my understanding.

MR. SCHMIDT: Okay, thank you.

CHAIR: So, overruled. You may answer the question.

MR. HOLZER: Can you answer it, Mr. Clark?

MR. CLARK: Can you ask it again?

MR. HOLZER: Yes. Did you, since you have never trespassed on the property, is your only way of knowing what's going on is to view the videos posted by the Petitioners themselves?

MR. CLARK: There are other ways.

MR. HOLZER: What other ways?

MR. CLARK: Social media postings.

MR. HOLZER: Oh, I'm sorry. Yeah, I, I lumped all that together.

MR. CLARK: Both on Nextdoor and on Facebook pages and it's, it's very difficult because, and, and I understand why, but a lot of the communication is in Nepali and there's not a good translation program for it. And, and in the, you know, as Mr., as Petitioner has pointed out, much of the audio of, of the videos are not useful because we don't know what they are saying, even though they are present in this room.

MR. HOLZER: Right, right. I just wanted to set the, the, the reason why a lot of these documents are not personal photos that you've taken on their property but are off of --

CHAIR: If it helps matters, at, at least from my

perspective, it's well understood why they were not on the property.

MR. HOLZER: Okay.

CHAIR: And Dr. Clark has tried to do what he can with any other source --

MR. HOLZER: Okay.

CHAIR: -- with respect to the events and activities that are going on at the property.

MR. HOLZER: Thank you. Yeah, I, that's, that's all, because Mr. Schmidt keeps objecting to certain things and --

CHAIR: Hold, hold on, let's not comment on Mr. Schmidt's objections.

MR. SCHMIDT: Thank you.

MR. HOLZER: Now, could you, am I okay to ask?

CHAIR: As long as Mr. Schmidt has had the opportunity to review.

MR. SCHMIDT: Yes, I've reviewed the photographs, thank you.

CHAIR: Thank you.

MR. MCCOMAS: And it's 84-A through D.

CHAIR: Thank you.

MR. HOLZER: Thank you. Now, could you tell us how you obtained these photographs and can you tell me what relationship does this have with the Belmont Volley Group, Volleyball Group?

MR. CLARK: Actually, this does not have to do with the Belmont Volleyball Group.

MR. HOLZER: Oh, okay, I'm sorry.

CHAIR: Why don't you identify for the record --

MR. HOLZER: Identify.

CHAIR: -- what 84-A through D is?

MR. CLARK: It is a, from a video that I believe we have introduced. And it is from July 23rd and --

CHAIR: Of what year?

MR. SCHMIDT: Of what year?

MR. CLARK: Of 2018, thank you. And it is showing an organized volleyball game on the property. And --

MR. HOLZER: How do you know it's organized?

MR. CLARK: When you go to the second page, you start to see a ceremony where people are being awarded medals and then at the very end, it looks like there is a trophy.

MR. HOLZER: Okay.

MR. CLARK: And its purpose, again, is to rebut testimony by Mr. Ghimire that there were no tournaments on the property.

MR. HOLZER: Okay. When, in Mr. Ghimire's testimony, did he indicate to the Board that there were, that they did not have tournaments at, on the site?

MR. CLARK: I believe so.

MR. HOLZER: Okay.

MR. SCHMIDT: Mr. Holzer, are you moving 84-A through D --

CHAIR: Sorry, thank you. Thank you, Mr. Schmidt.

MR. SCHMIDT: -- into evidence?

MR. HOLZER: I'm going to move it when I'm ready to move it.

MR. SCHMIDT: I'm sorry.

CHAIR: Well, let's just keep it for housekeeping purposes, is there a reason why you were holding off?

MR. HOLZER: Yeah, because this is relative to it.

CHAIR: Okay, sorry.

MR. HOLZER: Yeah.

CHAIR: Thank you.

MR. MCCOMAS: Eighty-five, one, two, three, four.

MR. HOLZER: Could you, after Mr. Schmidt's had a chance to look at it, this is eighty-four, is it?

CHAIR: Five.

MR. HOLZER: Oh, eighty-five.

MR. CLARK: Oh, --

CHAIR: Hold on. No question yet, no answer yet.

MR. MCCOMAS: We'll call it eight, 85-A through C.

CHAIR: Thank you.

MR. HOLZER: May I start?

CHAIR: Mr. Schmidt, you ready?

MR. SCHMIDT: Yes, sir.

MR. HOLZER: All right. Can you identify this document and, and where you got it?

MR. CLARK: Yeah, again, this is from a Facebook post. You can see the url at top. And it belonged to someone named Hameed Nepali. And you can see again, the advertisement for first summer family fun day, you can see volleyball tournament clearly advertised, and then you can see Belmont Team A, Belmont Team B, Columbia Team A, Columbia Team B.

CHAIR: If I can jump in? We've already seen this exhibit before.

MR. HOLZER: I don't recall --

MR. CLARK: I don't think so.

CHAIR: I recall seeing those names for the teams.

MR. HOLZER: It was only page one.

CHAIR: Only page one, sorry.

MR. HOLZER: Yes, okay.

CHAIR: We already reviewed page one and that I recall seeing page one previously.

MR. HOLZER: Okay.

CHAIR: I believe it's already in evidence.

MR. HOLZER: I, I am not sure, but --

CHAIR: But, Mr. Schmidt, do you have a recollection?

MR. SCHMIDT: Yes, sir. I believe we've seen it.

MR. CLARK: Okay.

CHAIR: Is it, do you recall if it's in evidence?

MR. SCHMIDT: I would have to look at my exhibit list, I'm sorry.

CHAIR: That's quite all right. It's fine. Please continue.

MR. HOLZER: Yes, thank you. And on page one, even if that page had been submitted, --

MR. SCHMIDT: Excuse me.

CHAIR: Bless you. Bless you.

MR. HOLZER: -- Mr. Clark, it does appear that it was July 29, 30 of 2017, is that right?

MR. CLARK: Yes, and --

MR. HOLZER: So it was a year before 2018, right?

MR. CLARK: Right.

MR. HOLZER: Okay and it does say volleyball tournament and at the bottom it appears to show --

CHAIR: Bless you.

MR. SCHMIDT: I'm sorry.

MR. HOLZER: -- it appears to show at least nine different teams.

MR. CLARK: And it lists the address of the property and it says it's at the Hindu Buddha, Buddha Mandeer.

MR. HOLZER: Okay. Now, page two has a discussion and some photos. But page,--

MR. CLARK: Okay.

MR. HOLZER: And if you look at paragraph two.

MR. CLARK: Right.

CHAIR: On page two?

MR. HOLZER: On page two.

MR. CLARK: This is a page from Kris Ghimire's timeline.

MR. HOLZER: And it appears to, in the second paragraph, describe how many attendees from across state line came to be part of this festival over two days. We had volleyball teams from New York, Pennsylvania, Columbia, Baltimore, New Jersey, Virginia. And then on page three, you can see a board which sort of lists the process of elimination of the teams from the various teams --

MR. CLARK: Right.

MR. HOLZER: -- that were listed.

MR. CLARK: Right.

MR. HOLZER: All right and what, what is the, what is your concern or why is this document being introduced?

MR. CLARK: Well, there, it, it rebuts two points in testimony. One is, again, there, there are not, there, there are no and have been no volleyball tournaments, okay? The second is, well, there's actually three points. But, but the second point is it rebuts the, the notion that this property is to just serve local needs. The third is it rebuts testimony that, that there have only been two or three hundred people in attendance on the property at any given time. And as you can

see, this is Mr. Ghimire's own Facebook page.

MR. HOLZER: I would now offer the last two exhibits, because I do think they relate to each other.

CHAIR: They're tied together. Mr. Schmidt?

MR. SCHMIDT: Objection.

CHAIR: And basis?

MR. SCHMIDT: Same as I've voice previously.

CHAIR: Okay.

MR. SCHMIDT: Authentication, relevance, etcetera.

CHAIR: Overruled. It will be received.

MR. HOLZER: Thank you. Now, if I, if I may, hopefully we're finished with volleyball and we can go onto community events that have been held there. And again, this is just not to show that an event was held, it is, is it to rebut prior testimony of someone for the Petitioner?

MR. CLARK: Yes.

MR. HOLZER: And explain.

MR. CLARK: They have testified that they have only been there for maintenance and construction purposes and that they have not used the property for anything else other than what was billed as a fundraiser from July 29 to August 3rd, 2018. There are a list of events that we have that are documented by video and I believe most of them are in the record. The, go back and, and, and I, I understand, I do understand the problems with, with whatever exhibit this was.

The exhibit of my --

MR. SCHMIDT: It's been admitted though.

MR. CLARK: Yeah, yeah.

CHAIR: Yes.

MR. CLARK: Yeah, but what I, I do understand the problems with that. But, --

CHAIR: I want to say eighty-three, (inaudible).

MR. MCCOMAS: Yeah, that's (inaudible).

CHAIR: Eighty-three.

MR. CLARK: In, in, we, in, in 2017, or actually I was referring to something else. All right. The, the, the --

CHAIR: Well, hold on. Let's do this. Mr. Holzer's question was --

MR. CLARK: Yeah, thank you.

CHAIR: -- what are you, what are you trying to rebut, or impeach --

MR. CLARK: Right, right.

MR. HOLZER: Yeah.

CHAIR: -- right now with respect to the community events that have been held there?

MR. CLARK: Yeah.

CHAIR: You identified certain testimony that you believe --

MR. CLARK: Okay.

CHAIR: -- illustrates some limitations as to how the

property has been used.

MR. CLARK: Okay.

CHAIR: That's where we were --

MR. HOLZER: Yes.

CHAIR: -- before we got sidetracked with some of the other points.

MR. HOLZER: Yes.

MR. CLARK: Thank you.

MR. HOLZER: Do you understand the question?

MR. CLARK: Yeah, I do, I got, I got sidetracked.

CHAIR: Yeah, so now let's go back to the, to Mr. Holzer's question.

MR. CLARK: Okay.

MR. HOLZER: Do you know who testified, can you name the, the, name of the Petitioner's side that testified?

MR. CLARK: Yes, I, I believe Mr. Ghimire testified that there was no other use for the property than maintenance and sprucing things up.

MR. HOLZER: And when you say property, do you mean thirty acres or do you mean the building or do you know what he meant?

MR. CLARK: I would assume it was everything.

MR. HOLZER: Okay. So, what do we have, what do you have to show that that is mistaken?

MR. CLARK: Okay. We dealt with this earlier as not

appropriate for here, other than proffering. But on December 2017, I sent Mr. VanDomelin a series of pictures showing the Protestants exiting the, the property en masse at night and that's where that left hand turn nighttime shot came from. They had the open house in February. There was an event on April 30th that we, there was an event on June 10th, there was an event on June 19th, there was a Jul, event on July 4, there was an event on July 11th. I'm slowing down, I'm sorry. I realize I'm going very fast.

CHAIR: I have June 10, 19, July 4 and 11.

MR. CLARK: Right. There was an event on July 25, there was the event on October 6 and there was the event on November 4. And then they had scheduled an event for 4/19, 4/22/2018.

CHAIR: Hold on, 4/19 to 22.

MR. CLARK: Twenty eighteen.

CHAIR: Twenty eighteen.

MR. CLARK: That they canceled and we have a screenshot of that.

CHAIR: All right. So, the questions that were asked about the volleyball, that is, how you perceived it to be volleyball, I'm going to ask about the dates that you just identified because you referred to them as events.

MR. CLARK: Right.

CHAIR: Number one, what do you mean by event?

MR. CLARK: Where there were more than fifty people.

CHAIR: Okay and two, how did you perceive that there were more than fifty people at these, on these dates?

MR. CLARK: From videos.

CHAIR: Okay.

MR. CLARK: That they provided.

MR. HOLZER: Have they, have we seen those videos?

MR. CLARK: That I'm not sure of.

MR. HOLZER: Well, we don't want to repeat something if we've already --

MR. CLARK: Right, I, I get that, but we --

MR. HOLZER: Would these dates that you've just given the Board, would they be reflected on the video list or screen shots that you have of each one of them?

MR. CLARK: Yeah, and they would also be reflected on, on the annotated sheet for the video control sheet.

MR. HOLZER: Okay.

CHAIR: Protestant's Exhibit 51.

MR. HOLZER: Yes. Now, on Protestant's fifty-one --

CHAIR: Hold on. If we're going to, are we going to go through fifty-one in any detail right now?

MR. HOLZER: I hope not.

CHAIR: No, what I mean is, to follow along for all of us, should we have it in front of us?

MR. HOLZER: Well, let me, let me ask the witness.

I'll try to keep this simple.

CHAIR: Because I want to make sure that --

MR. HOLZER: Yeah.

CHAIR: -- we have the testimony clear.

MR. HOLZER: So, Mr. Clark, if all of these dates you gave the Board relate to a video of some shape or form, so are those videos in the videos that have been admitted into evidence? Do you know?

MR. CLARK: Yes.

MR. HOLZER: Okay.

MR. CLARK: They will be in the library.

MR. HOLZER: Okay.

CHAIR: When you say library, you're referring to fifty-one?

MR. CLARK: No, I'm referring to that --

CHAIR: Or you're referring to the earlier hearing that we had on November 29th.

MR. HOLZER: Yes.

CHAIR: Okay.

MR. HOLZER: The library is defined as the multiple, the video --

CHAIR: Four discs, whatever.

MR. HOLZER: -- which were submitted.

MR. CLARK: Well, and, and, and, and, and the appendices to it from the, where (inaudible) video.

MR. HOLZER: Okay.

CHAIR: Mr. Schmidt, are you following along with that?

MR. SCHMIDT: Yes, sir, I'm here.

CHAIR: I just want to make sure you're, you understood because I see you searching through your file looking for something. Are you following along?

MR. SCHMIDT: Yes, sir.

CHAIR: All right. Sorry, Mr. Holzer.

MR. HOLZER: Okay. Then, so, so these dates you've testified to, these dates are all in the library previously submitted and admitted in an earlier day, okay? Is there any, what's the matter?

MR. CLARK: Charlie horse, go ahead.

CHAIR: Okay. Do you want to take a five minute break?

MR. HOLZER: Yeah.

MR. CLARK: Actually, for other reasons, that's probably good.

CHAIR: Okay. Why don't we take a ten minute break.

MR. HOLZER: Ten minute break, okay. Thank you.

CHAIR: All right. So, we'll be back here at --

(RECORDING PAUSED – 10:47:39 AM)

(ON RECORD – 11:00:31 AM)

MS. DOPKIN: Ready?

CHAIR: Please be seated. Thank you. I see Mr. Ghimire, I saw you come in earlier. There was a notice amending the time --

MR. SCHMIDT: He's received it.

CHAIR: Right. Thank you, Mr. Schmidt.

MR. HOLZER: How's your leg?

MR. CLARK: Walked it off, thank you.

MR. HOLZER: (inaudible).

MR. CLARK: Thank, thank you to the Board.

CHAIR: No problem.

MR. HOLZER: In regard to these multiple dates that, that you just gave the Board, instead of looking at any videos from them, we do have some screen pictures, is that correct?

MR. CLARK: I believe so, yes.

MR. HOLZER: Okay. At this point, would you like me to present what we have to the Board?

CHAIR: Mr. Schmidt, do you want to say something?

MR. SCHMIDT: I just don't know that that's a proper question of a witness.

CHAIR: Okay.

MR. HOLZER: Well, I'm trying to make this a lot faster --

CHAIR: Mr. Holzer?

MR. HOLZER: Yes?

CHAIR: I understood what you were doing.

MR. HOLZER: Yeah.

CHAIR: We don't need comment, I understand exactly what you're doing.

MR. HOLZER: Okay.

CHAIR: So, the question is, why don't you just show him the photo and then we can just move on.

MR. HOLZER: Okay.

CHAIR: And then, --

MR. MCCOMAS: Mr. Clark, (inaudible) is how would you categorize those events?

MR. CLARK: Events. You know, --

MR. MCCOMAS: Do, or, is what the volleyball testimony, is that one of the events here?

MR. CLARK: No, that's not one of the events in here, other than the Belmont Volleyball Group on November 4. But the open house was an open house. They advertised it as an open house. And then the June 19th, July 4th, they, they advertised those as get togethers and events. July 11th, and we, we can document all that in the memorandum of law. I don't know that we need to --

CHAIR: No, I, I believe we have testimony about --

MR. CLARK: Yeah, yeah.

CHAIR: -- (inaudible) --

MR. CLARK: Yeah, yeah.

CHAIR: And if there's, and I'm sure you'll have

cross examination and then there will be some argument, I anticipate, about some of it.

MR. CLARK: (inaudible).

CHAIR: So, all right.

MR. MCCOMAS: Eighty-six A through D.

MR. HOLZER: Can you relate Protestant's Exhibit 86--

CHAIR: Hold on, one second. Mr. Schmidt, we can hear you up here.

MR. SCHMIDT: Oh, I'm sorry.

CHAIR: And I understand you're trying to under, trying to make sense of 86-A through D. But we can hear you up here and it's --

MR. SCHMIDT: I, I apologize.

CHAIR: -- interfering with the questioning.

MR. HOLZER: All right. May I proceed?

CHAIR: Yes.

MR. HOLZER: Okay. On this, Protestant's Exhibit 86, which has just been marked by Mr. McComas, what date does this refer to you in your list of dates that you --

MR. CLARK: July, July 4.

MR. HOLZER: July 4th.

MR. CLARK: Twenty eighteen.

MR. HOLZER: And to your knowledge, what does this depict? I mean, we can obviously see four or five pages, but just tell us what you believe it reflects?

CHAIR: For purposes of the record, I, what I have is A through D, so four.

MR. HOLZER: A through D, okay.

CHAIR: Just to make sure there's not an E, because you mentioned four to five pages.

MR. HOLZER: I'm sorry, A, A through D.

CHAIR: Thank you.

MR. HOLZER: Thanks.

MR. CLARK: Depicts a Fourth of July celebration by a group of people.

MR. HOLZER: Well, and what is that building in the background?

MR. CLARK: That's the, the mansion.

MR. HOLZER: Okay.

CHAIR: And that's on B.

MR. HOLZER: Is there, is there anything else in regard to the lighting, for instance? Was, was that one of your con, association's conditions?

MR. CLARK: Well, yeah. The, I mean, the, the, the, the use, the use of, of outdoor lighting.

MR. HOLZER: Okay. Can I move on? And, and --

CHAIR: Hold on.

MR. HOLZER: -- do you have anything else to say?

MR. CLARK: Yeah, I, I, I, again, it goes to the testimony that the property is not being used for anything else

other than.

CHAIR: Okay. You indicated that this is going to speak to the lighting condition that you discussed?

MR. CLARK: Well, we can strike that.

CHAIR: All right.

MR. CLARK: We, but we can strike it.

CHAIR: Okay. Mr. Schmidt, any objection to 86-A through D?

MR. SCHMIDT: Yes, sir. For all the grounds that I've been asserting, not to be repetitious and these exhibits, I, I just don't know how one would say that these exhibits reflect the use of the property with, with a group of people.

CHAIR: If, if I can?

MR. SCHMIDT: Eighty-six, if I can just be heard, Mr. Garber.

CHAIR: If your objection is relevance, I'm asking you for --

MR. SCHMIDT: No, now I'm --

CHAIR: -- what the ground for your, your objection is.

MR. SCHMIDT: Well, one of the grounds of my objection is relevance, yes. And whether any of it is relevant. But the, the purpose of the exhibit, as it has been explained to, by the witness, is to show a gathering of people on the property. It --

CHAIR: Please don't gesture, Dr. Clark.

MR. CLARK: Oh, sorry, sorry, sorry, sorry.

CHAIR: Please.

MR. SCHMIDT: That's what I understand the purpose of the exhibit is. And so, and I'll try to articulate this, Mr. Garber, as best as I can --

CHAIR: I understand you disagree with, as to the characterization by this witness.

MR. SCHMIDT: Yes, but how, I just, I don't mean to ask the rhetorical question but how does a picture of a single person with a dark background, how, how does one get from that picture, that this is evidence of a gathering on the property? So, it's, it's beyond relevance. It's, it's a picture of Dr. Clarke. This could have been taken at his house, this could have been taken anywhere.

CHAIR: Okay. If I could --

MR. SCHMIDT: And it's, so it's beyond relevance.

CHAIR: -- if I could answer your question, if I could answer your question as to that. I don't know what relevance 86-A has. B, C and D have been, I believe, Dr. Clark has testified as to what he believes the relevance to be. If there is a, a, an argument as to his perception or his conclusions drawn, those are matters for cross examination and argument. So, other than relevance, what I'm hearing, the other matters that you raised can be addressed elsewhere. On

the grounds of relevance, I understand the relevance as being proffered by Dr. Clark, therefore, they'll be admitted.

MR. HOLZER: Okay.

CHAIR: And the objection overruled.

MR. SCHMIDT: Thank you for allowing me to address the Board.

MR. HOLZER: Thank you.

CHAIR: Sure. This is eighty-seven?

MR. MCCOMAS: Yes.

CHAIR: We have eighty-seven and there are three pages.

MR. HOLZER: Yes.

MR. MCCOMAS: (inaudible).

CHAIR: Thank you. Mr. Schmidt, you ready to proceed?

MR. SCHMIDT: Yes, sir. I've reviewed the documents.

MR. HOLZER: Thank you. Mr. Clark, could you tell us what Protestant's Exhibit 87 relates to in terms of the community events that you have given the prior list?

MR. CLARK: It is an open house. The video itself has been removed, but you can see the url in the scroll bar and on the last page, you can see the same url with sorry, this content isn't available.

CHAIR: Do you have the date?

MR. CLARK: The date of --

CHAIR: Dates, sorry.

MR. HOLZER: Date, yes.

MR. CLARK: The, the date of, of the picture?

MR. HOLZER: Yes.

MR. CLARK: Yeah, no, I tried to authenticate it, I tried to go back and that's when I ran into this content isn't available.

CHAIR: We'll note it just says last Sunday where you expect to find a date.

MR. CLARK: Right, right, right.

MR. HOLZER: Okay and so, so you cannot, other than open house ceremony, you cannot give it one of the dates that you list to the Board earlier?

MR. CLARK: No, no.

MR. HOLZER: All right. What does it depict in terms of your, your impeachment of any prior testimony?

MR. CLARK: Again, it is, I don't see any maintenance going on, I don't see any work being done on the, on the building. So, the testimony that the only thing being done on the property is, is work, I would question that.

MR. HOLZER: All right.

CHAIR: And I'm sorry if I didn't catch this, but the third page reflects what you would see now if you entered in the same url as --

MR. CLARK: Yes.

CHAIR: -- pages A and B?

MR. CLARK: Yeah, yeah.

CHAIR: All right. Mr. Holzer, any other questions?

MR. HOLZER: In terms of the lighting on, I assume that's the building on the subject site, is that correct?

MR. CLARK: Yes.

MR. HOLZER: The (inaudible) house?

MR. CLARK: Yes.

MR. HOLZER: Yeah, okay. And the lighting, and for purposes of this particular picture, seems to show a number of people standing on the front lawn.

MR. CLARK: Yes.

MR. HOLZER: Okay. I would move that, eighty-seven.

CHAIR: Eighty-seven A through C, Mr. Schmidt?

MR. SCHMIDT: Objection.

CHAIR: Same grounds as previous?

MR. SCHMIDT: Well, not only that and I, I apologize, Mr. Garber.

CHAIR: That's okay.

MR. SCHMIDT: I'm, I'm just trying to preserve the record in this case.

CHAIR: It's understandable, no need to apologize.

MR. SCHMIDT: And since the witness has admitted, or acknowledged, that there is no date of this photograph, this photograph arguable could have been taken prior to my client's

ownership of the property. I mean, quite frankly, we don't know when it was taken.

CHAIR: I, I, sorry --

MR. SCHMIDT: And so, I'm not quite sure, since the purpose of the photograph is to impeach, as I understand it, testimony that members of, of the Nepali organization, Nepali Community Center of Baltimore, have illegally or unethically or improperly, or whatever the characterization is, used the property and we don't know when this photograph was taken, how do we know that these people are associated with, with my client and how do we know that they used the property at a time after they acquired it? There's no foundation for the document. Thank you.

CHAIR: Mr. Holzer, that's fine. It'll be received and admitted into evidence.

MR. HOLZER: Thank you.

CHAIR: Understanding that you will be able to cross examine and understanding, of course, the, whatever frailties that you point out would, of course, go to the weight or the significance of the particular exhibit.

MR. SCHMIDT: Thank you.

MR. HOLZER: Thank you.

CHAIR: Eighty-eight, right?

MR. MCCOMAS: Yeah, eighty-eight (inaudible).

CHAIR: Okay. We've been handed Protestant's Exhibit

88, two pages.

MR. HOLZER: Thank you.

CHAIR: Mr. Schmidt has it, copies I see.

MR. HOLZER: The witness has a copy.

CHAIR: Please identify Protestant's Exhibit 88.

MR. CLARK: Okay. Is a screenshot from the video of July 11th. And it shows the, it, it shows, I believe it was a promo, this, I believe this is from the promo of July 11th and it shows how many people, it, it shows the property being used for things other than maintenance or caretaking, which again, rebuts testimony.

MR. HOLZER: It'll, does it show the, on the first page, the purpose of that picture, is it for parking, parking on the grass, etcetera?

MR. CLARK: Yes.

MR. HOLZER: All right. Second picture is an effort, I guess, and again, I am assuming the building in sight is the building that's the original home and it shows the number of people on the lawn, is that correct?

MR. CLARK: Yes, and it shows the building in its current colors.

MR. HOLZER: What are the current colors?

MR. CLARK: A, a yellow with, with orange detailing.

MR. HOLZER: Was that the original color of the --

MR. CLARK: No, no, and a, and it shows the windows

not boarded up, all right?

MR. HOLZER: Okay.

MR. CLARK: It shows the building rehabilitated.

MR. HOLZER: So, would that show on the previous Exhibit 87, because the color of the building in that picture is the same, it would have had to have been under the Petitioner's --

MR. CLARK: I, I believe, I believe a reasonable person could date that picture from --

MR. HOLZER: Okay. Any other questions that, any other comments you would have on Protestant's eighty-eight? I think you've articulated --

MR. CLARK: Yeah, yeah.

MR. HOLZER: Okay. I would offer them.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Same objection. And I just don't, Mr. Garber, maybe to save the Board time as we go through all these various exhibits, I'll just note a continuing objection and that way you don't, I don't need to bore the Board with my ramblings.

CHAIR: Not bored. I would just say, I would prefer if you just incorporate the prior objections for exhibit --

MR. SCHMIDT: Then I will do that.

CHAIR: -- because I don't know what's coming next and I don't know if there will be differences. So there may be

something that you're going to want to do differently, so I would prefer if we just, you can say I incorporate my prior objections and we can move on.

MR. SCHMIDT: Yes, sir.

MR. HOLZER: I think that's fair.

CHAIR: Right.

MR. HOLZER: I accept any objection he has.

CHAIR: So, this will be admitted, that is eighty-eight.

MR. HOLZER: All right. I understand the tedious nature of what's, this has been going on.

CHAIR: It's quite all right.

MR. HOLZER: I think I may have given the Board.

CHAIR: Here is an extra copy of eighty-eight. I had two (inaudible) and there's already enough for the Board. So, this is eighty-nine, and I'll give you back the two extra copies.

MR. HOLZER: And --

CHAIR: Wait one second. Mr. Schmidt is trying --

MR. HOLZER: -- oh, I'm sorry.

CHAIR: -- to make heads or tails of it. Thank you. You ready?

MR. SCHMIDT: Yes, yes, sir, I'm sorry.

CHAIR: No, it's quite, nothing to apologize for. Mr. Holzer?

MR. HOLZER: Are, can you identify this, this picture?

MR. CLARK: Yes, this is from a promotional film ad, advertising an April 19 to 22, 2018 event. Again, this is the, the video itself is in evidence.

MR. HOLZER: And is this the one that you'd previous, previously said you believe was canceled?

MR. CLARK: Yes.

CHAIR: Just to clarify to, the testimony was it was in 2018, April 19th through 22nd.

MR. HOLZER: That's correct.

CHAIR: It is not reflected upon Protestant's Exhibit 89 what year.

MR. CLARK: I'm sorry.

MR. HOLZER: Twenty eighteen.

MR. CLARK: Twenty-eighteen.

CHAIR: Yes. It ties back to that testimony?

MR. HOLZER: Yes.

MR. CLARK: Yes.

CHAIR: Thank you.

MR. HOLZER: Um hm.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Same objection, doesn't show the year and just, quote honestly, I don't know what, I don't know what it shows but don't know that it has any probative value. But,

objection.

CHAIR: I, understood. It will be admitted and again, the weight of it will be given its due amount.

MR. HOLZER: I think this is the last one for this pile.

CHAIR: Mr. Holzer, do you want an extra copy back or no?

MR. HOLZER: Sure.

CHAIR: Sorry, I was trying to catch you before you sat down.

MR. HOLZER: That's okay. Thank you.

CHAIR: Sure thing.

MR. HOLZER: This is ninety?

CHAIR: Yes. And so, Mr., Dr. Clark, please identify what exhibit, Protestant's Exhibit 90 is?

MR. CLARK: Protestant's Exhibit 90 shows, is a screenshot from, is a photo taken from Dr. Clarke's Facebook page, which has since been removed. It shows the kitchen of, of, of the building. Those urns you see, you can see being used in a video that's in evidence and it goes back to the testimony by Mr. Ghimire that, it goes back to that whole thing about the, the, the, the temple gate being open and closed and all --

MR. HOLZER: What about the use of the kitchen?

MR. CLARK: Well, and that there was no use of the

kitchen.

MR. HOLZER: And you say this, this has been removed from online?

MR. CLARK: Yes, yes, yes. The last time I checked, it was missing.

MR. HOLZER: Okay.

MR. CLARK: As a matter of fact, almost everything from 2018 was removed.

MR. HOLZER: Do you, do you remember the date of this, because you have on, in your original testimony to the Board, July 28 through August the 3rd.

MR. CLARK: Right.

MR. HOLZER: Is this during that time frame?

MR. CLARK: It is. It was, and, and as I said, you can see these, these urns being used in an opening day ceremony.

MR. HOLZER: Okay. I would move that document too.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Objection. To, to, maybe just for clarification, Mr. Clark, when you say being used?

CHAIR: I think it's a fair question, just to figure out what he means by the word used. Do you want him to do that now?

MR. SCHMIDT: What, what do you mean, what, what do you mean being, being used?

MR. CLARK: Well, first of all, they had testified the building would not be opened during the event, that the building would not be used.

MR. SCHMIDT: I'm, I'm sorry, sir. But I'm just trying to ask you one direct question and if, when you said the urn --

CHAIR: Well, this is not cross examination. He just wants to get to the point of --

MR. SCHMIDT: Objection. I don't have anything further.

CHAIR: -- hold on, what do you mean by the word used?

MR. CLARK: It's pretty self-evident. There are people in the kitchen.

CHAIR: So, any use at all?

MR. CLARK: Yeah.

CHAIR: All right.

MR. HOLZER: I have no further questions on that point.

CHAIR: Thank you.

MR. HOLZER: Now, we, we want to go to potential future uses because I, I gather that because the community association, in its testimony in terms of possible conditions that they would agree to or suggest that the Board incorporate in any decision, you, there is some testimony by you as an

individual as to future uses. Can we, can we address those?

MR. CLARK: Yeah.

MR. HOLZER: Go ahead, please.

MR. CLARK: Well, --

CHAIR: I'm sorry, to, to clarify, as an individual or for the association?

MR. HOLZER: Yes.

MR. CLARK: Yes, yes, sir, as an individual.

MR. HOLZER: As individual.

CHAIR: Okay.

MR. HOLZER: But it'll, as, as you know, it'll relate to the association as well.

CHAIR: Well, that's why I want to clarify, that I understand what the testimony that's --

MR. CLARK: Well, yeah.

CHAIR: -- what, hold on. The testimony to come on whose behalf it's being offered.

MR. HOLZER: Yes. Whose behalf is it being offered? Mr. Clark?

MR. CLARK: No, no, it's being offered on mine. I, I'm just processing Mr. Garber's --

CHAIR: Mine, individually?

MR. CLARK: Yeah, mine, mine individually, but I'm just processing Mr. Garber's, I, I, I understand what your concern is. I think a lot of it has already been covered in,

in, in the testimony that I offered for --

CHAIR: The association?

MR. CLARK: -- the association. And I promised I wouldn't go back and deal with it again.

CHAIR: So, there was testimony regarding conditions and other such concerns for future use.

MR. HOLZER: Yes.

CHAIR: During the course of your testimony for the association.

MR. HOLZER: Let, let me try to articulate them and he can either, and you can either say --

CHAIR: That's all right, that's fine. I prefer that you --

MR. HOLZER: -- we don't have to get into it --

CHAIR: -- I prefer that you do it. I'm just trying to figure out what he's saying.

MR. HOLZER: Yeah.

MR. CLARK: Yeah.

MR. HOLZER: Okay. Mr. Clark, is there any reason to go over the number of, of events and the number of people?

MR. CLARK: No, we already covered that.

MR. HOLZER: Is there any reason to go over the yoga classes?

MR. CLARK: That, I believe, is in Protestant's Exhibit 25.

MR. HOLZER: Already an exhibit?

MR. CLARK: Yep.

MR. HOLZER: Okay. So, there's no reason to go over that?

MR. CLARK: Right.

MR. HOLZER: Is there any reason to go over language classes?

MR. CLARK: That, I believe, in Protestant's Exhibit 25.

MR. HOLZER: Okay. What about the hall for rentals?

MR. CLARK: That refers to the barn. I believe that's in Exhibit 44. I don't know if we have the actual Facebook posts where Dr. Clarke talks about that in the barn.

MR. HOLZER: All right. But what is, what is your personal, individual desire in regard to --

MR. CLARK: Well, the barn is not too far from me. And Dr. Clarke has stated he would like to see it turned into a venue for a thousand people.

CHAIR: I remember this testimony, I remember the Facebook posts, I remember Mr. Schmidt's objections to that, that testimony, whatever that may be, is what you're incorporating right now?

MR. CLARK: Yeah, yeah.

MR. HOLZER: And I'm looking at Protestant's Exhibit 44 and that's what it was, the barn use issue. So, there's no

reason to go back into that.

CHAIR: Very well.

MR. HOLZER: Kitchen, the soup kitchen and visitors. We've already seen some of your photos.

MR. CLARK: Well, and, and that was, that, that was dealt with in our asks.

CHAIR: In your --

MR. CLARK: For the Board asks.

MR. HOLZER: Requests?

MR. CLARK: Right.

MR. HOLZER: Possible conditions, is that right?

MR. CLARK: Yes, yes.

MR. HOLZER: You have to use a proper word.

CHAIR: Thank you, Mr. Holzer.

MR. HOLZER: And it was in Protestant's Exhibit 25. I'm looking at it. Okay. Regional and international advertising.

MR. CLARK: Yeah, we have a, a, a slick from, I'm sorry, you know, a promotional slick from 2016.

MR. HOLZER: Okay.

MR. CLARK: I think it's like four pages.

MR. HOLZER: Okay.

MR. CLARK: That denotes intent.

MR. HOLZER: And, and what is the relevance of that? I have it, I can submit it, but before I do, what is the

significance of that in relationship to your personal testimony?

MR. CLARK: There has been testimony that they intend to do nothing but have a house of worship there.

MR. HOLZER: Okay and I'll then take this document.

CHAIR: Inevitably, the question is going to come up where did you obtain this document?

MR. CLARK: I obtained it from the internet.

CHAIR: Where particularly?

MR. CLARK: I, let, let me see it and, and see if --

MR. HOLZER: Excuse me.

CHAIR: Very well. No, it's fine. I already know the --

MR. CLARK: No, I, I, I get it. I, I, I get it. Yeah.

CHAIR: -- question that will come up, so. Thank you. Ninety-one.

MR. HOLZER: And this would be number?

CHAIR: Ninety-one.

MR. MCCOMAS: Ninety-one.

MR. HOLZER: Thank you.

MR. CLARK: All right. I --

CHAIR: Hold on, one second, sir.

MR. CLARK: Okay.

CHAIR: We're waiting for Mr. Schmidt to review.

Before you start, Mr. Holzer, there's one point of clarification. I understood you said that this is from 2016. The only date I see on Exhibit 91 is October of 2014.

MR. CLARK: Right, right, right. But I, I wouldn't have obtained it before, be, before we actually got interested in this issue.

CHAIR: So, it was still available at whatever time that you became available or became interested in this issue.

MR. CLARK: Right, right.

CHAIR: Okay.

MR. CLARK: Now, now before, I honestly can't remember where I got it, when I got it, all that kind of stuff.

CHAIR: All right. Mr. Holzer, you want to ask questions?

MR. HOLZER: Yes. If you cannot remember where you got a copy of this, is that correct?

MR. CLARK: Yes, sir.

MR. HOLZER: Did you attend any Nepali events where they handed this thing out?

MR. CLARK: No.

MR. HOLZER: Did you see it online?

MR. CLARK: I saw it online.

MR. HOLZER: Okay and when you saw it online, did you try to make a, a paper copy of what was online?

MR. CLARK: Yes, I did.

MR. HOLZER: And is that where this would have come from?

MR. CLARK: Yes, it is.

MR. HOLZER: All right. And in, in, in looking at this document, I, I just want to ask you about, and, and I'm not interested in the list of donors and the money. That's really not what I'm --

MR. CLARK: Yeah.

MR. HOLZER: -- I'm interested in. But on page three, the introduction at the top of the page, Nepali in Baltimore Metro, if you look at the second paragraph, okay?

MR. CLARK: Um hm.

MR. HOLZER: it says through many community meetings, teams have been formed to further plan and initiate the building of a community center.

MR. CLARK: Yep.

MR. HOLZER: Is that what brought your attention to this document to begin with?

MR. CLARK: That and the, the second bullet, what are our options, buy or build?

MR. HOLZER: Okay and, and in terms of, in terms of that, what relevance does that have in relationship to the request for the special exception?

MR. CLARK: Well, --

MR. SCHMIDT: Objection. If I may be heard?

CHAIR: Okay, hold on. Hold on. Yes, Mr. Schmidt?

MR. SCHMIDT: When Mr. Holzer has now asked what does it have --

MR. HOLZER: I'll withdraw the question. I'll withdraw the question.

MR. SCHMIDT: Objection anyway. If I could be heard?

CHAIR: Well, the question has been withdrawn.

MR. SCHMIDT: Yes, sir.

CHAIR: Mr. Holzer?

MR. HOLZER: I would now offer this document.

MR. SCHMIDT: Objection.

CHAIR: Sorry.

MR. SCHMIDT: The witness has indicated that he doesn't know where he got this and doesn't know how he got it, my words, not his.

CHAIR: We recall the testimony of him.

MR. SCHMIDT: So there is no foundation to this document to be evidence, even under, in my view, the relaxed administrative rules of evidence before an administrative body such as the Board of Appeals. But perhaps as importantly, this is a publication, at least if we take the document to be self-authentic, authenticating of the Baltimore Nepalese Community Center. That is not the Petitioner in this case. The Petitioner in this case is the --

CHAIR: Right, Nepali American Cultural Center of

Baltimore, Inc.

MR. SCHMIDT: -- Nepali American Cultural Center of Baltimore. This would be as if you had a publication from Burger King and you have a McDonald's case before you. It's a different entity. So, how there could be any relevance to what another organization, which is not the Petitioner, may or may not publish, I do not believe it would be appropriate evidence. Thank you.

CHAIR: Mr. Holzer?

MR. HOLZER: Take a look at the list of donors --

CHAIR: Please stand up to object, to address.

MR. HOLZER: I'm, I apologize. Take a look at the list of the donors. Many on the list of donors (inaudible) --

CHAIR: Okay. Thank you for bringing that up. I will say that there is indicia that this is, this document, Exhibit 91, has some relationship to this case. It's a Petitioner, though actually not the Petitioners, it is understood. It is understood it was created at a time before the Petitioner's organization was even formed, is a document that was created before the property was even on the market.

As it may reflect an intent by some to find a place for a community center for the Nepalese community. But realistically speaking, there's evidence in this case already that there was a desire to have a religious temple and community center and from others, it has whittled down to a

religious temple and that is the subject matter of the Petition, therefore, October 2014 the intent reflected within whether (inaudible) sixteen or not, I, I do believe is too attenuated. The purpose for the, its inclusion is already covered by the record. Therefore, I will sustain Mr. Schmidt's objection.

MR. HOLZER: I would like to put on the record, for purposes of my taking exception to that, is that the individuals are clearly, are listed in this document, number one. Number --

CHAIR: And I will, and I echoed that, that is, I echo what you're saying. That it, there, my, my comment about there is indicia that there is a relationship to Petitioner is derived from that list.

MR. HOLZER: Number two, number two, I believe you're in error in regard to the timing, in regard to, of this particular piece of property and when this occurred and how this occurred. So, I would just take exception. I will, I will put it under the heading of proffering and we will take it further.

CHAIR: Well, Mr. Holzer, if you believe that there's an error as to the timeline, what has been established by the testimony is what I, what my understanding is is already reflected in the ruling. If there, if that's an error please, you may ask the questions of this witness. And if that

clarifies the points, perhaps then there's another approach to this. But my understanding is, based on the date of October 2014, that's when this document was created and that Dr. Clark downloaded it or somehow obtained it in 2016 but that's what the testimony and evidence thus far establishes.

MR. HOLZER: In 2014, was the property on the market? Do you know?

MR. CLARK: I don't know, I never paid attention to it.

MR. HOLZER: Okay. Just leave it marked as a proffer.

CHAIR: Very well.

MR. MCCOMAS: So, ninety-one is i.d. only?

CHAIR: I.d. only.

MR. HOLZER: Pardon?

CHAIR: I.d. only.

MR. HOLZER: I.d. only, yes.

MR. MCCOMAS: You use proffer, I use i.d. only.

MR. HOLZER: Yes, yeah.

CHAIR: Yes.

MR. HOLZER: That's fine, thank you.

CHAIR: And, and, and the Board is interpreting, when you say proffer as i.d. only.

MR. HOLZER: Yes, um hm.

CHAIR: So any references to the same can be read as

that.

MR. HOLZER: Okay.

CHAIR: Very well.

MR. HOLZER: For future reference.

CHAIR: Yes.

MR. HOLZER: Now, do you have any of consistent with what we've been talking about over the last few, number of minutes, relative to reasons to question the Petitioners' voracity, so to speak, that relates to regard for common safety?

MR. SCHMIDT: For what? For compensation?

MR. HOLZER: Common safety.

MR. SCHMIDT: Common safety.

MR. CLARK: I'm trying to respect Mr. Garber's, without killing my opportunity to be heard, it's a dance.

CHAIR: I would just, I would, all I can say is please answer Mr. Holzer's question and we'll see where that takes us.

MR. CLARK: All right. Yes.

MR. HOLZER: I was going to tell him, just say yes and then you can go into the, --

CHAIR: Right.

MR. HOLZER: -- next analysis.

CHAIR: Well, what's the, so what's the follow-up question then for him?

MR. HOLZER: The follow-up question is then what concerns have not, have already been raised on behalf of the community association that you as an individual want to raise that may differ from the community association's point of view? And is there anything you need to establish or show in regard to that? Do you understand my question?

MR. CLARK: Yeah, no, I do.

MR. HOLZER: Okay.

MR. CLARK: I do and, and maybe I'm overthinking a lot of stuff, I don't know. But anyway, the, the, the, the Zeller communication about the property should not be in use, however, you know, lack, that's a lack of regard for common safety. You know, because there are no sight, there, there are no safe sight lines for that entrance.

CHAIR: I'm sorry, just to, I want to just clarify. You're incorporating your prior testimony under the association on that point as to you as an individual?

MR. CLARK: And, and the other, and, and we also introduced Zeller somewhere else and --

CHAIR: Yes, I understand.

MR. CLARK: Yeah, and --

CHAIR: Do, do I understand your testimony correctly as an individual that it will be consistent or coextensive with what you previously testified as the association?

MR. CLARK: Yeah, yeah. Yes, sir. Yes, sir.

CHAIR: On the point of safety?

MR. CLARK: Yeah. Yes, sir. Yes, sir.

CHAIR: Was that what you were trying to get at, Mr. Holzer?

MR. HOLZER: Yes. Now, is that, is, when you say safety, does that talk about the doors were opening in the wrong way, overcrowding, fire extinguishers, etcetera? I don't want to waste time going into all of that if it's already been covered with the, on behalf of the association.

MR. CLARK: Yes, but, --

MR. HOLZER: Explain the but.

MR. CLARK: Going back to safety at the entrance, all right? There's been no police support for those events and the reason that there has been no police support is because I have an e-mail from the precinct saying that if SHA has not approved the, the, the entrance, they will not be providing police support, okay?

MR. HOLZER: Now, in other, in other words --

CHAIR: I'm sorry, just so, just to clarify one point before you get to the next question. You said these events. By these events were those the ones that you specifically identified by date?

MR. CLARK: Yeah, and I think particularly this one, this refers, I had been in contact with them for a ---

CHAIR: I'm just trying to clarify what you meant by

these.

MR. CLARK: This, this probably refers specifically to the July 29, August 3rd event.

CHAIR: Okay.

MS. DOPKIN: Which precinct?

MR. CLARK: Precinct 8. Captain Martin, Lieutenant Franzoni, Officer Gorbitz.

MS. DOPKIN: Thank you.

MR. HOLZER: And I'm handing a document, which --

MR. CLARK: Parkville Precinct.

MR. HOLZER: -- to the witness, or to Mr. Schmidt, also to the Board, also to the witness.

CHAIR: Ninety-two? I'll note that perhaps one or more of the e-mails attached in Exhibit 92 have already been either put into evidence or at least proffered into evidence.

MR. HOLZER: Yeah, I'm not sure, I'm not sure that what's in evidence is the complete follow-up from the witness to the police department and back. And in looking at the July 6th, 2018, to Mr. Clark from the Baltimore County Police Department declining the request for traffic control.

CHAIR: Well, right. What I was referring to were the Zeller e-mail chain.

MR. HOLZER: Oh, we had those, yes.

CHAIR: That's, that is contained within this exhibit. That was just to identify --

MR. HOLZER: Yes, that's at the bottom of the exhibit.

CHAIR: Thank you.

MR. HOLZER: But what you don't have, didn't have in that is the top two pages (inaudible).

CHAIR: Yes, good. Mr. Schmidt, did you follow that?

MR. SCHMIDT: I, I did, but it sounds incomplete and, and --

CHAIR: We'll get to the objections. I'm just making sure you understand --

MR. SCHMIDT: Yes, sir.

CHAIR: -- where we are with this. We haven't laid the foundation yet. I'm not saying you can't object. Mr. Holzer?

MR. HOLZER: Thank you. Mr. Clark, what does this document, which is marked as --

CHAIR: Ninety-two.

MR. HOLZER: -- as Protestant's ninety-two, what does this document, how did it get started and what was the final result? If you could lead us through that, briefly.

MR. CLARK: It was, it was all related to when I was trying to get somebody from the County to pay attention to what was going on.

MR. HOLZER: What do you mean? What do you mean?

MR. CLARK: Well, the large scale events with, with,

with no, in this particular case, at an unsafe entrance with, at an unimproved, all right? SHA does, does call a commercial access and at a, at a, and it had changed from a residential access --

CHAIR: Hold on, I'm going to stop you there.

MR. CLARK: Okay.

CHAIR: The question is, what did, what are these, what is this exhibit?

MR. CLARK: Okay.

CHAIR: My understanding is it shows e-mails.

MR. CLARK: Right, it shows, it shows --

CHAIR: And you, you are thehistorictimekeeperss@gmail.com?

MR. CLARK: Yep.

CHAIR: And you are sending and receiving e-mails in connection with what you just testified to.

MR. CLARK: Thank you, thank you.

CHAIR: As to what the e-mails say, they say what they say. Mr. Holzer, was that what you were trying to get at? Was that what you were trying to get at?

MR. HOLZER: Yes.

CHAIR: For identification?

MR. HOLZER: Yeah.

CHAIR: Now, I understand, Mr. Schmidt, you had something to say. Now, that we've id, what, what it is.

MR. SCHMIDT: Well, I don't, I understood the witness to say this is not the full chain of e-mails. I thought I heard him say that at the beginning. Maybe I misunderstood.

CHAIR: Well, I'm going to, I'm going to take it one step back. You objected yesterday to the introduction of e-mails or documents relating to matters that could be something for code enforcement or --

MR. SCHMIDT: Which, which is --

CHAIR: -- why code enforcement did or did not do its job. There was a ruling yesterday already on that. Is, does this speak to an impeachment or rebuttal type of aspect that, that otherwise differs this chain of e-mails, whatever it may be, whether complete or not yet, to, is there a reason to treat this differently than how we treated the ones from yesterday?

MR. HOLZER: Yes.

CHAIR: And what is that?

MR. HOLZER: It's, it's a, the Zeller comments are not relevant to whether or not the Baltimore County Police Department would provide support in terms of an event on traffic on Harford Road. And that's what this shows.

CHAIR: I'll do you one better. The Zeller stuff is already in.

MR. HOLZER: Yes.

CHAIR: Okay. But the remainder of the stuff it went to, whether or not more should have been done by the County is

out.

MR. HOLZER: Right.

CHAIR: So, if that's the purpose for this, then ninety-two should be out, as I understand it. But I'm giving you the opportunity to identify for me what the difference is between this document and those ruled upon yesterday with respect to what code enforcement should have done or paid more attention to, to Mr. Clark's complaints.

MR. HOLZER: It has nothing to do with Baltimore County code enforcement or Baltimore County government. It has to do with the unavailability of police to protect the neighborhood and the community on Harford Road when there's an event coming. And I have, that's, that's never been discussed up until this point.

CHAIR: Okay. Mr. Schmidt?

MR. SCHMIDT: Mr. Garber, I appreciate you asking Mr. Holzer to, in effect, rehabilitate his witness but --

CHAIR: It was more of a proffer.

MR. SCHMIDT: -- but Mr. Clark said this was all as a result of me trying to get code enforcement action. He just said that. I, I heard him say that. I mean, not only that, there were police there at this event. I mean, --

CHAIR: Well, that's a matter for cross examination and rebuttal.

MR. SCHMIDT: But the, that doesn't mean even if it's

time for cross examination or rebuttal that you can submit an exhibit and mischaracterize what it's saying and what the purpose of it is and submit an incomplete exhibit that's not full.

CHAIR: Hold on. Those are two different objections. As to the completeness, we haven't discussed that. As to the first, I was asking Mr. Holzer what the proffered purpose of this document is. I'm still not quite --

MR. SCHMIDT: The witness said --

CHAIR: Hold on, Mr. Schmidt. It's still not fully clear to me what the purpose is, other than to show that police were not at, made available for a particular event.

MR. SCHMIDT: But they were there.

CHAIR: Okay. So, Mr. Schmidt, I imagine you'll be addressing that on cross examination or rebuttal. Whatever Mr. Clark, whatever his perception was as to the police presence may be right, may be not right, may be somewhere in between. I am confident your ability to try to figure out and get to the bottom of that. So, on that basis, I will overrule that objection now that I understand it's not directly related to code enforcement.

MR. HOLZER: Yeah, right.

CHAIR: As to completeness, you have another argument.

MR. SCHMIDT: I believe it's not a comp, it's not the

complete train of e-mails is what I believe I thought I heard. Maybe I misheard that.

CHAIR: Mr. Holzer, would you please clarify that?

MR. HOLZER: I'll ask the witness.

CHAIR: That's why, yes.

MR. HOLZER: If I can.

CHAIR: Thank you.

MR. HOLZER: Since I'm not testifying, --

MR. CLARK: I --

CHAIR: No, there is no question pending.

MR. HOLZER: Mr. Clark, you've heard the question and the objection. Is this the full extent of the e-mails that relate to the police department of Baltimore County having nothing to do with code enforcement or Mr. Zeller?

MR. CLARK: Correct. I apologize for --

CHAIR: The answer is yes.

MR. CLARK: All right. The answer is yes.

MR. HOLZER: Okay.

CHAIR: Thank you. So, on that basis, that objection will be overruled.

MR. HOLZER: Thank you.

CHAIR: And you're, you're offering ninety-two?

MR. HOLZER: Yes.

CHAIR: Okay.

MR. CLARK: Thank you.

CHAIR: Ninety-two is admitted.

MR. HOLZER: Going back to where we were in regard to the safety in buildings, the safety at events. I want to very carefully have you review your notes, --

MR. CLARK: Sir, --

MR. HOLZER: -- so that we're not wasting time on something that has already been discussed. With that understanding, take a look at comments in regard to safety at, at, at events because I believe some of this is already been raised or discussed.

CHAIR: I can confirm that.

MR. CLARK: And I agree.

MR. HOLZER: Can you tell us what has not been raised or not discussed or that you have a different testimony, not that of the association?

MR. CLARK: I believe, no.

MR. HOLZER: Okay. So we can get past that.

CHAIR: I understood that question to be rhetorical. Thank you.

MR. HOLZER: Thank you. Now, we're getting into another area of what you choose to call misrepresentation of facts. Could, and, and one category under that is the County. Do you, do you understand what I'm asking you?

MR. CLARK: I, I know, we're going into --

MR. HOLZER: Okay. Now, if it has anything to do

with code enforcement, with the County dealing with something prior to this hearing, I want you to skip it. But if it has anything to do with the, the Petitioner's testimony then please feel free to address it. If it differs from what you've already said on behalf of the community.

MR. CLARK: Okay. The only one on there.

CHAIR: Okay.

MR. CLARK: Again, this goes to voracity.

CHAIR: Okay.

MR. CLARK: Okay? It would be the Archia sign permit, okay? He promised the County --

CHAIR: Hold on, make sure, pay attention to Mr. Holder's question. This testimony that I'm, that we're about to here is different from you as an individual than the association that we've already discussed?

MR. CLARK: Yes, I, I believe so.

CHAIR: All right.

MR. CLARK: I believe so.

CHAIR: And you mentioned sign permit or the signage issue. What is it that you believe the, what was misrepresented --

MR. CLARK: I believe he misrepresented to the County the sign that they intended to put up. He presented to the County --

CHAIR: I'm going to stop you there. This is getting

into more of a code enforcement matter because that matter is not in front of us today. We didn't hear testimony from Mr. Archia as to the sign, from what I recall. So, I, I'm straining to figure out where we're going with this as it relates to testimony that we've heard that relates to the way the property is being used, whatever, whatever is represented in the sign petition is not in front of us.

MR. CLARK: Okay. Can I, --

CHAIR: Mr. Holzer, do you want to ask a question to follow-up on that point?

MR. HOLZER: No.

MR. CLARK: Okay. That settled that.

MR. HOLZER: No. And I'm looking at another comment that, I don't believe is appropriate to ask this Board since it occurred at another location, another venue, which is the ALJ. Okay.

MR. CLARK: We actually covered a lot --

CHAIR: Sir, there's no question pending, please.

MR. CLARK: I'm sorry.

MR. HOLZER: I'm, I'm looking where facts were presented to the, to this Board, I don't care about anyplace else, but to this Board. Are there areas that you would like to discuss about facts presented to this Board that are not covered by the community association comments? But these would be your personal comments.

CHAIR: Or his other testimony --

MR. HOLZER: Exactly.

CHAIR: -- as an individual throughout his time on the stand.

MR. HOLZER: Right.

CHAIR: Here.

MR. HOLZER: Yeah, correct.

MR. CLARK: Yes. The answer is yes.

MR. HOLZER: Okay. Could you tell us what area you are answering yes to?

MR. CLARK: In testimony, Mr. Ghimire asserted he had nothing to do with the, and he had no knowledge of the event held at St. John's Church on January 28, 29. We have evidence of --

MR. SCHMIDT: Objection.

CHAIR: I, I anticipated this --

MR. HOLZER: Wait a minute.

CHAIR: -- objection from Mr. Schmidt.

MR. HOLZER: If that relates to the police reports, then it --

CHAIR: It does.

MR. HOLZER: -- is not permitted.

CHAIR: I will note, and I noted this yesterday during the course of the ruling, that Mr. Ghimire did give testimony that would indicate that at first he may have had

some role and then he didn't have some role.

MR. HOLZER: Right.

CHAIR: And then when asked questions directly, that he, neither he nor the organization, the Petitioner that is, had any, any sponsorship, leadership or management role in connection with those events. I then understand that Mr. Holzer, as part of that, produced something that showed Ghimire Homes. There is no evidence in the record whatsoever that establishes Ghimire Homes as any connection to Mr. Ghimire. On that basis, I will sustain what I anticipate, I guess, was Mr. Schmidt's objection, so.

MR. HOLZER: You did a lot and I had already said --

CHAIR: What's that?

MR. HOLZER: I'd already said it wasn't appropriate.

CHAIR: I understand. I've been trying to, I'm trying to address what Mr. Schmidt was about to say. I cut him off so we don't have to have extended argument on the point.

MR. HOLZER: Okay. Mr. Clark, I, I know a lot of this is confusing in terms of what you want to present, but again, I must ask you to look at what you want to testify. If it relates to the police reports, you cannot because the Board has ruled.

MR. CLARK: Right.

MR. HOLZER: If it relates to testimony that you've already given you cannot.

MR. CLARK: Right.

MR. HOLZER: If it relates to testimony that you gave on behalf of the community association you cannot, unless it differs from what the community association position was, okay? So, the question is, is there anything else in relationship to any of the areas of issue that have been discussed, that you need to address subject to those conditions?

MR. CLARK: I, I guess the, the issue of testifying, the, the, the, the testimony of Petitioner, that events will be, that, that they plan to have events held at the new community center.

MR. HOLZER: What new community center?

MR. CLARK: The community center at Taylor Ave. I believe Mr. Ghimire referenced that in particular.

CHAIR: Okay. What about that testimony do you wish to address?

MR. CLARK: I wish, and we started to enter it and then there were problems with the, the documentation.

CHAIR: Okay.

MR. CLARK: But that it simply doesn't have the capacity for the kind of crowd --

CHAIR: I, Mr. Holzer, I seem to recall there was an objection by Mr. Schmidt because that property is not subject of this proceeding or the Petition. So, if there's an occupancy or any type of other issue that may exist at that

community center and its capacity to hold whatever amount of events, I seem to recall that there were objections sustained on these points because it is not, it is not, it does not concern the subject property.

MR. HOLZER: Fine. And so, I want to proffer.

CHAIR: Well, I mean, I, I mean, --

MR. HOLZER: I want to proffer this document.

CHAIR: Hold on. Is that your understanding? Let's start with that.

MR. HOLZER: No, but it's your understanding so I'll abide by it and under the circumstances, instead of wasting this Board's time and everybody else's, I am just going to proffer what had previously been marked as Protestant's forty-six, which I believe is what was for identification only, and I want to add this new, this new document for purposes of --

CHAIR: All right. Let's start, can we do one at a time?

MR. MCCOMAS: Let's do one thing, Mr. Holzer. I have 46-A as being admitted, 46-B and C i.d. only and 46-A is a photo on 2906 Taylor Avenue.

MR. HOLZER: I'm sorry. I, I have this as the photo.

CHAIR: Okay.

MR. HOLZER: And that's in?

CHAIR: That's what this shows.

MR. MCCOMAS: That's what this shows, it shows here.

CHAIR: I, I will let everyone know, I, I do intend to go through the transcripts to confirm what is in evidence and what is not before the record closes in this matter.

MR. HOLZER: All right and pages two and --

MR. MCCOMAS: 46-B and C, I think, is what you're interested in, I suspect and --

CHAIR: I, and if I can, Mr. Holzer? I have recollection now that I've seen you hold it up, that was objected to because we didn't know the source of the information and its completeness for the record, from what I recall.

MR. HOLZER: Gotcha.

MR. MCCOMAS: And this is B here.

CHAIR: Yes, we're discussing B and C.

MR. MCCOMAS: Is that what you have, is that what you have there?

MR. HOLZER: Yes, B and C.

MR. MCCOMAS: And I have C here.

MR. HOLZER: And, and what I'm about to proffer --

CHAIR: Let me, we'll stop for a second. Do you recall what I just said as it relates to B and C? Those were the objections by Mr. Schmidt were sustained on those, on that basis?

MR. HOLZER: Yes, they were not permitted. I don't know what basis they were denied.

CHAIR: Mr. Schmidt, is that consistent with your recollection?

MR. SCHMIDT: I have a copy of the list that I've been keeping and it shows 46-A admitted and B and C identification only.

CHAIR: Can you show Mr. Schmidt 46-B and C?

MR. SCHMIDT: Yes, sir, and they are the --

CHAIR: Just so that we can follow along.

MR. SCHMIDT: -- print, printouts.

CHAIR: I'm going to let you give your proffer to be clear.

MR. HOLZER: I, I understand. But it's sort of a waste of time what took place then because --

CHAIR: I have to worry about the record too.

MR. HOLZER: I know.

CHAIR: Do you want to just show that to him? Is that B and C?

MR. SCHMIDT: Thank you. May I approach, Mr. Garber?

CHAIR: Yes, of course. Mr. Schmidt, do you recall those documents? Do you recall the objections and the discussion?

MR. SCHMIDT: I, I do.

CHAIR: Okay. So, my recollection is that objections were --

MR. SCHMIDT: Thank you, thank you.

CHAIR: -- sustained on the basis that it, we didn't know the source of the information that was contained within and its completeness. Now, Mr. Holzer has a proffer as it relates to 46-A, excuse me, B and C and is tendering here a new document.

MR. HOLZER: That's correct. This, this --

CHAIR: Have you, have you provided that to Mr. Schmidt, the new document?

MR. HOLZER: I already did.

CHAIR: Okay, just confirming.

MR. HOLZER: The new document is, could we mark this?

CHAIR: Ninety-three.

MR. HOLZER: As what?

CHAIR: This will be ninety-three.

MR. HOLZER: Ninety-three. But it actually gets consolidated with forty-six.

CHAIR: It relates to forty-six but for purposes of this record it will be ninety-three because just, they're listed sequentially by the dates of the hearing and so we can't obviously then squeeze this in between, going back.

MR. HOLZER: I understand. I understand. But I'm connecting it to forty-six.

CHAIR: And for the record, it is connected to forty-six.

MR. HOLZER: Right.

CHAIR: Now, with respect to ninety-three, since there's no ruling on ninety-three, even if there isn't one on forty-six, --

MR. HOLZER: Yes.

CHAIR: -- what is it you want to ask this witness to do with ninety-three?

MR. HOLZER: Mr. Clark, you have Exhibit 93 in your hand. How did you get this document? Where did you get this document? And do you believe it complies with, with the requirement that was rejected on the two pages of the previous Exhibit 46?

MR. CLARK: This is the listing as it was on Zillow.com.

MR. HOLZER: Okay.

MR. CLARK: And it shows the details of the building. The, the size and all that.

CHAIR: 2906 Taylor Ave building?

MR. CLARK: Right.

MR. HOLZER: Yes.

CHAIR: Mr., sorry.

MR. HOLZER: And, and what would you like, or do you want me to offer it now or should I ask him a question?

CHAIR: I'm not, I don't want to interrupt you if you're still laying the foundation.

MR. HOLZER: Okay.

CHAIR: If you're still laying the foundation, go, go do that.

MR. HOLZER: And, and you, you now understand that Protestant's forty-six, which is a picture of the building, and now you have Protestant's ninety-three, excuse me, which, which provides certain information, what is your testimony in regard to the use of this property as a, --

MR. CLARK: I don't have any --

MR. SCHMIDT: Objection.

CHAIR: Hold on, sir, sir, sir, hold on.

MR. CLARK: Okay.

MR. SCHMIDT: Objection.

CHAIR: Mr. Schmidt, your objection?

MR. SCHMIDT: Yes, sir. I, I believe --

MR. HOLZER: As the community, look, I mean, --

CHAIR: Mr. Holzer, hold on.

MR. HOLZER: Having that --

CHAIR: Hold on.

MR. HOLZER: -- before I even get --

CHAIR: Mr. Holzer, Mr., Mr. Holzer, you know how this process works.

MR. HOLZER: Yes, I do.

CHAIR: He, hold on, he, --

MR. HOLZER: And it's not being complied with.

CHAIR: Mr. Holzer, please. He's objected. He's, I

asked him to state his objections. I will turn to you for a response. I'm not cutting you off from, from whatever you intend to try to get (inaudible) this witness or put in the record in terms of a proffer. So, I want to hear from Mr. Schmidt because he stood up, as he is supposed to, when objecting. Mr. Schmidt, what is your objection?

MR. SCHMIDT: My understanding, Mr. Garber, is that this property is owned presently by an organization that is not the Petitioner and is not related to the Petitioner. I understand the prior Board rulings that, to a certain extent, if it's, has the char, if, if the property or exhibit relates to the interest of, of people from Nepali that it's admissible. But this case, or from Nepal, the, the Board believes it's proper evidence. But in this case, this is, this is a property that's not owned by the Petitioner and it's, this is a property that is not before the Board today on a Petition. It's on Taylor Avenue. So, I don't know what the relevance of what the condition or use of this property could be to the instant case.

CHAIR: Thank you.

MR. SCHMIDT: Thank you.

CHAIR: Mr. Holzer, would you wish to respond to the objection?

MR. HOLZER: Test, testimony by Mr. Ghimire was that commercial or community events will be held at 2906 Taylor Avenue.

CHAIR: I have the same recollection.

MR. HOLZER: That's his testimony.

CHAIR: That it was and, just if I can add to that. The, again, my recollection of the prior objection as to why they were sustained was to establish the fact that the number of parking spaces within, when we don't have the source of information or, or in the other, for the other reasons stated and I know that there was some discussion, which Mr. Schmidt just alluded to as well, that it concerned a property other than the one that's the subject of this Petition. Having said that, it, I understand it relates to Mr. Ghimire's prior testimony that community events will be held there. What is it you seek to do with Exhibit 93?

MR. HOLZER: Introduce it to show the Board in their opinion, your opinion, whether or not the events that are being carried about or proposed to be carried out on Harford Road would be consistent with the use at this site. And if, and it, if you can't wrap your head around that, it seems that Mr. Ghimire, in order to show that we're, he, that the Harford Road site is just a religious facility and is not a place for community events, this seems to dispel that testimony.

CHAIR: I see Mr. Schmidt is standing. You wish to address a point there?

MR. SCHMIDT: So, do I understand that the relevance of this document is that if my client chooses to utilize

another property or might use another property, then the Board will allow an inquiry as to the suitability of that other property? So, for example, Mr. Ghimire testified, for example, that there would not be food preparation at the subject property. And so, I think he testified that, for example, during some of the events, the rice feeding, for example, --

CHAIR: Um hm.

MR. SCHMIDT: -- which is somewhat akin to a baptism in the Christian religion.

CHAIR: I recall the testimony.

MR. SCHMIDT: So, Mr. Ghimire, I think, testified in that case, in those instances, that the family may very well then go to a restaurant to host a social gathering following the rice feeding ceremony at the subject property because it would be traditional for the family to have a meal and to share fellowship after that. And so, are we then going to hear testimony akin to this, that the restaurant may not suitable, be suitable, that the kitchen facilities at the restaurant may not be suitable, I mean, that's the path --

CHAIR: Well, I think you're taking it a step too far with that. I understand your point.

MR. SCHMIDT: Well, that's the path that we seem to be going down.

CHAIR: I, I understand your point. It seems to me where everything is getting lost here is the testimony, which

as I indicated for, when Mr. Holzer, back and forth with him, that Mr. Ghimire did give that said that community events would be held off site at this community center at 2906 Taylor Avenue. The question then is what events? It's obvious by its size, there's only a certain number of events or types of events that could ever be held at the 2906 Taylor Avenue. Then Mr. Holzer is trying to use it to show because of its size, that means there's the potential for these other larger events to be held on the subject property site.

However, we are now so far down the speculative well, I don't think we even need this in evidence. It doesn't aid us in any way, shape or form. This property doesn't have any relevance to us. Mr. Holzer's evidence, or arg, from which he could have that same argument is already in the record. So, he's not going to suffer from a loss of being able to arg, make that point based on the other evidence. For these reasons, and in the reasons already, already stated, as to 46-B and C, it will be, your objection is sustained. It will not be admitted. You may continue with your proffer.

MR. HOLZER: I would proffer that this document goes to the voracity and, and the potential for this Board to analyze the two properties, number one. Number two, it's not, it, it, it is provided for a basis upon which the Board of Appeals can say, well, Mr. Ghimire said that many of the events that we're holding out there, and I'm putting in (inaudible)

that the community objects to, the reason that he testified to that is because oh, it'll be on Taylor Avenue. So, what I'm saying is the value of these documents relates to the imposition of conditions that you could put on the Harford Road property.

For instance, you could put, you could say since Mr. Ghimire testified that the, much of the community activity will be at the community center, therefore, there could be a reduction in number of people attending. There could be a reduction in the number of parties that, big events that we're holding. Therefore, we can alleviate some of the community's concerns. That's the relevance of this. And it also puts the Board of Appeals into a position of saying well, look, you know, everything doesn't have to be at Harford Road. There are events and numbers of people, etcetera, that can be held on Taylor Avenue.

So, the purpose of his presenting that material, was precisely relevant to the Board's action in granting or denying this special exception. That's my proffer and I proffer Exhibit 46 and 93 together.

CHAIR: To be clear, --

MR. HOLZER: I know forty-three --

CHAIR: -- 46-A is in evidence.

MR. HOLZER: I understand that.

CHAIR: 46-B and C are not.

MR. HOLZER: I understand.

CHAIR: Ninety-three, we just had that ruling. But you want to make clear for the record that ninety-three is related to 46-A through C, is that?

MR. HOLZER: In my proffer, I'm connecting them so that any future analysis of it doesn't get so totally screwed up they'll never understand it. So, forty three and, and ninety, forty, forty-six and ninety-three are related in that respect. I understand forty-three was admitted --

CHAIR: Forty-six.

MR. HOLZER: Forty-six was admitted.

CHAIR: A.

MR. MCCOMAS: A.

MR. HOLZER: I do understand that, A.

CHAIR: 46-A was admitted.

MR. HOLZER: I understand and part of, part of the analysis in the future is whether or not it was correct for you to deny this, period.

CHAIR: That, understood. Thank you. All right. Next line of questions and/or exhibits?

MR. HOLZER: In regard to amplification of, on Harford Road, --

CHAIR: One second, Mr. Holzer, just wait to the, to this passes, please.

MR. SCHMIDT: I'm sorry.

CHAIR: All right. Sorry, Mr. Holzer. In relation to amplification on Harford Road.

MR. HOLZER: Right. There was testimony, as I understand it, from Mr. Ghimire in regard to the number of microphones in, during the course of his testimony. Do you recall whether there was a condition by the Administrative Law Judge on outside speakers or outside noise from a microphone at all?

MR. SCHMIDT: Objection. That would have been a matter of code enforcement as to whether there would be an enforcement action instituted against my client for violation of Judge Beverungen's Order.

CHAIR: Hold on, Mr. Holzer, --

MR. HOLZER: Why do you let him object at that point because --

CHAIR: Mr. Holzer, Mr. Holzer, Mr. Holzer.

MR. HOLZER: -- I hadn't even clarified it --

CHAIR: One second. What is it that you want to establish with this question? We can eliminate this objection, because I think I know where you're trying to go. What is it you are trying to establish?

MR. HOLZER: The objection was premature because what I was simply --

CHAIR: I, I, I, I want you just to, first to answer my question.

MR. HOLZER: And this has been going on, Mr. Chairman --

CHAIR: I want you to answer my question what, where are you going with this, with, with this question to this witness?

MR. HOLZER: I was going to the point of, first of all, just trying to recall myself whether there was a condition imposed on the approval by the Administrative Law Judge. Simple, very simple. It had nothing to do with code enforcement.

CHAIR: It is foundational then.

MR. HOLZER: Yes.

CHAIR: Okay. That's step one. Number two, Dr. Clark here has already testified about amplification in terms of a condition. If that's where the direction you're going, perhaps to see if there's a distinction between him as an individual and an association. If that's not where you're going, I'm not quite sure the, the purpose for it. So, if you could continue with your foundation. But recognize, there's only so far we're going to go before it does cross over to the code enforcement aspect.

MR. HOLZER: I am tired, Mr. Chairman, I am tired of hearing about code enforcement. I understand, after eight days of this hearing, that you allege that you do not have authority to consider code enforcement. I am, obviously, also interested

in that aspect from a legal perspective. But I am not going there. I am not going for a code enforcement --

CHAIR: What did I just say? Continue with your foundation. I just said be wary of, if you're trying to get, if it may touch on those grounds, you will hear from Mr. Schmidt again and you'll hear from me again. So, if you're not going in that direction, by all means, ask your question to the witness.

MR. HOLZER: My question was very simple.

CHAIR: I understood that, I, --

MR. HOLZER: Does he recall --

CHAIR: -- I'm sorry, I am going to, I will rehash this one last time. I understood now your question to be foundational. I was allowing you to ask your question because it was foundational. I asked you to proceed and I just said, as a caution, if you start going down the code enforcement road, you will hear from Mr. Schmidt and me. You may proceed with your next question. I'm overruling the objection to the first question now that I understand it was foundational.

MR. HOLZER: Thank you. Mr. Clark, my original question was, do you recall having attended the Administrative Law Judge hearing and have, and having received what his decision was, was there any discussion or condition imposed by him which related to amplification?

MR. CLARK: Yes.

MR. HOLZER: And do you recall what that condition was?

MR. CLARK: No outdoor amplification.

MR. HOLZER: Okay.

MS. DOPKIN: Can you please speak into the microphone?

MR. CLARK: Oh, I'm sorry, I'm sorry. No outdoor amplification.

MS. DOPKIN: Thank you.

MR. HOLZER: Okay. Now, if, let's not get into the question of whether on an appeal whether that condition applies or doesn't apply. Do you understand that?

MR. CLARK: Oh, I do.

MR. HOLZER: Okay. Now, is amplification, outdoor amplification, a concern to you as an individual?

MR. CLARK: Yes.

MR. HOLZER: And why?

MR. CLARK: This section, this, this part of my testimony is about voracity and, and --

MR. HOLZER: No --

MR. CLARK: No, no --

MR. HOLZER: Objection to my own question. Answer the question.

CHAIR: Dr. Clark, we could get through this --

MR. CLARK: I would love to just testify.

CHAIR: -- a lot faster if you just answer directly to the --

MR. CLARK: Yeah, yeah.

CHAIR: -- questions that are being posed to you.

MR. CLARK: Yeah.

CHAIR: I understand this is a, a very big experience for you, it's frustrating, there's a lot going on. We'll get through this quicker if you just answer the question --

MR. CLARK: All right, okay, okay.

CHAIR: -- that's posed to you.

MR. CLARK: Ask me again.

MR. HOLZER: Why is amplification important to you as an individual?

MR. CLARK: Because it affects my property, it destroys my solitude.

MR. HOLZER: Thank you. Now, as a result of those foundational questions, during the course of the testimony by the Petitioners, was there any discussion by Mr. Ghimire about the use of outdoor microphones?

MR. SCHMIDT: Just a clarification, prospectively or in the past?

CHAIR: That's fair, --

MR. HOLZER: I don't care prospectively or what.

CHAIR: -- no, hold on, hold on. Let's just make sure we're talking about the same timeframe. That is not an

unfair insertion into this because it would make it, the record clear as to what we're referring to. So, when you say amplification, are you referring to that which is, that which has already occurred, or that that may occur in the future?

MR. HOLZER: Both.

CHAIR: Well, let's take it one at a time and you may ask both questions.

MR. HOLZER: No, because the question is, did Mr. Ghimire say something about the use of a microphone. I don't need to distinguish when.

CHAIR: And, it, it's the same --

MR. HOLZER: He testified.

CHAIR: All right. Well, you know what? Dr. Clark, you've heard the question as posed.

MR. CLARK: Yes.

CHAIR: Do you understand the question?

MR. CLARK: I --

CHAIR: Can you answer the question?

MR. CLARK: Yes, I can.

CHAIR: Please answer the question.

MR. HOLZER: And speak up so that --

MR. CLARK: Right.

MR. HOLZER: -- Ms. Dopkin can hear you and sit up straight.

MS. DOPKIN: And the recording can hear him.

MR. HOLZER: Yes.

CHAIR: Dr. Clark?

MR. CLARK: Mr. Ghimire testified that there would be no amplified, amplification of any kind.

MR. HOLZER: As, was that, to your knowledge, relative to a microphone? Did he mention anything about a microphone?

MR. CLARK: Yes, he, he said, he said no microphone, no loudspeakers.

MR. HOLZER: Okay and was that presented as a way, to your knowledge, for the Board to consider that as a condition to any approval?

MR. SCHMIDT: Objection.

CHAIR: What is the basis of the, stand up, please.

MR. SCHMIDT: It, I, I believe, I did rise for that, sat down very quickly. I believe the question is asking why Mr. Ghimire testified.

CHAIR: I didn't understand it that way.

MR. SCHMIDT: I think he said, and was that presented for, and then he went on.

CHAIR: Hold on. We'll clarify that.

MR. SCHMIDT: That, and that being what Mr. Ghimire said.

CHAIR: We will clarify that. Mr. Holzer, what was your question again, please?

MR. HOLZER: Could it be repeated? We all, we don't have a stenographer here.

CHAIR: Correct.

MR. HOLZER: I don't even remember at this point.

CHAIR: What question do you, would you want to ask?

MR. HOLZER: You know, --

CHAIR: It was about microphones, loudspeakers, conditions, that's where you were going with this.

MR. HOLZER: Yes. That's got, that's off the track of what these last two questions were. But I'll go back. Did Mr. Ghimire indicate in his testimony there would be no outdoor speakers system --

MR. CLARK: Yes.

MR. HOLZER: -- or microphones?

MR. CLARK: Yes.

MR. HOLZER: And in his testimony before this Board?

MR. CLARK: Yes.

MR. HOLZER: Okay. What, if anything, have you reviewed, either past or future, that would address whether or not that is correct or true or not?

MR. CLARK: Well, we, and, and they're introduced as evidence, we have videos of the events --

CHAIR: We've seen the videos.

MR. CLARK: We've got that.

CHAIR: We went, counted the microphones, we did all

that stuff.

MR. CLARK: Right. But I'm offering it to rebut that testimony.

CHAIR: Wasn't that already offered for that purpose? I know, I know we --

MR. CLARK: I, I, I, I don't know.

CHAIR: -- we reserved this section as rebuttal but didn't we already go through the video to count the microphones to show this is different than what was represented?

MR. CLARK: I don't, I, I --

CHAIR: Mr. Holzer, is that your recollection?

MR. HOLZER: No, but if it's yours, that's fine. I'm, I've had it.

CHAIR: I understood, I understood at the time, whether expressly stated or not, that this shows that there's outdoor amplification by virtue of these microphones and speaker system and we sat there, we counted the microphones, we pointed out the speakers.

MR. HOLZER: Correct.

MR. CLARK: Yeah, we did do, we did do that, I know.

CHAIR: Yes.

MR. HOLZER: Correct.

CHAIR: And there were photographs and video.

MR. HOLZER: But was that considered, at the time, going to the voracity or the witness in terms of the witness'--

CHAIR: By implication, that's how it was understood and that was to address that very point.

MR. HOLZER: Okay, fine. Then I'm going to drop, I'm, I'm going to drop this anymore. I'm tired of dealing with this. As an individual who lives across the street from this site, would, what would your request be to this Board in regard to outdoor amplification and use of either microphones, drums outside, anything else that produces noise, normal than the human voice?

CHAIR: And I, we need to split that question. When you talked about amplification, let's stick to microphones, speakers and that stuff. If you want to address music separately, address that separately.

MR. HOLZER: Well, drums and noise.

CHAIR: I'm not, I'm not disputing, I'm not disputing what you're saying. But you called it amplification. A drum without a speaker system or microphone is different than with.

MR. HOLZER: Correct.

CHAIR: So, that's why I'm saying let's split your question in two.

MR. HOLZER: Can you handle it, two questions?

MR. CLARK: I can answer it very easily. It's already been subsumed in my testimony as a representative of the board.

CHAIR: Okay. So, you would like a condition

relating to those both, that is, one the outdoor amplification aspect and two, any outdoor music and that kind of --

MR. CLARK: And I believe they're already in there.

CHAIR: You did specify both during the course of your testimony on behalf of the association with respect to possible conditions?

MR. CLARK: I did not.

CHAIR: You did.

MR. CLARK: Oh, I did? Yes, I thought I did.

CHAIR: Yes, you did.

MR. HOLZER: All right.

CHAIR: At least that's how I recall it.

MR. HOLZER: Will you put that on the record?

CHAIR: No, actually I have it written down because he said no rock concerts, no outdoor events, those kind of things.

MR. HOLZER: Okay, okay.

CHAIR: It's understood that that would include playing drums outside and whatnot.

MR. HOLZER: Okay. So, in the Board's opinion, that would be included --

CHAIR: That, that is his testimony already covered that ground.

MR. HOLZER: Gotcha. All right. I'm finished there.

CHAIR: Thank you. All right. You said you

finished?

MR. HOLZER: There.

CHAIR: Yeah. I, I, I seized upon the finished part, sorry. What else do we have to go through? Because I, I have to think we have exhausted nearly everything, nearly. I'm leaving, I'm leaving room open there for you.

MR. HOLZER: I still have comments in regard to development expertise and the entire process.

CHAIR: I, I don't know what you mean by those things.

MR. HOLZER: But I do have more testimony.

CHAIR: Okay.

MR. HOLZER: There is more testimony.

CHAIR: I, so, --

MR. HOLZER: I will try to limit it, if I can, at lunch time, whenever that is, I don't --

CHAIR: Well, my, my inclination is to finish up his direct.

MS. DOPKIN: Now?

CHAIR: Yes.

MR. SCHMIDT: Before the lunch break?

CHAIR: Before the lunch break.

MR. SCHMIDT: Yes, sir.

CHAIR: Because I, I want this case to be moving. I don't want to come back to hear we have another two or three

hours of testimony or whatever. I'd rather just get through the testimony and then deal with cross after lunch. And if that means that lunch has to be much later than normal for some people, so be it. I see you trying to call a time out.

MR. CLARK: Thank you, sir.

CHAIR: And it looks like it's a full time out, so. Do you need a break?

MR. CLARK: Yeah, just a five minute, yeah.

CHAIR: Understood. Okay. We'll go on a five minute break.

MR. CLARK: Thank you, sir.

(RECORDING PAUSED – 12:22:59 PM)

(ON RECORD – 12:32:28 PM)

MS. DOPKIN: We're on the record.

CHAIR: Okay. We are back on the record, thank you. Mr. Holzer, where are we with the end of direct?

MR. HOLZER: We were diverted because of going to the 502.1 criteria, so now I have to go back where we were talking about Mr. Collagero and Mr. Motsco's testimony, I passed --

CHAIR: I, I will, I will add to that, I understand you want to introduce some things or talk about some things for impeachment purposes or rebuttal purposes or whatever the, however you want to classify it or characterize it. To the extent that that information and testimony has already been provided by this witness, that would be impeachment, we don't

need to have it identified a second time as impeachment if it's already in the record. What I mean by that is, take the microphone example.

MR. HOLZER: Um hm.

CHAIR: We just had. Even if it's not specifically designated as impeachment evidence at the time given, certainly you're going to be able to argue that it is, in fact, able to be used for impeachment and whatever substantive value this witness had to say about that.

MR. HOLZER: Okay.

CHAIR: So, just to help streamline things, you don't, we don't need to designate one for one us and have a second use if the same piece of evidence can be used for both, because you're able to certainly make that argument, --

MR. HOLZER: I just wanted to make sure because the Board it, itself, made that distinction and I wanted to make sure that my questions, that was broken down that way.

CHAIR: The reason why we did is because that was what was alerted to us as to how it was organized for Dr. Clark's testimony.

MR. HOLZER: Okay.

CHAIR: If it's going to be the same evidence that's used for one purpose, it could be used for any purpose and we don't need to hear about it a second time, third time or whatever the case may be and I use the microphone example just

because that's a recent example of it.

MR. HOLZER: I'll try to, as I've been doing all day, trying to limit --

CHAIR: This is not a critique of your performance.

MR. HOLZER: I understand, I understand. So, can I get started.

MS. DOPKIN: Please.

CHAIR: Please do.

MR. HOLZER: Okay. Mr. Clark, before we got into the 502.1 criteria discussion, before we got into the community association analysis and their testimony, you were talking about as an individual clarification of certain facts, okay? And I want to get to the question of the NACCB, Inc. in terms of who they are, what they are and what, if anything, you've done to analyze that and present it to the Board. So, that's the topical area of --

MR. CLARK: Got it.

MR. HOLZER: -- where we are. Okay? Have you viewed the, the NAACB Articles of Incorporation?

MR. CLARK: I have.

MR. HOLZER: And where did you get that?

MR. CLARK: Well, actually, it's marked as Petitioner's Exhibit 5.

CHAIR: It has been accepted in evidence.

MR. HOLZER: Okay and as a result of that, what

comments, if any, in regard to Petitioner's Exhibit 5 do you have as an individual that has not been expressed?

MR. CLARK: Yeah, and, and these have not been expressed.

CHAIR: Well, okay, I, I want to make clear, if this is argument about what they should or should not do or anything like that, that I think is better reserved for Mr. Holzer in his closing brief. If there's something more specific factual that you want to identify for us, obviously you're just laying your foundation for it, so I'm going to see where this goes.

MR. HOLZER: Okay.

MR. CLARK: I think that's the case.

CHAIR: But if you're just reading something to say, again, here's, I like this or whatever the case may be, --

MR. CLARK: Oh.

CHAIR: -- we don't, we don't need to hear that. Because Mr. Holzer will take care of that.

MR. HOLZER: No, Mr. Chairman, I apologize, but I may not even file a brief. So, I don't think we can proceed in that fashion.

CHAIR: Well, I'm not allowing him to answer questions about his interpretation of what the Articles of Incorporation say. So, if there's something factual you want to, you want to elicit from him for the record, by all means, go for that.

MR. HOLZER: That's what I tried to do.

CHAIR: But I'm not going to stand here for, for a critique of Articles of Incorporation unless there's some other foundation laid as to why this witness would be appropriate for that fact, which you can also raise in terms of an argument as to they are supposed to do x, y, z, not a, b, c. Because we will be reading the Articles of Incorporation and have an opinion and an interpretation of the Articles of Incorporation.

MR. HOLZER: And all I'm asking for is him to be able to point out something in the Articles that he believes he's concerned about.

CHAIR: Very well.

MR. HOLZER: That's it.

CHAIR: I, I was only cautioning him about the testimony. Mr. Clark, please proceed.

MR. CLARK: All right. Two things. I would like you to look at the purpose of the, of the corporation, okay?

CHAIR: Okay.

MR. CLARK: I would like you to look at the name of the corporation.

MR. HOLZER: Where, where would they find that in Petitioner's Exhibit, Petitioner's exhibit number five?

MR. CLARK: It would be on the second page.

MR. HOLZER: Okay.

MR. CLARK: It's the second article and then the

third article.

MR. HOLZER: Okay.

MR. CLARK: Okay? I would like you to see on the next page, on page three, where they previously held service, that --

MR. HOLZER: Well, could you just tell us what it is? It's in the document, right?

MR. CLARK: Yeah, well, but he doesn't want me --

CHAIR: Hold on.

MR. CLARK: Yeah.

CHAIR: My, so I'll explain this. We can read the Articles of Incorporation.

MR. CLARK: Right.

CHAIR: I'm trying to remove that from the purpose of your testimony.

MR. CLARK: Right.

CHAIR: Because we can read that.

MR. CLARK: Right.

CHAIR: What is it about the Articles of Incorporation --

MR. CLARK: Okay.

CHAIR: -- that you feel you need to tell, tell the Board that's --

MR. CLARK: The, the fifth item.

CHAIR: Okay.

MR. CLARK: Principal place of worship happens to be Mr. Ghimire's real estate office so that served their purposes, okay?

MR. SCHMIDT: Objection. Objection. This, this has no relevance at all, Mr. Garber. If he's talking about --

CHAIR: Okay. Your objection is relevance, I got that. Mr. Holzer, do you wish to respond?

MR. HOLZER: I'm not going to argue anymore.

CHAIR: Okay.

MR. HOLZER: Do what you're going to do.

CHAIR: Mr. Holzer, I would just ask that you reconsider your tone to this Board.

MR. HOLZER: I'm sorry, but that's been the way I've been treated --

CHAIR: Starting immediately, starting immediately.

MR. HOLZER: Fine, thank you.

CHAIR: Okay. The question was the principal place of worship and you've identified Mr. Ghimire's address.

MR. CLARK: Right.

CHAIR: There is an objection pending as to the relevance of that. Mr. Holzer, do you wish to ask another question?

MR. HOLZER: Yes, sure. Is there anything else that you would like --

CHAIR: This is to avoid the objection. If you

cannot avoid the objection, do you wish to proffer something?

MR. HOLZER: No, I don't want to do anything.

CHAIR: Okay. There is no question pending. Your objection is sustained.

MR. HOLZER: Okay. What other area of the Articles of Incorporation would you like to point out to the Board?

MR. CLARK: The leadership and also I would point out that my understanding as a layman from what I read on the website from the State, okay?

CHAIR: Okay.

MR. CLARK: Is that if you wish to incorporate as a house of worship, you must, you must, in purpose of the corporation, include that you will have a congregation.

MR. SCHMIDT: Objection, move to strike. That's a legal conclusion. I think it's best reserved for argument as to what's required under Maryland law.

CHAIR: I would agree with you. I will say though I would have sustained the objection but the answer is already out there in the record.

MR. SCHMIDT: Well, I move to strike it, Mr. Garber.

CHAIR: I understand you're moving to strike. It's in the record now. It does not matter. I, but please caution your testimony.

MR. CLARK: Yeah, all right.

CHAIR: Because I would have sustained that from the

outset.

MR. CLARK: All right.

MR. HOLZER: Do you have any other concerns about the Articles of Incorporation?

MR. SCHMIDT: Objection. I don't want to be late on this one and I don't know where we're coming from, --

CHAIR: I understand, thank, thank you.

MR. SCHMIDT: -- but if it's discussion about the Articles of Incorporation, I don't believe Mr. Clark is a member of the Bar, which would possibly allow him to render some legal opinion about what is required under State of law. The Articles of Incorporation are what they are.

CHAIR: The, Mr. Schmidt, I, I understand your objection.

MR. SCHMIDT: Thank you.

CHAIR: What my comment was directed to was, yes, it sounded to me that he is reading the Articles of Incorporation and/or the SDAT website, coming to some conclusions and asking the Board, or telling the Board about his conclusions when the Board is going to have to do the same thing and is more ripe for the parties' counsel to argue during the course of argument.

MR. SCHMIDT: Yes, sir, thank you.

CHAIR: Yes. So, on that basis, to the extent that that's where the question was going, I would sustain the

objection. However, Mr. Holzer, if that was not the purpose of the question, you may ask another question about the same subject matter.

MR. HOLZER: No, I don't want to ask the same question.

CHAIR: Very well. The objection is sustained. You may move on.

MR. HOLZER: All right. In terms of that area, I am not going to ask any further questions.

MR. CLARK: Yeah.

MR. HOLZER: Do you understand?

MR. CLARK: Yeah.

MR. HOLZER: Mr. Clark?

MR. CLARK: Yeah.

MR. HOLZER: Okay.

CHAIR: And to be clear, Mr. Holzer can argue that in a brief, if he chooses to do so.

MR. CLARK: I understand that, Your Honor.

MR. HOLZER: There was, there was testimony about the de, well, there was discussion about development expertise. Do you understand?

MR. CLARK: Yeah.

MR. HOLZER: Okay.

MR. CLARK: Yep.

MR. HOLZER: What, if anything, do you want to

testify to about the, the development of this project by the Petitioner?

CHAIR: Before you start, I saw Mr. Schmidt trying, starting to get up. Mr. Schmidt, just succinctly, what is your objection?

MR. SCHMIDT: Yes, sir. Primarily, relevance and when I say that, I'll try to be brief, Mr. Garber. I know there's a requirement, for example, when a development plan is being considered, and I'm sure the Board has had cases that there has to be shown as part of the proof a reasonable expectation that the development will occur. That's part of a development plan approval. There is no such requirement, to the best of my knowledge, insofar as a Petition for Special Exception. So, whether the Petitioners in this case know nothing about the development process, or whether they know how to develop property, they may very well retain experts who do. But I don't believe there's a requirement under 502.1

CHAIR: Okay.

MR. SCHMIDT: That's my objection, thank you.

CHAIR: I, I am going to hit the pause button on that because I have a question, just to, I understand and, and I don't know if Ms., we'll have Ms. Dopkin and Mr. McComas as well, when we're referring to development expertise, what are you referring to?

MR. CLARK: To the original purchase of the property.

CHAIR: Okay and what about the purchase, or the original purchase of the property, I, I'm trying to figure out where we're going with this --

MR. CLARK: Yeah, no, no, I know, I know.

CHAIR: -- and what this, this development expertise, I don't know what we're referring to yet.

MR. CLARK: Right, right.

MS. DOPKIN: Excuse me. Mr. Holzer, it would help me if when you frame these questions you could give us an indication of what we're trying to demonstrate, if it's, as in the last series of question, impeachment or misrepresentation. That way we might eliminate some of this back and forth, if that's not too much to ask.

MR. HOLZER: Thank you.

CHAIR: Okay.

MR. CLARK: Okay. To answer Ms. Dopkin's question, the whole issue of due diligence and where that falls, where the consequences of a lack of due diligence falls, okay? That, that, that's what I want to address with this.

CHAIR: Okay. I, I just need to know what you're, where we're about to go.

MR. CLARK: Yeah.

CHAIR: Mr. Schmidt, on your objection I will overrule it for the moment.

MR. SCHMIDT: Okay.

CHAIR: I'm still trying to assess what's happening here but --

MR. SCHMIDT: Can I --

CHAIR: Go ahead.

MR. SCHMIDT: Just to clarify, as I understand, at least I, where I think Mr. Clark is going on this, is he is a, he's going to assert in terms of due diligence that my clients did not do the appropriate due diligence before they purchased this property.

CHAIR: Please don't gesture when you --

MR. CLARK: No, I'm sorry.

CHAIR: Thank you.

MR. SCHMIDT: As to the, the legal requirements. If that's what he is asserting, I don't think that's relevant. But then I would say that I would understand then that I would be able to argue the Board that my client's would be prejudiced since they purchased the property, the Board should grant the special exception.

CHAIR: I, I, I got to be honest. I, I have no idea where we're going with this yet. So, because of that, I will overrule your objection at the moment but I, you know, obviously you have the ability to object to further questions.

MR. SCHMIDT: Yes, sir, thank you.

CHAIR: Mr. Holzer, do you wish to direct a question to --

MR. HOLZER: I'm advising my client on the basis of what's occurred not to get into anything in regard to development expertise.

MR. CLARK: Okay.

MR. HOLZER: So, that takes care of that.

CHAIR: Okay.

MR. HOLZER: I believe that leaves us with one last area that you wanted to talk about?

MR. CLARK: Yeah, I would.

MR. HOLZER: All right. In terms, I would, this question goes to, and his proposed testimony, goes to whether or not the entire process has been corrupted in this case.

CHAIR: By process, I'm trying to understand where --

MR. HOLZER: (inaudible) I'll, I'll make sure you understand.

CHAIR: Okay, because we have, we have the ALJ hearing plus the Board of Appeals, right? So the Petition itself, or is this going to date back to the purchase of the property, you see what I'm saying? There's, there's a lot that could be within there.

MR. HOLZER: I understand.

CHAIR: Okay.

MR. HOLZER: All right. The, basically the area that you wanted to address relates to the, initiating with the Van Domelin letter, the Zeller letter, no response from the zoning,

and, and again, it's what you've already said you're not here to do. It relates to the code enforcement issues. He feels, and this is, in effect, almost a proffer. He feels that the County has intentionally avoided reacting to the State Highway Administration letter, allowed a certain situation to occur, which all related back to the code enforcement.

That he has not received any zoning compl, response to his zoning complaints from people in the zoning office, including and all the way up to the director. That, in fact, that at the director's level he believes and wants to proffer that the director intentionally did not pursue the zoning violations and so forth.

He wants to indicate that the County Councilman had interrupted and interfered with this matter, and this case, and the process in the very beginning of this. He wants to identify the fact that there has been a political analysis and situation occurring, which created the reason why the community's efforts to ensure the neighborhood back in the very beginning were not protected.

He also wants to testify or re, or comment upon what he calls the secret letter, what I call the letter that I was not as a, as a representative of the, of the Protestants, Mr.--

CHAIR: Exhibit 34?

MR. HOLZER: -- Mr., yeah, the Motion.

CHAIR: The subject of your Motion?

MR. HOLZER: The subject of my Motion. That Mr. Kotroco addressed Mr. Beverungen without notifying me, that Mr. Beverungen made a decision without, without notifying me. I took an appeal from that decision and we heard nothing from this Board in regard to whether or not that could be consolidated with this hearing. I had a Motion to consolidate it but, as a matter of fact, I didn't file it at that, at that point because we had already gotten involved in the case.

CHAIR: Let me say, and let me, let me just jump in. As to the Motion for Exhibit 33, or 34, the testimony that you would like to elicit from Mr. Clark --

MR. HOLZER: I want to testimony, get any testimony from him. It's in the Motion.

CHAIR: There, I thought you, you were giving us a road map as to the matters that perhaps you would be going down with his testimony.

MR. HOLZER: No.

CHAIR: I was only going to suggest that why don't we have resolution of that Motion prior to exploring it because it may or may not be needed as a result of whatever happens for that Motion. But out of fairness to Mr. Schmidt, he hasn't had the ability to respond in writing as of yet.

MR. HOLZER: That's not where I was going.

CHAIR: Okay.

MR. HOLZER: I'm giving you an outline of what he

would have said, his comments, so we're not going to present him --

MR. SCHMIDT: I'm, I'm not objecting, Mr. Holzer. Ask your questions.

MR. HOLZER: I didn't, I didn't ask you to. I'm not intending to have him answer any of these questions. I'm doing this for purpose of a proffer of what he would have said --

MR. SCHMIDT: Well, put it, put it on. Put it on. You can't, I mean, my understanding --

CHAIR: Well, no, hold on, hold on. Mr. Schmidt, I understand where you're going with it. I'm waiting for him to finish.

MR. SCHMIDT: Yes, sir.

CHAIR: Let him finish.

MR. SCHMIDT: Then, then I'll be heard at that time. Thank you, Mr. Garber.

MR. HOLZER: That's fine. In regard to Mr. Ghimire's testimony and Mr. Marks being involved in day one, Ghimire's testimony bragging about Brochins, who was a candidate for County Executive at the time, interfering with County employees' performance of their duty and repeated, and repeated --

CHAIR: And correct me if I'm wrong, there is some, there's something in the record about that already?

MR. HOLZER: I know, just a little bit. It was just

a comment, I think.

CHAIR: Is that your recollection too --

MR. HOLZER: Yes.

CHAIR: -- is what I'm asking?

MR. HOLZER: Yeah.

CHAIR: Okay.

MR. HOLZER: And finally, the Petitioners' repeated attempts to make this case about something other than land use, basically, racial or religious or, you know, efforts to show, to characterize the Protestants in that fashion.

CHAIR: Understood.

MR. HOLZER: That's the proffer. I am not going to permit the witness to testify to any of that. At this point it's irrelevant, I don't want it ruled on and as a result, the matter will be raised, as you indicated, in some subsequent action.

CHAIR: There cannot be a proffer of, of testimony that you're not going to attempt to elicit. However, having said that, I will note as to, as it relates to the Zeller letter and SHA and the code enforcement matters that we discussed yesterday, what I recall from the rulings was no, we are not going down the road of the code enforcement or anything like that.

MR. HOLZER: Right.

CHAIR: However, to the extent that something ties to

a special exception factor, which I believe is what the Zeller e-mails did, that came into evidence --

MR. HOLZER: Right.

CHAIR: -- whereas the code enforcement, particularly of Mr. VanDomelin and whomever else, that did not, base, so the ruling was consistent and what has been received is consistent with that ruling. As to the code enforcement matters, we covered that yesterday as to what this Board could do with respect to the non-action or inaction or disregard of any requested action. There's not much we can do sitting here about that.

As to the County Councilman stuff, I don't believe that's appropriate for us to address what the County Councilman should/should not have done or anything to that degree. Plus it doesn't speak to the Petition itself.

As to whatever political analysis that may have been done in terms of why things happened the way they did, once again, that is not something we can, accept, accepting even for the moment, all true, all accurate, that we can do anything about sitting here today and I believe I expressed yesterday I understand the frustration for Mr. Clark, Dr. Clark, based on these e-mails and everything as to the lack of what he, he is, based on your proffer, would say would be a corrupt process, in quotes. I understand that frustration but there's only so much we can do sitting here today and that's discuss the Petition

filed by Petitioner plus whatever evidence Dr. Clark and the other Protestants have put in regarding the subject matter of that Petition.

So, with that in mind, do you wish to end, end, ask any questions on that basis with the, that following guardrails?

MR. HOLZER: No, because you just testified, or commented upon all, each of the issues that I touched on and said that they are improper or not to be received by the, by the Board. So, I will leave it at that. And --

CHAIR: And that's, to be clear, that's not what I said, but the record will speak for itself.

MR. HOLZER: Well, the record will show what you just said and it was various denials of, of anything I would call him to say anyway.

CHAIR: Except for, again, the Zeller letter which was admitted into evidence.

MR. HOLZER: Yes.

CHAIR: Because it spoke to a specific --

MR. HOLZER: Right.

CHAIR: -- special exception factor. So, if you had anything in that vein, that is, something that speaks to a special exception factor, you know, that has not been ruled upon.

MR. HOLZER: This is what the witness wanted to say

and based on your ruling just now, if, if he wanted to talk about the interference of the County Council or County representative, you would not permit that. If it was related to improprieties in, in regard to enforcement, that would not be permitted. So, in effect, you have, what I tried to do is to make the proffer of what he wanted to say, knowing that it would just generate another three hours' worth of discussion and, and you know, at this point I didn't see the relevance of doing that.

CHAIR: I, I don't think you mean relevance but I understand what you mean by that.

MR. HOLZER: Yes.

CHAIR: So, the bottom line is this. I've asked you if there's any other evidence to present along these lines. I understand there is no more evidence to be forthcoming along those lines.

MR. HOLZER: That's correct.

CHAIR: Does that then conclude the direct testimony of Dr. Clark?

MR. HOLZER: Well, I want to ask him if there's anything else at this point. I've gone through his different lists of what he wanted to present and I have precluded him from presenting the other, and now I've precluded him from presenting this on the basis of the proffer. So, I just want to ask him a few general questions to, to close up.

MR. SCHMIDT: And I'd just like the record to reflect that I raised no objection or said very little during this most recent exchange and I agree with the Chair's comment that a proffer in these circumstances is a statement to the Court, or in this case to the Board, of what the testimony would be upon the Board ruling that it will not accept the testimony. I'm not quite sure how Mr. Holzer makes a proffer when he says he doesn't want to offer the evidence. So, I'm not quite sure procedurally how he can do that. I've never, quite honestly, heard of such a thing. But if Mr. Clark wants to testify and allege all different kinds of corruption in Baltimore County and name names and so on and so forth, I have no objection to it.

CHAIR: Well, I, --

MR. HOLZER: Thank you. I will accept that -=

CHAIR: -- I, I'm just going to clarify what Mr. Schmidt said.

MR. HOLZER: I understood what he said, Mr. Chairman.

CHAIR: No, I am clarifying it for the record --

MR. HOLZER: And I'll accept it.

CHAIR: -- so my, the ruling that I just elicited, given the subject matter identified by Mr. Holzer, incorporated rulings from yesterday based on objections from yesterday.

MR. SCHMIDT: Yes, sir.

CHAIR: So, in, in the matter of consistency and

efficiency, I have identified that for the record but have asked for any other questions to follow, that Mr. Holzer, Dr. Clark believe could be made part of this record subject to the same rulings that have been applied in this case.

MR. HOLZER: Thank you.

CHAIR: With that in mind, Mr. Holzer, if there's anything further --

MR. HOLZER: Yes.

CHAIR: -- you wish to say?

MR. HOLZER: Mr. Clark, you are now prepared to testify in regard to the entire process has been corrupted, so please begin, start at the beginning and say what you want to say relative to Mr. Ghimire's testimony first and then the VanDomelin letter and let the Board rule on it.

MR. CLARK: In, Mr. Ghimire has testified that Arnold Jablon connected him with Mr. Kotroco at the ALJ, okay? I don't know how to proceed here, that, that's, that's --

MR. HOLZER: Well, why do you think that was wrong?

MR. CLARK: I don't know whether it was right or wrong, it's just, it's just that Mr. Ghimire testified to that. And then we have a letter from VanDomelin dated November 2017 sometime, where he was actually advising the clients on how --

CHAIR: Advising who?

MR. CLARK: The, the, advising the Petitioner.

CHAIR: Thank you.

MR. CLARK: How best to apply for a special exception that will get them what they want. And then I didn't understand why there was a cc to whom I have since learned is, is a politician, Bendary, okay? There was a, he, he initialed on it, cc'd Bendary.

MR. HOLZER: Do you, do you, did you obtain that document?

MR. CLARK: By a FOIA request.

MR. HOLZER: Okay and --

CHAIR: Ninety-four.

MR. SCHMIDT: And I show you a copy.

CHAIR: We have multiple, multiple extra copies, Mr. Holzer, if you'd like this back?

MR. HOLZER: Sure, thanks.

CHAIR: Yes. Okay, sir. Could you please identify the one page document that is now marked as Exhibit 94?

MR. CLARK: Yeah, this is, this is a letter to Hindu Buddha Temple complaints and you can read it for yourself.

MR. HOLZER: I want you to point out what, in the letter, that you think is, produced your comment.

MR. CLARK: Okay.

MR. HOLZER: You don't have to read it, just point it out.

MR. CLARK: However, the purpose of, the, the, the last paragraph, also the, the, starting in the middle of the

second paragraph, Mr. Jablon, that you meet with the community, which was never done. And then at the top, you'll see that it was also, someone wrote to the, at, at the top in pencil, and this is on the original document, also to Harry Bendary, Nepali Public Affairs Counsel and Tim Kotroco.

CHAIR: Who is also copied at the bottom.

MR. CLARK: Yes, Tim Kotroco is copied at the bottom, yes, yes.

CHAIR: And as I understand it, you don't know whose handwriting that is?

MR. CLARK: I do not.

CHAIR: Very well.

MR. CLARK: It, it was on the original document --

CHAIR: In pencil.

MR. CLARK: Right.

CHAIR: Right, understood.

MR. HOLZER: Okay.

MR. SCHMIDT: Mr. Schmidt, any objection to ninety-four?

MR. SCHMIDT: No, sir.

CHAIR: So admitted.

MR. HOLZER: Okay. Let's, let's move down the list then. In regard to non-response to zoning complaints.

MR. CLARK: Yeah, there was, it was prior to that letter and this is a little bit out of sequence but prior to

that letter, I had met with Mr. VanDomelin and he told me that he wanted to know of any events, of any large events held on the property and he would act. So, the pictures that you saw of the nighttime from September 2017 there were about seventy-five, eighty pictures and, and that, and, and I included them in a letter that I sent to him. And in a subsequent meeting, he told me, you know, sometime later, I can't remember, well, yeah, I can't act on that, it's not enough, okay?

MR. HOLZER: Did you receive any notification in regard to that?

CHAIR: To what he just discussed?

MR. HOLZER: Yes.

CHAIR: You used the word that, that's why --

MR. HOLZER: Oh, I'm, I'm sorry.

MR. CLARK: Well, yeah, the, the --

MR. HOLZER: Well, stop.

MR. CLARK: Okay.

CHAIR: Remember, we have to wait till the copies are passed out first.

MR. CLARK: Yeah, sorry.

CHAIR: Thank you. Thank you. This is ninety-five? Right, Mr. McComas?

MR. MCCOMAS: Yes, yeah.

CHAIR: One, two, three, four, five pages. All right. Dr. Clark, please identify what Protestant's Exhibit 95

is.

MR. CLARK: What these are is, I call them the green cards. They're the certified receipt --

CHAIR: Yes.

MR. CLARK: Okay.

CHAIR: We're familiar with what green cards --

MR. CLARK: Yes, I'm sure. These are, are the, are to document that I had sent, and it's already in the other thing, okay? The, the letter I had sent. And we got a re, from these letters we got a response from no one.

CHAIR: Okay.

MR. CLARK: It was crickets.

CHAIR: Well, it may be helpful if you can identify the addressees because I'm having a hard time reading it.

MR. CLARK: Okay.

CHAIR: And perhaps that's because I don't have my reading glasses on but also because the nature of the copy.

MR. CLARK: Okay.

CHAIR: So, if you could just give an example, like several examples of who, where these were sent?

MR. CLARK: All right. County Ex Moeller, Robin Clarke, Baltimore County Code Enforcement, Councilman Wade Koch, Councilman David Marks, Colonel John, I was really, Colonel John Garvelis (phonetic), who's at the, at MDOT, Arnold Jablon, Richard Zeller, Lionel VanDomelin, Karen Lewis, Matt

Goelle, Vince Gardenia, Ed Reiser, Jan McCook, Tracy Davis, Donna Kilduff, Dennis Kennedy and Lieutenant Yingling of the, of the Baltimore County Fire Marshal's Office.

MR. HOLZER: Okay.

MR. CLARK: Not one response.

CHAIR: Okay. When, and again, I know there are stamps on these cards. Can you give just the, the rough date range when these were sent?

MR. CLARK: Yeah, they were all, June 27th it looks like they were all date stamped.

CHAIR: Well, not Bates stamp but they were stamped by post office as being --

MR. CLARK: Yes.

CHAIR: -- received and mailed on the 27th?

MR. CLARK: Yes, yes. And while, no, now I'm seeing June 2nd, various dates, various dates, June 2nd to June 27th, the month of June 2018.

CHAIR: You got where I was going with it. I just want to make clear for the record that's the time frame --

MR. CLARK: Right.

CHAIR: -- you're referring to when these were sent.

MR. CLARK: Right.

MR. HOLZER: All right.

CHAIR: Any objection?

MR. SCHMIDT: No, sir.

CHAIR: So admitted.

MR. HOLZER: Thank you. Next, I believe I mentioned the secret letter. And so, the Board has the Motion, my Motion in regard to that. I think it is appropriate not to get into that until counsel has had an opportunity to replay, I've had an opportunity to reply to that and then the Board can take it up.

CHAIR: I, I would like that completed by next hearing date. So, in other words, I would like to see your response ASAP and then to give Mr. Holzer at least some adequate time for a response, for a written response.

MR. SCHMIDT: You'll have it by the end of this week.

CHAIR: Okay. Mr. Holzer, so, I don't, where's the calendar?

MR. HOLZER: I don't have the calendar.

CHAIR: February 5th is Tuesday.

MR. SCHMIDT: The 1st is Friday, you'll have it by Friday if that's soon enough. If not, I'll get it to you by tomorrow.

CHAIR: I would pre, yeah, okay. So, I'll get it, so as long as Mr. Holzer can get it by the 1st, so I would request that not only do you --

MR. SCHMIDT: I'll e-mail it.

CHAIR: -- serve it normal process but certainly e-mail Mr. Holzer.

MR. SCHMIDT: Yes, sir.

CHAIR: So he has the opportunity to at least try to file a written response by the 5th. So that we can rule and add this, Mr. Holzer, I understood previously, based on your proffer, you did not intend to go into any questions or testimony with Dr. Clark as to the content of that Motion, however it's disposed of?

MR. HOLZER: Correct.

CHAIR: Okay. So, then, because otherwise, you know, we have, there'd be no need to keep him, Dr. Clark's, testimony open for that purpose.

MR. HOLZER: Well, I might say, just, I, I don't want to cause any more problem, more delay, but Mary Clark and Mr. Clark because of the first day hearing where it was referred to but it was not introduced into evidence, caused me to say what are they talking about? What doc, what letter from Mr. Kotroco? So, I asked them, both of them, to go over to Beverungen's office to get me a copy and there was some things that subsequently took place that we were not able to get it initially, but then subsequently, after being told they didn't have it, we were able to go back and get it and that's how we got the, the, the document --

CHAIR: So, you may elicit testimony as to those efforts?

MR. HOLZER: Yes, yes.

CHAIR: Depending on how the Motion goes.

MR. HOLZER: Exactly. So, the, other than that, there would be no need for them to do anything else, most of it's my, my business.

CHAIR: Do you intend then to call Dr. Clark on the stand in connection with that, depending on how this resolves?

MR. HOLZER: Yeah, or Mary because I know Mary at one point --

CHAIR: I, I, the reason I'm asking is because I'm trying to get through Dr. Clark's testimony --

MR. HOLZER: Yes.

CHAIR: -- be done with him.

MR. HOLZER: Right.

CHAIR: But obviously, if there's still a point that would remain open --

MR. HOLZER: Yes.

CHAIR: -- then it will be subject to whatever that is and --

MR. HOLZER: To the very limited --

CHAIR: And that's my point is, --

MR. HOLZER: Yeah.

CHAIR: -- then any cross and all that would be limited to that issue.

MR. HOLZER: Absolutely.

CHAIR: Okay.

MR. HOLZER: Absolutely.

CHAIR: As long as we're all on the same playing field with that, that's fine.

MR. HOLZER: Yes.

CHAIR: We'll address it that way. But I do expect that we will go and, and discuss and deliberate the Motion on February 5th so that, again, I urge, I know you may not, maybe within where we are with the time for you guys, and I realize that we have a condensed schedule, so I'm asking to please get it to Mr. Holzer as early as possible.

MR. SCHMIDT: Yes, he'll have it either tomorrow or, or Friday.

CHAIR: Thank you.

MR. SCHMIDT: And I will e-mail it to him and I'll also provide it, hard copy and an e-mail copy to Ms. Cannington.

CHAIR: Of course.

MR. SCHMIDT: If she wants to e-mail, further forward that e-mail to any of the Board members.

CHAIR: In normal course, yes.

MR. SCHMIDT: Yes, sir.

CHAIR: And the same thing for any written res, reply by yourself as well, for the Board's consideration and to address during the course of the hearing on February 5th.

MR. HOLZER: Yes.

CHAIR: Again, normal course. All right.

MR. HOLZER: Now, now, as a result of that, Mr. Clark, I believe, has some comments about the use of the secret letter that might not be relevant to the argument or my request. But it is, he does have some, some testimony he'd like to give.

CHAIR: I would prefer that be reserved to that, to that day following the written response and reply, because that may influence how that is handled.

MR. HOLZER: Okay. Well, then --

CHAIR: In other words, I'm not shutting the door on what you were saying, I just think that that is the more appropriate time to address that.

MR. HOLZER: That's fine with me. I, I don't have a problem with that. There's also the use of a letter to relate to this Board and I think under your, your ruling, I will just include that at, for the time.

CHAIR: I'm going to just follow up real quick. I, just so I understand what you're referring to, and without getting into testimony --

MR. HOLZER: Yeah, I, I, I don't want to, to get into it.

CHAIR: Okay, that's fine.

MR. HOLZER: If it, if it relates to this quote, secret letter, --

CHAIR: That's fine. We'll reserve.

MR. HOLZER: I just want to preserve it for that point.

CHAIR: We'll reserve it to the 5th.

MR. HOLZER: I, I don't think it's appropriate to get into it now.

CHAIR: No, that's fine.

MR. HOLZER: Okay. All right. Mr. Clark, do you understand what I just told the Board?

MR. CLARK: I do.

MR. HOLZER: All right. So then there is comments about Mr. Ghimire's testimony (inaudible) that you wanted to talk about.

MR. CLARK: Well, in the ALJ below, he testified that Mr. Marks had been involved from day one. Mr. Marks told us at two Greater Kingsville Civic Associations that he could not be involved in any way, shape, manner or form with this whole process.

MR. HOLZER: Okay and do you have copies of the testimony below?

MR. CLARK: Yeah.

MR. HOLZER: Okay and is it just one, one, just one page? I think it is. I hope that's (inaudible).

CHAIR: Ninety-six?

MR. MCCOMAS: Yeah, ninety-six, ninety-six.

CHAIR: Okay. Mr. Schmidt, I'll give you the opportunity to review it.

MR. SCHMIDT: I did. I mean, it, it says what it says, but it's one of these things where lines one through twenty are not in there and then the, the full answer isn't even in there.

CHAIR: Okay. So, your objection is to completeness?

MR. SCHMIDT: Yes, sir. I mean, I'd like to see --

CHAIR: Do you have a copy of that transcript?

MR. SCHMIDT: I do not have a copy of that transcript.

CHAIR: Do you have a full, copy of the full transcript, Mr. Holzer?

MR. HOLZER: Yeah, we do.

CHAIR: Okay. So, we are not going to rule on that as of yet because we are going to provide Mr. Schmidt with the full transcript so that he may review the testimony before and at the complete answer, so that, to see if that resolves whatever issue Mr. Schmidt may have. I will ask Mr. Holzer, while Dr. Mary Clark is doing that, --

MR. HOLZER: Yes.

CHAIR: -- to proceed to the next question or topic.

MR. SCHMIDT: Yeah, and just, I'll just say, if, if Ms. Clark wants to just give me the transcript, I'm happy to have a copy of it made over the lunch break even and then give

it right back to her.

CHAIR: I, I will leave that to --

MR. SCHMIDT: If that's easy enough.

CHAIR: -- the parties to sort out. I'm just requesting that we move on.

MR. SCHMIDT: Sure.

CHAIR: Because we can't resolve that sitting here in the moment.

MR. SCHMIDT: Yeah, I mean, what I'm, and not to belabor the point, but as I read it, I mean, the rest of the answer is not there.

CHAIR: Well, I prefer to not here what's going on with it --

MR. SCHMIDT: Yeah, yeah, I'd just like to know what it is.

CHAIR: -- other, other than I understand there's a completeness argument because the answer itself is not complete, nor are you aware of what the testimony or questions or whatever they were, the context of how it came up.

MR. SCHMIDT: Yes, sir.

MR. HOLZER: Why don't you let the witness testify what he wants to say? Because otherwise, once they get it and they read it, then I'll have to bring him back for that.

CHAIR: I, I'm more comfortable with having Mr. Schmidt have the opportunity to review it because if he needs

to cross examine on it, we're going to be stuck here anyway. So, it would be just better to move on for the moment, try to resolve that during the course of a break.

MR. HOLZER: Okay, all right. All right. Well, this also relates to the question involved, that he started to answer.

CHAIR: I, I'm sorry, can you be more specific just so we have an idea?

MR. HOLZER: Yes. There are affidavits from Carol Shaw and, that she was there and heard the Councilman say that he couldn't get involved.

CHAIR: I, I will note that Ms. Shaw is present in the courtroom.

MR. HOLZER: That's correct.

CHAIR: But you want to hand up an affidavit of Ms. Shaw?

MR. HOLZER: Yes, because it certainly saves a lot of the Board's time. If you want me to call her as a witness --

CHAIR: Hold, hold on, hold on.

MR. HOLZER: Okay. Mr. Schmidt, how do you wish to address this?

MR. SCHMIDT: Can I see the affidavit first?

CHAIR: Yes.

MR. HOLZER: That's why I was getting them ready.

CHAIR: I, I, --

MR. HOLZER: And Mary Clark, --

CHAIR: -- I understand.

MR. HOLZER: -- Mary Clark is also here and has her affidavit. So, both of them are here, both of them can testify.

CHAIR: To date, there have been objections to all affidavits.

MR. HOLZER: I know.

CHAIR: Which is why I established this --

MR. HOLZER: I know, --

CHAIR: -- I am establishing this point.

MR. HOLZER: I understand. I'm not being critical. One, two, four.

MR. MCCOMAS: I'll make that ninety-seven.

CHAIR: Ninety-seven.

MR. MCCOMAS: Yeah, ninety-six, I just did i.d. only waiting for the full transcript.

CHAIR: Right, because we're not, there's no ruling on that as of yet.

MR. HOLZER: Oh, okay.

MR. MCCOMAS: So, this is ninety-seven.

MR. HOLZER: And ninety-seven, for the record, would include two affidavits, Ms. Shaw and Mary, Mary Clark.

CHAIR: Hold on.

MR. SCHMIDT: No objection.

CHAIR: Just to be clear, we have two pages. One says affidavit of Carol Shaw, the one underneath also says affidavit of Carol Shaw but it's actually Mary Clark's.

MR. HOLZER: You're right, you're right.

CHAIR: I, just for purposes of the record, so when someone's flipping through and they see two Carol Shaw's, if they, if you continue on it's actually from Dr. Mary Clark.

MR. HOLZER: Correct.

CHAIR: All right. And there is no objection by Mr. Schmidt, therefore, we'll, we will admit the affidavits that are Exhibit 97.

MR. HOLZER: Okay, thank you.

MR. MCCOMAS: Can, can I just get some clarification on this exhibit?

MR. HOLZER: Sure.

MR. MCCOMAS: So, I have Carol Shaw's, this is Exhibit 72, on September 19, 2019 I observed the following. I attended the Greater Kingsville Civic Association --

MR. HOLZER: Right.

MR. MCCOMAS: On September 20th, 2017, so she's attended two, this is two separate --

CHAIR: Well, hold on and wait, let me back up. Because seventy-two is not in evidence. So, all that's been received in evidence is the one about September 20th.

MR. MCCOMAS: (inaudible) checking to make sure that

they weren't (inaudible).

CHAIR: Right, no, understood.

MR. HOLZER: Okay.

CHAIR: If there's a problem, there's got to be another way to address it.

MR. MCCOMAS: Yeah.

CHAIR: Okay. This is ninety-seven so it's already in. So, Mr., Mr. Clark, you have Exhibit 97, which has not been objected to.

MR. SCHMIDT: That's the affidavits, right?

MR. HOLZER: The affidavits.

CHAIR: Well, as, as I understand it then, these are basically stipulations as to the, here's what these people would say if called to testify.

MR. HOLZER: Right, but I need him to articulate what the result of the, his discussion with the transcript --

CHAIR: You're not asking what was said in the affidavits.

MR. HOLZER: Right, right.

CHAIR: That's where I thought you were going, I'm sorry.

MR. HOLZER: No.

CHAIR: You may proceed.

MR. HOLZER: With the testimony document that was tentatively identified and these two statements, what is your

comment, what is your purpose of bringing that to the attention?

MR. CLARK: It's just, I, I can't reconcile it, I can't, --

CHAIR: You can't reconcile what?

MR. CLARK: Re, reconcile his statements to, to --

CHAIR: Whose statements --

MR. CLARK: Yeah, sorry, sorry. I can't reconcile Mr. Marks' statements with his active involvement, with his, no. I can't reconcile Mr. Marks' statements to the Greater Kingsville Civic Association with his apparent active involvement in promoting and, and, and assisting --

CHAIR: Well, we'll characterize it as this it seems. That, that is taken from testimony from Mr. Ghimire, correct? That understanding?

MR. CLARK: Correct.

CHAIR: So, before we classify it as attributable to Councilman Marks directly, that is your understanding based on the testimony of Mr. Ghimire?

MR. CLARK: Yes.

CHAIR: Could you, just to be clear on this point, you don't have any other information other than what Mr. Ghimire provided in terms of his testimony as to Councilman Marks' apparent involvement one way or another? That's why, that's what --

MR. CLARK: I, I, I, I, I know.

CHAIR: I'm sorry, I just want to make sure that was clear that you are reconciling those two events.

MR. CLARK: The, yes, yes.

CHAIR: Okay.

MR. CLARK: I want to leave it there.

CHAIR: Okay.

MS. DOPKIN: Excuse me. Mr. Clark, were you at the September 20th meeting?

MR. CLARK: Yes, I was.

MS. DOPKIN: Thank you.

CHAIR: Thank you, both.

MR. CLARK: I spoke, oh, and I spoke directly with Mr. Marks.

CHAIR: To be clear, we understood that you had personal knowledge as to what was communicated with the Greater Kingsville Association.

MR. CLARK: Correct.

CHAIR: And then you had personal knowledge as to your, in your individual capacity as to what Mr., Councilman Marks has sent to you personally?

MR. CLARK: I spoke with him personally.

CHAIR: Okay.

MR. CLARK: And among other things, he, he informed me that Mr. Ghimire had been invited to attend that meeting and

that Mr. Ghimire declined to attend and he was, he, he seemed rather vexed by that, by that, by that non-attendance. Because that was the meeting where the, the board, where, where the association took the vote on its position.

CHAIR: Okay. That, what I'm hearing is, you're just recapping more of the --

MR. CLARK: Correct.

CHAIR: -- information as it relates to your personal experience and firsthand knowledge --

MR. CLARK: Right.

CHAIR: -- as to the communications from Councilman Marks to Greater Kingsville and you personally?

MR. CLARK: Right.

CHAIR: Okay.

MR. HOLZER: Thank you. This is not a duplicate, this in regard to October 20th, but it's the same two affidavits of the same two witnesses, rather.

MR. SCHMIDT: Once again, it says Carol Shaw.

MR. HOLZER: Yes, yeah. This would be?

MR. MCCOMAS: Ninety-eight.

CHAIR: A and B, sure.

MR. MCCOMAS: (inaudible).

CHAIR: Whatever works for everybody, I mean, we're going to be able to identify by who the person is. And we have an extra copy if you need one back, Mr. Holzer.

MR. HOLZER: Okay. I, I have one.

CHAIR: Oh, okay, thank you. So, Mr. Holzer, is there, I guess if you could illustrate for the record what the difference is for ninety-seven compared to ninety-eight?

MR. HOLZER: I'd rather have the witness.

CHAIR: I'm not asking you to do it, I'm asking you to ask him that.

MR. HOLZER: I, oh, right. Mr. Clark, there are, there are two different affidavits by Mary Clark and also Carol Shaw. Can you articulate the difference between them so the record is clear?

MR. CLARK: The dates?

MR. HOLZER: Yes. And, --

MR. CLARK: Okay, September, these, these relate to a meeting that I, that I did not attend, okay? On September 19th, 2018.

MR. HOLZER: And was Mr. Marks there at the same, at that meeting also?

MR. CLARK: Apparently.

MR. HOLZER: Oh, I, I know you weren't there.

MR. CLARK: Right.

MR. HOLZER: But according to the affidavits, --

MR. CLARK: According to the affidavits, --

MR. HOLZER: -- it indicates that he was, was there.

MR. CLARK: Right.

MR. HOLZER: Okay. Is there anything further that you wanted to articulate or express about --

MR. CLARK: Apparently, Mr. Marks said again that he could not be involved in the NAACCB matter.

MR. HOLZER: Okay.

MR. MCCOMAS: Can I just get clarification here? Because I, from the duplication, is, is there any difference between seventy-two Carol Shaw affidavit and 98-A?

MR. HOLZER: The years, is it the years?

MR. MCCOMAS: No, no, Exhibit 72, Carol --

CHAIR: Does that appear to be the exact same?

MR. MCCOMAS: Appear to be exactly the same. I'd be interested to know what the differences are.

MR. HOLZER: Oh.

CHAIR: Referencing, --

MR. MCCOMAS: Same (inaudible) if you can you're your witness tell us the difference between ninety, seventy-two and ninety-eight.

CHAIR: And by, by way of reference, just for the record, we dealt with Exhibit 72 yesterday, which was not admitted into evidence. We have Exhibit 98 in front of us now. I have another question about ninety-eight though because it states on September 19, 2018, I observed the following and it references an event that took place the following day. So, one of those two dates would appear to not be accurately recorded.

MR. HOLZER: I, I don't have either one of them --
CHAIR: I, I'm just alerting you to this --
MR. HOLZER: Can I ask him? Can I ask the witness?
CHAIR: You could ask the witness.
MR. MCCOMAS: You need Exhibit 72 as well? (inaudible).
MR. HOLZER: We don't have seventy-two here.
MR. MCCOMAS: Here's seventy-two.
MS. DOPKIN: Seventy-two and ninety-eight are the same.
CHAIR: Yeah, there is app, it appears to the Board members that seventy-two and ninety-eight may be the same.
MR. HOLZER: And was that admitted --
CHAIR: Everyone, one at a time, sorry. Mr. Holzer?
MR. HOLZER: Was seventy-two admitted?
CHAIR: It was not.
MS. DOPKIN: I.d. only.
MR. HOLZER: It was not?
CHAIR: It was not admitted into evidence. It is identified for the record.
MR. HOLZER: Okay.
CHAIR: Now, Ms. Dopkin, did you have something you wanted to add?
MS. DOPKIN: If you'll look at paragraph two, what Mr. Garber was pointing out is it is prefaced on September 19th,

2018 I observed the following. Attending a meeting of the Greater Kingsville Civic Association --

MR. HOLZER: On September the 20th.

MS. DOPKIN: On the 20th.

MR. HOLZER: I see that.

CHAIR: If, if you look at Mary Clark's affidavit, it refers to both dates as September 19th.

MR. HOLZER: Right.

CHAIR: I assume that, that the affidavit of Ms. Shaw would be amended to the 19th?

MR. HOLZER: Yes.

CHAIR: So, for purposes of the record, Dr. Clark, did the meeting take place, the Greater Kingsville Civic Association semi-annual meeting, take place on September 19th or the 20th, if you recall?

MR. CLARK: The 19th.

CHAIR: Okay. So, understanding that there would be an amendment to the affidavit --

MR. HOLZER: Correct.

CHAIR: -- at 98-A, September 19th, with that in mind, Mr. Schmidt, any objection to ninety-eight?

MR. SCHMIDT: No, sir. I mean, along these lines, Mr. Garber, you know, none of this is really about my client. It's, it's an attack, or allegations about Baltimore County. I'm not here to defend Baltimore County. Certainly, it's up to

the Board to decide. I was looking at your rules of practice and procedure, and I don't think you need to do it based on an objection, but you can exclude improper testimony if you believe it to be improper for any reason. But I'm not raising an evidentiary objection.

CHAIR: I will comment as, well, my comment to that is as follows. I had been waiting to see if you have any objection because, again, as I already, as I already stated for the record, we made rulings for the subject matter. I would make those rulings consistent, but you have not objected. Therefore, in the absence of objection, objection, I am free to receive whatever evidence or whatever, subject to whatever discretion we have in terms of a stopping point for that r whatever the case may be. Because we are this far down the road on that point, I will admit ninety-eight, but if you have a reservation or another type of objection to some of this material, I would ask that you articulate it.

MR. SCHMIDT: I will be honest, I, I think it's improper and inappropriate to besmirch the reputation of Mr. Marks and other County officials and allege that they're corrupt in this proceeding, when they are not here, nor is a County attorney here to defend themselves. I think it's inappropriate, I don't think it assists the Board in deciding the Petition for Special Exception. If Mr. Holzer and Mr. Clark believe that it furthers their case to label the County

people corrupt and criminal and indifferent or whatever the allegation is, then, then again, I don't think it has any relevance to it.

Certainly, I would object to anything that's been consistent with your rulings as it relates to a violation case and I haven't seen these exhibits related to a violation case. Maybe I'm misunderstanding the nature of the exhibit. I do not think it's, I don't think it's appropriate evidence. I certainly wouldn't offer it in this Board but it's not my call.

CHAIR: Well, whether it's something, whether you would offer it, I --

MR. SCHMIDT: It's not my call.

CHAIR: Your objection, I seem to recall yesterday there was a brief objection and discussion about the propriety of going into matters as it relates to people who are not here, particularly Councilman Marks or some others. Those objections were sustained. However, in light of the questions and, and evidence that have come this afternoon, because there were no objections and Mr. Holzer, in response to, to what has been said about the proffer, was going through this, that is why we, this has unfolded the way it has unfolded.

MR. SCHMIDT: But this, Chairman Garber, with all due respect, this is your hearing and you, you are going to run this hearing the way that you think it's appropriate and decide what evidence is appropriate. It's, it's not my hearing. The

distinction in terms of people here or not here is that the affidavits that have been submitted today have been signed by Ms. Shaw and Ms. Clark, who are both here. And as I understood Mr. Holzer's comments, in lieu of having them come up and testify and to save time he was going to do the affidavits.

I would continue, like I did yesterday as it relates to Ms. Foxworthy and other individuals who are not here, object to them, those affidavits. That was part of the objections that I raised this year.

CHAIR: You mean, yesterday and today?

MR. SCHMIDT: Yes, yes, sir, if I misspoke.

CHAIR: You said this year.

MR. SCHMIDT: I mean, yesterday or today, if I misspoke.

CHAIR: Sorry?

MS. DOPKIN: It just seems like a year.

MR. SCHMIDT: Yes. But my point being that the affidavits that have been introduced have been signed by people who are here.

CHAIR: That has been noted for the record.

MR. SCHMIDT: And Mr. Holzer, I believe, --

CHAIR: By both Mr. Holzer and, and the Boar.

MR. SCHMIDT: -- said instead of calling them, he would just give the affidavits and since they're here, I can, if I felt that was improper and wanted to cross examine them, I

could do so. So, I did not object to that. But in saying that, I mean, I will tell you, I do not think it's relevant evidence but it does not relate to my client to call the officials of Baltimore County corrupt and inefficient.

CHAIR: I, and again, --

MR. SCHMIDT: I'm not here to protect Baltimore County.

CHAIR: And that's understood. The purpose, as I have understood it, is in response to the argument that you can't just proffer something, you have to make an attempt and then move forward. Since we are at this point where the last several minutes have been spent introducing this evidence and eliciting testimony as part of that proffer --

MR. HOLZER: Right.

CHAIR: -- it is not up to the Board to then address that point for purposes of the proffer, proffer. I indicated that I would make rulings consistent with what has been done before. There, since there have been objections, that's why it has come in in furtherance of Mr. Holzer's proffer.

MR. HOLZER: That's correct.

MR. SCHMIDT: And that --

CHAIR: So, we're now at a crossroads, it would seem, because you would now object going forward to continuation along these lines for the reasons you've already stated.

MR. SCHMIDT: I guess it depends on what's being

offered. But Chairman Garber, let me, let me just say this. And I mean this with all --

MR. HOLZER: Could I ever get a chance?

CHAIR: Let, that's fair, Mr. Holzer. Go ahead.

MR. SCHMIDT: Obviously, I have not agreed with all your rulings on evidence.

CHAIR: What?

MR. SCHMIDT: But you are the Chair, and I respect your rulings.

MR. HOLZER: Geez.

MR. SCHMIDT: I have not, I have tried very hard today to respond to the comments that I interpreted this morning that Ms. Dopkin was directing them specifically at me regarding the nature of objections. I do not believe that the Chair, I believe that the Chair has sometimes conducted direct examination of witnesses during this case, which I do not believe to be appropriate, recognizing that the Chair can certainly ask questions, as the panel members can, but Mr. Holzer is more than capable of putting his case on and I don't believe that, that the Board has to assist him to do that, as they have. I point all those things out to just merely say that you're sitting in those seats up there and as Judge Gordon Boone told me one time when I said to Judge Boone, Judge, you can't do that. He said, Mr. Schmidt, I'm wearing the dress, meaning his robe, --

CHAIR: Understood.

MR. SCHMIDT: -- I can do whatever the hell I want in open court. And so, and I don't mean to be flippant, but you're running in the hearing. If there's evidence that you believe is inappropriate or improper, it doesn't take an objection by Larry Schmidt to mean that it can't come in. If you believe it to be inappropriate then the Chair, as the presiding body in this hearing, can certainly make that ruling and your rules of proper, rules of procedure say as much, that you can exclude and limit repetitive and immaterial testimony. That's exactly what it says in there.

CHAIR: I'm, I'm familiar with what the rules say.

MR. SCHMIDT: I, I don't believe, I, I don't believe that, I'll say it this way. I don't believe this testimony is appropriate for this hearing --

CHAIR: I've already comm, I've already made comments --

MR. SCHMIDT: -- whether it's admissible --

CHAIR: Hold on. I've already made comments as to what I personally had thought and what the prior rulings have been. But in light of the issue as to the proffer, that's why we're at where we're at. If there's any, if there are other objections to the materials and testimony to follow, it is understood basically, number one, what you are, what you would object to because you've now stated for the record. But

secondly, his proffer is already put in properly then for the record to be preserved for future use. That was the entire exercise.

MR. HOLZER: Right, right.

CHAIR: It was (inaudible) critique as to you can't put a proffer in without making attempts.

MR. SCHMIDT: Which is what you said, I believe.

CHAIR: Right, which he then went down the road. If there were objections made at that time, perhaps there would have been a different understanding. I actually don't think, some of this stuff is not going to be helpful, I would agree, as to the resolution, as to any matter within the Petition for Special Hearing.

MR. SCHMIDT: I don't think it's got anything to do with the resolution of the Petition for Special Exception.

CHAIR: It may speak to certain matters as to credibility of certain witnesses. I could be open to that argument, which as I understood, to some degree, what Mr. Holzer was trying to accomplish.

MR. HOLZER: That's correct.

CHAIR: So, --

MR. SCHMIDT: If David Marks is a liar and a thief, it doesn't matter, it doesn't bear on the issue as to whether the Petition for Special Exception should be granted.

CHAIR: I will not characterize Councilman Marks in

any way, shape or form in that regard.

MR. SCHMIDT: I, I'm not, I'm saying, but if that's the allegation --

MR. HOLZER: Well, I would object, I'm going to object to that.

CHAIR: Hold on, hold on, hold on.

MR. HOLZER: Come on.

CHAIR: We are, we now have an understanding of where we all are and why this is where we are at at this time.

MR. HOLZER: Right.

CHAIR: With that in mind, Mr. Holzer, do you have any further questions?

MR. HOLZER: There is one more area that I think he would have covered --

MR. MCCOMAS: Not to go back down the bunny hole here. The, but Exhibit 98, --

CHAIR: That was admitted.

MR. MCCOMAS: Admitted. Does that mean seventy-two is now admitted?

CHAIR: It's the same thing.

MR. MCCOMAS: It's i.d. only, it's only i.d. only at the moment.

CHAIR: Well, ninety-eight is admitted so the substance is already in so it doesn't make a difference. We'll leave the prior ruling alone so we're not disturbing the record

in any more detail. But it is in the record.

MR. HOLZER: And it's in the record, Mr. McComas, it's in the record for purposes of a proffer. That's the difference between --

CHAIR: Yes, you said it far more eloquently and succinctly than I could have. Thank you.

MR. HOLZER: I doubt that. I, you've, Mr. Chairman, you have expressed exactly. The only reason, if you'll recall, I didn't want to get into this but when that ruling was required that I try, --

CHAIR: Yes.

MR. HOLZER: -- that's why I did it and, and --

CHAIR: And that's what was understood.

MR. HOLZER: I know. And I have, there's one more area that I could ask him a question about and then we're done. At least finish the proffer. I hope we're finished everything but --

CHAIR: Okay.

MR. HOLZER: -- the proffer. Mr. Clark, there is, in your, in my proffer, there was something about testimony of Mr. Ghimire and Mr. Brochin.

MR. CLARK: Yes.

MR. HOLZER: Who was, at that time, was a State Senator and he was running for County Executive. Within that context, be brief, --

MR. CLARK: Yeah.

MR. HOLZER: -- and just explain what took place?

MR. CLARK: In, in, in his day five testimony, Mr. Ghimire asserted that Mr. Brochin approached a County employee in the performance of her duties and basically said, and, and I, the, the quote I have, he said to her, if I had a fundraiser at my house, I'm running for office right now, would you come to my house?

CHAIR: I'm, I recall the testimony.

MR. CLARK: Okay? So, that's the proffer.

MR. HOLZER: Okay and what's the significance of him doing that? As a result of --

MR. SCHMIDT: Of who, Mr. Brochin or Mr. Ghimire or the person who's having the fundraiser?

MR. HOLZER: Of anything that the witness has, has drawn a conclusion from that statement.

MR. CLARK: I don't know. All, all, all, alls I do know is that when, this was a County health inspector, she was responding to our request that she, she go out and insure that sanitation was, requirements were being met. And alls I know is she, she called me and said anything, anything related to this is going to have to go through somebody else's, I think it was Mueller's office.

MR. HOLZER: Okay.

MR. CLARK: That's all I know.

MR. HOLZER: All right, thank you. Members of the Board, I believe in terms of the proffer, that's all that we need at this point and I have no further questions in regard to the proffer. Can I ask one or two last questions if he has anything else that he wanted to address that has not been addressed?

CHAIR: You may ask whatever question you feel appropriate at this time.

MR. HOLZER: Thank you.

CHAIR: And we'll see where that takes us.

MR. HOLZER: Thank you. I hope it takes us to the end. Mr. Clark, you've testified for two, three days now. You've testified on behalf of yourself, your neighborhood and Mary insofar as the effect of this on, on your property and yourself. You have testified on behalf of the community association in terms of their objections. You testified in regard to the community association in regard to their possible request for conditions to be attached. You have acknowledged that your conditions, personally, would coincide with those conditions set forth in the, in the comm, community association. Is there anything else that you are here today to testify that has not been covered by, is it two or three days, I can't remember how many?

MR. SCHMIDT: Three.

MR. HOLZER: Three.

CHAIR: This, yes.

MR. CLARK: I think it might be worth five minutes to, to say, to, to describe how Gunpowder Falls Watershed Preservation Association got formed and --

CHAIR: Correct me if I'm wrong, did we not have that testimony yesterday?

MR. HOLZER: No, he didn't testify, he testified about what the, how the community association, what their by-laws, etcetera, were, but he didn't go into how it was formed.

CHAIR: I understand.

MR. HOLZER: And that was one of my questions that I was supposed to ask him.

CHAIR: I, I, I understand now. Okay. The difference --

MR. CLARK: Just, just, just history and background. The Greater Kingsville Association in, in the summer of 2017, hosted a couple community meetings. And it was in response to the neighbor awareness of, of events on the subject property. And what Greater Kingsville Association wanted to know is how disturbing it was to everybody and give the community a chance to come together. Now, I would point out that none, I, that I saw none of the Protest, none of the Petitioners' witnesses at those, at those meetings although they, they may, they would, I don't know if they would have been invited, you know. It was, they did a mass mailing, I don't know what they did. I don't

know how I got there, okay?

At any rate, four or five of us decided that since this was in our locale, that we would be best to form our own action with the technical assistance and financial support of Greater Kingsville Civic Association, okay? So, we became an independent organization and we included members of their board on our board to do liaison. I've had some organizational work in my background.

And so, we got together in early September. I ran down and gave Mr. Holzer a retainer check and that started his involvement, September 2017, and we started to organize. We, by the end of January, we had, oh, well, or we decided, this, this goes to Ms. Dopkin's question, we decided that we were not going to handle funds. All funds would be sent directly to Mr. Holzer's office and put into --

MR. HOLZER: Escrow.

MR. CLARK: -- an escrow account, thank you, for this case. So, we, we handle absolutely no funds. And so, we didn't need to incorporate. Plus, and, and, and we didn't bother with a website. We're all fairly old school and tired of computers, you know. And we eventually wound up drawing a hundred and twenty landowners in the area. Those are people who own property in the area. There were several meetings where there was confusion about whether it was appropriate for Mr. Ghimire or Mr. Kotroco to attend. The decision was taken

no, the opportunity, this is now an opposition group, there is no point in you being there.

There, there, there are, there, there was some fairly aggressive language used about not being, not being denied access to our meeting, okay? So, we, we had our meetings, we took our positions, we started to organized. We formed, we, we, we formed the board. We made --

CHAIR: Let me stop, let me stop you there, because now I think we're caught up to where the testimony was.

MR. CLARK: Right.

MR. HOLZER: Yes, I think so.

CHAIR: So now we have why the group was formed.

MR. CLARK: Yes.

MR. HOLZER: That's, and that was my only purpose for the question.

CHAIR: And, because now, like I said, because now we're caught up to what happened after formation --

MR. HOLZER: Right.

CHAIR: -- with respect to the rule eight papers and the positions taken by the association.

MR. CLARK: Well, --

MR. HOLZER: And I respectfully request that you not say anymore because the Board has, in effect, ruled, but they are accurate. So, enough is enough. As far as I'm concerned, that's the end (inaudible).

MR. CLARK: Okay.

CHAIR: End of direct for Dr. Clark. Okay. I'm assuming you may have a question or two on cross examination?

MR. SCHMIDT: I might have just a question or two.

MS. DOPKIN: I have a question for Dr. --

CHAIR: Hold on, before we get to that.

MS. DOPKIN: Before we go to cross, I have one question. I was looking back to your November 1st testimony and you gave us a lot of background about yourself.

MR. CLARK: Yes, ma'am.

MS. DOPKIN: And your education, but I think I missed what you did professionally after school.

MR. CLARK: Okay.

MS. DOPKIN: Just to fill in the gap here.

MR. CLARK: No, and, and I worked for a U.S.A. I.D. program out of Hopkins for a couple years, then I worked at, I was building a career. Then I moved to the Maryland State Department of Education where I did a couple, where I did a, actually it was a very important study, on the question of whether or not special ed students are stigmatized by being in special ed. And it turned out the, the results were no different than their other cohorts, I won't go into that with details but it shut down Bennett. And from there, I went to Harford Community College where, among other things, I served on the Affirmative Action Committee. And then --

MS. DOPKIN: Were you teaching? Were you teaching?

MR. CLARK: I, I, I was the Director of Institutional Planning.

MS. DOPKIN: Thank you.

MR. CLARK: And yeah, I, I did teach, but the, and then I went, I had an opportunity to become involved with a $5 million grant to look at the process of undergraduate medical education, which is the four years of medical school. During the, during the course of that, that was to be my coming out party and during the course of that, the principal investigator had the nerve to die of a drop dead heart attack. A lot of the other vice presidents were very scared about what Lou and I were doing and so, and so I was told to sit in my office and read the newspaper until they figured out what to do with me. At which point, they gave me a non-disclosure agreement to sign --

CHAIR: Hold on, I feel the need to jump in at this point.

MR. CLARK: Yeah, yeah, yeah.

CHAIR: I hope, if, if that non-disclosure agreement is in place, anything you just discussed does not --

MR. CLARK: No, no, no, no, no, no, no, it doesn't.

CHAIR: Okay.

MR. CLARK: It doesn't. What --

MS. DOPKIN: This is Harford Community College?

MR. CLARK: No, no, this is for the Association of American Medical Colleges, I'm sorry.

MS. DOPKIN: Oh.

MR. CLARK: It, it, it involved the, the data that Lou and I had acquired.

CHAIR: That was the non-disclosure?

MR. CLARK: Right, that was the non-disclosure.

CHAIR: The data.

MR. CLARK: Right.

CHAIR: Okay and so, now I did publish, as, as a result of, in there and it's published, for example, in 1992, medical schools, U.S. medical schools, were drip, were dipping into their third and fourth time appliers to fill seats, okay? That was the kind of thing Lou and I were looking at.

MS. DOPKIN: Who is Lou?

MR. CLARK: Lou Kettle, he was my vice president.

CHAIR: The one who dropped dead of a heart attack?

MR. CLARK: He was the principal investigator, yeah. And so, and so they, they were fairly nerv, you know, other vice presidents were fairly nervous about what we were doing so when he died, they took the opportunity to clean out his office, had me read a newspaper, I signed a non-disclosure agreement, they, they paid up my retirement and because I was also in the middle of all those health problems that were going on at the time, I just said to heck with it, you know. And I

signed a non-disclosure and I took the money and went on from there.

MS. DOPKIN: Thank you.

CHAIR: Anything further then?

MR. HOLZER: Absolutely not.

CHAIR: All right. So, I, again, I understand there will be cross examination of this witness. It is almost 2:00. Mr. Schmidt?

MR. SCHMIDT: Yes, sir?

CHAIR: How long would you like for lunch?

MR. SCHMIDT: Forty-five minutes.

CHAIR: I'm, because I'm trying to give you the benefit of the doubt to also help with whatever you need to organize for purposes of the cross examination.

MR. SCHMIDT: Sure.

CHAIR: Without trying to stretch our schedule boundaries as best as possible.

MR. SCHMIDT: Forty-five minutes is fine with me if that's okay with, --

CHAIR: Okay. So, --

MR. SCHMIDT: -- you know, I'll defer to you.

CHAIR: For, forty-five minutes would be, hold on. Twenty of three?

MR. SCHMIDT: Yes, sir.

CHAIR: Do I have that correct?

MR. SCHMIDT: That's, that's great. That's fine, thank you.

CHAIR: Is my math, does that add up?

MR. HOLZER: I, it's close enough for me.

MR. MCCOMAS: That's fine. You're rounding, you're rounding, that's all right.

CHAIR: Okay.

MR. MCCOMAS: You're rounding up.

CHAIR: So, all right. So, we'll do twenty of three we'll be back.

MR. SCHMIDT: Thank you, sir.

MR. CLARK: Ms. Dopkin, do I have to eat by myself?

MS. DOPKIN: I'm sorry.

CHAIR: You're on cross examination, so you can't talk about your testimony.

MR. CLARK: So, I have to eat by myself?

MS. DOPKIN: You're still on the stand, yes.

MR. CLARK: Yeah, okay. Thank you.

MS. DOPKIN: And you're still under oath.

MR. CLARK: Thank you.

(RECORDING PAUSED – 01:52:06 PM)

(ON RECORD – 02:44:28 PM)

CHAIR: Everyone please double check your phones to make sure that they are off. Or any device for that matter.

MS. DOPKIN: We're on the record.

CHAIR: We're back on the record. Everyone is gesturing towards one another. Mr. Holzer?

MR. HOLZER: No, I, that's okay. I believe, Mr. Schmidt and I have talked about what he's going to do. He's going to cross for a while, I don't know how long. He said it may not be that long. At 4:00, Mr. Jakubiak would have been my next witness. Unfortunately, he has to leave by 4:00. He --

CHAIR: I'll save you, I'll save you because it makes no sense to me to start Mr. Jakubiak at 4:00.

MR. HOLZER: Thank you. He has to, he's an, he's the attorney for the Town of Centreville Planning Commission and they have a meeting.

MR. SCHMIDT: The planner.

CHAIR: Yes, exactly.

MR. HOLZER: A planner.

CHAIR: We know he's not an attorney, but I understood from his prior testimony he is a planner.

MR. HOLZER: Okay, right. And he has a prior commitment that he has to be in Centreville --

CHAIR: No, again, I see no reason to start him at 4:00.

MR. HOLZER: I will say this so that the Board has some comfort. I will put him on at the very beginning of February 5th, unless you choose to address some of these other issues that could, maybe could wait and then when he's

finished, the only other possible witness that I have is someone from Kingsville to authenticate the, the letter that has just been marked for i.d. at this point.

CHAIR: That relate --

MR. HOLZER: That relates to their position.

CHAIR: Right. Well, if I could offer a suggestion to try to accelerate that.

MR. HOLZER: Uh huh.

CHAIR: If you come up with an affidavit or stipulation as to what may be said, perhaps you can come to an agreement with Mr. Schmidt on that, maybe you can't. But even then, that witness will be very brief.

MR. HOLZER: Yes, it'll, I was going to say, it'll be about two, two or three minutes at most.

CHAIR: Okay. As it relates to exhibits that you would use in connection with Mr. Jakubiak, to the extent that they are not in the record, to whatever you would feel comfortable sharing in advance.

MR. HOLZER: Right.

CHAIR: For example, his c.v. If you get agreement with Mr. Schmidt as to those things, we can blow past --

MR. SCHMIDT: I'll stipulate he's an expert planner.

MR. HOLZER: Because he's used him.

MR. SCHMIDT: I've used him before.

CHAIR: Yes. Before we put that affirmatively, what

we're doing with that, but I mean, I'm just giving an example as to --

MR. HOLZER: Right.

CHAIR: -- documents that you feel comfortable sharing at this point, perhaps to help streamline again that process.

MR. HOLZER: No, no problem. When I get the stuff from him on the other --

CHAIR: Yes.

MR. HOLZER: -- thing that he has to deliver --

CHAIR: Yes.

MR. HOLZER: -- I'll also try to get together whatever possible I can share with --

CHAIR: Yes, and I figured that there would be some agreement as to those matters --

MR. HOLZER: Yeah.

CHAIR: -- in advance. And lastly, to pick up on the Motion aspect of it, it would be my inclination or preference to resolve that at the top of the morning on the 5th, just to get it out of the way. And then, because there may be things that fall out from there that you're going to, or you're going to or however this plays out, you know, cause some adjustments for perhaps some people you would want present. Sorry, Ms. Dopkin?

MS. DOPKIN: Exhibit 96, the transcript excerpt.

MR. MCCOMAS: Yeah, I was just going to ask you, did they ever pull the transcript?

CHAIR: Ah. Going back to the issue as to Exhibit 96, the tran, the ALJ transcript as well.

MR. HOLZER: Yes, yes.

CHAIR: Has that been shared with Mr. Schmidt yet?

MR. HOLZER: No, we haven't, haven't had time.

CHAIR: It, it's okay if it has not happened.

MR. HOLZER: No, it has not.

CHAIR: I, I'm just asking if it has happened.

MR. HOLZER: I, we certainly will do that by the end of the week when --

MR. SCHMIDT: They can send me a copy or --

MR. HOLZER: Yeah.

MR. SCHMIDT: -- give me an original and I'll copy it and return it, whatever they want to do.

CHAIR: Yeah, nobody's rights will be waived as to that particular issue as well.

MR. HOLZER: Right.

CHAIR: In conn, in connection also as we set forth earlier, as to the Motion on Exhibit 34.

MR. HOLZER: Mr. Chairman, if I could lend experience of forty-five years --

CHAIR: Yeah, please.

MR. HOLZER: I think, respectfully submit --

CHAIR: It's okay.

MR. HOLZER: That putting Mr. Jakubiak on first, letting him testify, letting him get cross examined, is going to be done, I think not well before lunch time, but maybe by 11:00, 11, whatever. And then go into the secret letter discussion because, frankly, that could be very, I don't want to say explosive but it could get us involved in all sorts of things.

CHAIR: I, I'm sorry if I was not clear. It was my, it would be my inclination, it is by no means set in stone.

MR. HOLZER: Okay.

CHAIR: And it could very well be that the, the response and reply or whatever that comes forward, makes it apparent that that is an impossibility and it would be far more efficient to have Mr. Jakubiak on first.

MR. HOLZER: Okay, thank you.

CHAIR: So, I'm, if it's something that was, something that really did not take a long time, that's the reason why I say that. If it's apparent that it will not, it will take longer, obviously I would, I, I would probably more defer to that position.

MR. HOLZER: Yeah, I just think it's potentially more explosive, if that's an appropriate word --

CHAIR: Understood, okay.

MR. HOLZER: -- to use.

CHAIR: No problem. We'll, --

MR. HOLZER: Okay.

CHAIR: -- we'll deal with it, that's fine.

MR. HOLZER: But Mr. Jakubiak has been sitting here, if he --

CHAIR: He is excused at your will.

MR. HOLZER: Mr. Jakubiak, you're available to go, you're aware of the fifth, you're aware of, call me tomorrow.

CHAIR: We are, we are starting at 9:00 on the 5th.

VOICE: I'll be here, thank you.

CHAIR: Thank you.

MR. SCHMIDT: Mr. Jakubiak, before you leave, and I noticed this from my other case in which you were involved, I don't have a copy of your resume.

VOICE: Would you like a copy now?

MR. SCHMIDT: Could you send, could you e-mail it to me? Mr. Holzer, I need it for the other case.

MR. HOLZER: Yeah.

VOICE: There's a copy right there on the desk.

MR. SCHMIDT: Okay, okay.

MR. HOLZER: Glad to be of service in another case.

CHAIR: I understand.

MR. SCHMIDT: Thank you.

CHAIR: All right. So, now we have all those preliminary matters aside --

MR. HOLZER: Yes, yes.

CHAIR: -- for the afternoon?

MR. HOLZER: Thank you.

CHAIR: We can, Mr. Schmidt, I'm assuming you're ready for cross examination of Mr., excuse me, Dr. Clark?

MR. SCHMIDT: Yes, sir. Mr. Clark, let me ask you, and let me start by asking you, do you go by Dr. Clark or Mr. Clark?

MR. CLARK: I actually go by Dewey, just call me Dewey.

MR. SCHMIDT: Well, I, the formality would require me to use your last name, but are you a Ph.D.?

MR. CLARK: Yes, I am.

MR. SCHMIDT: You are. Do you go by Dr. Clark or do you prefer Mr. Clark, you tell me?

MR. CLARK: I prefer Mr. Clark.

MR. SCHMIDT: Mr. Clark, that's fine, okay. I'll try not to jump around too much but, and I'll try to be as brief as I can. You introduced during the course of your direct examination exhibit number seventy-eight, which is the decision that Mr. Kotroco issued in the matter related to the Grace Community Church.

MR. CLARK: Um hm.

MR. SCHMIDT: And just so that we're clear, how far is the Grace Community Church from the subject property?

MR. CLARK: As the crow flies?

MR. SCHMIDT: Yes, sir.

MR. CLARK: Well, it's not to where Mr. Clarke's property was, it's about, so if he was two miles, mile and a half?

MR. SCHMIDT: Okay. Would you describe it as being in Kingsville?

MR. CLARK: Um hm.

MR. SCHMIDT: Would you describe it as being in the neighborhood, your neighborhood?

MR. CLARK: I would describe it as being in my locale.

MR. SCHMIDT: In your locale. How about your neighborhood?

MR. CLARK: No.

MR. SCHMIDT: Okay. What's your neighborhood?

MR. CLARK: My, my neighborhood community is, and this is going to sound very --

CHAIR: Just answer the question.

MR. CLARK: -- yeah, yeah, you know, I, I am emotionally focused from say Mount Vista down to, down, down into the park.

MR. SCHMIDT: Okay.

CHAIR: Please specify.

MR. CLARK: Gunpowder Falls Park, down Harford Road.

To me, that, that's, that's where I spend most of, most of my time when I'm at home, that's where, that's where I look, that's, all that stuff.

MR. SCHMIDT: Okay.

CHAIR: Mount Vista Road to Gun, Gunpowder Falls Park.

MR. SCHMIDT: Okay, that's what you describe as your neighborhood? But you --

MR. CLARK: I live, yeah, but, go ahead --

MR. SCHMIDT: But you would describe the Grace Church as being within the, I think you used the word locale?

MR. CLARK: Correct.

MR. SCHMIDT: Okay. Are you familiar with the Grace Church property?

MR. CLARK: No, not personally.

MR. SCHMIDT: Okay. Have you ever been there?

MR. CLARK: No.

MR. SCHMIDT: Okay. Do you know, if you know, do you know if the, according to Mr. Kotroco's decision, the property is about 16.1 acres of land, is that correct to the best of your knowledge?

MR. CLARK: Do I need to --

MR. SCHMIDT: No, I just, if you know or does that sound correct based on your knowledge of it? Does that sound about --

MR. CLARK: Yeah, yes, that sounds correct.

MR. SCHMIDT: So, about half the size of the subject property?

MR. CLARK: Yeah.

MR. SCHMIDT: Yes?

MR. HOLZER: Do you want the document --

MR. CLARK: Yeah, yeah, why, why don't you --

MR. SCHMIDT: Yeah, I'm sorry, yeah.

MR. CLARK: -- why, why don't you? Thank you.

CHAIR: Would it be fair to say the information you have as to its size comes from that exhibit?

MR. CLARK: Correct, yes, sir. Yes, sir.

CHAIR: So, Exhibit 78.

MR. SCHMIDT: And I'm looking --

MR. CLARK: Seventy, yeah.

MR. SCHMIDT: Mr. Clark, just to be fair to you, on page one of the decision, about the middle of the first paragraph, it indicates it's 16.1 acres.

MR. CLARK: Okay.

MR. SCHMIDT: And it indicates that, at least at the time, was zoned RC-5.

MR. CLARK: Correct.

MR. SCHMIDT: Do you know if that zoning has changed?

MR. CLARK: No, I, I believe it has not --

MR. SCHMIDT: You, you don't know? It has not?

MR. CLARK: I believe it has not.

MR. SCHMIDT: Okay. It also indicates on the decision, within the decision, on page twelve, it's sort of as a result, and I'm looking at the second full paragraph on page twelve.

MR. CLARK: Um hm.

MR. SCHMIDT: After much, quote, after much opposition from the surrounding community, and it goes on to say that the project was redesigned so it was proposed to be a forty-seven thousand two hundred and fifty-seven square foot building. Is that, based on your knowledge, does that sound about right? Is that what actually was built, if you know?

MR. CLARK: I do not know.

MR. SCHMIDT: You don't know. Okay. It indicates on the property as, or in the decision as well, that it is such size as to handle a five hundred seat sanctuary. And that's actually, you were talking about the, the restrictions and I'd just draw your attention to page twenty-four. I think you talked about some of those. Restriction number three indicates that the sanctuary will be no more five hundred seats.

MR. CLARK: Correct.

MR. SCHMIDT: You see that?

MR. CLARK: I see it.

MR. SCHMIDT: And is that what, in fact, is that, is the property still in compliance with that, if you know?

Within that limitation?

MR. CLARK: Seeing as how Kingsville is the monitoring organization, I would assume yes.

MR. SCHMIDT: Okay and there's also, as part of that, a fellowship hall and a gymnasium? I'm looking at restriction number four?

MR. CLARK: Um hm.

MR. SCHMIDT: Okay and also in Petitioner's exhibit number seven, they were prop, I'm sorry, not seven, --

MR. CLARK: Right.

MR. SCHMIDT: In restriction number seven, I'm sorry, restriction number seven, it indicates that, as I, as I read it, that there were two hundred and forty-four parking spaces that were proposed, macadem parking spaces, or paved parking spaces it calls them, for this property, is that right?

MR. CLARK: I think that's what it was reduced to, yes.

MR. SCHMIDT: Yes, it was reduced to that number.

MR. CLARK: Yes.

MR. SCHMIDT: Two forty-four. And then also, if you go down within seven as well, that restriction number seven, it further provides that the, about five lines, six lines from the bottom of that restriction, the owner/developer shall be permitted to use grassy open areas of the subject property for overflow parking, correct?

MR. CLARK: But there's a condition on that.

MR. SCHMIDT: Yes, only during certain holidays, the, the high --

MR. CLARK: For, for, for two holidays, for two holidays.

MR. SCHMIDT: No, Christmas and Easter holidays.

MR. CLARK: Yeah, two holidays.

MR. SCHMIDT: This is, this is obviously a Christian church.

MR. CLARK: Yeah, but it's two days.

MR. SCHMIDT: Okay. Okay. So, needless to say, this, this church, the Grace Church is significantly larger than, than the Nepali conversion of the building, the existing building?

MR. CLARK: To the State.

MR. SCHMIDT: Pardon me?

MR. CLARK: To the State.

MR. SCHMIDT: To the State, yes, sir. And that, okay. Were there, is there any proposal under the current Petition that you're aware of to enlarge or increase the footprint of the existing building on the, on the Bonaparte property, on the subject property?

MR. CLARK: No.

MR. SCHMIDT: Okay, okay. Now, Mr. Clark, in, I think the last question that you were asked during your cross

examination was about some of the jobs that you have done and your occupation --

MR. CLARK: Um hm.

MR. SCHMIDT: -- since your graduation from school and the completion of your education. And it sounds to me, is it fair to say, that many of those have involved the field of education?

MR. CLARK: Yes.

MR. SCHMIDT: Okay and, and you're, I guess I would call it vocation, as opposed to occupation, is, at least one of them, is that you're a, you described it as quote, a naturalist, correct?

MR. CLARK: Yeah.

MR. SCHMIDT: Okay. That's not, as I understand it, that's not a paid position?

MR. CLARK: No, it is not.

MR. SCHMIDT: Okay.

MR. CLARK: It's a volunteer position with the State.

MR. SCHMIDT: Okay and you are not a civil engineer?

MR. CLARK: I am not.

MR. SCHMIDT: You are not a surveyor?

MR. CLARK: I am not.

MR. SCHMIDT: You are not a sanitarian?

MR. CLARK: I am not.

MR. SCHMIDT: You have no credentials, sir, that

would allow you to prepare plans or render opinions on the adequacy of say storm water management plans?

MR. CLARK: No, I do not.

MR. SCHMIDT: Nor could you prepare or submit to Baltimore County for approval plans that might be required for the design or development of a septic system?

MR. CLARK: I do not.

MR. SCHMIDT: Nor the providing of well water or the drilling of a well?

MR. CLARK: I do not.

MR. SCHMIDT: Okay. So, all of your opinions about any potential environmental damage are rendered as a layman and not as an ex, matter with expertise as either an engineer, surveyor, sanitarian or any of those types of occupations?

MR. CLARK: Just as a trained naturalist.

MR. SCHMIDT: Yes. Does a naturalist have to be licensed by the State of Maryland?

MR. CLARK: The, the program is a certified master naturalist by the State. You take a, you go through a course and you serve an apprenticeship. The course is down at the Department of Natural Resources and it is taught by the staff at the Wildlife (inaudible) Services. You address a number of issues and my specific area of interest in that has been forest health and as an, I, I, invasive species. Invasive species is not the end all and be all of forest health, forest health is

bigger than that, but that's a big part of where I spend my time.

MR. SCHMIDT: Okay, okay. But you don't have any kind of seal as a naturalist, where you would seal plans? When I say seal --

MR. CLARK: No, no, no, no, no.

MR. SCHMIDT: Okay. Insofar as, now, there is forest on the subject property, correct?

MR. CLARK: That's a stretch.

MR. SCHMIDT: You don't believe it's a forest?

MR. CLARK: No, there, there are woods.

MR. SCHMIDT: Okay.

MR. CLARK: A lot of them are, what we would term weed, weedy trees.

MR. SCHMIDT: Okay.

MR. CLARK: There are a couple oaks. And there is a fair bit of ailanthus.

MR. SCHMIDT: Okay. Now, there's no new --

CHAIR: What was that word you used about the trees, I'm sorry?

MR. CLARK: Oh, scrubby trees, weedy trees, weedy trees, weedy trees, you know, like black gum and, and --

CHAIR: Could you say that word again?

MR. CLARK: Weedy, W-E-E-D --

CHAIR: As in weed?

MR. CLARK: Yeah.

CHAIR: Okay. Sorry.

MR. CLARK: Trees that are native but are undesirable.

CHAIR: Understood. I just had not heard that before and I didn't know what that meant.

MR. CLARK: Yeah.

CHAIR: Okay.

MR. SCHMIDT: Okay. There's no new building proposed? When I say building, unlike for example the Grace case, or other cases, where a church may be proposed and a, a structure is going to be built. You've been here for all the days of the testimony, you're aware, sir, are you not, that there's no building proposed here?

MR. CLARK: Correct.

MR. SCHMIDT: And that there's no, there will be no loss of trees but for what might be required to expand the driveway, I think we heard testimony about that as well.

MR. CLARK: Correct.

MR. SCHMIDT: Okay. You, you also mentioned that this property has some historic designation.

MR. CLARK: Yes.

MR. SCHMIDT: Okay and what is that?

MR. CLARK: It falls within the National Historic District of Long Green Valley.

MR. SCHMIDT: Okay. Do you know what the boundaries of that district are?

MR. CLARK: Yeah, they, they, Mount Vista Road, it intentionally, it looks like it was intentionally drawn around the property, the, the subject property.

CHAIR: Mount Vista Road was?

MR. CLARK: No, no, no, the historic district boundaries.

CHAIR: I'm sorry, okay.

MR. CLARK: All right? The meets and bounds. And then it goes down the center of Harford Road to the park and then it extends over into Glen Arm and Baldwin.

MR. SCHMIDT: How big is it, if you, if you know, in terms of the square miles or acres? If you know. If you don't know, you don't know. That's fine.

MR. CLARK: We, yeah, we, we do have the, the document was provided in evidence, but --

MR. SCHMIDT: Okay, that's fine.

MR. HOLZER: Do you remember what exhibit? We can find it.

MR. CLARK: No.

MR. SCHMIDT: Okay. Are there any limitations which would relate to the Petitioner's plans by virtue of the designation of within a historic district? In other words, does it say by virtue of being within the Long Green Historic

District you can't have churches or you can't have Nepalese churches or you can't convert houses to churches or any similar restrictions that you're aware of?

MR. CLARK: I'm not sure of the underlying purpose of the question.

MR. SCHMIDT: Well, the purpose of the question is you've indicated during direct examination that the property is within Long Green Valley Historic District.

MR. CLARK: Right.

MR. SCHMIDT: And there is a suggestion or an inference that that somehow bears on whether this Board should grant the special exception.

MR. CLARK: I am just bringing it to the Board's attention.

MR. SCHMIDT: Okay. So, my question is, if you know, sir, and I assume you've researched this, you've done a lot of research on this project, is there any limitation or restriction or other language or requirement by virtue of this designation that would bear on this Board's ability to grant this special exception? In other words, they, the designation says you can't have Nepalese churches within the district, I know that's a ridiculous example, but I'm just trying to give you an example. Is there anything like that?

MR. CLARK: I, I don't understand why we keep going back to Nepalese.

MR. SCHMIDT: Well, is there any restriction of any type or nature as it relates to the operation of a place of worship within the Long Green Valley District?

MR. CLARK: Not that I am aware of.

MR. SCHMIDT: Okay. So, being, being in the district, doesn't mean that this church can, property cannot be used for religious purposes?

MR. CLARK: No.

MR. SCHMIDT: And indeed --

MR. CLARK: Or I don't, I don't believe so. I don't know.

MR. SCHMIDT: Okay. Well, you're the one who indicated that you thought it was important for the Board to understand that was in an historic district. And I'm just trying to figure out why that is if it doesn't matter whether it's in a historic district.

MR. CLARK: Well, it was of interest because Mr. Motsco did, in his endorsement, said it does not lie within any national historic districts. So, I presume there is a reason why that is required on the endorsement.

MR. SCHMIDT: What's the endorsement?

MR. CLARK: The endorsement on the plans that he submitted to the County in support of this application.

MR. SCHMIDT: Okay. Are any other historic designations or districts affixed to this property? Not

Federal, but State or local, if you know?

MR. CLARK: The, the mile marker that was introduced.

MR. SCHMIDT: Okay and what is that?

MR. CLARK: That's a, that's an MHT, Maryland Historic Trust, and it's the mile marker that was introduced yesterday and has been introduced before.

MR. SCHMIDT: Okay. Now, that marker, that, that actual, the physical marker that we have photographs of, that is what a historic structure, or historic object, is that what you're saying?

MR. CLARK: I, I, I think, I, I, well, in trail work, it's called a structure, anything that is man-made is a structure.

MR. SCHMIDT: Okay. How big is it?

MR. CLARK: It's about, above ground, it's about five feet.

MR. SCHMIDT: Five feet square?

MR. CLARK: No, tall.

MR. SCHMIDT: Tall? Five feet tall, okay.

MR. CLARK: It's, it's a, it's white, I assume it's granite or marble, whatever they were using in the day, it's basically a pylon. The pylon goes down, generally pylons, you plant them as much down as you should, as you have exposed.

MR. SCHMIDT: Okay and you indicated that it's design, it's a designated mile marker by the Maryland Historic

Trust?

MR. CLARK: It's designated by them in, as, as a, it's on their inventory for the Maryland Historic Trust.

MR. SCHMIDT: Okay and I'd ask you the same thing, is by virtue of being on the Maryland Historic Trust, or by virtue of the fact that this pylon or marker is on the MHT designation, does that in any way restrict or limit the development of this property as a church?

MR. CLARK: My understanding is that there can be no excavation without MHT, MHT approval within six hundred feet of that monument. And that impacts any kind of entrance made, entrance changes made to the property.

MR. SCHMIDT: Okay and where is that authority?

MR. CLARK: That's, that's in the, that, that's in the Maryland Historic Trust. That's in the, yeah. If you're asking me to cite code and verse, no, I can't.

MR. SCHMIDT: You don't know, okay. How about any local designation? Is there any local historic designation of anything on the property?

MR. CLARK: I'll leave, you know, a lot of these questions I don't know. Mr. Jakubiak will address them, I'm sure.

MR. SCHMIDT: Okay, very well. Thank you. Now, you talked a little bit about your, I guess, advocations, including being a naturalist, which I understand is a, is a volunteer

position, correct?

MR. CLARK: Um hm.

MR. SCHMIDT: What is it, Mr., Mr. Clark, that you do for a living or are you employed?

MR. CLARK: I'm a watchmaker.

MR. SCHMIDT: And are you self-employed or do you work for someone else?

MR. CLARK: Self, self-employed.

MR. SCHMIDT: Okay and where is your business located?

MR. CLARK: It's located in my home, which is a, it's a permitted activity in an RC-2 zone and I have my business license.

MR. SCHMIDT: Okay and your property is zoned RC-2, is it not?

MR. CLARK: Yep.

MR. SCHMIDT: Okay and how is your business loc, well, let me strike that. If you know, do you know what the RC-2 zone is, what type of zone it is?

MR. CLARK: Yes.

MR. SCHMIDT: What is it?

MR. CLARK: It is a rural, it is a density designation and it's one lot, one, one house on two acres.

MR. SCHMIDT: Okay. So, if you have six acres, you can have three houses in the RC-2 zone?

MR. CLARK: No, because they can't be subdivided anymore, I believe. I, I'm not a zoning expert. I've already, I've already test, I've already been qualified as not a zoning --

CHAIR: Dr. Clark, just answer the question and if you can't answer the question, I don't know is a perfectly fine answer.

MR. CLARK: Okay.

MR. SCHMIDT: Mr. Clark, you've rendered a number of opinions about the spirit and intent of the subject use and whether it is compatible with the spirit and intent of the zoning regulations, which is one of the criteria in 502.1. And since you've rendered those opinions, I am trying to explore the depth of your knowledge as it relates to the County zoning regulations.

MR. CLARK: I believe you already established that I am a lay witness.

CHAIR: Hold on, let me make this easy. Don't have an argument back and forth --

MR. CLARK: Okay.

CHAIR: Please just answer his question directly again.

MR. CLARK: Okay.

CHAIR: This will make things go smoother and faster.

MR. CLARK: You promise?

CHAIR: Yeah, well, I, that would be my expectation.

MR. SCHMIDT: Your, you've indicated that the RC-2 zone allows one house for every two acres of land.

MR. CLARK: Um hm.

MR. SCHMIDT: Is that correct?

MR. CLARK: Um hm.

MR. SCHMIDT: There, therefore, just by way of an example, if one owned ten acres of RC-2 land, one would be able to create five building lots, is that correct? Just on the --

MR. CLARK: I have --

MR. SCHMIDT: -- mathematical formula?

CHAIR: Let him finish, please.

MR. CLARK: Okay, sorry.

CHAIR: And sorry, Mr. Schmidt, do jump in there but before he did, if you would like to restate your question just so it's clear for the record or you think you're fine.

MR. SCHMIDT: No, I'm happy to restate it. Not trying to trick you, Mr. Clark.

MR. CLARK: No, I know.

MR. SCHMIDT: You indicated, I believe, that your, your opinion is that the RC-2 zone, which is the zone of your property, allows utilization of that zone at a ratio of one house for every two acres or the, every, every house has to be on a lot that is a minimum of two acres, is that right?

MR. CLARK: I misstated that.

MR. SCHMIDT: Okay.

MR. CLARK: Unless, thank you for the opportunity.

MR. SCHMIDT: Yes, sir.

MR. CLARK: One, one dwelling on the property that is, that, that is in an RC-2 zone, that, that is zoned RC-2, that is my understanding.

MR. SCHMIDT: I'm sorry, can you say that again?

MR. CLARK: Well, yeah, yeah, yeah, yeah. One dwelling on a property that is zoned RC-2.

MR. SCHMIDT: Does, does size have anything to do with it, lot size, the acreage of the lot?

MR. CLARK: No, no, no, I misspoke. I was not focusing.

MR. SCHMIDT: Okay. So, I'm not trying to be difficult and I want to move on because it's, it doesn't relate to the subject property as much as I'm just trying to find your understanding of the zoning regulations upon which you, you provided lay opinion --

MR. CLARK: Right.

MR. SCHMIDT: -- that you understand the zoning regulations and so on and so forth. So, --

MR. CLARK: Can, can I just tell you that basically is my, my, my understanding is not a heck of a lot more than of a typical homeowner in the County.

MR. SCHMIDT: Okay. Well, I would beg to differ with

Mr. Clark. After two and a half days of listening to you about the zoning regulations, I would suspect you may know more than the typical homeowner but we're not going to go there.

MR. CLARK: All right, okay.

MR. SCHMIDT: If I can mark this as the next exhibit?

MR. MCCOMAS: Thirty-five.

CHAIR: Thirty-five, Petitioner thirty-five.

MR. SCHMIDT: Yes, sir. Thank you, Mr. McComas, and I'll hand up three copies for the Board. And Mr. Clark, I'm showing you just a printout from a, the public domain --

MR. CLARK: Yep.

MR. SCHMIDT: -- Maryland business address, which identifies down at the bottom of the first page as a business, the business known as Historic Timekeepers, Inc.

MR. CLARK: Correct.

MR. SCHMIDT: And is that your business?

MR. CLARK: That is my business.

MR. SCHMIDT: And that indicates that the principal office of Historic Timekeepers, Inc. is it 12150 Harford Road?

MR. CLARK: Correct.

MR. SCHMIDT: Okay and how long have you been in business at your property 125, I'm sorry, 1, 12150 Harford Road?

MR. CLARK: Since '93, '94.

MR. SCHMIDT: Okay and if I could mark as, as the

next exhibit --

CHAIR: Mr. Schmidt, do you want to move for admission?

MR. SCHMIDT: Yes, I would offer Exhibit 35 and it's only to, I think, confirm what Mr. Clark has said, that his business is located at his home.

CHAIR: Mr. Holzer?

MR. HOLZER: Contrary to my other counsel, I have no objection.

MR. SCHMIDT: Okay.

CHAIR: Well, thank you, sir. It will, it will be admitted.

MR. SCHMIDT: Keep it going, Mr. Holzer. I would give to the Board, I'll ask that they mark as exhibit, Petitioner's --

CHAIR: Thirty-six.

MR. SCHMIDT: -- Exhibit 36, this is a, I think this was actually taken, maybe Mr. Clark, from your web page, does that sound right?

MR. CLARK: Yeah, yep.

MR. SCHMIDT: Okay and I assume, I offer it because I assume, and as a matter of fact, on page, and it might be, well, I guess it's page four or five and six, maybe the famous microscope that you were looking at that plan with, I'm not sure.

MR. CLARK: Oh, yeah, yeah, okay. Yeah, yeah, yeah.

MR. SCHMIDT: Okay? But in any event, it in, indicates that I think one of the things that you do in addition, I suspect, to watch repair is that you sell all types of equipment and other information related to your business? In other words, it says watchmake, watchmaker, microscopes, microscopes for sale and so on and so forth, is that accurate? Does this accurately describe, at least, that part of your business?

MR. CLARK: Not quite. It's all mail order.

MR. SCHMIDT: Okay, okay.

MR. CLARK: In, in, including, including my customer base.

MR. SCHMIDT: Okay. So, you mail these things to people? People don't come to the house, I'm assuming?

MR. CLARK: They do not.

MR. SCHMIDT: Okay. You keep these, keep products, I assume, since you have pictures of them and all, you keep the products at your house but then they would be mailed to somebody who would buy them, is that the way it works?

MR. CLARK: Yes, and it's, and for example, with microscopes, as you can see from the sold, --

MR. SCHMIDT: Right.

MR. CLARK: -- it's maybe one or two at a, at a time.

MR. SCHMIDT: Okay.

MR. CLARK: It's not, it's not a massive inventory of stuff.

MR. SCHMIDT: Okay. But, and again, you don't have folks coming to the house to buy pro, buy this, it's mailed from your property to them?

MR. CLARK: If you, if you paid attention closely to my website --

MR. SCHMIDT: Um hm.

MR. CLARK: -- you will note that I do not have an address on it, I only have a phone number.

MR. SCHMIDT: Okay.

MR. CLARK: That's for security reasons.

MR. SCHMIDT: Okay. If I would want to get my watch fixed, could I come to your house, drop it off --

MR. CLARK: No, no, no.

MR. SCHMIDT: I would mail it to you?

MR. CLARK: Correct.

MR. SCHMIDT: Okay and just, I would offer that as thirty-six.

CHAIR: Mr. Holzer?

MR. HOLZER: No objection.

CHAIR: So admitted.

MR. SCHMIDT: This is again, I think this is all taken from Mr. Clark's website. I'll off, mark thirty-seven, this is the last one.

CHAIR: Do you, Mr. Schmidt, do you have copies for Mr. McComas, in addition, --

MR. SCHMIDT: Yes, sir. Do you need it, I gave three, but I'll give you another one as well.

CHAIR: It would be better because obviously when considering this case, each Board member would like to review the exhibits.

MR. SCHMIDT: Sure.

CHAIR: I mean, that would be the preferred practice.

MR. SCHMIDT: Sure.

MR. CLARK: This is the free advertising.

MR. SCHMIDT: It's a very nice website.

MR. CLARK: Well, thank you.

MR. SCHMIDT: Mr. McComas, I'll approach and I, I think these are the three that I've given you and I have an extra copy as well.

MR. MCCOMAS: Thank you.

CHAIR: Thank you, Mr. Schmidt.

MR. SCHMIDT: Certainly. So, okay. So, Mr. Clark, I assume these documents that I've introduced, and I would offer the, thirty-seven?

MR. MCCOMAS: It's thirty-seven.

MR. SCHMIDT: Thirty-seven as well.

CHAIR: And I'm sorry, just to be clear, what is thirty-seven?

MR. SCHMIDT: It's another page from Mr. Clark's website, generally describing some of the services and particularly, some of the goods that can be purchased as he indicated by mail that would be sent from his business as opposed to people coming there.

CHAIR: Understood. Mr. Holzer?

MR. CLARK: And were available.

MR. HOLZER: I, I would just like to know what the purpose of this is, other than to introduce the fact that he does some activity out of his house. What, what's the purpose of these three documents?

CHAIR: Hold, hold on. So, you would object to the document as for relevance?

MR. HOLZER: I don't, I don't want to object to the document. If it, if there is a stated purpose why he's introducing it. I, I, I mean, the witness has already, honestly, answered the first two. I'm just curious as to where we're going with this.

CHAIR: Okay. But as to this, as to this particular exhibit, are you objecting, awaiting a response?

MR. HOLZER: Yes.

CHAIR: Okay, fair enough. Mr. Schmidt, what is your response?

MR. SCHMIDT: Sure. There, the purpose is twofold. One is I think the character of the local, of, of the locale

and of the neighborhood is certainly at issue. Mr. Clark testified on direct examination that the area is dominated by farms and I think dwellings. In fact, the Clark property is a business. I do recognize that Mr. Clark lives there but, in fact, is a business. So, I think an understanding of the nature of the locale and what's going on in the locale certainly would be important to the Board. That the Board should note what's, what the type of, of activities that are occurring on the lots.

The second reason is, I think from a, we heard an awful lot about credibility and voracity and things like that, and one, one would think it would be important that a witness who is testifying that this church should only operate and should be in strict compliance with the zoning regulations, would he him, he himself, his own property should be compliant with the zoning regulations.

CHAIR: Well, on the first, on the first grounds so offered, it'll be received and admitted. I'm not going to comment on the second set of grounds offered.

MR. SCHMIDT: And I haven't asked all the questions about that yet.

CHAIR: Understood. And obviously, it'll be given whatever weight this is due with this case.

MR. HOLZER: I, I just wanted to say the, obviously, in regard to all three documents, there are no customers coming

there --

CHAIR: It, it's already established in the record.

MR. HOLZER: It's all established, so.

CHAIR: All that.

MR. HOLZER: And, and there has been no showing of any zoning violations by the County.

CHAIR: We're, I would agree that the record at present doesn't show anything to the contrary.

MR. HOLZER: Right.

CHAIR: Although, I will note that Dr. Clark has testified, in fact, to the contrary, that his house is in compliance with zoning.

MR. HOLZER: Yes, thank you.

MR. SCHMIDT: Which leads me to my next question, actually. Thank you, Mr. Garber.

CHAIR: Um hm.

MR. SCHMIDT: Mr. Clark, you indicated that your, you believe your business, I believe, on your property to be permitted under the County zoning regulation.

MR. CLARK: Right.

MR. SCHMIDT: If I can, what's the basis of your belief?

MR. CLARK: Yeah. And I'm looking for my resource holder, because I anticipated this line --

CHAIR: Your?

MR. CLARK: My resource folder, because I anticipated this question.

CHAIR: I'm sorry, what is your --

MR. CLARK: Resource folder.

CHAIR: What is that?

MR. CLARK: Just some documents in, in, in anticipation of this kind of questioning.

CHAIR: Okay.

MR. CLARK: Okay? You will find under permitted activities in RC-2 in the zoning code an explanation of the kinds of small businesses that are allowed in an RC-2 zone.

MR. SCHMIDT: Okay.

MR. CLARK: And mechanics and workshops are part of, are, are among them.

MR. SCHMIDT: Are you referring to the use that is known in the zoning regulations and designated as a home occupation? If you know?

MR. CLARK: No, I don't know.

MR. SCHMIDT: You don't, you don't, --

MR. CLARK: I wish, I wish I could put my hands on the document. I did anticipate this. I'm sorry.

CHAIR: Dr. Clark, if you can't find it at the present moment, it's fine. At a break, you can certainly search for it and if it, if it becomes a matter that needs to be explored further by Mr. Schmidt, I'm sure he will --

MR. CLARK: Okay, thank you.

MR. SCHMIDT: Okay. Okay, all right. So, just, and I'll perhaps move on. But you do not believe you are a quote, home occupation, end of quote, under the zoning regulations? You believe you're some other use?

MR. CLARK: I don't know what that means.

MR. SCHMIDT: Okay. Well, I can tell you, a, a home occupation is a use that's conducted entirely which, within a dwelling, which is incidental to the main use of the building for dwelling purposes and doesn't have any exterior evidence other than a permitted sign, which would indicate that the building is being utilized for any purpose other than a dwelling.

MR. CLARK: Okay. That fits me.

MR. SCHMIDT: Okay and then which goes on to say, there cannot be within the dwelling any commodity which is kept for sale on the premises, which would not fit you because you've just testified, Mr. Clark, that you, in fact, sell commodities which are stored within your house, as I under, heard your testimony by mail order.

MR. HOLZER: Objection.

CHAIR: Hold on.

MR. HOLZER: The question is it's not on the premises.

CHAIR: Thank you. Sorry, --

MR. HOLZER: He read the code, which says for sale, materials for sale on the premises.

MR. SCHMIDT: Right.

MR. HOLZER: They are not sold on the premises based on the testimony, they are mail ordered, both receiving and sending.

CHAIR: If I may, Mr. Schmidt?

MR. SCHMIDT: Okay.

CHAIR: I would say that this witness does not know what the definition is and how it's interpreted --

MR. SCHMIDT: I'll move on.

CHAIR: That would be a matter for any argument down the line to the extent it's necessary.

MR. SCHMIDT: I will move on.

CHAIR: Thank you.

MR. HOLZER: Thank you.

MR. SCHMIDT: Just a couple other questions, if I can, Mr. Clark. How many employees do you have in your business?

MR. CLARK: Just me.

MR. SCHMIDT: Okay and you do, do you have, other than the equipment that you have, that you sell from the property, the commodities, the things that you sell, which you've previously described, do you have any other mechanical equipment on the property? Lathes, ---

MR. CLARK: Yeah, in my shop.

MR. SCHMIDT: Yeah, --

CHAIR: Again, sir, please don't jump on top of Mr. Schmidt's question.

MR. CLARK: Okay, (inaudible).

MR. SCHMIDT: Okay. What, and can you describe what that equipment is?

MR. CLARK: They are watchmaker lathes, they are instruments for calibrating watches, they are parts washers, I do have a small floor mill and a medium size, the designation would be an eight inch toolmakers lathe.

MR. SCHMIDT: Okay, okay. Is that it in terms of equipment?

MR. CLARK: Yeah, do you have something for me to respond to?

MR. SCHMIDT: No, sir, just, just if you --

MR. CLARK: Okay, okay, okay.

MR. SCHMIDT: -- have given us an exhaustive list.

MR. CLARK: Do, do, do you want all my little screwdrivers and tweezers and --

MR. SCHMIDT: No, sir. No, sir, that's fine.

CHAIR: And again, as best as you can answer the question, please do.

MR. CLARK: Okay.

CHAIR: But you can't fire back questions to Mr.

Schmidt.

MR. CLARK: Okay, okay.

MR. SCHMIDT: Okay. Thank you, Mr. Clark.

MR. CLARK: I mean, I've got, I've got drawers full of tools, yeah.

CHAIR: Thank you.

MR. SCHMIDT: And obviously, that, the equipment you've described is used in connection with the business?

MR. CLARK: Yes, it is.

MR. SCHMIDT: Okay. Mr. Clark, do you know Robin Clark who works for the Code Enforcement Division of Baltimore County?

MR. CLARK: No, I don't, as a matter of fact.

MR. SCHMIDT: Okay. She is not related to you to the best of your knowledge?

MR. CLARK: No, no.

MR. SCHMIDT: Okay.

MR. CLARK: No.

MR. SCHMIDT: Now, Mr. Clark, you've, you indicated that you have never been on the subject property.

MR. CLARK: Yep.

MR. SCHMIDT: Have you ever been invited to come to the subject property by, by anyone on behalf of the Petitioner? Who has asked you to come to any of the fundraising events or just to come to the property to see what the Petitioners are

proposing and what they're doing?

MR. CLARK: Early on in the process --

MR. SCHMIDT: Uh huh.

MR. CLARK: -- right after the ALJ hearing, Mr. Ghimire and I decided that we would try and keep the doors of communication open. And that was during the period in which we were also had to file the appeal. In that period, I, I agreed to come up to the property. There was an incident where he attributed words to me on, on the Nextdoor site that were not mine and I asked him to correct that. And being in business, I take trust very, very seriously and once people, I, I take people at face value until I find I can't. And when Mr. Ghimire did that, and it was, also an incident at the time where, this was also the time period where they were posting that, the Protestants, apparently the Protestants --

CHAIR: Petitioner?

MR. CLARK: Petitioners, thank you. The Petition, the apparent, apparently the Petitioners were posting en masse using the property as their address for Nextdoor. That was a violation of terms of use. Someone, not me, reported that as a, as a violation and I talked to the moderator about this. Her name is Izzy Franzon, and, and, Ibby, I can't remember her last name. But, she told me somebody had pulled them down. Mr. Ghimire e-mailed me and asked me what I knew, you know, what, what I knew. I actually went to Nextdoor and posted

whoever, and this is before we understood fully what happened, whoever pulled all those posts down, that is incorrect. And should not have happened. So, during that time, Mr. Ghimire had also attributed words to me. I had gone out on a limb for him and I said, you know, Kris, there, there, Mr. Ghimire, there, there's no reason for me to come up there.

MR. SCHMIDT: Okay. Is that the only time you were invited to the property, that one occasion by Mr. Ghimire?

MR. CLARK: Other than an open invitation on, in, in February, they issued to the community for an open house.

MR. SCHMIDT: Okay. So, you were invited once by Mr. Ghimire to come to the property before Mr. Ghimire and for the reasons that you've described, you declined. You were also as part of the general community invited to an open house that the Petitioner was having to reach out to its neighbors and you declined that as well?

MR. CLARK: Correct.

MR. SCHMIDT: Did you ever receive a, an additional invitation to come to the property from Mr. Kotroco? Do you recall receiving an e-mail from Mr. Kotroco inviting you to come up to the property?

MR. CLARK: I, I, I don't, there were several invitations from Mr. Kotroco and --

MR. SCHMIDT: To come to the property?

MR. CLARK: Well, I, I, I, I don't, you're, I, I

recall, I just recall several invitations from him to meet with people like Mr. Marks and, and Senator Brochin. They, they, and they wanted me to appear without counsel and all, you know, so I, I don't know. It, it, it all blurs together.

MR. SCHMIDT: Okay. Was that, were those extended to you by e-mail to Mr., or via an e-mail from Mr. Kotroco? If you recall?

MR. CLARK: Yeah, yeah, oh, yeah, yeah, I think, I think we have the e-mails.

MR. SCHMIDT: Okay.

MR. CLARK: I would, I would, I would have cc'd Carroll on, Mr. Holzer on them.

MR. SCHMIDT: Okay. So, the, the, the e-mail that Mr. Kotroco sent to you, and just for your reference, on January 22nd of 2018 at 9:53 a.m., which invited you and others --

CHAIR: Hold on. If, if you're reading from your phone the e-mail, I think it's only fair to show Mr. Holzer--

MR. SCHMIDT: Sure.

CHAIR: -- the e-mail.

MR. SCHMIDT: See it.

MR. HOLZER: Do we have a copy of this?

MR. SCHMIDT: I do not have a paper copy because I just got that, based on his comments this morning. But I'm, I'll, I'll print it and submit it at the next hearing.

MR. HOLZER: How, how do I, how do I know what the date was so I can check?

MR. SCHMIDT: January the 22nd of 2018 at 9:53 a.m. There's an e-mail, I believe, to Mr. DeWitt and other neighbors from Mr. Kotroco inviting them to, it might also be helpful for those concerned neighbors to be able to see the property and the improvements that have been made thus far.

MR. CLARK: I, I --

CHAIR: Hold on, hold on, sir. You, Mr. Schmidt, you are quoting directly from that e-mail --

MR. SCHMIDT: Yes, sir.

CHAIR: -- with your question? Thank you. Mr., Dr. Clark?

MR. HOLZER: Could --

MR. CLARK: If, if, if I recall, all right? I'm not saying that as a fudge factor, if I recall, I was advised by Carroll --

CHAIR: Mr. Holzer?

MR. CLARK: Mr. Holzer, that that was inappropriate at that point in time, because we were filing, we were getting ready to file --

CHAIR: Sir, without going into advice that you may have received from your counsel --

MR. CLARK: Okay, okay.

CHAIR: -- you elected to not attend?

MR. CLARK: Yes. Because we, we were in the process of filing the appeal.

MR. SCHMIDT: Okay.

MR. HOLZER: Just on that point, for the record, I was an attorney of record at that point and I never received a copy of the invitation. That goes along with the secret letter type --

CHAIR: We will, we'll deal with that part separately. I understand.

MR. HOLZER: That's all.

CHAIR: Okay.

MR. HOLZER: I didn't, I didn't need any dialogue on it.

MR. SCHMIDT: That's fine.

CHAIR: Okay, thank you.

MR. SCHMIDT: Okay. So, I guess at the end of the day, Mr. Clark, you, you've been invited to the property by the Petitioners at least three times, once by Mr. Ghimire, once as part of an open invitation to the neighbors and once by Mr. Kotroco and yet as of today, you've never been to the property?

MR. CLARK: Yep.

MR. SCHMIDT: Okay. Since you've never been to the property, do you have any personal knowledge of the condition of the property at the time my client purchased the property?

MR. CLARK: No.

MR. SCHMIDT: Okay. You have, you are not aware, not just of the property, you are not aware, and I think there were some photographs submitted, but, which you may or may not have seen, you are not aware of the condition of the structure at the time that the, my clients purchased the property?

MR. CLARK: Other, other than the pictures that I have seen and the descriptions by board members who had visited it when it was on sale.

MR. SCHMIDT: And is it fair to --

CHAIR: When you say board, which board?

MR. CLARK: Oh, yeah, by GFWPA board members who had visited it when it, when it, when it was offered for sale.

CHAIR: Thank you.

MR. SCHMIDT: Okay and at the time it was offered for sale, is it, is it fair to say that the building on the property, the main building and the outbuildings as well, were in a significant state of disrepair?

MR. CLARK: That is what I am told.

MR. SCHMIDT: And is it fair to say that those buildings had been vandalized by, by some persons with, I guess we don't know who?

MR. CLARK: No, we do not know who, but yes.

MR. SCHMIDT: Okay, okay.

MR. CLARK: As was the farmhouse that was originally part of the property down by me. And when that was purchased

thirty years ago, forty years ago, it was in complete, the kids had been using it as a skating rink and the windows were all broken out and --

CHAIR: Is this the barn?

MR. CLARK: No, no, no, no. This is, this is, this is another property --

CHAIR: Oh, another property, sorry.

MR. CLARK: Yeah, that sat abandon and --

MR. SCHMIDT: Not the Nepali property?

MR. CLARK: No, no, not, not the NAACB, Inc. property, no.

MR. SCHMIDT: Okay and you certainly have had drones and videos and Facebooks, so you've seen the condition of the property now, is that correct?

MR. CLARK: Yep.

MR. SCHMIDT: Is it fair to say that my client has significantly repaired and rehabilitated the property since then?

MR. CLARK: We have a photograph of, from October 6th, of large holes in the roof with people on the roof.

MR. SCHMIDT: Repairing the roof?

MR. CLARK: No, no, having a gathering.

CHAIR: Which structure had that much holes?

MR. CLARK: The, the, the main house.

MR. SCHMIDT: Okay.

MR. CLARK: We have photos.

MR. SCHMIDT: Okay.

MR. CLARK: I'm sorry?

MR. HOLZER: Why don't you identify the year?

MR. CLARK: Oh, oh, oh, oh, October 6th, 2018, the, the meeting at, at the property with the Maryland Deputy Department of State. If you go towards the end of that, they all, they, they go through the house --

CHAIR: Hold on. The photos, if they're not in evidence or anything, we don't need a description of them unless Mr. Schmidt asks --

MR. SCHMIDT: Actually, the question that I asked, I'm sorry, I was just very, very clear and --

CHAIR: No, please, it's, it's okay.

MR. SCHMIDT: -- if, if we can just get an answer to the question that I've asked. Would you, I'll make it simple, Mr. Clark, would you agree or disagree, you can give us a one word answer if that works, that since the property has been acquired by my clients, it has, they, have been significant efforts to rehabilitate and repair the property, the buildings on the property? And the grounds even, in terms of --

MR. CLARK: I don't know if they're significant.

MR. SCHMIDT: Okay.

MR. CLARK: But when I see a hole in the roof, I'm not sure that's significant.

MR. SCHMIDT: You don't think they've done much, okay. Fair enough. Fair enough. There have been two fundraisers on the property since my clients have owned the property, correct? Two fundraising events that you've described, one in 2017 and one in 2018, is that right?

MR. CLARK: The one in 2017 I think we've established was a family fun day.

MR. SCHMIDT: Okay.

MR. CLARK: And a, and a, and a volleyball tournament.

MR. SCHMIDT: Okay and the one, there was another larger event in 2018, is that correct?

MR. CLARK: Yep.

MR. SCHMIDT: Were there police at either of the occasions directing traffic or assisting with traffic at either of those occasions, to the best of your knowledge?

MR. CLARK: I believe the Blue Iris videos will show that --

CHAIR: Answer the question.

MR. CLARK: Okay. No.

MR. SCHMIDT: They were not?

MR. CLARK: No, I did not, I did not see, did not observe, did, did not photograph, did not videotape.

MR. SCHMIDT: Okay.

CHAIR: No police helping with traffic on the 2017

event?

MR. CLARK: That I would not know.

MR. SCHMIDT: Oh, you don't know about that?

MR. CLARK: No.

CHAIR: And no, no police helping with traffic at the 2018 event?

MR. CLARK: The videos that we took show, show that--

CHAIR: I mean, yes or no? That, that's, I just want to clarify --

MR. CLARK: Right.

MR. SCHMIDT: To the best of your knowledge, no?

MR. CLARK: Correct.

CHAIR: Thank you.

MR. SCHMIDT: Okay, fair enough. Okay. I'm not trying to be silly with these questions. When one exits the Nepali property, one could turn right onto Harford Road and go north, or left onto Harford Road and go south, correct?

MR. CLARK: Correct.

MR. SCHMIDT: And if one would turn left onto Harford Road to go south, one would need to cross over the northbound lane of Harford Road to go south, to get to the southbound lane, correct? Pretty simple. When you come out of, onto a road, if you're going to turn left, you have to cross a lane of traffic going the other way to make your left hand turn, is that correct?

MR. CLARK: You would go, the way I execute turns is I go perpendicularly across and make my turn.

MR. SCHMIDT: Mr. Clark, I'm, I don't mean to cut you off, but I'm not asking what your driving habits are. If you could just please listen to my question and answer it. And my question is, would one need to cross a lane of traffic going, in this case, the northbound direction of Harford Road in order to get to the southbound lane of Harford Road?

MR. CLARK: Yeah.

MR. SCHMIDT: Okay and depending on how one operates their motor vehicle, there may very well be a photo taken of that person appearing to drive down the wrong side of the street because they are turning left to get into the southbound lane, is that possible?

MR. CLARK: Do you have something for me to respond to?

CHAIR: Respond to the question.

MR. SCHMIDT: That's all I want you to do.

CHAIR: Respond to the question. He's, as I understood the question, and by all means, Mr. Schmidt, if I've said it wrong, please jump in, is, is it possible that when you're turning out there, when you're making that left hand turn, that people are going through the northbound lane and that's when you capture them on camera?

MR. CLARK: Can I answer your question?

CHAIR: I believe that was his question but in different words.

MR. SCHMIDT: Answer Mr., I'm happy for you to answer Mr. Garber's question.

MR. CLARK: Where that photograph was taken --

MR. SCHMIDT: Sir, I'm not asking you --

MR. CLARK: No, I'm asked, you asked, you said I could answer Mr. Garber's question.

CHAIR: Hold on, it's is it possible?

MR. CLARK: Is what poss, I'm sorry?

CHAIR: Is it possible that the moment the cam, the camera captures the vehicle turning, exiting the property heading left, therefore south, as it crosses over the northbound lane of traffic, is it possible that the camera captures that vehicle in the northbound lane of traffic as it's proceeding into its turn into the southbound lane?

MR. CLARK: From what I know of the circumstances in which that photograph was taken, no.

CHAIR: Okay. You may ask --

MR. SCHMIDT: Can, can we, can we, Mr. Garber, can you please ask the witness to answer the question that I've asked, asked and I believe what you've asked, which is, I believe, when one is exiting the Nepali property to go southbound on Harford Road, one would need, to access the southbound lane, one would need to cross the northbound lane of

traffic on Harford Road, is that correct, Mr. Clark?

MR. CLARK: You would have to cross the, the northbound lane to go southbound.

MR. SCHMIDT: Right, right. And depending on the habits and the skill and the, I suppose, the amount of traffic and other conditions, the time of day, the lighting conditions, etcetera, one may cross the road as apparently you do by proceeding perpendicularly and turning in a ninety degree angle or they may cut, common, like what we would commonly say cut that angle or cross over and appear in a photograph that might be taken at that instant, to be in the wrong lane and headed in the wrong direction, is that correct? It's possible, is it not?

MR. CLARK: At what distance from the, the entrance?

CHAIR: I need to know. The question is, is it possible?

MR. HOLZER: Objection, that isn't the question.

CHAIR: Hold on.

MR. HOLZER: The question has referred to specifically a photograph, so it ought to be tied to that.

MR. SCHMIDT: It has not.

MR. HOLZER: So it ought to be tied to that.

CHAIR: Mr. Holzer, Mr. Holzer, he's just asking is it possible that the camera would capture it at that moment, a camera. Okay? So, we're not talking about --

MR. HOLZER: He's referring to a camera.

CHAIR: You, you and I both know that there's a photo that's been introduced --

MR. HOLZER: Yes, yeah.

CHAIR: -- but he is referring to a camera that would capture a vehicle in a particular position at a particular moment. Is it possible that it reflects something different than what is understood by this witness?

MR. HOLZER: I would stipulate that he has --

CHAIR: He has said no --

MR. HOLZER: -- to cross the northbound lane to go southbound, that's not what he's driving at. He's trying to say that the photograph that's already in was taken during that time and that's why I'm --

CHAIR: I'll make this, I'll make this clear, because I understand his answer to be no, and he has an explanation as to why the answer is no.

MR. CLARK: Okay. No.

CHAIR: And why, why is that?

MR. CLARK: Where I was standing was, when that photograph was taken, was --

CHAIR: What, okay, now you're referring to the specific photograph.

MR. CLARK: Correct.

CHAIR: That we've seen.

MR. CLARK: Correct.

CHAIR: Do you have that in, handy in terms of the number?

MR. HOLZER: I don't remember what the number was but you've all been discussing it.

MR. SCHMIDT: I believe it's 35-A.

CHAIR: Let's bring the photo out to make this then easier, which I understand --

MR. SCHMIDT: Or 35-B, there are a couple of them around that time.

CHAIR: -- what, that's what you want to go, I know.

MR. HOLZER: That was my point.

CHAIR: But the question as asked did not ref, reference the specific exhibit, but now we're there.

MR. HOLZER: What is it?

MR. SCHMIDT: I believe it's Petit, is it Petitioners or Protestants? Protestants, I believe, Mr. McComas?

MR. HOLZER: 35-A.

MR. MCCOMAS: Yeah, here it is, here's one and I think we have another one.

MR. HOLZER: There it is.

MR. SCHMIDT: And I think he's got a copy of it.

MR. CLARK: I do.

MR. HOLZER: I just handed him a copy.

CHAIR: Thank you. Thank you, Mr. Holzer. Okay.

Have you had the opportunity --

MR. SCHMIDT: Now, Mr. Clark, you took that photo --

CHAIR: -- have you had the opportunity to review the photos?

MR. CLARK: I did.

CHAIR: Mr. Schmidt, back to you.

MR. SCHMIDT: Okay and Mr. Clark, you took those photos personally?

MR. CLARK: I did.

MR. SCHMIDT: Okay and is it your testimony that, that those vehicles were proceeding, let me make sure I get my directions correct, southbound in the northbound lane of Harford Road?

MR. CLARK: I think that's what the photo shows.

MR. SCHMIDT: Okay. Let's try this again. Is it your testimony that when you were there observing the traffic, that there were vehicles traveling southbound in the northbound lane of Harford Road?

MR. CLARK: Yes.

MR. SCHMIDT: Okay. For what distance were they traveling?

MR. CLARK: Well, as you can see, I'm, I'm past the telephone pole at the entrance, at, at the intersection of Mark Lane and Harford Road. I am maybe seventy-five feet south of that, okay? So, that means I'm seventy-five feet south of the

entrance easily. And assuming they have driven correctly, that coming out of the traffic by going, ex, exiting from the north side of, what do you call that?

CHAIR: Their entrance and exit way --

MR. CLARK: The circle, the stone, the, --

CHAIR: Okay.

MR. CLARK: Yeah, assuming that, that, that they were, that they exited out off of that correctly, as Mr. Collagero has testified is the correct practice, then this is probably another what, forty feet from that.

CHAIR: Where the vehicle in 35-A is depicted is thirty-five to forty feet away?

MR. CLARK: No, it would be about a hundred and ten, hundred and fifteen.

CHAIR: I'm, I'm trying to understand what you meant by this, I heard this.

MR. CLARK: Yeah, yeah, the, the, sole circle, in--

CHAIR: Take your time.

MR. CLARK: -- that divides the driveway. It has been testified that the proper way to leave there is to go, is to make a left hand turn from the north side of that stone circle. That nobody should be making a left hand turn from the south side of that circle. And so, this is, at this point in time, --

CHAIR: What is this?

MR. CLARK: At this point in time, this car --
CHAIR: You're pointing to 35-A.
MR. CLARK: 35-A.
CHAIR: And the vehicle depicted in 35-A.
MR. CLARK: And the vehicle depicted in 35-A, is probably a hundred and twenty-five feet from the entrance.
MR. SCHMIDT: Okay.
MR. CLARK: And the --
MR. SCHMIDT: Was there an accident as a result of that driving?
MR. CLARK: No.
MR. SCHMIDT: Okay. All right, thank you, Mr. Clark.
CHAIR: Are you done with that exhibit?
MR. SCHMIDT: Yeah, I think he gave that to, Mr. Holzer gave it to him, take it back, yes, sir.
MR. CLARK: Yeah, this goes, yeah, yeah, thank you.
CHAIR: That's why I just want to make sure it gets returned to its proper owner.
MR. HOLZER: Thank you, thank you. I'm the proper owner.
CHAIR: Thank you.
MR. SCHMIDT: Mr. Clark, I know we had some preliminary comments before we picked up this afternoon, that Mr. Jakubiak is going to testify. Who retained Mr. Jakubiak to testify in this matter?

MR. CLARK: Kingsville, Greater Kingsville Civic Association.

MR. SCHMIDT: Okay. Did Greater Kingsville retain any other experts, to the best of your knowledge, related to this Petition for Special Exception, whether they are going to testify or not?

MR. HOLZER: Objection. That's irrelevant to the proceedings.

CHAIR: Mr. Schmidt? Well, first of all, please stand up.

MR. HOLZER: I apologize. I object on the basis that that's irrelevant to these proceedings.

MR. SCHMIDT: I think it's, certainly the witness has offered all types of testimony regarding the issues in this case on behalf of Kingsville, on behalf of Falls, not Falls, I say Falls Road, --

CHAIR: Gunpowder?

MR. SCHMIDT: -- Gunpowder and himself personally. And I think understanding what the basis of his knowledge and how he determined his, the opinions that he's given, is certainly appropriate. And so, if he has consulted experts and has retained or, and has retained experts, I think that's appropriate cross examination for me to determine how he got so, his self-deprecating comments that he's, doesn't know anything about zoning notwithstanding, I think he's testified

that he's obviously spent a lot of time educating himself as to the issues surrounding this case.

CHAIR: The, --

MR. SCHMIDT: So, my question is, did part of that education come about from consulting expert witnesses.

CHAIR: I think it's fair to ask about the sources of information that forms the basis of the opinions expressed. The question as asked asked to disclose potential, what may be argued as matters for litigation strategy for Greater Kingsville or for Gunpowder or even for Dr. Clark. In other words, as stated, I will sustain the objection. You can explore what sources from which he got information for purposes of his testimony. Just the manner you asked it --

MR. SCHMIDT: Okay, I understand.

CHAIR: Okay.

MR. SCHMIDT: And I will try to abide by Mr. Garber's dir --

MR. HOLZER: I have no objection to that.

MR. SCHMIDT: -- direction. In, you looked at traffic issues as part of your testimony. Obviously, you've taken lots of videos related to road conditions, correct?

MR. CLARK: I did.

MR. SCHMIDT: And you, as a matter of fact, along those lines, just so we're clear, the videos that you take, have taken, I believe were generally of Harford Road, Mount

Vista, there was a part where some were on Mount Vista Road.

MR. CLARK: Right.

MR. SCHMIDT: And Glen Arm Road.

MR. CLARK: Right.

MR. SCHMIDT: There were some of them that included Glen Arm Road, is that a fair statement, Mr. Clark?

MR. CLARK: Yeah.

MR. SCHMIDT: And I think you characterized those roads and the videos, as sort of the typical country rural roads in this part of the County. I mean, kind of, this is what we see, one lane --

MR. CLARK: Yep.

MR. SCHMIDT: -- traffic, you don't have a median in the middle and the conditions with the topography and curves are sort of typical of what we see in this part of Kingsville and if I'm being --

MR. CLARK: No.

MR. SCHMIDT: -- if I'm not describing it correctly, please correct me, but I think that's what you sort of --

MR. CLARK: I agree with what you just said.

MR. SCHMIDT: -- said, this is sort of what, what we get in a rural area such as this. Okay. So, my question is, and those, these roads are pretty typical of a rural area, actually, wouldn't you say?

MR. CLARK: Yeah, yeah, --

MR. SCHMIDT: Yeah, I mean, you get what you get --

MR. CLARK: -- yeah, yes.

MR. SCHMIDT: -- with them, they're not speedways, or shouldn't be speedways.

MR. CLARK: Well, in, in fact, Ryan McIntyre insisted they stay this way.

MR. SCHMIDT: Sure, okay.

CHAIR: Former Councilman McIntyre?

MR. CLARK: Yes.

MR. SCHMIDT: Yeah, so in, in answering that, did, in formulating your opinion, did you have any consultation or discussion with any traffic engineering experts about, about educating yourself about traffic issues relating to this case?

MR. CLARK: Well, we, we, we tried to, to --

CHAIR: Hold on. The question was directed to you, sir.

MR. CLARK: Okay.

CHAIR: You're answering we.

MR. CLARK: Okay.

CHAIR: So there is ambiguity as to whom you are answering for.

MR. CLARK: Right. I tried to engage traffic engineers, both in Baltimore County, in the State and I have a friend who ran, who, who developed a company that turned out to be a fairly major regional traffic, civil engineering company.

And I tried to engage them and what it came down to, especially the last one, was no one wanted to threaten their developer work, so --

CHAIR: I'm, I'm sorry. It doesn't answer --

MR. CLARK: Right.

CHAIR: -- Mr. Schmidt's question as to whether or not, and I, if I get it wrong, please jump in.

MR. SCHMIDT: Yes, sir.

CHAIR: But it was whether or not you had any information from these, from any person, from traffic engineering. You then started talking about the process in attempting to --

MR. CLARK: Okay.

CHAIR: -- retain, so we're looking for the source of information and what the information was from that source. Is that a fair way to summarize it?

MR. SCHMIDT: Yes, sir, it is.

CHAIR: So, we can move on from the --

MR. CLARK: Yeah, --

CHAIR: -- I understand what you're trying to get at with the attempt at retention, but that's not the question that was asked.

MR. CLARK: Okay and we, I, I did have a very short consultation with, I can't remember his name, --

MR. SCHMIDT: If you can't remember you're the one on

the stand and nobody else can answer.

MR. CLARK: Yeah, okay, okay, okay. Out, out of, a, a small guy up in Pennsylvania and, in fact, we, I, I consulted with him in preparation for Mr. Collagero's testimony. In fact, he met Mr. Collagero up there at the, up at the property.

MR. SCHMIDT: Do you know his name?

MR. CLARK: Wheels are spinning and, and I can't, I can't ask Mr. Holzer.

CHAIR: That's true.

MR. CLARK: I'm looking pleadingly but.

CHAIR: If you don't recall, no, that's fine.

MR. SCHMIDT: If you don't recall and you don't know, that's, that's an acceptable answer.

MR. CLARK: But, but, but, but, but yeah, I, I found his, his, to tell you the truth, I thought we came up with better cross examinations for Mr. Collagero then, then he gave us.

MR. SCHMIDT: He wasn't helpful?

MR. CLARK: He wasn't. A waste of money.

MR. SCHMIDT: Waste of money, okay. And, okay.

MR. CLARK: And that's on the record.

MR. SCHMIDT: Okay. Other than in, in, in terms of your prepar, preparation, I assume you've met and discussed this matter with Mr. Jakubiak?

MR. CLARK: No, I have, I, no.

MR. SCHMIDT: You have not?

MR. CLARK: No, because the, I have been, since, since the beginning of November, I have been under an order to not discuss my testimony.

MR. SCHMIDT: Okay.

MR. CLARK: And, you know, --

CHAIR: The answer was no.

MR. SCHMIDT: The answer is no.

MR. CLARK: The answer is no.

CHAIR: Thank you.

MR. SCHMIDT: And I guess I, should I take it then that Mr. Jakubiak was retained after you took the stand in November?

MR. CLARK: Yes.

MR. SCHMIDT: Okay. Other than Mr. Jakubiak and the unknown, unnamed traffic engineer --

MR. CLARK: I'm sorry.

MR. SCHMIDT: -- who you did consult, but --

CHAIR: That's okay.

MR. SCHMIDT: -- quote, wasn't worth the money, have, have you had any discussions with any other expert witnesses about issues related to this case as you were formulating your testimony?

MR. CLARK: Me personally, no.

MR. SCHMIDT: Okay. Have there been any discussions

with any members of either the organizations which are affiliated with, namely, the Gunpowder Falls Watershed Preservation Association or the Greater Kingsville Group, with expert witnesses, since you answered the last question me personally, no.

MR. CLARK: Correct.

MR. SCHMIDT: Has anybody from those groups consulted any experts to help you formulate your opinions in this case? To the best of your knowledge?

MR. CLARK: I really don't know.

MR. SCHMIDT: You don't know, okay.

MR. CLARK: I, I, I know what we, what I, what November I had asked for, before November, but I don't know what anybody did after that.

MR. SCHMIDT: Okay.

MR. CLARK: Oh, the only other expert would have been the, the, the drone driver.

MR. SCHMIDT: The what driver?

MR. CLARK: The drone driver.

MR. SCHMIDT: The drone driver.

MR. CLARK: Yeah.

MR. SCHMIDT: And that was about taking the aerial photographs that were taken?

MR. CLARK: Right, right.

MR. SCHMIDT: Okay. Mr. Clark, let me ask you, if I

can, you, your property is about two acres, correct?

MR. CLARK: Yeah.

MR. SCHMIDT: And it's improved with a single family dwelling in which you and your wife live, correct?

MR. CLARK: And a garage.

MR. SCHMIDT: And a garage. Are there any other improvements on the property?

MR. CLARK: I, no.

MR. SCHMIDT: Okay. Do you have a tennis court?

MR. CLARK: No.

MR. SCHMIDT: Under the zoning regulations, if you know, could you have a tennis court?

MR. CLARK: Don't know.

MR. SCHMIDT: Okay.

MR. CLARK: I know I couldn't have pigs.

MR. SCHMIDT: Okay. Do, okay. Is it your assertion that the Nepali property cannot have what's been called the volleyball court?

MR. CLARK: No.

CHAIR: Hold on. Is that your, is that your assertion, is that what you said?

MR. SCHMIDT: Yes, is he contending that the, the owners of the Nepali cannot have the volleyball court on their, on the property that exists there. Is that illegal?

MR. CLARK: No.

MR. SCHMIDT: Or somehow contrary or not compliant with some zoning or other standards?

MR. CLARK: I don't even consider it immoral.

MR. SCHMIDT: Okay.

CHAIR: That wasn't the question.

MR. CLARK: I, but, but I've, I heard --

CHAIR: I, we've heard Mr. Schmidt's arguments in the past. The question asked to you was consistency with the zoning regs, basically, --

MR. CLARK: Yeah, yeah, yeah.

CHAIR: -- it is not in conflict with the zoning regs.

MR. CLARK: As far as I know.

MR. SCHMIDT: As a matter of fact, when we look back at the Grace Church case, that I think I started my cross examination with you about, they, in fact, have a gymnasium, or at least Mr. Kotroco's decision indicates that they have a gymnasium, correct?

MR. CLARK: I, I, I agree that I remember seeing that in there, yes.

MR. SCHMIDT: So, so is it fair, fair to say, and I, and I won't try to invade your privacy and ask if you are a church goer or what your religious faith, if any, is but is it fair to say or can you, can you say that many churches have, what I would call recreational type amenities, gymnasiums or

other things that they may use as part of their missions program, that the children may play in or, I think, I'm thinking of Fellowship of Christian Athletes, those kinds of organizations, which combine a religious purpose with a recreational purpose?

MR. HOLZER: Objection. I don't understand the question.

MR. SCHMIDT: The question is, if he's --

CHAIR: Please stand when you object.

MR. SCHMIDT: I'll try to rephrase it if it's confusing.

CHAIR: Well, let's see if we rephrase it, if it solves whatever issue.

MR. SCHMIDT: Is it fair to say, Mr. Clark, based on your own personal experience, and again, I don't know whether you go to church or not, or how familiar you are with churches, but based, and you may not know, but is it, do you believe it accurate to say that many churches, as part of their program of spreading the gospel or spreading the good news according to whatever the faith is, may have some recreational type of amenity or facility associated with their religious program on their property, just as Grace has a, apparently a gymnasium and Nepali has a volleyball court. Part of the, that, that being part of the church ministry as, as it were, as it would, as it were, is that a fair statement or is that inaccurate?

MR. CLARK: I really don't know what many, most do. I, I know in my experience what I have encountered.

CHAIR: Well, that's exactly what he's asking you.

MR. CLARK: Okay. I grew up Episcopalian --

CHAIR: No, hold on. We, we, without going into --

MR. CLARK: Okay.

CHAIR: -- your personal journey and background on this --

MR. CLARK: Okay.

CHAIR: -- what is your experience, what is your awareness of how oper, religious institutional operations go in terms of recreation facilities or amenities?

MR. CLARK: The, the parishes to which I belonged did not.

MR. SCHMIDT: Okay. Have you ever been to a religious institution that has, that does?

MR. CLARK: Yes, yes.

MR. SCHMIDT: Which? Any, any in Baltimore County or the Baltimore Metropolitan area?

MR. CLARK: No.

MR. SCHMIDT: Okay. Do you believe that to be, that having such a recreational facility or having such a recreational component is inappropriate or not permissible for whatever reason?

MR. HOLZER: Objection.

CHAIR: There's an objection. Don't answer the question quite yet.

MR. HOLZER: The objection is, he has already said what he's familiar with or whatever, the question is now speculation, is do you think it's okay in effect, to have that. And that's the very issue that we're involved in here, that the community expressed its concern about. So, I object to that question.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: I believe the witness made it exceedingly clear on direct examination, I, and I may have the quote, I tried to write down verbatim some of which he said, that they didn't, they being Nepali, didn't ask for this or didn't request this.

CHAIR: Didn't ask, sorry, you used the word this.

MR. SCHMIDT: This being the volleyball court. And so, since he has, he has opined on direct examination about this issue related to what I would call part of the Nepali ministry, i.e., having children play volleyball there, whether, I'm just trying to see if he agrees with that proposition or not. He's expressed an opinion about it on direct.

CHAIR: Are you suggesting that --

MR. SCHMIDT: I'm trying to flush that out a little bit.

CHAIR: -- in a, in a general sense or specific to

the subject property --

MR. SCHMIDT: Well, I'm going to start off general --

CHAIR: That, I think that's maybe where one part of the confusion is.

MR. SCHMIDT: Yeah, well, I was asking him generally whether he would, I'll try to make this as succinct, if I can, whether he would agree with the proposition that many churches, and when I use the word church, I mean, I don't mean to restrict it to a Christian facility. It could be a synagogue, it could be a temple, it could be affiliated with any religion. But, if you know, Mr. Clark, are there many religious buildings and religious uses and institutions which have what I would call a recreational component or part of their ministry, or mission program?

MR. HOLZER: Objection.

CHAIR: He's already answered the, that question saying that --

MR. HOLZER: Yes.

MR. SCHMIDT: He said he didn't know.

CHAIR: He said he personally, the ones he's been to, do not.

MR. SCHMIDT: Do not.

CHAIR: But he is aware that others have.

MR. SCHMIDT: Are, okay. So, then my next question would be in this case, related to this property, is it your

opinion, Mr. Clark, that the Petitioner should be allowed to have a recreational component or amenity, however, whatever you want to, however you want to style it, in association with their religious program?

MR. HOLZER: Objection. Mr. Ghimire already told a member of this Board, who used to be on there, Ms. Murphy, that they would get rid of the volleyball court. It's in the transcript, on his questioning. So, if, there's no need for the witness to answer that question because they have indicated to this Board that they would get rid of the volleyball court.

CHAIR: Mr. Schmidt, do you wish to respond?

MR. SCHMIDT: I, I, frankly, don't recall whether Mr. Ghimire testified about that and under what circumstances that he had. But even if it was not a volleyball court, my question would remain the same. Even if it was some other amenity.

CHAIR: If I --

MR. SCHMIDT: There was a swimming pool, which they, I know, are getting rid of and my question is, to the witness is, I, I don't think it's inappropriate and I think it's in line with his testimony on direct, which he spent a lot of time on, and that is does he oppose what I would call a recreational amenity, volleyball court, swimming pool, basketball court, something like that, on this property as part of the religious program, which is being proposed by my clients. I don't think that's an unfair question.

CHAIR: And for, and forgive me, I'm looking through here because I seem to recall this was covered as a potential condition that would be requested on behalf of the association. So, for that reason, the question, I'm going to overrule the objection because I believe that that was testified to as part of the conditions potentially requested. Sorry, Mr. Schmidt?

MR. SCHMIDT: Yes, so I've asked the question.

CHAIR: Yes.

MR. SCHMIDT: Do I need to do it again?

CHAIR: The, the objection is overruled because of that.

MR. CLARK: I understand, I understand it.

CHAIR: Okay. You may answer the question.

MR. CLARK: Okay. I would have no objection if it were fairly and properly included in the request for the special exception.

MR. SCHMIDT: So, you, if, if it was within, if it was within the language on the Petition for Special Exception, then you would not object to it, is that what you're saying, Mr. Clark?

MR. CLARK: And it was, and it was shown on the plans.

MR. SCHMIDT: Okay and was shown on the plans. Okay, all right. With that caveat, then that would be acceptable to have a recreational amenity of some type?

MR. CLARK: Subject to the whole issue of noise and--

CHAIR: I, I would anticipate that's where we were going to go. We're just focusing on the existence.

MR. CLARK: Right.

CHAIR: As to its operation, that would be a separate matter. So, as to the existence of one, could you answer Mr. Schmidt's question? If you had a problem with the noise and lights, that's not, that would not be considered --

MR. CLARK: Yeah, no, no, no, I, I, I, yeah, because this is me personally, yeah. Yes, I would have a problem with it.

MR. SCHMIDT: Now, wait a minute. I thought you said you wouldn't have a problem with it if it was in the Petition and on the plan, but you would have a problem with it?

MR. CLARK: Mr., Mr. Garber just helped, just helped me understand the, the question --

MR. SCHMIDT: Thank you, Mr. Garber.

CHAIR: I was, sorry, I'm trying to, he started down the noise and lights. I realize that's a separate matter because that deals with operations.

MR. CLARK: Right.

CHAIR: I understood Mr. Schmidt's question and maybe I should just let this go and let Mr. Schmidt re-ask his question, I understood his question to relate to the existence of any recreational facility independent of all the factors --

MR. CLARK: Yes, yes, I would.

CHAIR: -- hold on, independent of all factors as it relates to its operation.

MR. CLARK: Yes, I would.

MR. SCHMIDT: Okay and, and you would likewise, Mr. Clark, as I understand it, I think one of the restrictions that you said would be to basically prohibit any outdoor activity associated with the temple, is that a fair statement?

MR. CLARK: Correct.

MR. SCHMIDT: Do I understand you correctly? Okay. So, just by way of analogy and I just want to make sure I understand, Mr. Clark, and pardon me for, just, I'm just trying to understand when we talk about outdoor activity, that we're sort of on the same wavelength and I'll just say this as, as a very brief preamble. I'm a member of a, of a Methodist church. We have a tradition of, at Halloween time we sell pumpkins and on the front lawn of the church, are delivered pumpkins and then volunteers from the church there, and people from the neighborhood come and buy a pumpkin. It happens for about two weeks every year in October and it's sort of part of the outreach to the community, etcetera, and it's a fundraiser.

MR. CLARK: Um hm.

MR. SCHMIDT: If Nepali had some outdoor function of that nature, which would be seasonal or short term, you would be opposed to anything like that because it's outdoors, is that

correct?

MR. CLARK: Yes.

MR. SCHMIDT: Okay. Mr. Clark, you offered as part of your direct examination one of the zoning decisions as it relates to the Beachmont property.

MR. CLARK: I did.

MR. SCHMIDT: Okay. Can you tell us where the Beachmont property is in terms of its proximity, let's start off, to your property and then to the Nepali property.

MR. CLARK: It is by car maybe five minutes from my property.

MR. SCHMIDT: Okay.

MR. CLARK: Cutting through the woods, you know, maybe a mile, mile and a half.

MR. SCHMIDT: Okay. Are you familiar with that property?

MR. CLARK: Yeah.

MR. SCHMIDT: Have you been to the property before?

MR. CLARK: The Beachmont property?

MR. SCHMIDT: Yes, sir.

MR. CLARK: Visited it briefly.

MR. SCHMIDT: Okay. I'm going to show you, thirty-eight. Mr. McComas, if I can approach? And I will give you a fourth but I just want to give one to, to be fair to the witness, and I'd like to have one in front of me as well if I

can.

MR. CLARK: Cool, I like this.

MR. SCHMIDT: Mr., I'm sorry, Mr. Clark, you said it's about a five minute car drive from your property, correct?

MR. CLARK: Yep, yep.

MR. SCHMIDT: Is the subject property closer, is the Nepali property closer to Beachmont or for, farther away than you are?

MR. CLARK: Closer.

MR. SCHMIDT: Okay. So, okay. Now, so, is, is the Beachmont property in the neighborhood?

MR. CLARK: Yeah.

MR. SCHMIDT: Okay. Now, I'm going to refer you to the last page of the exhibit that I gave you, which is page five of five, which indicates that down at the bottom, that this printout, which I would just say to you is taken again from the public domain of the Beachmont web page, is a Beachmont, it's the Beachmont Christian Ministry so this is a Christian facility, is it not?

MR. CLARK: I don't know what you mean by a Christian, and I'm not being difficult --

MR. SCHMIDT: Well, it's not Jewish, it's not Hindu--

MR. CLARK: Right.

MR. SCHMIDT: -- it's not Buddhist, --

MR. CLARK: Right, right.

MR. SCHMIDT: -- it's Christian.
MR. CLARK: Right.
MR. SCHMIDT: And it's a religious facility since it uses the word Christian ministries, is that fair?
MR. CLARK: I would say, no, I would say that's not fair.
MR. SCHMIDT: It, so, so it's not a religious facility?
MR. CLARK: They do not have a pastor on the property.
MR. SCHMIDT: Do they, do they have what you and I would call a church on the property?
MR. CLARK: I don't think so.
MR. SCHMIDT: You don't think they have a church on the property?
MR. CLARK: No, they do not. The church is on Redeemer property.
MR. SCHMIDT: Which is next door?
MR. CLARK: Which is a different organization altogether and that's --
CHAIR: The, the, the question was, is it next door?
MR. CLARK: Yes.
MR. SCHMIDT: Does, does, does it --
MR. CLARK: It's an adjoining property.
MR. SCHMIDT: Okay, all right. So, there's a church

building, we can argue whether it's on the Redeemer property or on the Beachmont property, but there's a church building on the, you believe on the Redeemer property?

MR. CLARK: No, not believe, I know.

MR. SCHMIDT: Okay. Okay. In, insofar, but, but the Beachmont property, or at least the Beachmont organization as identified as the Beachmont Christian Ministries, which is, would you agree with me at least to that extent, that this is a religious affiliated institution of some type?

MR. CLARK: I would say that they invite families of, of, of an identified value set.

MR. SCHMIDT: Okay.

MR. CLARK: I don't know that they, well, I know that they don't have a preacher on site, pastor and I, I have, in fact, I, I, I had the, the sad duty to, to have them resolve an out of compliance issue with, in relationship to the corn maze.

MR. SCHMIDT: Okay.

MR. CLARK: And I have, we have the letter for that.

MR. SCHMIDT: Okay. Let's, let's start at the beginning of the exhibit, if I can. So, they have a corn maze on the property?

MR. CLARK: Um hm.

MR. SCHMIDT: It draws people --

CHAIR: That's a yes, sir?

MR. CLARK: Yes, yes, they do.

MR. SCHMIDT: Okay. That's an outdoor activity?
MR. CLARK: Yes, yes, it is.
MR. SCHMIDT: And it occurs during how many months of the year?
MR. CLARK: Six weeks.
MR. SCHMIDT: Around the Halloween time or the fall season?
MR. CLARK: Yep.
MR. SCHMIDT: Okay. Have you ever been to that?
MR. CLARK: Nope.
MR. SCHMIDT: Okay. I, it looks like in the picture on page one of the young couple holding the baby that they may be standing in the corn maze or near the corn maze?
MR. CLARK: Could be.
MR. SCHMIDT: Is that a fair representation of what the corn maze looks like to the best of your knowledge?
MR. CLARK: Could be.
MR. SCHMIDT: Okay. On page two, it indicates that Beachmont also has a summer camp at the Beachmont Christian Camp, is that correct?
MR. CLARK: Correct.
MR. SCHMIDT: Likewise, they have a flag football league or program or game or something, correct?
MR. CLARK: Correct.
MR. SCHMIDT: They also have dodge ball games going

on at, at, at Beachmont, correct?

MR. CLARK: Correct.

MR. SCHMIDT: Matter of fact, they have the best dodge ball games in Kingsville going on at Beachmont --

MR. CLARK: Do they?

MR. SCHMIDT: -- according to the literature. Now, the golf tournament, I would admit to you, if you look at page three, is that at a golf course, not at Beachmont, and there is not a golf course at Beachmont, okay. Turning to page three, they have a, a, a, I mentioned the eight week program and it indicates in flag football. They have an archery program there, correct?

MR. CLARK: Um hm.

MR. SCHMIDT: They have a home school --

CHAIR: Yes?

MR. SCHMIDT: -- physical education program there?

MR. CLARK: Yes, yes, yes, yes, yes.

MR. SCHMIDT: Okay. Turning to the next page, they have a men's softball program at Beachmont, correct?

MR. CLARK: Yes.

MR. SCHMIDT: Swimming lessons at Beachmont?

MR. CLARK: Yep.

MR. SCHMIDT: Okay and they have an Easter morning 6:30 a.m. --

MR. CLARK: Sunrise service.

MR. SCHMIDT: -- sunrise service. Now, that's an exterior service, correct?

MR. CLARK: Yes.

MR. SCHMIDT: Okay and since it says the rising of the son and it's spelled S-O-N, I would assume that would be somewhat of a double entendre that they are celebrating not only the rising of the sun from which we get our light and heat, but under the Christian theology the rising of Jesus Christ on that morning, is that correct?

MR. CLARK: I don't know their intent.

MR. SCHMIDT: Okay. Well, could, would, wouldn't you say that's fair to interpret since they say the rising of the son, S-O-N, meaning a person?

MR. CLARK: I have no opinion on that.

MR. SCHMIDT: You don't know? And they have a volleyball court there?

MR. CLARK: They do.

MR. SCHMIDT: Okay, okay. Do you know the zoning of the Beachmont property?

MR. CLARK: It's RC-5.

MR. SCHMIDT: Okay. Is this, in your opinion, the activities at Beachmont detrimental to the health, safety and welfare of the community?

MR. CLARK: They have been, which is why we have, why, why we had to come, why we had to have, why we had to

contact code enforcement, why their director and I came to a resolution about how they were going to resolve it. Basically, I told them that they needed to work with their community, they agreed to that. How, how they and their community are going to resolve it, I don't know.

MR. SCHMIDT: Okay, okay.

MR. CLARK: But they were exceeding the limit of visitors for the corn maze.

MR. SCHMIDT: Okay. I would offer that as the next exhibit.

CHAIR: Mr. Holzer?

MR. HOLZER: I, I think I can resolve the questions by asking some additional questions of the witness when it's my time, so --

CHAIR: So, do I understand you have reservations at the present time as to the admissibility of --

MR. HOLZER: Yes.

CHAIR: -- Exhibit 38?

MR. HOLZER: Yes.

CHAIR: And that you are asking that the matter be held open --

MR. HOLZER: Yes, until I have a chance to --

CHAIR: -- until you, and so therefore, we would have to rule at that time.

MR. HOLZER: Yes.

CHAIR: Mr. Schmidt, I assume that that would not pose an objection to you since you still have the opportunity to have it reviewed and made --

MR. SCHMIDT: Sure. Well, let me ask, let me ask the witness this. Mr., Mr. Clark, the exhibit that I gave you and it's, I'm not trying to trick you, but I, I believe it's a fair representation of the activities at Beachmont. And is it, you are a resident, you've been there, you worked to try to enforce them with the size of the corn maze, so I assume you have some familiarity, living in the neighborhood for thirty years, as to what goes on at Beachmont. Is the exhibit that I gave you inaccurate? Those things don't happen at Beachmont?

MR. HOLZER: Objection. I objected --

MR. SCHMIDT: I mean, is that what he's saying? Is that --

MR. HOLZER: I object.

CHAIR: Hold on, Mr. Schmidt, for one second.

MR. HOLZER: I tried to make it easy for the wit, for the counsel, by saying I would like to ask some questions to fully explore the issue before it gets introduced. And instead of that, I get this feedback where he's trying to do the very same thing and force it into evidence now.

CHAIR: I, I would say we resolved that matter --

MR. HOLZER: Thank you.

MR. SCHMIDT: I'm just --

CHAIR: Hold on. But the question that was asked was a proper question, because it doesn't just speak to the exhibit itself, it goes to this witness' understanding of the activities over at Beachmont. So, with that in mind, I'll overrule the objection and you may ask.

MR. SCHMIDT: I think the question was does the exhibit fairly and accurately show the activities that are occurring at the Beachmont property?

MR. CLARK: The only, the only thing I observed was, I guess it was one of the day camp sessions, and the kids were down at, at the pond, at the pool.

MR. SCHMIDT: Okay. The next exhibit, I'm, I will --

MR. MCCOMAS: So, is, is this i.d. only?

CHAIR: At the moment.

MR. HOLZER: Yes.

CHAIR: And again, Mr. Schmidt, because that's i.d. only, I'm going to address this point a little bit later. Just put a little asterisk so we know to go back to the admissibility of that.

MR. SCHMIDT: Sure, sure.

MR. MCCOMAS: This is thirty-nine.

MR. SCHMIDT: Thirty-nine and I'll give you a fourth copy. I'm going to give you the same kind of thing. Let me give you another one that doesn't have marks all over it, Mr.--

MR. CLARK: Clark.

MR. SCHMIDT: -- Clark, I'm sorry.

MR. CLARK: That's all right.

MR. SCHMIDT: I don't want to give you one with writing all over it. And not to be duplicitous, but I believe that this is also taken from the Beachmont --

MR. CLARK: Yep.

MR. SCHMIDT: -- website and just generally describes, again, the type of activities that are occurring on the, on, on the, the Beachmont property and, you know, my question would --

MR. CLARK: No, I, I, I agree, it is what it is.

MR. SCHMIDT: And, and that's, they say what they do and this is the kinds of things that they do?

MR. CLARK: Right.

MR. SCHMIDT: Okay.

MR. CLARK: Now, can --

CHAIR: There's no question pending.

MR. CLARK: Okay.

MR. SCHMIDT: But, well, you do agree, just so we're clear, that the activities that are shown on Petitioner's exhibit number thirty-nine reflect the activities that are occurring at the Beachmont property?

MR. CLARK: Yeah, yeah.

MR. SCHMIDT: Okay, thank you.

CHAIR: Move for the admission of thirty-nine then,

Mr. Schmidt?

MR. SCHMIDT: Yes, sir.

MR. HOLZER: Same, same request.

CHAIR: All right. We will reserve a ruling on thirty-nine on the same basis.

MR. HOLZER: Yes.

MR. SCHMIDT: And then finally, I have one more page. And Mr. Clark, sort of same drill. And this would be number forty. Thank you, Mr. McComas. And this is just their page related to --

MR. CLARK: Yep.

MR. SCHMIDT: -- to the sunrise service, except they actually give coffee, hot chocolate and donuts after the service.

MR. CLARK: (inaudible).

MR. SCHMIDT: Unlike Nepali, so if you're hungry that morning, Mr. Clark, you can go up there. Have you ever attended the sunrise service?

MR. CLARK: No.

MR. SCHMIDT: Okay. Do you know if there is, indeed, a sunrise service, is that an accurate --

MR. CLARK: I, I have been told by people from Kingsville --

MR. SCHMIDT: People in the neighborhood?

MR. CLARK: -- yeah, and people from Kingsville, you

know, that --

MR. SCHMIDT: That they go to the sunrise service?

MR. CLARK: Yeah, yeah, yeah.

CHAIR: Please let him finish his answer.

MR. SCHMIDT: I'm sorry.

CHAIR: I, I know that, I know you're trying to move along.

MR. CLARK: I'm going to need a break in a minute.

MR. SCHMIDT: Okay. We need to take, he wants --

CHAIR: You are familiar, you have heard from other people in the, in, from Kingsville that this occurs at this site?

MR. CLARK: Yeah.

MR. SCHMIDT: Okay.

MR. MCCOMAS: And Mr. Schmidt, this is actually from a Google e-mail, looks like an e-mail (inaudible) on the website, just from, just for (inaudible).

MR. SCHMIDT: Yes, yes. I'm, I apologize, it is. Although it's, yes, it came via an, my understanding was it's a link on their website where if you want additional information you e-mail this info@beachmont and this is what you get back.

CHAIR: And Mr. Kotroco is a subscriber to that service.

MR. SCHMIDT: Yes, yes. He is the one that actually obtained it.

CHAIR: Exhibit 40.

MR. HOLZER: Same, same request.

MR. SCHMIDT: Mr. Clark indicated he would like a break and I'm, I'm, think I'm coming somewhat near the end, but I'd be happy to take a break, let me get my thoughts on it, organized and maybe we can be done shortly.

CHAIR: If you would like a break, then that's fine.

MR. CLARK: Yeah, yeah, thank you.

CHAIR: Why don't we do that, five minutes. Before we --

MR. CLARK: Thank you, Mr. Schmidt.

MR. SCHMIDT: Yes, sir.

CHAIR: Mr., Mr. Clark may step out because I know he has other business to attend to. You can go --

MS. DOPKIN: Off?

CHAIR: Actually stay on for a moment. So, real quick, to Mr. Schmidt and Mr. Holzer, as we just discussed with Petitioner's Exhibits 38, 39 and 40, we have a little asterisk next to them, like I said, so we know to go back. Also, just for purposes of the record, there were numerous instances throughout Protestant's case, whether we were in Petitioner's case or during the course of your case, where certain exhibits were offered up, withdrawn, were offered up, objected to, in i.d. only. You indicated that you were going to go follow-up with one or more witnesses to establish proper authentication.

We're trying to, I asked Ms. Cannington, but I'm going to go through to identify which ones are still in this limbo status so that, pardon me, the record can be completed, we all know what is in, what is out. So, for purposes of any future proceedings, there's not going to be a question as to where we stand as to any one exhibit. Having said that, I would request the same of counsel to make sure that everyone's records match as best as possible.

MR. HOLZER: Yes.

CHAIR: Because I do not want there to be some confusion on any particular exhibit. I want us to all have the same --

MR. HOLZER: I think what you're asking is, is fair, I mean, because we went so late yesterday and because it's late today, I'm going to try to have Mary, if at all possible, to take my notes and make the same kind of list, as far as each exhibit, what is in, what, what is not in and what, if it's not in, is it part of the proffers that I made. I think that will clarify --

CHAIR: And I think yesterday was fairly clear as to where we stand with yesterday's exhibits.

MR. HOLZER: Yes.

CHAIR: It's the earlier ones --

MR. HOLZER: Yes.

CHAIR: -- where certain exhibits were identified or

shown to other witnesses and then you wanted to withdraw them so that you could authenticate them through the person who may have taken the photos.

MR. HOLZER: Right.

CHAIR: And those kind of things. I'm just bringing that back around because you had expressed the intent to do that --

MR. HOLZER: Yeah, I --

CHAIR: -- and there was question as to where those exhibits stand and we need to get resolution on all that before the, the record closes.

MR. HOLZER: I agree, I understand, yes.

MS. DOPKIN: One minor question relating to that is when Mr. Morgan testified, he had presented some e-mail posts and, on --

CHAIR: Right.

MS. DOPKIN: -- Nextdoor?

CHAIR: Yes. I believe that was like Exhibit 50 or thereabouts.

MS. DOPKIN: And I had asked if he had the post that it responded to, his original post. Was he in, were you intending to provide that to us?

MR. HOLZER: Well, I, yeah, I, there's a number of things that I think that have been deferred that we need to get --

MS. DOPKIN: Would you please add that to your list of, to address?

MR. HOLZER: -- add, and we can add that to the list. So we can --

MS. DOPKIN: All right.

MR. HOLZER: -- go get all of that straight, because I do want the record straight when, when we finish. Did we --

CHAIR: We're, no, we're on, we're still on break. I just wanted to address that on the record so everybody is aware. Let's make sure that we all have an agreement as to where we stand as to some of those exhibits that are still in this limbo.

MR. HOLZER: Yes.

CHAIR: Okay.

MR. HOLZER: Can I take a five, --

CHAIR: No, we're taking a break. We're still, we're still (inaudible), yes.

MR. HOLZER: Okay. I didn't want to leave.

CHAIR: No, that was not your five minute break.

MS. DOPKIN: And we're off the record.

(RECORDING PAUSED - 04:25:59 PM)

(ON RECORD - 04:40:47 PM)

CHAIR: Everyone, please be seated. And to the extent I need to say it again, make sure your cell phones are off. I'm sorry. That should be on the record. Please make

sure your cell phones are off. And Mr. Schmidt, we are back to you with cross examination.

MR. SCHMIDT: Thank you. In an effort to try to move this along a little bit, Mr. Clark, I showed you some information which I believe was from the Beachmont website.

MR. CLARK: Agreed.

MR. SCHMIDT: And I just wanted to, similarly, I've got some information from the Redeemer property, which is located immediately adjacent to Beachmont?

MR. CLARK: Correct.

MR. SCHMIDT: You indicated that Beachmont was in your neighborhood. Is Redeemer Classical Christian School in your neighborhood?

MR. CLARK: Yes.

MR. SCHMIDT: Okay. You're familiar with that property? That's the one that actually in, according to your testimony, has a church on it?

MR. CLARK: Correct.

MR. SCHMIDT: Okay and that, in addition, that has a school, does it not?

MR. CLARK: Correct.

MR. SCHMIDT: Okay and I'm going to just give you, again, this is taken from the public domain and I'll give a copy to, four copies to Mr. McComas. But this, and I ask you to take a --

CHAIR: Forty-one?

MR. MCCOMAS: Yeah, forty-one.

CHAIR: Thank you.

MR. SCHMIDT: -- take a look at it as, and having marked it as forty, forty-one, which generally sort of describes, I believe, the, bless you --

MR. CLARK: Bless you.

CHAIR: Thank you.

MR. SCHMIDT: -- the activity at the, at the school and apparently the school, according to the information here, was founded in, founded in 1996, is that correct? So, that, that was there --

MR. CLARK: That, that's my understanding.

MR. SCHMIDT: Yeah, that, that started after you were a resident of the neighborhood?

MR. CLARK: Correct.

MR. SCHMIDT: Okay and has two hundred and fifty children in it?

MR. CLARK: Correct.

MR. SCHMIDT: And, okay. And similarly, I got, you can see from the first page of that exhibit, there were some information about student life.

MR. CLARK: Um hm.

CHAIR: Yes?

MR. CLARK: Yes, yes, yes, yes, yes.

CHAIR: Thank you.

MR. CLARK: Sorry.

MR. SCHMIDT: And I'll mark this as the next sequential exhibit.

CHAIR: Forty-two.

MR. SCHMIDT: Forty-two. And again, it just talks about the kind of things that they do there. Now, this is a Christian school, is it not? If you know.

MR. CLARK: Yeah, yeah, yeah, yeah, yeah, Ron, Ron, Ron is a pastor.

MR. SCHMIDT: Okay.

CHAIR: Who?

MR. CLARK: Ron Standifer.

CHAIR: Thank you.

MR. CLARK: And basically, though, he, he, it's, he really focuses on rhetoric and logic and Latin. They don't, I don't believe they teach religious classes in the school.

MR. SCHMIDT: But it is, it is at least affiliated with the --

MR. CLARK: With the church there.

MR. SCHMIDT: -- with the church?

MR. CLARK: Yeah.

MR. SCHMIDT: Okay and then finally, the third page would be athletics, the athletics page, and that would generally be that they have an athletic program there, I

believe, which is described on this web page.

MR. CLARK: Yeah, and, and I've observed them playing volleyball there.

MR. SCHMIDT: They play volleyball?

MR. CLARK: Soccer, soccer, the soccer.

MR. SCHMIDT: Okay. Soccer and other sports as described in there?

MR. CLARK: Yeah.

MR. SCHMIDT: And so those web pages fairly and accurately depict what's going on at the property at the present time, in terms of the activity of the school and the church?

MR. CLARK: Yeah, for, from my understanding, yes.

MR. SCHMIDT: Okay and is the church an active church? And when I say that, does it conduct services on a routine basis, if you know?

MR. CLARK: Yeah, yes, yes, he does.

MR. SCHMIDT: Okay and it's a Christian church, so I assume that the services are on, are on Sundays typically?

MR. CLARK: Yes, I believe there are.

MR. SCHMIDT: Do you know how many services they have on each Sunday, Sunday? One or more?

MR. CLARK: I think one. I, I know it's a very small congregation.

MR. SCHMIDT: Okay and you believe it's one?

MR. CLARK: Yeah.

MR. SCHMIDT: Okay. I would offer those exhibits as well. Just, again, they say what they say and the witness has indicated they describe what's happening on that property generally.

CHAIR: Mr. Holzer, Exhibits 41 through 43?

MR. HOLZER: I would like them just to be marked for identification till I ask questions about them but --

CHAIR: Same as the Beachmont.

MR. HOLZER: Same as the Beachmont.

CHAIR: Very well.

MR. SCHMIDT: And I, I don't, I'm sorry, Mr. Holzer, didn't mean to interrupt.

MR. HOLZER: No, I'm, I'm inclined to let them go in, just so that the Board knows.

CHAIR: We understand where we're at with this.

MR. HOLZER: Thank you.

CHAIR: Thank you very much.

MR. SCHMIDT: Let me ask you, if I can, kind of switching gears, Mr. Clark, have you spoken to Councilman Marks about this project? Or any, or anyone in his office?

MR. CLARK: I tried to at, at, at that civic center and he told me he can't talk to me about it.

MR. SCHMIDT: Okay. Did he attempt to broker or arrange a meeting between the parties to discuss the issues?

MR. CLARK: That, that would be, that, that was very interesting.

CHAIR: Hold on, answer the question first.

MR. CLARK: Yes, yes.

MR. SCHMIDT: He did?

MR. CLARK: Yes.

MR. SCHMIDT: Did the meeting occur?

MR. CLARK: No.

MR. SCHMIDT: Okay. Did, did the meeting occur, or do you know why the meeting didn't occur?

MR. CLARK: Yes.

MR. SCHMIDT: Okay.

MR. CLARK: Okay. So, he called me on Friday morning, on a Friday morning, I don't remember the exact date, but it's easy enough to figure out, and requested my appearance at a meeting with him, Mr. Kotroco, Kris Ghimire and Senator Brochin. I called Carroll Holzer.

CHAIR: You called Mr. Holzer.

MR. CLARK: I called Mr. Holzer.

CHAIR: Okay.

MR. CLARK: Mr. Holzer said well, I'm going to, I'm not going to be away and you're not going there without me present, okay? So, --

CHAIR: And just so, I don't want you to go into conversations you had --

MR. SCHMIDT: Yeah, I don't want to have any kind of attorney/client --

CHAIR: I, I know, I know, I know. I'm just letting him know in advance so he doesn't go off script or far afield here --

MR. SCHMIDT: That's, and I think we can say --

CHAIR: -- (inaudible).

MR. SCHMIDT: -- Mr. Clark, you didn't, you didn't attend because you were instructed not to by counsel?

MR. CLARK: No, that isn't quite the case.

MR. SCHMIDT: Oh, okay. I'm sorry.

MR. CLARK: So, after that, and I explained that to actually, to, to Mr., to, to Senator Brochin. He said he, he would call Mr. Marks and set something up for Monday.

CHAIR: Senator Brochin said that?

MR. CLARK: Yes. So, my, on Sunday, Senator Brochin told me that Mr. Marks was going on his vacation and he wasn't going to cancel it --

CHAIR: Mr. Marks?

MR. CLARK: Mr. Marks, okay? He, and, and I wasn't going to change it for this. So, then Senator Brochin said, well, what, why don't you, why don't you, Dewey Clark and Carroll Holzer and I think one or two other representatives?

MR. HOLZER: Yes.

MR. CLARK: Meet in Mr. Holzer's office on Tuesday.

We're all sitting there wait, waiting for Mr. Brochin, for Senator Brochin to show up and it wasn't until the day later that we got his regrets.

MR. SCHMIDT: From Senator Brochin?

MR. CLARK: From Senator, I think that's fair, is that accurate? I, --

CHAIR: Well, he can't, you can't ask --

MR. CLARK: Yeah, yeah, I know, I know.

CHAIR: -- questions of Mr. Holzer.

MR. CLARK: Right.

CHAIR: It's the best recollection that you have of it.

MR. CLARK: Yes, yes. I believe that is accurate.

MR. SCHMIDT: Okay. Were there any other meetings prior, prior to that or attempted meetings back at, more so kind of at the beginning of this process that you're aware of?

MR. CLARK: Well, we covered, we covered the, the, the one with Mr. Kotroco and then we covered the ones with Mr. Ghimire inviting me up to the property to, to meet and discuss.

MR. SCHMIDT: Right.

CHAIR: Correct me if I'm wrong, but you also identified one with Councilman Marks where Councilman Marks, as you put it in your words, appeared vexed by the absence of --

MR. CLARK: No, that, that, that was at the Kingsville meeting and he was vexed that Mr. Ghimire had not

shown up and at the ALJ, Mr. Ghimire --

CHAIR: I, I just want to confirm.

MR. CLARK: Okay.

CHAIR: That's yet another example here?

MR. CLARK: Yeah.

CHAIR: Is that accurate?

MR. CLARK: Yeah, yeah.

MS. DOPKIN: Just to clarify, you said Senator Brochin suggested meeting in Mr. Holzer's office?

MR. CLARK: Yep.

MS. DOPKIN: Was, was that meeting supposed to include Brochin and Kotroco and Ghimire? Who was supposed to attend?

MR. CLARK: Yeah, I, I, I don't think, I don't think Kotroco was, was going to be there, because he, he didn't show, yeah, no, I don't think Mr. Kotroco was supposed to be there.

MS. DOPKIN: So, it would have just been you and Mr. Holzer and Senator Brochin?

MR. CLARK: Yeah, and I think Ms. Shaw was there and I, I think a representative from Kingsville was there.

MS. DOPKIN: But nobody from the Petitioner and neither the Councilman nor the Senator?

MR. CLARK: Correct. Yes, ma'am.

MS. DOPKIN: Okay, thank you.

MR. SCHMIDT: Okay, thank you, Mr. Clark. Mr. Clark,

I think I'm in the home stretch so, and I would move those exhibits, if I had not formally, --

CHAIR: We have the same --

MR. SCHMIDT: -- but I know Mr. Holzer wanted to wait.

CHAIR: Yes.

MR. SCHMIDT: And if there's a foundational issue or something, I'll address it.

CHAIR: We will revisit, again, it's, there's no ruling at all on them at this point.

MR. SCHMIDT: Okay, okay. Now, Mr. Clark, the Gunpowder Falls Watershed Preservation Association, I, I just want to make sure I understand, that's not a corporation?

MR. CLARK: Correct.

MR. SCHMIDT: Not an LLC?

MR. CLARK: Correct.

MR. SCHMIDT: Not registered with the State Department of Assessments and Taxation?

MR. CLARK: Correct.

MR. SCHMIDT: Doesn't handle any kind of money?

MR. CLARK: Nope.

MR. SCHMIDT: Doesn't file a tax return?

MR. CLARK: Nope.

MR. SCHMIDT: Is not a, a 503-C, I believe?

CHAIR: 501-C-3.

MR. CLARK: It's not a non-profit.

MR. SCHMIDT: I'm not a tax lawyer. Non, it's not, it's not a non-profit?

MR. CLARK: It's not a, right, it is not a non-profit.

MR. SCHMIDT: It's, and, and I, please don't --

CHAIR: Just wait for his question.

MR. SCHMIDT: I don't mean to, to be insulting, but this is, essentially, an organization that was established by, I think you said four or five people at the beginning, to, to fight this particular project?

MR. CLARK: It was more than that.

MR. SCHMIDT: Okay. Well, I mean, I think you said on direct, I wrote down, there were four or five, four or five of us who decided to establish this. I understand that more people are in it now, but it was the brain, is it safe to say, it was the brainchild of you and several others who were leading the charge in opposition to this request?

MR. CLARK: No, the, the, the reason we formed was more than just this. It was a sense of community.

MR. SCHMIDT: Okay. Has the organization taken a position on any other zoning cases?

MR. CLARK: We don't have any that are of, well, we, we probably would have, no, the answer is no.

MR. SCHMIDT: Okay. So, the --

MR. CLARK: Oh, wait, no, no, no, no, I did.

CHAIR: Hold, hold on, hold on.

MR. HOLZER: I can't tell you.

CHAIR: Could we, could we, just to make --

MR. CLARK: Right.

CHAIR: -- this abundantly clear, what is your best recollection --

MR. CLARK: Yes.

CHAIR: -- on that point?

MR. CLARK: We took a position on the Beachmont violation of the zoning where they were exceeding, as, as you saw on Exhibit --

MR. SCHMIDT: The corn maze attendance, I think you said.

MR. CLARK: Right, right. But if you see on the exhibit, on the exhibit related to the corn maze, there is a, a ticket thing. They are, they are required to keep a count of visitors so that they don't exceed their, their, their mail, their daily maximum of I believe five hundred. We had evidence that they were exceeding that. So, the Gunpowder Falls filed a zoning complaint and in order to remove that zoning complaint, that is when I then, the GFWPA then entered into an agreement with Beach, with, with Beachmont camp on how to resolve that issue.

MR. SCHMIDT: Is there, was there a zoning hearing on

that?

MR. CLARK: Nope. No, no, no, because we withdrew it because we, we came to a --

CHAIR: A resolution.

MR. CLARK: -- a resolution, thank you, sir.

MR. SCHMIDT: Okay.

MR. CLARK: And we have that letter here.

MR. SCHMIDT: Okay, all right. But that was, ob, obviously that complaint about Beachmont occurred after you were involved in this particular case, or the issues surrounding this particular property? Because you were, you were formed as a result of this particular Petition for Special Exception.

MR. CLARK: We were formed in 2017.

MR. SCHMIDT: Okay.

MR. CLARK: And we filed the, the, the notice of complaint in, I believe it was June 2018, --

CHAIR: Thank you.

MR. CLARK: -- for the, the, --

CHAIR: Beachmont.

MR. SCHMIDT: Beachmont.

MR. CLARK: -- Beachmont Christian camp violation.

MR. SCHMIDT: Okay. But you were, I'm not trying to beat a dead horse, the pur, when Gunpowder Falls Watershed Preservation Association was formed, it was largely in response

to the instant Petition for Special Exception --

MR. CLARK: No.

MR. SCHMIDT: -- not Beachmont?

MR. CLARK: No, I, I, I think if you look at our purposes in, you know, that was crafted for, for very specific reasons, our purposes. We, we were very thoughtful in how we did that and --

MR. SCHMIDT: Okay. Now, I under, I'm sorry, didn't mean to interrupt, thought you were finished.

MR. CLARK: -- and, and the, the main purpose was not this, it was the preservation of the watershed, it was the whole sense of community. We, among other things, what we have done, and we were just talking about it during the break, is we have a series of programs, speaker series, for the community. One was on the World's End Hill, the, the history of, of Gunpowder Road, or of Harford Road, the Harford Turnpike. I will be, guess what I'll be presenting on?

CHAIR: I have an idea.

MR. CLARK: Forest, forest health, right? You know, and so on and so forth. And it's a way of bringing the community together because that has been lost to a large extent.

MR. SCHMIDT: Okay and there's no, I think you indicated there's no dues?

MR. CLARK: No.

MR. SCHMIDT: And actually, if I lived within the geographic confines and I give you my e-mail address I can get in, I'm in?

MR. CLARK: Yep.

MR. SCHMIDT: Okay. Insofar as the, some, one of the conditions, you, you ask as a condition, I think, for my client to put some money or equitable relief.

MR. CLARK: Um hm.

MR. SCHMIDT: I, I just don't --

CHAIR: That's a yes?

MR. CLARK: Yes, yes, yes.

MR. SCHMIDT: -- I just don't understand what that is.

MR. CLARK: Okay. The idea is that as this Board knows, it, the rubber hits the road with conditions when it comes time for someone to, to file and to get something done, to get something corrected. And given what we have experienced, we would like an escrow account set up so that should we have to take action it doesn't come out of our pockets.

MR. SCHMIDT: Okay. Have you ever heard of the admin, the Office of the Administrative Hearings, which includes Mr. Beverungen and Mr. Stahl's office, or this Board, ever imposing such a requirement before?

MR. CLARK: That was totally my thought as a

businessman.

MR. SCHMIDT: So, the answer is no?

MR. CLARK: No.

MR. SCHMIDT: Okay, okay. You also want the Protestants to be able to enter the property?

MR. CLARK: Um hm.

MR. SCHMIDT: Okay. Is there anything prohibiting people from coming on to the property or accepting the invitations that have been extended to this point?

MR. CLARK: I'm not trying to think of how to answer that, I'm just trying to, I'm just trying to think of --

CHAIR: You don't need to explain your pause.

MR. CLARK: Yeah.

CHAIR: Or your --

MR. CLARK: Okay.

CHAIR: -- (inaudible) reflection.

MR. CLARK: No, no, yeah, yeah. No.

MR. SCHMIDT: Okay. Also, this came up during someone else's testimony and I apologize, there was a lady who was a resident of the area and I, and I was trying to find the name and I can't find my note, who apparently has annual maybe or regular concerts on her property, do you remember that testimony?

CHAIR: These questions were asked of Mr. Poehler.

MR. SCHMIDT: Of Poehl, of Mr. Poehler, yes. Thank

you, Mr. Garber.

CHAIR: Yes.

MR. SCHMIDT: Do you know who that is?

MR. CLARK: No, I don't, I, first of all, I, I have never heard that music.

MR. SCHMIDT: Okay.

MR. CLARK: And second of all, I don't think it was identified where the music was coming from.

MR. SCHMIDT: My client told me. Do you know Patty Thorn?

MR. CLARK: I've met her once?

MR. SCHMIDT: Do you know where she lives?

MR. CLARK: No, actually I don't.

MR. SCHMIDT: Okay. So, you don't know how far her house is from you?

MR. CLARK: She lives, I know, I know she lives adjoining the property, --

CHAIR: Which?

MR. SCHMIDT: Adjoining your property?

MR. CLARK: -- adjoining, adjoining, adjoining, adjoining the, no, adjoining the, the --

CHAIR: Subject property?

MR. CLARK: The --

CHAIR: Subject property?

MR. CLARK: -- subject property.

CHAIR: And just to close the loop, Patty Thorn is the name of the woman --

MR. SCHMIDT: Yes.

CHAIR: -- whose property was asked to Mr. Poehler.

MR. SCHMIDT: Okay. Do you know, do, do you know how close Patty Thorn's property is to you?

MR. CLARK: I would assume it's probably no further than the, the farthest bound of their property, of, of the subject property.

CHAIR: You're going to have to explain that.

MR. CLARK: Yeah. All right. I, I, I, I since, since I know her property adjoins subject property, --

MR. SCHMIDT: Yes.

MR. CLARK: -- I would assume that her property is no further than the furthest bound of their property from mine.

CHAIR: The southernmost point of their property along Harford Road, is that --

MR. CLARK: Or, or eastern, or eastern, I don't know.

CHAIR: You don't know, okay.

MR. SCHMIDT: Okay. But you don't know where her property is?

MR. CLARK: No, I've never visited it.

MR. SCHMIDT: Okay and you've never heard any music come from her property before?

MR. CLARK: I have not.

MR. SCHMIDT: Suffice it to say then, if she does have concerts and you've never heard them, then at least you can't hear anything that's occurring of that nature on her property given the distance and the topography involved?

MR. HOLZER: Objection. He's already testified.

CHAIR: I'll, I'll say this, Mr. Holzer. I understand your frustration on this. You can save that part of it. Your objection is sustained because obviously it goes to various conditions that we have no idea about. So, as to --

MR. SCHMIDT: And, and I, I built those into my question, Mr. Garber.

CHAIR: That's all right. I understood you said topography and what else we don't know what type of amplification --

MR. SCHMIDT: Yeah.

CHAIR: -- we don't know the volume, we don't know what instruments, we don't know a whole bunch of factors and variables that can play into it. The fact of the matter is this witness has said he has never heard it.

MR. SCHMIDT: Right.

MR. CLARK: I don't think it's going to aid anyone to then say well, given those other factors, if he's never heard it in the first place.

MR. SCHMIDT: Okay. I'll save it for argument. All right. Mr. Kotroco asked me about this. The t-shirts that say

save our valley that everybody is wearing, which valley is that?

MR. CLARK: The, it, it is the little haystack valley, it's the valley that follows Harford Road.

MR. SCHMIDT: Okay. It's called the Little Haystack Valley?

MR. CLARK: Yeah, --

MR. SCHMIDT: Okay.

MR. CLARK: -- historic in some of the historic records. There isn't really a name for it.

MR. SCHMIDT: Okay, so it's not the Long Green Valley?

MR. CLARK: No.

MR. SCHMIDT: Okay and, and when it says save ours, our valley, Mr. Kotroco asked me to ask these, who is the our? Who is the owner of the haystack valley?

MR. CLARK: Those who own property on it.

MR. SCHMIDT: Is, is the, is the Nepali property part of it?

MR. CLARK: Yes, I would say it is.

MR. SCHMIDT: Okay. So, okay, all right.

MR. CLARK: The, the, the haystack flows, is, is, is the, is the stream that flows on their eastern, not, and, and they don't own the stream but it is on the, on the east, it is on the eastern bound of, of their property.

MR. SCHMIDT: Okay. Thank you, sir. I have no other questions, Mr. Garber. And saved, I, I just want to make sure that all of the exhibits that I introduced through my cross examination of this witness have been marked, they've all been offered. I understand that some have not yet been, been permitted, but other than the fact that addressing those issues relating to the admission of those documents I would be complete in my cross examination.

CHAIR: Thank you. And again, I also, you, we would also have reservation for cross examination on any potential matter that may arise from other things to occur in this case, such as resolution of that Motion that's pending --

MR. SCHMIDT: Yes, sir.

CHAIR: -- and all the other, the testimony from the ALJ that's still pending and just to whatever other --

MR. SCHMIDT: Yeah, I'd like to --

CHAIR: -- exhibits that are still in this limbo --

MR. SCHMIDT: Right.

CHAIR: -- still yet to resolve. So you certainly would be, have the right to cross examine during that time frame as well.

MR. SCHMIDT: Thank you. I don't believe I have any exhibits that are identification only.

CHAIR: Other than, --

MR. SCHMIDT: Other than the ones we just put in.

CHAIR: And to be clear, it's not a question as to what's identification only, there were a whole bunch of start and stops with certain exhibits --

MR. SCHMIDT: Right.

CHAIR: -- that are left in limbo. That, those are the ones I'm more concerned about then what's been already definitively ruled upon as i.d. only.

MR. SCHMIDT: Right. I, I'm, I'm going to check my--

CHAIR: Your last six fall into that category at the moment.

MR. SCHMIDT: Yes, sir. But I'm, was going to say, I think my recollection is, I'll have to check again, but I think all the exhibits that I put in in my case in chief, I think were all in without any question, but I'm going to look at it again.

CHAIR: Yes, and that's, that is my recollection. I, I don't profess to have full command over it.

MR. SCHMIDT: Yes, sir.

CHAIR: But that's my recollection too.

MR. SCHMIDT: We'll, we'll, we'll definitely find out the answer by next time.

CHAIR: Yes.

MR. SCHMIDT: Thank you, sir.

CHAIR: Back to you, Mr. Holzer, as I know you at least have re-direct as to the exhibits that we were just

referencing.

MR. HOLZER: (inaudible).

CHAIR: And I assume you may have others.

MR. HOLZER: I'm going to be very quick.

CHAIR: Yes.

MR. HOLZER: Trust me.

CHAIR: Okay.

MR. HOLZER: I don't want to miss dinner like I did yesterday.

CHAIR: Understood.

MR. SCHMIDT: Yeah, and I have a, I have a meeting downtown at 6:30, so.

MR. HOLZER: Well, you can leave now, I (inaudible).

MR. SCHMIDT: No, I mean, if I could get out of here at 5:30, that'd be great, it's 5:05.

CHAIR: All right. So, let's get to it, this way we can help everybody.

MR. HOLZER: Okay, thank you.

CHAIR: Thank you, Mr. Holzer.

MR. HOLZER: The first question, the first question was, by counsel, and when I say that, I mean Mr. Schmidt, was in regard to Protestant's Exhibit 78, which dealt with the Grace Church. He specifically wanted us to look at page twenty-five and in the first paragraph.

CHAIR: Do you have that in front of you, sir?

MR. CLARK: I am looking, sir.

CHAIR: Here, I have (inaudible).

MR. CLARK: Oh, no, I do, I found it, I found it.

CHAIR: You do? Okay. Thank you.

MR. HOLZER: Okay. On, in that, we looked at item number seven and I, the only thing I recognized was they cited, or Mr. Clark cited the statement, the owner/developer shall be permitted to use grassy open areas of the subject property for overflow parking only during Christmas and Easter services. However, in our case, there has been testimony in regard to the grassy areas that there should not be parking on those grassy areas. I just wanted to clar, have you clarify that point. Was that not something that was of a concern to the Protestants?

MR. CLARK: Yes, it is because it, because of the topography and the sheet flow and the, the stream on the eastbound, all that, car, car fluids winds up going down. This, this, this is a, yeah, that's it, that's it.

MR. HOLZER: You've exceeded my authority to go beyond that.

MR. CLARK: Okay.

MR. HOLZER: Okay, now the last sentence in that paragraph is there shall be no overflow parking permitted on the open fields of this property at any other time during the year. So, in effect, while they were talking about parking in

open fields, our testimony related to the grassy area and the fields that you've shown one of the last pictures of all the cars parked on the grass.

MR. CLARK: Correct.

MR. HOLZER: Is that right? Okay, fine. There. In here, there was a question about any proposal or any development suggestion in, in that document related to there shall be no additional buildings --

MR. CLARK: Correct.

MR. HOLZER: -- in the Grace Church (inaudible). In our situation, there has been testimony by the Petitioners that there are no current proposals, and I underline current, because that would, as you understand, would allow additional potential development to come in at a later date or hearing, okay? Is that correct?

MR. CLARK: That is precisely what we're concerned about.

MR. HOLZER: Yes. So, one of the restrictions that I believe you've already covered, was that there would be no additional development. Now, there has been testimony by diff, different witnesses for the Petitioner that they were going to eliminate the swimming pool, or eliminate the tennis court, etcetera. But our position, when I say our, I mean the Protestants, would be that there would be no, not just current proposal to develop an additional building, but a limitation

that there should be none on the conditions if some are given, is that correct?

MR. CLARK: Yes, sir.

MR. HOLZER: Okay. The question, that takes care of number two. Question number three related to the historic district. I pulled a, a, Protestant's exhibit number thirty-nine, because there were questions raised by Mr. Schmidt about that. And, as, as to what it encompassed, how big it was, etcetera. And I'll leave it to the Board, but I would just point out, the historic district is six thousand sixty-six acres of agricultural area and would, and it describes gently rolling fields with crossroad villages such as Glen Arm and Baldwin and farm complexes.

CHAIR: Is there a question?

MR. SCHMIDT: I mean, this is really argument, I mean, all this is.

CHAIR: I, I, I, I'm, I understood. I assume Mr. Holzer is getting to that.

MR. HOLZER: Yeah, this is the, this is the, this is the reason that this historic district is relevant. On the last sentence of the first para, first page, approximately a hundred and twenty-five individual buildings, complexes, objects stand in the district, with the majority contributing to the significance of the district. The major intrusions or non-intrusive elements are industrial complexes around Glen Arm

and groupings of post 1930 housing, so --

CHAIR: Okay. Is there a question directed to the witness about that?

MR. HOLZER: Is that, is that what you were referring to --

MR. CLARK: Yes, sir.

MR. HOLZER: -- when you were talking about the National Historic Registry?

MR. CLARK: Yes, sir.

MR. SCHMIDT: The question is, did I just read that to you? I'm sorry, I don't mean to be smart but --

CHAIR: Well, I think what, I think what, hold on, hold on.

MR. SCHMIDT: -- this is all legal argument.

CHAIR: Hold on, hold, everyone --

MR. SCHMIDT: I'd be happy to address it.

MR. HOLZER: You asked the question.

CHAIR: -- everyone. Mr. Holzer.

MR. HOLZER: Geez.

CHAIR: Calm down. I understand Protestant's Exhibit 39, it's already in evidence --

MR. HOLZER: Yes.

CHAIR: -- as best as I recall. Is, if Mr. Holzer wants to say is this what you meant when you were discussing your testimony with the district, fine.

MR. HOLZER: That's all.

CHAIR: That, it doesn't matter what was just read, it is what it is.

MR. HOLZER: That's right, it is what it is. And I'm trying to get through it so --

CHAIR: So, overruled on the objection, although please make sure to, show him the, you can just show him the document the next time and then you could have eliminated all that.

MR. HOLZER: Okay. Let me directly to the point, Petitioner's Exhibit 38, 39 and 40 for i.d. This all relates to Beachmont corn maze, etcetera.

CHAIR: Just to be clear, thirty-eight, thirty-nine and forty?

MR. HOLZER: Yes.

MR. CLARK: May I see that? May, may --

CHAIR: Right? Okay.

MR. HOLZER: Those three.

MR. CLARK: -- may I have a copy?

MR. HOLZER: Pardon?

MR. CLARK: May I have a copy? Thank you. I, I will return them.

CHAIR: Thank you. I've just handed my copies of thirty-eight, thirty-nine and forty and the handwriting on the bottom reflects the number.

MR. HOLZER: Would you, because they've been set up by the Petitioners as, in request of, or in an analysis of Beachmont, my question to you is, can you explain if there is a difference between the effects of Beachmont on those documents, the corn maze, etcetera, Beachmont, how it affects your property and your neighboring property as it relates to the subject site being developed in that fashion?

MR. SCHMIDT: Ob, just objection. Isn't, I don't, I don't know. A lot of this is just legal argument, which Mr. Holzer, I can certainly allow, allow him to, to say --

CHAIR: I, I, I didn't understand the question as it was.

MR. SCHMIDT: But I'm not sure what the question is.

CHAIR: I didn't understand your question.

MR. HOLZER: The question is, the question is, now that this has been introduced by the Petitioners, thirty-eight, thirty-nine and forty.

CHAIR: Understood.

MR. HOLZER: How is the relationship of Beachmont affecting its neighbors different from how it affects yours?

CHAIR: Okay. I understand the question.

MR. CLARK: I, I, I would broaden that to say how it affects the communities.

CHAIR: I would answer Mr. Holzer's question.

MR. CLARK: Okay.

MR. HOLZER: Just answer my question first, please.

MR. CLARK: Okay, okay. But, but the Beachmont property where all, where they hold all the activities, it's down in a bowl, okay? And all the sound is contained within that bowl. There are, in fact, Reverend Standifer acts as their alarm bell for, for when things get too loud, that would disturb the, the property owners across the road.

MR. HOLZER: Okay. I'm sorry, --

MR. CLARK: Okay. Yeah, and, and --

MR. HOLZER: -- you're, you're not finished, go ahead.

MR. CLARK: -- and, and the subject site is on a pinnacle that, as you could see from some of the photos, looks straight down haystack valley. And the sound just travels. So, that, that's a difference in, in, in the sites and how they impact their, their communities.

MR. HOLZER: So there's no, so there's no question that in Beachmont, and as shown in these three exhibits, there's no question that they conduct this kind of activity, is that --

MR. CLARK: Correct.

MR. HOLZER: The question is, if this kind of activity were to be placed on the subject property, would that be a problem in your perspective?

MR. CLARK: Yes.

MR. HOLZER: Okay. I have no objection to these documents being admitted.

CHAIR: Thirty-eight through forty are admitted.

MR. HOLZER: That's correct.

MR. CLARK: Thank you.

MR. HOLZER: Now, let's, let's, if we can, --

CHAIR: Hold on. Are you going to do Redeemer next?

MR. HOLZER: Yes.

CHAIR: I'm handing out my exhibits for forty-one through forty-three to the witness for that point.

MR. HOLZER: Okay. Now, on Exhibits 41, 42 and 43 for the Petitioner, you understand what that is?

MR. CLARK: Yes.

MR. HOLZER: Okay. That is in regard to what takes place at Redeemer?

MR. CLARK: Yes, sir.

MR. HOLZER: Redeemer has a church on the property, is that --

MR. CLARK: Yes, sir.

MR. HOLZER: Beachmont, Beachmont has no church or other religious facility on their property?

MR. CLARK: And the two are unrelated.

MR. HOLZER: Well, that was going to be my next question. Is there any relationship between the Redeemer Classic Christian School and the Beachmont project?

MR. CLARK: Other than the fact that the land acquired for the Beachmont property came from Ron Standifer.

MR. HOLZER: Ron Standifer being, for the record, the pastor of Redeemer Christian School.

MR. CLARK: Right.

MR. HOLZER: Is that correct?

MR. CLARK: Correct.

MR. HOLZER: All right. So, on, on these, on Petitioner's forty-one in regards to the activities that take place, a lot of the sporting activities, do you know whether they take place outside or inside the facility? If you know?

MR. CLARK: Well, I, I, I testified I know, I, I have seen, you know, them with the soccer, at the soccer field. I should, yes, yes, and there's, I'll wait for your next question.

MR. HOLZER: Are, are there any activities that take place inside, to your knowledge?

MR. CLARK: I don't think they, other than classroom, I don't think they have --

CHAIR: He's asking whatever your knowledge is.

MR. CLARK: Yeah, right, right, right, right.

CHAIR: So, if you don't know, you don't know.

MR. CLARK: No, no, no, I, --

MR. HOLZER: If you don't know, you don't know.

MR. CLARK: No, I, no, I, I don't think so.

MR. HOLZER: Okay. That's not a problem. In regard to exhibit number forty-three, which are the sporting activities, you've already covered that, is that correct?

MR. CLARK: Well, and, and, and the, the fields are in, in a corner that are far, are far away from most, from most of the housing. They went through the process of dealing with the community in setting those things up.

MR. HOLZER: When you say the community, do you mean an organized community?

MR. CLARK: Yeah, yeah, yeah, yeah, there was Mount Vista Civic Association was very involved in setting the, the parameters for, for Redeemer and I don't know who decided that case.

MR. HOLZER: But for, but for, it, we don't really need to know any of that information.

MR. CLARK: Yeah.

MR. HOLZER: But otherwise, they resolved the issue, the fields --

MR. CLARK: And the fields were located where they, where, where, and I believe he's got a berm there.

MR. HOLZER: Okay.

MR. CLARK: To, to, to deflect some of the sound.

MR. HOLZER: Okay. So, there were conditions that were attached to Redeemer and their facility also?

MR. CLARK: Right.

MR. HOLZER: And we're not saying how it was attached or whether there was a case or not.

MR. CLARK: Right.

MR. HOLZER: I have no objection to Petitioner's one, forty-one, forty-two --

CHAIR: Forty-one, forty-two, forty-three.

MR. HOLZER: -- or forty-three.

MR. CLARK: Thank you.

CHAIR: Thank you. They are admitted.

MR. HOLZER: And one thing that has been brought up in regard to the efforts to meet with you, all the questions related to, you know, were you invited here, were you invited there, do you understand where I am?

MR. CLARK: I do.

MR. HOLZER: Okay. Do you recall me advising you for the last thirty, forty years, I tell every Protestant group that I represent that I desire that they meet with the other side to determine whether there's any way to resolve any issues. Do you remember me telling you that?

MR. CLARK: You made it abundantly clear that we were to listen whenever somebody wanted to talk.

MR. HOLZER: All right. And so, did you follow that advice?

MR. CLARK: Yes.

MR. HOLZER: Okay. No further questions at all.

CHAIR: Anything further?

MR. SCHMIDT: Just very quickly. You're not an acoustical engineer?

MR. CLARK: No.

MR. HOLZER: I am.

CHAIR: Hold on.

MR. SCHMIDT: Did you hire an acoustical engineer to do any analysis of the decibels?

MR. CLARK: No, no.

MR. SCHMIDT: At either Beachmont or Redeemer or the subject property?

MR. CLARK: We considered it and --

MR. SCHMIDT: But you didn't. The answer is no.

MR. CLARK: Okay.

MR. HOLZER: Well, let him answer.

CHAIR: Hold, hold, hold on. It's really, I, I understand what you're saying.

MR. HOLZER: Yes.

CHAIR: However, I also understand what Mr. Schmidt is saying, it's not that complicated. Did you retain some, an acoustical engineer --

MR. CLARK: We, we, we considered it.

CHAIR: Did you retain?

MR. CLARK: We consulted.

CHAIR: Okay.

MR. CLARK: In an attempt to retain.

MR. SCHMIDT: Okay.

CHAIR: Did that, as a result of that consultation, did that form any of your, or go to forming any of your opinions? Because that was a question that was asked earlier.

MR. SCHMIDT: And, --

MR. CLARK: No, because the, the, the events were so sporadic that we wouldn't be able to set up equipment to actually measure.

CHAIR: Mr. Schmidt, back to you.

MR. SCHMIDT: Yeah, just very quickly. I think what I tried to do during my cross examination on this top, topic, Mr. Clark, is I was trying to identify expert witnesses that you had consulted in connection with this case as you were preparing for your presentation. And you identified Mr. Jakubiak, who is going to testify, an unnamed traffic engineer --

MR. CLARK: Right.

MR. SCHMIDT: -- who you said wasn't worth the money and you decided, whom actually, I think you said, met Mr. Collagero out at the property or when Mr. Coll, Collagero was there --

MR. CLARK: Um hm.

MR. SCHMIDT: -- but you didn't, you didn't, he's not here or he hasn't, he's not going to testify. And now there's

this acous, at least an acoustical engineer who you dis, talked to but you didn't retain.

MR. CLARK: Attempted to retain.

MR. SCHMIDT: Okay. Is there, just so we know, --

MR. CLARK: Right.

MR. SCHMIDT: -- is there any other witnesses, any other expert witnesses? I tried to be broad before.

MR. CLARK: No, I, I know, I know, --

MR. SCHMIDT: And you didn't tell us about the acoustic guy.

MR. CLARK: Well, and the, the, you know, this, this was a direct respond to, you, you stimulated me.

MR. SCHMIDT: Right. Have you talked to any septic people or?

MR. CLARK: Go, yeah, go, no, no septic.

MR. SCHMIDT: No septic.

MR. CLARK: No civil engineers.

MR. SCHMIDT: No landscape architects?

MR. CLARK: No landscape architects.

MR. SCHMIDT: No surveyors?

MR. CLARK: No surveyors.

MR. SCHMIDT: No sanitarians?

MR. CLARK: No sanitarians.

MR. SCHMIDT: Okay.

MR. CLARK: No, no, you know, I, it's fair and, you

know, --

MR. SCHMIDT: Okay, fair enough.

CHAIR: So then it's fair to say that sitting here in the moment, there's nobody else that you would have tried to retain or like a, in terms of consultant or an expert witness, that you not otherwise have identified?

MR. CLARK: That I can, this is --

CHAIR: I said sitting here right now in this moment.

MR. CLARK: The, not as a fudge word, that I can recall.

CHAIR: Okay. Mr. Holzer, do you have any follow-up as a result of all that?

MR. HOLZER: No, I hope we're done.

CHAIR: And I take it that's it from you, Mr. Schmidt?

MR. SCHMIDT: Yes, sir.

CHAIR: Because you're packing up.

MR. SCHMIDT: Yes, sir.

MR. HOLZER: I was going to say, don't give him another chance.

CHAIR: Yes. So, well, I wanted to make sure the record was clear that everyone's --

MR. SCHMIDT: Let the record reflect that I was about two hours, less than that, after two and a half days of direct examination.

MR. CLARK: And I appreciate it.

MR. HOLZER: Let the record reflect that he's wonderful. He's a wonderful attorney.

CHAIR: All right. So, you are done on the stand.

MR. CLARK: Even with the potential for cross?

CHAIR: There are the, still minor issues to be resolved, so but as for his testimony he is literally a witness who is done testifying at the moment, but there is the right, obviously, to recall him on those other points.

MR. HOLZER: On the limited issues.

CHAIR: On, for those very limited issues.

MR. HOLZER: Exactly. I don't want him on the stand any longer than --

CHAIR: I'm sure he would also agree with that.

MR. CLARK: And, and, but, but I just want to be clear. I'm pretty much free of all encumberments?

CHAIR: I'm not going to give you advice, other than to say you would be better served to listen to what Mr. Holzer tells you.

MR. CLARK: Okay, okay.

MR. HOLZER: I certainly will tell him.

MR. CLARK: You will.

CHAIR: Very well.

MR. HOLZER: Thank you.

CHAIR: So, with that in mind, we are adjourned for

today. We are meeting again 9:00 a.m. February 5th. We all know the, we'll call them, we call them minor matters, that are still out there and open and we also have Mr. Jakubiak that day. I'm not asking you today as to what you intend to do with rebuttal because we still have some substantive matters to get through.

MR. SCHMIDT: Thank you.

MS. DOPKIN: We're off the record.

(OFF THE RECORD - 05:23:24 PM)

CERTIFICATE OF TRANSCRIBER

I hereby certify that the hearing in the matter of Nepali American Cultural Center, case number 18-122-X and CBA-19-004, heard before the Board of Appeals of Baltimore County, January 30, 2019 were recorded by means of audiotape.

I further certify that, to the best of my knowledge and belief, page numbers 1 through 343 constitute a complete and accurate transcript of the proceedings as transcribed by me.

I further certify that I am neither a relative to nor an employee of any attorney or party herein, and that I have no interest in the outcome of this case.

In witness thereof, I have affixed my signature this 5th day of December, 2020.

Christine R. Leary

Christine R. Leary

Transcriber

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BALTIMORE COUNTY
BOARD OF APPEALS

IN THE MATTER OF:

NEPALI AMERICAN CULTURAL CENTER

CASE NUMBER: 18-122-X and CBA-19-004

Hearing Date: January 29, 2019

Pursuant to Notice, the above-entitled hearing was held before the Board of Appeals for Baltimore County at the Jefferson Building, Second Floor, Suite 203, 105 West Chesapeake Avenue, Towson, Maryland 21204.

PANEL PRESIDING:

JASON S. GARBER, CHAIR

WILLIAM A. MCCOMAS, BOARD

DEBORAH C. DOPKIN, BOARD

PRESENT ON BEHALF OF THE PARTIES:

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TABLE OF CONTENTS

Description	**Page**
Motion	3
Direct exam of Bruce Morgan by Mr. Holzer	25
Cross exam of Mr. Morgan by Mr. Schmidt	58
Direct exam of DeWitt Clark by Mr. Holzer	91
Cross exam of Mr. Morgan by Mr. Schmidt	152
Direct exam of DeWitt Clark by Mr. Holzer	163

(ON RECORD – 09:09:06 AM)

CHAIR: I'm sorry, everyone, please be seated.

MS. DOPKIN: Ready?

CHAIR: Yeah. All right. All right. So, all right, everybody. We are back here today in the matter of Nepali American Cultural Center of Maryland, 12231 Harford Road, case number 2018-122-X. I believe we're on day eight, having last been here November 29th. First thing I'm going to do, or we're going to do up here, is discuss the Motion to admit Protestant's Exhibits, well, what had been labeled as 23, 24 in the Motion but in the record and as corrected, 22 and 23. So, we'll start with that. Now, I don't need to hear anything further. We've already had a ruling on this. The parties have both submitted, there's a written Motion, followed by the written Response and then a reply by Protestants.

So, it will, I will say we got into this back and forth in large part because I believe at the outset, Protestant's counsel showed Mr. Ghimire, who was a witness on the stand, the proposed exhibits prior to Mr. Schmidt's review and prior to the Board's review.

It is abundantly clear, and this is not trying to point fingers at Mr. Holzer in terms of he did something intentionally wrong or whatever, but by way of course, this is what has caused us to have this Motion and have to respond here today.

So, Mr. Ghimire was asked some questions about it before Mr. Schmidt had the opportunity to review. Now that we've had the opportunity to review and read the transcript as well as to what, the events of that day, I will state the following.

First of all, County Board Rule of Evidence 7-A states, any evidence which would be admissible under the general rules of evidence applicable in judicial proceedings in the State of Maryland, shall be admissible in hearings before the County Board of Appeals. Proceedings before the Board being administrative in nature, the Board will not be bound by the technical rules of evidence, but will apply such rules to the end that needful and proper evidence shall be most conveniently, inexpensively and speedily produced while preserving the substantial rights of the parties.

The, and I'm not going word for word here, but the Board reserves the right as a matter of policy to provide for the exclusion of immaterial or unduly repetitious evidence and the number of witnesses may, well, we don't need that.

Okay. So, let me start with there seems to be some bit of misunderstanding as to the prior ruling. The prior ruling was not solely premised upon why it was being directed at Mr. Ghimire. That is the first hurdle of that analysis. Why are we tendering this over to Mr. Ghimire?

Mr. Ghimire at first started answering questions as

if he had some knowledge as to what went on but then denied having any role whatsoever, whether he or the organization, that's Petitioner, had any role in sponsorship, leadership, management or any other type of role in connection with the event at issue. In fact, questions by me, he denied specifically having any type of role.

So, that's not the threshold or, excuse me, that's the threshold matter for why that witness but that's not dispositive of the matter. So, even assuming by, from what Mr. Holzer has submitted, that Ghimire Homes, Homes is Mr. Ghimire's company, that does not make the police reports admissible, even accepting that as a fact.

There is a relevance issue that is any evidence that has tendency to make existence of any fact that is of consequence to the determination of action more probable or less probable than it would be without the evidence. Evidence is material if it tends to establish a proposition that is of legal significance to the litigation.

Additionally, Rule 5-403 states that even if relevant, evidence can be excluded if its probative value is substantially outweighed by the danger of unfair prejudice. Evidence may also be excluded on the basis of confusion of issues, being misleading to the fact finder, cause an undue delay or waste of time.

So, the question I asked then was specifically

directed to Mr. Ghimire. It does not resolve the other matters of the relevance materiality and whether or not its probative value is at issue with the sub, danger of substantial prejudice that could be caused by admission of those police reports.

So, what are we here to decide? We are here to decide the special exception factors. We are here to decide if this proposed use at this proposed site is in some way, I guess, worse off at this location than it would be at any other RC-2 zone location, particularly under *Schultz v. Pritz*, the Board must assess whether there are facts and circumstances that show the particular use proposed at the particular location would have any adverse effects above and beyond those inherently associated with the special exception use, irrespective of its location within the zone.

Therefore, the best case scenario for Protestants in this regard, is that this property somehow would cause the same result that happened out on an off site event, would occur on this property but not at other properties with an RC-2 zone, which is not at all why it's being proffered. It's being proffered because there's an allegation that it may cause some type of risk to the general welfare or safety because you can't, as I understood it, trust the organizers of that event, some of whom are members of Petitioner's organization to safely run their operations.

Of course, that's an absurd proposition to suggest

that somehow this property will be different, whatever events will unfold at this property will be different as to any other RC-2 zone property. In fact, the only way to look at what is being proffered is here is an example of someone who appears or may be Nepali and we can expect this type of behavior to occur at the site because the people who will be using the site are Nepali.

That is how I understand what's going on and I gave Mr. Holzer the benefit of the doubt that that is not his intent for knowing him longer than I have others, you know, in this room for example.

So, I will give Mr. Holzer the benefit of the doubt that that was not his intent, but that is, unfortunately, how it is being received. That it could be only ever used for, frankly, an offensive proposition to paint one group of people with one brush when all we have is a, what appears to be a fist fight between several people and some other altercation, some other disturbance. I'm not going to hold that against Petitioner in any way, shape or form. Moreover, the proposition or the thought of even having to engage in this consideration of where this falls within the line, shows to me, or illustrates the absurdity of using this, these reports in this case particularly.

So, I categorically reject and deny the Motion and the evidence. I understand it is there for identification

only, for purposes of any appeal. But I want to make it abundantly clear, this evidence cannot be used in any way, shape or form in this matter. It speaks to none of the issues that the Board has to consider or analyze. It has nothing to do factually with anything that's at issue or somehow sheds light on any matter here.

And even if there was arguable relevance and materiality, Rule 5-403 dictates that it not be admitted. So, I hope this, without any clarification, further clarification needed, ends and resolves this issue as to the admissibility of Pet, Protestant's Exhibits 22 and 23. Ms. Dopkin?

MS. DOPKIN: I concur.

CHAIR: Mr. McComas?

MR. MCCOMAS: I concur as well.

CHAIR: With that in mind, are the parties ready to proceed further or do you need a couple minutes to collect yourselves to then assemble whatever you think is coming next?

MR. SCHMIDT: I'm ready to move forward.

MR. HOLZER: I'd like to have a few moments, if I could, five minutes, or ten, ten minutes.

CHAIR: Okay. Before we go there, I'm just going to do a couple housekeeping things for purposes of today's hearing. Remember, that when we come back, we are on the record here and things are being recorded. As I cautioned in hearings past, please have your cell phones off. Please, to

the best of your ability, and I know this particularly applies to you people here on Protestants' side, try to avoid sitting in the back row, just so that's able to be used as ingress and egress from the other side so people don't have to come around the front. I realize if it gets too crowded, there's only so much we can do. So, there's that.

Also, keep in mind this is a courtroom and we will have everyone act accordingly. There's to be no talking amongst yourselves, nodding in agreement, high fives, nodding your heads in approval or mouthing answers or anything to, to that extent. There's to be no reaction to testimony either.

Finally, as it relates to the inclement weather policy, because we are getting snow today, and I understand that for today and tomorrow's hearings, there have been phone calls that have already been made to the Board. If the Baltimore County government offices are closed, all hearings are cancelled and rescheduled at the earliest possible date. If there's a delay, we will be on delay. So, if you in, are intending to be here tomorrow at 9:00 a.m. and you think there's the possibility we may be closed, you need to check the Baltimore County government website or otherwise find that information to determine when we are open. All right. With that in mind, I'll give you five minutes?

MR. HOLZER: Could I make a request before that? Number one, I would, I understand that it, that based on your

denial of the Motion and the agreement of both members of the Board other than yourself, was that deliberated prior to today?

CHAIR: Absolutely not.

MR. HOLZER: Okay. So, there's that, that encompassed the deliberation when you asked each party for, whether they agreed or didn't agree and they had no advance ruling of what you were going to rule?

CHAIR: They had no idea how I was, well, I would say, except for Ms. Dopkin would have an idea because she was part of the Board when we actually did this originally. Mr. McComas may be familiar because of the transcripts, but outside of that, no. This was not discussed in any way, shape or form with either Ms. Dopkin or Mr. McComas as to the, whatever I said in terms of the Motion, how it was decided or anything else.

MR. HOLZER: And, --

CHAIR: I just, I, I would say the only thing was to make sure that they had copies of everything, that was it, and that was right before we came in here today.

MR. HOLZER: Thank you. We have a new member of the Board, Mr. McComas, is sitting here in front of us. He has not been introduced, he has not been identified as having read all of the other material and I would like that on the record as to what's going on in terms of the Board membership --

CHAIR: I will --

MR. HOLZER: -- and whether or not Ms. Murphy is no longer going to participate, etcetera --

CHAIR: Fair point. I will say this. Ms. Murphy is slowly getting back to work. She is unable to sit as a member for this panel. So, you can expect going forward it will be Ms. Dopkin, Mr. McComas and myself.

MR. HOLZER: All right.

CHAIR: Mr. McComas has been provided with the materials. I can't speak to anything else he's done with the materials. I'm not going to ask him to say anything with the materials, but I expect that he will be, have some, some familiarity by virtue of the fact that he is a Board member and he had access to the materials. So, I am assuming that he is up to speed and ready to go. I'm not going to ask him questions or put him on the spot as to his command over anything in the record.

MR. HOLZER: So, at this point the record does not indicate one way or the other whether he's read any of the transcripts from the prior seven hearings?

CHAIR: I'm not going to do that.

MR. HOLZER: Okay, thank you.

CHAIR: Sure thing.

MR. HOLZER: We can take a break if that's your pleasure.

MR. SCHMIDT: Just one other question, I'm sorry.

There was another Motion that was recently filed by Mr. Holzer.

CHAIR: Thank you for bringing that up.

MR. SCHMIDT: And I just wanted to know if we were going to address that today.

CHAIR: I understood, and correct me if I'm wrong, that you have not submitted a response as of yet, --

MR. SCHMIDT: I have not. I am prepared to discuss it but I, I would want to present a written response so it's in the file.

CHAIR: And, and I apologize. Yes, that is correct. We have not received a written response from you and I don't think by time it was even due as of yet.

MR. SCHMIDT: That's correct.

CHAIR: So, we are not going to be ruling on that today, we're going to give you the opportunity to file a written response and then have Mr. Holzer, give him some opportunity, to the best as possible, to reply. Now, keeping in mind our schedule, which is we have tomorrow and I want to say it's February 5th and February 13th is the backup date and also has to be the last date for any possible evidence if we're not completed before then.

MR. SCHMIDT: Right.

CHAIR: In light of the fact that we are trying to get then memos in and an opinion out the door before April 30th. So, with that in mind, I don't know when your response would be

due. I'm assuming it's not due by tomorrow, so that would tell me that February 5th would be the date that that would be addressed.

MR. SCHMIDT: And let me just say, Mr. Garber, because of the time I'm not going to be using my full eighteen days or fifteen days in mailing. I'll have something filed, I would anticipate, the very beginning of the week. I'll, I'll send a copy to Mr. Holzer so that you all have it quickly. I'm happy to do that to try to move and, and keep, be mindful of the schedule.

CHAIR: I appreciate that and I think that's best. Mr. Holzer, I also have a recollection that there has been some discussion, perhaps, or maybe I'm wrong on this point. That there may be, had, had been some discussion as to the effect of Petitioner's Exhibit 34? Is that not your recollection?

MR. HOLZER: Petitioner's Exhibit 34, is the, that the Motion that we're talking about?

CHAIR: The second Motion, --

MR. HOLZER: Yes.

CHAIR: -- the one regarding the --

MR. HOLZER: What about it?

CHAIR: -- its purported clarification from Judge Beverungen on the ALJ Order, right? To the best of your recollection, that has not been addressed in, by this Board?

MR. HOLZER: No. As I said in, in the, the Motion, I

took an appeal from that, even though, and we were within the thirty days in terms of --

CHAIR: This isn't a question about that.

MR. HOLZER: Oh.

CHAIR: The question is, we, there's nothing in the record presently on that point?

MR. HOLZER: That's exactly right.

CHAIR: Okay.

MR. HOLZER: You're exactly right.

CHAIR: That's where I'm at.

MR. HOLZER: That's why I waited to file the Motion.

CHAIR: Okay. So, you heard from Mr. Schmidt.

MR. HOLZER: Yes.

CHAIR: Obviously, I'm going to try to give you some window to res, to reply if you feel the need to reply.

MR. HOLZER: Sure.

CHAIR: But other than that, we'll just take a brief five minute break.

MR. SCHMIDT: Sure.

CHAIR: And then we'll get to the testimony because we do have a lot to get through today as best as we possibly can because of the condensed schedule, so.

MR. HOLZER: Sure.

CHAIR: All right, thank you.

MR. HOLZER: Thank you.

MR. SCHMIDT: Thank you, sir.

MR. MCCOMAS: If you guys, if you guys can also just confirm, I have Protestant, we're on the, the next exhibit would be forty-eight and on the Petitioner the next exhibit would be thirty-five is what I have.

MR. HOLZER: Forty-eight, okay.

MR. MCCOMAS: Forty-eight and thirty-five.

(RECORDING PAUSED - 09:25:34 AM)

(ON RECORD – 09:35:57 AM)

CHAIR: Please be seated. Are we back on the record? Okay. I understand a question has arisen about sign in sheets, Mr. Holzer?

MR. HOLZER: Yes.

CHAIR: So, I'll address that. As I understand it, you have asked Ms. Cannington for a sign in sheet, or asked about the presence of a sign in sheet --

MR. HOLZER: That's correct.

CHAIR: -- today and in conjunction with any other days that have passed. It is my understanding that as per Board practice in every other case, we do not provide sign in sheets unless there is a specific need to do so or reason to do so that's identified in advance. Moreover, it is the common practice of this Board to have, the parties usually provide their own sign in sheets to indicate who is here or whatever. And then there's always the question about are they admissible,

or even admissible in the case as it is. We usually just as a courtesy accept them into the record, or at least as part of the file. But in, it doesn't speak to any particular issue. So, with that in mind, would you or would you not like a sign in sheet?

MR. HOLZER: Well, the first six days we had sign in sheets here and both parties signed in.

CHAIR: I don't know that, I assume that to be the case, I'll take your word for it.

MR. HOLZER: Well, I'm sure everybody signed in on both sides, including over, over at the County Council.

CHAIR: I don't know that to be a fact. If it --

MR. HOLZER: Well, but that's been the practice of this Board for years and years is to have a sign in sheet, at least --

CHAIR: I would disagree with, with that respectfully. And I say that because I don't, we don't ever leave sign in sheets out on the tables for parties to sign. Usually, there are, the parties themselves have sign in sheets. If there are sign in sheets, I understand that also it tends to be that counsel retains some of the sign in sheets, because the Board doesn't receive them, the Board will receive them in evidence or at the conclusion of a hearing if there are any.

MR. HOLZER: I have sign in sheets from January 7, January 17th, it looks like January, anyway --

CHAIR: It couldn't be January 17, it must be July maybe?

MR. HOLZER: Maybe it was Jul, July. In any event, I've got all the copies of sign in sheets, which we got from the Board.

CHAIR: Okay. Mr. Schmidt, you have anything you want to say on this point?

MR. SCHMIDT: I have no position either way, to be, quite honestly.

CHAIR: Mr. Holzer, is it your intent to put that in the record, the sign in sheets?

MR. HOLZER: I can.

CHAIR: I'm asking, what do you want to do? I, I'm really asking what is it do you want?

MR. HOLZER: Well, I, I just want to understand why things, I understand why there were no sign in sheets at the last hearing, because there was no evidence to be taken.

CHAIR: There wasn't, correct.

MR. HOLZER: And there were a number of people that came, a number of people that didn't come. But we have, had a history of, of sign in sheets on both sides, both parties, throughout the whole hearing and I was shocked to see that there was no sign in sheet for today.

CHAIR: I, you are telling me things that I would have no knowledge of because it is my understanding there's no

sign in sheets that are left on the tables for, for the parties, it's up to the, the parties get their people who are present to sign in but whatever it is you want to do with the sign in sheet, if you want one today, we can certainly have one today and if that makes it better, you want to put that into the record, we can do that.

MR. HOLZER: Okay.

CHAIR: But we're, I'm going to defer to Ms. Cannington at all times.

MR. HOLZER: That's fine.

CHAIR: On that, on that issue.

MR. HOLZER: I would too. She's been around a long time, so.

CHAIR: She is excellent at her job and I'm going to just listen to her.

MR. HOLZER: I'm going to proffer that the prior sign in sheets for all the earlier days were obtained by us from the Board's office and I can introduce these, if you'd like, but I don't see where it's necessary. I'm just proffering that all the sign in sheets were obtained and kept by this Board and if you'd like, I can show you.

CHAIR: I will, I mean, again, I'm, I'm not disputing anything you're saying about this. I'm, if the purpose of it is to say that you've had a number of people on behalf of the community here present for these hearings, I think --

MR. HOLZER: No, no, no.

CHAIR: -- we can certainly --

MR. HOLZER: It's, it's not, what I --

CHAIR: -- visually we are well aware of how well attended these hearings have been.

MR. HOLZER: No, I want, I want these in the record now.

CHAIR: Okay, then that's fine.

MR. HOLZER: And the reason that I want them in the record is because there was testimony about them in regard to the Motion and the, and the evidence that was submitted in, in regard to the activities offsite that caused eleven police cruisers to have to appear. The Motion that you just ruled on, and so these documents, as collective, would be --

CHAIR: Are you ready, Mr. McComas?

MR. MCCOMAS: Yeah, well, act, actually, I'm looking at Protestant's sign in sheet, exhibit number one. And it's, something has already been, has already been entered. I don't know whether that is what you're going to give to me or not or whether that's something else.

CHAIR: Oh, no, this is, I think this is just from the --

MR. MCCOMAS: Well, it says here, I'm looking at the description, Protestant's sign in sheet. So,

CHAIR: Well, this was probably from either the

hearing below or (inaudible) board meeting for them.

MR. MCCOMAS: Is that what it is? All right.

CHAIR: Yeah, this is all from below.

MR. MCCOMAS: All right.

CHAIR: This is the ALJ.

MR. MCCOMAS: All right. So, (inaudible) not the same.

MR. HOLZER: I understand that these are copies of what was in the Board's --

CHAIR: And I understand. Mr. Schmidt, do you have any, any --

MR. HOLZER: -- I cannot intro, I cannot introduce them today because there is writing on them.

CHAIR: It's for the --

MR. HOLZER: Could I make copies and have them submitted?

CHAIR: I'm just asking if he has any objection.

MR. SCHMIDT: Just, objection to the sign in sheets?

CHAIR: Right.

MR. SCHMIDT: No, sir.

CHAIR: Okay. So, when you're ready to submit the actual copies, if it's tomorrow, so be it.

MR. HOLZER: I would, I would offer them as Protestant's forty-nine, is it --

MR. MCCOMAS: Forty-eight.

MR. HOLZER: Forty-eight, okay.

CHAIR: Do you want to give them then to Ms. Cannington for copying so you can receive them back today so that there's not a question?

MR. HOLZER: Yes, that would be perfect.

CHAIR: Can I see that?

MR. HOLZER: That would be perfect.

MR. SCHMIDT: And Mr. Holzer, that's the sign in sheets from everyone, both sides?

MR. HOLZER: Yes, yes.

MR. SCHMIDT: That, that, I mean, if I just reflects who's here.

CHAIR: Well, do you want --

MR. HOLZER: Actually, --

CHAIR: -- let's do, here's what we're going to do. We're going to, I, can we, let's just get to the evidence today. Here's what we're going to do. At a break, Mr. Schmidt, please review the files to make sure you're satisfied.

MR. SCHMIDT: Okay.

CHAIR: When that is done, hold on, at a break, not now.

MR. HOLZER: Well, citizens and Petitioners.

CHAIR: And then, once that's done, you give them to Ms. Cannington for copying, we'll put it formally into the record. This issue is resolved. So, this way we can just move

on, we don't have to spend our time worrying about sign in sheets. So, --

MR. HOLZER: Okay, will do.

CHAIR: Next, so we're in the middle of Protestant's case, we've heard from Dr. Mary Clark, we've heard from Joyce Mason, Dave Poehler, Kris Ghimire, as an adverse witness, and we last left off with Dr. Dewey Clark.

MR. HOLZER: That's correct.

CHAIR: And that's where we're at.

MR. HOLZER: That's correct. But before Dr. Clark goes back on the stand, I've got a one other live witness today, has a document from King, Greater Kingsville Civic Association I just want to put in.

CHAIR: Well, we're actually in the middle of Dr. Clark's testimony, so Mr. Schmidt, this is an irregularity in presentation, do you have any objections?

MR. SCHMIDT: No, if there is someone who can only be here today and Mr. Holzer wants to put him on.

MR. HOLZER: Yeah.

MR. SCHMIDT: I'm, I'm find with that.

CHAIR: As long as you have no objection, we can do that.

MR. SCHMIDT: Sure.

MR. HOLZER: All right. Where did my stuff go? What I'm handing to counsel is the Greater Kingsville Civic

Association Rule 8 with the vote attached. And I'm giving you the original and three copies.

CHAIR: So, for, for the record, because we were starting to identify the sign in sheets, this will be Exhibit 48, not the sign in sheets.

MR. HOLZER: Oh.

CHAIR: I'm just clarifying it for the record.

MR. HOLZER: Gotcha, okay. Okay. So change, right.

CHAIR: So, and this is from the Greater Kingsville?

MR. HOLZER: Yes, the original, originally I had introduced the fact that I was representing them.

CHAIR: Yes.

MR. HOLZER: And we didn't have the Rule 8.

CHAIR: Right.

MR. HOLZER: So, now that's what Rule 8 is and --

CHAIR: Well, just, what's the formal name again? Greater Kingsville?

MR. HOLZER: Great, yes, Greater Kingsville Civil Association.

CHAIR: Civic Association, Inc.

MR. HOLZER: Yep.

CHAIR: Okay. Any objection, Mr. Schmidt?

MR. SCHMIDT: Mr. Garber, can you, can you just give me a minute or can I defer on that? I just want to look at Rule 8 and look at the document and see if it comports with

Rule 8. If it does, I have no objection. But I just haven't seen it, so I don't know what it is.

CHAIR: No problem.

MR. MCCOMAS: I've got a question for him. So, so I've got two originals, we have two references for me to put exhibit numbers on there, are there any differences here?

MR. HOLZER: I'm, I'm sorry. Look at the sign, look at who signed, it should be ink, both of them.

CHAIR: Dorothy (inaudible).

MR. HOLZER: This is the original.

CHAIR: I can't read the name.

MR. MCCOMAS: So you have two originals?

MR. HOLZER: Right.

MR. MCCOMAS: So you're going to submit --

MR. HOLZER: Well, I don't, I'll take one back if it's okay.

MR. MCCOMAS: All right. I'm just going to, I'm just going to cross this off. That's what I've already marked here.

MR. HOLZER: Oh, okay.

MR. MCCOMAS: So, what I'll do is, just so we don't--

MR. HOLZER: Yeah, I wanted to make sure.

MR. MCCOMAS: Because (inaudible).

MR. HOLZER: Gotcha, thank you.

MR. MCCOMAS: (inaudible).

CHAIR: Here. Take my copy, that's fine. So, to, to

move on further from this, Mr. Schmidt, at a break, I'll let you, let me know your opinions as to where you stand on it. Exhibit 48 will be conditionally admitted pending Mr. Schmidt's review and any objections. Therefore, I'm, this way we can move forward.

MR. HOLZER: Yes.

CHAIR: So, it'll be conditionally admitted on that basis and Mr. Schmidt will inform us after he's had time to review Rule 8 and the paperwork.

MR. HOLZER: Fine.

CHAIR: Okay?

MR. HOLZER: Mr. Morgan?

MR. MORGAN: Yes, good morning.

CHAIR: Good morning. Does everybody have their cell phones off? Okay.

MS. DOPKIN: All right. Don't sit down quite yet. Do you swear and affirm under the penalties of perjury that the testimony you are about to give is true and correct to the best of your knowledge and belief?

MR. MORGAN: I do.

MS. DOPKIN: Would you state your name and address for the record, spelling your last name?

MR. MORGAN: Bruce Morgan, M-O-R-G-A-N, and I'm on 3 Longknoll Road, that's in Kingsville, Maryland 21087.

CHAIR: 21807.

MR. MORGAN: 21087.
CHAIR: 21087.
MR. MORGAN: Yes.
CHAIR: And you said Longknoll Way?
MR. MORGAN: Long, Longknoll Way.
CHAIR: K-N-O-L-L?
MR. MORGAN: Yeah, Longknoll, one word, --
CHAIR: Oh, okay, that's one word.
MR. MORGAN: Yeah, Longknoll, one word, Way.
CHAIR: Thank you. And he's been sworn.
MR. HOLZER: Mr. Morgan, Mr. Morgan, how long have you lived at that property?
MR. MORGAN: Two years.
MR. HOLZER: Okay and how far away from the proposed site is that property?
MR. MORGAN: As the crow flies, maybe three miles.
MR. HOLZER: Okay and do you have any neighbors that are involved in this case?
MR. MORGAN: Yes, Dr. Clarke lives, I think, like four doors down from me.
MR. HOLZER: Okay. Now, how did you get involved in this particular case when you live three or four miles away?
MR. MORGAN: Originally, --
CHAIR: I should, real quick, he did point to a gentleman who's sitting on Petitioner's side of the room, I

believe he identified he was Dr. Clarke.

MR. MORGAN: Yes, I believe it's Dr. Clarke, yes.

CHAIR: Okay. Sorry, Mr. Holzer, to cut you off, but I do want to get that into the record, that he's pointing to a gentleman who he's identified as his neighbor.

MR. HOLZER: Thanks. No problem. How did you get involved in this particular, as an interested party, in this particular issue since you --

MR. MORGAN: I got a, I got a letter about a year ago, I believe it was, that this newly formed GFWPA was holding a meeting to discuss the Bonaparte situation. I, I went primarily because I had just moved into the area, I didn't know anything about what was going on and I had actually been to that, I actually did work at that property probably twenty-five years ago. So, I went out of curiosity.

MR. HOLZER: What kind of work do you do now?

MR. MORGAN: Termite and pest control.

MR. HOLZER: And you had actually visited the site before?

MR. MORGAN: They had asked me to examine the site at one point in time, it had been a long time ago.

MR. HOLZER: Okay. I mean, can, can you sort of give a ballpark figure of how long ago that was?

MR. MORGAN: Probably, at least twenty-five years ago.

MR. HOLZER: Okay and certainly if that, that wasn't under the current ownership of the property?

MR. MORGAN: No, no.

MR. HOLZER: Okay. So, --

MR. MORGAN: I don't remember who the owner was at the time, but it was, somebody was there.

MR. HOLZER: Okay. How long have you lived in the area of Kingsville, Baltimore County?

MR. MORGAN: Two years.

MR. HOLZER: Okay.

MR. MORGAN: Two years. I moved there from, from Perry Hall.

MR. HOLZER: Okay. So, you, you were, when you were in Perry Hall, were you familiar with the site? Obviously, you went there for one occasion but are you familiar with the road system?

MR. MORGAN: With the roads, in traveling there, I drive about thirty-five, forty thousand miles a year in my business and that's all in the, in the general metropolitan area so I've been up and past that property many, many times.

MR. HOLZER: Okay. Now, as a result of going to the, the first meeting to find out what was going on, what happened then?

MR. MORGAN: Well, I, I had listened to statements from members of this newly formed group and was concerned about

their issues relating to noise and traffic and so forth that had been put on the local community there. And, you know, I was, I was concerned because I felt that, that if this type of activity were permitted there, in a, a rural, agricultural, residential property, that it could happen anywhere in Baltimore County.

CHAIR: If I, I'm sorry, Mr. Schmidt?

MR. SCHMIDT: Yeah, I, I'm, I would, I held off making any statement, Mr. Garber, because I was trying to figure out --

CHAIR: Well, hold on, is this an objection?

MR. SCHMIDT: It is an objection. And I would object to, to the witness' testimony.

CHAIR: Well, I, I get that. What's the reason?

MR. SCHMIDT: Well, first of all, I don't think there's any standing that this witness has living three miles away from the property, that that is such a distance that he just seems to be a matter, a member of the general public and, as you know, there must be a showing that there is some standing, normally guided by proximity and I know this Board has had recent cases on that issue. So, I'm not going to lecture you on that.

Above and beyond that, I, I kept waiting to hear where we were going with this and I think the remarks that he started his last answer with is he's concerned about traffic

and the impact from a standpoint of, the impact on rural areas. If he's not a land planner or someone with ex, traffic engineer, it would seem to me that he would, I was waiting to see if he was going to be qualified as an expert witness and apparently he is not.

So, based on the fact that this is a member of the public who lives three miles away, I would object.

CHAIR: Okay. You can save yourself. As you well know, Mr. Schmidt, the concept of standing here in an administrative level is broad, is actually an interested party and that is a broader topic than standing if we were in District or Circuit Court, or Circuit Court, excuse me. And Mr. Morgan has testified that he travels up and down Harford Road.

One of the issues raised in this case is the traffic issues. He, as someone who apparently has testified already, that he commutes with some regularity up and down Harford Road and is familiar with the property and drives past the property, certainly he could provide testimony as to whatever Mr. Holzer is going to elicit out of him and then the Board can receive it for whatever weight that is due.

He's not being received as an expert so with, if something comes up that would be an expert opinion, obviously feel free to object. This is not a ruling as to any future testimony. I did have one question, sir, though.

MR. MORGAN: Yes, sir.

CHAIR: So, let me (inaudible) direct objection it is overruled. The question I have for you is your concerned because of this type of activity permitted there in a rural, agricultural property, it can happen anywhere in Baltimore County, is what I understood your testimony to be. What did you mean by this type of activity?

MR. MORGAN: What the members had told me regarding the large groups that were there, the noise, long term over courses of days. That disrupted the quiet, tranquil nature of their area. As well as the, as well as the traffic issues on Harford Road, which we travel, we travel frequently. I travel it going home almost every day, my family who, my kids who live in Perry Hall come up couple, several times a week, they come up that way. So, I have a concern about that.

CHAIR: So, you said it's the, the, I'm, the, what I'm trying to get at is to what you meant by this type of activity. And just so I have it correct, you're saying your understanding is the large groups where there's noise and it takes place over, over days and that you're concerned about the traffic on Harford Road. That's the activity that you're referring to?

MR. MORGAN: Yes, sir.

CHAIR: Okay. Mr. Holzer, back to you.

MR. HOLZER: Yes, thank you. Mr. Morgan, have you

attended other hear, days of the hearing on this case?

MR. MORGAN: Yes.

MR. HOLZER: Okay.

MR. MORGAN: Yes.

MR. HOLZER: Did you hear anyone else testify who lived further away?

MR. MORGAN: Ms. Twining who lives at the end of Sharon Road is, is actually a little bit less from Bonaparte as the crow flies than she's, she's actually a little bit further away as the crow flies than my house is on Longknoll Way. And then Mrs. Barton --

CHAIR: And if I can just jump in? We already, I've already made a ruling --

MR. HOLZER: I know, but I'm making a record, Your Honor.

CHAIR: Well, --

MR. HOLZER: I need a record on rulings on objections in this case because --

CHAIR: So, --

MR. HOLZER: -- it's now gone way beyond what the normal process has been, as you know, because of so many days. I want this record clear and I want this witness clear in case he ends up being a witness or an appellant in this case.

CHAIR: Right, let's, --

MR. HOLZER: I need to establish that.

CHAIR: -- let's not go too far afield because I've already said --

MR. HOLZER: I won't.

CHAIR: -- he can testify as an interested party.

MR. HOLZER: I understand.

CHAIR: And Ms. Twining testified as an interested party, I get that. And I understand if your testimony is that Ms. Twining lives further away, that's certainly a matter you can raise in an argument to us on these points. I mean, the record will establish their distance from the property site. I'm just requesting that we don't go too far down this road.

MR. HOLZER: I won't.

CHAIR: That we've already ruled in, frankly, your favor.

MR. HOLZER: I understand.

CHAIR: Okay.

MR. HOLZER: I'm not oblivious to the fact that every once in a while I win one, so. What about Marcy Barton who lived ten miles away? Did you hear her testify?

MR. MORGAN: I, I did.

MR. HOLZER: Okay. So, and that was for the Petitioner's case?

MR. MORGAN: That's correct.

MR. HOLZER: So, under the circumstances, you, did you feel it was appropriate for you to be able to come and

share with your, your thoughts with the Board?

MR. MORGAN: Yes.

MR. HOLZER: Okay.

MR. MORGAN: Yes.

MR. HOLZER: Let's get over that now. Have you, well, we've already covered, you've attended a number of hearings, you've heard some of the testimony on both sides, is that correct?

MR. MORGAN: Yes.

MR. HOLZER: Okay. What is, what are your concerns in terms of the approval of this property for a, a community type center, a recreational facility area, and a religious facility?

MR. MORGAN: That it could, that a rolling --

MR. SCHMIDT: Objection to the extent that the first two are not proposed.

MR. HOLZER: Well, we'll get to that.

CHAIR: I, I will have to sustain the objection because what Petitioner has argued is it's solely for religious use. There is an argument to be made, I understand, on your side that maybe it's not just confined to that. But your question as asked is argumentative and it is inconsistent with what Petitioner says it is.

MR. HOLZER: Okay, fine.

CHAIR: If he has an understanding, you can ask about

the, that understanding or whatever else you want to get into but as your question as phrased, I'll sustain the objection.

MR. HOLZER: I'll limit it to a rel, as a religious facility with accompanying activities.

MR. MORGAN: If I might answer this way. The, the activities that have occurred to date at the property, my concern would be that those types of activities might be permitted as a precedent, sending a precedent, that those types of activities might be permitted in other parts of the County. I'm particularly concerned because my brand new house, my dream home of a lifetime, that I just built in Longfield Estates, backs up to Langenfelder Mansion, Rockwood. And it's for sale right now and I would be horrified if this were going on there, since it's a similar type property. I know Mr., Dr. Clarke, I think probably would not be happy if this activity were occurring at Langenfel, at Langenfelder.

MR. SCHMIDT: Objection. I mean, how's he know what Dr. Clarke would think of another project not at this property?

CHAIR: He, he doesn't know, unless you had a specific conversation. He's just putting himself in his shoes that he should have the same concern. That's how it's being received by the Board.

MR. SCHMIDT: Okay.

CHAIR: It's not being received as substantive evidence that Dr. Clarke, in fact, would have the same

concerns.

MR. SCHMIDT: I'm sorry, I don't mean to make this any longer.

CHAIR: It's okay. So, overruled. You may continue.

MR. HOLZER: Did you --

MR. MORGAN: If I might --

MR. HOLZER: -- do you have a document in regard to Mr. Clarke --

MR. MORGAN: Well, if I might? Dr. Clarke wrote a letter, a nice letter but he, he talked about he enjoys --

CHAIR: Why don't we, if you're going to talk about the letter, do you have the letter with you?

MR. MORGAN: It's, it's, it's in evidence.

MR. HOLZER: Yes.

CHAIR: It's already in evidence?

MR. MORGAN: But I, I have it here. I just --

CHAIR: Hold on, hold on, before you do. Mr. Schmidt has to follow along to know what you're referring to.

MR. MORGAN: I apologize, in the effort, --

CHAIR: Hold on, sir, just wait one second. Just wait till --

MR. HOLZER: Would the Board like your copies now or not?

CHAIR: Is this in the record already?

MR. HOLZER: That's what he said.

CHAIR: Okay.

MR. HOLZER: I don't have the exhibit number that it is.

CHAIR: Is it, all right. We'll just assume that it is not in the record only because you're hanging it up here. If it is in the record already, it is what it is. How's that?

MR. HOLZER: Well, he said it's in the record. That's his testimony.

MR. SCHMIDT: Well, can he, can he tell us what exhibit number it is? I've got a list of the exhibits, I'm sure --

MR. HOLZER: Oh, I'm sorry, it is not in the record. I was just advised it was not in the record.

MR. MORGAN: Okay.

MR. MCCOMAS: So, this is Exhibit 49.

CHAIR: Okay, this is Exhibit 49, yes.

MR. HOLZER: Could you, --

MR. MORGAN: If I could --

CHAIR: Hold on, before you start.

MR. MORGAN: Okay.

CHAIR: Let Mr. Schmidt have the --

MR. MORGAN: Okay.

CHAIR: -- opportunity to review --

MR. MORGAN: Okay.

CHAIR: -- before we start with any question and

answer. We don't want to get ourselves in a situation where we have to go through another Motion as to any admissibility issues. So, let's give Mr. Schmidt a minute.

MR. HOLZER: Yeah.

MR. MCCOMAS: Can I, can I have a little more help? Because I don't see who, who's the letter from and --

CHAIR: We're giving it just one second.

MR. HOLZER: Yeah, these, this document, Mr. Morgan, does not have a signature.

CHAIR: Hold on, Mr. Holzer, just wait one second till Mr. Schmidt's done. I promise you'll get the opportunity to ask him these questions. Mr. Schmidt, have you had the opportunity to review?

MR. SCHMIDT: Yes, sir.

CHAIR: Okay. Let's identify this then for the record first.

MR. HOLZER: Yes, I'm trying --

CHAIR: Mr. Morgan, the letter that you just handed up to the Board and Mr. Schmidt, what is this letter?

MR. MORGAN: I believe it's a letter from Dr. Clarke talk, talking about the, where he has lived, talking about their intentions with the property --

CHAIR: Well, if I can, before you go further. There's handwriting in the upper right hand corner. Do you see that?

MR. MORGAN: Yes.

CHAIR: Do you know what that handwriting --

MR. MORGAN: I, I, I do not.

CHAIR: Okay. Mr. Holzer, can you shed light on the handwriting in the upper right hand corner?

MR. HOLZER: No, I can't see it either on, on this attachment. If I could have a second?

CHAIR: Yes.

MR. HOLZER: No, I, I cannot find anything other than the document itself appears to be written by the person the witness says it is written by because he gives his address and his daughter's name and so forth. And I think the only purpose of this letter was to relate to the nature of his enjoyment of his home.

CHAIR: Okay and so do I understand then that the proffer for this letter is basically Dr. Clarke expresses his enjoyment of his home in his location and it ties into the testimony that was just provided by Mr. Morgan --

MR. HOLZER: Correct.

CHAIR: -- as to hey, we also have this big property behind us, what would happen if this were to be developed in a similar fashion.

MR. HOLZER: Well, he just, he doesn't go that far. He just simply says he enjoys the rural nature, tranquil nature, enjoys seeing deer or geese from my deck to the pond,

take my grandson, so that's all it is.

CHAIR: Okay. Mr. Schmidt, any objection to the admissibility?

MR. SCHMIDT: No, sir.

CHAIR: Okay. So admitted.

MR. HOLZER: Thank you and that's exhibit number forty-nine.

CHAIR: Right.

MR. SCHMIDT: Can I, can I ask one question? You asked about the writing on the page.

CHAIR: Yes.

MR. SCHMIDT: And there's, there's a, a, a black out, it looks like, or some, that's my --

MR. MORGAN: I tried to address that --

CHAIR: Hold on, sir, he's got a question for me.

MR. SCHMIDT: -- my copy. I don't know, does the Board's copy have this --

CHAIR: Yes.

MR. SCHMIDT: -- second paragraph and then written above that is, and maybe the witness could address what that is, if the witness did that.

CHAIR: Well, hold on, we're going in order. Mr. Holzer, you have questions and then if it's not asked to your satisfaction during the course of direct --

MR. SCHMIDT: Yes, sir.

CHAIR: -- you may certainly ask it in cross. Mr. Holzer?

MR. HOLZER: Mr. Morgan, you heard counsel's --

MR. MORGAN: I, I can, --

MR. HOLZER: -- could you tell us how --

MR. MORGAN: -- I can address that, yeah. In my effort to, I had used an orange, this is the original, original copy.

CHAIR: Let's do this, can you show Mr. Schmidt the original copy? Maybe that resolves the situation entirely and we can all move on. Thank you, Mr. Morgan.

MR. SCHMIDT: And you just wrote above the orange place --

MR. MORGAN: Yeah, when, when I highlighted it, it didn't copy well and it blacked it out.

MR. SCHMIDT: Got it, no problem.

MR. MORGAN: So, I wrote, I wrote the text above it.

CHAIR: Mr. Schmidt's curiosity is satisfied.

MR. SCHMIDT: I'm fine.

CHAIR: It's admitted, we're all good on that.

MR. MORGAN: Okay, good.

CHAIR: Okay. So, back to you, Mr. Holzer.

MR. HOLZER: All right. What, if, if you could just repeat your position in regard to the tranquility of the neighborhood --

MR. MORGAN: It's a very quiet, very tranquil neighborhood that I'm sure, you know, that Dr. Clarke enjoys just as much as we do. And the whole point of it was that should that type of activity occur at Langenfelder, which is similar, I think, to Bonaparte, it's a big old mansion with the property around it, I think that I would be horrified by it. I think Dr. Clarke would not be real happy about it either since he, he obviously has stated that he enjoys the tranquil, quiet nature and away from the crowds and noise.

MR. HOLZER: Okay. You've testified already to your involvement in regard to traffic and, and we're referring to traffic on Har, Harford Road in the vicinity of the subject site and the circular roundabout that, that takes place above it and, and subsequent, the neighborhood. Which, could you talk about that a little bit? And you're not a traffic expert?

MR. MORGAN: I'm not a traffic expert, no.

MR. HOLZER: Okay.

MR. MORGAN: But in traveling that over a period of, of forty years, being in the business that I'm in, I have come upon numerous accidents at that location.

CHAIR: Hold on. What do you mean by that location?

MR. MORGAN: At, at the, at the location of the entrance to Bonaparte.

CHAIR: So, you're saying at --

MR. MORGAN: Right at the curve.

CHAIR: At the entrance to the subject property, you have encountered a number of accidents?

MR. MORGAN: Yes, sir. Between --

CHAIR: Over forty years?

MR. MORGAN: Over a forty year period of traveling that, that road.

CHAIR: Sorry, sorry, Mr. Holzer.

MR. HOLZER: Okay.

MR. MORGAN: And, and an, and an occasion where I actually came upon an overturned vehicle at that, at that location. The, and again, I'm not being a traffic expert but, rounding that curve at forty miles an hour, which is reasonable, you're only four seconds from the entrance to that property. And, you know, my fear is that with my kids coming with me, my kids coming up and down, that these events where you'll have cars entering that property, particularly cars that may be backed up onto Harford Road, there's not going to be enough time to, at forty miles an hour, I don't know how someone is going to stop in time if cars are literally stopped on Harford Road trying to enter that property.

I also had an experience on, I believe it was on, on September 14th. If you don't mind I just want to refer to the, yeah, on September 14th of this past year, I was traveling south from the circle and when I got to the entrance of Bonaparte, car, a car two cars ahead sort of started to slow, hesitated,

put the brakes on, which we, almost as if they didn't, weren't sure that that was where they wanted to go. And we're all traveling at, you know, from the circle, we're up, up to thirty-five, forty miles an hour now. The, the car then started to proceed, a car came around the corner on the northbound direction, which only gave this person a certain amount of time, so rather than try to make it, they, they came to an abrupt stop halfway in the southbound lane, halfway in the northbound lane and fortunately, we had enough following distance that we were all able to stop in time and avert a collision. But it was, it, it was scary, it was frightening to say the least.

So, that's my concern about the road there is that, and this, this was not on a day when there was an event, where there were, you know, where there may have been a lot of traffic going in and out of the site. This was a, a single vehicle trying to turn left into the property.

MR. HOLZER: Okay. Have you experienced anything else of an unusual nature on, on the site, at that intersection of the entrance way and, and the road?

MR. MORGAN: I, I noticed yesterday on the way home that there's now a, a bumper or some piece of an automobile that wasn't there before that's laying in the ditch just above the driveway entrance to Bona, to Bonaparte on their side. So, there's, there's --

CHAIR: And you say just above, heading in what direction, it's on your side?

MR. MORGAN: I'm heading, I'm heading north. The Bonaparte entry is to my right.

CHAIR: Right.

MR. MORGAN: I've passed the, I'm, I'm just past the driveway to the entry to Bonaparte and laying in the ditch there is a, a bumper or bumper cover or something that's, that's, I --

CHAIR: Do you know where the driveway is after the Bonaparte driveway?

MR. MORGAN: Do I know whose driveway?

CHAIR: No, no. Do you know it, do you know that there is a driveway some distance past --

MR. MORGAN: Yes, this is in between Palmer's, this is in between Dave Palmer's driveway and the Bonaparte driveway.

CHAIR: Thank you, that's what I was trying to clarify.

MR. MORGAN: Yes, yeah. Yeah, it's, it's in the ditch right, just north of the driveway.

CHAIR: It's in between two driveways?

MR. MORGAN: Yeah, there's, there's two entrances but there's no ravine in between. There must be a pipe or something there, but then there's a ditch to the north of the

northern entrance and it, and it's, the material was laying in the, which is fairly new, I don't know, in the last day or two.

MR. HOLZER: Okay. Is there anything else you would like to address in regard to the traffic or the nature of the road, etcetera?

MR. MORGAN: Just that it, you know, in my experience in driving and, again, I'm not a traffic expert but in my experience of driving the, the metropolitan area, that, that is without a doubt to me, one of the most dangerous sections of roadway anywhere and I, I don't remember any other place where I've seen as many cut, just happened upon as many collisions as I've seen at that location.

MR. HOLZER: And you said you, I think you said you testified that you drive about thirty-five thousand miles per year?

MR. MORGAN: Thirty-five thousand plus, yes.

MR. HOLZER: Wow.

CHAIR: I believe the testimony is thirty-five to forty thousand.

MR. HOLZER: Okay and is that, is your traveling experience all over Baltimore County?

MR. MORGAN: Over the entire Baltimore metropolitan area, all the surrounding counties and that, yes.

MR. HOLZER: Okay, all right. I just wanted to put it in perspective what, how you drew your conclusion that this

was a dangerous area. Okay. As a result of your taking the position that you have, have you received any responses or feedback from the other side that were directed to you?

MR. MORGAN: Well, I, I, I received responses from, from folks that I believe were in favor. I don't know when you say the other side, I, I --

MR. HOLZER: That's what I meant.

MR. MORGAN: Okay.

MR. HOLZER: People who were supporting the request, the Petitioners.

MR. MORGAN: I, I had, on Nextdoor, and I had posted some opinions on Nextdoor, and I got a response from Hindu Buddha Temple, which I believe was representative of the, the, the, the establishment group itself. I think that, that, that particular site got pulled down and because they had to be individuals. I think you, you have to be a named, you, you have to have a name, a Bruce Morgan can do it but I think a group, Nextdoor doesn't want a group, they want individuals to, to do it but back the, back then there was a response to me--

CHAIR: Are you reading something, sir?

MR. MORGAN: I have copies.

CHAIR: Then please show Mr. Schmidt before you start reading.

MR. HOLZER: Okay, I'll get them.

CHAIR: And before you pickup your testimony, let Mr.

Schmidt have the opportunity to review.

MR. MORGAN: Yes, um hm.

CHAIR: Are there additional copies for the Board?

MR. MORGAN: There, there are.

CHAIR: We will mark this as fifty for identification at the moment. Does that work for you?

VOICE: (inaudible).

CHAIR: So, we've been handed, just for the record, three pages, the first page being stapled to the other two and folded in half, which, well, we'll have that identified in a second.

MR. HOLZER: Yes.

CHAIR: Mr. Schmidt, before, I already see you shaking your head. Let's identify it for the record what it is and then if you have an objection, you certainly can insert your objection. Mr. Morgan, the limited question at the moment is, what is, what was just handed up to the Board and to Mr. Schmidt?

MR. MORGAN: They're, they're excerpts from Nextdoor Kingsville.

CHAIR: Okay.

MR. MORGAN: These are postings from --

CHAIR: Page one, is that you (inaudible)?

MR. MORGAN: The, the one on top?

CHAIR: Yes.

MR. MORGAN: Is from me.

CHAIR: To whom?

MR. MORGAN: To Kris.

CHAIR: And do you know who Kris is?

MR. MORGAN: I, I, I don't know if it's Kris Ghimire or whether there, I believe there's another Kris that's also--

CHAIR: Very well. Page two, which is a full page,--

MR. MORGAN: Yes, sir.

CHAIR: -- my copy has orange highlight, Mr. Schmidt, does yours?

MR. SCHMIDT: Yes, sir.

CHAIR: Okay. What is page two?

MR. MORGAN: Page two is a post from the Hindu Buddha Temple. It's also from Nextdoor Kingsville.

CHAIR: Okay. So, it's different, it's not a response to your first one on page one, it's a different response, correct?

MR. MORGAN: It, it is a different res, it's not the same response.

CHAIR: Right, it's not the same, right, back and forth, it's a different --

MR. MORGAN: It, it is, it, it's in the same, it was in the same threat, it was in the same conversation on Nextdoor, yes.

CHAIR: Okay, I got it now. And then what is page

three?

MR. MORGAN: Page three, oh, that was just a map that showed the Bonaparte site, it showed Ida Twining's house and my house.

CHAIR: So, I mean, correct me if I'm wrong, page three, does that, is that associated with pages one and two in Exhibit 50?

MR. MORGAN: Only in, in the respect that I, I, if I might, it was in respect to in answering this --

CHAIR: Okay, we can stop there.

MR. MORGAN: Okay.

CHAIR: It does relate to, to the (inaudible) --

MR. MORGAN: I, I believe so.

CHAIR: Okay. Mr. Schmidt?

MR. SCHMIDT: Mr., Mr., Mr. Garber, I, I don't know what this is trying to prove or assert as it relates to the question that the Board is going to answer, which is whether the special exception should be granted. I, I understand this is an administrative body and you're not bound by the rules of evidence. We, we don't even know who, he said, I mean, we don't even know who wrote the, the one thing.

CHAIR: Well, I guess if you just tell me what your objections are.

MR. SCHMIDT: Hindu, Hindu Buddha Temple, is that my, is that alleged to be my client? I mean, that's not the name

of my client. There's no --

CHAIR: Let's stop there. What are, what are your specific objections? That is, we don't know who the author is?

MR. SCHMIDT: There's, there's no, there's no foundation for this document in terms of who, other than Mr. Morgan acknowledging that he wrote the stapled page, we don't even know who wrote the page below it. It's not signed, it's not signed by the Nepali Cultural Center, it says Hindu Buddha Temple. There's no, he's indicated in his response that there are a couple of Kris' and he doesn't know which one it is. So, I would generally say there's no foundation for the document, number one.

Secondly, I don't think the document has any relevance to it. It's, as I've read it, it doesn't talk about the impacts of the temple on the surrounding locale but it's some sniping back and forth as to whether people should do that --

CHAIR: Yeah, well, we, without the characterization, you're objecting on the basis of lack of foundation and relevance.

MR. SCHMIDT: And relevance, yes, sir.

CHAIR: Okay. Mr. Holzer, do you wish to respond to the objections?

MR. HOLZER: No.

CHAIR: Okay. I do need to ask a question. What is

this being used for? What is the proffer?

MR. HOLZER: I, I can, if I can be --

CHAIR: Well, I'm asking you for a proffer here as to what this is being used for?

MR. HOLZER: It's being used to show that, that some, the neighbors have been intimidated to some extent or suggested that they not be able to testify before this Board because they either don't live close enough or they have a racial or religious angst in regards to these people. And I think Mr. Morgan is here to testify that he has none of those. He has no racial, no religious objection to them. It's, it's only a land use issue that he's trying to raise and, and participate in.

CHAIR: Okay. Well, let's, how about we, here's where I think this falls. The problem is how you tie this, again, back to the association. I do see, or the Petitioner, excuse me. I do see it says, at least in one part on page two, I am one of the representatives of NACC but we don't know who that is and we don't even know if they actually are. So, leaving that aside, can't you ask your questions independent of this? That is, does he have any --

MR. HOLZER: Yeah, sure.

CHAIR: -- I mean, this way, this way the questions, and there aren't many that would come with the admission of, of Protestant's Exhibit 50 because we don't know who responded or anything to a degree --

MR. HOLZER: Right.

CHAIR: -- we don't even know where they live as well in relation to this.

MR. HOLZER: I can certainly ask him what his concerns are about his ability to testify. It's that simple.

CHAIR: Okay. With that in mind, for the moment, this is not admitted, this is i.d. only. But you can, you may ask your questions.

MR. HOLZER: Mr. Morgan --

MR. SCHMIDT: What number has this been marked as?

CHAIR: Fifty.

MR. SCHMIDT: Fifty, thank you.

CHAIR: It is not in evidence, it is i.d. only.

MR. SCHMIDT: Right.

CHAIR: And again, for those of you who just came in, please make sure your cell phones are off. Sorry, Mr. Holzer, you may continue.

MR. HOLZER: Okay. Mr. Morgan, I mean, I think you brought this as, as some way of being able to introduce your own testimony about your own concerns and what your concerns are related to this, this zoning request. Why don't you just tell the Board what your feelings are in regard to that? We don't need what somebody said that you're a racist or you don't know what you're talking about or you live too far away. Why don't you just address the, your concerns and your feelings

about getting stuff like this?

MR. MORGAN: Well, I, I --

MR. SCHMIDT: Objection. I just don't see the relevance of any of this. If he wants to testify about his concerns about the proj, the project, he can certainly do that. But this is, is this an allegation that he's been intimidated not to testify? Is that what you're saying, Mr. Holzer?

MR. HOLZER: Yeah, (inaudible).

CHAIR: Hold on, hold on. First of all, hold on, everyone. You know, you don't direct questions to Mr. Holzer during the course of the objection.

MR. SCHMIDT: I'm sorry, Mr. Garber, but --

CHAIR: You state your objection. I understand your objection. Mr. Holzer, do you wish to respond to the objection?

MR. HOLZER: Yes. There has been a, a series of intimidations in this case, not only by the applicants or the Petitioners, but responses by this County and they will be introduced or, and if they're not introduced, they will be documented by proffers. And at the end of this case, the Board will have an opportunity to evaluate what's been going on. But in this particular case, I want to limit his testimony just to him personally and why he is able to articulate why he's there. I never objected to the witnesses being brought by the other side.

CHAIR: If I could stop you there on that point?

MR. HOLZER: Yeah.

CHAIR: The mere fact that you didn't object to that happening does not make it less objectionable for Mr. Schmidt as to whether or not --

MR. HOLZER: (inaudible).

CHAIR: -- as to whether or not they are objections that will be sustained, they're, they're all individual factually, you know, dependent matters --

MR. HOLZER: I understand that.

CHAIR: -- so one does not depend on the other, but the fact that you didn't object before, which maybe actually the right call, the right course of action to not have objected because there wasn't a particular point of relevance or materiality for this Board to consider, I understand that, but that does not mean that one is equal to the other in any context or in any way, shape or form. They're not related. So, as to Mr. Morgan, if Mr. Morgan has a particular concern, you've identified the concerns as to what you have with the proposed use. Did you have, I guess the question is, did you have concerns as to your, voicing your opinions as to how this property should be used? Is that fair?

MR. HOLZER: Yes, that's a fair question.

MR. MORGAN: Yes.

CHAIR: Okay. What are those concerns?

MR. MORGAN: Well, I, I think that, maybe intimidation was, is too strong of a point, to a strong of a, of a description. But certainly someone who, like me, who is voicing a valid opinion online in a conversation with people who are in, in support of the project, and then to have someone say well, that I'm not entitled to an opinion, you know, I, I think it is intimidating to, to have that. And have it directed directly at me saying that I'm spreading lies, you know, some inference that I may be racist in some way. I don't like being called a liar, I don't like being called a racist because I'm neither of those.

CHAIR: Okay. Mr. Holzer, does that satisfy then what you're trying to elicit from this witness?

MR. HOLZER: Yes. Were you, in fact, ever called a, one of those names?

CHAIR: Sir, did that preclude you from being here today, being those names? Did you have hesitation in any way, shape or form?

MR. MORGAN: Did I hes, do I hesitate to be here?

CHAIR: Yes.

MR. MORGAN: Did I hesitate to be here?

CHAIR: Does it cause you any hesitation to be here to present your testimony?

MR. MORGAN: I, I, no, because I was determined.

CHAIR: Mr. Holzer?

MR. HOLZER: Is there anything else that you need to testify before the Board that relates to the land use issue only in regard to any of the criteria of 502.1 the zoning, etcetera?

MR. MORGAN: An opinion, an, an opinion that, looking at 502.1 and the, the limitations therein, it seems that the, the, the behavior that has occurred on the property to date seems to be contrary to the welfare and the safety of the people in the area.

MR. SCHMIDT: Objection and move to strike. I don't think he can offer comments and ex, what, what I would consider to be expert opinion as to Section 502.1 of the Baltimore County zoning regulations unless he's qualified as an expert with some special knowledge of the zoning regulations.

CHAIR: I believe that he's testifying as a lay person. I don't think he's being offered as an expert witness testimony. He's offering his interpretation of 502.1. It was never going to be received as expert testimony. Sir, so do I understand your testimony then to be that the behavior, the, to be clear, it was summarized to you by others in virtue of the letter and the, and the meetings you attended --

MR. MORGAN: That's, that's correct.

CHAIR: -- that that behavior as described to you seems inconsistent or contrary to 502, the factors of 502.1 based on your understanding of those factors?

MR. MORGAN: Yes, sir.

MR. HOLZER: Thank you.

CHAIR: Sure.

MR. HOLZER: You have any other --

CHAIR: So, the objection will be overruled and understood that the evidence will be received on the basis that he is a lay witness, not an expert witness, on those factors and the application of the Baltimore County zoning regulations.

MR. HOLZER: Thank you. Is there anything else that you'd like to present to the Board?

MR. MORGAN: I, I, no, no, sir.

MR. HOLZER: No further questions.

CHAIR: Thank you. Mr. Schmidt?

MR. SCHMIDT: Mr. Morgan, are you a neighbor of this property? Would you consider yourself a neighbor of this property?

MR. MORGAN: To the extent that others have felt they were a neighbor, yes.

MR. SCHMIDT: I'm not asking if others feel they're a neighbor.

MR. MORGAN: Yes.

MR. SCHMIDT: Do you feel you're a neighbor of the property?

MR. MORGAN: Yes, yes, yes.

MR. SCHMIDT: How close do you have to be to a

property to be a neighbor in your opinion?

MR. MORGAN: As far away as I am, I believe. I mean, (inaudible) --

MR. SCHMIDT: Okay. So, up, up to three miles would, would be considered a neighbor?

MR. MORGAN: Or, or so. I mean, I, I have to travel past that property as close proximity to my home, yes.

MR. SCHMIDT: Sir, okay. Okay. So, the test of being a neighbor is whether you have to travel close to this property? That's how you determine if you're a neighbor?

MR. HOLZER: Objection.

MR. SCHMIDT: Well, that's what the witness just said.

CHAIR: Hold, hold on one second, hold on. We have an objection. First of all, stand up for your objection so I know that you're objecting. Second, Mr. Schmidt, just wait till the objection comes and you may have an opportunity to respond. Mr., Mr. Holzer?

MR. HOLZER: I just wanted him to have the opportunity to finish the question.

CHAIR: To finish his answer?

MR. HOLZER: Yes, answer to the question.

CHAIR: Okay.

MR. MORGAN: All right, --

CHAIR: Mr. Schmidt, we are jumping on top of one

other. So, Mr. Morgan, please keep clear, let Mr. Schmidt finish his question.

MR. MORGAN: Sure.

CHAIR: Start your answer, Mr. Schmidt, please then start your question when he's finished with his answer. We can all move on. Mr. Schmidt, back to you.

MR. SCHMIDT: I think you said, Mr. Morgan, if I understood it correctly, that you believe you are a neighbor because you drive by here, is that what you said?

MR. MORGAN: Yes. I also said that I feel that I live close enough to be considered a neighbor.

MR. SCHMIDT: Okay, all right. Thank you, sir. You talked about an incident that occurred on September the 14th of 2018 near the subject property.

MR. MORGAN: Yes, sir.

MR. SCHMIDT: And there was a car that stopped suddenly in front of you?

MR. MORGAN: Yes.

MR. SCHMIDT: You drive thirty-five thousand miles a year, is that correct?

MR. MORGAN: Yes.

MR. SCHMIDT: Would you say that, other than this event and the other times that you've driven in 2018, that cars have stopped suddenly in front of you on other occasions?

MR. MORGAN: Yes.

MR. SCHMIDT: Doesn't that pretty much happen to all of us who drive cars almost every day?

MR. MORGAN: I'm sure it does.

MR. SCHMIDT: The car that stopped suddenly, did it turn into this property?

MR. MORGAN: Yes.

MR. SCHMIDT: Okay. Do you know who was driving that car?

MR. MORGAN: I do not.

MR. SCHMIDT: Do you know if it was a member of the group or if it was somebody who was trying to turn around because they were lost or if it was somebody who turned into the wrong driveway? Do you have any idea who that person who was driving that car and where they were going or for what purpose they were --

CHAIR: Well, we're asking multiple questions. But I understand what you're trying to get at. Sir, do you know why that person turned in the driveway?

MR. MORGAN: I do not.

MR. SCHMIDT: Okay. You don't know who that person was?

MR. MORGAN: I do not.

MR. SCHMIDT: Okay. There was no accident that was caused?

MR. MORGAN: No, there was not.

MR. SCHMIDT: Okay, okay. You also testified that, I wrote this down, that you believe it's reasonable on that stretch of road and that stretch of road I'm going to define as the roadway immediately in front of or adjacent nearby the entrance to the Bonaparte, or the Nepali property, to drive forty miles an hour?

MR. MORGAN: Yes, sir, and it's within the speed limit.

MR. SCHMIDT: Well, irrespective of it being within the speed limit, were you here for the testimony of Mr. Collagero?

MR. MORGAN: Yes.

MR. SCHMIDT: Okay. Are, are, are there indeed signs in that proximity which show that there are severe turns in the road, at that proximity?

MR. MORGAN: Yes.

MR. SCHMIDT: And that Mr. Collagero testified that generally people have to slow down to a mucher, much slower speed than the posted speed limit --

MR. MORGAN: Yes.

MR. SCHMIDT: -- because the road is so curve, is --

MR. MORGAN: Yes.

MR. SCHMIDT: -- curved at that location?

MR. MORGAN: Yes.

CHAIR: Hold, hold on, sir. Now you're jumping in on

his question.

MR. MORGAN: Oh, sorry.

CHAIR: Let him, let Mr. Schmidt finish --

MR. MORGAN: I'm sorry.

CHAIR: -- his question.

MR. SCHMIDT: Okay. Would you agree with that?

MR. MORGAN: Yes.

MR. SCHMIDT: Okay. But you think forty miles an hour is reasonable at that location?

MR. MORGAN: Yes.

MR. SCHMIDT: Okay. You said that there were numerous accidents at that location.

MR. MORGAN: That I have seen over the course of years, yes.

MR. SCHMIDT: How many?

MR. MORGAN: I, I don't know.

MR. SCHMIDT: Have you looked at any accident data?

MR. MORGAN: I have not.

MR. SCHMIDT: In, where you live in Kingsville, sir, on Longknoll Way, correct?

MR. MORGAN: Yes.

MR. SCHMIDT: And do you work out of an office?

MR. MORGAN: Yes.

MR. SCHMIDT: And where's your office?

MR. MORGAN: Cockeysville.

MR. SCHMIDT: And when you drive from Longview Way to Cockeysville, do you go in front of the property?

MR. MORGAN: Yes.

MR. SCHMIDT: Is that your commute?

MR. MORGAN: Yes.

MR. SCHMIDT: Okay. So, you drive in front of this property twice a day, once going to work and once coming home from work?

MR. MORGAN: No, no.

MR. SCHMIDT: No?

MR. MORGAN: I, I usually drive four times during the day. I drive in twice and back twice in the course of the day.

MR. SCHMIDT: You go home for lunch or something?

MR. MORGAN: Yeah, sometimes, I always stop at home during the day.

MR. SCHMIDT: Okay. What do you do, sir? Do you still do pest control?

MR. MORGAN: Yes, yes.

MR. SCHMIDT: Okay. Do you drive a passenger vehicle or a?

MR. MORGAN: No, I drive a pickup truck.

MR. SCHMIDT: Okay and who do you work for?

MR. MORGAN: Atlas Exterminate, I own the company.

MR. SCHMIDT: Okay. At, at the time you, you described events occurred, that occurred on the property, on

the Nepali property during your testimony, that you had objection to, I believe, correct?

MR. MORGAN: Yes, yes.

MR. SCHMIDT: At the time of those events, were you aware they were going on?

MR. MORGAN: No.

MR. SCHMIDT: You didn't hear anything?

MR. MORGAN: No.

MR. SCHMIDT: You didn't see any traffic on those days?

MR. MORGAN: No.

MR. SCHMIDT: Okay. So, they didn't personally impact you?

MR. MORGAN: No.

MR. SCHMIDT: At the time they occurred?

MR. MORGAN: No, they did not.

MR. SCHMIDT: Okay. You also, I, I think you said, I just was trying to write it down so I want to make sure I got your testimony correctly. That, that your, your real concern here is the precedent that could be established if this approval was granted, particularly as it relates to the, I'm sorry, I forgot the name, Langfelder?

MR. MORGAN: Langenfelder.

MR. SCHMIDT: Langenfelder property? Okay and the Langenfelder property, can you tell the Board a little more,

what is the Langenfelder property in terms of how big is it and what's on the property, what improvements?

MR. MORGAN: I, I think it's six or eight acres. There's a large historic mansion there.

MR. SCHMIDT: Is it occupied at the present time?

MR. MORGAN: It's for sale, it's unoccupied and for sale right now.

MR. SCHMIDT: Okay and how has it been used?

MR. MORGAN: As a single family residence.

MR. SCHMIDT: Okay. Do you know what the zoning of that property is?

MR. MORGAN: I think it's RC-7, I, I think.

MR. SCHMIDT: You think.

MR. MORGAN: I think it's RC-7.

MR. SCHMIDT: Okay. Is there, to the best you know, any type of religious building that's proposed on that property?

MR. MORGAN: No, I am not aware of that.

MR. SCHMIDT: Okay. So, your concern is that that property could also be developed as a religious building, a church or a temple or a synagogue or some religious type of activity if this property obtains similar approval?

MR. MORGAN: I, I, if I could? I think that if this were approved --

MR. SCHMIDT: This being the Nepali project?

MR. MORGAN: The Nepali, that that could extend to not just Langenfelder, it could extend to other properties in, in residential areas, yes.

MR. SCHMIDT: Okay. Okay and that would, that would be, since you admittedly are not close enough to hear any activity on the Nepali property, correct?

MR. MORGAN: Right.

MR. SCHMIDT: And in terms of traffic, the impact on you is when you would be driving by as opposed to a backup of traffic from reaching your street, is that fair to say?

MR. MORGAN: No, that's correct, and my family.

MR. SCHMIDT: And your family as well.

MR. MORGAN: My family, which, which travels that area frequently.

MR. SCHMIDT: Okay. All right and since you don't have any direct impacts, if I use, trying to choose my words carefully, of the proposed use (inaudible) three miles away, the concern that you have is more the precedent that could be established for the Langenfelder or other properties?

MR. MORGAN: And, and the traffic.

MR. SCHMIDT: You ever been in any traffic accidents in your years of driving?

MR. HOLZER: Objection. What's the relevance of that?

CHAIR: Please stand up when you object.

MR. HOLZER: I'm sorry. Objection. What's the relevance of that?

CHAIR: Mr. Schmidt? I would have the same question.

MR. SCHMIDT: The, the, the witness made an inference, not an inference, but suggested that because there are, because there have been accidents at this prop, in, in this proximity, that it is, I, I don't, trying to look at his exact words, that it was inherently a dangerous section of road.

CHAIR: He did say it would be a dangerous area, something to that effect.

MR. SCHMIDT: Something to that effect. And I'm just trying to establish whether every place that has accidents is a inherently dangerous place because there are accidents there, which seems to be the basis of his opinion.

CHAIR: Well, it is cross examination. I mean, I don't know how much utility you'll get out of that line of questioning, but it is cross examination. There is a suggestion that he travels thirty-five to forty thousand miles a year, that he is, by way of comparison, compared to other areas, the general Baltimore regional area, in terms of its, as he considered it to be a dangerous area. So, to some extent, I can see the purpose of the question, the relevance of the question being directed to this witness to so, Mr. Schmidt, you may --

MR. SCHMIDT: I'll tell you what, I'll withdraw the question, make it easy.

CHAIR: Well, then we don't have any problem.

MR. SCHMIDT: Mr. Morgan, you also testified about a bumper or a bumper cover that you observed in a ditch near the entrance to the Bonaparte, Nepali property, correct?

MR. MORGAN: Yes.

MR. SCHMIDT: Did you, when you saw that, did you stop and look at it?

MR. MORGAN: No, no.

MR. SCHMIDT: Okay. Do you know what, what it was exactly? Do you know what kind of vehicle it came from?

MR. MORGAN: I do not, it just appears to be a cover, either a bumper cover or a, or a bumper.

MR. SCHMIDT: Okay. Do you have any idea how it got there?

MR. MORGAN: I do not.

MR. SCHMIDT: So, somebody who was disposing, who was disposing of it could have been driving by and thrown it out the window of their vehicle and landed in the ditch is possible?

MR. MORGAN: I guess anything is possible.

MR. HOLZER: Objection.

CHAIR: Hold on, again, stand up when you're objecting, Mr. Holzer.

MR. HOLZER: I'm sorry. I'll withdraw it.

MR. MORGAN: I, I guess anything is possible.

MR. SCHMIDT: But you, you just don't have any idea?

MR. MORGAN: No, I don't.

MR. SCHMIDT: Okay. Fair enough. No other questions.

MR. HOLZER: No questions.

CHAIR: Ms. Dopkin?

MS. DOPKIN: I have one question with regarding to what was identified as Protestant's Exhibit 50, including these Nextdoor posts?

MR. MORGAN: Yes.

MS. DOPKIN: Do you have copies of what you posted that provoked this response?

CHAIR: Page two.

MS. DOPKIN: Because it's clearly in response to something that was previously posted by you. I don't --

MR. MORGAN: I, I do not, I do not have copies of that with me. I do not have copies of that with me. I can retrieve that by going back on to Nextdoor --

MS. DOPKIN: I'd just be curious to know what elicited such a strong response and I think it doesn't, this is out of context otherwise, that's all.

MR. MORGAN: I understand.

CHAIR: Just by way of, purposes of the record, at

this time Exhibit 50 is not in evidence but it sounds as if the witness is going to come up with a full, I guess, printout of the initial post and responses then, in response to your question? Is that the understanding?

MS. DOPKIN: I was --

CHAIR: That's your understanding, he's coming up with that for you?

MS. DOPKIN: He has offered to, yes.

CHAIR: Okay.

MR. SCHMIDT: I mean, I didn't ask any questions about it because it was not accepted into evidence.

CHAIR: It's still, it's still not.

MR. SCHMIDT: But I, I, I mean, I, thank you, Ms. Dopkin. I mean, I would agree that it's incomplete. In addition to being no foundation and relevance, which were the grounds I asserted, it, it appears to be a part of a conversation and not the entire conversation.

CHAIR: I think it's evidence rule one, I want to say 106 or something to that effect, 5-106, lack of completeness of the record. So, be that as it may, we're, it doesn't change what we're, where we're at with that particular exhibit at this time. So, but if Mr. Morgan produces that to Mr. Holzer and Mr. Holzer feels that it is worthwhile to explore, than --

MR. HOLZER: I certainly might.

CHAIR: And so, Mr. Holzer, I mean, we can perhaps

then revisit it another time but as for now, I assume there's no re-direct then?

MR. HOLZER: No re-direct.

CHAIR: All right. Thank you, Mr. Morgan, for your time.

MR. MORGAN: Thank you, thank you.

CHAIR: Mr. Holzer?

MR. HOLZER: Mr. Clark.

CHAIR: Are we ready to, because I see we have a stand here, are, are we going to have any presentation or, or not? Do you need time to set up is really the question to you?

VOICE: Yes.

MR. HOLZER: Do we need time to set up?

VOICE: Yes.

MR. HOLZER: Okay.

CHAIR: All right. So, why don't we take a ten minute break. We'll give you, a ten minute break will be sufficient for you to set up, Mr., or Dr. Clark?

VOICE: My time, yes.

CHAIR: Yeah, right, okay.

VOICE: Thank you, sir.

CHAIR: Ten minutes, Mr. Holzer?

MR. HOLZER: Ten is fine.

CHAIR: Okay.

(RECORDING PAUSED – 10:37:10 AM)

(ON RECORD – 10:37:11 AM)

CHAIR: And then now, during this break, Mr. Holzer, if you can, please show Mr. Schmidt the sign in sheets. Make sure that he's satisfied with whatever they are, then we'll hand it to Ms. Cannington to copy and then we can revisit that issue as well. Does that work for you?

MR. HOLZER: Works for me, sir.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Yes, sir, thank you.

CHAIR: All right, ten minutes. Thank you, all.

(RECORDING PAUSED – 10:37:34 AM)

(ON RECORD – 10:53:03 AM)

CHAIR: Thank you. And we're back on the record. All right. We have Dr. Dewey Clark back on the stand. Sir, --

MR. HOLZER: You want to finish up with Mr. Schmidt, with Mr. Schmidt?

CHAIR: What's that?

MR. HOLZER: And the documents that he --

CHAIR: I apologize. Thank you, Mr. Holzer, very much.

MR. HOLZER: No problem.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Mr. Garber and members of the panel, I've looked at the, the documents. I mean, I have no real objection to them coming in. The --

CHAIR: I feel like there's about to be a but coming.

MR. SCHMIDT: Well, there is, there is one but. Twofold, on, on the ones that are from January, I'm sorry, let me find the right ones, I apologize. From the folder marked day two, September 6, 2018, the, the sign in sheets are printed with a bunch of e-mail traffic on the back.

CHAIR: So, you --

MR. SCHMIDT: And I don't know what – -

CHAIR: -- right, so, you would object, you would object to --

MR. SCHMIDT: Yeah, I just --

CHAIR: -- what, whatever is on the back, you just want the sign in sheet, so just copy page one, like the one page rather than the double side?

MR. SCHMIDT: Yeah, yeah, because the back's got a bunch of e-mail traffic in it.

MS. DOPKIN: That would seem to indicate that the parties bring them not (inaudible).

CHAIR: Yes, I would, I would agree with that. Mr. Holzer, I assume you don't have a problem with that, if you want the sign in sheets in, that we just copy the page one, that shows the people who are here as opposed to whatever copies that were used?

MR. HOLZER: It was on recycled paper --

CHAIR: It's quite all right. Yes, and --

MR. HOLZER: We'll, we'll straighten that out.

CHAIR: Okay. We're all good with that?

MR. SCHMIDT: I mean, other than the fact that it shows who was here, I, I'm not sure I know what the purpose is but it's not prejudicial.

CHAIR: Okay. So, let's do this. Dr. Clark, that is, Dr. Mary Clark, I see you have all the files there. Are you going to be handing them forward to us? I'll go run it out to Ms. Cannington so she can make the copies and return the originals before we get started.

MR. HOLZER: Can she address your question?

CHAIR: I had a question? You're, go ahead, Dr. Clarke.

DR. CLARK: Excuse me, Mr. Garber. You asked if I was going to hand these to Ms. Cannington?

CHAIR: You want to hand them to Ms. Cannington, that's fine too.

DR. CLARK: And I, I'll explain to her that there's some duplicates in there.

CHAIR: We will, and we will check, you can, you can explain that. Mr. Schmidt, I assume that's fine by you?

MR. SCHMIDT: Sure.

CHAIR: And then before it's actually formally admitted, if you want to then just review again just to be on the safe side we could do that and then that will reserve it in

its entirety.

DR. CLARK: And these are all the copies that I had received from Ms. Cannington or Tammy.

CHAIR: Okay. Thank you, Dr. Clark.

MR. HOLZER: Thanks.

MR. SCHMIDT: Just, and Mr. Garber, just a couple of other loose ends.

CHAIR: Sure.

MR. SCHMIDT: I had, during the break, and I think you mentioned, obviously, that Mr. McComas is here but I thought it might be appropriate for the record. I looked at the Board's rules of practice and procedure and Rule 1-C says after talking about three members of a panel and a chairperson and I quote, during the course of a hearing if any member of the original panel is unable to continue to serve, the chairman shall appoint a member to fill the vacancy, end of quote. And just for the record, so we're clear, I'm assuming that you have made a determination that Ms. Murphy is unable to continue and thus have appointed Mr. McComas. I just think that ought to be in the record.

CHAIR: I appreciate the clarity for the record. That is an accurate assessment. We also discussed this on November 29th as how to best proceed with this.

MR. SCHMIDT: Right.

CHAIR: And we had scheduled four Board members for

this in the event that Ms. Murphy could not continue in light of circumstances. So, she's not able to, able to be part of the Board so on that basis, yes, that is why Mr. McComas is part of this panel now instead of Ms. Murphy and we will not be shifting back to Ms. Murphy for when she may be fully available to serve.

MR. SCHMIDT: Okay. One other thing, just and we can handle it now or later, I did have an opportunity to take a look at --

CHAIR: Yes, thank you. Rule eight papers?

MR. SCHMIDT: -- ex, exhibit, yeah. And I guess I have, as I read, as I read rule eight, and let me turn to it again in the, in the rules of practice and procedure for the Board of Appeals, it indicates as the very first words in this, in the two paragraphs, first two paragraphs. Before any person shall testify on behalf of, and then it goes on to say what rule eight is, is supposed to be.

CHAIR: Um hm.

MR. SCHMIDT: So, I don't know if, is this coming in to support the testimony of an individual? I mean, that was my understanding what the purpose of this is or is this just a letter or a correspondence that, that the Board would get in the mail from a person or an association and put it in their file? Because, I mean, I know Ms. Shaw, or Ms. Shaw I think was here at one, I don't know if she's still here, but I've

seen her testify for the organization but my understanding, again, is that the purpose of, of a rule eight document is to authenticate --

CHAIR: For the witness on the stand.

MR. SCHMIDT: -- the, essentially, authenticate the witness --

CHAIR: The witness is there, right --

MR. SCHMIDT: And we don't have a witness.

CHAIR: That's a very good point. I was anticipating that at some point those two things would match up and I ask Mr. Holzer then, the rule eight paperwork for Greater Kingsville Civic Improvement Association, I assume you're going to be having a witness testify as to their position on the proposed use?

MR. HOLZER: Well, I certainly can. And Ms. Shaw is not here, not here today. She has been here and attended all the hearings so far. I certainly can have her testify. I thought that, under the circumstances, just having this document introduced would save the Board and counsel and everybody else some time.

CHAIR: If I can, are, basically, are you proposing a stipulation that if the proper representative from Greater Kingsville was present here today and they would be authorized by the Greater Kingsville Civic Improvement Association based on Protestant's Exhibit 48 that that person would testify that

they are opposed to the proposed use?

MR. HOLZER: Yes.

CHAIR: On behalf of the Association? Mr. Schmidt, I'll leave it to you as to whether or not you would accept that proposal or that stipulation, that that person would come in to say that they are opposed.

MR. SCHMIDT: I, I'm sure they would, Mr. Garber. And I'm not trying to lengthen this out. I think my fundamental question is whether this property is within the auspices of the Greater Kingsville Community Association. I do not know if it is or not. Obviously, I've heard it described as being Long Green or Glen Arm and other places, not Kingsville and whether it is within Kingsville, which is part of the rule eight, so I can't --

CHAIR: So, your question is a map as to the boundaries of this association.

MR. SCHMIDT: Yeah.

CHAIR: And it's significance then as to the proposed stipulation and testimony.

MR. SCHMIDT: Yeah, I just, I don't know what the boundaries of Greater Kingsville are.

MR. HOLZER: It is included, but if, I don't want to be the one to have to testify that it is. So, if that is the objection, someone will come in and test --

CHAIR: If I, if I can suggest something?

MR. HOLZER: Sure.

CHAIR: Can you provide a map of the boundaries of the Civic Improvement Association, provide it to Mr. Schmidt to see if he would then be satisfied, precluding then, of course, then someone having to appear unnecessarily to do the same thing.

MR. HOLZER: I certainly can try.

CHAIR: Even if you don't get it done by lunch time, I'm not asking that. I'm saying if you could just do so perhaps, because there are a bunch of people here today, that perhaps someone can make an effort to try to get that map so that we can get that issue resolved and then, therefore, you don't have to worry about having someone come. Because it seems to me if that person would come in to say that Greater Kingsville is opposed, --

MR. HOLZER: That's it, that's what I was trying to (inaudible).

CHAIR: -- and, and if, I think I'm hearing Mr. Schmidt correctly, his only question is, okay, well, what is the basis for them to weigh in on it, the point, that is are, is it within or adjacent or whatever the case may be, what is the relationship of Greater Kingsville Association here to the subject property. So, I think that's a fair question. So, therefore, if you could just work on getting the boundaries to us.

MR. HOLZER: I'll try.

CHAIR: Then we can see if Mr. Schmidt is satisfied and obviously you would still have the ability to call someone if necessary but that's the way to get around that problem.

MR. HOLZER: No problem.

CHAIR: So, would that be satisfactory, Mr. Schmidt?

MR. SCHMIDT: I, yes, sir, I believe, I believe so.

CHAIR: Would that answer your question if there is a map --

MR. SCHMIDT: Certainly, it would, it would answer it as to that. I guess the only thing I would answer, I'm not trying to be difficult, but I'm just looking at the document and apparently this was a vote, and Mr. Holzer might be able to produce minutes or something like that, of the board as opposed to the entire general membership of the organization and I don't know who the board is. And maybe that's something, if there are minutes, as to who was there. That might be appropriate as well.

CHAIR: So, you would like a copy of the meeting minutes and/or identification of who the board is, as part of it?

MR. SCHMIDT: Yes.

CHAIR: Is that what's required under rule eight?

MR. SCHMIDT: Well, it says --

CHAIR: And I don't have rule eight in front of me so

forgive me if I don't have encyclopedic knowledge of it.

MR. SCHMIDT: Yeah, sure. It says the personal shall show that he has accurate knowledge and the number of members in the association and the geographic limits, which I think goes to the geographic limits.

CHAIR: Okay.

MR. SCHMIDT: And then it goes on to say, --

MR. HOLZER: I, I'm going to go ahead and call someone.

CHAIR: Hold, hold, let, hold, hold on. Mr. Holzer, wait one second.

MR. HOLZER: I'm --

CHAIR: Mr. Schmidt is, Mr. Schmidt is articulating what his questions are. And then I promise you you will have the ability to respond.

MR. HOLZER: I don't --

CHAIR: Mr. Schmidt, go ahead.

MR. SCHMIDT: So, I think that goes as to the limits of the association and as I generally rule eight, obviously --

CHAIR: Yeah, I, I recall that now, that yes, there should be an identification of the number of members or the person's knowledge of the number of members.

MR. SCHMIDT: And it, it does not require minutes but it just says that they're authorized to speak and present views of the civil association.

CHAIR: Well, I, I believe that that's what the paperwork does --

MR. SCHMIDT: Yes, sir.

CHAIR: -- identify, even if it's not full in terms of identifying the boundaries and the, and the members.

MR. SCHMIDT: So, I think it's just a question of their geographic limits.

CHAIR: Same, so hearing that, Mr. --

MR. HOLZER: I'm calling a witness.

CHAIR: Okay. Mr. Holzer, again, I'm just trying to figure out a way to, to prevent someone to come in unnecessarily. If you feel it's best for you to call someone, so be it, we can all move on and we get to Mr., or to Dr. Clark's testimony.

MR. HOLZER: I have a, I, I'm sorry.

CHAIR: Yes, to answer your question, Ms. Dopkin, yes.

MR. HOLZER: I have a comment or statement or position that I want to put on the record now.

CHAIR: Okay.

MR. HOLZER: The history of this case is certainly cre, has created certain difficulties. Obviously, a member of this Board for appropriate reasons was not able to sit and continue based on Mr. Garber's testimony or his comments. The last hearing date in which testimony was received was day six,

--

CHAIR: November 1st.

MR. HOLZER: -- November the 1st, and today is day eight, January 29th. That time period is what has called a delay in the continuation of this case. Day seven, in case the record wants to know, was no evidence was taken and just a procedural comments in regard to how we're going to proceed to present the rest of the case.

CHAIR: It was to resolve the objections to --

MR. HOLZER: Yes.

CHAIR: -- to the video --

MR. HOLZER: Right.

CHAIR: -- and to figure out a best way forward for that evidence in light of the volume of evidence.

MR. HOLZER: That's correct, that's correct.

CHAIR: That was at stake. And to also give Mr. Schmidt the opportunity to review it, given these, the substantial volume.

MR. HOLZER: And as a result of that, the Board has indicated this morning that February the 13th will be the last day for any testimony or presentation. I don't know whether it's the last day for any briefs to be filed, but it's certainly the last day for presentation of evi, any evidence.

I object to that limitation in terms of February 13th being the last day on the basis of a violation of Protestant's

due process. It is not our, it was not our fault that it, and I don't really want to use the word fault, because when, when a member of the Board has a problem, that's, and a legitimate problem in this case, then I believe I can understand and so there's no aspersion being cast on the Board.

But I believe it is improper for the Board to limit any further evidence to February 13th --

CHAIR: If I could interject real quick to make it easy for you?

MR. HOLZER: Well, could I just, I can, I can finish --

CHAIR: Because I think it may short circuit some of what's going on. I'm not suggesting that February 13th is an absolute drop dead we're not taking evidence after February 13th. It's an aspirational goal in light of the fact that we have Board members whose terms expire in April. And if we wrap it up by February 13th, it gives us the ability to have the memos put in, the deliberation and ability to write an opinion, have it out before the expiration of that term. Because if that term expires, and there's a new Board member that will be on the, that will take place, there, this panel will again need to appoint yet another new Board member to this panel to review all the evidence.

So, it is in our best interests, to the extent we possibly can, get it to February 13th, at the absolute last,

great. If, by whatever reason that's not feasible, it is, then we will have to figure out additional dates. However, having said that, keep in mind that as the November 29th date, the issue as to Ms. Murphy's participation on this panel, that was an event that arose close in time to that already scheduled date.

MR. HOLZER: Yes, I know.

CHAIR: We did not have dates scheduled after that as of yet, and then when asked of counsel for mutual availability, these were the dates selected as mutually available for counsel. So, this is not a matter of a delay on behalf of the Board beyond just asking everybody when are you guys all available. My suggestion was to just start scheduling it in early January and we all clear our schedules to figure out how to be here as early as possible. Unfortunately, that was not within the cards due to conflicts. So, that's why we're here and that's why the schedule is what it is.

I understand that there has been a, a, a delay. The delay is actually not, in my opinion, related to Ms. Murphy's, the prompted, that prompted Mr. McComas' replacement of Ms. Murphy as much as scheduling among counsel and the, involved in this case. So, I hope you understand that my February 13th admonition earlier is really maybe just a restatement of a, of an aspirational goal, not an absolute deadline. It is not meant to preclude you from putting on your case.

MR. HOLZER: Well, thank you, because that did begin to concern me based upon how long it's been taking just to go through one simple witness this morning and, and as a result of that, we are now heading in to a more difficult presentation, as you, as the Board knows from the last time, when Mr. Clark was on in regard to showing videos, etcetera.

So, I, I just wanted to protect the record. I wanted to protect the record that, that if, in fact, February 13th was, was being called the last day and we hadn't finished our presentation for whatever reason, then I just wanted it on the record because this case, obviously, as the Board can understand, there, the record is going to have to be very clear on what's been going on.

CHAIR: And I should also mention too that we asked the parties as to how many more days were, were necessary to be scheduled for this case. We were told three, three were scheduled but then we scheduled a fourth just in case there was a problem. That if snow, ice, whatever else would go on, would limit one other of those three days, then at least we had a backup plan. What I'm hearing from you today is there's a possibility that your case may extend out another day and perhaps beyond.

MR. HOLZER: Oh, there's no doubt. Not the way, not the way the objections are going so far. But that's all I really wanted to say.

CHAIR: Right.

MR. HOLZER: I wanted to protect the record in, in the event, you've explained the Board's position, which I appreciate and I, I think you're accurate in what you said with regard to the history and how the process evolved.

If I can get off of that, I want to make a preliminary statement in regard to the testimony of Mr. Clark.

CHAIR: Well, please hold on. Keep in mind, Mr. Clark is still under oath. His testimony is still active and so any statement you are about to say you need to be sensitive to the fact that he is a witness who is on the stand.

MR. HOLZER: Yeah.

CHAIR: And, you know, obviously, though I understand --

MR. HOLZER: I'm talking to the Board not to him, in terms of --

CHAIR: Okay.

MR. HOLZER: -- of the merits. At the last hearing, day seven, the Board and Ms. Dopkin asked if we could go back and try to simply, clarify the presentation of various videos because, as you will recall, at least two members will recall, the, there were a lot of questions about where this video was coming from, how it was done, all sorts of, all sorts of questions. So, at the last hearing, I asked the Board if I have permission to address and to talk to Mr. Clark in order to

do the things that the Board wanted us to do.

CHAIR: I recall.

MR. HOLZER: And, and, and I have done that. As a result, and I told Mr. Schmidt this earlier this morning, the, as a result, we have reduced the number of videos. We have also, because the last time we had to put, you may remember the big disc that we had, we had to put that in and then draw up on that disc the video that was going to be two minutes or, or thereabouts in order to find it. And that took time.

CHAIR: Understood.

MR. HOLZER: So, what I have asked Mr. Clark to do is to, is to consolidate the videos that he wants to use in, in his, in his testimony, eliminate the ones that are duplicitous or not necessary at this point and then take those videos off of the CD's and put them on a, what do you call these little things that you stick in?

CHAIR: Thumb drive?

MR. HOLZER: Thumb drive. I have real trouble with computers and stuff. Put them on the thumb drive. On the thumb drive, it will refer to the disc that have already been introduced in terms, that you have knowledge of. So, it's not like we're coming in with anything new. What we're doing is we're taking them off of the big disc, putting them on the thumb drive so it can easily be retrieved and, and shown. And I thought making this statement about the process would assist

the Board and also Mr. Schmidt and also help ease our way through (inaudible).

CHAIR: I appreciate you doing that because yes, I do feel that that is a good foundation to explain what is going on.

MR. HOLZER: Right.

CHAIR: Why we're seeing what we're seeing and, and how this came to be.

MR. HOLZER: Yeah.

CHAIR: Thank you for doing that. Mr. Schmidt, do you under, did you understand what Mr. Holder had to say?

MR. SCHMIDT: Yes, sir.

CHAIR: Okay and I assume that does not cause you any problem?

MR. SCHMIDT: No, sir, not at this point.

CHAIR: Okay. So, Mr. Holzer.

MR. HOLZER: Not at this point, okay. I'm going to ask Mr. Clark in my beginning questions to layout exactly what he did so I don't want it, my testimony being the one that's the basis for this. I --

CHAIR: But your proffer, but you just proffered what he did.

MR. HOLZER: Yeah.

CHAIR: And so, I would just say, since Mr. Schmidt does not have a problem with your proffer, if you ask him

simply, did I summarize that accurately as to the process by which we came up with this thumb drive? That we don't have yet. Then maybe that resolves that entire point, we could just move straight to the substantive aspects.

MR. HOLZER: I'll try, I'll certainly try to do that and looking at him I'm seeing snow coming down on the outside, which it must have just started. Okay. Can I now ask questions on the record?

CHAIR: Yes, yes, well, hold on. We have to do Ms. Dopkin first and then.

MS. DOPKIN: Please stand up, do you swear, up.

MR. CLARK: Sorry.

MS. DOPKIN: And affirm under the penalties of perjury, that the testimony you are about to give is true and correct to the best of your knowledge and belief?

MR. CLARK: I do.

MS. DOPKIN: And just for the record, restate your name, please.

MR. CLARK: DeWitt S. Clark.

MS. DOPKIN: Thank you.

MR. HOLZER: Mr. Clark, you've now heard me make a proffer to the Chairman and the Board as to what you've done since the last hearing date when you were on the stand and we were presenting the beginning part of your testimony, you understand that? Okay. You have to answer yes or no.

MR. CLARK: Yes, yes, I understand what, what you're asking.

MR. HOLZER: Okay. Without regurgitating everything I said, can you simply say in a couple words what we're about to experience based on what I just said.

MR. CLARK: Okay. You kinda sorta got it right.

MR. HOLZER: Okay.

MR. CLARK: Yes, we reduced everything. Some are reduced to screen shots, okay? We have produced a, what I call a video control sheet, which will show each of the videos we're going to show, the length of time, where it is on those discs that, the disc library, okay? And then we have for purposes of authentication, what I called an annotation sheet, which has, I believe it's A through J, which gives the specific URL's from which those videos were drawn.

MR. HOLZER: What are URL's?

MR. CLARK: Resource --

CHAIR: They're basically the, the addresses you type in on a browser --

MR. CLARK: The, the, the web address, yeah.

CHAIR: -- to pull up a website or --

MR. CLARK: Right.

CHAIR: Right.

MR. CLARK: Right. All of them were, were produced by Petitioner and I copied them off of face page, Facebook

pages, that they themselves published.

CHAIR: When you say they themselves, you're saying the Petitioner or members --

MR. CLARK: Petitioner.

CHAIR: -- for the Petitioner, or members, whatever the (inaudible) --

MR. CLARK: I don't know who Ed Nepalese is but he was very active.

CHAIR: All right, so --

MR. CLARK: All right. So, now, now, there, there was, there was another issue that came up.

CHAIR: Okay.

MR. CLARK: Some, particularly those that were on Dr. Clarke's page have been taken down, okay?

CHAIR: Since, we --

MR. CLARK: Since, since, since my November testimony, okay? When I first introduced the videos, okay? They, they are noted in, in the sheets. We had a question about, I'm sorry, were you, were you about to ask something, Mr. Garber?

CHAIR: No, I was about to cough, we're good.

MR. CLARK: We, Mr. Garber had, or Mr., Petitioner had a question about sound on, on, on the videos, okay?

CHAIR: If I could jump in on that, what I recall from the ruling was that the sound of the one fundraising event

was not admissible but the video was. The reasoning for that was the sound would not fairly and accurately represent the sound that would be heard by someone like yourself or your wife because it's the remote, more remote distance and the prior testimony describing the sounds that were heard. So, that as what is played in this Court is not the same as what you would have heard.

MR. CLARK: Okay.

CHAIR: That was the, my understanding and my recollection. So, with that in mind.

MR. CLARK: Can I argue with you?

CHAIR: No. You can tell me, you can tell me what you're about to say. I'm just recapping what I --

MR. CLARK: Right, right.

CHAIR: -- recall from the, from the ruling.

MR. CLARK: As I, as I recall, you also said that there may be other pur, purposes, the, the discussion centered around whether or not we could understand what people were speaking, since they were speaking in their native language. And then you posited correctly, in my view, --

CHAIR: Thank you.

MR. CLARK: -- that, that there may be other, that there may be reasons other than understanding what they're saying to introduce the sound.

CHAIR: Okay. So, yes, I do seem to recall that the

issue was, the ruling as to the sound was limited to whether the sound would be the same as what you would hear from your property. That was what the ruling was based on. If there was a different, and then also the language, but then if there's a different purpose for playing the sound then we could revisit that issue.

MR. CLARK: Okay, thank you, sir.

CHAIR: So, yes, I do think that is accurate. Mr. Holzer, is that your understanding?

MR. HOLZER: Yes.

CHAIR: Mr. Schmidt, was that your understanding?

MR. SCHMIDT: Yes, sir.

CHAIR: As to whether or not you may still have objections, that's not before us. Ms. Dopkin, do you recall it the same way?

MS. DOPKIN: Oh, yes.

CHAIR: So, okay. We're all on the same page.

MR. CLARK: Thank you, sir.

CHAIR: All right. Sorry, Mr. McComas, I know you were not part of that but.

MR. CLARK: Okay. Now, I would also point out, Petitioner questioned whether or not the sound, the, the relative volumes were manipulated, either inadvertently through copying or, or, or, or purposefully, okay? I would point out that they've had three months --

CHAIR: Well, hold on, we'll, I'll stop you there because there's already a ruling on that basis, that is the volume itself, whether manipulated or not, the, --

MR. CLARK: Okay. I, --

CHAIR: -- for the purposes of the sound and whether or not that is fairly and accurately portrayed is what you may hear from your, from your house or anywhere else in the surrounding area --

MR. CLARK: Okay.

CHAIR: -- that's already ruled upon --

MR. CLARK: Thank you.

CHAIR: -- whether it's manipulated or not. So it doesn't make a difference.

MR. CLARK: Thank you.

CHAIR: Right. So, I don't, and again, I don't believe Mr. Schmidt was pointing fingers saying this has been manipulated --

MR. CLARK: No, no, he wasn't.

CHAIR: -- or whatever, but I do recall that as part of the November 29th hearing --

MR. CLARK: Correct.

CHAIR: -- so with that in mind, if you have another reason to play the sound, I'm sure Mr. Holzer will try to elicit that from you and we can work our way through that at that point. I hope this doesn't get us bogged down so does, do

we have an accurate description as to what we're about to hear, what we're about to see?

MR. HOLZER: I want to introduce these documents for you so that you can follow.

MR. CLARK: And I will, I will explain them and –

CHAIR: That's fine. So you're, basically you're giving me a road, or giving us a road map.

MR. CLARK: Yes, sir.

CHAIR: To Mr. Schmidt first, please.

MR. HOLZER: The first thing is the video control sheet that was referred to by the witness.

CHAIR: All right. So, this is fifty-one, is it?

MR. MCCOMAS: Yes.

CHAIR: So, this is Protestant's Exhibit 51.

MR. HOLZER: Yes. Do you need a copy of this?

MR. CLARK: Yeah, I probably ought to have a copy.

CHAIR: And then we're calling, I'm sorry, the, Mr. Holzer?

MS. DOPKIN: Video control sheet.

CHAIR: Thank you. Video control sheet. Thank you, Ms. Dopkin.

MR. HOLZER: I think, I think this is (inaudible) and this was fifty-one?

CHAIR: Fifty-one. And Mr. Schmidt, I see you have a copy?

MR. SCHMIDT: Yes, sir.
CHAIR: Yes, I see. Okay.
MR. CLARK: Uh, --
CHAIR: Well, hold on, before you start.
MR. HOLZER: No, no, no.
CHAIR: No, let me ask this. Out of what's been handed up to me and everyone here, I have Protestant's Exhibit 51. How many of these do we know that we've already heard in evidence?
MR. HOLZER: I'll get that from him. I don't, --
MR. CLARK: I, I can answer it.
MR. HOLZER: No, just, if I may --
CHAIR: There's no question pending to you necessarily yet.
MR. HOLZER: (inaudible) the URL's --
CHAIR: You're going that --
MR. HOLZER: -- so that you have the whole package.
CHAIR: That's fine. Okay.
MR. HOLZER: And then he can articulate where we are.
CHAIR: Thank you.
MR. HOLZER: Do you need a copy?
MR. CLARK: Yes, please.
CHAIR: So, what you're about hand, what you're handing him now is Exhibit 52 and that is the URL addresses?
MR. HOLZER: Of evidence sources provided by

Petitioners.

CHAIR: Sort of, video source, sources of the videos.

MR. HOLZER: Yes, correct. And one, two, three, four, and that is, did you say fifty-two?

CHAIR: Fifty-two. Thank you.

MR. HOLZER: If I could refer you back to fifty-one, Exhibit 51, the date introduced on the right hand side of that sheet, are these the ones that are being shown today? Not shown today, have already been shown?

CHAIR: That would make sense considering the date that's identified.

MR. HOLZER: Yes.

CHAIR: Thank you, Dr. Clark.

MR. HOLZER: It's good that somebody keeps me straight.

MR. SCHMIDT: I'm sorry, can you say that again, Mr. Holzer.

CHAIR: The far right column --

MR. HOLZER: The far right column --

MR. SCHMIDT: The ones that have a date, we've already seen on that date?

MR. HOLZER: Exactly.

MR. SCHMIDT: And what we're going to see is the other one, other, other ones?

MR. HOLZER: Some of them.

MR. SCHMIDT: Some of the other ones.

CHAIR: And I seem to recall for the most part there was, all those were admitted with the, I mean, obviously this is, I'm going to rely on the November 29th ruling and the record there.

MR. HOLZER: Right.

CHAIR: But from what I generally recall, most of those were already admitted to, subject to no objection, other than the sound one that we've already identified here.

MR. HOLZER: Right, right.

CHAIR: That's my recollection and, again, the record will speak for itself.

MR. HOLZER: I think you're correct.

CHAIR: So.

MR. HOLZER: Now, Mr. Clark, confine yourself to Exhibit 52 and tell us, you don't have to walk through every one of them, but tell us what all this A through K means and how it relates to your proposed testimony.

MR. CLARK: Okay. Okay. The, this authenticates where the, the, the files came from.

CHAIR: Um hm.

MR. CLARK: Okay? Some of them may still be there, some of them may not be, still be there.

MR. HOLZER: Take, take B, for example.

MR. CLARK: All right, that was on the --

MR. HOLZER: That, that has a date whereas on, --

MR. CLARK: Oh, okay.

MR. HOLZER: -- on A it does not. Explain that for us.

MR. CLARK: Okay. After the slash, those are notations to me, as I, as I documented things. So that A refers to an open house event.

CHAIR: There's no date identified on fifty-two as to the open house event, fair? Is that a fair way to look at it?

MR. CLARK: Wait a minute, on, on, on, on fif, oh, on fif, yes, yes, yes. Although it will be on the control sheet.

CHAIR: Okay. And then by way of illustration, fifty-two, we have it, this, for number, or letter B, a video from what has identified July 4. Now, the July 4 reference, is that the day that you captured or the day of the post --

MR. CLARK: That will be on the control sheet.

CHAIR: Okay.

MR. CLARK: The, the, the, the, the, after the slashes were simply notes to me as I was accumulating the, the, the videos. So that I knew what they were.

CHAIR: Just to be clear, the dates identified on Exhibit 52 do not reflect the date of the event captured but the day that it was captured by you, as opposed to the date of the event that's depicted within the video? Is that fair?

MR. CLARK: I just zoned out.

CHAIR: That's okay. My, these things happen. The July 4, that references when you captured the video or the event depicted in the video?

MR. CLARK: The event.

CHAIR: Thank you. All right.

MR. CLARK: Thank you, sir. Thank you very much.

CHAIR: And I understand that there's a creation date on fifty-one, but for anyone looking at fifty-two in isolation, we would know that that is the event date --

MR. CLARK: Right, right.

CHAIR: Okay.

MR. CLARK: Right, right. Okay.

MR. HOLZER: Now, is there, keep your, keeping on these two documents alone --

MR. CLARK: Um hm.

MR. HOLZER: -- is there anything else that you need to explain?

MR. CLARK: Yeah, there's, there's, there's, there's several.

MR. HOLZER: Okay.

MR. CLARK: All right.

MR. HOLZER: Could you take the next one and address that?

MR. CLARK: Yeah, the, the files names are in the left hand column.

MR. HOLZER: Of fifty-one?

MR. CLARK: Of fifty-one, thank you, sir.

MR. HOLZER: You got to re, always refer to the fifty-one or fifty-two.

MR. CLARK: Okay, okay. Fifty-one, the file names that, that, that we will be, that we will or have introduced are in column one. In column two is the evidence disc. You remember those A-1, A-2, A-3's?

CHAIR: Yes.

MR. CLARK: All right. Now there are some, I believe it's eight, that I have acquired in the last couple months and those are marked as new.

CHAIR: Well, we'll deal with those separately.

MR. CLARK: That's, yes, thank you, sir. Then in the other, then in the next column is the length of the video, not necessarily the length of what we're going to show, but the length the, of the total length of the video. Creation date is the date the video appeared on those websites or the date I created them from dashcam or my, my, my property or whatever. That's the creation date. Posted by, created by, you see a lot of Clarks there.

CHAIR: No, I, I, I get it. So, fifty-two would correspond to where it says see attached note A, the (inaudible) --

MR. CLARK: Correct.

CHAIR: You would find A on Exhibit 52 and so these two documents work together.

MR. CLARK: Right. And then date copied is the date I copied them on, on, and then the date introduced is the date that we introduced them to this body.

CHAIR: Okay. So, now we have the process by which we come up with Exhibits 51 and 52, correct?

MR. HOLZER: Correct.

CHAIR: Okay.

MR. MCCOMAS: I have a question. So, so if I type in this URL for number A, is that DSC6978 (inaudible) --

MR. CLARK: Oh.

MR. MCCOMAS: -- or is that, is it the digits up here that direct me to the actual --

MR. CLARK: Thank, thank you. Yeah, DSC6978 shows the, the --

CHAIR: Hold on. I think his question is where, what is that designation? What is the significance of it? That designation, the significance of it is there, is Protestant's designation on their system or their computers or, and they're on the disc as to the file name. So it is separate from the source material but that's where they have it stored for the, for the, for the purposes of the exhibit.

MR. MCCOMAS: But is the Facebook file the digits here, the --

CHAIR: The last character for the, for the URL address would be the backslash, before it says open house.

MR. CLARK: Correct. Thank you, sir. Yeah, I was trying, I guess I did too many things on one piece of paper, yeah.

CHAIR: All right.

MR. HOLZER: Now, is there anything else related to Exhibit 51 or 52 to understand the process of your testimony and, as it proceeds? Do we need to know anything else so that we can avoid problems?

MR. CLARK: I don't know.

CHAIR: All right. So, let's do this. Looking at the video list in fifty-one and fifty-two.

MR. CLARK: Um hm.

CHAIR: I'm assuming that some of these are targeting certain aspects of your case, the concerns that you may have. So some, for the sake of argument, I anticipate we'll see some video that would concern your noise issues, that is the complaints that has been, have been raised by several witnesses or Protestants of noise, including your wife, Dr. Clark. But she's already testified in full, that's why I reference her, and plus you would have, you would already be familiar because you live at the same address.

MR. CLARK: Understood.

CHAIR: Some may depict other conditions, such as

traffic, correct? So, if we're going to be playing some of these videos, I would request, to the extent you can, what the video is supposed to target. So, this way we know what the relevance is of the particular video that we're about to watch, or whatever snippet and this way it helps Mr. Schmidt follow along as to what am I watching and why.

MR. CLARK: Mr. Garber, there, there, there will be, on some of them, we will be showing just screen shots and saying this is what this video represents, do we, do we, do we need to show the whole, whole video to enter it into evidence.

CHAIR: Okay. Now, out of all the ones that are listed, have we already ruled upon those other than where I see it says date introduced, have there been specific rulings as to the admissibility of some of these? I have to think the answer is yes.

MR. CLARK: Yeah.

CHAIR: It would be helpful to know which ones, because I don't have my trusty sheet here in front of me, at some point which ones have already been admitted so this way it saves Mr. Schmidt time if he was inclined to object again if it's already been resolved.

MR. HOLZER: Yeah.

CHAIR: But we'll deal with that as it comes up since I don't have that readily in front of me at the moment. Is that satisfactory to you, Mr. Schmidt?

MR. SCHMIDT: Yeah, I mean, I, I don't re, off the top of my head remember which ones were shown and all the specific objections. I'll try to be consistent. I did have one other question if I could ask it, just on these sheets?

CHAIR: Yes.

MR. SCHMIDT: Bef, in the column on Protestant's exhibit number fifty-one, that is the column that is titled posted/created by, there are a number of references which says, which say see attached note and then identify a note. Is --

CHAIR: I'm sorry, I thought that that was clear, that that's what refers to the letters on fifty-two.

MR. SCHMIDT: Ah, that's what that is. I just wanted to make sure that was clear.

CHAIR: Yes.

MR. SCHMIDT: Okay, okay.

CHAIR: And the ones that say Clark, I assume, are the ones that he did with his own dashcam.

MR. SCHMIDT: Okay. Very well.

CHAIR: And that's what I understood from the testimony.

MR. SCHMIDT: Okay. I just wanted to verify that, that that's what that was referring to.

CHAIR: Okay.

MR. SCHMIDT: Okay, thank you.

CHAIR: So, with that in mind, Mr. Holzer?

MR. HOLZER: Mr. Clark, is there anything else that rel, that is going to come up that relates to your testimony and the showing of any of these videos or introduction of any of the, any documents?

MR. CLARK: Well, are, are we talking about, we're talking about testimony going forward from here.

MR. HOLZER: Yeah.

MR. CLARK: Including, --

MR. HOLZER: Yes.

MR. CLARK: -- more than these?

MR. HOLZER: Well, yes. In other words, is, are there any documents that you have that are, you want to introduce that are not listed on fifty-one or fifty-two?

MR. CLARK: Oh, yes.

MR. HOLZER: Okay and as we get to those, we will lay the foundation of where we got them and --

MR. CLARK: Correct.

MR. HOLZER: -- intended purpose of introducing them and that would be separate from what's listed on fifty-one and fifty-two.

MR. CLARK: Right and can, can, if, if I can expand on that?

MR. HOLZER: Go ahead, that's why we're trying to do this now.

MR. CLARK: Right. The evidence that, that I'm going

to be producing today and maybe tomorrow have to do, have nothing to do with zoning enforcement, all right? Nothing.

CHAIR: You mean code enforcement?

MR. CLARK: Code enforcement, yes. Thank you, sir.

CHAIR: Just for clarification for the record.

MR. CLARK: Yeah, I, I, I have three attorneys and you to explain to me that this is not --

CHAIR: This is not a code enforcement hearing.

MR. CLARK: That's right. Everything has to do with land use, with, with pass, with the land use over the last year --

CHAIR: Are you, well, let's do this. Are, it sounds to me like you're about to tell me about prior decisions or something to that effect?

MR. CLARK: No.

CHAIR: Is what you, okay --

MR. CLARK: No, no, no, no, no, no, no. It, it all, it will document how they have been using the property, all right? It will document vor, voracity, all right? It will document basically use and voracity phys, and physical use of the property.

CHAIR: Well, we're, we'll cross those bridges when we get there.

MR. CLARK: Okay.

CHAIR: I understand that you may have, from what I

understand is you're talking about maybe potential evidence to show that what has been testified to may not be fully accurate?

MR. CLARK: Correct.

CHAIR: Or some other characterization, I'll leave that to anybody else to decide, but we're not there yet. Let's just go with what we have here. Please keep in mind we don't need to have repetition on undul, let's just say, repeated instances of the same thing. So, just do your best to streamline whatever you can. I understand that this is already a streamlined version, but if it's to show, again, hey look, there's noise that's going to affect us, we obviously have a good idea from all the witnesses already and some of the other videos already in, so.

MR. CLARK: As painful as it was to hear, --

CHAIR: Yes.

MR. CLARK: -- I took Ms. Dopkin's question to heart.

CHAIR: Yes.

MR. CLARK: Okay? The only reason for including into the record, not to show, but including into the record multiple videos, for example, of volleyball is to show the extent, all right? They're not of the same, you know, that I, I, I showed an exemplar, right? But there are twenty-four dates that I have documentation, all right? I am not going to show twenty-four.

CHAIR: Right.

MR. CLARK: Okay? But it all, you know, the, the, the reason for having the density is simply to document the extent.

CHAIR: All right. Well, let's just start working through this because (inaudible).

MR. CLARK: Right.

CHAIR: But I'm just trying to reiterate the problem of when we had to try to work through on November 29th that I don't want to get bogged down here today then I feel like we're already getting there. So, why don't we just plow forward with what we can to get the evidence that you feel we need for our decision making here. So, Mr. Schmidt, you look like you want to say something?

MR. SCHMIDT: Yeah, I just, Mr. Garber, and I just, do, do you want me to raise any objection as we go along, save it to the end? I mean, I, I want to be consistent, I mean, we talked about videos and you've given us rulings previously and I'm just trying to be consistent. I mean, I'm sure the Board will want to be consistent with its previous rulings and I think I've outlined in great, excruciating detail the basis of my objections. And I don't want to keep going over the same thing. I know Mr. McComas is new to it but --

CHAIR: I'll say this. Your objections are preserved for the record, that the playing of the videos here that you previously objected to and there have been rulings on --

MR. SCHMIDT: Right.

CHAIR: -- you don't need to object again.

MR. SCHMIDT: Okay.

CHAIR: Okay. If you have, if there's another reason for an objection, obviously I'm not going to preclude you from raising an objection that you feel is appropriate, as long as it's not something that previously either had been ruled upon or could have been ruled upon and not been made. For example, we had talked hypothetically about the sound issue. If you have an issue as the sound is being played and it's being used for a different purpose, that has not been ruled upon. Obviously, we couldn't rule across the board without knowing testimony --

MR. SCHMIDT: Sure.

CHAIR: -- the last time around.

MR. SCHMIDT: Sure.

CHAIR: Mr. Holzer, that's what you understand as well?

MR. HOLZER: Yes.

CHAIR: All right. Then let's continue.

MR. SCHMIDT: All right. Thank you.

CHAIR: And, and to be clear, for the record, your objections previously asserted in writing and during the course of that hearing and any other hearing, are preserved for when they, these videos are played here today.

MR. SCHMIDT: Yeah, because we, let me be, honestly, we may see a video that we've seen before and I don't remember every single one that we've seen and whether I objected to it, to be quite honest. I just --

CHAIR: Well, I'm not, I'm assuming we're not playing again the ones that have already been admitted that had already, you know, for example, all the ones dated November 1st, I'm assuming we're not going into them again a second time.

MR. SCHMIDT: And, and I'm hoping the ones that you have ruled that are not admissible, we're not, they're not trying to get those in again too.

CHAIR: Well, again, I'm going to defer to the November 29th hearing and, and the Order or, I know it's not reduced to writing as of yet, but that transcript to determine, so if it, one is played here today and subsequently determined that it was actually objected to and that objection was sustained previously, obviously that will be stricken.

MR. SCHMIDT: Very well. And I don't have to jump up again.

CHAIR: It will be identified for the record, but it would be stricken in terms of its receipt in evidence.

MR. SCHMIDT: Yes, sir. Thank you.

CHAIR: Mr. Holzer?

MR. HOLZER: I have no problem.

CHAIR: Okay.

MR. CLARK: Can I --

MR. HOLZER: All right. Mr. Clark, let me --

MR. CLARK: Can I make one, any, any, if I do introduce something, it's not, it's not intentional, okay?

CHAIR: It's fine, Mr. Clark. Or Dr. Clark, it's understood --

MR. CLARK: And, and, and Mr. Holzer and I haven't had a chance to really talk about this.

CHAIR: We know that there's a lot of stuff so, sometimes mistakes happen. Whatever, we'll figure it out. We'll get to that point and we'll keep moving.

MR. HOLZER: I, I would say for the record again, that because he was on the stand and then there was a long period of time where we had to try to refine and so forth, I did have conversations with him but I don't know what he's going to say. We, we didn't talk about the actual --

CHAIR: Substance.

MR. HOLZER: -- substance, right. Only how to proceed and try to accommodate the Board's --

CHAIR: I assume that to be the case because of, you know, the fact that you're an attorney who's --

MR. HOLZER: Right.

CHAIR: -- representing your client and understands the rules of ethics and professional conduct.

MR. HOLZER: Exactly.

CHAIR: So, that was assumed on my part.

MR. HOLZER: Well, thank you, sir. I appreciate that. And we tried in, in going, setting all this up that you've heard to, so far --

CHAIR: The full scope of the, the nature of the conversations and why we're at where we're at sitting here in this moment.

MR. HOLZER: Right, right.

CHAIR: All right.

MR. HOLZER: Thank you.

CHAIR: With that in mind.

MR. HOLZER: All right. Mr. Clark.

MR. CLARK: Sir.

MR. HOLZER: In, in, in terms of, I believe, of your initial comments, there are some documents that might be new that you want to introduce and could, not videos, but documents, I think. Could you explain what they are --

MR. CLARK: Yes.

MR. HOLZER: -- and, and, and when, when, why you label them new?

MR. CLARK: Okay.

CHAIR: I'm sorry, you said documents.

MR. HOLZER: Documents.

MR. CLARK: We're off videos.

CHAIR: Okay.

MR. HOLZER: We're off of videos.

CHAIR: Okay. Wouldn't it make sense to show whatever documents you intend to introduce, just, as to why he's characterizing them as new, if we don't have them they're going to be new to everybody up here.

MR. HOLZER: Okay.

CHAIR: So, I'm just trying to figure out why we're asking him if --

MR. HOLZER: Because I was going to go through them in, in --

CHAIR: I'm just saying, just get to that.

MR. HOLZER: Yeah.

CHAIR: That would work.

MR. HOLZER: Well, that's where I am.

CHAIR: Okay.

MR. HOLZER: That's where I am.

CHAIR: Okay, I'm sorry.

MR. HOLZER: And, and Mr. Clark, can you explain what new, just explain what new documents you intend to produce for the Board now and then we will pull them out and, and give them to the Board (inaudible) that's a preliminary question.

MR. CLARK: Yeah. What, what I am about to introduce, I was talking about this is not a code enforcement hearing. These documents will represent our efforts to get the County to do something about what was happening at the

property.

CHAIR: Well, let's take it document by document and see where this takes us.

MR. HOLZER: All right.

MR. CLARK: Okay.

MR. HOLZER: Take the first one.

MR. CLARK: All right. Letters to Baltimore County.

MR. HOLZER: All right. Wait a minute, is this the right thing? Is this the right, no, what about this one? Oh, okay. All right. The first document, --

CHAIR: And before you answer, ask any questions and start test --

MR. CLARK: Oh, this ---

MR. HOLZER: Shh, quiet.

CHAIR: Hold on. Mr. Schmidt needs to review.

MR. CLARK: But this isn't it.

MR. HOLZER: Oh, wait a minute. What do you mean it's not it?

MR. CLARK: This is the one with Zeller.

CHAIR: Okay. Why don't we just start with that one then, --

MR. CLARK: Okay, okay, okay.

CHAIR: And then we'll get back to whatever else. So, here's what we'll do. Give Mr. Schmidt a second, Mr. Holzer will pass it out to the Board.

MR. HOLZER: Yes.

CHAIR: Before there's any question or testimony, everyone needs the opportunity to review and then we'll identify what it is for the record and whatever substance that you wish to convey --

MR. CLARK: Okay.

CHAIR: -- subject to --

MR. HOLZER: Sure, and this --

CHAIR: -- normal processing.

MR. HOLZER: -- number would be?

MR. MCCOMAS: Fifty-three.

MR. HOLZER: Fifty-three.

MR. SCHMIDT: So, this is fifty-three?

MR. HOLZER: Yes.

CHAIR: This is fifty-three.

MR. HOLZER: Fifty-three.

CHAIR: All right. So, Dr. Clark, what is Exhibit 53?

MR. CLARK: Fifty-three is an e-mail exchange between myself and Mr. Rich Zeller, who is the head of State Highway Access Permits for State Highway Administration.

CHAIR: Okay.

MR. CLARK: What it shows is that he did not --

CHAIR: Hold on, hold on. Mr. Holzer, do you want to ask a question as to the document?

MR. CLARK: Oh.

MR. HOLZER: I can, I mean, --

CHAIR: Please do.

MR. HOLZER: Okay. This, this document marked fifty-three was dated July of, 5th of 2018?

MR. CLARK: Right.

MR. HOLZER: And it was to you, I assume, from Mr. Zeller?

MR. CLARK: Correct.

MR. HOLZER: You've decided, you, you testified who Mr. Zeller is. Was this in response to an inquiry that you asked Mr. Zeller?

MR. CLARK: There is, if you look on the last page, I say I'm pleading for help, okay?

MR. HOLZER: The last page of the document?

MR. CLARK: Of, of the document, of Exhibit 53. You'll see my, my, my initial request and then on page, at the bottom of page two, Mr. Zeller replies, I'm not trying to avoid this issue, but Baltimore County is in charge of land use issues, not SHA. County has the SHA letter and is aware of our position regarding the entrance on MD-147. If the County has not approved this site for this activity, they, Baltimore County, must prohibit the NACCB, Inc. from having the activity. SHA has no authority to enforce this, okay?

MR. HOLZER: Okay.

MR. CLARK: Then the, at, at the top of page one of fifty-three, so these are in reverse order, right? They're, they're like a typical e-mail thread.

CHAIR: I understand, I understand.

MR. CLARK: Okay? Mr. Clark, it's my understanding that the County has not approved this site for the proposed use, the SHA has not approved the existing entrance for this use. From the SHA perspective, this site should not be operating at all. Will the County be shutting them down?

MR. HOLZER: Okay and that's it?

MR. CLARK: That's it.

MR. HOLZER: Okay and the purpose of showing this to the Board?

MR. CLARK: Is to say that the, it was the County's responsibility to shut this down and that SHA had, their opinion, their finding, was that this should not, their conclusion was that this site should not be being used.

MR. HOLZER: Okay. It says what it says.

MR. CLARK: It says what it says.

MR. HOLZER: Okay. I would move, do I need to move each one of these as we go?

CHAIR: Do you want to establish the record?

MR. HOLZER: Yeah, I, --

CHAIR: I, it's understood that once you're done with it, --

MR. HOLZER: Yes.

CHAIR: -- that you were looking to move these into evidence?

MR. HOLZER: Yes, that's correct. That's correct.

CHAIR: So, so Petitioner's, or Protestant's Exhibit 53, Mr. Schmidt?

MR. SCHMIDT: Objection. Move to strike. The witness started his testimony by saying he was not talking about code enforcement. That's precisely and exactly what this is. It was his efforts to institute a code enforcement activity, not to prohibit an activity which is proposed under the special exception per se, which is the religious use of the property. But to stop an event that occurred in July of 2018. What does this possibly have to do --

CHAIR: Relevance.

MR. SCHMIDT: -- with the ultimate issue in this case?

CHAIR: Relevance, based on the fact that it's, you believe it's code enforcement based, understood.

MR. HOLZER: The relevance is still the fact that their access, their entrance way, in terms of your approving this project still has not been granted by the State Highway Administration.

CHAIR: And that, I believe, is already established by even Mr. Coligaro that it's not, we're not even there yet.

Is that your recollection?

MR. HOLZER: That's correct.

CHAIR: Right.

MR. HOLZER: And to save you some time, it's already in as Exhibit 43.

CHAIR: I was about to say, we've seen this before.

MR. HOLZER: Yes.

CHAIR: I'm sure this is already an exhibit in evidence.

MR. HOLZER: Yes, it's already been introduced in evidence.

CHAIR: So, I mean, on that basis --

MR. SCHMIDT: Well, then why are we introducing it now?

CHAIR: I think he just wanted to establish his back and forth with it.

MR. SCHMIDT: Okay.

CHAIR: As to whether or not, do we need duplicate copies of it? We do not. But the testimony it, he's basically going off this letter and, and showed him the letter or, excuse me, the e-mail chain so this way he'd get the testimony on the record from Dr. Clark.

MR. HOLZER: Mr. Garber, I also want to point out for the record that Mr. McComas is sitting here for the first time and while there are prior days and you will not get into that

material, he is entitled to hear this as his first day of sitting here.

MR. SCHMIDT: No, he's not --

CHAIR: Hold on, hold on, Mr. Schmidt. Let Mr. Holzer finish.

MR. HOLZER: I, I therefore, because of the interruption and through no fault of the parties or the Board, a Board member is not sitting here. We have a new Board member. I believe he's entitled to hear some of this documentation and understand what has been going on or what is going on now. So, I think in fairness that he be permitted to see and hear some of this documentation for himself.

CHAIR: I will say, obviously I'm not Mr. McComas, but I will say that we don't need to review testimony and, and documents that have already been introduced or go over that stuff that's already in the record. And the reason being is, Mr. McComas, I, I understand, has been provided a copy of every transcript and has been provided the exhibits. Mr. McComas has made his own review and has his own understanding at this point. If Mr. McComas feels that he needs further clarification on a particular point, when it's being, when it's raised or even when it's not raised, I'm sure Mr. McComas will speak up and say wait a minute, I have a question, which he's already done here today, at least once or twice.

So, on that basis, I don't believe we do need to

review everything again for him. When I say everything, anything again that's already in the record. If you want to then point to something in the record that you feel is important, certainly you're going to have that opportunity in part with your, with your memo, at the conclusion of the evidence. But also, to the extent that there's other evidence you can say, just like this occurred on whatever other day, you could reference that way, if you feel the need to do so.

So, Mr. Schmidt, with that in mind, is there anything further from you on that point?

MR. SCHMIDT: I just, just want to make it clear. Mr. McComas, unfortunately, finds himself in a very unusual place because --

CHAIR: We all do.

MR. SCHMIDT: Right, but he, in particular, because he's got to now go through transcripts and tape recordings and a long time and I, I would stress very, very strongly he's coming in in the middle of the Protestant's case. The Petitioner has already offered its case, I mean, if there is some inference and I, not, not an inference, but a direct point that Mr. Holzer makes, that he gets to offer evidence again so Mr. McComas can hear it from the horse's mouth, in effect, that's entirely inappropriate unless on rebuttal you want me to re-present my case again.

CHAIR: Mr. Schmidt, you've heard my ruling.

MR. SCHMIDT: Thank you, sir.

CHAIR: I don't believe we need to go over the same thing that we've already done before.

MR. SCHMIDT: Yes, sir.

CHAIR: The evidence is already in the record. Do we need to have Protestant's Exhibit 53 in the record if it's already in the record as forty-three, as it has been identified, which I accept the representation it is what it is, but.

MR. HOLZER: I, I would like it be marked as, since it's been marked and pulled out as fifty-three, that's fine.

CHAIR: All right. Since it's already admitted, I'm going to admit it.

MR. HOLZER: Thank you. All right, next up.

CHAIR: But again, I, please be careful about re-introducing things that are already in the record. And I realize you're, I know you're trying your best, there's a lot of stuff going on, I recognize that.

MR. HOLZER: I know. And I'm trying to keep it simple, not only for the Board but for the record. All right. There is a new document marked from you to Mr. --

CHAIR: Hold on --

MR. HOLZER: I just want to --

CHAIR: -- he, he needs to be the one to identify what the document is. Unless there's a, give it to Mr. Schmidt

first.

MR. HOLZER: No, because I have to have him identify what it is first.

CHAIR: But Mr. Schmidt needs to see it, so please hand it to Mr. Schmidt, whatever copy you have. Please hand it to Mr. Schmidt.

MR. SCHMIDT: Thank you.

MR. HOLZER: Now, that, I don't understand that ruling.

CHAIR: You don't understand how --

MR. HOLZER: No, I don't understand.

CHAIR: Here's how we offer evidence. You have a document you want to introduce into the record, you need to provide it to counsel before you start asking your witness as to what this document is. Mr. Schmidt has the opportunity to review. You now can ask him, what is this document? But Mr. Schmidt needs to see it before you start questioning about it.

MR. HOLZER: Okay. So, from now on --

CHAIR: That's the way this has always been. This has not changed. This is how we got, why we had this motion earlier today that we had to resolve is because you showed the witness first before Mr. Schmidt had the opportunity to object. We are past that point. All we need to do now is hand it to Mr. Schmidt, or ask Dr. Clark then what is the document which is going to be labeled as fifty-four for purposes of i.d., what

is this document? We can't start questioning until Mr. Schmidt has at least the opportunity to take a look at the document you intend to ask about. So, with that in mind, Mr. Holzer, back to you.

MR. HOLZER: I'm waiting for Mr. Schmidt.

MR. SCHMIDT: Oh, I've looked, I've reviewed it, thank you.

MR. HOLZER: Well, you didn't tell me so I didn't know.

CHAIR: Okay, listen. Let's move through this. You've had the opportunity to review it, he's reviewed it. Mr. Holzer, your question to Dr. Clark, please.

MR. HOLZER: What is that document?

MR. CLARK: This is a date stamped letter received by Mr. Jablon's office from me to Mr. Jablon.

MR. HOLZER: May I give it to the Board?

CHAIR: Yes, you should, and to clarify that further, my prior speech, when you give it to Mr. Schmidt, please provide it to the Board too, to the extent that you have the necessary copies, that would be ideal.

MR. HOLZER: I think I gave you five.

CHAIR: This, and this is for purposes of the record, identified as Protestant's Exhibit 54. All right. So, this is a letter then from Dr. Clark, President of Gunpowder Falls Watershed Preservation Association to Mr. Jablon received on

July 11, 2018 and apparently also sent on July 11, 2018, one page document. So, with that in mind, Mr. Holzer, your questions?

MR. HOLZER: My question is, why is this relevant?

MR. CLARK: Actually, it relates to another document that's going to be introduced right after this, I hope, from Vince Gardenia, okay? So, --

CHAIR: Well, let's get that in the record if the two are going to be interrelated, that is if you want to provide that document to Dr. Clark, since he needs both, if he's saying that they're related.

MR. HOLZER: Do you need both?

MR. CLARK: Yeah, yes, yes, please.

CHAIR: Provide the Board two with the copies, so we can --

MR. HOLZER: Oh, I thought I had to give --

CHAIR: I'm sorry. If I was, if I was being unclear, when you provide it to Mr. Schmidt, provide it to the Board at the same time so we at least have the copies before you start asking what is this document and then having testified to it. We realize when you're handing it up it's going to be marked for identification only, then we'll leave it to you to decide whether or not you're moving it into evidence.

MR. HOLZER: Okay.

CHAIR: Is that, we're on the same page on this, on

how this is going to work? All right. You now have the doc, is that the document you were just referencing, sir?

MR. CLARK: I don't have the Gardenia letter.

MR. HOLZER: No, he doesn't have the document.

CHAIR: You don't have it yet.

MR. HOLZER: Because normally I walk up and give it to him and then give it to the Board.

CHAIR: Okay, I, I apologize, I thought he had it. I'm just a step ahead in this regard for once.

MR. HOLZER: And this would be fifty-five.

CHAIR: Fifty-five.

MR. CLARK: No, this is the wrong one.

CHAIR: All right. Let's do this. Dr. Clark, what is it, I assume you, you intend to pro, to introduce into the record there is --

MR. CLARK: Oh, oh, oh, no. It is here, it is here, it is here.

CHAIR: All right.

MR. CLARK: It's on the very last page.

MR. HOLZER: Well, let's start with fifty-four, now that you have the letter to Mr. Jablon.

MR. CLARK: Okay. Fifty-four is the last one?

MR. HOLZER: Fifty-four is the letter to Jablon.

CHAIR: Fifty-four is the one page letter.

MR. CLARK: Thank you, thank you.

CHAIR: Fifty-five is the multi-page, what appears to be an e-mail chain.

MR. CLARK: Okay. This, this, this is a letter that references an Order issued by Arnold Jablon regarding the, no activities on the site, dated July, well, that I received, all right. But a previous Order dated July 1, okay? To NACCB, Inc., okay? And I was notifying him that they are proceeding with this event in defiance of that Order. That Order, you will see on, I don't, Mr. Garber?

CHAIR: Yes.

MR. CLARK: This last page I have no idea why that got stapled there.

CHAIR: Okay.

MR. CLARK: I have no idea why that's there.

CHAIR: Understood. Last page of fifty-five that's been handed up actually appears to be from the video exhibits from what we've already resolved.

MR. CLARK: Yeah.

CHAIR: Okay.

MR. CLARK: I'm not trying to re-introduce again.

CHAIR: They're not, they're not related, understood. No problem.

MR. SCHMIDT: Can we delete the last page?

MR. CLARK: Yes, throw it out, please.

CHAIR: Fifty-five, just tear that off. So, for the

record, page, Exhibit 55, the last page has been tear, torn out of the original that's actually up here in the possession of Mr. McComas, who is handling the exhibits today.

MR. CLARK: All right. So, the last page is an exchange that came out, came out, I, all right. Now, the bottom line is, the last page is, is where Vince Gardenia sends me a copy of the enforcement Order that was sent to Mr. Kris Ghimire, okay?

Now, the way that came about was we were getting nowhere on sanitation issues and all that. And so, I went to Kevin Weis on the first page, who is the chief of the Baltimore division for Maryland Department of the Environment. He then told me that Vince Gardenia is the guy that, that he, he contacted Vince Gardenia and had Vince Gardenia get in touch with me and then finally Vince Gardenia sent me the enforcement Order that VanDomelen had sent. Why did I have to get it from Vince Gardenia? Why wasn't it sent directly to us and to counsel? That, that enforcement Order.

CHAIR: Oh, okay.

MR. CLARK: But, yeah, yeah, I mean, but --

MR. HOLZER: He doesn't answer (inaudible).

MR. CLARK: Okay, I'm sorry.

MR. HOLZER: Okay.

MR. CLARK: I'm sorry.

CHAIR: Moreover, I couldn't answer that question.

MR. HOLZER: So, this, these two documents have no relationship to a code enforcement situation?

MR. CLARK: No.

MR. HOLZER: Okay. Why are you then producing these two documents, fifty-four and fifty-five?

MR. CLARK: To show that we made numbers, a number of efforts to, to, to alert the County that their Orders were being ignored and trying to find out exactly how this process worked.

MR. HOLZER: Okay.

MR. CLARK: And no one, other than Vince Gardenia, no one ever responded to us and I believe that's going to be the subject of the next --

CHAIR: Well, if I, just to help move this along. Understanding that you guys made a, some efforts to reach out to the County to discuss why is this property being used what it is, you know, the way it is, when the Order reads a certain way and you believe that to be inconsistent with the way it's being used, right? Is that --

MR. CLARK: It goes, it goes beyond that.

CHAIR: It goes beyond that.

MR. CLARK: It goes, it goes to denial of right to due process.

CHAIR: Denial of the right of due process.

MR. CLARK: Yes. Willful, willful neglect.

CHAIR: Willful neglect. Okay. I'm intrigued by this.

MR. HOLZER: You'll, you'll find out.

CHAIR: Okay.

MR. HOLZER: The Board will find out.

CHAIR: Okay.

MR. HOLZER: Because as I said earlier, there has been improper activity on the part of the County and this is --

CHAIR: We can be, hold on, Mr. Holzer, we could be completely sympathetic with that position, that is, the County should have done more as it relates to these events and all that. It does not speak at all though to the special exception factors --

MR. HOLZER: I understand that.

CHAIR: But that's why we're here.

MR. HOLZER: But I've been around, Your Honor, and let, let me just say this.

CHAIR: Go ahead.

MR. HOLZER: For the Board. It's time that someone brings to the attention of the Courts or this Board the impropriety of what has been taking place below in terms of activity in regard to enforcing County law, rules and regulations. And if I cannot do it by having this testimony, I will proffer every one of these documents because on review, it becomes clear what has happened in this case. And I'm not

blaming anybody at the Board level but, as you know, I submitted a Motion in regard to a letter ex parte that was done between the --

CHAIR: We (inaudible) --

MR. HOLZER: I know we're not getting into it.

CHAIR: I heard, I know that that is an issue that's still pending in this matter.

MR. HOLZER: I understand and I'm not getting into it now. But this has been going on in this case and it's, it's time that this Board was provided with the documentation of not code enforcement, but what has been taking place. So, that's the relevance of why this has been, been presented.

CHAIR: My response to that and, again, with all, just to summarize this, to move this forward, Dr. Clark, to everybody else who has participated in this, I recognize you have certain frustrations and I realize that you have certain things that you think the County has failed you in your positions, in your opinions.

The big problem is, this Board cannot do much by way of addressing those problems. This is also not a code enforcement hearing. This is a matter of special exception. That is, we have certain factors. As to how any of these events and all this is, you put it, a denial of due process or whatever, however it's characterized, as to how that effects the special exception hearing and those factors, that is our

limited jurisdiction as to what we could do.

We can't tell the County Council, we can't tell Code Enforcement, we can't tell anyone else how they should have treated this back in July, back in August or any other time, because that matter certainly is, one, is not in front of us, but two, we can't compel that. To compel those things, perhaps that's subject to a mandamus action or some other type of action, but it's certainly not one that we can actually remedy sitting here today or any other day, because it's not something that is within our, what the, the matters that we are allowed to review, nor is it in the Petition from Petitioner or the appeal from Protestants that is relating to the Petition.

This is a matter, seems to me, they are using this property inconsistent with the prior Orders, do something about it. They didn't do something about it, we can't change that fact even if I'm completely sympathetic to your plight in terms of hey, why aren't people coming out to do something about this when it's apparent on its face? I'll accept all of that as true, in the end, we can't change that sitting here today.

MR. HOLZER: But you, but you can consider past activity and practice in regard to how you approach the issue of the land use issue, which is do I grant the special exception or do not. That's something that you can listen and you can evaluate the truth, truthfulness of what is being done. That's number one.

Number two, for the record, I've been, been down this road many times. There's something called exhaustion of administrative remedies and although it could be said oh, you got to present this at the Circuit Court, the ruling in a Circuit Court could say it should have been presented at the hearing before the Board of Appeals and that is exactly what I've been through battles for forty-five years doing.

CHAIR: And I, I appreciate, I appreciate what you just said greatly. My suggestion is, is to proffer that so there could be a ruling upon whether or not your administrative remedies have been exhausted by us. This, I know we've done this --

MR. CLARK: Okay.

CHAIR: -- in other cases where --

MR. HOLZER: Yes.

CHAIR: -- I don't want to say the same things, because it definitely wasn't the same type of activity, or even a special exception case, where we have done that. We have made specific rulings, the administrative remedies have been exhausted and therefore it's ripe for the Circuit Court and for the next step on these particular issues.

MR. HOLZER: I, I can accept, I accept that. So, the question is, how do we do that? Do I try to proffer everything right now that's not related to your limitation that you've imposed? Or as we go along and we present various documents,

those documents could be determined to be out of your area of responsibility or however you would want to phrase it. We can mark that exhibit that way and, in effect, at the end, we will be in a position of saying oh, exhibits, you know, one, two, three, four, --

CHAIR: My, my thinking on that is tonight you guys could come up with that list of documents, submit it as a package, of course provide a copy to Mr. Schmidt. This was it will be submitted, you'll have your proffer, it's taken care of, we can move on. Because it's more important to get to the special exception factors. If there's any impact or any issue as it relates to anything you want to raise --

MR. CLARK: Okay.

CHAIR: -- in connection with these documents and this, the matters that Dr. Clark wants to testify about, how it relates to the special exception factors, of course, that's evidence we need to hear it and whatever.

But as to what should we tell the County about what they did or did not do, that is well beyond what we have control over, well beyond what we are allowed to do and if you want to make sure that administrative remedies have been exhausted, my suggestion is, put it into a packet, say here's what we're proffering and then we can move on from there, because we're not going to go through every document if that is the issue to say this is beyond our jurisdiction, or this is

beyond the boundaries of this case. We are here to determine whether or not the special exception factors, the satisfaction of the level of evidence presented on that issue, as to whether or not Petitioners get their use.

MR. HOLZER: I understand. I understood all that.

CHAIR: And whatever conditions, if any, would follow.

MR. HOLZER: I understood all of that. I understood what the Courts require, --

CHAIR: Yeah.

MR. HOLZER: -- I understand what's happened in the past. I also would suggest that there is going to be evidence or testimony or documents related to the voracity or factual correctness of other witnesses or --

CHAIR: That's a different matter.

MR. HOLZER: I know it's a different matter, but I wanted to alert you to the fact that some of the material coming in through the witness is of that nature. So, there is a difference between both of these.

CHAIR: And then if there is a difference with some documents or some evidence compared to others, so be it. We'll go down that road and we'll, I'll see where that takes us. But as to hey, our needs are being ignored by the County, I'm telling everyone here we cannot do anything about that, unfortunately. Even recognizing your frustration with the

whole process with it. And it's, I'm sorry that, if this is the first time you're hearing this. But the fact of the matter is, we are here to talk about a special exception case, special exception factors. If the County did not do what, what you believe that they should have done, we can't change that outcome.

MR. CLARK: I think I got it.

CHAIR: Yeah. And I just want to make that clear, it's not a rejection of what you're saying, it's just an explanation as to why we're here, what we could do. Let's get to that rather than, you know, sit here and go through all this stuff when we realize, in the end, we can't change that.

MR. HOLZER: I, I would like to be able to get these documents identified as a, with a document number.

CHAIR: I didn't say you couldn't. I'm saying tonight, come up with your list of documents for that purpose, that you just, we just went through, put it in as a packet tomorrow with a proffer as to what that evidence is.

Obviously, you've heard, Mr. Schmidt, my inclination on those matters. Obviously, you'll get a copy tomorrow. If there's any comment that needs to be said, will be limited, of course. But we could go through it, this way it's in the record for purposes of identification and for purposes of the tran, any transcript so you can do whatever you feel you need to do as a result of that. Is that --

MR. HOLZER: I understand.

CHAIR: And that's --

MR. HOLZER: Whether that can be done tonight or not is another story. Whether we're going to be here tomorrow with the snow is another story. But I'll try to get that done. If I can't get it done or we don't have the hearing tomorrow, it's going to have to be later.

CHAIR: Well, then, then it would have to be submitted on February 5th, if that's the case, because that's the next, that's the next hearing date. But I'm saying to you, we have a whole bunch of documents, as I understand, we want to go through with this particular issue. By tomorrow, if you want those documents into the record, I would highly recommend you getting them into one packet so we can move forward. I don't want to sit here and delay this case anymore. Let's get to the special exception factors.

MR. HOLZER: Okay.

CHAIR: And this way you have what you need in the record. That's the reason for my now ten minute, maybe more, explanation as to how this has to unfold.

MR. HOLZER: All right.

CHAIR: And again, I want to acknowledge at least, what Dr. Clark had to say in terms of why they're presenting this and what their intent was, but that we can't do anything about it. In, in that respect.

MR. CLARK: I have a question.

CHAIR: Well, you, sir, you're under oath at the moment, so I, you can't ask questions, but.

MR. MCCOMAS: (inaudible) so you're asking him to put together any additional, because we already have fifty-four and fifty-five, so any additional ones, following the similar theme, you're --

CHAIR: Right.

MR. MCCOMAS: -- asking him to put them all together in one packet and say here are all the ones?

CHAIR: Whatever you --

MR. MCCOMAS: Not including (inaudible).

CHAIR: Right, whatever else you intended to put in on that very point, the County is not paying attention and, you know, --

MR. HOLZER: I understand.

CHAIR: -- that they should have done more or whatever the case, here's how the property is being used in this regard and the County ignored our request, State Highway said this, that and the other thing and maybe somebody else weighed in and said wait a minute, hold on, why are they doing that or whatever. All that together, so this way everyone is protected by whatever that follows. But let's get to the special exception factors.

MR. HOLZER: Part of the special exception factors

are the fact that this Board can grant the relief requested with conditions. Now, isn't it appropriate for some of this material to come in? For instance, the State Highway Administration. To, to say the, the entrance is unacceptable to us but that's up to the County to enforce. Well, but that's also a condition that this Board could put on its approval as--

CHAIR: Mr. Holzer, exactly. If you feel that speaks to --

MR. HOLZER: So, how can we get that in?

CHAIR: -- hold on, if you, hold on. If you think that speaks to a specific special exception factor for us to, that we need to weigh, then yes, you may try to put that into evidence and we'll see where that takes us. As to that point, yes, that is a, perhaps a valid argument from your perspective.

MR. HOLZER: Right.

CHAIR: As to how this has to be addressed. It is in evidence. That is SHA is saying hey, wait a minute, we got a problem here or whatever the case may be, perhaps that speaks to whatever factor under 502.1. I'm sure we'll hear from Mr. Schmidt, and as well as yourself, in memos on that point. So, that is not to exclude evidence that's connected to a special exception factor, to the contrary. I want it narrowly tailored to that special exception factor because we can't do anything about why Code Enforcement doesn't go out or why the County doesn't go out to enforce this when they're supposed to.

MR. HOLZER: But see, the problem with what you're suggesting is that if I make a packet of this material that is for purposes of the Circuit Court, potential Circuit Court argument, it's not in front of you, you're not putting it into evidence from which you could draw to make the conclusion that the access has to be by the State and, in other words, --

CHAIR: I'm not limiting you to put in evidence as, on that point.

MR. HOLZER: Than I have to go through --

CHAIR: I'm saying that if you have, if you have, for example, what looks to be fifty-five. Fifty-five, to me, fifty-four, seemed to be complaining about why aren't you guys going out to cite them for code violations, okay?

MR. HOLZER: Right.

CHAIR: That is what I'm referring to by this proffer. When it comes to fifty-three, by way of example, this is saying SHA is saying they shouldn't be using this entrance way for whatever reason, that speaks to the specific special exception factor. This is treated differently than fifty-four and fifty-five.

MR. HOLZER: Correct, correct. That's why --

CHAIR: Right, so there's a difference. I asked you for your discretion in determining that line. These documents speak to special exception factors, these speak to code enforcement matters or the failure to enforce. The failure to

enforce and code enforcement matters are not part of our, what we're reviewing here. If you want to argue to us that the SHA comments here are dispositive or at least aid us in terms of evaluating that factor, yes, this, --

MR. HOLZER: Yeah.

CHAIR: -- can, you can certainly, I'm not going to make a, a ruling saying that that's all admissible sitting here at the moment, because I don't know which each one is.

MR. HOLZER: Okay.

CHAIR: But yes, this would be subject that's appropriate for it, and I asked for your discretion in determining where that line is drawn.

MR. HOLZER: But that's the problem. I, I have to then limit or narrow and, and try to guess what this Board will admit and what you won't admit.

CHAIR: No, no, --

MR. HOLZER: Really.

CHAIR: Again, it's a proffer. You're saying look, these documents speak to code enforcement or lack enf, or lack of enforcement. They're not tied to a special exception factor. If they're tied to a special exception factor, we will work through each document.

MR. HOLZER: Okay.

CHAIR: But I mean, I, if it's going to be like ten document, or ten documents regarding noise, again, much like

the videos, we don't need ten documents.

MR. HOLZER: I understand.

CHAIR: Dr. Clark can testify on the following dates I sent correspondence or had communications with folks in the County about noise because noise was doing x, y, z. That's a different matter than, again, fifty-four and fifty-five which seem to speak to hey, you guys, here's the Order, why aren't you coming out to enforce?

MR. HOLZER: If Your Honor would permit me, then let me take what I know Mr. Clark wants to introduce and just ask him, in his opinion, are these related to a possible condition that the Board would, could impose or is it just frustration as to what took place? Can I do that? Say, and save some time?

CHAIR: I, I would, I would say if you can give guidance to Dr. Clark on that, looking at these documents, that's probably the best way to go about achieving this end goal for us all. This way you have what you need in evidence for special exception factors.

MR. HOLZER: Right.

CHAIR: And you have your record established for purposes of the other stuff that you feel should be admissible but perhaps you need to do something more because of exhaustion of administrative remedies.

MR. HOLZER: Right.

CHAIR: So, this way your record would be protected,

but also it would be streamlining the case and we can get to the heart of the matter, which again, is the special exception factors.

MR. HOLZER: Could, could I ask for the lunch break now so --

CHAIR: Oh, I was going to insist upon it.

MR. HOLZER: It's twenty after twelve.

CHAIR: Yes.

MR. HOLZER: And if, if you can give us an hour.

CHAIR: Yes, an hour is fine.

MR. HOLZER: And, and understanding that I am going to go over, I'll ask very few questions of Mr. Clark, because he's on the stand. I'll talk to Mary and see the list of potential documents that he wanted to introduce now and see if I can decem, separate them.

CHAIR: And correct me if I'm wrong here, but this seems to be incredibly, we're making this incredibly more complicated than it needs to be. We have heard numerous, we've heard testimony from all the witnesses thus far as to their concerns as it relates to the proposed use. You all have documents there that you want to put into evidence that will illustrate, perhaps, or from Dr. Clark's perspective and your perspective, here, this speaks to those particular factors. Separate those from everything else that would otherwise speak to the code enforcement matters. It should be pretty simple

because we already know what the issues are, because we've heard from Dr. Clark, we've heard from Dr. Mary Clark, we've heard from others about the issues.

I already, I think we have a pretty good grasp as to where we are, as to what the complaints are and I'm sure that they're going to be echoed by others. And I'm not restricting you in terms of being able to produce whatever evidence you need, but at the same time, we have to do this in a, a more efficient or have any efficiency in pursuing testimony and evidence from Protestants --

MR. HOLZER: I'll try to do that during the lunch break.

CHAIR: Thank you. So, why don't we do this. What time is it, like, almost 12:30? Why don't we come back at 1:30 so you'll have actually an hour and eight minutes.

MR. HOLZER: Good.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: I'm all in favor of lunch.

CHAIR: Thank you.

(RECORDING PAUSED – 12:20:37 PM)

(ON RECORD – 01:32:08 PM)

CHAIR: All right. We are back on the record, please be seated. Thank you.

MR. HOLZER: Mr., members of the Board, Mr. Chairman, your office was kind enough to make copies of the sign in

sheets. I've provided one to Mr. Schmidt. I would provide the Board one and I'd keep one.

CHAIR: Yes. You have the originals too back.

MR. HOLZER: I, I don't know whether these are the, oh, they gave us the originals here.

CHAIR: Yes.

MR. HOLZER: So, your Board took whatever was in this packet that --

CHAIR: Right, copied it, except, copied the one side because I understand it's on recycled paper. And there was various writing on the, on the other side of it.

MR. HOLZER: Correct.

CHAIR: Of the sign in sheets.

MR. HOLZER: So, I would, so I would offer --

CHAIR: Mr. McComas?

MR. MCCOMAS: Yes, fifty-six.

MR. HOLZER: I'm sorry, fifty-six?

MR. MCCOMAS: Yes, fifty-six.

CHAIR: All right.

MR. HOLZER: Okay and so that is taken care of. And during the lunch break, I tried to save as much time as possible.

CHAIR: I appreciate that.

MR. HOLZER: If I could ask Mr. Clark to step up and ask Mr. Morgan, Bruce Morgan, who previously testified, to step

back. He is a member of Kingsville, he does know the parameters. He was not there at the time the original vote was taken, but he's aware of it. Now, do you want me to put him on in this --

CHAIR: I, I'm going to leave it to you to present your case.

MR. HOLZER: Okay.

CHAIR: I don't, it's up, it seems to me that if there's a stipulation that can be reached about it, then perhaps it resolves the issue. But I, you know, I don't know if that is possible or not based on, I don't know what, whether he, Mr. Morgan is charged --

MR. HOLZER: Yeah.

CHAIR: -- Mr. Morgan is charged with the responsibility under the rule eight papers that have been submitted, that being able to do what is necessary, but Mr. Schmidt?

MR. SCHMIDT: I'm not trying to be difficult.

CHAIR: That's okay.

MR. SCHMIDT: I just don't know what Mr. Morgan is going to say. Again, I assumed that the, that the, well, if he wants to come on and, and testify about the parameters, I have no objection to that. Was he at the meeting or is he authorized to speak or?

MR. HOLZER: He is, he is a member of the board. He

was not there at the time of the original vote. I understand he was there when they reiterated the position, to write the letter to me, to represent them and take that position, so.

CHAIR: I don't think there's a question as to the position taken. I think the question is the map and, and also was it the membership or no? That wasn't really your issue, it was the map?

MR. SCHMIDT: Yeah, I'm, I'm going to have to pull the, the rule.

MR. HOLZER: He's here and I felt since he's here.

CHAIR: I, I know, I appreciate the fact that you're trying to move that forward.

MR. HOLZER: Yeah, right.

MR. SCHMIDT: Sure, why don't we put him on and we'll make quick work of it.

MR. HOLZER: Sure.

CHAIR: All right. So, once again, Dr. Clark, thank you. Just for the sake of, doesn't hurt to be sworn in twice, I suppose.

MS. DOPKIN: Do you swear and affirm under the penalties of perjury, that the testimony you are about to give is true and correct to the best of your knowledge and belief?

MR. MORGAN: I still do.

MS. DOPKIN: Thank you.

MR. MORGAN: Thank you.

CHAIR: And please identify yourself for the record?

MR. MORGAN: Bruce Morgan.

CHAIR: We're recalling Mr. Morgan for a limited purpose. Mr. Holzer, you want to take that?

MR. HOLZER: Well, Mr. Schmidt just asked if, if he could ask the questions. All I wanted to do is to have Mr. Morgan define, he has a map and he also has it on his phone and he can testify to that and then he's welcome to answer any other questions.

CHAIR: Have you shown the map to Mr. Schmidt?

MR. MORGAN: I have not.

CHAIR: Why don't we start with that? And I recognize, oh, you, so it's not just on your phone, you have a printout.

MR. SCHMIDT: Yeah, thank you.

CHAIR: And so, if you have a printout, why don't you send that up this way as well if you have an extra copy.

MR. MORGAN: I'm sorry I don't have enough copies.

CHAIR: That's quite all right, I understand.

MR. MORGAN: We made what we could while we were on lunch.

CHAIR: Thank you, Mr. Morgan, that's quite all right. So, this will be fifty-seven for purposes of identification.

MR. HOLZER: The original document was forty-eight

for i.d.

CHAIR: Right. Okay, so, but for purposes of --

MR. HOLZER: Yeah.

CHAIR: -- the record, the map is coming in as fifty-seven, is that your understanding?

MR. HOLZER: Yes.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Yes, sir.

CHAIR: Very well.

MR. SCHMIDT: Mr. Morgan, the map that you've given us which is fifty-seven it's two pages and there's a shaded area, correct?

MR. MORGAN: That's correct.

MR. SCHMIDT: And the subject property would be, looks like the map goes along Harford Road sort of below the word Glen Arm and Glen Arm Road. And I think, is it correct, that the sub, subject property is located within the gray area to the right of Harford Road?

MR. MORGAN: That's correct.

MR. SCHMIDT: Okay. So, just so I'm clear, the property if this, if this map is north, south, in terms of the top of the page and the bottom of the page, the property on the other side of the street from the subject property is not within the greater Kingsville area? That's, that's not the gray, that's not grayed, correct?

MR. MORGAN: Well, if, if I could refer to here, refer to the description. There's a, there's a --

MR. SCHMIDT: Right, and it says in the description click here for map.

MR. MORGAN: Yeah, that, and that is the map that comes up.

MR. SCHMIDT: And that's the map that you get when you click?

MR. MORGAN: Yes, sir.

MR. SCHMIDT: And is the gray area the area that the Kingsville, Greater Kingsville Community Association has interest or jurisdiction over?

MR. MORGAN: Yes, yes.

MR. SCHMIDT: Okay. So, again, this, this is sort of at the, this is, this is on, this is within the gray area, but across the street from the subject property's entrance on Harford Road, those houses across the street are not in the greater Kingsville area, that's white, correct?

MR. MORGAN: That, that's correct.

MR. SCHMIDT: Okay.

MR. MORGAN: Yeah.

MR. SCHMIDT: And now the, the community assoc, the greater Kingsville people met and produced a document, exhibit number forty-seven, I believe it is.

MR. HOLZER: Forty-eight.

MR. SCHMIDT: I'm sorry, forty-eight. That indicates that the Greater Kingsville Association opposed, opposes this request, correct?

MR. MORGAN: Yes.

MR. SCHMIDT: Okay. You were not at that meeting, as I understand it?

MR. MORGAN: I was not.

MR. SCHMIDT: Okay. Was that a meeting of the entire membership of the Greater Kingsville Association --

MR. MORGAN: As I understand it, yes.

MR. SCHMIDT: -- or just the board of directors?

MR. MORGAN: Yeah, no, it was the semi-annual September meeting.

MR. SCHMIDT: September of 2018?

MR. MORGAN: Twenty seventeen.

MR. SCHMIDT: Twenty seventeen. Has the association considered the request in any subsequent meeting to the best of your knowledge since 2017, since September 2017?

MR. MORGAN: I, I don't understand the question, what is the question?

MR. SCHMIDT: Have, has the association considered the matter further in view of anything that's happened since September of 2017, to the best of your knowledge?

MR. MORGAN: I think there was some discussion at the general meeting, which was like a month ago.

MR. SCHMIDT: Okay.

MR. MORGAN: There was some discussion. There wasn't any voting or anything.

MR. SCHMIDT: But there was no new vote?

MR. MORGAN: No, no, sir.

MR. SCHMIDT: Okay. Has any representatives of the Petitioner, Nepali, been at any of the meetings when these occurred, if you know?

MR. MORGAN: Only the, only, only that I'm aware of because I wasn't at this meeting, I was only at the, this, this previous meeting like a month or so ago. Dr. Clarke was there and I think Kris, I think Kris Ghimire was there.

MR. SCHMIDT: Ghimire was there at the subsequent meeting, at --

MR. MORGAN: At this most recent meeting like maybe six or eight weeks, six weeks ago maybe.

MR. SCHMIDT: Okay. Do you know if anyone from Nepali had an opportunity to make a presentation at any of the prior meetings?

MR. MORGAN: I, I do not know.

MR. SCHMIDT: You, you don't know one way or the other?

MR. MORGAN: No.

MR. SCHMIDT: Okay.

MR. MORGAN: I, I wasn't, I wasn't in attendance at

the prior meetings.

MR. SCHMIDT: Okay. Do you know how many, do you know how many people there are who are members of the association or how many homes there are?

MR. MORGAN: Approximately, I think I gave that sheet up. But I think it was written in the corner as two hundred and thirteen, I believe. Somebody has that top sheet.

MR. SCHMIDT: Is that, is that, is that individuals or homes? Like a husband and wife, do they count as one or two?

MR. MORGAN: Yeah, that's a single, yes, that's a single membership.

MR. SCHMIDT: Okay. So, it's, so a husband and wife would be two people?

MR. MORGAN: Would, would be a one membership.

MR. SCHMIDT: Oh, it would be one membership?

MR. MORGAN: Yeah.

MR. SCHMIDT: Okay. So, two hundred and thirteen people in this area that's highlighted in gray are actually members of the association?

MR. MORGAN: Yes, yes.

MR. SCHMIDT: Do you know how many, you have any idea how many houses there are in, in this area?

MR. MORGAN: No, I don't.

MR. SCHMIDT: You do not? Okay.

MR. MORGAN: More than two, more than two hundred and thirteen, I would suspect.

MR. SCHMIDT: Yeah, I don't know how, you know, I know it's a rural area, so okay. And do you know when the association took the vote, I understand you weren't there, but do you know from any other way how many people there were at the meeting when the vote was taken?

MR. MORGAN: I do not, I was not in attendance.

MR. SCHMIDT: Okay. So, do you have to have a quorum in order to take a vote such as this?

MR. MORGAN: They're usually, the meetings, as I understand, are, are typically very well attended.

MR. SCHMIDT: Okay. But you don't know about this one?

MR. MORGAN: I, I don't know because I wasn't there.

CHAIR: And if I could jump in --

MR. SCHMIDT: Very well.

CHAIR: -- do you know if you need a quorum of the membership or any type of percentage of the membership or is it just a quorum for the board of directors or how that is --

MR. MORGAN: I know there's a quorum for the board, I do not know because I've never been in attendance at a general meeting where there was a mem, where there was a vote taken.

MR. SCHMIDT: Okay. Do you know how many board members there are?

MR. MORGAN: No, I do not. I think there's twelve of us.

MR. SCHMIDT: Okay and you're a board member at the present time?

MR. MORGAN: Just recently, yes, sir.

MR. SCHMIDT: Okay. When did you come onto the board?

MR. MORGAN: At the last general meeting.

MR. SCHMIDT: Okay. The document, number forty-eight, that Mr. Holzer gave us, actually titles itself on the first page of it board position regarding case number 2018-0122-X, so on and so forth.

CHAIR: Mr. Schmidt, before you go further, do you have that in front of you, sir?

MR. MORGAN: I do not.

MR. SCHMIDT: Okay. I'll show it to you.

CHAIR: Okay.

MR. SCHMIDT: This is the, I'll show you my copy.

CHAIR: Okay.

MR. SCHMIDT: And I'm referring to exhibit number forty-eight. And this is from apparently the October 10th, 2018 meeting of the Greater Kingsville Civic Association?

MR. MORGAN: The more recent one, yes.

MR. SCHMIDT: So, am I correct when I read that to say that this was the position of the board? It says board

position.

MR. MORGAN: This is the first time I've seen this document. I can't speak to this document. It's the first time I've seen it.

MR. SCHMIDT: Okay.

MR. MORGAN: I didn't produce it, I didn't help produce it. I, I don't know about that.

MR. SCHMIDT: You do not know?

MR. MORGAN: I do not know.

MR. SCHMIDT: Okay. Okay. I don't have any further questions.

CHAIR: All right. So, where does that leave us in terms of your position on the admissibility of Exhibit 48?

MR. SCHMIDT: Well, it appears that the property is within the proximity, I guess, it kind of goes to the weight of the document to a certain extent. We don't know whether, I mean, it speaks for itself. And it says the board position and I don't know whether there was a quorum or how that works. And we, we don't know. I don't, Mr. Garber, I'll leave it to your discretion --

CHAIR: In other words, the (inaudible) board position and, and whether the board position is, reflects a membership and board vote or just a board vote is what your question is?

MR. SCHMIDT: And we just don't know because Mr., you

know, to be fair to the witness, he wasn't there and wasn't on the board at the time, so.

CHAIR: So, we need to, so from your perspective we would need to know how the board can act?

MR. SCHMIDT: It might be, you know, I think, so the record is clear and we've got subsequent days so maybe somebody who was there can shed some light on it at a subsequent hearing date. Maybe the Board can, this Board, not Kingsville board --

CHAIR: Thank you.

MR. SCHMIDT: Maybe the Board of Appeals can just defer on that until we see if there's another witness. I would like to know whether it was a vote of the entire membership and how many people were there because I understand that this has caused a split in the community and there may very well have been a sizeable portion of people who are in favor of it, which I think is relevant.

CHAIR: Very well. We'll, Mr. Holzer, we'll just do it that way. If Mr. Schmidt is not ready to stipulate to its admissibility, we may need another person to address the rule eight issue for Protestant's Exhibit 48 to determine its admissibility. I think you've heard the issues that he has and you'll have the appropriate person at the right time for that.

MS. DOPKIN: So, are we trying to clarify one that it was properly adopted according to the by-laws of the organization and how the vote came out for and against?

MR. SCHMIDT: And, and whether, I think too, whether it was the board's vote or whether it was the general membership.

MS. DOPKIN: Or it was a full membership.

CHAIR: But that speaks to the, whether it's adopted properly --

MR. SCHMIDT: Yes, yes, sir.

CHAIR: -- as, because, for example, by way of background, I know, for example, my community association, the board can act for the entire membership.

MR. SCHMIDT: Right.

CHAIR: We don't need to have a big meeting that invites everybody there to then take a vote, the board takes a vote. I don't know if it's that way for this particular association but that is a question that Mr. Schmidt has that Mr. Holzer will find a witness one day that we can address those very issues to figure out where Greater Kingsville stands on it, though it is obviously now stipulated that the property is within --

MR. SCHMIDT: Yes.

CHAIR: -- the bound, proper boundaries here for Greater Kingsville Civic Association. So, we've at least accomplished one check on that list.

MR. SCHMIDT: Yes, sir.

MR. MCCOMAS: So, forty-eight remains i.d. only,

fifty-seven is accepted?

MR. SCHMIDT: Yes, sir, as far as I'm concerned.

CHAIR: Very well.

MR. SCHMIDT: Yes, sir.

MR. HOLZER: You may step down, thank you.

CHAIR: Fifty-seven is admitted, forty-eight is still subject to further testimony and evidence.

MR. HOLZER: And to get to the next level of testimony, Mr. Clark.

MR. SCHMIDT: Mr. Garber, just while Mr. Clark's coming, I was at my office over the lunch break and I got a text from the Bar Association that the Circuit Court is closing at 3:30. I don't know if that affects any other building but I just wanted to tell you that. As I was walking back, the door to come here, so you may --

CHAIR: We go by the Baltimore County --

MR. SCHMIDT: No, I got a text from the --

CHAIR: No, no --

MR. SCHMIDT: -- Baltimore County Bar Association saying that the Circuit Court was closing at 3:30.

CHAIR: Right. So, we go by the County government.

MR. SCHMIDT: Okay.

CHAIR: We'll figure out where that stands at another break in the process here. Anyway, Dr. Clark --

MR. SCHMIDT: I just didn't know if you had heard, I

wanted to --

CHAIR: No, I appreciate that, yes. Thank you.

MR. SCHMIDT: -- give you a heads up, I had heard that.

CHAIR: Yes. Thank you very much. Dr. Clark, you're still under oath, you're still on the stand. You may have a seat.

MR. HOLZER: And I'm going to ask him about exhibit number forty-eight. Mr. Clark, are you a member of the Greater Kingsville Civic Association, Inc.?

MR. CLARK: Yes, I am.

MR. HOLZER: You've seen the site plan or the plan for the area that they encompass and is your house outside of or within that area?

MR. CLARK: It's outside what the map shows but I am still a member.

MR. HOLZER: And how long have you been a member of the Kingsville Civil Association?

MR. CLARK: Ten, fifteen years.

MR. HOLZER: Okay and are you familiar with the vote that was taken by them on April 4th, 2018?

MR. CLARK: No, I was, I was not there for that meeting.

MR. HOLZER: Oh, okay.

MR. CLARK: I was there, I was there for a number of

subsequent, earlier meetings.

MR. HOLZER: Okay.

MR. CLARK: Including the pre, including the 2017 vote.

MR. HOLZER: The 2017 vote, okay. What was, when was the, the 2017 vote?

MR. CLARK: That was at the semi-annual meeting on 2017 it was the full membership.

MR. HOLZER: Full membership?

MR. CLARK: Yep.

MR. HOLZER: Okay

CHAIR: Let me, let me --

MR. CLARK: Now, that doesn't mean full attendance --

CHAIR: -- stop there.

MR. HOLZER: You don't want it --

CHAIR: Only because forty-eight doesn't speak to that vote.

MR. HOLZER: I know.

CHAIR: And I understand your frustration with it, but forty-eight doesn't speak to that vote. Let, the vote was taken in April of '18. You were not there for that vote?

MR. CLARK: No, I was not.

CHAIR: I understand that the, I understand the representation that there has been opposition taken by the association.

MR. HOLZER: I will go to extra lengths to make sure the Board hears everything there is to know about the vote and this document.

CHAIR: Understood. Thank you.

MR. CLARK: At the earlier meetings, --

CHAIR: Hold on.

MR. HOLZER: No.

CHAIR: Sir, there's not a question pending at this point.

MR. HOLZER: No, it's no use wasting time or the Board's time. We will do something to answer all of the questions which will probably take us not tomorrow but more than likely in February. So, the longer this drags on, the more concern I have with the February 13th.

CHAIR: Again, Mr. Holzer, I understand.

MR. HOLZER: I understand, but I'm just explaining.

CHAIR: Protestant's Exhibit 48, again, identifies a vote taken April 4, 2018. Since the whole point of having rule eight paperwork coming forward is tied to that Oct, or that April 4th, 2018 vote, --

MR. HOLZER: Yeah.

CHAIR: -- information from the 2017 vote does not speak to Exhibit 48.

MR. HOLZER: I understand.

CHAIR: Right.

MR. HOLZER: I understand. Now, Mr. Clark, is it true that you met with me during the luncheon break to address the Board's concern about documents which may, which may illustrate some sort of, of inactivity or confusion on the part of the County in its addressing certain letters and e-mails that you brought up --

MR. CLARK: Yes.

MR. HOLZER: -- is that correct?

MR. CLARK: Yes, sir.

MR. HOLZER: We met, that's all we met about?

MR. CLARK: Yes, sir.

MR. HOLZER: All right and in reviewing the outline or the testimony that you had proposed to provide, I, I want to list these as documents that I will have to try to put together for tomorrow sometime. But it appears that a Zeller package also as Protestant forty-three --

MR. CLARK: Are we --

MR. HOLZER: -- don't, just let me read it.

MR. CLARK: Okay.

MR. HOLZER: The Jablon letter of July 11th, the Mohler letter of July the 11th, the Gardenia July 8th letter, the Gardenia July 10th letter, the e-mail to Jablon dated July 10, the Beverungen July 24th document, the Zeller/Jablon June 18 document, the VanDomelen September 12th, 2017 document, those, those documents will be placed in a packet for purpose of

protecting or addressing the exhaustion of administrative remedies as Mr. Garber has requested.

MR. CLARK: Yes, sir.

MR. HOLZER: Correct?

MR. CLARK: Yes, sir.

MR. HOLZER: Okay. In addition to those documents, the Clarke FB of September 17th, 2018, the Ghimire and Clarke FB of 5/1/18, the Ravine and Clarke FB 5/1/18, the White America Next Door document, the Clarke FB September 20th, '18 document, the Kotroco letter to Mohler, I'm striking out anything in regard to the police reports as per your direction.

CHAIR: Thank you.

MR. HOLZER: The Joann affidavit, all will be removed from your testimony before the Board today and will be placed in the packet for the Board to see and I'll submit it tomorrow.

CHAIR: Yes, thank you.

MR. HOLZER: Hopefully, I can submit it tomorrow, okay?

CHAIR: Assuming we're open tomorrow at any point, yes, thank you.

MR. HOLZER: Okay. So, that is my effort --

CHAIR: Thank you very much, Mr. Holzer.

MR. HOLZER: -- to take that material out. Now, that leaves us with going back to his regular testimony under another heading.

CHAIR: Fair enough.

MR. HOLZER: Okay?

CHAIR: Fair enough.

MR. HOLZER: And just so the Board understands, I required the witness to create headings for different parts of his testimony so that it would be organized and --

CHAIR: I appreciate that.

MR. HOLZER: -- and, and we are now going to go into a heading of clarification of facts, which I think will specifically address your concerns about the 502 and the land use issue. Okay? Now, Mr. Clark, let's turn to the clarification of facts and what, where would you like to start? And if there is going to be a written document, tell me. Or if there's going to be a visual presentation, you can tell us that and then we can proceed from there, okay?

MR. CLARK: Okay. There will be, there will be three videos shown.

CHAIR: Okay.

MR. CLARK: Okay? One will be, and they all relate to the way the road is used as it is today, okay? One will be of people using it as a pedestrian, people using it as cyclists and how, how the clearances are so constricted that tractor trailers cross, have to cross the line to make their turns, okay?

MR. HOLZER: Okay.

MR. CLARK: Those, those are the videos.
MR. HOLZER: All right. Do you want to do those now?
MR. CLARK: Why don't we, why, why don't I talk about the other things first?
CHAIR: Wait, hold on. We're just talking about three videos that we may be showing the Board.
MR. CLARK: Right.
CHAIR: And everything, why, why would we be going to another --
MR. HOLZER: Yeah, let's just --
MR. CLARK: Okay, no, no, that's fine. I'm just --
CHAIR: I know, but let's not get like, let's not get lost.
MR. HOLZER: Right.
CHAIR: The testimony has brought us to this point.
MR. CLARK: Yeah, yeah.
CHAIR: It would seem that we have three videos on Exhibit 51, where would I, where are these videos?
MR. CLARK: Okay. I need my video control sheet.
CHAIR: Sorry, do you need a copy?
MR. CLARK: No, I've got one. Thank you, sir. Okay. Let us start with road walker.
CHAIR: Sorry?
MR. CLARK: Road walker, and he is --
CHAIR: Hold on. You have to show us where --

MR. CLARK: Yeah, on, on the video control sheet, sheet two.

MS. DOPKIN: Next to the last one.

CHAIR: Rural road walker from 10/14/18?

MR. CLARK: Yes, right.

CHAIR: All right. Now, you have another one, dash cam E road walker on page one.

MR. CLARK: Yeah, that, that, that's, that's, that's from where the snippet was taken. That's, that's --

CHAIR: Okay.

MR. CLARK: -- my effort to try and --

CHAIR: That's fine. I just, for purposes of the record, they say the same designation. Rural road walker A-4 thirteen seconds 10/14/18 taken by you on page two, Exhibit 51. Is this something that previously, I guess it had to have been made part of the A-4 previously?

MR. CLARK: Yeah, it's not new, right.

CHAIR: All right. So that means Mr. Schmidt would have had the opportunity to review this previously.

MR. SCHMIDT: I think we saw that in the hearing.

CHAIR: I, as, as far as I recall, I don't recall seeing this.

MR. SCHMIDT: Okay.

CHAIR: That is in terms of what has been presented actually during the course of the hearing.

MR. SCHMIDT: Yes, sir.

CHAIR: Recognizing it's on the disc and you've had the opportunity to review it previously. So, with that in mind, we can hit play. All right. Now if we hit stop right here.

MR. CLARK: All right, stop, stop.

CHAIR: Dr. Clark, please identify what we are looking at.

MR. CLARK: Actually, what we are looking at is Harford Road south of the property, just south of the property, above Hutschenreuter Road.

CHAIR: And we're heading north?

MR. CLARK: South.

CHAIR: We're heading south?

MR. CLARK: Right. And you see that black splotch on the right?

CHAIR: Okay.

MR. CLARK: On the shoulder? That, watch, watch him carefully.

CHAIR: Hold on. I need to make sure I understand what this is. You're heading away from the property?

MR. CLARK: Yep.

CHAIR: And this is south of the property --

MR. CLARK: Right.

CHAIR: -- correct?

MR. CLARK: Right.

CHAIR: All right. Now, you said it's before Hutchenreuter Road?

MR. CLARK: Hutchenreuter Road is, is down around that bend.

CHAIR: Okay. So, it's after the bend there?

MR. CLARK: Right. And, and, and this is, and I just pulled out of my driveway, which in the County is called Mark Lane.

CHAIR: Understood, okay.

MR. SCHMIDT: How far away is this from the Bonaparte entrance?

MR. CLARK: The Bonaparte property is right there on the left.

MR. SCHMIDT: Okay.

CHAIR: So you're traveling alongside?

MR. CLARK: Right.

CHAIR: And this is you after you pulled out of your driveway?

MR. CLARK: Correct. Yes, sir.

CHAIR: Okay. So, that gives us a starting point, thank you.

MR. CLARK: Now, now, before she starts it again, all right? Joyce, can you put the cursor on the, the guy on the shoulder, right there, okay?

CHAIR: I understand that's where we keep our focus on.

MR. CLARK: Right, focus there because it goes by fast.

CHAIR: Understood.

MR. CLARK: Okay, go ahead.

VOICE: Play?

MR. CLARK: Yep.

CHAIR: Oh, wow, that was fast.

MR. CLARK: Go back, we missed it. But I, I, what I do is I --

CHAIR: Okay, just start it. Everyone stop talking. Let's just start from here and then see where that takes us.

MR. CLARK: All right.

CHAIR: Thank you. Okay.

MR. CLARK: All right. And anyway, there's a rural road, you know, people use, people use that as, as a walkway. I do have screenshots of it.

CHAIR: It's, it's okay. It's understood that you can find pedestrians along the roadway on the side of the road.

MR. CLARK: Right.

MR. SCHMIDT: Did I miss something or did it --

CHAIR: It, it de-pixilated and then jumped. But, I mean, I, I don't think it's disputed that --

MR. SCHMIDT: People walk on the road.

CHAIR: -- people can, people have the ability to walk along the roadway.

MR. CLARK: And then, and, and then look at --

CHAIR: And people, in fact, do is what I'm hearing from, from Dr. Clark, is that fair to say?

MR. CLARK: Yes, yes.

CHAIR: Okay.

MR. CLARK: And that you can see the guardrail on the shoulder.

CHAIR: Right. So, there's limited space you're saying --

MR. CLARK: Right.

CHAIR: -- between the guardrail and the shoulder.

MR. CLARK: Yes, sir.

CHAIR: The shoulder is striped.

MR. CLARK: Okay.

MR. HOLZER: Excuse me. We have photographs to make it clearer.

CHAIR: Okay. I'll say this, Dr. Clark, in the interest of expediency. If the testimony is going to be that there are occasionally pedestrians, cyclists who are on Harford Road in this stretch, we don't necessarily need to see videos of it. I imagine that the people are doing this. You've seen it, you can probably testify to those points, I'm assuming. That is, you've seen people out walking, you've seen people

cycling, right?

MR. CLARK: Yes, sir.

CHAIR: So, just to avoid the same situation where we had to de-pixilate and then jump and doesn't give an accurate portrayal of what you were trying to show.

MR. CLARK: Um hm.

CHAIR: Is it your testimony that you have seen people walking along Harford Road heading south?

MR. CLARK: Yes, sir.

CHAIR: And that is before Hutschen, Hutschenreuter Road?

MR. CLARK: Yes, sir.

CHAIR: Okay and then heading north?

MR. CLARK: Heading north, I actually walk on Harford Road north. When, when I have my car serviced up there at Carl's Service Station.

CHAIR: Is that, where, where's Carl's?

MR. CLARK: That's up in Fork.

CHAIR: Fork, is that at the light at Fork?

MR. CLARK: Yes, it's at the light.

CHAIR: Okay.

MR. CLARK: And you know, that, that's --

CHAIR: Is that where the post office is?

MR. CLARK: Yes, sir.

CHAIR: Okay.

MR. CLARK: All right and I, you know, I grew up walking four or five miles a day, you know, to go, to get someplace. We didn't have a car. So, for me to walk along that road, it's not a big deal. But I, you know, I'm mindful of the, the, the, the sight problems.

CHAIR: So, you are using these videos to show us the sight problems but also, as you pointed out earlier, the guardrail and the shoulder space?

MR. CLARK: Yes, yes.

CHAIR: Okay. Now, as to cyclists, have you seen people on bicycles going south, starting from your driveway, to Hutchenreuter Road?

MR. CLARK: Yes, sir.

CHAIR: Have you seen them coming north from Hutchenreuter Road up to Mount Vista?

MR. CLARK: Yes, sir.

CHAIR: People heading northbound, okay.

MR. CLARK: Yes, sir. In fact, fairly, there, there's a couple events, you know, these, these fundraiser events where it is used as the route. What, the, I don't want to show a video if I don't have to, --

CHAIR: I'm not suggesting yes or no. I'm just figuring out what you're --

MR. CLARK: Yeah.

CHAIR: -- trying to do. But you have firsthand

knowledge because one, you have done certain things but you've also seen certain things.

MR. CLARK: Yes.

CHAIR: So, even independent of any video, if there's any future issue, we can, your testimony is already in the record on these points.

MR. CLARK: Yes, sir.

CHAIR: So, okay. So, now we have this photo here, which is, just to go through it, which is fifty-eight? Okay, fifty-eight.

MR. HOLZER: Two pages.

CHAIR: Now, fifty-eight shows a still shot, and it shows the beginning, more or less, of the video after you pulled out of your driveway, is that correct?

MR. CLARK: Yes, sir.

CHAIR: And the person who is walking or on the bike and forgive me, I don't have my reading glasses on, --

MR. CLARK: He's walking.

CHAIR: Okay. Who is up on the right, which you previously indicated on the video with the cursor as the same as --

MR. CLARK: Yes, sir.

CHAIR: -- what we saw, just saw on the video?

MR. CLARK: Yes, sir.

CHAIR: I am assuming then page two, had the video

not jumped and de-pixilated, we --

MR. CLARK: Yes, sir.

CHAIR: -- would have seen that very picture. And that gentleman is still the same person as, on page one, also in the video?

MR. CLARK: Yes, sir, and --

CHAIR: This, go ahead.

MR. CLARK: Okay. You will see how we are in the habit, when we come across a pedestrian, we actually cross into the double yellow line.

CHAIR: I don't think you're alone in that, I think that it's --

MR. CLARK: Right, but --

CHAIR: -- a common occurrence for most if they someone on the side of the road, they try to --

MR. CLARK: Yes.

CHAIR: -- give as much space as possible, typically speaking. Speaking of which though, for Exhibit 58, Mr. Schmidt, do you have any objection to the admission of Exhibit 58?

MR. SCHMIDT: No. Mr. Clark, you were driving and this is your car you took this?

MR. CLARK: Yep, that is my 2007 Jeep Liberty.

MR. SCHMIDT: Okay. Okay, do you know this fellow?

MR. CLARK: No.

MR. SCHMIDT: Okay.

MR. CLARK: No, in fact, we have seen homeless people on there, you know, it's, it, you know, it just is.

CHAIR: Okay. So, fifty-eight is admitted.

MR. HOLZER: Thank you.

CHAIR: Sure thing.

MR. HOLZER: Now, now Mr., the Chairman has already indicated about a cyclist. We have a pictures, still pictures of the cyclist. Do you have a video or should I just show --

MR. CLARK: Well, the, the, the, the only reason, the only reason I would show the video is it would, is, is it shows clearly how people have to cross the road to avoid a cyclist, passing a cyc, when they're passing a cyclist.

CHAIR: Well, I'm going to caution everyone there, only that this cyclist video, if I'm reading fifty-one correctly, was taken on December 7th, which is after, of course, the November 29th --

MR. CLARK: Right.

CHAIR: -- day we had the review, the videos and everything, and therefore, Mr. Schmidt has not had the opportunity to see this video --

MR. CLARK: You're absolutely correct, yes.

CHAIR: So, with that in mind, first, let's show Mr. Schmidt the photos.

MR. CLARK: And we do have --

CHAIR: One second, Mr. Clark, there's no question pending.

MR. CLARK: Sorry.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Yes, sir?

CHAIR: In looking at these photos, do you have any objection to the photos?

MR. SCHMIDT: I do not.

CHAIR: All right. We can admit the photos then, Mr. Holzer.

MR. HOLZER: All right, thank you. Mr. Clark, --

CHAIR: So, as to the video, --

MR. HOLZER: Yeah.

CHAIR: -- Mr. Schmidt, what is your position on the video?

MR. SCHMIDT: I haven't seen it. I mean, if it shows this, is that what you're asking?

CHAIR: Well, I'm asking, do you want to have the opportunity to view the video?

MR. SCHMIDT: Mr. Clark, does the video show this? Is it the same deal that we just had with the guy walking?

CHAIR: Exhibit --

MR. CLARK: Yes, this is a screenshot from the video.

MR. SCHMIDT: Okay.

CHAIR: Fifty-nine is a screen shot from the video.

MR. SCHMIDT: Okay. I don't have, I don't have to see it.

CHAIR: Okay. Mr. Holzer?

MR. HOLZER: I'd like to show it.

MR. SCHMIDT: Oh, okay.

CHAIR: Then, that's why, what I'm hearing is --

MR. SCHMIDT: Then I'll watch it.

CHAIR: -- he's saying go ahead, show it.

MR. HOLZER: Thank you.

MR. SCHMIDT: Yeah, go ahead, show it.

MR. CLARK: Now, yeah, I don't know if you saw how far out a field the van had to go.

MR. SCHMIDT: Well, he wasn't crossing the center line, was he?

CHAIR: Well, hold on. We're not getting to a debate as to what the video is showing.

MR. CLARK: Yeah, he was, yeah.

MR. SCHMIDT: Okay.

MR. CLARK: Joyce, can you slow it down?

VOICE: I'm not sure.

MR. CLARK: Okay. There's the bicyclist, you just passed it.

VOICE: Okay.

CHAIR: I think what he wants you to do is go back a little farther, if you don't mind.

MR. CLARK: Right there, and go back a little bit further from there. Right.

CHAIR: That's good, probably there, right?

MR. CLARK: Yeah.

CHAIR: Okay, let it play.

MR. CLARK: Now, watch him cross, he cross, see how far over the line he was?

CHAIR: Okay.

MR. CLARK: And he's coming back into the line now.

CHAIR: Hold on, that, where we have stopped up there appears to more or less reflect what's fifty-nine anyway.

MR. CLARK: Um hm.

CHAIR: So, as to its interpretation, whatever someone's position is as to that, obviously we can see the photo, we can see the video, as to what it means, I understand because it seems to be there may be a dispute between Mr. Schmidt and, and Dr. Clark on that. We don't need to go into any argument as to --

MR. SCHMIDT: It shows what it shows.

CHAIR: It shows what it shows.

MR. SCHMIDT: Speaks for itself.

CHAIR: Thank you very much. All right. Is there anything more in that video you wish for, to show us?

MR. CLARK: No.

CHAIR: Okay. So, we're done with that video.

MR. HOLZER: Are there any other videos that relate to how the road is actually used and haz, and any hazards?

MR. CLARK: I lost my place.

CHAIR: We did pedestrians and we did cyclists.

MR. CLARK: Oh, oh, oh, oh, yes, there are. I would like to show you how tractor trailers have to, have to cross the double yellow line to make those turns, okay? First --

CHAIR: When you say make the turns, you mean go around the bend?

MR. CLARK: Go around the curves, yes.

CHAIR: Okay.

MR. CLARK: Okay.

CHAIR: So, let's start with fifty-one. Where would that be on fifty-one?

MR. CLARK: All right. Dash cam B low boy, right after cyclist.

CHAIR: Okay. So, this is, it would be on disc A-2. This is something that Mr. Schmidt would have received previously.

MR. CLARK: Correct.

CHAIR: And would have been able to see previously.

MR. HOLZER: And this is sixty? Yeah.

MR. SCHMIDT: Sixty. Mr. McComas, are you labeling these A and B when it's two pages? Or just sixty?

MR. MCCOMAS: I didn't (inaudible).

MR. SCHMIDT: Okay. Just --

CHAIR: Yeah, we just, we're just labeling it --

MR. SCHMIDT: Just calling it sixty? Okay.

CHAIR: We'll identify for the record if there are two pages as we, to the extent that that's needed.

MR. HOLZER: Right, right.

MR. MCCOMAS: My description I'm putting two pages, but I don't have A and B.

CHAIR: So, Exhibit 60 is two photographs, so when discussing them, if you're discussing a distinction between them, you have to specify page one, page two, Exhibit 60.

MR. CLARK: Yes, sir.

CHAIR: All right. So, with that in mind, what is it you want to tell us about Exhibit 60?

MR. CLARK: Sixty shows a, a heavy truck, a tractor trailer carrying heavy equipment and to make that, to make that turn down below they all always have to cross that line.

CHAIR: Correct me if I'm wrong here, in terms of orientation, but are we looking at the, more or less the same, this is after you pull out of your driveway and you're facing, bless you.

MR. SCHMIDT: Excuse me, excuse me.

CHAIR: You're facing south?

MR. CLARK: South and Hutschenreuter, we haven't hit Hutschenreuter yet.

CHAIR: Right, because if you compare page one of Exhibit 58 to page one of Exhibit 60, it looks to be roughly, you can see the similar features --

MR. CLARK: It's almost identical, yes.

CHAIR: Although you are closer in Exhibit 60 than you are in fifty-eight.

MR. CLARK: Yes.

CHAIR: Thank you. Bless you, Mr. Schmidt.

MR. SCHMIDT: Excuse me, I'm sorry.

CHAIR: Mr. Holzer, back to you.

MR. HOLZER: Are we going to show this video now or you want to describe these pictures first?

MR. CLARK: Pictures, page one of Exhibit 58, --

MR. HOLZER: Sixty.

CHAIR: Sixty.

MR. CLARK: -- sixty, page one of, of Exhibit 60 shows a tractor, a low boy carrying a piece of heavy equipment and in order to make that curve down there, he has to cross the double yellow line.

MR. SCHMIDT: And, and I just object in order to make that --

CHAIR: Please stand up if you're, if you're objecting.

MR. SCHMIDT: I'm sorry. In order to make that curve down there. I mean, it shows what it shows.

CHAIR: He, he's providing --

MR. SCHMIDT: He could be asleep, he could be drunk, he could be any number of things.

CHAIR: Mr. Schmidt, it's being received for what it is.

MR. SCHMIDT: Oh, what it shows.

CHAIR: For what it shows.

MR. SCHMIDT: I object to the commentary that this man couldn't make the curve driving this truck unless he crosses the center line.

CHAIR: Let me ask you this, Dr. Clark, have you seen other tractor trailers in this area?

MR. CLARK: That is my testimony.

CHAIR: Okay. So, the other tractor trailers you see in this area, what do you see of them as they come around the curve?

MR. CLARK: They all cut the curve.

CHAIR: And in a similar position, as to where Exhibit 60 --

MR. CLARK: Yes.

CHAIR: -- and the truck is shown?

MR. CLARK: Yes, sir.

CHAIR: On page one and two?

MR. CLARK: Yes, sir.

CHAIR: All right.

MR. SCHMIDT: Mr. Garber, I'm, I'm, I'm sorry. The photographs speak for themselves and I just object to the witness' embellishment, that's all.

CHAIR: And I under, and I understood that, Mr. Schmidt. And I was trying to get an understanding as to why he said what he said. And he has clarified that point. Mr. Holzer?

MR. HOLZER: I don't have anything to say.

CHAIR: Back to you.

MR. HOLZER: Okay. Are we going to show the video?

MR. CLARK: Yes, we should. And it, and, and to clarify, it is my testimony that trucks do that on a regular basis.

CHAIR: Well, you did testify to that slightly earlier but here we are --

MR. CLARK: Thank you, sir, yeah.

CHAIR: -- with the specific photos.

MR. CLARK: This is why we had photos. Oh, cut the sound, cut the sound. Sorry about that.

MR. HOLZER: For some reason there's a glare on it, I can't see anything.

CHAIR: I would agree with that.

MR. HOLZER: Can we turn the lights off?

MR. CLARK: This is coming out of my drive.

CHAIR: There we go.

MR. CLARK: Sorry, I should have made this snippet shorter.

CHAIR: It's quite alright.

MR. CLARK: All right. So, there's Harford Road and my, and Mark Lane.

MR. HOLZER: Did you stop at the stop sign?

MR. CLARK: I do. All right, and you'll start there.

CHAIR: All right. I assume that's what you wanted to show us?

MR. CLARK: Yeah, that's it, that's it, yeah.

CHAIR: Okay.

MR. CLARK: You can kill it, Joyce. Thank you.

MR. HOLZER: All right. Are there any other examples related to the road that we need to address?

MR. CLARK: Yeah, there's a, coming south from the traffic circle, okay? We have dash cam C, truck crossing.

MR. HOLZER: I don't see --

CHAIR: Which was taken October 22nd and it's on disc A-2, Mr. Schmidt therefore would have had the opportunity to have reviewed it in advance.

MR. CLARK: Right.

VOICE: Ready?

MR. CLARK: Yep.

CHAIR: No, hold on. Hold on. There are photographs.

MR. HOLZER: There are photographs.

CHAIR: Mr. Schmidt gets that first.

MR. SCHMIDT: Oh, thank you.

CHAIR: Thank you. Is this sixty-one? All right. Looking at photos sixty-one page one and two, what is it you want to tell us about those?

MR. CLARK: Well, page one I want to tell you that that wasn't supposed to be in there. I don't know why --

CHAIR: Page one is not supposed to be there?

MR. CLARK: Yeah. I don't know why I was concerned about the guy crossing, well, all right, leave it there. Because it shows how people cut to shoulder too.

CHAIR: Okay. So, going to, to page two of Exhibit 61.

MR. CLARK: And there you have the tractor trailer having to cut the curve, to cut the yellow lines there to make his turn. This is, this is the very turn that Mr. Collagero says is, is so dangerous.

CHAIR: Hold on. Again, to identify it, where is this in relation to this --

MR. CLARK: This is --

CHAIR: -- hold on, wait for my question. Where is this in relation to the subject property?

MR. CLARK: The subject property is on the left. It is just south of Bonaparte Ave and Harford Road, which is --

CHAIR: So, this is after the entrance way for the subject property?

MR. CLARK: Going south.

CHAIR: Right. And we should be, if we were to follow this photo along, your property will be up, well past where the tractor trailer is off on the right?

MR. CLARK: Correct, sir.

CHAIR: All right.

MR. CLARK: Thank you.

CHAIR: So, we now we have --

MR. SCHMIDT: This is sixty-one?

CHAIR: This will be sixty-one. So, we have the orientation of the photos.

MR. CLARK: Are, are heading south.

CHAIR: Yeah. No, we got that.

MR. CLARK: Okay. I'm sorry.

CHAIR: Yes, thank you. So, you want to then show us a video that shows --

MR. CLARK: Well, I would also draw your attention to the arrow mark.

CHAIR: Okay.

MR. CLARK: All right? That is --

CHAIR: There's an arrow mark in the top roughly center of the photo.

MR. CLARK: Right.

CHAIR: On page two.

MR. CLARK: Right. That is the, that is the very area that Mr. Collagero was so concerned about.

CHAIR: All right. Coming out of the circle?

MR. CLARK: Yep. I don't know why that's, oh, that's her, that's her computer. Sorry, Joyce. All right and there's Mr. Poehler's house on the left. There's Bonaparte on the right. There's the property entrance on the left. And there he goes.

CHAIR: Okay.

MR. CLARK: I will testify that I have seen --

CHAIR: Hold, there's no question pending. Mr. Schmidt, you have any objection to sixty (inaudible)?

MR. SCHMIDT: Not one bit, no, sir.

CHAIR: Those two are admitted.

MR. HOLZER: Do you have any exhibits of trucks crossing the line at night?

MR. CLARK: No, but I do have, showing what happens when the tractor trailers are going in the opposite direction at night.

MR. HOLZER: Okay and is that a video or just the pictures?

MR. CLARK: I think that's a video.

CHAIR: Okay. Where is that located on fifty-one?

MR. CLARK: That, that is dash cam D, night semi Glen

Arm.

CHAIR: That was taken June 28, 2018, therefore, located on A-2, Mr. Schmidt would have had a copy in advance, or been able to view it in advance.

MR. CLARK: Or do I, do I have a photo of it?

MR. HOLZER: You have, --

MR. CLARK: I, I probably, yes, --

MR. HOLZER: -- I can't, it appears there's only one page.

MR. CLARK: Yeah. Mr. Garber, I'm sorry, I was up real late last night.

CHAIR: That's quite alright, Dr. Clark. You can tell us when you receive the photo whether or not that's the photo you, you think may exist that shows what you're talking about.

MR. CLARK: Yeah.

CHAIR: So, photo, Protestant's Exhibit 62, which is one page photo at nighttime, what does it depict?

MR. CLARK: It depicts going east on Glen Arm Road up towards Harford, okay? And this is how narrow the roads are and at night you can see, you can just barely make it out in, in, in, with the contrast of this photograph. But that's the truck body and then my car is where the car is.

CHAIR: Okay, hold on. At the, where the arrow signs are at the top center of the photo, the, the only, really the

visible portion of the photo, is that Glen Arm or is that Harford?

MR. CLARK: That is Glen Arm.

CHAIR: So, Harford is past this point?

MR. CLARK: Harford is up the hill.

CHAIR: Right.

MR. CLARK: It, it's, yes, yes. About, about a quarter of a mile.

CHAIR: Okay. Mr. Schmidt, anything?

MR. SCHMIDT: No, sir.

CHAIR: Do you wish for this to be admitted?

MR. SCHMIDT: Yes, sir.

CHAIR: All right. Well, that was easy. So admitted.

MR. SCHMIDT: If you can tell what it is, that's fine.

CHAIR: Well, now we have a description as to where it is.

MR. SCHMIDT: Right.

CHAIR: Okay.

MR. SCHMIDT: Half a mile away or so.

MR. CLARK: Quarter mile away.

MR. SCHMIDT: Quarter mile away from Harford?

MR. CLARK: Yes.

CHAIR: Mr. Holzer?

MR. HOLZER: Okay. Do you want to show the video of --

MR. CLARK: Yeah, because, because there's questions about where the truck body is here.

MR. HOLZER: Right, okay.

MR. CLARK: So.

CHAIR: Well, I should ask this, you know, in relation to where the subject property is, I mean, this is, if it's a quarter mile away from Harford Road, therefore, it's an additional amount of distance away from the subject property.

MR. CLARK: Yeah, I, I'd say, as, well, as the crow flies, since that seems to be so popular, it would be half a mile.

CHAIR: Okay.

MR. CLARK: It's, it's in the, it's in the locale.

CHAIR: Okay.

MR. SCHMIDT: It's typical of the locale, of the roads in the locale.

MR. CLARK: Thank you, sir. I appreciate that.

MR. HOLZER: Are we going to show it?

MR. CLARK: Yes.

CHAIR: If you would, if you would like to show it.

MR. HOLZER: Just, go ahead.

MR. CLARK: Now, her, I'm sorry.

CHAIR: It's all right. Are you, are you on Harford

Road there or Glen Arm?

MR. CLARK: No, no, that's Glen Arm. That, the whole clip is Glen Arm.

CHAIR: On approach to Harford?

MR. CLARK: Yes, sir. And, you can, you can end it, Joyce. If you need to see it again, but, you know, the, the idea is is the clearances and all of that, you know.

CHAIR: Understood. Sixty-two has been admitted.

MR. HOLZER: Thank you.

CHAIR: Sure.

MR. CLARK: And, and I would like --

CHAIR: There's no question pending at the moment.

MR. CLARK: Okay.

MR. HOLZER: All right. Are, we're finished with the pictures of, of the road and the vehicles on the road, cyclists and so forth, is that correct? Yes or no?

MR. CLARK: Yes.

CHAIR: Hold on. Thank you. All right.

MR. HOLZER: Okay. Can we go to any testimony in regard to the sight, required sight distances and in terms of Mr. Collagero's testimony? Do you have any comments about that?

MR. CLARK: Yeah, yes, yes, I do. And this is just as someone who knows how to add two plus two.

MR. HOLZER: You're not an ex, traffic expert?

MR. CLARK: No, but I know how to subtract.

MR. HOLZER: Okay. All you knew is know how to add two and two and subtract, is that --

MR. CLARK: And sometimes I get five, but you know,--

MR. HOLZER: Okay, so --

CHAIR: Well, we'll, we'll cross that bridge when we come to it.

MR. HOLZER: All right. So, what is your comment about his testimony?

MR. CLARK: Well, his testimony on day three, he confirmed that both intersection sight distance and decision stopping distance cannot meet SHA requirements, all right? At the required forty-five and fifty miles an hour, okay?

MR. HOLZER: Do you --

CHAIR: With, hold on, with the existing, are you talking about from the existing entrance way?

MR. CLARK: And, and he said, no matter what they do.

MR. SCHMIDT: How, how about if the witness just testifies what he wants to say instead of giving us a description of what he thinks Mr. Collagero and what he thinks everybody else said? The record is what the record is. And he, if he wants to say whatever he, he wants to say but this, it's not even a question and answer, it's a speech and --

CHAIR: So you object?

MR. SCHMIDT: I do. It would be nice if he could

just testify.

CHAIR: Thank you.

MR. HOLZER: Let me go, let, let me rephrase it. Can you testify as to the facts that you're familiar with, having read Mr. Collagero's testimony on day three, and if you know where it was you can point that out, and why it may or may not be correct?

MR. CLARK: Yes. He test, he, he clearly testified--

MR. SCHMIDT: When?

CHAIR: Hold on. Mr. Schmidt, this is not cross examination.

MR. CLARK: On day three. On day three.

CHAIR: He's responding to Mr. Holzer's question. If you have an objection, you know you have to stand for objection and say you have an objection. Right now we're in the middle of Mr. Holzer's question to Dr. Clark. Dr. Clark started his answer so day three, Collagero testimony, go ahead.

MR. CLARK: Okay. He testified that at the specified speed, at, at the posted speeds, all right? He could not meet the five hundred and thirty-one foot requirement by the SHA for sight distances. And he also could not meet the decision, stopping sight dis, decision stopping distance.

CHAIR: Okay. The next question is what are you going to provide by way of testimony that either amplifies or contradicts or otherwise provides some type of insight into

that testimony?

MR. CLARK: Okay. We, we have his, we have his testimony.

CHAIR: Right. So, what are you saying, what are you saying about his testimony?

MR. CLARK: I'm saying it's incorrect.

CHAIR: Okay. How is it incorrect?

MR. CLARK: Or, not incorrect, I'm saying that he test, that, I'm, I'm restating the fact.

CHAIR: Are you, hold on, just to clear, clarify. Are you just saying Mr. Collagero testified to this, I agree with what he said? Is that, is in essence what I'm hearing?

MR. CLARK: Yes, and that he cannot meet the requirements.

CHAIR: Okay. Well, we obviously do not need testimony on that point.

MR. HOLZER: No, that's all it is.

CHAIR: Because it's in the record, it is what it is.

MR. HOLZER: Exactly.

CHAIR: Mr. Schmidt, I realize you are frustrated. It is okay, we understand what's going on and Mr., Dr. Clark has, whatever he wants to say about it, we've obviously identified where that was going and we have no need to go further with that point. It is what it is. Thank you. Mr. Holzer?

MR. HOLZER: Okay. So, you disagree, no, that's what you do. You're just saying, as I understand it, that he testified that he could not meet the State Highway requirements, correct?

MR. CLARK: Correct.

MR. HOLZER: Okay. So, you're not challenging what he said or any math analysis, --

CHAIR: Hold on. Again, again, this point we don't, it's, if it's in the, if it's in the record --

MR. HOLZER: I'll withdraw it, I'll withdraw the question.

CHAIR: I know. Just by way of illustration, here's what I'm understanding your testimony to be. We open the transcript, you're in essence taking a yellow highlighter saying this testimony, look at this.

MR. CLARK: Yes, sir.

CHAIR: Which is what Mr. Holzer will do in his closing memo.

MR. CLARK: Yes, sir.

CHAIR: Which is why we do not, please sit up straight too.

MR. CLARK: Oh, I'm sorry.

CHAIR: Thank you. Which we do not need to have testimony from you as to pointing out where in the transcript it may or may not speak to the issues of which you want to

raise to us. Mr. Holzer certainly will be pointing that out in a closing memo.

MR. HOLZER: Exactly.

CHAIR: On argument. So, you don't need to put that into the record. It is what it is.

MR. HOLZER: Right, thank you.

CHAIR: Sure.

MR. HOLZER: Are there any other aspects of Mr. Collagero's testimony that you either want to point out using a yellow underline, as Mr. Garber said, or disagree with?

MR. SCHMIDT: Objection. I mean, --

CHAIR: Hold on, Mr. Schmidt, hold on.

MR. SCHMIDT: -- I'm sorry --

MR. HOLZER: Well, I'm tired of --

CHAIR: Hold, everyone. Everyone hold on. There's an objection. We're doing this the proper way. Mr. Schmidt is standing up, he has an objection. What is the basis for your objection?

MR. SCHMIDT: Mr. Garber, as I understood your comments thirty seconds ago, you indicated to the witness that, and to Mr. Holzer, that it was not necessary for Mr. Holzer to ask this questions, question this witness about the points that he agreed or disagreed with Mr. Collagero on. As Mr. Holzer and no doubt I will point out by line and verse and page the sections of the testimony that we think are germane, where we

agree, where we disagree. I thought you explained that. The very next question we get is where else --

MR. HOLZER: (inaudible).

CHAIR: What?

MR. HOLZER: I'm bleeding. I hit my hand and I'm bleeding. I'd like to stop a second and go wash it off.

CHAIR: Okay.

MR. HOLZER: I was dripping all over my --

CHAIR: All right, all right.

MR. HOLZER: Can I take a one minute break?

CHAIR: We'll have, we'll have a five minute break to attend to this issue. And then we'll circle back to where we are. Do you need to go to the bathroom to rinse off --

MR. HOLZER: Yes, yes.

CHAIR: It's fine. We'll take, whatever you need --

MR. HOLZER: One minute.

CHAIR: Okay.

MR. HOLZER: I got a band aid, I'll put it on.

CHAIR: One minute break, we won't even leave, we'll stay right here.

MR. HOLZER: All right, thank you.

(RECORDING PAUSED – 02:28:41 PM)

(ON RECORD – 02:31: 56 PM)

MR. HOLZER: I apologize for screaming.

CHAIR: Nothing to apologize for.

MS. DOPKIN: Ready?

CHAIR: Yes, all right. We're, we're, yes, I see that. We are back on the record. Mr. Schmidt had objected. I understand the basis of the objection was it is the exact same type of question that was just objected to and sustained by the Board. Mr. Holzer, do you have any response to that?

MR. HOLZER: I didn't even hear it and I don't, I'll withdraw the question if that makes it easier.

CHAIR: Okay. In short, we don't need him to identify what he thinks we should, our attention should be drawn to because that, you'll be doing the same thing on, in your closing memo for your client.

MR. HOLZER: If I'm competent enough to do that.

CHAIR: I'm assuming, I've already assumed that to be the case.

MR. HOLZER: All right. All right. Let's, let's see if we can get through some more. Mr. Clark, in terms of any comments you'd like to make in regard to Mr. Collagero, and please sit up.

CHAIR: Thank you.

MR. HOLZER: Is there anything else, I, I'm sorry if I misunderstand the Board's ruling, but are there any other comments that you would like to point out that you disagree with Mr. Collagero, if that's, if I'm overstepping my bounds, let me know.

CHAIR: Well, you, I already know where Mr. Schmidt would be going with that question. He's not an expert to be able to, hold on. He's not an expert so is there something that he thinks factually was incorrect as part of his calculations or as part of his analysis that is different than what Mr. Collagero may have applied based on his experience and living within the area, or something to that effect.

MR. HOLZER: Okay.

CHAIR: Obviously, that would be fair ground. But if he's to critique Mr. Collagero's work, that is, you didn't apply the right formula, you didn't take into account the following things --

MR. HOLZER: Yeah, he's not an expert.

CHAIR: Right, that's where that runs afoul, that part of it. So, to steal what I'm sure to be Mr. Schmidt's thunder on that, let's confine it to factual matters that Dr. Clark would have some familiarity with.

MR. HOLZER: Gotcha. Are there any other comments relative to the traffic analysis, ab, absent your being a traffic expert, that you would like to do, persistent to Mr. Garber's clarification? Do you understand?

MR. CLARK: Yeah, I do.

CHAIR: Okay.

MR. CLARK: With trepidation. All right. When, when I test, when, when, I'm trying, I'm trying, I'm trying to, we

had, oh, that's what it was, it was at a preliminary motion, okay. But we had submitted maps, photographs and a statistical report generated by the Baltimore County Police Department --

CHAIR: I believe that was submitted into evidence.

MR. CLARK: Yes, it was.

CHAIR: It was used in cross examination of Mr. Collagero.

MR. CLARK: Yes, okay. So, so, so we submitted that and we had forty-one accidents.

CHAIR: Hold on. Are you going to be arguing about what was set forth within that document, which again, would be subject, what Mr. Holzer will be doing --

MR. CLARK: No, no, --

CHAIR: Or what, where are you going with this?

MR. CLARK: The only, the only thing, the only way we can, I can say is to say it.

CHAIR: Okay.

MR. CLARK: And Mr. Collagero, all right, now we had specified Mark, or Hartley Mill to Mount Vista Court. Mr. Collagero instead analyzed the, didn't even analyze, commented on thirty-one reports between Hutschenreuter Road and Mount, or Vista View Court, which was, which was apples and oranges.

CHAIR: In other words, the report that you, correct me if I'm wrong that this is what you're saying, the report that was submitted on behalf of Protestants spoke to a

different boundary than what Mr. Collagero did and, therefore, the two, if you compare them side to side, you're now talking about the same set of data from which --

MR. CLARK: Correct.

CHAIR: -- you can extrapolate whatever conclusions and analysis and everything?

MR. CLARK: Correct. Plus, plus we used a primary source of data. The, the Baltimore County Police reports, he testified he used some secondary source of data from some website.

CHAIR: Okay. So, with respect to this testimony, again, this is more of an argument that should be reserved for Mr. Holzer.

MR. CLARK: Yeah, okay.

CHAIR: On that point. I understand that there is a different, it'll be, there are some complications, we'll just put it like that.

MR. CLARK: Yeah.

CHAIR: To compare the two because you're talking about different roads and boundaries. Outside of that, is there anything else you wished to bring up then?

MR. CLARK: Yes, we, we did, we did pull all thirty-one written police reports.

CHAIR: Okay.

MR. HOLZER: Okay. Do you, in regard to that, you're

not proposing to discuss those at this point, are you?

MR. CLARK: No.

MR. HOLZER: Okay.

CHAIR: That was an emphatic no.

MR. HOLZER: Are there any, is there any other testimony presented by the Petitioners that you wanted to address under the conditions that the Board --

MR. CLARK: No, I, I, I, I, I think Mr. Garber is, you know, is, would, would say that the, that anything else I have to say would be covered in the, the, --

CHAIR: Would the argument reserved --

MR. CLARK: -- memo of law, right.

CHAIR: -- for Mr. Holzer. Okay.

MR. HOLZER: Is there any analysis of the, of Blue Iris videos that you choose to address now or can we do that at some other time, in some other way?

MR. CLARK: I, I, I, I think, this goes to the density of, of something, you know? All those Blue Iris videos are all showing --

CHAIR: And I'm lost here because I don't know what you mean by Blue Iris videos.

MR. CLARK: Oh, I, I'm sorry. That's when I set up the security camera at, at Ms. Foxworthy's to, to, to document --

CHAIR: The comings and goings of the vehicles.

MR. CLARK: Right, right.

CHAIR: Okay.

MR. CLARK: And, and, and that, and that just merely shows, is a record of the traffic that is introduced by these events. I don't, I think that probably fits in the memo of law.

CHAIR: Well, it would be, yes, I would, I would think that that would be something appropriate for the memo.

MR. HOLZER: Okay.

CHAIR: It's understood that these events had, you know, anywhere, whatever the numbers were, I'm not going to represent them because I don't recall that specific testimony.

MR. CLARK: Yeah, no, no.

CHAIR: But it was a greater volume than other days when there were not, when they don't have these festivals and events.

MR. CLARK: Well, and, and, and also what happens to southbound and northbound traffic that aren't going (inaudible).

CHAIR: Okay.

MR. HOLZER: In terms of Mr. Motsco's testimony, do you have anything that within the parameters of what the Board's outlined that you can address?

MR. CLARK: I think I do.

MR. HOLZER: Okay.

MR. CLARK: Okay.

MR. HOLZER: Could you articulate the first, I assume the first one?

MR. CLARK: Yeah. Mr. Motsco said he was unaware of any other proposed uses for the property. We have a, a draft that he provided to us in September and I --

CHAIR: September of ’18?

MR. CLARK: -- yeah, ’17, ’17, ’17.

CHAIR: Seventeen.

MR. CLARK: Seventeen, sorry, thank you.

MR. HOLZER: That Mr. Motsco provided.

MR. CLARK: Provided on, on, on the, on the 17th, or in July --

CHAIR: September 2017.

MR. CLARK: Thank you. And it, the endorsement does not say for a house of worship it says for a community center.

CHAIR: Okay. Do we have that document?

MR. HOLZER: And where is that document? Do we have it?

MR. CLARK: I think you’re being handed it.

CHAIR: And if we could show Mr. Schmidt first?

MR. HOLZER: Certainly.

CHAIR: And any copies to the Board.

MR. CLARK: Can I explain what --

CHAIR: Not yet.

MR. HOLZER: No, no.

CHAIR: Not yet.

MR. CLARK: Okay. I'm trying to save time.

CHAIR: I, no, I appreciate that. But we have to do this in a particular order so we don't get ourselves into trouble with other things. Okay, this is sixty-three, is that right, Mr. McComas?

MR. MCCOMAS: Yeah, it's going to be sixty-three, it's A through, call the first page sixty-three.

CHAIR: A?

MR. CLARK: A, yeah, then B, C, D, E, F, G. So, A through G.

CHAIR: All right. Mr. Schmidt, I see you have that in front of you. Dr. Clark, can you please identify what Protestant's Exhibit 63-A through G is supposed to be?

MR. CLARK: I need to see it, that's what I was saying.

CHAIR: You do not have a copy?

MR. CLARK: I do not.

MR. HOLZER: I didn't provide --

CHAIR: Here's an extra copy.

MR. SCHMIDT: This has been marked as sixty-three?

CHAIR: Sixty-three A through G.

MR. CLARK: Okay, all right.

MR. HOLZER: Now, before you go, answer that

question, is there another document that can explain what's on sixty-three?

MR. CLARK: We do have a, a copy that was submitted of this exact same drawing, okay? That was submitted at a later date in April of 2018, I believe, by Mr. Archia (phonetic), in support of his sign permit.

MR. HOLZER: Okay.

CHAIR: This will be sixty-four.

MR. HOLZER: I hope I gave you (inaudible) I think I did.

CHAIR: It's a one page document, correct?

MR. CLARK: Thank you, sir.

MR. HOLZER: That's correct.

CHAIR: Mr. Schmidt, I see you've had the opportunity to review it. So, Dr. Clark, Petitioner's, or Protestant's Exhibit 64, can you please identify what that is?

MR. CLARK: Sixty-four?

CHAIR: Yes.

MR. CLARK: This is a copy of the site plan submitted by Mr. Archia to the County when he applied for his sign permit.

CHAIR: Okay and what is it on sixty-four that you want to bring to our attention?

MR. CLARK: Well, sixty, all right, --

MR. HOLZER: I think --

MR. CLARK: I need to go back to sixty-three.

MR. HOLZER: -- with due respect, can he start with sixty-three?

CHAIR: I apologize.

MR. HOLZER: He hadn't done that.

CHAIR: Correct, sorry. Back to sixty-three.

MR. CLARK: All right. All right. Sixty-three is actually a series of pages showing a photo micrograph of the endorsement in the upper right hand corner.

CHAIR: Okay.

MR. CLARK: All right? Now, I'm sorry about the resolution and I think we have a better blowup of sixty-four. Mary, do we? And I apologize, but that's, I, I had, as you can see, I had to use a high power microscope to, to be able to read the endorsement, but basic, what the, what the endorsement said, req, requests, doesn't request a house of worship, it requests a community center for educational activities. And that is exactly the same document they provided to the County in support of their sign permit. So, Mr. Motsco knew that there were other, other proposed uses for this property.

MR. HOLZER: Before you make the objection, could I at least --

MR. SCHMIDT: I don't even know what it is. I don't even know what this is. I can't even read it.

CHAIR: All right, hold on, hold on, hold on,

everyone, okay. Mr. Schmidt, I understand 63-A through G you have an objection. But he, he just said --

MR. SCHMIDT: Mr. Garber, if, I believe, I believe this is Mr. Clark's microscope.

CHAIR: Yes, that's what his testimony was.

MR. SCHMIDT: And he, he apparently is enlarging this document. Since he has the document, wouldn't the best evidence rule, why doesn't he give us this document?

CHAIR: Hold on, hold on, sir. Hold on, sir.

MR. HOLZER: You already have it.

CHAIR: Hold on, sir.

MR. SCHMIDT: I mean, I, I can't, I don't even know what this is saying. I can't read this.

CHAIR: Look, Mr. Schmidt, Mr. Schmidt? We have the same copy as you. That's all I can tell you is that we have the same copy as you. It is as legible to us as it is to you, as to Mr. Holzer, as to Dr. Clark. Dr. Clark, I'm taking from the gesturing that's going on, sixty-four would be an eight and a half by eleven print, or copy, of the plan that's shown on 63-A, is that --

MR. HOLZER: That's correct. And I'm being interrupted before I even can complete it because this document, which I only have one page of, is a reflection of, of, of what is marked as Protestant's Exhibit 37, already in the evidence.

CHAIR: Okay.

MR. HOLZER: And it's a blowup --

CHAIR: Well, hold on. Let's, let's get that testimony from Dr. Clark.

MR. HOLZER: No, I, no, because he's making objections. I have a right to, to explain. He interrupted before I even got the third document in.

CHAIR: Hold on. Let's hit the reset button here. Here's my understanding of where we're at. Mr. Schmidt was, I heard him audibly complaining that he could not make heads or tails as to what was going on with sixty-three and sixty-four. I understand you have an explanation for that, but I understand there's one person probably in this courtroom who even has that explanation that we can get on the witness stand to say what that explanation is. Dr. Clark. He can probably tell us as to what's going on and we can clear this up and have it on the record and have it come from the witness.

MR. HOLZER: Sounds good to me.

CHAIR: Right. So, let's do that.

MR. HOLZER: So, I cannot give the Board this copy.

CHAIR: Hold on. May I have what, what you have there? Have you shown Mr. Schmidt first?

MR. HOLZER: No, because I interrupted.

CHAIR: Go show Mr. Schmidt, go show, okay. Fine. Go show, Mr. Schmidt.

MR. SCHMIDT: Mr., I was answering Mr. Garber's questions.

MR. HOLZER: Yeah, you were.

CHAIR: So, what has been labeled as Protestant's, Protestant's Exhibit 38.

MR. HOLZER: Thirty-seven and thirty-eight, that's correct.

CHAIR: Okay.

MR. MCCOMAS: It's thirty-eight.

MR. HOLZER: Yeah, is what --

CHAIR: Okay. Are they the same document?

MR. HOLZER: Yes.

MR. CLARK: Yes, sir.

CHAIR: Okay.

MR. HOLZER: Yes.

CHAIR: So, Mr. Schmidt, --

MR. SCHMIDT: Then why are we reintroducing them again?

CHAIR: -- hold on, everyone, hold on. Everybody. I'm asking counsel, Dr. Clark, just hold on one second. One at a time. Mr. Schmidt, do you have Protestant's Exhibit 38? Do you need a copy?

MR. SCHMIDT: If you have a copy that would be wonderful, I may have it somewhere in here, yes, sir. But I, I don't have it right in front of me.

CHAIR: Unfortunately, I dropped my file of exhibits and it's now all scattered so. Here you go. Yeah, why don't you give him the file one.

MR. MCCOMAS: Here's the file one.

MR. SCHMIDT: Thank you, Mr. McComas.

CHAIR: Thank you. All right. Now we all have the same playing field.

MR. SCHMIDT: Okay.

CHAIR: As to where we are. Now we can start proceeding with the questions.

MR. HOLZER: I don't have this, thirty, is it thirty-seven?

CHAIR: Thirty-eight.

MS. DOPKIN: Thirty-eight.

CHAIR: That particular page.

MR. HOLZER: Okay. I don't have more copies of it.

CHAIR: It's, it's already in the record.

MR. HOLZER: Okay.

CHAIR: It's already in the record.

MR. HOLZER: So I don't have to worry about it. So, if I may proceed, I would like to ask the witness, number one, can you identify exhibit number sixty-three and why it's in? Can you identify Exhibit 64 and what it shows? And can you identify what has been marked as thirty-seven, thirty-eight and its relevance to your testimony?

MR. CLARK: I answer yes to all the above.

MR. HOLZER: No, you answer what I asked you.

CHAIR: I understand what, let's, look at, look at sixty-four, please.

MR. CLARK: Yes.

CHAIR: In the upper right hand corner, there is a bunch of writing.

MR. CLARK: Yes.

CHAIR: Okay. Is that what Protestant's Exhibit 38 is?

MR. CLARK: Yes.

CHAIR: All right. Then explain Protestant's Exhibit 63-A, there's a, a plan that's identified in that photograph, correct?

MR. CLARK: Yes.

CHAIR: What is that plan and what is that plan's relationship with sixty-four and thirty-eight, Protestant's Exhibit 38?

MR. CLARK: That, sixty-three --

CHAIR: A.

MR. CLARK: -- A, shows the plan that was distributed at, at the September 2017 meeting.

CHAIR: Okay. Is that what Protestant's Exhibit 64 is?

MR. CLARK: Sixty-four is the exact same plan

submitted to the County in April of 2018 by Mr. Archia in support of his sign permit.

CHAIR: Okay. So, sixty-four may not be what's in sixty-three, correct?

MR. CLARK: It's not the same copy.

CHAIR: That's my question. Then thirty-eight is tied to sixty-four?

MR. CLARK: Yes.

CHAIR: And not necessarily sixty, sixty-three?

MR. CLARK: The, six, the Archia document and the document shown in this are the same, are, are copies of the same document.

CHAIR: I, I, okay.

MR. HOLZER: Yeah.

CHAIR: Mr. Holzer, maybe you could answer this.

MR. HOLZER: Sure.

CHAIR: Where did you get Protestant's Exhibit 38 from?

MR. HOLZER: We got Protestant's Exhibit 38 from the County itself. It was produced and submitted by the Petitioner to the County which shows --

CHAIR: I, I understand that. Which, what, where did, what is the physical document in which, from which it came from? From which it came?

MR. HOLZER: Came from --

CHAIR: Did it come from the Archia signed Petition or did it come from the September 2017 plan?

MR. HOLZER: Yeah, from the Archia Petition.

CHAIR: Okay. So, thirty-eight is tied to sixty-four.

MR. HOLZER: They're all three the same.

CHAIR: I, right, but he's saying that there are differences between sixty-three, the plan that's shown in the photo, and sixty-four.

MR. HOLZER: With all due respect, my client is wrong.

CHAIR: Okay. Mr. Schmidt, --

MR. HOLZER: Because basically --

CHAIR: -- I'm going to grant your objection as to sixty-three on that, or sustain your objection on that. Sixty-four is tied to thirty-eight, thirty-eight is already in evidence. Sixty-four will be received and admitted.

MR. MCCOMAS: So, is sixty-three i.d. only?

CHAIR: Sixty-three i.d. only.

MR. HOLZER: That's fine.

CHAIR: Because they, if they are different, if there's any differences we, it's not fair to Mr. Schmidt to not have that present here in Court. But since thirty-eight is already in evidence --

MR. SCHMIDT: Right, right.

CHAIR: -- and sixty-four is tied to thirty-eight.

MR. HOLZER: That's correct.

CHAIR: Specifically, sixty-four will be received into evidence and that's admitted.

MR. HOLZER: Thank you.

CHAIR: Okay, Mr. Schmidt? Did you get that?

MR. SCHMIDT: Yes, sir.

CHAIR: Sixty-three out, sixty-four in.

MR. SCHMIDT: Yes, sir.

CHAIR: All right.

MR. HOLZER: Now, now as a result of that exercise, what is your purpose for not only introducing sixty-four, but recalling thirty-seven or thirty-eight?

MR. CLARK: The, that Mr. Motsco did not reveal that he knew other purposes for the, he, he stated he didn't know of any other uses for, of any other possible uses for the property.

MR. HOLZER: Other than what?

MR. CLARK: Other than as a house of worship.

MR. HOLZER: Okay. Now, how is that testimony refuted by this, these documents?

MR. CLARK: They show that, that there were, that there was, they document that, I'm trying to figure out how to --

MR. HOLZER: Well, Mr. Clark, --

MR. CLARK: Yeah.

MR. HOLZER: -- let me make it real easy for you.

MR. CLARK: Please.

MR. HOLZER: Okay. Read what is on the, the documents submitted by the Petitioners to the County.

MR. CLARK: Oh, okay, okay, thank you, sir.

CHAIR: Thir, thirty-eight, I believe, is the one that's (inaudible).

MR. CLARK: Yeah.

MR. HOLZER: That's correct.

MR. CLARK: Special exception relief pursuant to Section, Baltimore County zoning regulations, to allow community building owned by non-profit civil improvement association used by its members and guests for recreational, social, educational or cultural activities in an RC-2 zone, and for a church or other building of the religious, of the religious worship.

MR. HOLZER: Okay. Now, was there subsequently something else submitted to the County that excluded the first part of that and only referenced a church or a house of worship?

MR. CLARK: Yes, this, the, the, this zoning app, this special exception application.

MR. HOLZER: Okay and do you know the dates where it was, from when it was originally submitted to when it was

changed to, or not changed, when it was only related to a house of worship? What's the time sequence?

MR. CLARK: Well, I would imagine --

CHAIR: Hold on.

MR. HOLZER: No.

CHAIR: Right.

MR. HOLZER: Don't answer imagine.

MR. CLARK: Okay.

MR. HOLZER: You know or you don't.

CHAIR: How about this, Mr., Mr. Holzer. Mr. Holzer, how about this? The plan that was submitted by Mr. Motsco on day two, I might take a guess, but it was certainly posted up on day one. Is there a difference between what was shown to this Board and what is reflected in sixty-four?

MR. HOLZER: No.

CHAIR: Okay. Is there a difference --

MR. HOLZER: There, there, yes, there's a difference between what was submitted as a Petition for purpose of the use of the property to a, subsequently to a religious house of worship.

CHAIR: So that was, that which accompanied the signed Petition has some difference compared to what was presented to this Board in terms of the ultimate use, is that my understanding?

MR. HOLZER: That's correct.

CHAIR: That would be a matter for argument for purposes of, today we don't, I don't know that Mr. Clark needs to, again, identify where Mr. Motsco is incorrect since it's already --

MR. HOLZER: He doesn't.

CHAIR: -- established in the record but getting the document in, I understand why you wanted to do that. Mr. Schmidt, you're standing, you want to say something.

MR. SCHMIDT: I do. I want to say that none of these documents, except the original site plan, has Mr. Motsco's seal on it. So, I don't know whether, the witness keeps talking about Mr. Motsco. Mr. Motsco may have prepared this plan or it may have been prepared by somebody else at Little & Associations, I don't, we don't know.

CHAIR: Well, it --

MR. SCHMIDT: More to the point, if I can be heard?

CHAIR: Sure, please.

MR. SCHMIDT: Even assuming arguendo that everything that Mr. Clark says is true, the $64,000 question is, so what? An applicant prepares a preliminary plan and subsequently files another plan that has different information on it. This Board has seen redlined plans which have changed from when they were submitted to the County to when they get to, to this Board.

CHAIR: I just saw a redline and green line plan.

MR. SCHMIDT: And, and --

CHAIR: Showing that very point.

MR. SCHMIDT: -- so there are plans that evolve. So, there, there's some big aha moment here that, at some --

CHAIR: Well, okay --

MR. SCHMIDT: -- point in time, Little & Associates prepared --

CHAIR: Mr. Schmidt --

MR. SCHMIDT: -- an unsealed plan, if I may be heard for the record.

CHAIR: I'll, well, hold on. I'll stop you there because this is again argument for purposes of, for the memo --

MR. SCHMIDT: It's not. It's argument as to admissibility, because it's simply got no relevance to this case. So what if this is true?

CHAIR: Okay.

MR. SCHMIDT: How does it bear on the ultimate issue in this case? It does not.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Yes, sir.

CHAIR: I, you heard me just say to Dr. Clark, this is a matter for argument for purposes of memos. Same thing, you are aware of this argument, you know what they're going to say. This is not something for the first time that we are hearing that they may use it for community center purposes. Mr. Holzer has been saying that repeatedly for several days

now, that that is, in fact, what some of the people on this side of the aisle, they believe is going to happen. That it's not going to be just limited to religious use.

Your argument is, no, it will be limited to religious use. Mr. Ghimire has testified to that and whatever else it is under the sun. That's what the nature of the dispute is. As to whether or not it has any affect whatsoever, whatever was prepared on some day prior to whatever was submitted, or if there have been changes since, as to the affect of the earlier documents to us, I understand your argument. But I mean, again, we're not, this witness is not going to shed any more light on those points. And I've already ruled that he cannot go into any more detail on these points because it's a matter for argument.

MR. SCHMIDT: Well, why are you allowing him to continue to testify about it --

CHAIR: I just said no, I --

MR. SCHMIDT: -- and, and introduce all these exhibits?

CHAIR: Okay. Maybe I, I'm sorry if I've not been clear. We just crossed that Rubicon where I've said this is a matter that's proper for argument.

MR. SCHMIDT: Very well.

CHAIR: Not for testimony.

MR. SCHMIDT: Thank you.

CHAIR: I have agreed with your position in that regard.

MR. SCHMIDT: Okay. Thank you, Mr. Garber. I apologize if I misunderstood the Chair's ruling.

CHAIR: No, I, perhaps I'm not communicating correctly, but I understood what Mr. Holzer was trying to accomplish and he needed to, he felt he needed to get some of the documents in to make that argument for purposes of his memo.

MR. HOLZER: They've already been in and the witness was trying to articulate why, from his perspective.

CHAIR: Yes.

MR. HOLZER: I understand.

CHAIR: We're all, we're all at the same page at the present time. So, we have this --

MR. HOLZER: Yeah, but unfortunately, that isn't the end of the story. The end of the story is there were things that produced the change from that document to the Petition.

CHAIR: Then we --

MR. HOLZER: Which I intend to get one way or the other because it --

CHAIR: Mr. Holzer --

MR. HOLZER: -- shows some --

CHAIR: Mr. Holzer --

MR. HOLZER: -- impropriety.

CHAIR: Mr. Holzer, I'm not, we've not, there's no ruling on that stuff yet.

MR. HOLZER: I know there's not.

CHAIR: Right, so you have the opportunity to try to go down that road and then if it causes an objection, we'll deal with it accordingly. We've all, now on the same page. We've reached a moment of harmony on this issue, let's move forward so we can try to get through this and prevent Dr. Clark from having to do a day three of testimony as best as possible.

MR. HOLZER: Okay.

CHAIR: So, with that in mind, I understand there may be other points you wish to raise but this is where we're at now. We don't need to hear, you know, what we just went through from Dr. Clark because that's a matter for you for argument and purposes of your memo. If there are --

MR. HOLZER: Oh, it's for me for more than just an argument, (inaudible) --

CHAIR: Perhaps. But if, if you have other points you wish to raise, now is the time.

MR. HOLZER: I will, I will, thank you.

CHAIR: Thank you.

MR. HOLZER: Thank you, Mr. Chairman.

CHAIR: Sure thing.

MR. HOLZER: All right. Was, was the testimony of Mr. Motsco, in your opinion, your recommend, your recollection,

did it inform the Board about the National Historic District?

CHAIR: In other words, hold on. Here's how I'm hearing this question. Did Mr. Motsco present information that this is a historic property? There is, obviously, there's already in evidence evid, documentary evidence, that it is, in fact, the barn and the site are on the historic register for the State, from what I recall?

MR. HOLZER: Correct, correct.

CHAIR: That has been presented into evidence, whether it came from Mr. Motsco or elsewhere, I, frankly I don't recall off the top of my head. Why is that being directed to this witness?

MR. HOLZER: Because the question was, does Mr. Motsco indicate to the Board in his analysis, and his drawing of a conclusion, that this was not a problem from the standpoint of historic issue? Did he address National Historic District? The answer is either yes or no. It's a simple question.

MR. CLARK: No, he did not address the, that it is, in fact, in a National, on the National Register as a national historic district. In fact, he said in his endorsement that it was not in a National Historic District.

CHAIR: Okay. We're now, so now we're talking about two different points. I referred to the registry for the State and I specifically referenced the property. You're saying

national historic district.

MR. CLARK: Yes, sir.

CHAIR: So, that is something different than the property.

MR. HOLZER: And he never mentioned it.

CHAIR: Okay, I'm with you now.

MR. HOLZER: Okay. So, the point of the matter is the witness has testified, his recollection, he never mentioned national historic district.

CHAIR: How do you know that this is within the historic district?

MR. CLARK: We have, we have the listing and we have the map.

CHAIR: All right, let's --

MR. HOLZER: Do we need to produce that now? Do we have it?

CHAIR: I would think you will need to produce that.

MR. HOLZER: Well, I just, I'm having problems --

CHAIR: I understand.

MR. HOLZER: -- in understanding how far I can go and how far I can't go.

CHAIR: We'll work through it, but we need to know the basis as to how he, why Dr. Clark thinks that this is in a historic district.

MR. HOLZER: This is already in? Oh, I don't have to

worry, it's already in. Protestant's thirty-nine.

MR. CLARK: Can I see it?

MR. HOLZER: Take a look at it.

CHAIR: Dr. Clark, if there's no question pending --

MR. CLARK: I'm sorry.

MR. HOLZER: I mean, --

CHAIR: Do you need to address further questions with him?

MR. HOLZER: No. It's Protestant's thirty-nine. If the Board takes a look at thirty-nine, it's clearly listed there and yet Mr. Motsco did not include that analysis in his testimony that everything was (inaudible) --

CHAIR: Okay. Well, that's going back to argument.

MR. HOLZER: Yeah, it goes back to the argument.

CHAIR: But you want to elicit the fact that it is within the historic district (inaudible) Protestant's Exhibit 39 supports --

MR. HOLZER: Yes.

CHAIR: -- Mr., or Dr. Clark's testimony?

MR. HOLZER: Exactly.

CHAIR: All right. So we can move on from there.

MR. HOLZER: And I, and I need that to be able to make in the memo --

CHAIR: Yes.

MR. HOLZER: -- the (inaudible) --

CHAIR: Understood, Mr. Holzer, yes.

MR. HOLZER: Okay, thank you.

CHAIR: Just trying to help move that through. So, yes, now we understand.

MR. HOLZER: All right. Mr. Motsco also did not, well, did he testify about the nature of the roadbed and the surrounding area?

MR. SCHMIDT: Mr. Garber, I'm just going to note a continuing objection to the, these questions about Mr. Motsco and what he said.

CHAIR: I would, I would suggest, if, if I can, the appropriate way to ask the question is, is there any testimony you wish to give, sir, about the roadbed and this, don't worry about what Mr. Motsco said or did not say.

MR. HOLZER: All right.

CHAIR: We could avoid the objections, --

MR. HOLZER: I was trying to --

CHAIR: -- because the record would be clear what Mr. Motsco has testified to or not.

MR. HOLZER: Okay, all right. That's the question.

CHAIR: Is there anything you would wish to tell the Board about the roadbed, sir?

MR. CLARK: Yes, sir, there is.

CHAIR: All right. What is it you wish to testify about the roadbed?

MR. CLARK: All right. The, the roadbed has been there for well over two hundred years. It, it has been, in the turn of the century it was called World's End Hill. It has not been changed. World's End Hill was a reference to the fact that the wagons had to stop at the barrier, at, at Mount, at what is now the circle, and get their brakes and hooves checked before they went down the hill, otherwise they wind up off the, off the side. There is, that, that was the --

MR. HOLZER: Well, excuse me.

CHAIR: One second, sir. Mr. Holzer?

MR. HOLZER: Could, could you explain down what hill we're talking about?

MR. CLARK: Oh, down, down, down, down, down the grade from Mount Vista down to the valley floor.

MR. HOLZER: Okay.

MR. CLARK: There is a historic, well, no, there is a, it's actually protected by the Maryland Historic Trust, there is a mile marker from the turnpike days. In fact, it's on the, it's on the, it's, it's on their property in the easement.

CHAIR: I believe that's already in evidence, the photo of the mile marker.

MR. CLARK: Right.

CHAIR: From what I recall.

MR. CLARK: And I think, did, did we put into

evidence the, the, --

CHAIR: I'm sorry, sir, you can't ask him questions.

MR. SCHMIDT: That's already in.

MR. HOLZER: That's all right.

MR. SCHMIDT: I mean, why are --

MR. HOLZER: Just because --

MR. SCHMIDT: -- we introducing exhibits that are already in?

MR. HOLZER: I'm not introducing it. If you would let me finish, I would explain to you that I want to show it to him.

CHAIR: Mr. Schmidt, I understand you're frustrated, please.

MR. HOLZER: He's frustrated?

CHAIR: Please. Let's move this forward. Mr. Holzer, continue.

MR. HOLZER: Protestant's Exhibit 41 was introduced. Are you familiar with it?

MR. CLARK: Yes, I, I took that picture.

MR. HOLZER: And did you just testify that there was a historic mile marker on the property?

MR. CLARK: Yes.

MR. HOLZER: On the road?

MR. CLARK: On the road.

MR. HOLZER: And what, and did you testify any time

prior to this why you think that's significant?

MR. CLARK: It's, yes, it is a relic of the days when it was a turnpike, when it was the Harford/Baltimore Turnpike.

MR. HOLZER: Okay. Now, where is that locate, where is it loc, located?

MR. CLARK: It is located right in the easement for Harford Road on their, on the east side of Harford Road, on their property.

CHAIR: Is it more or less across the street from your driveway?

MR. CLARK: Yes, sir.

CHAIR: I do recall that testimony.

MR. HOLZER: Right.

MR. SCHMIDT: Didn't he, Mr. Garber, I'm just trying to remember, and perhaps I forget, but didn't he testify about this before?

CHAIR: I just said that, the very thing.

MR. SCHMIDT: Well, why are we asking the same question?

CHAIR: I, I'm assuming these are foundational questions --

MR. HOLZER: Right.

CHAIR: -- to set up something else. I'm giving the leeway because I'm assuming they're foundational since that testimony was on November 1st and here we are January 29th,

(inaudible), are we still on the 29th? Has it turned into February yet? All right.

MR. HOLZER: I have no idea.

CHAIR: All right. So, where are we going with this to, to, to take Mr. Schmidt's point one step further, where are we going with this in terms of why, why are we talking about Exhibit 41, which is already into evidence?

MR. SCHMIDT: And came in, I think, through Mr., Mr. Clark's testimony before.

CHAIR: Right, which is how we --

MR. SCHMIDT: I think he was the witness who introduced it.

CHAIR: I, and I seem to have the same recollection, because that's why I recall that it was directly across from his driveway.

MR. SCHMIDT: Right.

CHAIR: So, Mr. Holzer, where are we --

MR. HOLZER: I forgot that two months ago, --

CHAIR: Okay.

MR. HOLZER: -- he introduced it.

CHAIR: Okay. So, --

MR. HOLZER: When I saw that it was marked as exhibit, I wanted him to explain.

CHAIR: It's understood, it's understood, it's understood. Objection is sustained. Mr. Holzer, please move

on.

MR. HOLZER: All right. Now, moving on, do you have any testimony that you would like to introduce that has not been testified before two months ago when you were on the stand, in regard to the Petitioner's association and what you would like to comment on about that?

MR. SCHMIDT: Objection. I have no idea what the question means.

CHAIR: First of all, Mr. Schmidt, stand when you object.

MR. SCHMIDT: I did.

CHAIR: Thank you. Mr. Holzer, I don't understand your question. Where were you, can you say it again, please? And I, I apologize for that.

MR. HOLZER: The NAACB, Inc. has raised issues and Mr. Schmidt did it today, in regard to Mr. Morgan's testimony--

CHAIR: I just didn't understand your question.

MR. HOLZER: Huh?

CHAIR: You can ask the question again, I just didn't understand it.

MR. HOLZER: Oh, oh. Okay. Applying your analysis of the Petitioner's Association, do you have any testimony or comment about where their members live?

MR. SCHMIDT: Objection. I still don't understand the question.

CHAIR: What information do you have regarding where, where Petitioner's Association members live?

MR. CLARK: Yeah, thank you.

CHAIR: What information do you have?

MR. CLARK: Can, can I just testify about what I --

CHAIR: You can testify as to answering the question I just asked.

MR. CLARK: Okay.

CHAIR: What information do you have?

MR. CLARK: Currently, none of them live within five miles. Mr. Clarke has sold his property, he has moved. So, there is no, there is no one in the association, or in the community center, who live within quite a distance of the property.

CHAIR: I need to ask you, because you used the phrase community center, are you referring to the community center on Taylor Road or are you referring to the subject property?

MR. CLARK: I, yeah, okay. I, I'm referring to the subject property.

CHAIR: All right. So, there is nobody, to your knowledge, of any member of Petitioner's organization that lies within five miles of the subject property.

MR. CLARK: An analysis has shown of the sign in sheets, okay? Shows that they are from Parkville, Rosedale,

White Marsh and there's even some from out of state.

CHAIR: Okay. Why, what is it about that fact that you find significant to bring to our attention?

MR. CLARK: Okay. This property, or this, this function does not provide any value to the community, to the locale, provides no benefit to the locale. While at the same time, creates quite a bit of disturbance to the locale. We pay, we are paying the price and we get no benefit.

CHAIR: Okay. So, tie it, if you can, I'm sorry, Mr. Schmidt, you were standing.

MR. SCHMIDT: I just want to say, Judge, Mr. Garber, that Mr. Clark's analysis is the precise analysis which Judge Rita Davidson in the seminal case of *Schultz v. Pritz* held was not the criteria by which a special exception should be adjudged. That is, whether there is any value brought by the special exception to the subject locale. Therefore, Mr. Clark's testimony in this regard has no relevance because it has nothing to do with the issue that this Board, nor the standard that this Board needs apply to the special exception case.

CHAIR: Well, my follow-up question, (inaudible) follow-up question just before you objected, was going to be and still is, how would, tie that, what you just said, whatever information you want to convey to us, to a special exception factor to make that relevant for the Board's consideration?

Can you do that?

MR. CLARK: Yeah, that, that's actually later in the testimony, but I, let --

CHAIR: Well, that's, it would be preferrable if we had that now.

MR. CLARK: Yeah, I'm, I'm trying to find it, sir.

CHAIR: Yes.

MR. CLARK: Okay. 502.1(A), sound and disturbance. The, all the events again sound and disturbance. Creating congestion on roads and alleys, B. Drivers unfamiliar with area. Drivers unfamiliar with hazards on the roads. Inadequate sight lines. Create a potential fire, hazard from fire, panic or other danger. And then, I will be covering detrimental to the environment, natural resources of the site and vicinity, including forests, streams and wetlands.

CHAIR: Okay. Well, let's get into that now because here's what I'm, I understand the concerns you just outlined in 502.1 which, frankly, really is the major part of your testimony --

MR. CLARK: Correct.

CHAIR: -- is what your concerns are, how it, this proposed use impacts, how it impacts you but also how it impacts the general vicinity and that particular to this property as opposed to other properties within a similar zone, or within the zone, okay?

MR. CLARK: Okay.

CHAIR: So, with that in mind, you've identified sound and noise, general welfare, creating congestion, hazards on roads, inadequate sight lines, create potential for fire, panic or danger, but the one you have not yet discussed is the environment, forest, streams, detrimental to those things.

MR. CLARK: Right.

CHAIR: What, let me ask you first, your, do you have any, I mean, any evidence you're going to offer, is it being offered as an expert witness?

MR. CLARK: No.

CHAIR: All right. So, these are all lay opinions or lay testimony that you're about to give. What is it you want to tell us about how you believe the proposed use will be detrimental to the environment, forest, streams, etcetera?

MR. CLARK: I, I wasn't really prepared --

MR. HOLZER: Well, objection. He's not ready.

MR. CLARK: Yeah.

MR. HOLZER: He just testified he wasn't ready to, to do that.

CHAIR: I, I, okay.

MR. CLARK: Yeah.

MR. HOLZER: I think you misunderstood what he said.

CHAIR: No, I, I, I did understand that --

MR. CLARK: Yeah, yeah, I think you did.

CHAIR: -- I'm just confused as to why we're not ready to deal with that. Because we have heard certainly ample evidence, not just from Protestants, but from you about the noise, about the traffic and the potential for danger. Right?

MR. CLARK: Right.

CHAIR: We've seen the videos, we've heard audio, we've heard your testimony, in addition to all the other Protestants who have come in to talk about the potential for noise, the potential for traffic, and the potential dangers. So, we've heard a lot of evidence on these points. The one thing I have not heard yet is anything about the environment. Is there a reason why you're not able to talk about that now? Because I'm trying to understand where all this is going in terms of the 502.1 --

MR. CLARK: I, I know, I know.

CHAIR: -- analysis and what you have in between, if we're, we've covered three of these grounds and there's a fourth ground, why are we not able to get to that at the moment?

MR. CLARK: All right.

CHAIR: What did you expect to offer in terms of testimony?

MR. CLARK: Yeah, no, I, I know, I know, I know.

CHAIR: I'm trying to work with you on this.

MR. CLARK: I, I --

CHAIR: Is there something I'm missing here that you wanted to testify about --

MR. CLARK: No, you're not.

CHAIR: -- that you've not otherwise identified?

MR. CLARK: You're, you're not, you're not. You just, you just caught me off script.

CHAIR: Okay.

MR. CLARK: Okay? That's the only problem.

CHAIR: I apologize for catching you off script, but it seems to me that was a logical next step.

MR. CLARK: Yeah.

CHAIR: Do you need, do you need a minute to compose, to go find whatever documents you need for your testimony?

MR. CLARK: It, it would help.

CHAIR: All right. So, let's do that. We will take five minutes to get that stuff ready and I'm sorry to have to cut it off, but I'm trying to actually get to where we're, where we need to go with this case. We have heard a lot of evidence about the noise, about traffic, about danger. We've received the videos, we've received the photos, we received audio. We've received a bunch of things and I'm assuming you still, you may even have one or more other ex, or excuse me, witnesses who may testify to some or more of these points, not to mention expert witnesses. So, from Dr. Clark, since he has now identified environmental issues that he wishes to give a,

his testimony about, let's get to that so that's in the record.

MR. HOLZER: Fine.

CHAIR: All right? So we'll take five.

(RECORDING PAUSED – 03:16:28 PM)

(ON RECORD – 03:33:12 PM)

CHAIR: Thank you. And we're back on the record and where we last left off, Dr. Clark had identified potential detriment, detriment, excuse me, detrimental effects on the environment, forests and streams, I believe were the three things that he mentioned specifically.

MR. CLARK: Okay.

CHAIR: So, Dr. Clark, the question to you is, what did you mean or what do you want to bring to the Board's attention regarding the potential detrimental effects upon the environment, forests and streams?

MR. CLARK: Actually, okay. I, I will answer that and then there's, but there's more.

CHAIR: Okay.

MR. CLARK: First of all, the, the, all right. You, you know that Petitioner awarded me a Ph.D. in naturism at the last meeting. I am a Maryland Master Naturalist.

CHAIR: Okay.

MR. CLARK: I, I work with professionals in three states in the management of forest health and specifically non-native invasive species.

CHAIR: Non-native invasive species.

MR. CLARK: Invasive species.

CHAIR: I guess that would just be the same as saying invasive species.

MR. CLARK: No, not nec, no, no, not, yeah, no. Yeah, --

CHAIR: Because if it's native, it's non-invasive, since it's already there.

MR. CLARK: Well, well, it can be invasive.

CHAIR: Okay.

MR. CLARK: It forms a (inaudible) culture.

CHAIR: Okay.

MR. CLARK: All right. Non-native are ones that don't fit into the ecosystem. They tend to overrun existing ecosystems and things like that. By way of background, there is an animal called Animal Plant and Health Inspection Service, which controls everything that is imported into the United States, okay?

By further background, there is a thing called red list, where various states, including Maryland, proscribe the sale, transport and, and planting of specific plants. For example, bamboo, okay?

We, you probably have heard about, well, I know you've heard about, well, maybe you haven't heard about the spotted lantern fly, which is a new, which is a new animal that

has come into the country and it is devastating to crops. Turns out, it found its host plant, which is tree of heaven ailanthus. That's the first instance where a non-native invasive invertebrate has found its existing host plant. The tree of heaven is used in a lot of southeast Asian plant, landscapes to, and in fact, the National Parks Service is spending millions of dollars over years controlling the escapees from the embassies in D.C. and getting into Rock Creek Park, okay?

Pennsylvania, ailanthus, tree of heaven, it got, it started at the Japanese Peace Temple in Redding, okay? It has taken over that entire county, all the ridgelines, everything, and it has spread throughout the state. Pennsylvania, because of the spotted lantern fly has started a very, very vicious program of eliminating ailanthus wherever they can find it, okay?

CHAIR: Okay. So, it, I mean, I appreciate the wind up --

MR. CLARK: Right, there, --

CHAIR: So, we're getting now to --

MR. CLARK: -- now, now we're getting to my concerns.

CHAIR: -- the subject property.

MR. CLARK: Right.

CHAIR: Okay.

MR. CLARK: Okay.

CHAIR: So, I understand the framework.

MR. CLARK: Yep.

CHAIR: As to where this is going, but let's now get back to this property.

MR. CLARK: All right. So, so, so, so there are several concerns here. First is that plantings would have to comply with Animal Plant and Health Inspection Service requirements. Which means, anything brought into the country has to be quarantined.

CHAIR: If I can jump in there. In your, leaving aside the issues as to expertise or whatever, to whatever (inaudible) exists here, is it your understanding that there are plantings that are going to be brought in from another country? Let's start with that.

MR. CLARK: Well, you know, they, there have been a number of assertions that it reminds the Petitioner of their homeland and just as at the embassies, it is not unnatural for an owner, from a, from a different land, to want to make it, you know, the Europeans did it, right?

CHAIR: And, --

MR. SCHMIDT: Mr. Garber, I'll stipulate we're not bringing in any plants from any other country, subject to, obviously, any rules that the United States government as it were, there is no intention to bring in some plants from some other country.

CHAIR: Well, let me ask you this, and I'm not saying that this is the direction we're going, you don't have to answer this question, but if there is (inaudible) as we're to move forward and there's a condition, please sit up straight, thank you. And there is a condition that only native plants can be planted on the site, --

MR. CLARK: You got it.

CHAIR: -- that, would that resolve your concern? And again, I'm not suggesting that that is something that's happening or whatever, but I'm just trying to address the particular concern --

MR. CLARK: Absolutely.

CHAIR: -- that you are identifying.

MR. CLARK: Absolutely.

CHAIR: And as to whether or not that is something that could, you know, if it is where this case goes down the line, which I have no idea sitting here today, that could be discussed at another time but that would, that would resolve your concern?

MR. CLARK: Absolutely.

MR. MCCOMAS: Was there a particular, was there a particular species that has you concerned?

MR. CLARK: It, it is, it is any, first of all, there is a list at, at, at the Department of Interior, Department of Interior Invasive Species Council. There is a list of

federally recognized invasive species, non-native invasive species. Both plant and animal, okay? Just to, to make this real, there was a case a couple years ago where up in New York City non-native frogs were being found along the Hudson River in New York. And one cultural ceremony was the release of these frogs in, in, into, into the river, you know? It's a salutation to letting things, free, letting things go or, or, or whatever. But, you know, these things happen. And they have consequences.

CHAIR: Okay. Well, now we've heard from Mr. Schmidt and please let me know if I've gotten this correct. That you are representing that if this were to move forward, you would not, you're, that is Petitioner, would not be importing any type of foreign plants or animals and putting them at this property, correct?

MR. SCHMIDT: Yes. Let me just say for the record that the Petitioner will not be violating any Federal, State or local laws as part of its conduct of any religious program here. So, we're not going to be releasing dangerous frogs, we're not going to be sacrificing children, we're not going to be doing anything that is illegal under any statute, including bringing in material or drugs or anything like that. I mean, we would obviously be compliant, I don't know, I guess you could make a restriction that we would have to obey all laws, but we will, intend to obey all laws.

CHAIR: But this is, that's a different answer to the question I asked. Because I had understood two things from what you said. I understood the we'll comply with all laws part, which is why I didn't follow up on that, but I thought you started off by saying that you'll stipulate that you're, and I may be using the wrong words that's why I'm asking you to clarify, that you would not, the Petitioner would not import any type of plants or animals onto the subject property.

MR. SCHMIDT: Yeah. I'm not a botanist, I'm not an arborist. Planting, I, I would suspect you heard testimony about, from Mr. Collagero and Mr. Motsco about the relocation of the intersection, for example, and the disturbance of that area, as well as the enlargement of the parking lot. I would suspect that Baltimore County, as part of any approval for that in terms of permits, depending on the area involved and whether it's in excess of five thousand square feet, which is typically the trigger to obtain a building, I mean, a grading permit from Baltimore County, that the County may require landscaping of some type, on some part of the property. That's just a very common requirement. I'm not sophisticated to tell you what Jim Herman, who is the County's landscape architect will require in terms of the species of planting --

CHAIR: Can we, can we agree --

MR. SCHMIDT: -- if they are whatever he says they will be, if they are not native, I, I don't know whether

they're native or not.

CHAIR: Can --

MR. SCHMIDT: But that's why I say, we will comply with any laws and not bring, we're not bringing in anything from Nepal to make, that would, that is not allowed to be imported or is contrary to any laws as my clients, we, we have no intention of doing that.

CHAIR: All right.

MR. SCHMIDT: Be willing to agree to that.

CHAIR: Okay. So, what I'm hearing is, and correct me if I'm wrong here, but we can agree that Mr. Herman is not going to order that land, landscaping that includes native plants to Nepal. We agree that he's not going to require --

MR. SCHMIDT: I have no idea what --

CHAIR: Hold on --

MR. SCHMIDT: -- I have no idea what Mr. Herman is going to require.

CHAIR: Mr. Herman is not going to require for landscaping Nepalese plants.

MR. SCHMIDT: I don't think so.

CHAIR: Right.

MR. SCHMIDT: I would agree.

CHAIR: Right. So, starting, starting with that, take it one step further, Mr. Herman could order landscaping that includes native plants only.

MR. SCHMIDT: Yes, sir.

CHAIR: Okay. So, --

MR. SCHMIDT: Well, he, I guess he could arguably, and I don't know enough about native plants, Mr. Garber, --

CHAIR: I, I'm not asking you to specify which native plants.

MR. SCHMIDT: But Mr. Herman, Mr. Herman may say uh, you want, I want you to also plant Japanese cherry trees like they have down in Washington, D.C. as part of your landscaping plan. I don't know if that's a native plant or not a native plant and that would run afoul of Mr. Clark's concerns. All I'm saying is we're not going to do anything that violates customs or anything else in, in terms of, we'll, we'll follow whatever the rules are.

CHAIR: Okay.

MR. SCHMIDT: Mr. Herman will tell us what they are and we'll follow them.

CHAIR: Mr. Holzer, is there anything you want to add or say?

MR. HOLZER: I just want to say, I mean, I think what the Board is looking for is to impose, if they decide to approve this, impose a condition.

CHAIR: I was just following up on the comment made about a stipulation that they will not be planting whatever, and I didn't know the scope of that, and that's why I turned to

Mr. Clark to ask him that question --

MR. HOLZER: Yeah.

CHAIR: -- would that satisfy you?

MR. HOLZER: Right.

CHAIR: Kind of thing, and then I don't know where that leaves us sitting here today because I think I'm more confused now than ever as to whether or not what, if anything, could be planted other than --

MR. HOLZER: My --

CHAIR: -- as long as it doesn't expressly violate local, state or federal law, they won't, they won't plant anything in violation of the law. I don't know what that, where that leaves us.

MR. HOLZER: It leaves you, if the Board decides to approve this project, leaves you with putting in a condition which addresses that issue. Not rely on the fact that the Federal government --

CHAIR: I'm sorry, I'm sorry, to be clear, what I meant is, I didn't know where that left us in terms of the representation made as to what stipulation, if anything there is, other than we won't break the law.

MR. HOLZER: I don't think there is a stipulation, I think what has to happen is the Board, if it's concerned about this, has to apply a condition and we may well address that condition in memorandums or whatever, to further define --

CHAIR: And I'm sorry to make this, belabor this point, my only, the reason why I'm bringing this up is only because it sounded as if what was being proposed would satisfy Dr. Clark, but now I don't know what was being proposed with any type of definitiveness --

MR. HOLZER: Correct.

CHAIR: -- for, to satisfy Dr. Clark. So, at the moment, we're just going to move past that, understanding that Mr., Dr. Clark has reservations as to what may be planted there, whether, you know, done innocently or, you know, whatever the case may be. He has reservations as to, I guess, non-native invasive species being made part of any landscaping plan or just planting in general.

MR. HOLZER: In a memorandum, we'll raise the issue of potential conditions that we would like to see the Board impose and as a result of doing it that way, we will attempt to define an appropriate condition for the Board to impose.

CHAIR: Fair, fair enough. Dr. Clark, you heard all that. Is there anything you wish to add to your testimony, you feel we need to know about your concerns, hold on, over non-native invasive species?

MR. CLARK: Just to add that there is a ready reference for native plants that's put out by the National Parks Service, U.S. Forest Service and the Chesapeake Bay Foundation. And it describes, I don't know, maybe a thousand

species and how they benefit both insects, vertebrates, invertebrates, which is, which for me is, is a major issue, you know? I mean, you saw the picture of our property. I mean, the forest needs all the help it can get and thirty acres is a lot of ground and lawn is a waste.

CHAIR: Okay. So, does that, have you then told us everything you want to tell us for your testimony on that point?

MR. CLARK: On that, on that point, but not done with --

CHAIR: I didn't say you were done.

MR. CLARK: Right, okay. Yep.

CHAIR: I know you're not done. On that point. We can move on. You identified forest and streams as well.

MR. CLARK: Right.

CHAIR: I'm not limiting you to that necessarily, but you have environmental concerns, but you specifically --

MR. CLARK: Yes.

CHAIR: -- mentioned forests and streams.

MR. CLARK: Yes.

CHAIR: What is it you want to tell us about forests and streams?

MR. CLARK: Well, they're, they're at the top of, of, of a hill and bordering them on the east side, there's a drainage that goes directly down into Hartley Mill, which feeds

into the Gunpowder. They have testified that they have no septic and they have no water. And we have affidavits of events held there from attendees that show no sanitation facilities.

CHAIR: Let, let me, I'll stop you there. Assuming that because, again, we're going with what they have put in their Petition, religious institution and use --

MR. CLARK: Okay.

CHAIR: -- at the property.

MR. CLARK: Okay.

CHAIR: So, assuming that fact, would you agree or not that there would be septic and water in place if they were to go forward with religious use as proposed? That they would have running water, they would have septic. I mean, you, you don't believe that they're going to conduct their property with any absence of septic and water, correct?

MR. CLARK: Oh, I do.

CHAIR: You think that they would run their property as a temple without water or septic?

MR. CLARK: Mr. Garber, I don't mean to be argumentative.

CHAIR: No, I'm just, I'm trying to get to the bottom of this to see where we can move on --

MR. CLARK: Right, right. The, the fact is, they have.

CHAIR: Okay. I recognize for fundraisers that has gone on and --

MR. CLARK: No, more than fundraisers.

CHAIR: -- for the, for the events and the fundraisers that have been held there, we don't presently have septic and water. That's been established --

MR. CLARK: Nor port-a-pots.

CHAIR: I, understood. Again, no running water, no septic and understanding they have port-a-potties, that's the way it's been functioning. I understand that. There's been plenty of testimony about that on all sides. Moving on from there, is it your expectation that if this is a religious temple that they would not have running water or septic?

MR. CLARK: That's my concern.

CHAIR: Okay. So, now please sit up straight. So, now that we've expressed your concern, assuming that to be the case, that they would not have running water and they would not have septic --

MR. CLARK: If, stuff flows downhill, flows into the drainage.

CHAIR: Okay. If --

MR. CLARK: And it, and it, and that, and my understanding is that that's a trout stream.

CHAIR: Okay. Now that we've established that if they had septic and water, what concerns would you have?

MR. CLARK: Okay. The other is that the, another is the function of the acreage has changed. And by that, I mean ecological function. It has been, what is termed an old field, which is an old farm turning into a meadow and before that it was a farm. That has a big impact on, on water filtration and also sheet flow. And it is now being maintained as lawn.

CHAIR: If I could jump in there. It was an old farm turned into a meadow.

MR. CLARK: Um hm.

CHAIR: Do you have any information as to when the property was last used as a farm?

MR. CLARK: It was an old field up until they started mowing it in 2017.

CHAIR: Okay. You're using the phrase old field.

MR. CLARK: That, that's a, that's a technical, technical --

CHAIR: I, I, I'm not disputing whether it's a technical term or not.

MR. CLARK: Right, right.

CHAIR: I just need to know what you mean by old field.

MR. CLARK: Right.

CHAIR: How are you, --

MR. CLARK: And, and --

CHAIR: -- what are you, what makes it an old field?

MR. CLARK: Old field is a farm turning into, reverting back into a meadow.

CHAIR: How long does farm re, how long do you need for farm to revert back to meadow?

MR. CLARK: It, it's generally two years.

CHAIR: Okay. So, if it's not being used a farm two years ago, what is, how does that factor into this conversion?

MR. CLARK: Well, it's been it, it, it's, it's been an old field, right?

CHAIR: Okay. So, it can be an old field for a long time?

MR. CLARK: Yes. Well, and then eventually, it's, it's a success, it's a succession.

CHAIR: I realize, it's a progression.

MR. CLARK: Yeah.

CHAIR: Okay. Because here's what I'm hearing from you, and this is where I need you to educate the Board, it's an old field, which is the conversion of farm to meadow.

MR. CLARK: Correct.

CHAIR: That can take about two years.

MR. CLARK: Right.

CHAIR: There's nothing in the record that shows this property has been used as a farm any time at all recently.

MR. CLARK: Right.

CHAIR: And when I say recently, I mean, decades.

MR. CLARK: Right.

CHAIR: So, if it takes two years to convert to meadow, shouldn't it already have converted to meadow before the, before the Petitioner had purchased the property?

MR. CLARK: All right. I have never stepped foot on the property.

CHAIR: Okay.

MR. CLARK: Okay? I mean, I've been there thirty-five years. I've never set foot on it, okay? And so, all, you know, yes, it would have been a working meadow at that point.

CHAIR: Now, the consequence of it, again, based on what we've just established, of it being a meadow today, what effect does that have on, as you just put it, water infiltration and sheet flow?

MR. CLARK: Right. A meadow is very effective in filtering water, okay? It's very impor, that, that's why it is such an important part of, of, of the State Bay initiative and it will slow down the water and reduce the speed of the sheet flow. Plus it helps to avoid channeling the sheet flow.

CHAIR: Okay. What else do you want to tell me about that? Or when I say me, I really mean the Board.

MR. CLARK: That's it for I.

CHAIR: Okay. So, that's meadow, okay, so a meadow is better for these purposes.

MR. CLARK: Yes.

CHAIR: All right. So, Mr. Holzer, I see you standing, sorry.

MR. HOLZER: Yes. I think I have something that bears on that issue that (inaudible).

CHAIR: Bless you, bless you.

MR. SCHMIDT: Excuse me.

MR. HOLZER: If it's okay?

CHAIR: Yes, please.

MR. HOLZER: Okay.

CHAIR: Sorry. I was just trying to cut to the chase as to what he meant by certain terms --

MR. HOLZER: No, I understand.

CHAIR: -- and what the consequence was for this subject property.

MR. HOLZER: I have, I have no problem but --

CHAIR: And I want to make sure he got all of his testimony that he wanted to tell us covered.

MR. CLARK: No, and I appreciate what you're doing, Mr. Garber.

CHAIR: Thank you. Where we at? Sixty-five.

MR. HOLZER: Now, can you identify this photo which has now been marked as Exhibit 65?

MR. CLARK: Yep.

MR. HOLZER: What is it and how do you know what it is?

MR. CLARK: I know it because Joann Foxworthy told me --

CHAIR: Hold on. What is it first?

MR. CLARK: Okay.

CHAIR: Let's start with that.

MR. CLARK: What, what is it? It's, it's Joann Foxworthy's backyard.

CHAIR: And you'll have to just identify for the record because it's been a number of days since we were last here talking about where Ms. Foxworthy's property was in relation to the subject property. So, where is it?

MR. CLARK: It's right across the entrance from the, the subject property.

CHAIR: On Bonaparte?

MR. CLARK: On Bonaparte.

CHAIR: Okay.

MR. CLARK: She is, she is on, she is on the west side of Bonaparte, on Harford Road at Bonaparte Ave.

CHAIR: Is it the corner house?

MR. CLARK: Yes.

CHAIR: At Harford and Bonaparte?

MR. CLARK: Yes, sir.

CHAIR: All right. So, this is her backyard, correct?

MR. CLARK: Correct.

CHAIR: All right. So, we don't see Harford Road or Bonaparte in this photo?

MR. CLARK: Correct.

CHAIR: Right.

MR. CLARK: On, Harford Road is on the other side of the fence.

CHAIR: All right. So, there's a, what appears to be a green area. We'll just call it in the top center of the photo.

MR. CLARK: Um hm.

CHAIR: What, do you know what that shows?

MR. CLARK: The, the light green --

CHAIR: Yes.

MR. CLARK: -- between the trees above the fence is the subject property.

CHAIR: Okay. Now, what is it you want to tell us about this photo?

MR. CLARK: This is how the sheet flow from that property is impacting hers?

MR. SCHMIDT: Objection.

CHAIR: Okay.

MR. SCHMIDT: Objection. The photograph speaks for itself. The con, the conclusion that this is how the sheet flow from the property impacts her house, there is, this man is not an engineer, he's not a storm water management expert, the

testimony has been that Harford Road is crowned and has channels on both sides --

CHAIR: Hold on, hold on, your objection is fine, I understand.

MR. SCHMIDT: Okay. There's --

CHAIR: He's not, he's not, he's not an expert on the subject areas that you think are required for purposes to provide that testimony.

MR. SCHMIDT: To, to make any conclusion as to, he, I guess the photograph speaks for itself. But there can be no conclusion that this witness can give that the drainage from the subject property even comes to the Foxworthy property unless he's done some kind of drainage analysis or have some expert ability or qualification to be able to have done that. And as I say, the testimony has been, and there are photographs, that show that Harford Road is crowned, which, so that water would not flow across Harford Road. And there are channels on both the Foxworthy side along the shoulder and on the subject property side, which even a non-expert would see that water would flow from the subject property into those channels and not over to the Foxworthy property. Where this flow is coming from, whether it's coming from Harford Road, whether it's coming up or down --

CHAIR: Mr. Schmidt --

MR. SCHMIDT: -- is speculative.

CHAIR: -- I understand your objection. Some of the matters you identified may be more appropriate for cross examination if allowed. Mr. Holzer, do you wish to respond to Mr. Schmidt?

MR. HOLZER: Yeah. The simple answer is, we can bring Ms. Foxworthy in and have her testify --

MR. SCHMIDT: Bring her in.

MR. HOLZER: -- as to --

CHAIR: Hold on, Mr. Schmidt.

MR. HOLZER: -- and testify ad nauseum that every time it rains heavy, the water comes from the subject site and goes into her, into her yard.

CHAIR: I do think you're going to need to have Ms. Foxworthy come to testify as to what is going on with this condition as opposed to what Ms. Foxworthy may have conveyed to Dr. Clark. I do think that some of the, there is some leap in assumptions here that may be beyond the scope of what --

MR. HOLZER: Fine.

CHAIR: -- Mr., or Dr. Clark is called for. Excuse me. I will sustain the objection but, Mr. Schmidt, we don't need to go too far afield as to it. I understood your objection. Thank you, Mr. Holzer. Thank you, Mr. Schmidt. Okay. So, leaving aside --

MR. HOLZER: Well, now, I, I want to put on the record here, again, we are being forced to bring in someone to

testify so I appreciate the fact that the Board appreciates by your rulings that we are going to have additional witnesses that need to testify. Thank you.

CHAIR: I understand the consequence of that.

MR. HOLZER: Thank you.

CHAIR: Thank you. All right. So, you've heard the ruling. Is there anything else that you could, you want to bring to our attention with respect to the photo, but recognize you can't go too far afield --

MR. CLARK: No, no, --

CHAIR: -- because it relies on, number one, things that Ms. Foxworthy may have represented but also your conclusions drawn therefrom that are not appropriate for purposes of, it really requires a, an expert witness on those issues. Is there anything else you want to tell us about the photo?

MR. CLARK: You tell me if I'm, if, if I'm over the line.

CHAIR: Oh, I think Mr. Schmidt will tell you. But is there anything else you want to tell us?

MR. CLARK: Yeah, yeah, there is. I understand the road is crowned, okay? That doesn't stop when you have the four or five inch rains that we've been having, all right, now now --

CHAIR: Again, this, since this has to take into

account the curvature of the roads and the water flow and all the other issues that we just discussed, --

MR. CLARK: Right.

CHAIR: -- is there anything else you want to tell us that would help us with this photo today, without Ms. Foxworthy being present?

MR. CLARK: Okay. No, other than as a district manager, I am very, I, I am more knowledgeable than most about sheet flow and how it travels across trails and forest roads and that crowning and ditching aren't the answer to everything.

CHAIR: Very well. So, with respect to the issues with sheet flow or water infiltration, is there anything else you want to bring to our attention?

MR. CLARK: No, no.

CHAIR: Okay. So, what else is it about the environment that you feel are potential detrimental effects that you've not otherwise discussed?

MR. SCHMIDT: Mr. Garber, Mr. Garber, has this been given a number for i.d. only?

CHAIR: Sorry, sixty-five, yes.

MR. MCCOMAS: It's sixty-five, yeah.

MR. SCHMIDT: Thank you.

MR. CLARK: I, I, --

CHAIR: I'm sorry?

MR. HOLZER: I didn't mark it.

CHAIR: Go ahead.

MR. SCHMIDT: I thought you did.

MR. CLARK: I think we're done with that one.

CHAIR: Okay. Are there any other detrimental effects on the environment that you have otherwise identified and not testified about yet?

MR. CLARK: No, I think, I think we're done with this.

CHAIR: Okay. Have we talked about all of your concerns, hold on, --

MR. HOLZER: Objection. I have five more pages of questions for him.

CHAIR: I haven't even finished my question.

MR. HOLZER: It sounded as if you're saying are we finished with --

CHAIR: I'm not saying, I, I'm not saying that he's done with your direct yet.

MR. HOLZER: Oh.

CHAIR: I'm trying to get to the end of the 502.1 factors that we've identified to make sure that we've exhausted whichever things that he wants to say. If he has more to say, I'm sure Dr. Clark will be able to let us know that.

MR. HOLZER: I have more that I need to ask him on the 502.1 conditions.

CHAIR: I'm not limiting you.

MR. HOLZER: Oh, okay. I just didn't understand.

CHAIR: I'm trying to get out of him what he wants to tell us about the environmental stuff. He said, correct me if I'm wrong, he's now done on that.

MR. HOLZER: He's finished, he's finished.

CHAIR: So, do I understand that we've had your testimony on noise, traffic, the danger and the environment? Is there --

MR. CLARK: No.

MR. HOLZER: No.

CHAIR: Okay. We haven't?

MR. CLARK: No, no. You have on the environment.

CHAIR: Okay. I need to figure out --

MR. HOLZER: Could, could I handle my witness, Your Honor.

CHAIR: Well, hold on a second.

MR. HOLZER: In terms of asking questions?

CHAIR: Yes.

MR. HOLZER: Okay.

CHAIR: But hold on one second. When we were here before the break, I specifically identified the following from his testimony. His concerns sounds and noise, creating congestion, hazards on road, inadequate sight lines, I'm, I say four because I'm interpreting that as one and the same. And then crease potential for danger, maybe the hazards go to that

too. And then detrimental to the environment, forest and streams. I asked about the first three and then we've had videos and audio and his testimony and I understood those to be relatively finished. Maybe not completely, but relatively finished. It was the environmental one that I thought okay, we haven't heard anything about that, let's exhaust all the testimony and all the whatever else that wanted to be presented on that point. So, if I'm not, if I'm mistaken as to the completeness as to any given factor, I'm not precluding you from asking questions.

MR. HOLZER: Okay.

CHAIR: I'm just making sure, do I have that correct, what I just, just said?

MR. CLARK: The, the, the, the environment, we are done with the environment.

CHAIR: Okay. So, --

MR. CLARK: I, letter I.

CHAIR: -- and your, and your understanding is we're not done yet as to your testimony as to the noise or sounds?

MR. CLARK: Can I, yeah, I need to explain a little bit.

CHAIR: Go, no, that's, yes, (inaudible). By all means, what have you not told us already with respect to the testimony that, or the evidence that you want to present to this Board on those points?

MR. CLARK: Okay. What, what, what I will do with the 502.1 conditions is these were approved, this is an approved statement by the Gunpowder Falls Watershed Preservation Association, okay? The, the, this is, this is our, --

CHAIR: You're switching hats at the moment.

MR. CLARK: Yeah.

CHAIR: From individual to a representative --

MR. CLARK: Well, and the environment, the environment was too.

CHAIR: Okay. To a, an authorized representative for the association.

MR. CLARK: Yes, yes.

CHAIR: And you'll have to forgive me, Mr. Holzer. Have we presented rule eight paperwork regarding that?

MR. HOLZER: It's in the record.

CHAIR: Again, I'm just, I --

MR. HOLZER: I think.

CHAIR: -- off the top of my head, I, I don't recall.

MR. HOLZER: I think.

MR. SCHMIDT: Mr. Garber, with all due respects and it's been a long hearing, but my recollection is there is no such rule eight material. And as a matter of fact, at least based on my last inspection, there is no entity registered with the State Department of Assessments and Taxation known as the

Gunpowder Falls Association. This is a, an organization that Mr. Clark has created and it's him, essentially, as I understand it. But at least there's nothing when I looked in Assessments and Taxation that this organization even exists.

CHAIR: Okay. I, I understand your objection. Mr. Holzer, you've heard the objection from Mr. Schmidt. While we proceed with Dr. Clark's other testimony, if we could find whatever paperwork there is, you have it there? Okay. So, let's present to Mr. Schmidt and see where that takes us.

MR. HOLZER: Before I do that, I want to see --

CHAIR: Hold on. Protestant's Exhibit 28, apparently --

MR. HOLZER: That's what I wanted to see.

CHAIR: -- Gunpowder Falls Watershed Preservation Association.

MR. HOLZER: Correct.

CHAIR: That's already been received into evidence, is that correct, Mr. McComas?

MR. MCCOMAS: Yes.

CHAIR: That's on the chart?

MR. MCCOMAS: Yes.

CHAIR: This has already been received into evidence.

MR. HOLZER: So, these objections I keep having to respond to --

CHAIR: Hold on.

MR. HOLZER: -- I mean, --

CHAIR: Mr. Holzer, I understand your frustration. But also you have to recognize we're trying to understand where this is going. Dr. Clark has indicated he wants to now present testimony on behalf of the organization, not necessarily him at, limited as an individual. So, we have to switch hats and make sure that we have the right things in place for that to occur. Understanding that this is in evidence.

MR. HOLZER: Since it is in evidence, I don't need to share it with anyone yet, do I?

CHAIR: I, I would agree that since it's in evidence, Mr. Schmidt would already have a copy.

MR. SCHMIDT: That's this?

CHAIR: That is correct.

MR. HOLZER: Yeah.

MR. SCHMIDT: And my, my point is, and I have this, a printout from the State Department of Assessments and Taxation, and so they may have a rule eight. There is no entity, no registered with the State of Maryland called the Gunpowder Falls Watershed Preservation Association.

CHAIR: All right. So, --

MR. SCHMIDT: So, you may have a rule eight that Mr. Clark signed, but it is not an entity, at least --

CHAIR: -- I believe that we will deal with that on cross examination.

MR. SCHMIDT: Okay.

CHAIR: I will let you continue, Mr. Holzer.

MR. HOLZER: Thank you.

CHAIR: Yes.

MR. HOLZER: Do you need, do you need a copy (inaudible).

CHAIR: No, we have that. For the record, I just, that's, all I wanted to make sure those I's and T's were properly crossed and dotted as necessary for, for him to be able to testify on behalf of an organization. As to whatever issues that may exist with respect to the organization's existence or other, as Mr. Schmidt wants to bring up, I'm sure he'll get into that on cross examination. And then we can determine later if there's, what effect, if any, his cross examination has on the testimony.

MR. HOLZER: A lot of community associations, they'll be shocked by hearing that.

CHAIR: I don't know, Mr., Mr. Holzer, I'm telling you I don't know the answer to the question sitting here at the moment. I'm saying, please proceed with your, your examination of Dr. Clark as the representative for the association.

MR. HOLZER: I, I will, I will. Before, I think, because of the Board's questioning that's sort of taken over from what documents I had. I do want to go back to the beginning of the testimony where Mr. Clark testified that, that

no one that lives within five miles. Mr. Clarke at least doesn't. So, I want to get this location of members that signed in at this hearing on the sign in sheets. I want to get that in the record.

CHAIR: The sign in, from listed members? I'm not following where you're going with that.

MR. HOLZER: The testimony was, his testimony was, that we have an analysis of where all the people who signed in on the sign in sheets, which are already in evidence before the Board, where they live and this is, that they don't live within five miles of the subject site.

CHAIR: Mr. Schmidt, do you dispute that, that the members of the organization all live, all live outside five miles of the site?

MR. SCHMIDT: I have no idea whether they do or don't and more importantly, what is the difference?

CHAIR: I, well, --

MR. HOLZER: That's fine.

CHAIR: -- that would be my second question as well. I don't know what the relevance is now that I sit here and think about this. That was a question --

MR. SCHMIDT: Is there some requirement under 502.1 that a congregant live within five miles?

CHAIR: I specifically, hold on, Mr. Schmidt, hold on. I specifically asked this question and we got sidetracked

So, Dr. Clark, what is the relevancy to you as to why these people live outside the five miles? I understood you to say earlier, what benefit is there to the community?

MR. CLARK: Right and --

CHAIR: Now, if you could tie that to any special exception factor, --

MR. CLARK: Yes, I can, okay?

CHAIR: Go ahead.

MR. CLARK: In fact, I can tie it directly to 502, which basically requires me to only be concerned about my community and my locale. Okay? I, it doesn't, I don't have to be concerned about Harford County, I don't have to be concerned about the needs of Parkville, I don't have to be the, be concerned about the needs of any place else. And so, my concerns are that this is, this is my community, my locale and it is being disrupted in a major way where there is no benefit to my locale. It's that simple.

CHAIR: Is there anything else you wish to get out of Dr. Clark on this point?

MR. HOLZER: I want to get in the record the location of where the people are because it is obviously relevant to the impact of the neighborhood, quote. We've heard the Petitioners talk, oh, well, you're beyond the neighborhood or where is the neighborhood? Well, this is relevant to where the Petitioners reside in relationship to their impact on the quote,

neighborhood.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Mr. Garber, there's a concept obviously of standing and obviously I understand that it is reduced or not as severe, if that's the proper terminology, in an administrative setting such as this. But certainly standing is a proper inquiry to be made to ascertain where people are from, from a standing standpoint and from a witness standpoint. That, that, it's just completely different than what the assertion is here, that people are, that the Petitioner doesn't have people who live here. I mean, that, that's got nothing to do with the special exception criteria.

There, this, this temple could be established, there could be, Mr. Clark may decide to convert to this religion and adopt this as his home temple. There might be others in the community who begin worshipping here and become, and come here because of the, the testimony. There are special exceptions involving corporations or corporate uses, which don't even have individual natural persons who are part of those entities for a, a, a corporate petitioner. So, I mean, the fact that people live here --

CHAIR: Well, if I could summarize it --

MR. SCHMIDT: -- or don't live here, has nothing to do with any subjective issue.

CHAIR: -- if I could summarize your point?

MR. SCHMIDT: Yes, sir.

CHAIR: Your, if you were to start a Catholic church, do you have to build it in the middle of a neighborhood that's predominantly Catholic?

MR. SCHMIDT: Absolutely, you, certainly you do not.

CHAIR: That would be your, that would be your argument, or the way to summarize your argument --

MR. HOLZER: Can I argue?

MR. SCHMIDT: And he went back and I, let me just say this too, Mr. Clark says again that it doesn't bring any benefit to his community. And I again, and you certainly have judged many special exception cases, if you read *Schultz v. Pritz,* that's exactly the point that Judge Davidson, and that's the seminal case in Maryland that says that is not the criteria. Whether this is beneficial to his community or not, and I would argue, I mean, I could argue that it is. But whether it is or not is simply not the criteria that this Board has to apply and his testimony as to that point, therefore, has no relevance.

CHAIR: Mr. Holzer, how do you respond to the *Schultz v. Pritz* argument? Because I will say isn't there some type of, well, it's been called a presumption in the case law, that there, that this use is not permitted by right, but it is understood to be one that would be beneficial to the community and some of these factors have already been taken into account

so that if it, if--

MR. HOLZER: I'm familiar with *Schultz v. Pritz*.

CHAIR: Right. So, --

MR. HOLZER: Been a long time, Mr. Chairman. The reason --

CHAIR: Mr. Holzer, I understand you've been around a long time. Do you wish to respond to that argument?

MR. HOLZER: Yes, yes. The fact of the location of the participants who have, will be using this property relates directly to whether or not, as you heard in prior testimony, people who live in the area know how to avoid the possible accidents, know how to drive Harford Road, know how to worry about where the curves are, etcetera. People who do not live in the community, do not necessarily share that understanding in regard to traffic, the neighborhood, if they're only visiting once a year or if they've never visited there and are going to an event, a, a, a, whatever kind of event it might be.

So, the relevance of people living in other counties, the relevance of people living in the City, the relevance of people living in another country who will be coming to this, whether it's a religious or whether it's an activity type place to play soccer or to play badminton or volleyball, is relevant to the 502 number one criteria. It's that simple. And, and, if it's not simple, if you don't let this in, I want to mark it as a proffer exhibit and I'm going to start marking documents

as proffer exhibits because I want to have a record on this case on appeal.

So, I think it's fairly clear that if you have people that are not familiar with the neighborhood, they may not be familiar with the road system.

CHAIR: Well, I, I, I'm just going to short circuit all this. I mean, at the end of the day, does it really matter this document, and this evidence? Because you certainly can argue, we all know, everybody has heard for days that people are coming outside of, they're either coming from other counties or coming from the City, they're coming from other states, whatever the case may be.

MR. HOLZER: Yeah.

CHAIR: Okay. That's already in the record. Your arguments as to well, these people aren't, don't know where they're going to be going and there's going to be confusion and there's these problems with the roads, all these arguments are still available to you, they don't --

MR. HOLZER: No, but this verifies the discussion. This verifies the analysis that supports that discussion.

CHAIR: There is no analysis of it. We, it's already established that, that you have a bunch of people coming to the site.

MR. HOLZER: But you don't know where, from where.

CHAIR: I, right, this speaks to your point. There's

nothing in the record that says that, you know, I mean, to the contrary. Like, in other words, you're not rebutting other evidence that's already in the record. This evidence also seems to, number one, I imagine what happened here is you have a list of people, you try to find out where they live. So, now it opens the door as to is this accurate information?

MR. HOLZER: All right. Then mark, then deny it, let me offer it as a proffer, proffer, Protestant's proffer number --

MR. MCCOMAS: (inaudible) so is that a summary?

MR. HOLZER: Yes.

MR. MCCOMAS: Is that just taking this and going down?

MR. HOLZER: Yes, yes.

MR. MCCOMAS: So, so, but you don't know if this is the congregation or not?

MR. HOLZER: I don't know what it is or who those people are.

CHAIR: All right.

MR. HOLZER: Nor do you.

CHAIR: I am going to sustain the objection. You may enter for i.d. only. I understand what you want to try to accomplish. I don't think that that's the way to go about doing I think what you want to accomplish and I think your argument is still preserved in any event. And I don't think

this evidence is going to help the Board one way or the other. I also find it to be, from what my recollection is, to be inconsistent with *Schultz v. Pritz*. But yes, we can mark this as sixty-six for purposes of the record.

MR. HOLZER: I would rather not mark it as sixty-six. I would rather mark it as proffer number one.

MR. SCHMIDT: What do you, what do you mean, proffer number one?

CHAIR: We're not changing designations.

MR. SCHMIDT: I've never heard of such a thing.

MR. HOLZER: I'm proffering this document.

CHAIR: Yes, we, but we have that in other, there are other exhibits that are i.d. only.

MR. HOLZER: Okay.

CHAIR: That is, for purposes of the record. So we know what document you're referring to that has not been admitted.

MR. HOLZER: Fine.

CHAIR: It's the same thing.

MR. HOLZER: That's, that's fine.

CHAIR: So, this will be Exhibit 66, which is identification only. It is not in evidence, it is being received for purposes of the record. And again, I don't think that forecloses your argument in any event.

MR. HOLZER: Sixty-six, did you say?

CHAIR: Yes, sixty-six.

MR. HOLZER: Okay.

CHAIR: All right. Next?

MR. HOLZER: Now I'm ready to ask questions.

CHAIR: Fair enough.

MR. HOLZER: Dr. Clark, you created along with others the Gunpowder Falls Watershed Preservation Association, is that correct?

MR. CLARK: Yes, sir.

MR. HOLZER: That, that organization, is it a corporation?

MR. CLARK: No.

MR. HOLZER: Is it reviewed and approved by any, either State or County local government?

MR. CLARK: Yeah, the, the, the, the County office that takes care of civic associations.

MR. HOLZER: Okay and did they place this on their list to get notification, is that the purpose of the County?

MR. CLARK: Yes, yes, yes. And that's where rule eight applies, is, as far as I understand it.

MR. HOLZER: Okay and how many members of the association are participants in the association per se?

MR. CLARK: We have what, a hundred and twenty landowners, which translates into over a hundred and fifty individuals.

MR. HOLZER: Okay.

CHAIR: When you say landowners, is that residential only?

MR. CLARK: Yes, yes.

MR. HOLZER: Okay.

MR. CLARK: And, and I, I will point out that, that in that area, landowners are far and few between because of the lot sizes.

MR. HOLZER: Now, do you, do you have a copy of the resolutions that were prepared and introduced in this case? If you don't, I can give you one.

CHAIR: You're asking does he have a copy of Protestant's Exhibit 28 in front of him?

MR. HOLZER: Yeah.

MR. CLARK: No, I do not.

MR. HOLZER: Okay.

MR. CLARK: I probably do, but I'll say not. Okay, yep.

MR. HOLZER: Now, what are the boundaries of the association, if you can testify?

MR. CLARK: Gunpowder to Gunpowder, okay? North and south.

MR. HOLZER: I'm sorry, when you say Gunpowder to Gunpowder, Gunpowder River?

MR. CLARK: Yes.

MR. HOLZER: Is north of the property?

MR. CLARK: Yes.

MR. HOLZER: Subject property?

MR. CLARK: Yes, and, and Gunpowder River south of the property.

MR. HOLZER: Okay. That's north and south, what about east and west?

MR. CLARK: East it is Belair Road and west it is Glen Arm Road.

MR. HOLZER: Okay. Does that encompass the subject site?

MR. CLARK: Yes, it does.

CHAIR: Wait, doesn't Glen Arm run east/west? I know it hooks.

MR. CLARK: It, yeah, yeah, and so the, so Long Green Pike and out that way.

CHAIR: Right, so isn't there an outer boundary?

MR. CLARK: Well, Long Green Pike out, out to, go past Fork Church, down Baldwin.

CHAIR: Okay.

MR. CLARK: There we go. Sorry.

CHAIR: No, that's okay.

MR. HOLZER: Okay.

CHAIR: And if, I assume this hasn't been asked, what is the purpose of the association?

MR. HOLZER: Well, I'm going to get to that.
CHAIR: Okay.
MR. HOLZER: But I, if I can, --
CHAIR: Sorry, I'll defer to Mr. Holzer.
MR. HOLZER: -- if I can, I would ask did you create an articles or by-laws of procedure for the association?
MR. CLARK: Yes, we did.
MR. HOLZER: And when did you do that?
MR. CLARK: November 2017, somewheres in there.
MR. HOLZER: Okay. When was the association formed, if you know?
MR. CLARK: I guess around that time.
MR. HOLZER: Okay and the document that's, that's marked here as your rule eight, how many pages of that are attached together?
MR. CLARK: I've got a total of three pages.
MR. HOLZER: All right and how did you know how to do a res, resolve under rule eight?
MR. SCHMIDT: Objection. How did he know how to do it? What's the, what's the relevance?
MR. HOLZER: Because you're going to ask him, counsel.
CHAIR: Are you asking if he, hold on, hold on --
MR. SCHMIDT: It's already in the record, Mr. Holzer.
CHAIR: Whoa, everyone, stop.

MR. HOLZER: Because you're going to ask him.

CHAIR: So, everyone, stop. I don't want to hear comments back and forth. We'll get through this. Sir, do you have familiarity with rule eight under the Board of Appeals rules?

MR. CLARK: Yeah.

CHAIR: Okay. How do you have familiarity with it?

MR. CLARK: It was explained to me by people from Kingsville Association.

CHAIR: Okay and did you review it yourself?

MR. CLARK: Yes.

CHAIR: Okay. As a result of reviewing it yourself and hearing the information that you received, what did you do?

MR. CLARK: We did a resolution and we had a, and we had a vote.

MR. HOLZER: Who had a vote? I'm sure counsel will ask that. Who had a vote?

MR. CLARK: Well, we, we, we had, we had a board vote and then we brought it to the membership.

MR. HOLZER: All right. Who's --

MR. SCHMIDT: Mr. Garber, --

CHAIR: Hold on, hold on.

MR. SCHMIDT: I just, just have a question. Isn't this already in evidence?

CHAIR: It is in evidence.

MR. HOLZER: It is in evidence.
CHAIR: It is.
MR. SCHMIDT: Okay.
CHAIR: Twenty-eight.
MR. SCHMIDT: Thank you.
MR. HOLZER: Okay. I just wanted to avoid any cross examination in regard to the technical aspects since we've had that happen before.
CHAIR: You are preempting some cross examination.
MR. HOLZER: Exactly.
CHAIR: In the interest of expediency?
MR. HOLZER: That's exactly what I --
CHAIR: Thank you very much.
MR. HOLZER: Thank you. All right. Now, if, when, in terms of this document, how did you come to the conclusion to make this resolution and what was resolved, number one? And how many votes, because this was asked before, --
CHAIR: Mr. Holzer, you're, you're asking multiple questions now. So, let's ask one at a time. First of all, we, as to what the resolution reads, we can read the resolution.
MR. HOLZER: Yes.
CHAIR: As to how the resolution came to be, I think that's the question you're --
MR. HOLZER: Yes.
CHAIR: -- you were getting at.

MR. HOLZER: How, how did it come to be? And did it follow the by-laws of the organization?

MR. CLARK: Yes, well, yes, it followed the by-laws. But how did it come to be is a big question.

CHAIR: Well, let, we'll start with this. A meeting, you, under your by-laws you're required to have a meeting?

MR. CLARK: Right.

CHAIR: Okay and who was required to be present for the meeting in order to conduct official business?

MR. CLARK: We had a call to the membership and it is five percent, all right?

CHAIR: Okay. So, you need five percent of the membership to appear. Do you, how many board members do you need to appear?

MR. CLARK: All of us appeared, actually.

CHAIR: Well, how many do you have to have appear to take --

MR. CLARK: Okay.

CHAIR: -- official action?

MR. CLARK: Fifty per, fifty percent of the board.

CHAIR: So, you need fifty percent of the board and five percent of the membership and that, does that include the board? The five percent or is it fifty plus five?

MR. CLARK: Yeah, yeah, yeah, it can, yes, sir.

CHAIR: All right. So, with that in mind, when you

take a vote, is it a vote of the membership that's present and also the board?

MR. CLARK: Yes.

CHAIR: Or is it just the board?

MR. CLARK: No, it's member, it, it would be both.

CHAIR: And what is the requirement for official action to pass? That is, do you need a majority or --

MR. CLARK: Majority, simple majority.

CHAIR: -- so, okay. So, fifty plus what basically?

MR. CLARK: Right, right.

CHAIR: All right and that's of those people present and voting?

MR. CLARK: Yes, sir.

CHAIR: As long as it's five percent of the general membership and fifty percent of the board of directors?

MR. CLARK: Yes, sir.

CHAIR: And so, on the, for your meeting that day, was, do I assume there was some type of agenda or something in which this would be discussed?

MR. CLARK: Yes, sir.

CHAIR: Okay. When you were there discussing it, was it understood that there would be a vote?

MR. CLARK: Yes, sir.

CHAIR: And did you, in fact, take that vote?

MR. CLARK: Yes, sir.

CHAIR: And did you take that vote in accordance with the by-laws?

MR. CLARK: Yeah, we did, sir.

CHAIR: And that's how you came to have the result, which is now embodied in, --

MR. CLARK: Thank you, sir, yes.

CHAIR: -- Protestant's Exhibit 28.

MR. HOLZER: That's correct.

CHAIR: All right. Do we have any other questions as to how the resolution came to be?

MR. HOLZER: No, no, as long as you've covered --

CHAIR: All right. So, next?

MR. HOLZER: All right. Now, when the resolution was passed and it authorized in the resolution you and perhaps some others to testify on behalf of the association, is that correct?

MR. CLARK: Yes, sir.

MR. HOLZER: And you are testifying on behalf of the association in regard to the 502.1 conditions, is that correct?

MR. CLARK: Yes, sir.

MR. HOLZER: Okay. I would suggest that you start with condition 502.1, condition A, be detrimental to the health, safety or general welfare of the locality involved.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Mr. Garber, just from a standpoint of,

of, of repetitive testimony, if the witness offered testimony previously, I think, in his individual capacity, if, if the testimony is being offered now in his capacity as an officer of the Gunpowder Falls Watershed Preservation Association, can we just leave it that the concerns that Mr. Clark has expressed as an individual are those of the association, as opposed to hearing the same thing again and again because he's now wearing a different hat, in effect? I would be willing to proceed in that fashion if it's acceptable to the Board and Mr. Holzer.

CHAIR: Mr. Holzer, is there any problem with proceeding in that manner?

MR. HOLZER: His, his testimony, as I understand it, on behalf of the board is not his personal testimony, it's a compilation of the board's request for him to testify to the Board. So, under the circumstances, I believe anything he says now is on behalf of the association. He's already testified as to some of his personal observations, which I'll get back to because we've been diverted from the outline. So, what he's going to say now is only representative of the board's resolution.

CHAIR: Well, I think what Mr. Schmidt is trying to propose here is whatever extent that it can be incorporated as the same testimony for both, to whatever extent that they may match, let, can we just adopt that into the testimony on behalf of the association and then, if there's inferences that he has

with wearing one hat versus an individual, that we just identify whatever differences there are, because that should be far shorter, presumably, because he has been pretty extensive, I think, to date as to his individual testimony on these issues. And if he has additional ones to offer, so be it. I'm not suggesting that you can't go into that.

MR. HOLZER: With that understanding, that he can go back to his individual testimony that he hadn't gotten to up to this point.

CHAIR: Oh, no, we're, we're talking about two different things. I'm not foreclosing that --

MR. HOLZER: Oh, okay. Okay, fine.

CHAIR: -- I'm just saying, what he has testified to to date has been understood to be as an individual. He's about to present testimony on presumably the same points, there may be some varying --

MR. HOLZER: I'll try to keep it shorter.

CHAIR: -- there may be some variation.

MR. HOLZER: Right.

CHAIR: But for example, if he has complaints about noise, I realize the complaints of the association about noise may be slightly different because the association isn't located across the street from the property.

MR. HOLZER: Right.

CHAIR: But he would have the same issue to raise,

that is, well, we have concerns about noise. That's just by way of example. Or traffic, traffic seems to me to be about (inaudible) because the association would have presumably the same concerns because it's not just limited to the Clark property.

MR. HOLZER: Right.

CHAIR: All right.

MR. HOLZER: With that understanding, I'll, I'll agree that as long as he's permitted to go back to his original testimony, I'm okay with that.

CHAIR: Right, let me just put it like this to make it easier. What differences, what differences in the testimony --

MR. CLARK: Thank you.

CHAIR: -- that you have to offer on behalf of the association compared to you as an individual, as it relates to, we'll start with 502.1(A)?

MR. CLARK: All right. I, I will try --

CHAIR: The difference between --

MR. CLARK: Yeah, that, that's right and I, I will try. Basically I'm going to reference some things and then just, and, and just move on, not introduce --

CHAIR: That's, that's fine. I want to make sure we have it in the record --

MR. CLARK: -- right.

CHAIR: -- whatever it is. I want you to let us know, but I don't want to have to rehash the same thing.

MR. CLARK: Right.

CHAIR: Like we don't want to watch additional videos --

MR. CLARK: No.

CHAIR: -- about the same thing that we just saw, (inaudible).

MR. CLARK: Let me give, let me give you an example.

CHAIR: Yes.

MR. CLARK: Okay. Be detrimental to the health, safety, general welfare of the locality. One, sound and disturbance. Reference David Poehler testimony from day five. Okay? That's what I want to say there.

MR. HOLZER: That's all you want to say?

MR. CLARK: Well, well, but, you know, that, that, that no, no, that's, that's the evidence, you know, that, that's the only evidence reference I would make.

MR. HOLZER: Okay.

CHAIR: So, okay. So, the testimony, obviously Mr. Poehler testified for some period of time from what I recall. He testified to things like music and you could hear talking occasionally and stuff like that. That's the testimony that you're referencing on behalf of the association on top of your testimony --

MR. CLARK: Yes, yes.
CHAIR: -- as an individual?
MR. CLARK: Yes.
MR. HOLZER: We're on board.
CHAIR: All right. So, next, 502.1(B).
MR. HOLZER: No, we still have more under --
CHAIR: I'm sorry. I thought --
MR. HOLZER: -- under health, safety and welfare.
CHAIR: -- I thought that's what he said that that was the (inaudible), I'm sorry.
MR. CLARK: I'm, I'm, I'm going by my outline, I'm sorry.
CHAIR: Go right ahead, sir. My, my fault.
MR. CLARK: And on day four, the, the Mary Clark testimony about the volleyball and the amplified drums.
CHAIR: I recall that.
MR. CLARK: All right. On day five, Joyce Mason, the loud noise and the amplified sound spooked her horses.
CHAIR: Right, and I recall that it spooked her horse but then since then, she got additional horses and so the second event spooked her, the four horses.
MR. CLARK: Yes, sir.
CHAIR: I understand.
MR. CLARK: Okay. We haven't introduced them yet, but under D, --

CHAIR: Well, hold on, we're, if we're moving to another factor --

MR. CLARK: No, no, no, I'm sorry, that's me. I'm misfiring.

CHAIR: Okay.

MR. CLARK: I'm misfiring.

CHAIR: I would, we got to make sure we're sticking--

MR. CLARK: Right, I, I, yeah.

CHAIR: Okay.

MR. CLARK: The, we have, we haven't introduced them yet, but we have all, videos depicting various scenes from various events, not just the, the, the August 29 or July 29, August (inaudible) --

CHAIR: Okay. So, to whatever extent we get to that, --

MR. CLARK: Right.

CHAIR: -- that would speak to some of the issues on behalf of the association?

MR. CLARK: That's right, that's, that's correct.

CHAIR: Okay.

MR. CLARK: Okay.

CHAIR: This is not to be clear, a comment as to what's going on with those videos as of yet, but understood that when that comes up in the future, that's being incorporated back into your association testimony, got it.

MR. CLARK: Yeah, yeah.

CHAIR: Okay, next?

MR. CLARK: All right. A new affidavit, Joann's, Foxworthy's health statement.

MR. HOLZER: Okay.

CHAIR: And this is under, again, A?

MR. CLARK: Right.

MR. HOLZER: This is under A, yeah.

MR. CLARK: This is, this, this, this is about the impact of this use of the way the property has been used on her health.

CHAIR: Is Ms. Foxworthy a member of your organization?

MR. CLARK: Yes, she is.

MR. HOLZER: Do you have it?

MR. CLARK: No, I don't.

CHAIR: Mr. Schmidt, do you have that in front of you?

MR. HOLZER: I gave it to him.

CHAIR: I see you do, okay.

MR. SCHMIDT: This, this affidavit?

CHAIR: Yes.

MR. HOLZER: Yes.

CHAIR: Sixty-seven.

MR. SCHMIDT: I, I have a copy of it, yes, sir.

CHAIR: I just wanted to make sure you were able to review, that's all.

MR. SCHMIDT: I, I'm looking at it now.

CHAIR: Understood. Bless you.

MS. DOPKIN: Bless you.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Yes, yes, --

CHAIR: Oh, I saw you stand, I thought you were ready --

MR. SCHMIDT: I, I was, no. I mean, I object to the document but it hasn't been offered so I'm --

CHAIR: Okay. Well, I think we're getting to that point.

MR. SCHMIDT: -- not trying to be premature.

CHAIR: So, what is your objection?

MR. SCHMIDT: My objection is, if, if this witness wants to submit this, she can come and testify. I mean, why are we getting an affidavit? I would object to an affidavit as opposed to having the witness come and testify.

Additionally, in terms of the substantive things in the affidavit, if I can summarize them, it, it appears to be that she has serious health problems and I, just not quite sure what that's got, with all due respect, I feel sorry for the lady and her health problems, and I'm not trying to minimize them. But I'm trying to figure out what that's got to do with

the special exception at issue. I, I would tell you I, I am aware of the fact that the witness has a criminal record for driving while intoxicated.

CHAIR: Well, --

MR. SCHMIDT: And I would certainly, if the, if the, based on our Maryland Judiciary Case Search, she was convicted of DWI --

CHAIR: Well, hold on. I don't want to hear that evidence right now.

MR. SCHMIDT: Okay. But I mean, I would cross examine her on whether it was alcohol problem that might be causing these problems as opposed to the special exception.

CHAIR: I under, I understand, I understand your point. Mr. Holzer, do you wish to respond?

MR. HOLZER: No.

CHAIR: Okay. So, --

MR. HOLZER: Oh, I'm sorry. I should.

CHAIR: Proceed.

MR. HOLZER: They're already in evidence.

CHAIR: What is already in evidence? The affidavit is not.

MR. SCHMIDT: The affidavit is?

MR. HOLZER: That one is not.

CHAIR: Right.

MR. HOLZER: The ones I have next are.

CHAIR: All right. Here's my thinking on the affidavit. Number one, I do think it's a concern if there are going to be substantive matters that are in here, when this witness would not be subject to cross examination. But also to the point of, this isn't on behalf of the association, where this is an individual conveying her individual issues on, but it's being submitted via the association. It seems to me that the, and do you have Exhibit 28, just so I can reference it real quick?

MR. MCCOMAS: Yeah.

CHAIR: Bear with me one second.

MR. HOLZER: Sure.

CHAIR: The resolution merely illustrates the opposition, that is understood. And it is understood that there were reasons that, for the opposition that certainly Dr. Clark is here to testify to today. Since he is a live witness and we have heard from other witnesses that are already incorporated, I think the more prudent course of action is to sustain the objection and not have the affidavit come in at this point. That does not limit the other testimony that you have given, just as to, solely as to the affidavit and to be clear, it is not to minimize Ms. Foxworthy's health issues or anything else. The concerns that she has, I assume that she may have these concerns but since it does not meet the requirements, I think, for admission here for this Board in

this case, it, we, better to set it aside for now and try to move on.

MR. SCHMIDT: And certainly, if she wants to testify, that would be appropriate --

CHAIR: She's not precluded.

MR. SCHMIDT: -- sure, and I, I look forward to cross examining her.

CHAIR: She's not precluded from testifying.

MR. HOLZER: Would her cross examination include her driving record?

CHAIR: I'm not making any opinions as to the driving record. There's a reason why I shut that down right away because I didn't want to hear it.

MR. HOLZER: But, yeah, and I didn't want to present the woman if she's going to be cross examined on that kind of irrelevant testimony.

CHAIR: Mr. Holzer, we're, we're not even there yet. So, I understand your concern that you're trying to voice here about it. I, and I don't know where it is with respect to whether or not it's appropriate or not. So, I can't make any type of comments as to whether or not she could or could not be subject to whatever questions that Mr. Schmidt, hold on, would otherwise put to her on cross examination. I'm not, I do not wish to hear anything further about any type of DUI convictions, alcohol use or anything else. She is not here. If

and when she were to show up, if it's appropriate, then we will cross that bridge then. I, we do not need to address it sitting here today.

MR. HOLZER: Well, I don't, I don't know whether I want to put the woman in that position or not, so --

CHAIR: Mr. Holzer, that is fine. And again, what I have said about it stands. We do not need to hear anything further about it so please continue with your --

MR. SCHMIDT: Mr. Garber, can I just say, I, I certainly did not intend any offense of Ms. Foxworthy. I --

CHAIR: It was not taken that way.

MR. SCHMIDT: I bring that up because the affidavit or alleged health issues and there might be many reasons for health issues so that's all I'm going to say.

CHAIR: Okay. Well, just, there's nothing more that needs to be said about it. It was not received that way. I understand that you have cross examination perhaps for her.

MR. SCHMIDT: Sure.

CHAIR: For, on whatever basis, irrespective of whether or not there ever was a record of this or not. So, I would already be inclined to not allow the affidavit in on, because there's substantive matters set forth within and there's already additional evidence for the points to which Dr. Clark wishes to use them for purposes of the association so, therefore, it's also duplicative in that, in that regard, so we

do not need to hear from, I guess, the affidavit on those points, when it's already well established through Dr. Clark's other evidence as to the noise issues.

MR. HOLZER: Again, I, I --

MR. MCCOMAS: (inaudible) i.d. only?

CHAIR: I.d. only.

MR. MCCOMAS: Okay.

MR. HOLZER: Again, even though it's been marked for identification and you precluded it from coming into evidence, I want to make sure that, that the word proffer as to its entrance is on the record, because all of this will end up being an issue.

CHAIR: I am not foreclosing your ability to argue that we made errors in our evidentiary rulings --

MR. HOLZER: I understand.

CHAIR: -- specific to any of the exhibits that we've discussed so far.

MR. HOLZER: I understand.

CHAIR: But particularly now in light of the context of Exhibit 67.

MR. HOLZER: And the only thing that I'm, I'm saying, and not to offend the Board --

CHAIR: It's not, it --

MR. HOLZER: I, I understand.

CHAIR: There's, there's no offense.

MR. HOLZER: I understand. But when, when one is in a subsequent appeal, if that is what's going to happen, the, the Courts understand that you, when you proffer a document in and it didn't end up getting considered by the, I just want them to understand what, --

CHAIR: Right.

MR. HOLZER: -- what it is and that's all.

CHAIR: And so, that's why we include it as i.d. only and it, it is made part of the file, though not admitted, --

MR. HOLZER: Right.

CHAIR: -- therefore, for the purposes of the Board's consideration, we do not consider Exhibit 67.

MR. HOLZER: Right.

CHAIR: Though it should be transmitted with the file should there be future proceedings.

MR. HOLZER: Thank you, Mr. Chairman.

CHAIR: Sure thing.

MR. HOLZER: You have certainly outlined it for the, for subsequent inquiry.

CHAIR: Yes, that is fine.

MR. HOLZER: I appreciate, I appreciate that.

CHAIR: No problem.

MR. HOLZER: All right.

CHAIR: So, we're done with Ms. Foxworthy's affidavit at the moment.

MR. CLARK: Okay. I, I, I would say --
CHAIR: Well, there's nothing --
MR. CLARK: Okay, okay.
CHAIR: -- there's no question pending.
MR. CLARK: (inaudible).
MR. HOLZER: Okay.
CHAIR: (inaudible) Mr. Holzer.
MR. HOLZER: Now, next would be in terms of documentation, Ms. Foxworthy's sound affidavit, Robert Shifflett's sound affidavit and Dave Poehler's sound affidavit. I don't want to go into all of the argument again, but in terms of those documents, I would like to put them in, if, if that's, you're familiar with --
CHAIR: If I'm understanding you correctly, you have two additional affidavits to discuss sound?
MR. HOLZER: Three.
CHAIR: Three, sorry.
MR. HOLZER: Three.
CHAIR: What I heard was Mr. Shifflett, Mr. Poehler?
MR. HOLZER: And Ms. Foxworthy.
CHAIR: We, we already dealt with --
MR. HOLZER: It's a different one.
CHAIR: Oh, we have a different Foxworthy, okay.
MR. HOLZER: Yes.
CHAIR: So, we have a second Foxworthy. Now, Mr.

Poehler has already testified.

MR. HOLZER: Yes.

CHAIR: He, he has been here, he has been cross examined by Mr. Schmidt.

MR. HOLZER: Yes.

CHAIR: And so, do I understand this affidavit to be additional?

MR. HOLZER: No. What I want to make sure of, if these three affidavits were already submitted to this Board in the preliminary motion, okay?

CHAIR: They were not received as substantive evidence but they were made part of the motion.

MR. HOLZER: Exactly. And I want to make sure that they are, in terms of the substantive presentation, not just the motion.

CHAIR: Understood. Mr. Schmidt, anything you wish to add?

MR. SCHMIDT: Yeah, yes, I object. I believe it's a fairly fundamental rule of evidence that if a witness has testified, for example, as Mr. Poehler has, I'm not sure why there would be a need, and I don't think it would be appropriate, to allow that witness who has already offered testimony and been cross examined, to then submit an affidavit. If he wanted to testify about the matters in the aff, that are contained in the affidavit, that witness certainly had an

opportunity to do so and I would have had an opportunity to cross examine him regarding those matters. But to, essentially, backdoor, my choice of words, by allowing him to come in, testify about certain things, be cross examined about those things and I would be restricted to the area of direct examination in my cross examination, and then allow him to submit an affidavit alleging or testifying about additional facts, I think is manifestly improper --

CHAIR: Well, if I, if I can --

MR. SCHMIDT: I've never heard of that even under relaxed rules of evidence.

CHAIR: If I could just jump in on that point. To, only to add, we haven't seen the affidavits, first.

MR. SCHMIDT: As, as have I.

CHAIR: And second, right, and (inaudible). But second, he actually was specifically provided direct and cross examination testimony as to the noise issues that he has, personally had experience with.

MR. SCHMIDT: Yeah, I mean, I was trying to look at my notes as I, as Mr. Holzer was saying this, and I believe he did so it's duplicitous on top of --

CHAIR: He talked about specifically music, music coming at 1:00 a.m. in June or July of 2017 from what I recall.

MR. SCHMIDT: Right.

CHAIR: That's the one thing that stands out. I'm

not suggesting it's limited to that, but I do recall testimony from Mr. Poehler on that very point and then there was questions asked about a rock concert held by another neighbor down, a bit away and he said the music didn't sound like rock music to him and, and he's an aficionado of rock music.

MR. SCHMIDT: Right.

CHAIR: Something to that effect.

MR. HOLZER: The, the point of the matter is, you got it all wrong in terms of the sequence. This, these affidavits were submitted on the first day in the preliminary motion, before he ever had a chance to testify or be cross examined.

MR. SCHMIDT: But they were motions exhibits.

CHAIR: I don't think that that makes a difference. I think what, what the point of it is, is whatever he wanted to say he had the opportunity to say, he's not here, so therefore, we shouldn't take the affidavit as substantive evidence since he's had the ability to testify to the very points, presumably that are contained in the affidavit. Now, we're going to go through the same procedure, as we did with the other Ms. Foxworthy, that is, to allow you to introduce into evidence for i.d. only, recognizing these are proffers as to the documents, correct?

MR. HOLZER: That's correct.

CHAIR: Okay.

MR. HOLZER: So, I have Ms. Fox, Joann Foxworthy.

CHAIR: There's a second one?

MR. HOLZER: The second one is Robert Shifflett.

CHAIR: So, Joann Foxworthy was the one before?

MR. HOLZER: It's a different affidavit.

CHAIR: What, there are two?

MS. DOPKIN: Two separate --

MR. MCCOMAS: Two of them.

CHAIR: There are two separate affidavits from Joann Foxworthy?

MR. HOLZER: Yes.

CHAIR: I thought we were talking about two different Ms. Foxworthy's, that's why I was confused.

MR. HOLZER: No, no, I'm sorry.

CHAIR: No, that was my fault. So, okay, so there's another, right.

MR. HOLZER: And then, well, I can tell you, Mr. Poehler testified about music and sound, so you've already said that Ms. Foxworthy and Mr. Poehler's are, are going to be marked in this three packet material, which is, I think would be safe to mark it, mark the one, the three packet material as one. But Mr. Shifflett --

CHAIR: So, 68-A, A, B and C is how we're going to do this. Foxworthy A, who's come, who's page two?

MR. HOLZER: Page two is Mr. Robert Shifflett.

CHAIR: Mr. Shifflett will be B and then finally Mr.

Poehler would be C.

MR. HOLZER: Yes.

CHAIR: These were affidavits attached to your motion at the start of this entire hearing.

MR. HOLZER: Right. Mr. Shifflett never testified.

CHAIR: I know, that's understood.

MR. HOLZER: Okay.

CHAIR: Right.

MR. HOLZER: Okay.

CHAIR: His name has been brought up, I recall, during the course of the hearing at some point.

MR. HOLZER: Right.

CHAIR: But he has not testified.

MR. HOLZER: Right.

CHAIR: Mr. Schmidt, do you understand that that's how this is being received at the moment?

MR. SCHMIDT: Yes, and you're marking all three for identification purposes only.

CHAIR: Yes, 68-A, B and C marked for identification.

MR. SCHMIDT: Yes, sir.

CHAIR: I think we've already exhausted and covered the grounds as to those points.

MR. SCHMIDT: I believe so, thank, thank you.

CHAIR: So, the same ruling that was provided for the other Foxworthy affidavit will be made part of 68-A, B and C as

well. All right.

MR. SCHMIDT: Thank you. And it's sixty-five?

MR. MCCOMAS: No, sixty-eight.

CHAIR: Sixty-eight.

MR. HOLZER: Sixty-eight.

MR. SCHMIDT: Sixty-eight, I'm sorry, thank you.

CHAIR: Thank you.

MR. SCHMIDT: I didn't think that was right.

CHAIR: All right. Next, Mr. Holzer?

MR. HOLZER: I believe you wanted to under detrimental to health, safety and welfare, Morgan Minor's sound and lighting affidavits. Has Ms., go again, explain who Ms. Morgan is.

MR. CLARK: She can't be here and Morgan Minor lives on Harford Road, about eight-tenths of a mile from the property. And she has complaints about, about the amplified sound and then the way the light, the up lighting at the mansion at night.

CHAIR: Was Ms. Minor here on any day thus far?

MR. CLARK: Yes, she was.

MR. HOLZER: She originally attended, I think, the first couple days and then she travels for employment.

CHAIR: I seem to think that on November 1st she was here because you were referencing things that she printed out from Facebook or wherever else and then --

MR. CLARK: I don't think she was here on November 1st (inaudible).

CHAIR: Okay. I seem to recall you gesturing toward the audience as if she was. I would, I don't know who she is, so.

MR. CLARK: Yeah.

CHAIR: That's why I'm asking this question.

MR. CLARK: Yeah. No, no, she's been here.

CHAIR: But she has been here. But she cannot be here today?

MR. CLARK: And, and tomorrow.

CHAIR: And tomorrow.

MR. CLARK: And then she's leaving for Europe or some, yeah, she's --

CHAIR: Okay.

MR. CLARK: -- one of those people.

CHAIR: So, you're going to submit an affidavit as to specific substantive matters --

MR. HOLZER: Very short.

CHAIR: -- for that, so that will be received in the same manner as the other affidavits. Sixty-nine. Mr. Schmidt, that is your understanding?

MR. SCHMIDT: Yeah.

CHAIR: I assume you have the same objection and which will be sustained.

MR. SCHMIDT: Yes, sir.

CHAIR: So, that will be applicable, sixty-seven, sixty-eight, sixty-nine.

MR. MCCOMAS: Mr. Holzer, do you have many more affidavits like this?

MR. HOLZER: Let me just check.

MR. CLARK: Maybe not today.

CHAIR: Hold on, sir, there's not a question pending.

MR. CLARK: Yeah, yeah, yeah.

MR. HOLZER: Let me just look. Well, there, there are, there are some affidavits that are new, not old affidavits from the motion.

CHAIR: All right. Well, let's do this in the interest of, again, trying my best to figure out what would be expedient. We know generally, obviously, haven't seen them all yet, but where we stand with respect to the affidavits. But with respect to actual testimony that this witness can give today, we could go through the affidavits and deal with that separately, it seems, if it's going to run in the same pattern it has for sixty-seven through sixty-nine. And let's just get to the association testimony as to whatever, what other evidence we can get in the record, that's, you know, while we're here.

MR. HOLZER: Okay.

CHAIR: So, is, would that be okay, Mr. Holzer?

MR. HOLZER: Yes.

CHAIR: If we do that? All right. So, we're all, as far as I know, we're still on A.

MR. CLARK: Right.

CHAIR: 502.1(A). Leave aside all affidavits.

MR. CLARK: Last thing.

CHAIR: Okay.

MR. CLARK: On, on, on A. The value of solitude, which is why we, everybody says they have moved out there.

CHAIR: Yeah, that's why everyone moved out there.

MR. CLARK: Right, you know. And the disturbance of that solitude by, by the use of the site as it has been used, all right, I've told you I'm very big in the wilderness area, all right?

CHAIR: We're talking about your testimony as the association.

MR. CLARK: Yeah, yeah, right. But as, as someone who has been, all right, I received, in 2017, I went down to (inaudible) National Forest, participated in a U.S. Forest Service training on the Wilderness Act of 1964.

CHAIR: Okay.

MR. CLARK: Okay? The only reason this is being brought in, --

CHAIR: Okay.

MR. CLARK: -- is because in 1964, the Congress, in

its wisdom, determined that solitude was a, was, had, had the same importance as minerals, water, air, all the other resources. Now, it only applies to designated wilderness areas, okay? But the point I'm trying to make is that solitude is seen as, as a very important value. A very important resource. And it has been acknowledged as such. I had, we have a copy of the Act for you, okay? Here's my little book.

CHAIR: I see he pulled the book out of his pocket.

MR. CLARK: Like the Constitution.

CHAIR: Yes, thank you.

MR. CLARK: And, you know, and, and so, and it's that, you know, and this goes to what everybody, in --

CHAIR: (inaudible) your wife has, your wife has indicated --

MR. CLARK: Well, the entire board, right, right?

CHAIR: But how does this relate to the association?

MR. CLARK: The association is, is, is very concerned about the loss of solitude.

MR. SCHMIDT: Mr. Garber, just to avoid any objection, is, is this a designated wilderness area?

MR. CLARK: I just said no.

MR. SCHMIDT: It is not?

CHAIR: That, that's how it was received by me. That it was not.

MR. SCHMIDT: Okay.

CHAIR: But he's extrapolating from that as to the value of that factor and how that's incorporated in the general health, welfare --

MR. CLARK: Yeah, yeah, yeah, that's fair.

MR. HOLZER: All right. I have the Wilderness Act here, which --

CHAIR: This will be seventy-one, sir?

MR. MCCOMAS: No, seventy.

CHAIR: Seventy, sorry.

MR. CLARK: And I can --

MR. HOLZER: No, hush.

CHAIR: Hold, hold, hold on, Dr. Clark.

MR. HOLZER: Sorry, I apologize, but.

CHAIR: It's important to listen to your counsel in this regard. There's no question pending.

MR. HOLZER: Thank you. Just wanted to make sure everything was correct.

CHAIR: All right.

MR. HOLZER: And that is number seventy?

MR. MCCOMAS: Yes.

MR. HOLZER: Now, let me ask you this --

MR. CLARK: Can I have a copy?

MR. HOLZER: Pardon?

MR. CLARK: Can I have a copy?

MR. HOLZER: Oh, okay. You can have my copy.

CHAIR: Mr. Schmidt, I assume you don't have an objection to the Wilderness Act itself being admissible? I understand you may have a concern as to its applicability, which I assume you'll reserve for argument and/or cross examination.

MR. SCHMIDT: Yeah, yes, sir, that's correct.

CHAIR: But as to the admission of Exhibit 70, it is a public, well, --

MR. SCHMIDT: Yeah, I mean, I'll be honest with you, my knowledge of the Wilderness Act of 1964 leaves a little bit to be desired, whether this is still good law or not, I don't know, but I'll argue it eventually. Thank you.

MR. HOLZER: Well, that, that's because us old people are familiar with 1964 legislation.

MR. SCHMIDT: I remember it.

MR. HOLZER: You weren't even born yet.

MR. SCHMIDT: I was here.

CHAIR: It will be, it will be admitted. It will be admitted.

MR. HOLZER: Thank you.

CHAIR: Yes.

MR. HOLZER: Thank you.

MR. SCHMIDT: We can argue what it says and its application.

MR. HOLZER: You can, you've already expressed the

parameters for introducing this, is that correct?

MR. CLARK: Right.

MR. HOLZER: You're not saying that it applies to this --

CHAIR: It is not controlling.

MR. CLARK: No, no.

CHAIR: Over the decision making but you are saying that the factor itself is a consideration as part of, again, the 502.1(A) in terms of your health, general welfare --

MR. CLARK: Yeah, that has been recognized --

CHAIR: (inaudible) do you feel that that's fair to consider as a --

MR. CLARK: -- as a, as, as an important part of the human experience.

CHAIR: Understood. That's how at least it is being received by us, that was --

MR. HOLZER: Perhaps that Act should be addressed to this proceeding too maybe.

CHAIR: Either that we're in the wilderness or that we need the solitude?

MR. HOLZER: That we need the solitude.

CHAIR: Or both, yes. All right. So, with that in mind, it sounds then from what I understand, we're done with talking about 502.1(A), because you said this is the last.

MR. HOLZER: No, we're not.

CHAIR: Is that correct or not?

MR. CLARK: I, I, I thought, Carroll, I, I don't know.

CHAIR: All right.

MR. HOLZER: Under 502.A, dealing with sound and disturbance, we are finished.

CHAIR: That, that was what I, I'm sorry if I wasn't clear. That was my understanding.

MR. HOLZER: Yeah, and I'm sorry, but we still have adequate sanitary facilities, etcetera, to, which can affect the health, safety and welfare. So, the question is, do you want to continue to proceed, is there an appropriate time for the Court, or for the Board to stop --

CHAIR: I'm willing to proceed as long as Ms. Dopkin and Mr. McComas are.

MR. HOLZER: Okay.

CHAIR: All right. So, let me back up here because what I'm hearing is, what is to come is adequate sanitary facilities, which we've heard evidence about the lack of septic and water. Yes, Dr. Clark? You need a time out? Okay.

MR. HOLZER: And I would put on the record, we did start at 9:00, which is above, an hour before the normal 10:00 start hearing and it's now 5:00.

CHAIR: Yes.

MR. HOLZER: Just for the record.

CHAIR: No, not a problem. We are going to take a five minute break so Dr. Clark can attend to other activities.

(RECORDING PAUSED – 05:00:06 PM)

(ON RECORD – 05:05:14 PM)

CHAIR: All right.

MR. CLARK: I'm talking about the need to --

CHAIR: Oh, oh, no, that's okay. Yes. All right. We're back on the record. We're resuming with Dr. Clark.

MR. HOLZER: Yes. And we're still under the health, safety and welfare of, of 502.1, conditions.

CHAIR: My idea for today is to get through as much as possible, including get through all of 502.1 factors for the association and for Dr. Clark to the extent we've not already heard whatever it is he wants to say about it.

MR. HOLZER: We're going to be here until 9:00, 10:00.

CHAIR: The, that's not going to be acceptable, whether there's a day three. Because he is one witness, though he has two different roles, most of which are overlapping. We've already had him here on the stand all day for November 1st, whatever amount of time he spent all day today. I'm trying to move this along. We're not, there's no way on earth we can have another three to four hours of direct on Dr. Clark. That can't be the case. This is a special exception case, we've identified what factors are in play. I agree we may not have

exhausted it, I understand that. I'm not saying you can't ask the questions.

MR. HOLZER: I'm going to ask the question, Mr. Chairman, unless you tell me I can't.

CHAIR: But you need to be mindful of this is one witness in a special exception case that is going to be three days that, that seems to be a bit disproportionate.

MR. HOLZER: Your Honor, I, I was concerned about that and I watched and went back and looked at what the developer put on, or the Petitioner put on. And they ended up having to recall a witness who, who after investigation --

CHAIR: Mr. Collagero came back on the stand.

MR. HOLZER: Yes. And, and went through all that again. So, I, I --

CHAIR: And, and Mr. Holzer, just to steal your thunder there. This is not a comment as to how your case is proceeding, that is, I understand you have additional witnesses to present and it may take a couple, you know, some more time with them. I'm not discounting any of that. That is what it is. I'm saying this one witness for three days is a bit much. We need to figure out how to streamline this because we've heard a lot of evidence about, again, noise, traffic, safety concerns, the environmental concerns now, for, individually. Now we're into the association which, again, I recognize there are differences, you have to go through that. So, let's try to

do what we can to get as much out today.

MR. HOLZER: I've been trying to do that in terms of the --

CHAIR: I'm not, this isn't an admonition of you.

MR. HOLZER: Okay.

CHAIR: This is not. This is just me saying let's all get through this because I don't want to, and I'm sure Dr. Clark certainly doesn't, have a third day to testify at, on these factors which we've already heard a lot of testimony.

MR. HOLZER: Your Honor, I, just for the record though, to make, to make sure the Board understands, in terms of some of his testimony, it, it almost relates to a last wit, a last lay witness from the community summarizing what has been going on. And that's, and that's what he's trying to comment on. I mean, if somebody said something and he wants to rebut it for the, for the Protestants, that's what he's trying to do. Not retry the whole case over but --

CHAIR: No, and I understand that. And I'm trying to work with it too and I understand that he's trying to make some comments here and there about certain evidence that he finds important.

MR. HOLZER: Right, right.

CHAIR: And wants to make sure that we are aware of and, you know, --

MR. HOLZER: Exactly, exactly, you nailed it.

CHAIR: Right, it just, the, the concept of where we'll need another third whole day for him is not something that this Board, at least I don't feel personally comfortable with. I can't speak for Ms. Dopkin or Mr. McComas, but again, we have other witnesses still to come and we've had heard, I will, I will classify it as ample evidence as to the specific factors that have been identified to date. If there are additional points to be made, by all means, --

MR. HOLZER: And I, and I just, I, I understand what you're asking.

CHAIR: Right.

MR. HOLZER: One of the problems is that there is documentation, either written documentation or visual documentation, that rebuts some of the testimony of the Petitioners and that has not been brought before the Board. You've heard one testimony from the Petitioners and then you've heard testimony from the community but there hasn't been a rebuttal type of testimony that the community has been able to present.

CHAIR: I understand.

MR. HOLZER: And, and that's why --

CHAIR: We'll, we'll figure that part out. Just, I want to make sure we get all the 502.1 factors into the record and then see what is left over and we'll move on from there. Where we last left off, it was adequate sanitary facilities.

MR. HOLZER: Yes.

CHAIR: You have discussed that there's no septic, no water. We went through as to your, whatever testimony you wanted to provide. If it was operated in the religious manner proposed without septic or without running water and with septic and running water. What is it on behalf of the association you, do you want to address on those points to the extent that there's a difference? If it's the same, it's understood that you're incorporating your prior testimony into it. If it's from the association, there's a difference, that's what I'm asking you to identify.

MR. HOLZER: I, I apologize. I was looking to try to move on and didn't understand --

CHAIR: I was just saying we've had testimony as to if there is the temple to go forward, does he have a concern about the septic and water? He said yes, that they may not have septic and water. I asked him to identify those concerns and bring out that evidence. And then I said, now let's assume that there would be septic and running water, was is your, what are your concerns and what is that evidence? So, we have it covered both with and without as a religious use.

MR. CLARK: Can, can I answer --

CHAIR: And then now I'm asking with respect to the association, what difference in testimony in light of that does, is it, does the association have that's different than

what he has as an individual on those two subsections.

MR. CLARK: Okay. Can, can I, basic, I think we've just got some affidavits to fill, to, to enter in as i.d., however they've been.

CHAIR: Okay.

MR. HOLZER: And that's what I was working on try to keep --

CHAIR: Oh, no, and I understand that. But just so we're clear, for the adequate sanitary facilities, is it the, any additional evidence would consist of the affidavits that have yet to be offered or proffered to the Board?

MR. CLARK: What the affidavits will concern.

CHAIR: Well, I, I, again, understanding that the aff, that Mr. Holzer will present the affidavits --

MR. CLARK: I'm getting tired, so, --

CHAIR: It's okay. He'll present the affidavits.

MR. CLARK: Right.

CHAIR: Let's leave that affidavit stuff aside for the second. Is there any other evidence that you want to present or testimony for the association on the matter of the adequate sanitary facilities?

MR. CLARK: Okay. I would just reference Robert Powell's testimony.

CHAIR: Robert Powell's testimony.

MR. CLARK: Thank you, sir.

CHAIR: Okay. What about Robert Powell's testimony?

MR. CLARK: That the septic, that the septic system has failed, --

CHAIR: The, the existing septic system has failed.

MR. CLARK: Right. Has failed, there is none at the moment and that they were preparing a well, all right? That they had no water.

CHAIR: Okay. Now, the other test, or the other evidence you wish to put forward on this point are consistent with the affidavits?

MR. CLARK: Yes, sir.

CHAIR: All right. So, let's show Mr. Schmidt those. And we'll get back to you in one second.

MR. SCHMIDT: Thank you.

MR. HOLZER: And I'll show you this, and for the record, it's a packet of affidavits.

CHAIR: Seventy-two?

MR. MCCOMAS: It's seventy-one.

CHAIR: Seventy-one, sorry.

MR. HOLZER: It's a packet of affidavits from different people.

MR. CLARK: Do I, don't, I don't really need that, do I?

MR. HOLZER: Yeah, if you need it to, to look at it in case there are any questions.

MR. CLARK: Okay.

CHAIR: All right. So, I reviewed, or gone through the affidavits here and it just, as best as I could tell, going through quickly, it establishes the same points that I don't think there's any dispute. There is no, there is, at present, no functioning septic system and no running water.

MR. HOLZER: And no port-a-potties.

MR. SCHMIDT: Well, they bring --

CHAIR: And no port-a-potties.

MR. SCHMIDT: Well, they, I think the testimony was they had port-a-potties for the fundraising events.

CHAIR: Right. So, but if I were to go to the site right now, --

MR. SCHMIDT: Today, is there a port-a-potty --

CHAIR: Well, hold on, I don't need to know that, in evidence --

MR. SCHMIDT: Oh, there is, there is one there now.

CHAIR: Okay. But be that as it may, there's not running septic and there's not running water.

MR. SCHMIDT: Right.

CHAIR: And your concern is, as you mentioned before, they just had port-a-potties and that would be your concern going forward, if there was no running water and no septic. That testimony is the same for you and the association?

MR. CLARK: Yes, sir. Yes, sir.

CHAIR: All right. So, on that basis, with respect to the affidavits, they'll be treated in the same manner. I also find it duplicative because the evidence which they put forward again, seems to be the same as what's already been established and apparently largely agreed upon on both sides, anyway.

MR. HOLZER: These were, these were affidavits --

CHAIR: I understand with the preliminary motion.

MR. HOLZER: Yeah.

CHAIR: Right.

MR. HOLZER: Gotcha.

CHAIR: Done then. But for purposes of substantive evidence today, it's going to be treated in the same manner as the other affidavits as before.

MR. SCHMIDT: Seventy-one i.d. only.

CHAIR: I.d. only.

MR. SCHMIDT: Thank you.

CHAIR: Yes. Is that it for that subject matter? Okay, does that --

MR. HOLZER: No, it's not. There is a question, did you personally observe something that you needed to testify to on behalf of the association? I mean, I don't want to put words in your mouth.

MR. CLARK: No, no, no, no. I, no, I know and thank you. But you did.

CHAIR: Okay. So, what is it you would like to say on behalf of the association?

MR. CLARK: Yeah, I, dur, dur, during the event July/August 2018, we counted a total of three port-a-pots for over five, over three hundred people a day at any rate, if not five hundred and no service trucks.

MR. SCHMIDT: Just to be consistent, objection. So, so what? Obviously, if we get an occupancy permit, we're going to have to, Mr. Powell testified about all this.

CHAIR: You, I have your, I have your objection on the record. I will say whatever happened in July/August 2018 with three port-a-pots, it's understood that there was no functioning septic system, no running water, it's understood that there were port-a-pots there. The sufficiency of which for the attendees, I believe, is not something to, correct me if I'm wrong here, but you don't have an area of expertise to even say what would be appropriate, what is not appropriate --

MR. CLARK: Other than the fact that I clean privies for a living, no.

CHAIR: Understood. And so, we can move on from there. All right. So, I'll sustain the objection in that, in that respect understanding everything that's been said prior to the testimony on that point.

MR. HOLZER: And this is, are more affidavits so we can get these out of the way.

MR. CLARK: Which affidavits were these?

MR. HOLZER: These are the affidavits --

CHAIR: Well, why don't you identify them for the record?

MR. CLARK: Oh, I'm sorry.

CHAIR: If, I mean, I guess it's coming to you unless Mr. Holzer wants to proffer it to the Board?

MR. HOLZER: No, this is, these are affidav, this is the packet that I just gave the Board regarding port-a-potties.

MR. CLARK: Oh, okay.

CHAIR: Okay. So, these, okay. This speaks to the port-a-potties and the point that you, you just, you just identified.

MR. SCHMIDT: Also talks about Councilman Marks, I believe.

CHAIR: Okay.

MR. SCHMIDT: Which, which I'm sure is, I don't think is appropriate.

CHAIR: Yeah, I don't know why that would be in there anyway. So, --

MR. CLARK: That, that actually goes to a different part of our case, someplace else --

CHAIR: I believe there was already testimony in here regarding various things said by Councilman Marks and Senator Brochin at some fundraiser when the code enforcement was called

and --

MR. CLARK: You got, okay, you got a great memory. Thank you.

CHAIR: Thank you. So, I do recall that there was some testimony in the record regarding that. Having said that, these affidavits will be received in the same manner as was just described for Exhibit 67 through 69 and 71. Because I believe seventy was a different exhibits. Yes, the Wilderness Act. All right.

MR. HOLZER: Now, for, for purposes of what his outline had next, related to the police reports. And I understand at the time this was prepared, we didn't know what the Board's decision was. So, I'm not going to get into that issue. Now, there was a question that the community had, I believe, related to fire.

MR. CLARK: Yes.

MR. HOLZER: And that was an issue under health, safety and welfare, and it could also go under create a potential hazard from fire.

MR. CLARK: Yes, yes.

MR. HOLZER: So, but this is, the Order that I have, the outline --

CHAIR: That's fine, as a topic.

MR. HOLZER: As a topic.

CHAIR: Understood.

MR. HOLZER: So, --

CHAIR: What is it you wish to tell us on behalf of the association as to a concern about fire?

MR. CLARK: We have a video, again, culled from videos that Petitioners, --

CHAIR: Well, before you describe what's on the video.

MR. CLARK: Okay.

CHAIR: Let's express what the concern is.

MR. CLARK: Oh, okay. Unsafe use of fire.

CHAIR: Unsafe use of fire. Okay. All right and I assume then that you have a video that will depict whatever it is that causes you to have that concern?

MR. CLARK: Yes, sir.

CHAIR: When I say you, obviously I'm referring to the association.

MR. CLARK: Yes, sir.

CHAIR: All right. Now, that's going to require a video to be played?

MR. CLARK: Yes, sir.

CHAIR: Mr. Holzer, I'm going to leave it up to you. Do you want to save the videos or start the videos, or just go through in accordance with your outline?

MR. HOLZER: I, I only, for purposes of this, I just need to play the one. And I --

CHAIR: Is, so, let me ask, for the remainder of the factors to be discussed on behalf of the association, are there other videos to be played that have not already been played?

MR. HOLZER: Let me look.

CHAIR: Because it would be my inclination to play videos back to back to back to, if there is more than one.

MR. CLARK: It doesn't look like it.

MR. HOLZER: There, there, there are dash cam photos, photos but no --

MR. CLARK: Yeah, most of them just reference things (inaudible) already shown.

MR. HOLZER: Okay. So, there are no more videos other than this one in, under the 502 criteria, is that correct?

MR. CLARK: It looks like it to me, yes.

MR. HOLZER: Okay, because I want to answer Mr. Garber's question.

CHAIR: So, I understand, or looking at Exhibit 51, there was a video DSC-7045 fire, is that the one?

MR. CLARK: Thank you.

CHAIR: Is that the one?

MR. CLARK: That's the one.

CHAIR: Okay. It is new, as in it has not been previously part of another disc. Therefore, Mr. Schmidt has not had the opportunity to review that video prior to it being

played here. Mr. Schmidt, in light of that, does that cause you any type of reservation as to how, how to proceed today with that video?

MR. SCHMIDT: I mean, obviously I don't have any idea what it is showing, as I haven't seen it --

CHAIR: I'm trying to be consistent with the rule, prior ruling.

MR. SCHMIDT: Yes, sir.

CHAIR: That you should have the opportunity to review videos before they're played to see what objections, if any, you may have.

MR. SCHMIDT: Yeah, and I, I guess the other part of it, I would certainly like to do that, Mr. Garber, if possible. I recognize our time constraints and I want to move it along. I guess the other, I don't know whether it's a question or a comment or how to phrase this but, I think the context of fire in 502.1 is, since the entire concept of a special exception is whether there would be a danger from fire, essentially, going to another property. I mean, because it's the impacts on adjacent properties, not on the subject property, which is the special exception criteria. And this is such a large property, I'm struggling to understand how --

CHAIR: If I could steal your thunder there on that? I have same, some of the same questions that you may have.

MR. SCHMIDT: Yes, sir.

CHAIR: I don't think that we're, we're going to sit here and be able to --

MR. SCHMIDT: Why, why don't we play the video and then I'll object if I want to.

CHAIR: That's kind of where I was going with it.

MR. SCHMIDT: That's fine.

CHAIR: Is the only way to answer some of those questions is to actually the video.

MR. SCHMIDT: Yes, sir.

CHAIR: But I wanted to at least give you the opportunity to view it beforehand if you --

MR. SCHMIDT: I'm, I'm fine with the Board looking at it.

CHAIR: All right.

MR. SCHMIDT: If I object, you can strike it.

CHAIR: You may play the video now.

MR. HOLZER: Okay.

CHAIR: Now, what we are seeing on this video, is that the unsafe use of fire or is this just the introduction part?

MR. CLARK: No, it's, it's pretty much, you know, and then it, it goes on a little bit. But it's, you've, you've got all these flammable garments inside a tent and there is, don't forget, the Bonaparte mansion was rebuilt as a result of a major conflagration that happened on the property. And there

is no ready access for the fire equipment. There are no fire extinguishers aro, avail, around. There is no kind of hosing or any kind of safety, you know, mitigation. There is not a pond to draw water from. There is no running water. So, it is our concern.

MR. HOLZER: The, the comment from Mr. Schmidt related to the effect upon adjacent properties. Now, in terms of if this tent were to go up in flames, --

CHAIR: Well, if I could just jump in there --

MR. SCHMIDT: We're not going to have a tent.

CHAIR: -- because --

MR. HOLZER: Or the building.

CHAIR: Well, we're, we're talking about an event that already happened, that the evidence introduced to date has suggested they're not going to be in a tent to do this again. So, we have to apply it going forward so take it out of the equation of what you see in the video, apply it to whatever you think is going forward for purposes of your question.

MR. HOLZER: Obviously.

CHAIR: Yes.

MR. HOLZER: Obviously. If he can ask (inaudible) I can at least suggest that the use in a religious institution, such as we just saw there, and I assume that was an action in terms of a religious connotation. At least that's what it looked like to me, if you're in a building and the building

catches fire, the question is whether or not that fire could spread, the embers could spread and so forth. So, I don't think the issue of fire, it can be excluded because this is thirty acres. I, I think the real question is whether or not in this religious connotation flames being carried around, such as you saw on the video, can potentially create a fire problem.

CHAIR: Um hm.

MR. HOLZER: And I, that's why I think the video is relative and the testimony I, I'll let, Mr. Clark go into what they, what he's concerned about. But it seems to me that's the relevance of the question related to fire on --

CHAIR: And I understood Dr. Clark's testimony to have concerns about the safety and mitigation and there's no pond to draw water in, there's no running water, there are no fire extinguishers, how would the fire, if there were to be one, how would that be extinguished or would it just burn and then would the embers or other such things, then spread to other neighboring properties?

MR. CLARK: Well, and in fact, --

MR. HOLZER: Could, could I respond to that?

CHAIR: Well, that's what I understand his testimony to be.

MR. CLARK: Okay --

CHAIR: Hold on one second, sir.

MR. HOLZER: Mr. Powell did testify that they will

have future tents on the property. So, and that's their testimony, that's their evidence, so their witness, his testimony, that there will be future tents. So, one cannot preclude the fact that, in addition to the structure itself --

CHAIR: All right.

MR. HOLZER: -- there may be additional tents. Where they are, I don't know.

CHAIR: I, we're not going to get into whether there will be tents or not because the issue is the same, I guess, from his perspective. But thank you for the clarification. The record will speak for the, itself. If there will be, if there's a suggestion that there's a potential for tents to be in the future, I understand correctly what I had said earlier.

MR. HOLZER: Yes.

CHAIR: But I understand his testimony, that is Dr. Clark's testimony, to be about what do you do in the event of fire, basically.

MR. HOLZER: Correct.

CHAIR: Mr. Schmidt, you're standing. I assume that you have something to say about this.

MR. SCHMIDT: Ob, obviously at such time as the building becomes habitable to the extent that it is rehabilitated and as Mr. Powell testified, and even since his testimony, they've made further efforts to obtain County approval of a functioning septic system and drill a well and so

on and so forth. So, when they drill a well, and like many other churches and temples, I suspect they will have fire extinguishers in the building. So, the --

CHAIR: Well, let's let, well, well, we'll stop there only because I understand where you're going with this. But if you have something you want to bring up on cross examination, or if you have a stipulation or if you're proffering something to the Board, I mean, that's, what I'm hearing is not an objection, that's how I interpreted it by you standing. Is that fair?

MR. SCHMIDT: I, I had, I don't have any objection to the video per se. It shows what it shows. My objection, Mr. Garber, is that the, the testimony is, is just strains the credibility of any person to consider it, that I just think it's inflammatory and I don't mean to use the word as a double entendre.

CHAIR: I understand.

MR. SCHMIDT: But I mean, Christian churches have, during a Christmas season candles in their building as part of their religious worship. That, in my church, which is a Christian church, we light candles, candles.

CHAIR: I understand.

MR. SCHMIDT: And to suggest that what you see here on a thirty acre property is a fire danger to other properties is just so unbelievable that such an assertion would be made

that I think it doesn't have any probative value.

CHAIR: I, I understand. It, it will be received for the evidence of which, what it is. You have the ability to cross examine and make whatever arguments down the line. It will be admitted. So, Mr. Holzer?

MR. HOLZER: Thank you. I have --

MR. MCCOMAS: Mr. Holzer, let me just ask a question.

MR. HOLZER: Yes.

MR. MCCOMAS: He said it was a new video and so I'm sort of a little nervous because I have like CD's and thumb drives here. So, is that new video, is that --

CHAIR: Oh, thank you, Mr. McComas.

MR. MCCOMAS: -- has that been admitted into evidence and any other new videos that are on the list that have, have--

MR. HOLZER: Could the witness answer that? How did you put that --

MR. CLARK: They, they, they, they have not been admitted yet.

MR. MCCOMAS: Do we have them, is what I --

CHAIR: Yeah, we do not is what I'm hearing. There are other new videos that have been identified on fifty-one.

MR. HOLZER: Yeah.

MS. DOPKIN: And played.

CHAIR: And right, they, they --

MR. MCCOMAS: And they've been played too

(inaudible).

CHAIR: Some of them have been played, the second list, for example. To which Mr. Schmidt had no objection previously to that either. So, my suggestion is, because I don't think we're going to, is it your intent to play any and all new videos that are identified today?

MR. CLARK: No, and we have evidence copies of, of DVD's for, of the new --

CHAIR: Are we, have we exhausted all potential new videos to be played as in connection with your testimony?

MR. HOLZER: Is that only related to 502, but there's other portions of testimony that we got to (inaudible) --

CHAIR: Well, in other words, I don't want to receive it piecemeal.

MR. HOLZER: I understand.

CHAIR: Right, okay. It should be one copy of whatever videos are, are to be in evidence.

MR. HOLZER: Why don't, why don't we --

MR. MCCOMAS: The new ones probably, right?

MR. HOLZER: Why don't we --

CHAIR: (inaudible).

MR. MCCOMAS: The new, the new ones.

MR. HOLZER: The new, we're talking about only new ones.

CHAIR: Well, and the ones previously ruled to be

admissible.

MR. HOLZER: Yes.

CHAIR: If it was previously ruled to be inadmissible, obviously that's a different matter. But --

MR. CLARK: Can, can I help?

CHAIR: -- so hold on, so my take is this, because it sounds as if you're going to have a second tape, or second phase of playing certain videos, or that's what you intend.

MR. HOLZER: Yes.

CHAIR: All right. Mr. Schmidt has not seen those new videos. Do you have a copy for Mr. Schmidt sitting here today?

MR. CLARK: Yes.

MR. HOLZER: I could, yes, and I could also offer it to the Board so you can mark it for identification.

CHAIR: I, I think that that's fine. Okay, why don't we do that? But I at least want Mr. Schmidt to have a copy if there are additional videos to be played.

MR. SCHMIDT: Just, do we have a container for this (inaudible)?

MR. HOLZER: No, I, I don't, we don't.

MR. MCCOMAS: And these would only be the new videos as opposed --

MR. HOLZER: Yes, yes.

MR. MCCOMAS: (inaudible).

CHAIR: I see Dr. Clark wants to tell me something.
MR. CLARK: Thank you, sir.
CHAIR: No problem.
MR. CLARK: All the videos that have appendix disc new.
CHAIR: I figured that they are on here.
MR. CLARK: That they are on there.
CHAIR: Yes.
MR. CLARK: Yes, sir.
CHAIR: All right.
MR. MCCOMAS: And (inaudible).
MR. CLARK: Right.
MR. MCCOMAS: What's that exhibit there (inaudible)?
MR. CLARK: No, it's the video control sheet, whatever it was.
CHAIR: Fifty-one. Video control sheet is fifty-one. All right. So, we're done with the fire --
MR. HOLZER: Yes.
CHAIR: -- evidence you wished to put in the record. Oh, no, we have a still photo, of course.
MR. HOLZER: Yeah.
CHAIR: All right. Seventy-three is, well, seventy-four. Seventy-four --
MR. MCCOMAS: No, no, the DVD is seventy-three.
CHAIR: -- is the photos, are the photos now.

MR. HOLZER: Okay and these, these are seventy-four. I think that's (inaudible).

CHAIR: And that is A or, two pages.

MR. CLARK: Right.

CHAIR: For that.

MR. CLARK: Now, --

CHAIR: Hold on, Dr. Clark. Is there any further testimony that you need about seventy-four, page one or two?

MR. HOLZER: Yes, if I could ask Mr. Clark. Mr. Clark, how did seventy-four, the pictures, come from this video, number one. And then secondly, what comment do you have in regard to what the picture shows.

MR. CLARK: Okay.

CHAIR: I should ask this. Mr. Schmidt, do you have any objection to Exhibit 74?

MR. SCHMIDT: No, no. And it speaks for itself.

CHAIR: It is admitted.

MR. HOLZER: Thank you.

CHAIR: So, to the extent that that helps you with your examination, --

MR. HOLZER: Okay.

CHAIR: What is it you want to tell us about the photos though that --

MR. CLARK: Well, they're screen shots from, from, from --

CHAIR: We understood where it came from.

MR. SCHMIDT: Got it, got it.

MR. CLARK: Right, right, right, right.

CHAIR: We've now seen the video.

MR. CLARK: Right.

CHAIR: But is there anything substantive that you want to tell us that you've not already told us about the fire issue that --

MR. CLARK: Yes, yeah. It is not uncommon, especially in this day and age, for fire brands and embers to go from one property to another. Mr. Poehler's property, Mr. Poehler's building is what, two hundred fifty feet from --

CHAIR: Well, we're not, you can't ask questions.

MR. HOLZER: I'm not going to answer.

MR. CLARK: No, no, no, but, you know, --

CHAIR: No, the record will speak for itself as to its dis, the possible estimate of distance.

MR. CLARK: Right, right, right, but, but, but it is, it is, and then it's directly across the street from my home. And so, yes, it is, the whole issue is, is of concern.

CHAIR: All right. And that was understood from your testimony.

MR. CLARK: Right.

CHAIR: Is there anything else further?

MR. CLARK: No, no, no.

CHAIR: Okay. So, the next factor?

MR. HOLZER: For the record, Mr. Poehler did testify as to how far --

CHAIR: Yes, he did.

MR. HOLZER: -- the subject building was from his house.

CHAIR: To the property line.

MR. HOLZER: Exactly.

CHAIR: Not to the subject house, but it was to the property line.

MR. HOLZER: To the property line.

CHAIR: And then, I believe, there may be some testimony, or maybe it's on one of the plans, the distance from the house to the property line.

MR. HOLZER: Yes.

CHAIR: So, --

MR. HOLZER: So it can be calculated.

CHAIR: Yes.

MR. HOLZER: Okay. Are there any additional hazards, and I think we've already sort of --

MR. CLARK: No, we haven't.

MR. HOLZER: -- covered this.

MR. CLARK: No, no we haven't.

MR. HOLZER: Okay. Well, let me just, what is your comment for the association relative to added hazards by

drivers unfamiliar with the, with the road?

MR. SCHMIDT: Objection. Asked and answered.

MR. CLARK: No, it hasn't.

CHAIR: Well, I, I will say this. I understand where you're going with it, however, as to the association, there has not been testimony on this point. So, your earlier testimony about the hazards, which you've gone into detail about the curve and that, you know, some other things here and there, and you know, just the, whatever accidents and whatnot, do you have anything to add that's different for the association --

MR. CLARK: I certainly do.

CHAIR: -- compared to what you said as an individual?

MR. CLARK: I certainly do.

CHAIR: Okay. As the association, what is it you wish to add to the record or otherwise, you know, put into the record --

MR. CLARK: Right, I, I, I certainly do.

CHAIR: Okay. What is that?

MR. CLARK: Okay. I told you we pulled the police reports, the accident reports.

CHAIR: Which are, which are in evidence.

MR. CLARK: Which, no, the, the accident reports are not in evidence.

CHAIR: The individual accident reports are not in

evidence, okay.

MR. CLARK: All right? And we have one that is of particular interest to the, to, to this Board and this case.

CHAIR: Okay.

MR. CLARK: If we can, I don't have it in front of me, so I --

CHAIR: I understand you were, you are requesting that from Mr. Holzer.

MR. HOLZER: I'm getting it.

CHAIR: Yes.

MR. HOLZER: I hope this is what you're referring to. I think it is.

CHAIR: This is seventy-five, right?

MR. CLARK: Um hm.

MR. HOLZER: Is that correct, seventy-five?

CHAIR: All right. So, we are looking at State of Maryland Motor Vehicle Crash Report, one, two, three pages. Looks like a crash date of September 25th, 2017. I see Mr. Schmidt has a copy and is reviewing it.

MR. HOLZER: Now, --

MR. CLARK: Well, has, has it been admitted yet?

CHAIR: It's not been admitted yet. We're still working through it.

MR. HOLZER: Yeah.

CHAIR: Your question?

MR. HOLZER: My, my question is going to be, can you just briefly indicate what was on the narrative of the police report in so far as traffic --

CHAIR: Just to move that forward, we can actually read the narrative.

MR. CLARK: Thank you.

CHAIR: If need be, but let me ask Mr. Schmidt. Do you have any objection to this, to --

MR. SCHMIDT: I just think it's preju, yes, sir, I think it's prejudicial. I mean, it's a government record, so I don't doubt its authentication. But it's just nothing but prejudicial and designed to be inflammatory. It's the same thing as all folks from Nepali who were at the concert are criminals. It's the same, same deal.

CHAIR: Well, I think that's radically different from that. That was a bit of an extreme example. This is --

MR. SCHMIDT: They're all bad drivers too, apparently.

CHAIR: I, well, I haven't heard that being argued as to this.

MR. SCHMIDT: Well, that's the inference --

CHAIR: Hold on.

MR. SCHMIDT: -- Mr. Garber.

CHAIR: Hold on, I don't, Mr. Schmidt, I understand it's been a long day. We don't need to have comments like that

on the record right now.

MR. SCHMIDT: Well, what, what else is it, then what else is it, is it produced for?

CHAIR: Mr. Schmidt, Mr. Schmidt, there has been a bunch of evidence that's been put in the record about the traffic and about accidents and whatnot. So, I had understood, and Mr. Holzer and Dr. Clark can correct me if I'm wrong, but you're introducing this because it concerns an accident that occurred out in front of the property, right?

MR. CLARK: And it indicates an added hazard.

CHAIR: So, --

MR. CLARK: And, and we have a photograph of another event, we have a photograph that's already been introduced.

MR. HOLZER: Deal with this first.

MR. CLARK: Okay.

MR. HOLZER: What, as briefly as you can, what is the point in, in terms of what have you singled out --

MR. CLARK: Well, this, this is, this is a police report of, of an accident. Somebody who was visiting the, they call it mosque, had, was, was driving on the wrong side of the road and had an accident and they said, and they advised the police officer that where they're from, in their words, in the officer's words, they drive on the left side of the roadway. This goes to people out of country, out of region, --

CHAIR: Well, so I'll just stop you there.

MR. CLARK: Okay, okay.

MR. SCHMIDT: Which is exactly what I said, Mr. Garber.

CHAIR: That is, that is definitely an objectionable --

MR. SCHMIDT: Precisely.

CHAIR: -- I realize it may be stated within the narrative itself.

MR. CLARK: Okay.

CHAIR: But this person obviously drove from Nottingham and didn't drive the other side of the, wrong side of the lane of travel from Nottingham up here, to the point of collision. So, what, for whatever went on --

MR. CLARK: Okay.

CHAIR: -- it speaks to it, it speaks for itself.

MR. CLARK: I gotcha.

CHAIR: It is not at all being received for, to suggest --

MR. CLARK: Okay.

CHAIR: -- that people from Nepal are going to drive on the other side of the road or that people not familiar with the area will drive on the other side of the road. It is merely being received for one purpose, and that is, there was an accident that happened at the property, at the subject locations, through which we've had numerous and long testimony

and documents received as to sight distances and traffic and accidents --

MR. CLARK: Okay.

CHAIR: -- and whatever else. That is it. It is not being received for any other purpose.

MR. HOLZER: What time of the morning was it, does it say on there?

MR. CLARK: Eight fifty-one.

MR. HOLZER: So, it was during the day, is that correct?

MR. CLARK: Correct.

MR. HOLZER: Okay, fine. That's exhibit number seventy-five. Previously, you just mentioned there was something at night. Protestant's Exhibit 35, do you recall what that was?

MR. CLARK: Yes.

MR. HOLZER: And what was it?

MR. CLARK: It was people exiting from a, an event held up there at night in September of '17. And this is the picture.

MR. HOLZER: There's a couple pictures if I'm not mistaken.

MR. CLARK: Yeah, yeah, yeah. Yeah, I --

MR. HOLZER: And what does, do the pictures depict without editorializing?

MR. CLARK: People, people on, heading south in the northbound lane.

MR. HOLZER: Okay.

MR. SCHMIDT: On Harford Road?

MR. CLARK: Um hm.

CHAIR: All right.

MR. SCHMIDT: Can I see the photograph, Mr. Garber?

CHAIR: The photos, I believe, are already in evidence.

MR. SCHMIDT: I understand, I just don't have them in front of me.

CHAIR: Yeah. And just so I'm clear, --

MR. SCHMIDT: Is this someone --

CHAIR: -- just, go ahead.

MR. SCHMIDT: Is this, this is someone turn, turning out of the --

MR. CLARK: Um hm.

MR. SCHMIDT: -- Nep, Bonaparte property?

MR. CLARK: Um hm.

MR. HOLZER: Objection.

MR. SCHMIDT: Well, if they were going southbound --

MR. HOLZER: (inaudible).

CHAIR: Hold on, hold on, hold on, hold on, hold on. Mr. Schmidt had a question as to what it represents. It's the same question I have. What is the relationship between Exhibit

35 and Exhibit 75, that's the question.

MR. HOLZER: They're different events, that's clear.

CHAIR: No, obviously it's not clear, because I didn't understand it one way or the other.

MR. CLARK: Okay.

MR. HOLZER: This is at night, that was at eight some in the morning.

CHAIR: Okay.

MR. HOLZER: That's why I asked the question, what time was the first police report.

CHAIR: Okay. Then perhaps I missed that point. I don't know why you were showing him thirty-five in relation, following seventy-five. So, if that could be made clear, that may resolve what Mr. Schmidt has a question about and what I have a question about. What is the relevance of, and again, thirty-five following seventy-five? Just to show that there is another example of someone being on the wrong side of --

MR. HOLZER: Another example of an accident which has occurred at the site.

MR. SCHMIDT: It's not an accident. It's someone who's turning left coming out of a roadway and in order to turn left --

CHAIR: It's okay, Mr. Schmidt.

MR. SCHMIDT: -- you have to cross a --

CHAIR: Mr. Schmidt, it will be --

MR. SCHMIDT: -- a travel lane of traffic to get to the southbound lane.

CHAIR: Mr. Schmidt, the way I, it's already in evidence. We're not going to go sit here and argue as to what it shows or doesn't show. It shows what it shows.

MR. HOLZER: Yeah.

CHAIR: Everyone has their own interpretation of it. To the extent it has whatever relevance to any of this other stuff, you guys will certainly argue that in your, in your briefs to us.

MR. HOLZER: Absolutely.

CHAIR: And we don't need to sit here and resolve today why this person was in whatever position the car is in on that particular night, whether it be seventy-five or thirty-five, it is what it is.

MR. HOLZER: The value to the Protestants of submitting photographs or video or documents is to establish that the witness who is testifying to these kinds of things, riding on the wrong side of the road, crossing the yellow line, it's not just his testimony or the other witnesses' testimony, it's verification of what they're testifying to.

CHAIR: Oh, no, I, --

MR. HOLZER: That's the purpose I'm putting --

CHAIR: -- I'm not, I'm not arguing that, I --

MR. HOLZER: Okay.

CHAIR: -- I understand why you're offering it into evidence.

MR. HOLZER: Yeah, okay.

CHAIR: I'm just trying to understand the logic of one following the other. I had it confused because I thought you were saying it's from the same event.

MR. HOLZER: No, I apologize, that was my fault because --

CHAIR: And I was wrong so, and I will correct the record. It was my understanding at the time, so we can move on from there to get to the next exhibit.

MR. HOLZER: Yeah, yeah. I thought, never mind.

CHAIR: That's fine.

MR. HOLZER: You know what I thought.

CHAIR: I, I do.

MR. HOLZER: Yes, we are now finished with 502.1(A).

CHAIR: And part of B.

MR. HOLZER: You could say that, but we haven't really started B yet.

CHAIR: Well, all right. Well, okay. Let's go into B, or whatever, what's next on your outline? Sorry.

MR. HOLZER: Okay. B is tend to create congestions in roads, streets or alleys therein. Mr. Clark?

MR. CLARK: Yes, sir.

MR. HOLZER: Is your mind focused on that part --

MR. CLARK: Well, I'm starting to fade but, yeah.

CHAIR: Well, so I'm going to make it, we'll make it clear and make it quick. What evidence do you have that we wish to, you know, put into the record, tell the Board, about the association's concerns with respect to traffic congestion that are different than ones you already expressed individually?

MR. CLARK: Okay. Dave Poehler, in his testimony, he talked about --

CHAIR: Without referencing other testimony, that is, if you look at this --

MR. CLARK: Okay. Yeah, I can (inaudible).

CHAIR: -- whatever, I, it's understood --

MR. CLARK: Right, yeah, got it, got it.

CHAIR: -- that Mr. Poehler's testimony on those points, in fact, there are lots of witnesses who testified to traffic congestion --

MR. CLARK: Got it, got it.

CHAIR: -- on these points.

MR. CLARK: All right. Then, --

CHAIR: That is well documented in this case.

MR. CLARK: -- another police report.

MR. HOLZER: Okay. Is that related to another accident?

MR. CLARK: Yes, it is.

MR. HOLZER: All right.

MR. CLARK: And it relates to --

MR. HOLZER: Well, --

CHAIR: Wait, before we go down this road.

MR. CLARK: Sorry, sorry, yeah, I'm sorry.

CHAIR: So, we have a police report. Let's have this established for the record ahead of time for Mr. Schmidt's satisfaction. Where did this accident occur? If you need reference to it, that's fine, but before you say anything further about the accident, let's establish its connection to the --

MR. CLARK: I'm, I'm really losing it.

CHAIR: -- particular factor.

MR. CLARK: I'm really losing my stamina.

CHAIR: That's okay, I understand.

MR. HOLZER: Here it is. It, the witness doesn't need to articulate it, because it's right on the police report.

CHAIR: If he needs the police report for that, that's fine. So, this is seventy-six. So, at Harford Road and Hartley Mill Road.

MR. CLARK: Um hm.

CHAIR: Okay. On November 6th, 2017. Recognizing that Hartley Mill Road, I seem to recall there is testimony about this, but you can probably better let me know now, how far is it from the subject property again? I seem to recall it

may or may not have been --

MR. CLARK: Three-quarters of a mile.

CHAIR: It was not on the map that was shown, the aerial map.

MR. CLARK: No, no, it was.

CHAIR: It was?

MR. CLARK: But it, Hartley Mill defined the southernmost point of the road segment that I asked for the, the police, County police report statistics.

CHAIR: Got you, okay. Mr. Holzer?

MR. HOLZER: Yes. You, did you obtain this police report?

MR. CLARK: Yes.

MR. HOLZER: And for purposes of your association's testifying under B, tend to create congestion in roads, streets or alleys there, therein, what was their position in regard to this?

MR. CLARK: Just that it speaks to the, the, the hazards of deer, of, of wildlife and livestock and the stuff that you usually encounter on a rural road.

CHAIR: Mr. Schmidt, any objection to seventy-six?

MR. SCHMIDT: No, sir.

CHAIR: It is, it will be received, it's admitted and it speaks for itself.

MR. HOLZER: Okay. In other aspects of the road,

congestion in the roads, etcetera, you have already shown, I believe, the videos for road walker, cyclist, I don't recall whether it was farm vehicle but --

MR. CLARK: No, we didn't have anything for, but, but that is our concern.

CHAIR: There is testimony in the record from, I believe, I want to say Ms. Mason, regarding farm equipment.

MR. CLARK: Right.

CHAIR: She, I know personally has to go between two different properties to go attend to some farm type of --

MR. CLARK: Right.

CHAIR: -- activity and it has been in the record from others about the potential for farm equipment to be on Harford Road in and around the vicinity of the stretch from Glen Arm/Mount Vista all the way down to Hartley Mill Road.

MR. HOLZER: In regard to Protestant's exhibit number seventeen, which as Mary's dash cam photo, that was already in as Exhibit 17 and I don't see any reason why we need to go over that again. It's before the Board.

MR. CLARK: Right.

CHAIR: There, I want to say, if I remember correctly, fifteen through nineteen was received for i.d. only at the time.

MR. HOLZER: Well, if that's the case, then I have the --

CHAIR: Is that not the case? Apparently the master list says it was admitted, so my recollection is off.

MR. MCCOMAS: Seventeen and nineteen were the only ones that were i.d. only.

CHAIR: Oh, so seve --

MR. HOLZER: So, seventeen is this document right here.

CHAIR: Right, okay.

MR. HOLZER: I would move to admit that.

CHAIR: Please show Mr. Schmidt before --

MR. SCHMIDT: What is it, please? I don't, I'm sorry, I don't remember what seventeen is.

CHAIR: Here's what, here's, here's my, here's my recollection as to why that was i.d. only at the time. Is that Ms. Mason was testifying and provided some testimony regarding it.

MR. HOLZER: Mary, was testimony --

CHAIR: I, this is my recollection.

MR. HOLZER: Okay.

CHAIR: And that we needed someone to authenticate whatever was depicted in there, and it wasn't Ms. Clark's, I think Ms. Clark had already testified, or Dr. Clark, excuse me. Had already testified and Ms. Mason was reviewing that particular photo but she was not present in the car and could not provide details as what was going on, other than what maybe

Dr. Clark or someone else had told her. So, that --

MR. HOLZER: If that's the case --

CHAIR: -- that's my recollection.

MR. CLARK: I think that's right.

CHAIR: The record will speak for itself.

MR. HOLZER: Yeah.

CHAIR: But that's, you, that was the reason why you withdrew it at the time to say okay, we'll talk to the person who either took the photo or otherwise authenticated. Mr. Schmidt, do you have any problem with Exhibit 17?

MR. SCHMIDT: I assume, Mr., Mr. Clark took this?

MR. CLARK: No, it was Mary. It was Mary.

MR. SCHMIDT: Your wife?

MR. CLARK: Yeah.

MR. HOLZER: It was Mary, she took it from her dash camera.

MR. SCHMIDT: Okay.

MR. HOLZER: She's here.

MR. SCHMIDT: I mean, what, what is it, --

CHAIR: Do you have any objection to, to it?

MR. SCHMIDT: No, I mean, what, what is it? I mean, just in terms of probative value, what is it?

CHAIR: Okay.

MR. SCHMIDT: What is it supposed to be showing?

CHAIR: It's a fair, Mr. Schmidt, Mr. Schmidt --

MR. SCHMIDT: I mean, somebody is going around (inaudible).

CHAIR: -- it's a fair question. It's a fair question, I understand. What is the probative value of Exhibit 17? What is it you're trying to show us?

MR. CLARK: Showing you one, the tight clearances and how there is no shoulder for when, for when things happen.

CHAIR: Similar to the video we saw already.

MR. CLARK: Yeah.

CHAIR: Similar to the other photos that we've introduced earlier with the, with the pedestrian, whatnot, correct?

MR. CLARK: Yeah, yeah, yeah.

CHAIR: Okay.

MR. SCHMIDT: I mean, my question about these, these, these are common events all over Baltimore County.

CHAIR: Mr., Mr. Schmidt, isn't that your argument (inaudible) --

MR. SCHMIDT: But it, it goes to the, it goes to the admissibility of this document. I mean, we keep getting documents that have nothing to do with Nepali.

CHAIR: Okay.

MR. SCHMIDT: I mean, guess what? People on narrow roads pull around police vehicles.

CHAIR: All right, I understand.

MR. SCHMIDT: What's that go to do with this special exception?

CHAIR: I understand.

MR. SCHMIDT: And it's common --

MR. HOLZER: Because it's on this road, it's on the road.

MR. SCHMIDT: -- and it's on, but it's on, as this witness has said, it happens on every rural road.

CHAIR: Okay. I understand that. It'll be admitted.

MR. HOLZER: Thank you.

CHAIR: Next.

MR. MCCOMAS: So, we'll strike the i.d. only --

MR. HOLZER: Yes, thank you.

CHAIR: Seventeen is admitted.

MR. HOLZER: Thank you. Do you need it? Do you need it?

MR. SCHMIDT: Do you need it? I mean, I have it, I didn't bring it with me.

MR. HOLZER: Yeah, I need it. Thanks. That's okay. All right. Let me try to get through some more. We've already seen earlier today the line cross, the yellow line crossing by trucks, so I don't think we need to replay that in your testimony.

CHAIR: Your testimony about the tractor trailers would be the same for the association --

MR. CLARK: It's the same.
CHAIR: -- as it would be individually?
MR. CLARK: It's the same.
MR. HOLZER: Right.
CHAIR: And he says yes.
MR. HOLZER: Inadequate sight lines and use of unpermitted entrance. Do you want to address that for the association and it related to the Collagero's statistics and Mr. Zeller's position?
CHAIR: And to be clear, we want to know what difference there is. If it's the same problem, there is no difference, when I say that --
MR. CLARK: Right, no, no, no, with Collagero there, there, there isn't, okay?
CHAIR: Okay.
MR. CLARK: Now, I believe the Zeller e-mails were not --
CHAIR: Zeller e-mails have been admitted.
MR. CLARK: Okay.
CHAIR: Fifty-three?
MR. CLARK: Where, where he says the County should not be doing this and --
CHAIR: Yes.
MR. CLARK: -- our position is, okay.
CHAIR: Yeah, it's forty-three and fifty-three, thank

you. Yes. So, it has been admitted.

MR. CLARK: Thank you.

MR. HOLZER: We got it.

CHAIR: Yes. Is that the extent of the association's testimony on that point?

MR. CLARK: Yes, it is.

CHAIR: All right. So, we're done with that factor, or that part of that factor.

MR. HOLZER: Number C.

CHAIR: Okay.

MR. HOLZER: Create a potential hazard from fire, panic or other danger.

CHAIR: Is there, we've heard the testimony about the fire, right?

MR. CLARK: Right.

CHAIR: Is there anything else from the association as to that factor?

MR. CLARK: Yeah, I think I already said it in there.

CHAIR: Right.

MR. CLARK: But, no water access.

CHAIR: We, we've already covered that.

MR. CLARK: Right. And the Motsco drawing shows there, there, there is at present no equipment access turnaround. I don't know if I already said that or not.

CHAIR: No equipment turnaround.

MR. SCHMIDT: He did. The, the witness already said all these things.

CHAIR: Oh, okay, I get it now.

MR. SCHMIDT: He just said it about an hour ago.

CHAIR: Mr. Schmidt, I understand.

MR. SCHMIDT: Asked and answered.

CHAIR: Thank you. It's already taken me, it took me a minute or two to figure that out. The testimony is already in the record anyway on the point.

MR. HOLZER: Mr. Motsco's testimony about the turnaround, his, it, what we're asking for is his comment, the witness' comment, about that testimony.

CHAIR: No, I think, again, we're getting back to the point of him using the highlighter on Motsco's testimony which is really a matter for you on argument as opposed to his --

MR. HOLZER: Oh, okay.

CHAIR: -- commenting as to --

MR. CLARK: Yeah.

MR. HOLZER: If that's so --

CHAIR: -- oh, Board, please look at this because you're going to do the same thing.

MR. HOLZER: I understand.

CHAIR: Right. So it is not, it's not a question as to admissibility on that point, it's already in the record and you're going to say hey, by the way, Board, look at this.

MR. HOLZER: Gotcha. No, I, you're correct.

CHAIR: Yes.

MR. HOLZER: Disregard for life safety codes.

MR. CLARK: Okay.

CHAIR: I'll say this, I hear life safety codes and I start thinking expert witness. So, do you have something that you want to, you want to add? I'm not going to limit it to just that, but that's what I'm starting to think in my head. So, what is it that you wish to say about that particular matter?

MR. CLARK: Well, --

MR. HOLZER: From a lay perspective.

MR. CLARK: -- from, yeah, from a lay perspective and from a, from a behavioral ins, perspective, I'm really losing it.

CHAIR: That's okay. We're trying to get through it.

MR. CLARK: Yeah, I know, I know, thank you. And I know Petitioner is going to say we're talking code enforcement, okay? But let me just say it and then we'll deal with the aftermath.

CHAIR: Well, hold on. Have you already testified about this individually?

MR. CLARK: No, I have not.

CHAIR: Okay. So, on behalf of the association, you have something you wish to say about life safety codes.

MR. CLARK: Right.

CHAIR: What are you referring to by life safety codes?

MR. CLARK: All right. For example, the, when the, in, in their videos of the building use, being used, all right? With several hundred people, the exterior doors open inward --

CHAIR: Okay. So, these are, when we say code violations, we're talking fire code and things along those lines, correct?

MR. CLARK: Yes, yes, --

CHAIR: Because you were talking about, you're talking about occupancy, hold on, Mr. Schmidt. Ingress, egress, those type of issues.

MR. CLARK: Yeah, yeah, yeah.

CHAIR: Do you have familiarity with the fire code?

MR. CLARK: Some.

CHAIR: Do you have familiarity with the building code?

MR. CLARK: Little.

CHAIR: So, when we talk about some familiarity, please let us know what that is for the record.

MR. CLARK: Okay. I, I have had fire inspections in, in my building, okay?

MR. SCHMIDT: Your home?

MR. CLARK: My, in my home, in my shop. And I also

am a Pennsylvania Wildland Firefighter.

CHAIR: Okay. So, as I understand it, does, does that complete the --

MR. CLARK: Yeah, yeah.

CHAIR: Okay. So, if you're going to give opinions as to what the code requires, whether under the building code, fire code or any other code, what I'm hearing is you don't have the expertise to do that.

MR. CLARK: Okay.

CHAIR: All right? Mr. Holzer, did you hear that?

MR. HOLZER: Yeah.

CHAIR: Okay. Anything further on that point?

MR. HOLZER: Yeah, I'm going to proffer what he would have been able to testify.

CHAIR: Oh, okay. Again, and I'm, we're willing to accept lay opinions, but if he's going to give opinions as to the ingress and egress is, I guess, too small or there's only, you know, a, a finite amount of spots for these number of people and there's a violation of the code, I don't think he can get to that point.

MR. HOLZER: I'm not, I'm not doing that.

CHAIR: Okay. Go ahead, sir.

MR. HOLZER: His testimony would have been with photograph showing that, at the present time, when they were using the property, exterior doors opened inward. I'm not

saying that's right or wrong, but they opened inward and the Board can draw its on conclusion or I can tell you what the code requirements are. There's no panic bar on the front door. There is no emergency lighting in the building. They have used extension cords, multiple cords chained together, running out front windows to the tent fifty feet away, running, and running over the driveway where cars drive. Now, that can be presented either in a photograph or I can just, I can just proffer that that would have been his testimony and we don't have to go any further.

CHAIR: Yeah, but to then draw the conclusion that that presents a potential danger requires an expert witness, I would think.

MR. HOLZER: No, it does not. I disagree with the Chairman. It's a person who's test, who's proffering this information. If you choose, don't require an expert, I don't believe that that's necessary for this Board to have testimony on that basis, as long as it's brought to your attention. You don't need an expert on everything.

CHAIR: I agree with you. But, but as to its consequence, that is, number one, that it is violate, it, it violates a code, which --

MR. HOLZER: I'm not saying it violates a code.

CHAIR: No, but you're (inaudible) which we would need someone to say here's how it violates the code.

MR. HOLZER: No.

CHAIR: Okay.

MR. HOLZER: You can do it, you can accept my proffer.

CHAIR: Okay.

MR. HOLZER: And say these are the physical findings of what's there. They can be --

CHAIR: So, those are two different things. That is, we have photographs in the record that show the following conditions, right? That's what you want to argue. As to its con, as to the consequence of those conditions, that's where the breakdown is. So, yes, you would have the ability to say, hey, by the way, look at Petitioner's Exhibit, I will just say, 10 whatever, and then there's no panic bar on the door, right?

MR. HOLZER: That's what I just did.

CHAIR: I understand that. But to do it through this witness, how, how are you going to do it through this witness, number one? And number two, explain then the consequence of that.

MR. HOLZER: I'm not.

CHAIR: Okay.

MR. HOLZER: I'm, I'm just telling you physically what's there and if you don't want to draw the conclusion that it is or is not a code violation, that's up to the Board. I, I, I do not have to --

CHAIR: Mr. Holzer, --

MR. HOLZER: -- present an expert on everything.

CHAIR: -- I, I'm not, I'm not arguing with you.

MR. HOLZER: Okay.

CHAIR: Have you shown Mr. Schmidt the photos?

MR. HOLZER: No.

CHAIR: Have you shown Mr. Schmidt the photos?

MR. HOLZER: No.

CHAIR: Well, you say if you want to proffer it in, one way or another, you have to show him the photos anyway.

MR. HOLZER: I'm, I'm proffering in those, that would have been his testimony if he would have been permitted.

CHAIR: Okay.

MR. HOLZER: That's it.

CHAIR: So, so leaving aside that, if there are photos to accompany that, if, maybe there, there would be an agreement as to the photos, then that helps solve part of the problem, if nothing else.

MR. HOLZER: I don't care --

CHAIR: Okay.

MR. HOLZER: -- whether or not there is a photo. I'm saying, that's the testimony of the witness and if he can be cross examined on it, if he is, he can be asked, do you have a photograph and he can produce it on cross examination.

CHAIR: Okay. We can move on.

MR. SCHMIDT: So, Mr. Garber, do I understand that this proffer that has been made is not being received by the Board as evidence?

CHAIR: It is not substantive evi, it's not being received as evidence, you are correct.

MR. SCHMIDT: Thank you.

CHAIR: No, again, --

MR. SCHMIDT: It's object, I would just note that I would have objections above and beyond those that have been identified as to why it's, as to why it is objectionable. But if it's not being received as evidence, I don't know that I need to state them.

CHAIR: Well, please, please state them for the record, just so we have completeness --

MR. SCHMIDT: First of all --

CHAIR: -- because I want to make sure I understand.

MR. SCHMIDT: -- I agree with, I agree with what you said about whether, about the, about an expert being required to do this. Obviously, this is a discussion about a proposed, a past alleged code violation, which we're not here on a code violation case.

CHAIR: Agreed.

MR. SCHMIDT: You've, you've said that.

CHAIR: Right.

MR. SCHMIDT: So, what happened? Obviously, the

testimony has been that the, my clients acquired this property, it's in the condition that it is because it was last used as a single family dwelling. They are in the midst of converting it for use as a temple. There's ongoing work that needs to be done, a septic system, other building improvements to bring it into compliance to be used as a temple, as opposed to a single family dwelling. So, the mere fact that at one time it was in a condition which was maybe, you know, as a single family dwelling and the requirements for that at that time, do not necessarily, are the same for a temple. So, all those reasons --

CHAIR: Even if it's like that, even if it's like that today, the whole point of it is, --

MR. SCHMIDT: They could, they could be changing it. They got to bring it up to code, they got to get a septic system, they got to have fire extinguishers in it, all the other things that are required for a building to be used in this nature. And the mere fact that at some point one year ago, two years ago, three years ago, fifty years ago, the building was not compliant with the 2019 International Building Code or fire code, doesn't have anything to do with the special exception.

CHAIR: Okay.

MR. SCHMIDT: In addition to that, I would say this. In the case, in the reported Court of Special Appeals decision

of *Hayfields*, and this goes to many of the objections that we are hearing, the Protestants in that case alleged that there were adverse impacts when converting a farm to a golf course. And they offered testimony about the adverse impacts as they related to this property and that's what many of the things that Mr. Clark is talking about. That this is dangerous to this property, that the fire might light the tents on fire, that these building codes would be unsafe to the people on the property who would be visiting the property. And the Court of Special Appeals said that the test in Baltimore County under 502.1 is whether there are detrimental impacts on adjacent properties.

CHAIR: Mr. Schmidt, --

MR. SCHMIDT: Not the subject property.

CHAIR: Mr. Schmidt, this is really just for the purposes of establishing the record. As to the objections you have --

MR. SCHMIDT: You've asked me for what my argument is and the basis that this argument, that this testimony --

CHAIR: I, hold on, no, no, no.

MR. SCHMIDT: -- is in relevant, please let me just finish.

CHAIR: No, I'm going to stop you there.

MR. SCHMIDT: I'll be very quick.

CHAIR: I'm going to stop you there. I'm going to

stop you there only because I asked you to identify your objections --

MR. SCHMIDT: And I'm identifying them, Mr. Garber.

CHAIR: -- just so you've (inaudible) and I understand that. But now you're getting into argument.

MR. SCHMIDT: I'm not. I'm saying that the, the, the, the basis of the objection is that the testimony is irrelevant as a matter of law because it does not go to the special exception criteria test.

CHAIR: Okay.

MR. SCHMIDT: And I'm explaining why.

CHAIR: That's why I'm saying, that could have taken ten seconds. But Mr. Holzer, can we move onto the next, since we've already had the proffer, we've already heard the proffer of the objections as well, --

MR. HOLZER: I, I don't want to argue the, the argument that he just presented.

CHAIR: Yes.

MR. HOLZER: I just want to say that the relevance of some of this evidence, or some of this, these, these proffers, relate to what the Board, if you choose to grant this special exception, it relates to conditions that you could impose. Or the simple reason that up till now, the County officials have not required them to do what the State Highway Administration said etcetera. Now, that doesn't mean that they won't, as the,

as they develop the case, as they develop the project, they will address many of these issues. But the point is, they, these concerns should be listed as a potential condition to your approval because we know from history that they haven't paid attention to other requirements of the County. And that's all I wanted to say.

MR. SCHMIDT: And I, and I want to say for the record, that there is no evidence that anywhere, that there has been a violation case brought against my clients, which has been sustained --

CHAIR: Mr. Schmidt, --

MR. SCHMIDT: -- that they have been in violation.

CHAIR: Mr. Schmidt, stop, stop.

MR. SCHMIDT: This constant, let me finish, Mr. Garber.

CHAIR: No, I'm not going to let you finish. We're, no, we're done.

MR. SCHMIDT: I'm entitled to respond to counsel's comments.

CHAIR: No, you're not. No, you're not. Because we're not getting into an argument. You've well, you know for, for certain how this Board has treated any issue when it comes to code enforcement. That is, any argument that comes to code enforcement has been ruled in your favor. So, we do not need to hear further that these are matters for code enforcement or

whatever. If he wants to argue those are conditions, that'll be in his brief. That is it.

MR. HOLZER: Thank you.

CHAIR: Next.

MR. HOLZER: All right, let's see.

CHAIR: Let's try to work through all 502.1 factors for the association.

MR. HOLZER: I, I am.

CHAIR: So we can then, yeah, that's, that's my goal here, for --

MR. HOLZER: To adjourn after we get through all these.

CHAIR: After we, we get through that.

MR. HOLZER: And that's my goal also.

CHAIR: Right.

MR. HOLZER: To help you get through that --

CHAIR: Right.

MR. HOLZER: -- as quickly as possible. Well, we've already dealt with open fire, that's no longer relevant. One of the issues related to overcrowding of building. Is there anything that you want to say in regard to that?

MR. CLARK: Yes, I think we have some pictures.

CHAIR: You're going to have to explain how it's different from association, from the prior testimony.

MR. CLARK: Yeah, right. This is one example of, I,

I'm trying, ask me a question --

CHAIR: No, it's okay.

MR. CLARK: Ask, no, ask me the question again.

CHAIR: Oh, I'm sorry. So, please explain how whatever testimony you're going to give about overcrowding for the association is different than that of what you've already provided for as an individual.

MR. CLARK: Okay. This photograph --

CHAIR: That we're about to see.

MR. CLARK: -- that we're about to see, will show use of the building prior to July 1 where it looks like there are fifty to a hundred people crowding into the room.

CHAIR: Okay. So, this sounds to me we're on the same footing as where we just were.

MR. CLARK: I, --

CHAIR: So, with that in mind, I will wait to see what the photo shows. Show it to Mr. Schmidt. But it does sound like we're walking into the same --

MR. HOLZER: I agree.

CHAIR: -- room, so to speak, as the one before. As to whether or not fifty to a hundred people, whatever the number would be, --

MR. CLARK: Right.

CHAIR: -- is appropriate for occupancy for that building, you know, again, the comments I just had about the

last issue --

MR. CLARK: Right.

CHAIR: -- would be applicable it sounds like.

MR. CLARK: It, it, but this also goes to how it is currently being used.

CHAIR: Under, understood. Mr. Schmidt, after looking at the photos, let me know when you're ready.

MR. HOLZER: Do you need the pictures?

MR. CLARK: I probably do.

CHAIR: Seventy-seven, correct?

MR. MCCOMAS: Yes.

MR. SCHMIDT: Mr. Garber, the first page appears to be --

CHAIR: Hold on. I, I assume you're objecting.

MR. SCHMIDT: Yes. The first page appears to be outside, at least there are trees in the background and one can see grass. So, I don't even think that's taken from inside. The second picture is of a little girl. I'm not quite sure what that's all about. The third picture is one, two, three, four people standing outside and six people standing inside near a doorway. Is it alleged that that's the violation of the, of some code?

MR. HOLZER: Go to the next page.

CHAIR: Hold on. No back and forth.

MR. SCHMIDT: And the final picture is a room full of

people and is there an allegation that that's illegal, to have a room full of people?

CHAIR: That's why we're here, to figure this out.

MR. SCHMIDT: And it's, and if it is, it's a code violation matter.

CHAIR: You heard what I had to say prior to receiving the photos --

MR. SCHMIDT: So, I object.

CHAIR: Dr. Clark, looking at these photos, the condition that you were describing of overcrowding, I would have to say Mr. Schmidt is correct for inside the building, the only one I see out of the four is the last one that would depict a crowd. As to whether it's over, is another matter, but a crowd inside the building. Is that accurate, basically these four photos?

MR. CLARK: Yes.

CHAIR: Okay. So, with respect to that photo, is it your contention from the association that somehow the amount of people inside the building violates some code?

MR. CLARK: No.

MR. HOLZER: No.

CHAIR: Okay. Then what is it you want to tell me about that picture?

MR. CLARK: Well, it's just that it's a potential hazard from fire, panic or other danger.

CHAIR: Okay.

MR. CLARK: Now, now, can, can I also say, Mr. Garber?

CHAIR: Go ahead.

MR. CLARK: This was one of, I would have had the entire video of this, but this was one of the ones that was removed.

CHAIR: I, I don't know what you mean by removed, all, what I'm trying to get at is --

MR. CLARK: No, that was, that was deleted from the Facebook page.

CHAIR: Okay. So, --

MR. CLARK: From the Facebook account.

CHAIR: -- looking at the photo though --

MR. CLARK: Right.

CHAIR: -- the, the one at issue, that is the last page of that --

MR. CLARK: Right.

CHAIR: -- of seventy-seven --

MR. CLARK: Right.

MR. HOLZER: Could I ask a question?

CHAIR: Oh, yeah, sorry, Mr. Holzer. I'm, I'm going to let Mr. Holzer take, do this questioning here.

MR. HOLZER: Mr. Clark?

MR. CLARK: Sir?

MR. HOLZER: If previously the Petitioners testified that they were not using the building, is that part of your recollection?

MR. CLARK: Yes.

MR. SCHMIDT: Objection.

CHAIR: Hold on, Mr. Schmidt.

MR. SCHMIDT: Objection.

CHAIR: Your objection, let me take a guess, is based on the fact that this is not a code violation or code enforcement matter.

MR. SCHMIDT: Yes, yes, sir.

MR. HOLZER: I'm not trying to show you it's a code violation.

CHAIR: I will say this. I, the question you asked made me think that that may be the road we're going down too. I can't say that it's unreasonable for Mr. Schmidt to have come to that idea. So, if you could try to steer away from that, thank you. So, sustain the objection to the extent that it could have been.

MR. HOLZER: Okay. In terms of their testimony, did anyone from the Petitioners testify that they were not using the building?

MR. SCHMIDT: Objection.

MR. HOLZER: That's different --

MR. SCHMIDT: Objection.

MR. HOLZER: -- from a code violation.

CHAIR: Okay. Here's what I'm thinking on this. Number one, there is certainly testimony in the record that this property has been used for fundraisers and other events. If it, this is to be tied to any ALJ Order or anything else, that is obviously a matter that is not in front of us at the moment. Right? So, I understood this photo to be overcrowding, to go to the overcrowding issue. I still have yet to hear anything that relates to why this would be considered overcrowding or whatever the case may be. Everything seems to tie back to a code, a potential code problem.

MR. HOLZER: I'm, I'm tired of hearing code violation. So, mark that as a proffer and I don't want to discuss anymore. Just mark it as a proffer, whatever the next exhibit is, and we'll go from there.

MR. MCCOMAS: Seventy-seven.

CHAIR: Seventy-seven.

MR. SCHMIDT: Thank you.

MR. HOLZER: Thank you.

CHAIR: Therefore, the objection will be sustained and we can go on.

MR. HOLZER: Thank you. I, I'm trying to get through this.

CHAIR: Nobody's saying you're not, Mr. Holzer.

MR. HOLZER: I'm going to, I'm going to stop at this point.

CHAIR: I'm not going to stop at this point. We are going to get through the 502.1 factors as much as we can.

MR. HOLZER: I'm finished with the 502.1 factors. I will --

CHAIR: So, we're not going to hear testimony from Dr. Clark about the 502.1 factors on direct testimony tomorrow, assuming we're here tomorrow, is that your understanding?

MR. HOLZER: It's my understanding, okay. Go for it. Sit there until 9:00. Thank you.

CHAIR: Okay. We're not going to sit here till 9:00. I'm trying to move this case forward.

MR. HOLZER: I, I, at this point, for the record, I'm being pressured into, it is now quarter after six --

CHAIR: Pressured? All right.

MR. HOLZER: And I've been, this Board never sits that late but I understand --

CHAIR: No, it's to give you the opportunity to try to develop the record.

MR. HOLZER: I understand.

CHAIR: And I'm trying to get through it as expeditiously as possible.

MR. HOLZER: I understand, Mr. Chairman. But at this point, at this hour, the witness is having difficulty even

concentrating, I'm feeling very pushed in order to be able to get into the next issue that we could take up tomorrow.

CHAIR: Okay.

MR. HOLZER: And, and, and the last part is inconsistent with the property zoning classifications and there are documents that we want to deal with that particular issue.

CHAIR: I, I will put this plain and simple. Dr. Clark has been on the stand as an individual and now for the association over the course of two full days of testimony in this matter, November 1st and all of today. We started at 9:00 a.m., it is 6:20 now. We are still hearing from Dr. Clark. His testimony is not done. This is a special exception case, there are ten factors. For whatever reason, we keep having to move this case. When we asked, how many more days do we need? We were told two more days for Protestants, one more day for rebuttal. We are now going to bleed into the rebuttal day without question with Protestant's witnesses if we have to complete Dr., Dr. Clark's direct testimony alone and cross examination tomorrow because I'm assuming, since I see Mr. Jakubiak waiting patiently all day here today, that he may be taking the stand at some point in this case.

MR. HOLZER: Right.

CHAIR: So, let's assume that, because I know tomorrow is going to be a much shorter day, much shorter day than today in any event, that we don't get through Mr. Jakubiak

in full tomorrow, assuming he takes the stand tomorrow. That means on February 5th, the rebuttal day, we are now doing still your case. I don't know what you have after that and I'm not asking you to identify that. But to the extent that we say, you say that you are pressured, we asked you to identify what will it take, this is when we were told we are operating within the confines of it, and I am really trying to get through Dr. Clark's testimony so that he has a full opportunity to get everything that he wants to tell us on behalf of himself and on behalf of the association out in the record.

MR. HOLZER: I understand.

CHAIR: I'm not trying to limit anyone in any way, shape or form. But at the same time, I'm trying to operate under the confines that you previously, and I don't want to say you, counsel has previously identified for this Board in terms of the time requirements needed for each case.

MR. HOLZER: And I didn't understand when I gave that time frame as to the extent that objections on almost everything that any witness wants to put on would be made and we would bog down in showing the videos and so forth. And it, and because of that, because of the, the length of time, the questions have been objected to constantly and so forth, I, I took the delay that the Board had to create, obviously, and tried to minimize the amount of testimony that we had to present through videos and so forth. And I've tried to cut all

that down.

CHAIR: No one is pointing the finger at you, Mr. Holzer, saying that you did something wrong, to be clear.

MR. HOLZER: I'm not saying you said I did something wrong, I'm saying the circumstances of how long it's taken to get through testimony because of the legitimate objections, cross examine, and so forth, I, I, I have not been able to move this case as normally I would if I'm in a way of getting it through quickly. Or at least getting it through completely. So, that's all I'm saying. But I also am getting the feeling that I still have more to cover regardless of the 502.1 criteria that we're going to have to get into.

CHAIR: Yes.

MR. HOLZER: And we're not going to be able to get into it tonight, I don't believe.

CHAIR: We are not getting into it tonight.

MR. HOLZER: And if that's the case, I suggest that the last portion of the inconsistent with property zoning classification, I've got four or, I've got four, three documents to get in, but they're going to go through the same thing we've already gone through. Objections, argument, etcetera.

MR. SCHMIDT: I don't, I don't even know what that --

CHAIR: Well, hold on, let's not comment.

MR. SCHMIDT: I don't know what they are.

CHAIR: I understand your trepidation in that regard, right? You touch a stove once, you don't want to get it burned the second time, right?

MR. HOLZER: Exactly.

CHAIR: I understand that. The, as far as I know, the rulings have been consistent from here. If it's a matter that goes to a code issue or an expert issue, obviously there are going to be more problems. If it's a matter that certainly Dr. Clark can testify to, whether on behalf of the association or individually, there haven't been objections or the objections have been overruled and you've been able to proceed.

MR. HOLZER: I understand.

CHAIR: So, I mean, I think it's pretty, you have a pretty good idea of what we need or what we're looking for in terms of in the exhibits and the testimony to enable Dr. Clark and the Protestants to put forward their case.

MR. HOLZER: Right.

CHAIR: I'm just suggesting, since it's now been two full days that we've done Dr. Clark, realizing the objections have bogged us down, to just consider that when we come to, to points such as talking about panic bars and what not. You can expect these objections from Mr. Schmidt and you have a pretty good idea of where we stand on it. I understand we've now come up with a process by which you proffer those kind of things. We could then bypass some of that back and forth. And I'm not

looking to, you know, take, make sure that you can't get evidence in here or anything. You simply present what it is.

MR. HOLZER: Right.

CHAIR: But you know where we stand on those particular matters.

MR. HOLZER: I do.

CHAIR: Right.

MR. HOLZER: And I've tried to comply with them.

CHAIR: Right, so I'm just suggesting for tomorrow, I understand there were additional matters to go into. You know where we're going to be. So, if there's a question as to what you think Mr. Schmidt may object to, my suggestion would be to try to resolve those matters to the extent you can prior to the start of tomorrow's hearing.

MR. HOLZER: I can, there's no way I can do that. It's now 6:30.

CHAIR: I don't mean --

MR. HOLZER: I mean, I'll do it with myself.

CHAIR: -- literally now. Yes.

MR. HOLZER: I, I can't negotiate with Mr. Schmidt.

CHAIR: No, but if tomorrow you show him the exhibits that you intend to introduce that perhaps there's an agreement that there's no objection then you've just advanced this case substantially.

MR. HOLZER: I've been trying to do that.

CHAIR: All right.

MR. HOLZER: But I'll, I'll take your, your comments.

CHAIR: And it's really, I want to get this, to get this through and, again, to make sure that whatever Dr. Clark feels needs to be in the record is in the record.

MR. HOLZER: Right.

CHAIR: So, let's try to move through it. Is there anything else further for today?

MR. HOLZER: Well, yes. I, Mary, Mary Clark wants to know, can we have until February 5th to compile, compile the Baltimore County letters that have been discussed, that we're supposed to put together?

CHAIR: What letters?

MR. HOLZER: The packet that are the proffer letters.

CHAIR: Oh. You're going to have to refresh my recollection. You don't have to do it by tomorrow morning, if that helps the matter. We'll deal with that, whatever that will be tomorrow in terms of where we stand with that.

MR. HOLZER: Okay.

CHAIR: I understand sitting here today with the time we have today, the time we start tomorrow, it gives you limited opportunity so I will not require it by tomorrow because it's plain as day to me that we're going to be here on February 5th still receiving evidence anyway.

MR. HOLZER: Yes.

CHAIR: On the Protestant's case. So, with that in mind, we will, Mr. Schmidt, anything further for today?

MR. SCHMIDT: No, sir.

CHAIR: Mr. Holzer, anything further for today?

MR. HOLZER: No.

MR. CLARK: Oh, thank God.

MR. HOLZER: I will try to make this last bit that we would have done today very quick tomorrow.

CHAIR: And I, and I appreciate your efforts in already streamlining it down and calling the matter --

MR. HOLZER: Thank you.

CHAIR: -- to make it more appropriate.

MR. HOLZER: Thank you.

CHAIR: So, I'll see everyone tomorrow at 9:00 a.m.

MR. HOLZER: Yes.

CHAIR: Well, I shouldn't say everyone. Those of you attending tomorrow, I'll see you at 9:00 a.m., unless the County government is closed or on delay. If it's on delay, we will go by that schedule.

MR. HOLZER: We talked to Sunny at the, at the Board and she said you can get online to see.

CHAIR: Yes.

MR. HOLZER: And we would open whenever the County opens.

CHAIR: Right. So, if it's a two hour delay, we'll

see you at 11:00.

MR. HOLZER: Exactly.

CHAIR: By way of example.

MR. HOLZER: Thank you, thank you.

CHAIR: Thank you, all. Thank you, Dr. Clark.

MR. CLARK: Thank you very much.

CHAIR: And by the way, you are still under oath.

MR. CLARK: Thank you for ending it. Yeah, yeah, I know. Thank you.

CHAIR: So, you cannot talk about your testimony.

MR. CLARK: Thank you for ending it because I'm really losing it.

CHAIR: Yes.

(OFF THE RECORD - 06:24:18 PM)

CERTIFICATE OF TRANSCRIBER

I hereby certify that the hearing in the matter of Nepali American Cultural Center, case number 18-122-X and CBA-19-004, heard before the Board of Appeals of Baltimore County, January 29, 2019 were recorded by means of audiotape.

I further certify that, to the best of my knowledge and belief, page numbers 1 through 393 constitute a complete and accurate transcript of the proceedings as transcribed by me.

I further certify that I am neither a relative to nor an employee of any attorney or party herein, and that I have no interest in the outcome of this case.

In witness thereof, I have affixed my signature this 30th day of November, 2020.

Christine R. Leary

Transcriber

IN THE MATTER OF:

NEPALI AMERICAN CULTURAL CENTER

CASE NUMBER: 18-122-X and CBA-19-004

Hearing Date: January 29, 2019

Pursuant to Notice, the above-entitled hearing was held before the Board of Appeals for Baltimore County at the Jefferson Building, Second Floor, Suite 203, 105 West Chesapeake Avenue, Towson, Maryland 21204.

PANEL PRESIDING:

JASON S. GARBER, CHAIR

WILLIAM A. MCCOMAS, BOARD

DEBORAH C. DOPKIN, BOARD

PRESENT ON BEHALF OF THE PARTIES:

LAWRENCE E. SCHMIDT, ESQUIRE
Counsel for Petitioners

J. CARROLL HOLZER, ESQUIRE
Counsel for Protestants

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TABLE OF CONTENTS

Description	**Page**
Motion	3
Direct exam of Bruce Morgan by Mr. Holzer	25
Cross exam of Mr. Morgan by Mr. Schmidt	58
Direct exam of DeWitt Clark by Mr. Holzer	91
Cross exam of Mr. Morgan by Mr. Schmidt	152
Direct exam of DeWitt Clark by Mr. Holzer	163

(ON RECORD – 09:09:06 AM)

CHAIR: I'm sorry, everyone, please be seated.

MS. DOPKIN: Ready?

CHAIR: Yeah. All right. All right. So, all right, everybody. We are back here today in the matter of Nepali American Cultural Center of Maryland, 12231 Harford Road, case number 2018-122-X. I believe we're on day eight, having last been here November 29th. First thing I'm going to do, or we're going to do up here, is discuss the Motion to admit Protestant's Exhibits, well, what had been labeled as 23, 24 in the Motion but in the record and as corrected, 22 and 23. So, we'll start with that. Now, I don't need to hear anything further. We've already had a ruling on this. The parties have both submitted, there's a written Motion, followed by the written Response and then a reply by Protestants.

So, it will, I will say we got into this back and forth in large part because I believe at the outset, Protestant's counsel showed Mr. Ghimire, who was a witness on the stand, the proposed exhibits prior to Mr. Schmidt's review and prior to the Board's review.

It is abundantly clear, and this is not trying to point fingers at Mr. Holzer in terms of he did something intentionally wrong or whatever, but by way of course, this is what has caused us to have this Motion and have to respond here today.

So, Mr. Ghimire was asked some questions about it before Mr. Schmidt had the opportunity to review. Now that we've had the opportunity to review and read the transcript as well as to what, the events of that day, I will state the following.

First of all, County Board Rule of Evidence 7-A states, any evidence which would be admissible under the general rules of evidence applicable in judicial proceedings in the State of Maryland, shall be admissible in hearings before the County Board of Appeals. Proceedings before the Board being administrative in nature, the Board will not be bound by the technical rules of evidence, but will apply such rules to the end that needful and proper evidence shall be most conveniently, inexpensively and speedily produced while preserving the substantial rights of the parties.

The, and I'm not going word for word here, but the Board reserves the right as a matter of policy to provide for the exclusion of immaterial or unduly repetitious evidence and the number of witnesses may, well, we don't need that.

Okay. So, let me start with there seems to be some bit of misunderstanding as to the prior ruling. The prior ruling was not solely premised upon why it was being directed at Mr. Ghimire. That is the first hurdle of that analysis. Why are we tendering this over to Mr. Ghimire?

Mr. Ghimire at first started answering questions as

if he had some knowledge as to what went on but then denied having any role whatsoever, whether he or the organization, that's Petitioner, had any role in sponsorship, leadership, management or any other type of role in connection with the event at issue. In fact, questions by me, he denied specifically having any type of role.

So, that's not the threshold or, excuse me, that's the threshold matter for why that witness but that's not dispositive of the matter. So, even assuming by, from what Mr. Holzer has submitted, that Ghimire Homes, Homes is Mr. Ghimire's company, that does not make the police reports admissible, even accepting that as a fact.

There is a relevance issue that is any evidence that has tendency to make existence of any fact that is of consequence to the determination of action more probable or less probable than it would be without the evidence. Evidence is material if it tends to establish a proposition that is of legal significance to the litigation.

Additionally, Rule 5-403 states that even if relevant, evidence can be excluded if its probative value is substantially outweighed by the danger of unfair prejudice. Evidence may also be excluded on the basis of confusion of issues, being misleading to the fact finder, cause an undue delay or waste of time.

So, the question I asked then was specifically

directed to Mr. Ghimire. It does not resolve the other matters of the relevance materiality and whether or not its probative value is at issue with the sub, danger of substantial prejudice that could be caused by admission of those police reports.

So, what are we here to decide? We are here to decide the special exception factors. We are here to decide if this proposed use at this proposed site is in some way, I guess, worse off at this location than it would be at any other RC-2 zone location, particularly under *Schultz v. Pritz*, the Board must assess whether there are facts and circumstances that show the particular use proposed at the particular location would have any adverse effects above and beyond those inherently associated with the special exception use, irrespective of its location within the zone.

Therefore, the best case scenario for Protestants in this regard, is that this property somehow would cause the same result that happened out on an off site event, would occur on this property but not at other properties with an RC-2 zone, which is not at all why it's being proffered. It's being proffered because there's an allegation that it may cause some type of risk to the general welfare or safety because you can't, as I understood it, trust the organizers of that event, some of whom are members of Petitioner's organization to safely run their operations.

Of course, that's an absurd proposition to suggest

that somehow this property will be different, whatever events will unfold at this property will be different as to any other RC-2 zone property. In fact, the only way to look at what is being proffered is here is an example of someone who appears or may be Nepali and we can expect this type of behavior to occur at the site because the people who will be using the site are Nepali.

That is how I understand what's going on and I gave Mr. Holzer the benefit of the doubt that that is not his intent for knowing him longer than I have others, you know, in this room for example.

So, I will give Mr. Holzer the benefit of the doubt that that was not his intent, but that is, unfortunately, how it is being received. That it could be only ever used for, frankly, an offensive proposition to paint one group of people with one brush when all we have is a, what appears to be a fist fight between several people and some other altercation, some other disturbance. I'm not going to hold that against Petitioner in any way, shape or form. Moreover, the proposition or the thought of even having to engage in this consideration of where this falls within the line, shows to me, or illustrates the absurdity of using this, these reports in this case particularly.

So, I categorically reject and deny the Motion and the evidence. I understand it is there for identification

only, for purposes of any appeal. But I want to make it abundantly clear, this evidence cannot be used in any way, shape or form in this matter. It speaks to none of the issues that the Board has to consider or analyze. It has nothing to do factually with anything that's at issue or somehow sheds light on any matter here.

And even if there was arguable relevance and materiality, Rule 5-403 dictates that it not be admitted. So, I hope this, without any clarification, further clarification needed, ends and resolves this issue as to the admissibility of Pet, Protestant's Exhibits 22 and 23. Ms. Dopkin?

MS. DOPKIN: I concur.

CHAIR: Mr. McComas?

MR. MCCOMAS: I concur as well.

CHAIR: With that in mind, are the parties ready to proceed further or do you need a couple minutes to collect yourselves to then assemble whatever you think is coming next?

MR. SCHMIDT: I'm ready to move forward.

MR. HOLZER: I'd like to have a few moments, if I could, five minutes, or ten, ten minutes.

CHAIR: Okay. Before we go there, I'm just going to do a couple housekeeping things for purposes of today's hearing. Remember, that when we come back, we are on the record here and things are being recorded. As I cautioned in hearings past, please have your cell phones off. Please, to

the best of your ability, and I know this particularly applies to you people here on Protestants' side, try to avoid sitting in the back row, just so that's able to be used as ingress and egress from the other side so people don't have to come around the front. I realize if it gets too crowded, there's only so much we can do. So, there's that.

Also, keep in mind this is a courtroom and we will have everyone act accordingly. There's to be no talking amongst yourselves, nodding in agreement, high fives, nodding your heads in approval or mouthing answers or anything to, to that extent. There's to be no reaction to testimony either.

Finally, as it relates to the inclement weather policy, because we are getting snow today, and I understand that for today and tomorrow's hearings, there have been phone calls that have already been made to the Board. If the Baltimore County government offices are closed, all hearings are cancelled and rescheduled at the earliest possible date. If there's a delay, we will be on delay. So, if you in, are intending to be here tomorrow at 9:00 a.m. and you think there's the possibility we may be closed, you need to check the Baltimore County government website or otherwise find that information to determine when we are open. All right. With that in mind, I'll give you five minutes?

MR. HOLZER: Could I make a request before that? Number one, I would, I understand that it, that based on your

denial of the Motion and the agreement of both members of the Board other than yourself, was that deliberated prior to today?

CHAIR: Absolutely not.

MR. HOLZER: Okay. So, there's that, that encompassed the deliberation when you asked each party for, whether they agreed or didn't agree and they had no advance ruling of what you were going to rule?

CHAIR: They had no idea how I was, well, I would say, except for Ms. Dopkin would have an idea because she was part of the Board when we actually did this originally. Mr. McComas may be familiar because of the transcripts, but outside of that, no. This was not discussed in any way, shape or form with either Ms. Dopkin or Mr. McComas as to the, whatever I said in terms of the Motion, how it was decided or anything else.

MR. HOLZER: And, --

CHAIR: I just, I, I would say the only thing was to make sure that they had copies of everything, that was it, and that was right before we came in here today.

MR. HOLZER: Thank you. We have a new member of the Board, Mr. McComas, is sitting here in front of us. He has not been introduced, he has not been identified as having read all of the other material and I would like that on the record as to what's going on in terms of the Board membership --

CHAIR: I will --

MR. HOLZER: -- and whether or not Ms. Murphy is no longer going to participate, etcetera --

CHAIR: Fair point. I will say this. Ms. Murphy is slowly getting back to work. She is unable to sit as a member for this panel. So, you can expect going forward it will be Ms. Dopkin, Mr. McComas and myself.

MR. HOLZER: All right.

CHAIR: Mr. McComas has been provided with the materials. I can't speak to anything else he's done with the materials. I'm not going to ask him to say anything with the materials, but I expect that he will be, have some, some familiarity by virtue of the fact that he is a Board member and he had access to the materials. So, I am assuming that he is up to speed and ready to go. I'm not going to ask him questions or put him on the spot as to his command over anything in the record.

MR. HOLZER: So, at this point the record does not indicate one way or the other whether he's read any of the transcripts from the prior seven hearings?

CHAIR: I'm not going to do that.

MR. HOLZER: Okay, thank you.

CHAIR: Sure thing.

MR. HOLZER: We can take a break if that's your pleasure.

MR. SCHMIDT: Just one other question, I'm sorry.

There was another Motion that was recently filed by Mr. Holzer.

CHAIR: Thank you for bringing that up.

MR. SCHMIDT: And I just wanted to know if we were going to address that today.

CHAIR: I understood, and correct me if I'm wrong, that you have not submitted a response as of yet, --

MR. SCHMIDT: I have not. I am prepared to discuss it but I, I would want to present a written response so it's in the file.

CHAIR: And, and I apologize. Yes, that is correct. We have not received a written response from you and I don't think by time it was even due as of yet.

MR. SCHMIDT: That's correct.

CHAIR: So, we are not going to be ruling on that today, we're going to give you the opportunity to file a written response and then have Mr. Holzer, give him some opportunity, to the best as possible, to reply. Now, keeping in mind our schedule, which is we have tomorrow and I want to say it's February 5th and February 13th is the backup date and also has to be the last date for any possible evidence if we're not completed before then.

MR. SCHMIDT: Right.

CHAIR: In light of the fact that we are trying to get then memos in and an opinion out the door before April 30th. So, with that in mind, I don't know when your response would be

due. I'm assuming it's not due by tomorrow, so that would tell me that February 5th would be the date that that would be addressed.

MR. SCHMIDT: And let me just say, Mr. Garber, because of the time I'm not going to be using my full eighteen days or fifteen days in mailing. I'll have something filed, I would anticipate, the very beginning of the week. I'll, I'll send a copy to Mr. Holzer so that you all have it quickly. I'm happy to do that to try to move and, and keep, be mindful of the schedule.

CHAIR: I appreciate that and I think that's best. Mr. Holzer, I also have a recollection that there has been some discussion, perhaps, or maybe I'm wrong on this point. That there may be, had, had been some discussion as to the effect of Petitioner's Exhibit 34? Is that not your recollection?

MR. HOLZER: Petitioner's Exhibit 34, is the, that the Motion that we're talking about?

CHAIR: The second Motion, --

MR. HOLZER: Yes.

CHAIR: -- the one regarding the --

MR. HOLZER: What about it?

CHAIR: -- its purported clarification from Judge Beverungen on the ALJ Order, right? To the best of your recollection, that has not been addressed in, by this Board?

MR. HOLZER: No. As I said in, in the, the Motion, I

took an appeal from that, even though, and we were within the thirty days in terms of --

CHAIR: This isn't a question about that.

MR. HOLZER: Oh.

CHAIR: The question is, we, there's nothing in the record presently on that point?

MR. HOLZER: That's exactly right.

CHAIR: Okay.

MR. HOLZER: You're exactly right.

CHAIR: That's where I'm at.

MR. HOLZER: That's why I waited to file the Motion.

CHAIR: Okay. So, you heard from Mr. Schmidt.

MR. HOLZER: Yes.

CHAIR: Obviously, I'm going to try to give you some window to res, to reply if you feel the need to reply.

MR. HOLZER: Sure.

CHAIR: But other than that, we'll just take a brief five minute break.

MR. SCHMIDT: Sure.

CHAIR: And then we'll get to the testimony because we do have a lot to get through today as best as we possibly can because of the condensed schedule, so.

MR. HOLZER: Sure.

CHAIR: All right, thank you.

MR. HOLZER: Thank you.

MR. SCHMIDT: Thank you, sir.

MR. MCCOMAS: If you guys, if you guys can also just confirm, I have Protestant, we're on the, the next exhibit would be forty-eight and on the Petitioner the next exhibit would be thirty-five is what I have.

MR. HOLZER: Forty-eight, okay.

MR. MCCOMAS: Forty-eight and thirty-five.

(RECORDING PAUSED - 09:25:34 AM)

(ON RECORD – 09:35:57 AM)

CHAIR: Please be seated. Are we back on the record? Okay. I understand a question has arisen about sign in sheets, Mr. Holzer?

MR. HOLZER: Yes.

CHAIR: So, I'll address that. As I understand it, you have asked Ms. Cannington for a sign in sheet, or asked about the presence of a sign in sheet --

MR. HOLZER: That's correct.

CHAIR: -- today and in conjunction with any other days that have passed. It is my understanding that as per Board practice in every other case, we do not provide sign in sheets unless there is a specific need to do so or reason to do so that's identified in advance. Moreover, it is the common practice of this Board to have, the parties usually provide their own sign in sheets to indicate who is here or whatever. And then there's always the question about are they admissible,

or even admissible in the case as it is. We usually just as a courtesy accept them into the record, or at least as part of the file. But in, it doesn't speak to any particular issue. So, with that in mind, would you or would you not like a sign in sheet?

MR. HOLZER: Well, the first six days we had sign in sheets here and both parties signed in.

CHAIR: I don't know that, I assume that to be the case, I'll take your word for it.

MR. HOLZER: Well, I'm sure everybody signed in on both sides, including over, over at the County Council.

CHAIR: I don't know that to be a fact. If it --

MR. HOLZER: Well, but that's been the practice of this Board for years and years is to have a sign in sheet, at least --

CHAIR: I would disagree with, with that respectfully. And I say that because I don't, we don't ever leave sign in sheets out on the tables for parties to sign. Usually, there are, the parties themselves have sign in sheets. If there are sign in sheets, I understand that also it tends to be that counsel retains some of the sign in sheets, because the Board doesn't receive them, the Board will receive them in evidence or at the conclusion of a hearing if there are any.

MR. HOLZER: I have sign in sheets from January 7, January 17th, it looks like January, anyway --

CHAIR: It couldn't be January 17, it must be July maybe?

MR. HOLZER: Maybe it was Jul, July. In any event, I've got all the copies of sign in sheets, which we got from the Board.

CHAIR: Okay. Mr. Schmidt, you have anything you want to say on this point?

MR. SCHMIDT: I have no position either way, to be, quite honestly.

CHAIR: Mr. Holzer, is it your intent to put that in the record, the sign in sheets?

MR. HOLZER: I can.

CHAIR: I'm asking, what do you want to do? I, I'm really asking what is it do you want?

MR. HOLZER: Well, I, I just want to understand why things, I understand why there were no sign in sheets at the last hearing, because there was no evidence to be taken.

CHAIR: There wasn't, correct.

MR. HOLZER: And there were a number of people that came, a number of people that didn't come. But we have, had a history of, of sign in sheets on both sides, both parties, throughout the whole hearing and I was shocked to see that there was no sign in sheet for today.

CHAIR: I, you are telling me things that I would have no knowledge of because it is my understanding there's no

sign in sheets that are left on the tables for, for the parties, it's up to the, the parties get their people who are present to sign in but whatever it is you want to do with the sign in sheet, if you want one today, we can certainly have one today and if that makes it better, you want to put that into the record, we can do that.

MR. HOLZER: Okay.

CHAIR: But we're, I'm going to defer to Ms. Cannington at all times.

MR. HOLZER: That's fine.

CHAIR: On that, on that issue.

MR. HOLZER: I would too. She's been around a long time, so.

CHAIR: She is excellent at her job and I'm going to just listen to her.

MR. HOLZER: I'm going to proffer that the prior sign in sheets for all the earlier days were obtained by us from the Board's office and I can introduce these, if you'd like, but I don't see where it's necessary. I'm just proffering that all the sign in sheets were obtained and kept by this Board and if you'd like, I can show you.

CHAIR: I will, I mean, again, I'm, I'm not disputing anything you're saying about this. I'm, if the purpose of it is to say that you've had a number of people on behalf of the community here present for these hearings, I think --

MR. HOLZER: No, no, no.

CHAIR: -- we can certainly --

MR. HOLZER: It's, it's not, what I --

CHAIR: -- visually we are well aware of how well attended these hearings have been.

MR. HOLZER: No, I want, I want these in the record now.

CHAIR: Okay, then that's fine.

MR. HOLZER: And the reason that I want them in the record is because there was testimony about them in regard to the Motion and the, and the evidence that was submitted in, in regard to the activities offsite that caused eleven police cruisers to have to appear. The Motion that you just ruled on, and so these documents, as collective, would be --

CHAIR: Are you ready, Mr. McComas?

MR. MCCOMAS: Yeah, well, act, actually, I'm looking at Protestant's sign in sheet, exhibit number one. And it's, something has already been, has already been entered. I don't know whether that is what you're going to give to me or not or whether that's something else.

CHAIR: Oh, no, this is, I think this is just from the --

MR. MCCOMAS: Well, it says here, I'm looking at the description, Protestant's sign in sheet. So,

CHAIR: Well, this was probably from either the

hearing below or (inaudible) board meeting for them.

MR. MCCOMAS: Is that what it is? All right.

CHAIR: Yeah, this is all from below.

MR. MCCOMAS: All right.

CHAIR: This is the ALJ.

MR. MCCOMAS: All right. So, (inaudible) not the same.

MR. HOLZER: I understand that these are copies of what was in the Board's --

CHAIR: And I understand. Mr. Schmidt, do you have any, any --

MR. HOLZER: -- I cannot intro, I cannot introduce them today because there is writing on them.

CHAIR: It's for the --

MR. HOLZER: Could I make copies and have them submitted?

CHAIR: I'm just asking if he has any objection.

MR. SCHMIDT: Just, objection to the sign in sheets?

CHAIR: Right.

MR. SCHMIDT: No, sir.

CHAIR: Okay. So, when you're ready to submit the actual copies, if it's tomorrow, so be it.

MR. HOLZER: I would, I would offer them as Protestant's forty-nine, is it --

MR. MCCOMAS: Forty-eight.

MR. HOLZER: Forty-eight, okay.

CHAIR: Do you want to give them then to Ms. Cannington for copying so you can receive them back today so that there's not a question?

MR. HOLZER: Yes, that would be perfect.

CHAIR: Can I see that?

MR. HOLZER: That would be perfect.

MR. SCHMIDT: And Mr. Holzer, that's the sign in sheets from everyone, both sides?

MR. HOLZER: Yes, yes.

MR. SCHMIDT: That, that, I mean, if I just reflects who's here.

CHAIR: Well, do you want --

MR. HOLZER: Actually, --

CHAIR: -- let's do, here's what we're going to do. We're going to, I, can we, let's just get to the evidence today. Here's what we're going to do. At a break, Mr. Schmidt, please review the files to make sure you're satisfied.

MR. SCHMIDT: Okay.

CHAIR: When that is done, hold on, at a break, not now.

MR. HOLZER: Well, citizens and Petitioners.

CHAIR: And then, once that's done, you give them to Ms. Cannington for copying, we'll put it formally into the record. This issue is resolved. So, this way we can just move

on, we don't have to spend our time worrying about sign in sheets. So, --

MR. HOLZER: Okay, will do.

CHAIR: Next, so we're in the middle of Protestant's case, we've heard from Dr. Mary Clark, we've heard from Joyce Mason, Dave Poehler, Kris Ghimire, as an adverse witness, and we last left off with Dr. Dewey Clark.

MR. HOLZER: That's correct.

CHAIR: And that's where we're at.

MR. HOLZER: That's correct. But before Dr. Clark goes back on the stand, I've got a one other live witness today, has a document from King, Greater Kingsville Civic Association I just want to put in.

CHAIR: Well, we're actually in the middle of Dr. Clark's testimony, so Mr. Schmidt, this is an irregularity in presentation, do you have any objections?

MR. SCHMIDT: No, if there is someone who can only be here today and Mr. Holzer wants to put him on.

MR. HOLZER: Yeah.

MR. SCHMIDT: I'm, I'm find with that.

CHAIR: As long as you have no objection, we can do that.

MR. SCHMIDT: Sure.

MR. HOLZER: All right. Where did my stuff go? What I'm handing to counsel is the Greater Kingsville Civic

Association Rule 8 with the vote attached. And I'm giving you the original and three copies.

CHAIR: So, for, for the record, because we were starting to identify the sign in sheets, this will be Exhibit 48, not the sign in sheets.

MR. HOLZER: Oh.

CHAIR: I'm just clarifying it for the record.

MR. HOLZER: Gotcha, okay. Okay. So change, right.

CHAIR: So, and this is from the Greater Kingsville?

MR. HOLZER: Yes, the original, originally I had introduced the fact that I was representing them.

CHAIR: Yes.

MR. HOLZER: And we didn't have the Rule 8.

CHAIR: Right.

MR. HOLZER: So, now that's what Rule 8 is and --

CHAIR: Well, just, what's the formal name again? Greater Kingsville?

MR. HOLZER: Great, yes, Greater Kingsville Civil Association.

CHAIR: Civic Association, Inc.

MR. HOLZER: Yep.

CHAIR: Okay. Any objection, Mr. Schmidt?

MR. SCHMIDT: Mr. Garber, can you, can you just give me a minute or can I defer on that? I just want to look at Rule 8 and look at the document and see if it comports with

Rule 8. If it does, I have no objection. But I just haven't seen it, so I don't know what it is.

CHAIR: No problem.

MR. MCCOMAS: I've got a question for him. So, so I've got two originals, we have two references for me to put exhibit numbers on there, are there any differences here?

MR. HOLZER: I'm, I'm sorry. Look at the sign, look at who signed, it should be ink, both of them.

CHAIR: Dorothy (inaudible).

MR. HOLZER: This is the original.

CHAIR: I can't read the name.

MR. MCCOMAS: So you have two originals?

MR. HOLZER: Right.

MR. MCCOMAS: So you're going to submit --

MR. HOLZER: Well, I don't, I'll take one back if it's okay.

MR. MCCOMAS: All right. I'm just going to, I'm just going to cross this off. That's what I've already marked here.

MR. HOLZER: Oh, okay.

MR. MCCOMAS: So, what I'll do is, just so we don't--

MR. HOLZER: Yeah, I wanted to make sure.

MR. MCCOMAS: Because (inaudible).

MR. HOLZER: Gotcha, thank you.

MR. MCCOMAS: (inaudible).

CHAIR: Here. Take my copy, that's fine. So, to, to

move on further from this, Mr. Schmidt, at a break, I'll let you, let me know your opinions as to where you stand on it. Exhibit 48 will be conditionally admitted pending Mr. Schmidt's review and any objections. Therefore, I'm, this way we can move forward.

MR. HOLZER: Yes.

CHAIR: So, it'll be conditionally admitted on that basis and Mr. Schmidt will inform us after he's had time to review Rule 8 and the paperwork.

MR. HOLZER: Fine.

CHAIR: Okay?

MR. HOLZER: Mr. Morgan?

MR. MORGAN: Yes, good morning.

CHAIR: Good morning. Does everybody have their cell phones off? Okay.

MS. DOPKIN: All right. Don't sit down quite yet. Do you swear and affirm under the penalties of perjury that the testimony you are about to give is true and correct to the best of your knowledge and belief?

MR. MORGAN: I do.

MS. DOPKIN: Would you state your name and address for the record, spelling your last name?

MR. MORGAN: Bruce Morgan, M-O-R-G-A-N, and I'm on 3 Longknoll Road, that's in Kingsville, Maryland 21087.

CHAIR: 21807.

MR. MORGAN: 21087.
CHAIR: 21087.
MR. MORGAN: Yes.
CHAIR: And you said Longknoll Way?
MR. MORGAN: Long, Longknoll Way.
CHAIR: K-N-O-L-L?
MR. MORGAN: Yeah, Longknoll, one word, --
CHAIR: Oh, okay, that's one word.
MR. MORGAN: Yeah, Longknoll, one word, Way.
CHAIR: Thank you. And he's been sworn.
MR. HOLZER: Mr. Morgan, Mr. Morgan, how long have you lived at that property?
MR. MORGAN: Two years.
MR. HOLZER: Okay and how far away from the proposed site is that property?
MR. MORGAN: As the crow flies, maybe three miles.
MR. HOLZER: Okay and do you have any neighbors that are involved in this case?
MR. MORGAN: Yes, Dr. Clarke lives, I think, like four doors down from me.
MR. HOLZER: Okay. Now, how did you get involved in this particular case when you live three or four miles away?
MR. MORGAN: Originally, --
CHAIR: I should, real quick, he did point to a gentleman who's sitting on Petitioner's side of the room, I

believe he identified he was Dr. Clarke.

MR. MORGAN: Yes, I believe it's Dr. Clarke, yes.

CHAIR: Okay. Sorry, Mr. Holzer, to cut you off, but I do want to get that into the record, that he's pointing to a gentleman who he's identified as his neighbor.

MR. HOLZER: Thanks. No problem. How did you get involved in this particular, as an interested party, in this particular issue since you --

MR. MORGAN: I got a, I got a letter about a year ago, I believe it was, that this newly formed GFWPA was holding a meeting to discuss the Bonaparte situation. I, I went primarily because I had just moved into the area, I didn't know anything about what was going on and I had actually been to that, I actually did work at that property probably twenty-five years ago. So, I went out of curiosity.

MR. HOLZER: What kind of work do you do now?

MR. MORGAN: Termite and pest control.

MR. HOLZER: And you had actually visited the site before?

MR. MORGAN: They had asked me to examine the site at one point in time, it had been a long time ago.

MR. HOLZER: Okay. I mean, can, can you sort of give a ballpark figure of how long ago that was?

MR. MORGAN: Probably, at least twenty-five years ago.

MR. HOLZER: Okay and certainly if that, that wasn't under the current ownership of the property?

MR. MORGAN: No, no.

MR. HOLZER: Okay. So, --

MR. MORGAN: I don't remember who the owner was at the time, but it was, somebody was there.

MR. HOLZER: Okay. How long have you lived in the area of Kingsville, Baltimore County?

MR. MORGAN: Two years.

MR. HOLZER: Okay.

MR. MORGAN: Two years. I moved there from, from Perry Hall.

MR. HOLZER: Okay. So, you, you were, when you were in Perry Hall, were you familiar with the site? Obviously, you went there for one occasion but are you familiar with the road system?

MR. MORGAN: With the roads, in traveling there, I drive about thirty-five, forty thousand miles a year in my business and that's all in the, in the general metropolitan area so I've been up and past that property many, many times.

MR. HOLZER: Okay. Now, as a result of going to the, the first meeting to find out what was going on, what happened then?

MR. MORGAN: Well, I, I had listened to statements from members of this newly formed group and was concerned about

their issues relating to noise and traffic and so forth that had been put on the local community there. And, you know, I was, I was concerned because I felt that, that if this type of activity were permitted there, in a, a rural, agricultural, residential property, that it could happen anywhere in Baltimore County.

CHAIR: If I, I'm sorry, Mr. Schmidt?

MR. SCHMIDT: Yeah, I, I'm, I would, I held off making any statement, Mr. Garber, because I was trying to figure out --

CHAIR: Well, hold on, is this an objection?

MR. SCHMIDT: It is an objection. And I would object to, to the witness' testimony.

CHAIR: Well, I, I get that. What's the reason?

MR. SCHMIDT: Well, first of all, I don't think there's any standing that this witness has living three miles away from the property, that that is such a distance that he just seems to be a matter, a member of the general public and, as you know, there must be a showing that there is some standing, normally guided by proximity and I know this Board has had recent cases on that issue. So, I'm not going to lecture you on that.

Above and beyond that, I, I kept waiting to hear where we were going with this and I think the remarks that he started his last answer with is he's concerned about traffic

and the impact from a standpoint of, the impact on rural areas. If he's not a land planner or someone with ex, traffic engineer, it would seem to me that he would, I was waiting to see if he was going to be qualified as an expert witness and apparently he is not.

So, based on the fact that this is a member of the public who lives three miles away, I would object.

CHAIR: Okay. You can save yourself. As you well know, Mr. Schmidt, the concept of standing here in an administrative level is broad, is actually an interested party and that is a broader topic than standing if we were in District or Circuit Court, or Circuit Court, excuse me. And Mr. Morgan has testified that he travels up and down Harford Road.

One of the issues raised in this case is the traffic issues. He, as someone who apparently has testified already, that he commutes with some regularity up and down Harford Road and is familiar with the property and drives past the property, certainly he could provide testimony as to whatever Mr. Holzer is going to elicit out of him and then the Board can receive it for whatever weight that is due.

He's not being received as an expert so with, if something comes up that would be an expert opinion, obviously feel free to object. This is not a ruling as to any future testimony. I did have one question, sir, though.

MR. MORGAN: Yes, sir.

CHAIR: So, let me (inaudible) direct objection it is overruled. The question I have for you is your concerned because of this type of activity permitted there in a rural, agricultural property, it can happen anywhere in Baltimore County, is what I understood your testimony to be. What did you mean by this type of activity?

MR. MORGAN: What the members had told me regarding the large groups that were there, the noise, long term over courses of days. That disrupted the quiet, tranquil nature of their area. As well as the, as well as the traffic issues on Harford Road, which we travel, we travel frequently. I travel it going home almost every day, my family who, my kids who live in Perry Hall come up couple, several times a week, they come up that way. So, I have a concern about that.

CHAIR: So, you said it's the, the, I'm, the, what I'm trying to get at is to what you meant by this type of activity. And just so I have it correct, you're saying your understanding is the large groups where there's noise and it takes place over, over days and that you're concerned about the traffic on Harford Road. That's the activity that you're referring to?

MR. MORGAN: Yes, sir.

CHAIR: Okay. Mr. Holzer, back to you.

MR. HOLZER: Yes, thank you. Mr. Morgan, have you

attended other hear, days of the hearing on this case?

MR. MORGAN: Yes.

MR. HOLZER: Okay.

MR. MORGAN: Yes.

MR. HOLZER: Did you hear anyone else testify who lived further away?

MR. MORGAN: Ms. Twining who lives at the end of Sharon Road is, is actually a little bit less from Bonaparte as the crow flies than she's, she's actually a little bit further away as the crow flies than my house is on Longknoll Way. And then Mrs. Barton --

CHAIR: And if I can just jump in? We already, I've already made a ruling --

MR. HOLZER: I know, but I'm making a record, Your Honor.

CHAIR: Well, --

MR. HOLZER: I need a record on rulings on objections in this case because --

CHAIR: So, --

MR. HOLZER: -- it's now gone way beyond what the normal process has been, as you know, because of so many days. I want this record clear and I want this witness clear in case he ends up being a witness or an appellant in this case.

CHAIR: Right, let's, --

MR. HOLZER: I need to establish that.

CHAIR: -- let's not go too far afield because I've already said --

MR. HOLZER: I won't.

CHAIR: -- he can testify as an interested party.

MR. HOLZER: I understand.

CHAIR: And Ms. Twining testified as an interested party, I get that. And I understand if your testimony is that Ms. Twining lives further away, that's certainly a matter you can raise in an argument to us on these points. I mean, the record will establish their distance from the property site. I'm just requesting that we don't go too far down this road.

MR. HOLZER: I won't.

CHAIR: That we've already ruled in, frankly, your favor.

MR. HOLZER: I understand.

CHAIR: Okay.

MR. HOLZER: I'm not oblivious to the fact that every once in a while I win one, so. What about Marcy Barton who lived ten miles away? Did you hear her testify?

MR. MORGAN: I, I did.

MR. HOLZER: Okay. So, and that was for the Petitioner's case?

MR. MORGAN: That's correct.

MR. HOLZER: So, under the circumstances, you, did you feel it was appropriate for you to be able to come and

share with your, your thoughts with the Board?

MR. MORGAN: Yes.

MR. HOLZER: Okay.

MR. MORGAN: Yes.

MR. HOLZER: Let's get over that now. Have you, well, we've already covered, you've attended a number of hearings, you've heard some of the testimony on both sides, is that correct?

MR. MORGAN: Yes.

MR. HOLZER: Okay. What is, what are your concerns in terms of the approval of this property for a, a community type center, a recreational facility area, and a religious facility?

MR. MORGAN: That it could, that a rolling --

MR. SCHMIDT: Objection to the extent that the first two are not proposed.

MR. HOLZER: Well, we'll get to that.

CHAIR: I, I will have to sustain the objection because what Petitioner has argued is it's solely for religious use. There is an argument to be made, I understand, on your side that maybe it's not just confined to that. But your question as asked is argumentative and it is inconsistent with what Petitioner says it is.

MR. HOLZER: Okay, fine.

CHAIR: If he has an understanding, you can ask about

the, that understanding or whatever else you want to get into but as your question as phrased, I'll sustain the objection.

MR. HOLZER: I'll limit it to a rel, as a religious facility with accompanying activities.

MR. MORGAN: If I might answer this way. The, the activities that have occurred to date at the property, my concern would be that those types of activities might be permitted as a precedent, sending a precedent, that those types of activities might be permitted in other parts of the County. I'm particularly concerned because my brand new house, my dream home of a lifetime, that I just built in Longfield Estates, backs up to Langenfelder Mansion, Rockwood. And it's for sale right now and I would be horrified if this were going on there, since it's a similar type property. I know Mr., Dr. Clarke, I think probably would not be happy if this activity were occurring at Langenfel, at Langenfelder.

MR. SCHMIDT: Objection. I mean, how's he know what Dr. Clarke would think of another project not at this property?

CHAIR: He, he doesn't know, unless you had a specific conversation. He's just putting himself in his shoes that he should have the same concern. That's how it's being received by the Board.

MR. SCHMIDT: Okay.

CHAIR: It's not being received as substantive evidence that Dr. Clarke, in fact, would have the same

concerns.

MR. SCHMIDT: I'm sorry, I don't mean to make this any longer.

CHAIR: It's okay. So, overruled. You may continue.

MR. HOLZER: Did you --

MR. MORGAN: If I might --

MR. HOLZER: -- do you have a document in regard to Mr. Clarke --

MR. MORGAN: Well, if I might? Dr. Clarke wrote a letter, a nice letter but he, he talked about he enjoys --

CHAIR: Why don't we, if you're going to talk about the letter, do you have the letter with you?

MR. MORGAN: It's, it's, it's in evidence.

MR. HOLZER: Yes.

CHAIR: It's already in evidence?

MR. MORGAN: But I, I have it here. I just --

CHAIR: Hold on, hold on, before you do. Mr. Schmidt has to follow along to know what you're referring to.

MR. MORGAN: I apologize, in the effort, --

CHAIR: Hold on, sir, just wait one second. Just wait till --

MR. HOLZER: Would the Board like your copies now or not?

CHAIR: Is this in the record already?

MR. HOLZER: That's what he said.

CHAIR: Okay.

MR. HOLZER: I don't have the exhibit number that it is.

CHAIR: Is it, all right. We'll just assume that it is not in the record only because you're hanging it up here. If it is in the record already, it is what it is. How's that?

MR. HOLZER: Well, he said it's in the record. That's his testimony.

MR. SCHMIDT: Well, can he, can he tell us what exhibit number it is? I've got a list of the exhibits, I'm sure --

MR. HOLZER: Oh, I'm sorry, it is not in the record. I was just advised it was not in the record.

MR. MORGAN: Okay.

MR. MCCOMAS: So, this is Exhibit 49.

CHAIR: Okay, this is Exhibit 49, yes.

MR. HOLZER: Could you, --

MR. MORGAN: If I could --

CHAIR: Hold on, before you start.

MR. MORGAN: Okay.

CHAIR: Let Mr. Schmidt have the --

MR. MORGAN: Okay.

CHAIR: -- opportunity to review --

MR. MORGAN: Okay.

CHAIR: -- before we start with any question and

answer. We don't want to get ourselves in a situation where we have to go through another Motion as to any admissibility issues. So, let's give Mr. Schmidt a minute.

MR. HOLZER: Yeah.

MR. MCCOMAS: Can I, can I have a little more help? Because I don't see who, who's the letter from and --

CHAIR: We're giving it just one second.

MR. HOLZER: Yeah, these, this document, Mr. Morgan, does not have a signature.

CHAIR: Hold on, Mr. Holzer, just wait one second till Mr. Schmidt's done. I promise you'll get the opportunity to ask him these questions. Mr. Schmidt, have you had the opportunity to review?

MR. SCHMIDT: Yes, sir.

CHAIR: Okay. Let's identify this then for the record first.

MR. HOLZER: Yes, I'm trying --

CHAIR: Mr. Morgan, the letter that you just handed up to the Board and Mr. Schmidt, what is this letter?

MR. MORGAN: I believe it's a letter from Dr. Clarke talk, talking about the, where he has lived, talking about their intentions with the property --

CHAIR: Well, if I can, before you go further. There's handwriting in the upper right hand corner. Do you see that?

MR. MORGAN: Yes.

CHAIR: Do you know what that handwriting --

MR. MORGAN: I, I, I do not.

CHAIR: Okay. Mr. Holzer, can you shed light on the handwriting in the upper right hand corner?

MR. HOLZER: No, I can't see it either on, on this attachment. If I could have a second?

CHAIR: Yes.

MR. HOLZER: No, I, I cannot find anything other than the document itself appears to be written by the person the witness says it is written by because he gives his address and his daughter's name and so forth. And I think the only purpose of this letter was to relate to the nature of his enjoyment of his home.

CHAIR: Okay and so do I understand then that the proffer for this letter is basically Dr. Clarke expresses his enjoyment of his home in his location and it ties into the testimony that was just provided by Mr. Morgan --

MR. HOLZER: Correct.

CHAIR: -- as to hey, we also have this big property behind us, what would happen if this were to be developed in a similar fashion.

MR. HOLZER: Well, he just, he doesn't go that far. He just simply says he enjoys the rural nature, tranquil nature, enjoys seeing deer or geese from my deck to the pond,

take my grandson, so that's all it is.

CHAIR: Okay. Mr. Schmidt, any objection to the admissibility?

MR. SCHMIDT: No, sir.

CHAIR: Okay. So admitted.

MR. HOLZER: Thank you and that's exhibit number forty-nine.

CHAIR: Right.

MR. SCHMIDT: Can I, can I ask one question? You asked about the writing on the page.

CHAIR: Yes.

MR. SCHMIDT: And there's, there's a, a, a black out, it looks like, or some, that's my --

MR. MORGAN: I tried to address that --

CHAIR: Hold on, sir, he's got a question for me.

MR. SCHMIDT: -- my copy. I don't know, does the Board's copy have this --

CHAIR: Yes.

MR. SCHMIDT: -- second paragraph and then written above that is, and maybe the witness could address what that is, if the witness did that.

CHAIR: Well, hold on, we're going in order. Mr. Holzer, you have questions and then if it's not asked to your satisfaction during the course of direct --

MR. SCHMIDT: Yes, sir.

CHAIR: -- you may certainly ask it in cross. Mr. Holzer?

MR. HOLZER: Mr. Morgan, you heard counsel's --

MR. MORGAN: I, I can, --

MR. HOLZER: -- could you tell us how --

MR. MORGAN: -- I can address that, yeah. In my effort to, I had used an orange, this is the original, original copy.

CHAIR: Let's do this, can you show Mr. Schmidt the original copy? Maybe that resolves the situation entirely and we can all move on. Thank you, Mr. Morgan.

MR. SCHMIDT: And you just wrote above the orange place --

MR. MORGAN: Yeah, when, when I highlighted it, it didn't copy well and it blacked it out.

MR. SCHMIDT: Got it, no problem.

MR. MORGAN: So, I wrote, I wrote the text above it.

CHAIR: Mr. Schmidt's curiosity is satisfied.

MR. SCHMIDT: I'm fine.

CHAIR: It's admitted, we're all good on that.

MR. MORGAN: Okay, good.

CHAIR: Okay. So, back to you, Mr. Holzer.

MR. HOLZER: All right. What, if, if you could just repeat your position in regard to the tranquility of the neighborhood --

MR. MORGAN: It's a very quiet, very tranquil neighborhood that I'm sure, you know, that Dr. Clarke enjoys just as much as we do. And the whole point of it was that should that type of activity occur at Langenfelder, which is similar, I think, to Bonaparte, it's a big old mansion with the property around it, I think that I would be horrified by it. I think Dr. Clarke would not be real happy about it either since he, he obviously has stated that he enjoys the tranquil, quiet nature and away from the crowds and noise.

MR. HOLZER: Okay. You've testified already to your involvement in regard to traffic and, and we're referring to traffic on Har, Harford Road in the vicinity of the subject site and the circular roundabout that, that takes place above it and, and subsequent, the neighborhood. Which, could you talk about that a little bit? And you're not a traffic expert?

MR. MORGAN: I'm not a traffic expert, no.

MR. HOLZER: Okay.

MR. MORGAN: But in traveling that over a period of, of forty years, being in the business that I'm in, I have come upon numerous accidents at that location.

CHAIR: Hold on. What do you mean by that location?

MR. MORGAN: At, at the, at the location of the entrance to Bonaparte.

CHAIR: So, you're saying at --

MR. MORGAN: Right at the curve.

CHAIR: At the entrance to the subject property, you have encountered a number of accidents?

MR. MORGAN: Yes, sir. Between --

CHAIR: Over forty years?

MR. MORGAN: Over a forty year period of traveling that, that road.

CHAIR: Sorry, sorry, Mr. Holzer.

MR. HOLZER: Okay.

MR. MORGAN: And, and an, and an occasion where I actually came upon an overturned vehicle at that, at that location. The, and again, I'm not being a traffic expert but, rounding that curve at forty miles an hour, which is reasonable, you're only four seconds from the entrance to that property. And, you know, my fear is that with my kids coming with me, my kids coming up and down, that these events where you'll have cars entering that property, particularly cars that may be backed up onto Harford Road, there's not going to be enough time to, at forty miles an hour, I don't know how someone is going to stop in time if cars are literally stopped on Harford Road trying to enter that property.

I also had an experience on, I believe it was on, on September 14th. If you don't mind I just want to refer to the, yeah, on September 14th of this past year, I was traveling south from the circle and when I got to the entrance of Bonaparte, car, a car two cars ahead sort of started to slow, hesitated,

put the brakes on, which we, almost as if they didn't, weren't sure that that was where they wanted to go. And we're all traveling at, you know, from the circle, we're up, up to thirty-five, forty miles an hour now. The, the car then started to proceed, a car came around the corner on the northbound direction, which only gave this person a certain amount of time, so rather than try to make it, they, they came to an abrupt stop halfway in the southbound lane, halfway in the northbound lane and fortunately, we had enough following distance that we were all able to stop in time and avert a collision. But it was, it, it was scary, it was frightening to say the least.

So, that's my concern about the road there is that, and this, this was not on a day when there was an event, where there were, you know, where there may have been a lot of traffic going in and out of the site. This was a, a single vehicle trying to turn left into the property.

MR. HOLZER: Okay. Have you experienced anything else of an unusual nature on, on the site, at that intersection of the entrance way and, and the road?

MR. MORGAN: I, I noticed yesterday on the way home that there's now a, a bumper or some piece of an automobile that wasn't there before that's laying in the ditch just above the driveway entrance to Bona, to Bonaparte on their side. So, there's, there's --

CHAIR: And you say just above, heading in what direction, it's on your side?

MR. MORGAN: I'm heading, I'm heading north. The Bonaparte entry is to my right.

CHAIR: Right.

MR. MORGAN: I've passed the, I'm, I'm just past the driveway to the entry to Bonaparte and laying in the ditch there is a, a bumper or bumper cover or something that's, that's, I --

CHAIR: Do you know where the driveway is after the Bonaparte driveway?

MR. MORGAN: Do I know whose driveway?

CHAIR: No, no. Do you know it, do you know that there is a driveway some distance past --

MR. MORGAN: Yes, this is in between Palmer's, this is in between Dave Palmer's driveway and the Bonaparte driveway.

CHAIR: Thank you, that's what I was trying to clarify.

MR. MORGAN: Yes, yeah. Yeah, it's, it's in the ditch right, just north of the driveway.

CHAIR: It's in between two driveways?

MR. MORGAN: Yeah, there's, there's two entrances but there's no ravine in between. There must be a pipe or something there, but then there's a ditch to the north of the

northern entrance and it, and it's, the material was laying in the, which is fairly new, I don't know, in the last day or two.

MR. HOLZER: Okay. Is there anything else you would like to address in regard to the traffic or the nature of the road, etcetera?

MR. MORGAN: Just that it, you know, in my experience in driving and, again, I'm not a traffic expert but in my experience of driving the, the metropolitan area, that, that is without a doubt to me, one of the most dangerous sections of roadway anywhere and I, I don't remember any other place where I've seen as many cut, just happened upon as many collisions as I've seen at that location.

MR. HOLZER: And you said you, I think you said you testified that you drive about thirty-five thousand miles per year?

MR. MORGAN: Thirty-five thousand plus, yes.

MR. HOLZER: Wow.

CHAIR: I believe the testimony is thirty-five to forty thousand.

MR. HOLZER: Okay and is that, is your traveling experience all over Baltimore County?

MR. MORGAN: Over the entire Baltimore metropolitan area, all the surrounding counties and that, yes.

MR. HOLZER: Okay, all right. I just wanted to put it in perspective what, how you drew your conclusion that this

was a dangerous area. Okay. As a result of your taking the position that you have, have you received any responses or feedback from the other side that were directed to you?

MR. MORGAN: Well, I, I, I received responses from, from folks that I believe were in favor. I don't know when you say the other side, I, I --

MR. HOLZER: That's what I meant.

MR. MORGAN: Okay.

MR. HOLZER: People who were supporting the request, the Petitioners.

MR. MORGAN: I, I had, on Nextdoor, and I had posted some opinions on Nextdoor, and I got a response from Hindu Buddha Temple, which I believe was representative of the, the, the, the establishment group itself. I think that, that, that particular site got pulled down and because they had to be individuals. I think you, you have to be a named, you, you have to have a name, a Bruce Morgan can do it but I think a group, Nextdoor doesn't want a group, they want individuals to, to do it but back the, back then there was a response to me--

CHAIR: Are you reading something, sir?

MR. MORGAN: I have copies.

CHAIR: Then please show Mr. Schmidt before you start reading.

MR. HOLZER: Okay, I'll get them.

CHAIR: And before you pickup your testimony, let Mr.

Schmidt have the opportunity to review.

MR. MORGAN: Yes, um hm.

CHAIR: Are there additional copies for the Board?

MR. MORGAN: There, there are.

CHAIR: We will mark this as fifty for identification at the moment. Does that work for you?

VOICE: (inaudible).

CHAIR: So, we've been handed, just for the record, three pages, the first page being stapled to the other two and folded in half, which, well, we'll have that identified in a second.

MR. HOLZER: Yes.

CHAIR: Mr. Schmidt, before, I already see you shaking your head. Let's identify it for the record what it is and then if you have an objection, you certainly can insert your objection. Mr. Morgan, the limited question at the moment is, what is, what was just handed up to the Board and to Mr. Schmidt?

MR. MORGAN: They're, they're excerpts from Nextdoor Kingsville.

CHAIR: Okay.

MR. MORGAN: These are postings from --

CHAIR: Page one, is that you (inaudible)?

MR. MORGAN: The, the one on top?

CHAIR: Yes.

MR. MORGAN: Is from me.

CHAIR: To whom?

MR. MORGAN: To Kris.

CHAIR: And do you know who Kris is?

MR. MORGAN: I, I, I don't know if it's Kris Ghimire or whether there, I believe there's another Kris that's also--

CHAIR: Very well. Page two, which is a full page,--

MR. MORGAN: Yes, sir.

CHAIR: -- my copy has orange highlight, Mr. Schmidt, does yours?

MR. SCHMIDT: Yes, sir.

CHAIR: Okay. What is page two?

MR. MORGAN: Page two is a post from the Hindu Buddha Temple. It's also from Nextdoor Kingsville.

CHAIR: Okay. So, it's different, it's not a response to your first one on page one, it's a different response, correct?

MR. MORGAN: It, it is a different res, it's not the same response.

CHAIR: Right, it's not the same, right, back and forth, it's a different --

MR. MORGAN: It, it is, it, it's in the same, it was in the same threat, it was in the same conversation on Nextdoor, yes.

CHAIR: Okay, I got it now. And then what is page

three?

MR. MORGAN: Page three, oh, that was just a map that showed the Bonaparte site, it showed Ida Twining's house and my house.

CHAIR: So, I mean, correct me if I'm wrong, page three, does that, is that associated with pages one and two in Exhibit 50?

MR. MORGAN: Only in, in the respect that I, I, if I might, it was in respect to in answering this --

CHAIR: Okay, we can stop there.

MR. MORGAN: Okay.

CHAIR: It does relate to, to the (inaudible) --

MR. MORGAN: I, I believe so.

CHAIR: Okay. Mr. Schmidt?

MR. SCHMIDT: Mr., Mr., Mr. Garber, I, I don't know what this is trying to prove or assert as it relates to the question that the Board is going to answer, which is whether the special exception should be granted. I, I understand this is an administrative body and you're not bound by the rules of evidence. We, we don't even know who, he said, I mean, we don't even know who wrote the, the one thing.

CHAIR: Well, I guess if you just tell me what your objections are.

MR. SCHMIDT: Hindu, Hindu Buddha Temple, is that my, is that alleged to be my client? I mean, that's not the name

of my client. There's no --

CHAIR: Let's stop there. What are, what are your specific objections? That is, we don't know who the author is?

MR. SCHMIDT: There's, there's no, there's no foundation for this document in terms of who, other than Mr. Morgan acknowledging that he wrote the stapled page, we don't even know who wrote the page below it. It's not signed, it's not signed by the Nepali Cultural Center, it says Hindu Buddha Temple. There's no, he's indicated in his response that there are a couple of Kris' and he doesn't know which one it is. So, I would generally say there's no foundation for the document, number one.

Secondly, I don't think the document has any relevance to it. It's, as I've read it, it doesn't talk about the impacts of the temple on the surrounding locale but it's some sniping back and forth as to whether people should do that --

CHAIR: Yeah, well, we, without the characterization, you're objecting on the basis of lack of foundation and relevance.

MR. SCHMIDT: And relevance, yes, sir.

CHAIR: Okay. Mr. Holzer, do you wish to respond to the objections?

MR. HOLZER: No.

CHAIR: Okay. I do need to ask a question. What is

this being used for? What is the proffer?

MR. HOLZER: I, I can, if I can be --

CHAIR: Well, I'm asking you for a proffer here as to what this is being used for?

MR. HOLZER: It's being used to show that, that some, the neighbors have been intimidated to some extent or suggested that they not be able to testify before this Board because they either don't live close enough or they have a racial or religious angst in regards to these people. And I think Mr. Morgan is here to testify that he has none of those. He has no racial, no religious objection to them. It's, it's only a land use issue that he's trying to raise and, and participate in.

CHAIR: Okay. Well, let's, how about we, here's where I think this falls. The problem is how you tie this, again, back to the association. I do see, or the Petitioner, excuse me. I do see it says, at least in one part on page two, I am one of the representatives of NACC but we don't know who that is and we don't even know if they actually are. So, leaving that aside, can't you ask your questions independent of this? That is, does he have any --

MR. HOLZER: Yeah, sure.

CHAIR: -- I mean, this way, this way the questions, and there aren't many that would come with the admission of, of Protestant's Exhibit 50 because we don't know who responded or anything to a degree --

MR. HOLZER: Right.

CHAIR: -- we don't even know where they live as well in relation to this.

MR. HOLZER: I can certainly ask him what his concerns are about his ability to testify. It's that simple.

CHAIR: Okay. With that in mind, for the moment, this is not admitted, this is i.d. only. But you can, you may ask your questions.

MR. HOLZER: Mr. Morgan --

MR. SCHMIDT: What number has this been marked as?

CHAIR: Fifty.

MR. SCHMIDT: Fifty, thank you.

CHAIR: It is not in evidence, it is i.d. only.

MR. SCHMIDT: Right.

CHAIR: And again, for those of you who just came in, please make sure your cell phones are off. Sorry, Mr. Holzer, you may continue.

MR. HOLZER: Okay. Mr. Morgan, I mean, I think you brought this as, as some way of being able to introduce your own testimony about your own concerns and what your concerns are related to this, this zoning request. Why don't you just tell the Board what your feelings are in regard to that? We don't need what somebody said that you're a racist or you don't know what you're talking about or you live too far away. Why don't you just address the, your concerns and your feelings

about getting stuff like this?

MR. MORGAN: Well, I, I --

MR. SCHMIDT: Objection. I just don't see the relevance of any of this. If he wants to testify about his concerns about the proj, the project, he can certainly do that. But this is, is this an allegation that he's been intimidated not to testify? Is that what you're saying, Mr. Holzer?

MR. HOLZER: Yeah, (inaudible).

CHAIR: Hold on, hold on. First of all, hold on, everyone. You know, you don't direct questions to Mr. Holzer during the course of the objection.

MR. SCHMIDT: I'm sorry, Mr. Garber, but --

CHAIR: You state your objection. I understand your objection. Mr. Holzer, do you wish to respond to the objection?

MR. HOLZER: Yes. There has been a, a series of intimidations in this case, not only by the applicants or the Petitioners, but responses by this County and they will be introduced or, and if they're not introduced, they will be documented by proffers. And at the end of this case, the Board will have an opportunity to evaluate what's been going on. But in this particular case, I want to limit his testimony just to him personally and why he is able to articulate why he's there. I never objected to the witnesses being brought by the other side.

CHAIR: If I could stop you there on that point?

MR. HOLZER: Yeah.

CHAIR: The mere fact that you didn't object to that happening does not make it less objectionable for Mr. Schmidt as to whether or not --

MR. HOLZER: (inaudible).

CHAIR: -- as to whether or not they are objections that will be sustained, they're, they're all individual factually, you know, dependent matters --

MR. HOLZER: I understand that.

CHAIR: -- so one does not depend on the other, but the fact that you didn't object before, which maybe actually the right call, the right course of action to not have objected because there wasn't a particular point of relevance or materiality for this Board to consider, I understand that, but that does not mean that one is equal to the other in any context or in any way, shape or form. They're not related. So, as to Mr. Morgan, if Mr. Morgan has a particular concern, you've identified the concerns as to what you have with the proposed use. Did you have, I guess the question is, did you have concerns as to your, voicing your opinions as to how this property should be used? Is that fair?

MR. HOLZER: Yes, that's a fair question.

MR. MORGAN: Yes.

CHAIR: Okay. What are those concerns?

MR. MORGAN: Well, I, I think that, maybe intimidation was, is too strong of a point, to a strong of a, of a description. But certainly someone who, like me, who is voicing a valid opinion online in a conversation with people who are in, in support of the project, and then to have someone say well, that I'm not entitled to an opinion, you know, I, I think it is intimidating to, to have that. And have it directed directly at me saying that I'm spreading lies, you know, some inference that I may be racist in some way. I don't like being called a liar, I don't like being called a racist because I'm neither of those.

CHAIR: Okay. Mr. Holzer, does that satisfy then what you're trying to elicit from this witness?

MR. HOLZER: Yes. Were you, in fact, ever called a, one of those names?

CHAIR: Sir, did that preclude you from being here today, being those names? Did you have hesitation in any way, shape or form?

MR. MORGAN: Did I hes, do I hesitate to be here?

CHAIR: Yes.

MR. MORGAN: Did I hesitate to be here?

CHAIR: Does it cause you any hesitation to be here to present your testimony?

MR. MORGAN: I, I, no, because I was determined.

CHAIR: Mr. Holzer?

MR. HOLZER: Is there anything else that you need to testify before the Board that relates to the land use issue only in regard to any of the criteria of 502.1 the zoning, etcetera?

MR. MORGAN: An opinion, an, an opinion that, looking at 502.1 and the, the limitations therein, it seems that the, the, the behavior that has occurred on the property to date seems to be contrary to the welfare and the safety of the people in the area.

MR. SCHMIDT: Objection and move to strike. I don't think he can offer comments and ex, what, what I would consider to be expert opinion as to Section 502.1 of the Baltimore County zoning regulations unless he's qualified as an expert with some special knowledge of the zoning regulations.

CHAIR: I believe that he's testifying as a lay person. I don't think he's being offered as an expert witness testimony. He's offering his interpretation of 502.1. It was never going to be received as expert testimony. Sir, so do I understand your testimony then to be that the behavior, the, to be clear, it was summarized to you by others in virtue of the letter and the, and the meetings you attended --

MR. MORGAN: That's, that's correct.

CHAIR: -- that that behavior as described to you seems inconsistent or contrary to 502, the factors of 502.1 based on your understanding of those factors?

MR. MORGAN: Yes, sir.

MR. HOLZER: Thank you.

CHAIR: Sure.

MR. HOLZER: You have any other --

CHAIR: So, the objection will be overruled and understood that the evidence will be received on the basis that he is a lay witness, not an expert witness, on those factors and the application of the Baltimore County zoning regulations.

MR. HOLZER: Thank you. Is there anything else that you'd like to present to the Board?

MR. MORGAN: I, I, no, no, sir.

MR. HOLZER: No further questions.

CHAIR: Thank you. Mr. Schmidt?

MR. SCHMIDT: Mr. Morgan, are you a neighbor of this property? Would you consider yourself a neighbor of this property?

MR. MORGAN: To the extent that others have felt they were a neighbor, yes.

MR. SCHMIDT: I'm not asking if others feel they're a neighbor.

MR. MORGAN: Yes.

MR. SCHMIDT: Do you feel you're a neighbor of the property?

MR. MORGAN: Yes, yes, yes.

MR. SCHMIDT: How close do you have to be to a

property to be a neighbor in your opinion?

MR. MORGAN: As far away as I am, I believe. I mean, (inaudible) --

MR. SCHMIDT: Okay. So, up, up to three miles would, would be considered a neighbor?

MR. MORGAN: Or, or so. I mean, I, I have to travel past that property as close proximity to my home, yes.

MR. SCHMIDT: Sir, okay. Okay. So, the test of being a neighbor is whether you have to travel close to this property? That's how you determine if you're a neighbor?

MR. HOLZER: Objection.

MR. SCHMIDT: Well, that's what the witness just said.

CHAIR: Hold, hold on one second, hold on. We have an objection. First of all, stand up for your objection so I know that you're objecting. Second, Mr. Schmidt, just wait till the objection comes and you may have an opportunity to respond. Mr., Mr. Holzer?

MR. HOLZER: I just wanted him to have the opportunity to finish the question.

CHAIR: To finish his answer?

MR. HOLZER: Yes, answer to the question.

CHAIR: Okay.

MR. MORGAN: All right, --

CHAIR: Mr. Schmidt, we are jumping on top of one

other. So, Mr. Morgan, please keep clear, let Mr. Schmidt finish his question.

MR. MORGAN: Sure.

CHAIR: Start your answer, Mr. Schmidt, please then start your question when he's finished with his answer. We can all move on. Mr. Schmidt, back to you.

MR. SCHMIDT: I think you said, Mr. Morgan, if I understood it correctly, that you believe you are a neighbor because you drive by here, is that what you said?

MR. MORGAN: Yes. I also said that I feel that I live close enough to be considered a neighbor.

MR. SCHMIDT: Okay, all right. Thank you, sir. You talked about an incident that occurred on September the 14th of 2018 near the subject property.

MR. MORGAN: Yes, sir.

MR. SCHMIDT: And there was a car that stopped suddenly in front of you?

MR. MORGAN: Yes.

MR. SCHMIDT: You drive thirty-five thousand miles a year, is that correct?

MR. MORGAN: Yes.

MR. SCHMIDT: Would you say that, other than this event and the other times that you've driven in 2018, that cars have stopped suddenly in front of you on other occasions?

MR. MORGAN: Yes.

MR. SCHMIDT: Doesn't that pretty much happen to all of us who drive cars almost every day?

MR. MORGAN: I'm sure it does.

MR. SCHMIDT: The car that stopped suddenly, did it turn into this property?

MR. MORGAN: Yes.

MR. SCHMIDT: Okay. Do you know who was driving that car?

MR. MORGAN: I do not.

MR. SCHMIDT: Do you know if it was a member of the group or if it was somebody who was trying to turn around because they were lost or if it was somebody who turned into the wrong driveway? Do you have any idea who that person who was driving that car and where they were going or for what purpose they were --

CHAIR: Well, we're asking multiple questions. But I understand what you're trying to get at. Sir, do you know why that person turned in the driveway?

MR. MORGAN: I do not.

MR. SCHMIDT: Okay. You don't know who that person was?

MR. MORGAN: I do not.

MR. SCHMIDT: Okay. There was no accident that was caused?

MR. MORGAN: No, there was not.

MR. SCHMIDT: Okay, okay. You also testified that, I wrote this down, that you believe it's reasonable on that stretch of road and that stretch of road I'm going to define as the roadway immediately in front of or adjacent nearby the entrance to the Bonaparte, or the Nepali property, to drive forty miles an hour?

MR. MORGAN: Yes, sir, and it's within the speed limit.

MR. SCHMIDT: Well, irrespective of it being within the speed limit, were you here for the testimony of Mr. Collagero?

MR. MORGAN: Yes.

MR. SCHMIDT: Okay. Are, are, are there indeed signs in that proximity which show that there are severe turns in the road, at that proximity?

MR. MORGAN: Yes.

MR. SCHMIDT: And that Mr. Collagero testified that generally people have to slow down to a mucher, much slower speed than the posted speed limit --

MR. MORGAN: Yes.

MR. SCHMIDT: -- because the road is so curve, is --

MR. MORGAN: Yes.

MR. SCHMIDT: -- curved at that location?

MR. MORGAN: Yes.

CHAIR: Hold, hold on, sir. Now you're jumping in on

his question.

MR. MORGAN: Oh, sorry.

CHAIR: Let him, let Mr. Schmidt finish --

MR. MORGAN: I'm sorry.

CHAIR: -- his question.

MR. SCHMIDT: Okay. Would you agree with that?

MR. MORGAN: Yes.

MR. SCHMIDT: Okay. But you think forty miles an hour is reasonable at that location?

MR. MORGAN: Yes.

MR. SCHMIDT: Okay. You said that there were numerous accidents at that location.

MR. MORGAN: That I have seen over the course of years, yes.

MR. SCHMIDT: How many?

MR. MORGAN: I, I don't know.

MR. SCHMIDT: Have you looked at any accident data?

MR. MORGAN: I have not.

MR. SCHMIDT: In, where you live in Kingsville, sir, on Longknoll Way, correct?

MR. MORGAN: Yes.

MR. SCHMIDT: And do you work out of an office?

MR. MORGAN: Yes.

MR. SCHMIDT: And where's your office?

MR. MORGAN: Cockeysville.

MR. SCHMIDT: And when you drive from Longview Way to Cockeysville, do you go in front of the property?

MR. MORGAN: Yes.

MR. SCHMIDT: Is that your commute?

MR. MORGAN: Yes.

MR. SCHMIDT: Okay. So, you drive in front of this property twice a day, once going to work and once coming home from work?

MR. MORGAN: No, no.

MR. SCHMIDT: No?

MR. MORGAN: I, I usually drive four times during the day. I drive in twice and back twice in the course of the day.

MR. SCHMIDT: You go home for lunch or something?

MR. MORGAN: Yeah, sometimes, I always stop at home during the day.

MR. SCHMIDT: Okay. What do you do, sir? Do you still do pest control?

MR. MORGAN: Yes, yes.

MR. SCHMIDT: Okay. Do you drive a passenger vehicle or a?

MR. MORGAN: No, I drive a pickup truck.

MR. SCHMIDT: Okay and who do you work for?

MR. MORGAN: Atlas Exterminate, I own the company.

MR. SCHMIDT: Okay. At, at the time you, you described events occurred, that occurred on the property, on

the Nepali property during your testimony, that you had objection to, I believe, correct?

MR. MORGAN: Yes, yes.

MR. SCHMIDT: At the time of those events, were you aware they were going on?

MR. MORGAN: No.

MR. SCHMIDT: You didn't hear anything?

MR. MORGAN: No.

MR. SCHMIDT: You didn't see any traffic on those days?

MR. MORGAN: No.

MR. SCHMIDT: Okay. So, they didn't personally impact you?

MR. MORGAN: No.

MR. SCHMIDT: At the time they occurred?

MR. MORGAN: No, they did not.

MR. SCHMIDT: Okay. You also, I, I think you said, I just was trying to write it down so I want to make sure I got your testimony correctly. That, that your, your real concern here is the precedent that could be established if this approval was granted, particularly as it relates to the, I'm sorry, I forgot the name, Langfelder?

MR. MORGAN: Langenfelder.

MR. SCHMIDT: Langenfelder property? Okay and the Langenfelder property, can you tell the Board a little more,

what is the Langenfelder property in terms of how big is it and what's on the property, what improvements?

MR. MORGAN: I, I think it's six or eight acres. There's a large historic mansion there.

MR. SCHMIDT: Is it occupied at the present time?

MR. MORGAN: It's for sale, it's unoccupied and for sale right now.

MR. SCHMIDT: Okay and how has it been used?

MR. MORGAN: As a single family residence.

MR. SCHMIDT: Okay. Do you know what the zoning of that property is?

MR. MORGAN: I think it's RC-7, I, I think.

MR. SCHMIDT: You think.

MR. MORGAN: I think it's RC-7.

MR. SCHMIDT: Okay. Is there, to the best you know, any type of religious building that's proposed on that property?

MR. MORGAN: No, I am not aware of that.

MR. SCHMIDT: Okay. So, your concern is that that property could also be developed as a religious building, a church or a temple or a synagogue or some religious type of activity if this property obtains similar approval?

MR. MORGAN: I, I, if I could? I think that if this were approved --

MR. SCHMIDT: This being the Nepali project?

MR. MORGAN: The Nepali, that that could extend to not just Langenfelder, it could extend to other properties in, in residential areas, yes.

MR. SCHMIDT: Okay. Okay and that would, that would be, since you admittedly are not close enough to hear any activity on the Nepali property, correct?

MR. MORGAN: Right.

MR. SCHMIDT: And in terms of traffic, the impact on you is when you would be driving by as opposed to a backup of traffic from reaching your street, is that fair to say?

MR. MORGAN: No, that's correct, and my family.

MR. SCHMIDT: And your family as well.

MR. MORGAN: My family, which, which travels that area frequently.

MR. SCHMIDT: Okay. All right and since you don't have any direct impacts, if I use, trying to choose my words carefully, of the proposed use (inaudible) three miles away, the concern that you have is more the precedent that could be established for the Langenfelder or other properties?

MR. MORGAN: And, and the traffic.

MR. SCHMIDT: You ever been in any traffic accidents in your years of driving?

MR. HOLZER: Objection. What's the relevance of that?

CHAIR: Please stand up when you object.

MR. HOLZER: I'm sorry. Objection. What's the relevance of that?

CHAIR: Mr. Schmidt? I would have the same question.

MR. SCHMIDT: The, the, the witness made an inference, not an inference, but suggested that because there are, because there have been accidents at this prop, in, in this proximity, that it is, I, I don't, trying to look at his exact words, that it was inherently a dangerous section of road.

CHAIR: He did say it would be a dangerous area, something to that effect.

MR. SCHMIDT: Something to that effect. And I'm just trying to establish whether every place that has accidents is a inherently dangerous place because there are accidents there, which seems to be the basis of his opinion.

CHAIR: Well, it is cross examination. I mean, I don't know how much utility you'll get out of that line of questioning, but it is cross examination. There is a suggestion that he travels thirty-five to forty thousand miles a year, that he is, by way of comparison, compared to other areas, the general Baltimore regional area, in terms of its, as he considered it to be a dangerous area. So, to some extent, I can see the purpose of the question, the relevance of the question being directed to this witness to so, Mr. Schmidt, you may --

MR. SCHMIDT: I'll tell you what, I'll withdraw the question, make it easy.

CHAIR: Well, then we don't have any problem.

MR. SCHMIDT: Mr. Morgan, you also testified about a bumper or a bumper cover that you observed in a ditch near the entrance to the Bonaparte, Nepali property, correct?

MR. MORGAN: Yes.

MR. SCHMIDT: Did you, when you saw that, did you stop and look at it?

MR. MORGAN: No, no.

MR. SCHMIDT: Okay. Do you know what, what it was exactly? Do you know what kind of vehicle it came from?

MR. MORGAN: I do not, it just appears to be a cover, either a bumper cover or a, or a bumper.

MR. SCHMIDT: Okay. Do you have any idea how it got there?

MR. MORGAN: I do not.

MR. SCHMIDT: So, somebody who was disposing, who was disposing of it could have been driving by and thrown it out the window of their vehicle and landed in the ditch is possible?

MR. MORGAN: I guess anything is possible.

MR. HOLZER: Objection.

CHAIR: Hold on, again, stand up when you're objecting, Mr. Holzer.

MR. HOLZER: I'm sorry. I'll withdraw it.

MR. MORGAN: I, I guess anything is possible.

MR. SCHMIDT: But you, you just don't have any idea?

MR. MORGAN: No, I don't.

MR. SCHMIDT: Okay. Fair enough. No other questions.

MR. HOLZER: No questions.

CHAIR: Ms. Dopkin?

MS. DOPKIN: I have one question with regarding to what was identified as Protestant's Exhibit 50, including these Nextdoor posts?

MR. MORGAN: Yes.

MS. DOPKIN: Do you have copies of what you posted that provoked this response?

CHAIR: Page two.

MS. DOPKIN: Because it's clearly in response to something that was previously posted by you. I don't --

MR. MORGAN: I, I do not, I do not have copies of that with me. I do not have copies of that with me. I can retrieve that by going back on to Nextdoor --

MS. DOPKIN: I'd just be curious to know what elicited such a strong response and I think it doesn't, this is out of context otherwise, that's all.

MR. MORGAN: I understand.

CHAIR: Just by way of, purposes of the record, at

this time Exhibit 50 is not in evidence but it sounds as if the witness is going to come up with a full, I guess, printout of the initial post and responses then, in response to your question? Is that the understanding?

MS. DOPKIN: I was --

CHAIR: That's your understanding, he's coming up with that for you?

MS. DOPKIN: He has offered to, yes.

CHAIR: Okay.

MR. SCHMIDT: I mean, I didn't ask any questions about it because it was not accepted into evidence.

CHAIR: It's still, it's still not.

MR. SCHMIDT: But I, I, I mean, I, thank you, Ms. Dopkin. I mean, I would agree that it's incomplete. In addition to being no foundation and relevance, which were the grounds I asserted, it, it appears to be a part of a conversation and not the entire conversation.

CHAIR: I think it's evidence rule one, I want to say 106 or something to that effect, 5-106, lack of completeness of the record. So, be that as it may, we're, it doesn't change what we're, where we're at with that particular exhibit at this time. So, but if Mr. Morgan produces that to Mr. Holzer and Mr. Holzer feels that it is worthwhile to explore, than --

MR. HOLZER: I certainly might.

CHAIR: And so, Mr. Holzer, I mean, we can perhaps

then revisit it another time but as for now, I assume there's no re-direct then?

MR. HOLZER: No re-direct.

CHAIR: All right. Thank you, Mr. Morgan, for your time.

MR. MORGAN: Thank you, thank you.

CHAIR: Mr. Holzer?

MR. HOLZER: Mr. Clark.

CHAIR: Are we ready to, because I see we have a stand here, are, are we going to have any presentation or, or not? Do you need time to set up is really the question to you?

VOICE: Yes.

MR. HOLZER: Do we need time to set up?

VOICE: Yes.

MR. HOLZER: Okay.

CHAIR: All right. So, why don't we take a ten minute break. We'll give you, a ten minute break will be sufficient for you to set up, Mr., or Dr. Clark?

VOICE: My time, yes.

CHAIR: Yeah, right, okay.

VOICE: Thank you, sir.

CHAIR: Ten minutes, Mr. Holzer?

MR. HOLZER: Ten is fine.

CHAIR: Okay.

(RECORDING PAUSED – 10:37:10 AM)

(ON RECORD – 10:37:11 AM)

CHAIR: And then now, during this break, Mr. Holzer, if you can, please show Mr. Schmidt the sign in sheets. Make sure that he's satisfied with whatever they are, then we'll hand it to Ms. Cannington to copy and then we can revisit that issue as well. Does that work for you?

MR. HOLZER: Works for me, sir.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Yes, sir, thank you.

CHAIR: All right, ten minutes. Thank you, all.

(RECORDING PAUSED – 10:37:34 AM)

(ON RECORD – 10:53:03 AM)

CHAIR: Thank you. And we're back on the record. All right. We have Dr. Dewey Clark back on the stand. Sir, --

MR. HOLZER: You want to finish up with Mr. Schmidt, with Mr. Schmidt?

CHAIR: What's that?

MR. HOLZER: And the documents that he --

CHAIR: I apologize. Thank you, Mr. Holzer, very much.

MR. HOLZER: No problem.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Mr. Garber and members of the panel, I've looked at the, the documents. I mean, I have no real objection to them coming in. The --

CHAIR: I feel like there's about to be a but coming.

MR. SCHMIDT: Well, there is, there is one but. Twofold, on, on the ones that are from January, I'm sorry, let me find the right ones, I apologize. From the folder marked day two, September 6, 2018, the, the sign in sheets are printed with a bunch of e-mail traffic on the back.

CHAIR: So, you --

MR. SCHMIDT: And I don't know what – -

CHAIR: -- right, so, you would object, you would object to --

MR. SCHMIDT: Yeah, I just --

CHAIR: -- what, whatever is on the back, you just want the sign in sheet, so just copy page one, like the one page rather than the double side?

MR. SCHMIDT: Yeah, yeah, because the back's got a bunch of e-mail traffic in it.

MS. DOPKIN: That would seem to indicate that the parties bring them not (inaudible).

CHAIR: Yes, I would, I would agree with that. Mr. Holzer, I assume you don't have a problem with that, if you want the sign in sheets in, that we just copy the page one, that shows the people who are here as opposed to whatever copies that were used?

MR. HOLZER: It was on recycled paper --

CHAIR: It's quite all right. Yes, and --

MR. HOLZER: We'll, we'll straighten that out.

CHAIR: Okay. We're all good with that?

MR. SCHMIDT: I mean, other than the fact that it shows who was here, I, I'm not sure I know what the purpose is but it's not prejudicial.

CHAIR: Okay. So, let's do this. Dr. Clark, that is, Dr. Mary Clark, I see you have all the files there. Are you going to be handing them forward to us? I'll go run it out to Ms. Cannington so she can make the copies and return the originals before we get started.

MR. HOLZER: Can she address your question?

CHAIR: I had a question? You're, go ahead, Dr. Clarke.

DR. CLARK: Excuse me, Mr. Garber. You asked if I was going to hand these to Ms. Cannington?

CHAIR: You want to hand them to Ms. Cannington, that's fine too.

DR. CLARK: And I, I'll explain to her that there's some duplicates in there.

CHAIR: We will, and we will check, you can, you can explain that. Mr. Schmidt, I assume that's fine by you?

MR. SCHMIDT: Sure.

CHAIR: And then before it's actually formally admitted, if you want to then just review again just to be on the safe side we could do that and then that will reserve it in

its entirety.

DR. CLARK: And these are all the copies that I had received from Ms. Cannington or Tammy.

CHAIR: Okay. Thank you, Dr. Clark.

MR. HOLZER: Thanks.

MR. SCHMIDT: Just, and Mr. Garber, just a couple of other loose ends.

CHAIR: Sure.

MR. SCHMIDT: I had, during the break, and I think you mentioned, obviously, that Mr. McComas is here but I thought it might be appropriate for the record. I looked at the Board's rules of practice and procedure and Rule 1-C says after talking about three members of a panel and a chairperson and I quote, during the course of a hearing if any member of the original panel is unable to continue to serve, the chairman shall appoint a member to fill the vacancy, end of quote. And just for the record, so we're clear, I'm assuming that you have made a determination that Ms. Murphy is unable to continue and thus have appointed Mr. McComas. I just think that ought to be in the record.

CHAIR: I appreciate the clarity for the record. That is an accurate assessment. We also discussed this on November 29th as how to best proceed with this.

MR. SCHMIDT: Right.

CHAIR: And we had scheduled four Board members for

this in the event that Ms. Murphy could not continue in light of circumstances. So, she's not able to, able to be part of the Board so on that basis, yes, that is why Mr. McComas is part of this panel now instead of Ms. Murphy and we will not be shifting back to Ms. Murphy for when she may be fully available to serve.

MR. SCHMIDT: Okay. One other thing, just and we can handle it now or later, I did have an opportunity to take a look at --

CHAIR: Yes, thank you. Rule eight papers?

MR. SCHMIDT: -- ex, exhibit, yeah. And I guess I have, as I read, as I read rule eight, and let me turn to it again in the, in the rules of practice and procedure for the Board of Appeals, it indicates as the very first words in this, in the two paragraphs, first two paragraphs. Before any person shall testify on behalf of, and then it goes on to say what rule eight is, is supposed to be.

CHAIR: Um hm.

MR. SCHMIDT: So, I don't know if, is this coming in to support the testimony of an individual? I mean, that was my understanding what the purpose of this is or is this just a letter or a correspondence that, that the Board would get in the mail from a person or an association and put it in their file? Because, I mean, I know Ms. Shaw, or Ms. Shaw I think was here at one, I don't know if she's still here, but I've

seen her testify for the organization but my understanding, again, is that the purpose of, of a rule eight document is to authenticate --

CHAIR: For the witness on the stand.

MR. SCHMIDT: -- the, essentially, authenticate the witness --

CHAIR: The witness is there, right --

MR. SCHMIDT: And we don't have a witness.

CHAIR: That's a very good point. I was anticipating that at some point those two things would match up and I ask Mr. Holzer then, the rule eight paperwork for Greater Kingsville Civic Improvement Association, I assume you're going to be having a witness testify as to their position on the proposed use?

MR. HOLZER: Well, I certainly can. And Ms. Shaw is not here, not here today. She has been here and attended all the hearings so far. I certainly can have her testify. I thought that, under the circumstances, just having this document introduced would save the Board and counsel and everybody else some time.

CHAIR: If I can, are, basically, are you proposing a stipulation that if the proper representative from Greater Kingsville was present here today and they would be authorized by the Greater Kingsville Civic Improvement Association based on Protestant's Exhibit 48 that that person would testify that

they are opposed to the proposed use?

MR. HOLZER: Yes.

CHAIR: On behalf of the Association? Mr. Schmidt, I'll leave it to you as to whether or not you would accept that proposal or that stipulation, that that person would come in to say that they are opposed.

MR. SCHMIDT: I, I'm sure they would, Mr. Garber. And I'm not trying to lengthen this out. I think my fundamental question is whether this property is within the auspices of the Greater Kingsville Community Association. I do not know if it is or not. Obviously, I've heard it described as being Long Green or Glen Arm and other places, not Kingsville and whether it is within Kingsville, which is part of the rule eight, so I can't --

CHAIR: So, your question is a map as to the boundaries of this association.

MR. SCHMIDT: Yeah.

CHAIR: And it's significance then as to the proposed stipulation and testimony.

MR. SCHMIDT: Yeah, I just, I don't know what the boundaries of Greater Kingsville are.

MR. HOLZER: It is included, but if, I don't want to be the one to have to testify that it is. So, if that is the objection, someone will come in and test --

CHAIR: If I, if I can suggest something?

MR. HOLZER: Sure.

CHAIR: Can you provide a map of the boundaries of the Civic Improvement Association, provide it to Mr. Schmidt to see if he would then be satisfied, precluding then, of course, then someone having to appear unnecessarily to do the same thing.

MR. HOLZER: I certainly can try.

CHAIR: Even if you don't get it done by lunch time, I'm not asking that. I'm saying if you could just do so perhaps, because there are a bunch of people here today, that perhaps someone can make an effort to try to get that map so that we can get that issue resolved and then, therefore, you don't have to worry about having someone come. Because it seems to me if that person would come in to say that Greater Kingsville is opposed, --

MR. HOLZER: That's it, that's what I was trying to (inaudible).

CHAIR: -- and, and if, I think I'm hearing Mr. Schmidt correctly, his only question is, okay, well, what is the basis for them to weigh in on it, the point, that is are, is it within or adjacent or whatever the case may be, what is the relationship of Greater Kingsville Association here to the subject property. So, I think that's a fair question. So, therefore, if you could just work on getting the boundaries to us.

MR. HOLZER: I'll try.

CHAIR: Then we can see if Mr. Schmidt is satisfied and obviously you would still have the ability to call someone if necessary but that's the way to get around that problem.

MR. HOLZER: No problem.

CHAIR: So, would that be satisfactory, Mr. Schmidt?

MR. SCHMIDT: I, yes, sir, I believe, I believe so.

CHAIR: Would that answer your question if there is a map --

MR. SCHMIDT: Certainly, it would, it would answer it as to that. I guess the only thing I would answer, I'm not trying to be difficult, but I'm just looking at the document and apparently this was a vote, and Mr. Holzer might be able to produce minutes or something like that, of the board as opposed to the entire general membership of the organization and I don't know who the board is. And maybe that's something, if there are minutes, as to who was there. That might be appropriate as well.

CHAIR: So, you would like a copy of the meeting minutes and/or identification of who the board is, as part of it?

MR. SCHMIDT: Yes.

CHAIR: Is that what's required under rule eight?

MR. SCHMIDT: Well, it says --

CHAIR: And I don't have rule eight in front of me so

forgive me if I don't have encyclopedic knowledge of it.

MR. SCHMIDT: Yeah, sure. It says the personal shall show that he has accurate knowledge and the number of members in the association and the geographic limits, which I think goes to the geographic limits.

CHAIR: Okay.

MR. SCHMIDT: And then it goes on to say, --

MR. HOLZER: I, I'm going to go ahead and call someone.

CHAIR: Hold, hold, let, hold, hold on. Mr. Holzer, wait one second.

MR. HOLZER: I'm --

CHAIR: Mr. Schmidt is, Mr. Schmidt is articulating what his questions are. And then I promise you you will have the ability to respond.

MR. HOLZER: I don't --

CHAIR: Mr. Schmidt, go ahead.

MR. SCHMIDT: So, I think that goes as to the limits of the association and as I generally rule eight, obviously --

CHAIR: Yeah, I, I recall that now, that yes, there should be an identification of the number of members or the person's knowledge of the number of members.

MR. SCHMIDT: And it, it does not require minutes but it just says that they're authorized to speak and present views of the civil association.

CHAIR: Well, I, I believe that that's what the paperwork does --

MR. SCHMIDT: Yes, sir.

CHAIR: -- identify, even if it's not full in terms of identifying the boundaries and the, and the members.

MR. SCHMIDT: So, I think it's just a question of their geographic limits.

CHAIR: Same, so hearing that, Mr. --

MR. HOLZER: I'm calling a witness.

CHAIR: Okay. Mr. Holzer, again, I'm just trying to figure out a way to, to prevent someone to come in unnecessarily. If you feel it's best for you to call someone, so be it, we can all move on and we get to Mr., or to Dr. Clark's testimony.

MR. HOLZER: I have a, I, I'm sorry.

CHAIR: Yes, to answer your question, Ms. Dopkin, yes.

MR. HOLZER: I have a comment or statement or position that I want to put on the record now.

CHAIR: Okay.

MR. HOLZER: The history of this case is certainly cre, has created certain difficulties. Obviously, a member of this Board for appropriate reasons was not able to sit and continue based on Mr. Garber's testimony or his comments. The last hearing date in which testimony was received was day six,

--

CHAIR: November 1st.

MR. HOLZER: -- November the 1st, and today is day eight, January 29th. That time period is what has called a delay in the continuation of this case. Day seven, in case the record wants to know, was no evidence was taken and just a procedural comments in regard to how we're going to proceed to present the rest of the case.

CHAIR: It was to resolve the objections to --

MR. HOLZER: Yes.

CHAIR: -- to the video --

MR. HOLZER: Right.

CHAIR: -- and to figure out a best way forward for that evidence in light of the volume of evidence.

MR. HOLZER: That's correct, that's correct.

CHAIR: That was at stake. And to also give Mr. Schmidt the opportunity to review it, given these, the substantial volume.

MR. HOLZER: And as a result of that, the Board has indicated this morning that February the 13th will be the last day for any testimony or presentation. I don't know whether it's the last day for any briefs to be filed, but it's certainly the last day for presentation of evi, any evidence.

I object to that limitation in terms of February 13th being the last day on the basis of a violation of Protestant's

due process. It is not our, it was not our fault that it, and I don't really want to use the word fault, because when, when a member of the Board has a problem, that's, and a legitimate problem in this case, then I believe I can understand and so there's no aspersion being cast on the Board.

But I believe it is improper for the Board to limit any further evidence to February 13th --

CHAIR: If I could interject real quick to make it easy for you?

MR. HOLZER: Well, could I just, I can, I can finish --

CHAIR: Because I think it may short circuit some of what's going on. I'm not suggesting that February 13th is an absolute drop dead we're not taking evidence after February 13th. It's an aspirational goal in light of the fact that we have Board members whose terms expire in April. And if we wrap it up by February 13th, it gives us the ability to have the memos put in, the deliberation and ability to write an opinion, have it out before the expiration of that term. Because if that term expires, and there's a new Board member that will be on the, that will take place, there, this panel will again need to appoint yet another new Board member to this panel to review all the evidence.

So, it is in our best interests, to the extent we possibly can, get it to February 13th, at the absolute last,

great. If, by whatever reason that's not feasible, it is, then we will have to figure out additional dates. However, having said that, keep in mind that as the November 29th date, the issue as to Ms. Murphy's participation on this panel, that was an event that arose close in time to that already scheduled date.

MR. HOLZER: Yes, I know.

CHAIR: We did not have dates scheduled after that as of yet, and then when asked of counsel for mutual availability, these were the dates selected as mutually available for counsel. So, this is not a matter of a delay on behalf of the Board beyond just asking everybody when are you guys all available. My suggestion was to just start scheduling it in early January and we all clear our schedules to figure out how to be here as early as possible. Unfortunately, that was not within the cards due to conflicts. So, that's why we're here and that's why the schedule is what it is.

I understand that there has been a, a, a delay. The delay is actually not, in my opinion, related to Ms. Murphy's, the prompted, that prompted Mr. McComas' replacement of Ms. Murphy as much as scheduling among counsel and the, involved in this case. So, I hope you understand that my February 13th admonition earlier is really maybe just a restatement of a, of an aspirational goal, not an absolute deadline. It is not meant to preclude you from putting on your case.

MR. HOLZER: Well, thank you, because that did begin to concern me based upon how long it's been taking just to go through one simple witness this morning and, and as a result of that, we are now heading in to a more difficult presentation, as you, as the Board knows from the last time, when Mr. Clark was on in regard to showing videos, etcetera.

So, I, I just wanted to protect the record. I wanted to protect the record that, that if, in fact, February 13th was, was being called the last day and we hadn't finished our presentation for whatever reason, then I just wanted it on the record because this case, obviously, as the Board can understand, there, the record is going to have to be very clear on what's been going on.

CHAIR: And I should also mention too that we asked the parties as to how many more days were, were necessary to be scheduled for this case. We were told three, three were scheduled but then we scheduled a fourth just in case there was a problem. That if snow, ice, whatever else would go on, would limit one other of those three days, then at least we had a backup plan. What I'm hearing from you today is there's a possibility that your case may extend out another day and perhaps beyond.

MR. HOLZER: Oh, there's no doubt. Not the way, not the way the objections are going so far. But that's all I really wanted to say.

CHAIR: Right.

MR. HOLZER: I wanted to protect the record in, in the event, you've explained the Board's position, which I appreciate and I, I think you're accurate in what you said with regard to the history and how the process evolved.

If I can get off of that, I want to make a preliminary statement in regard to the testimony of Mr. Clark.

CHAIR: Well, please hold on. Keep in mind, Mr. Clark is still under oath. His testimony is still active and so any statement you are about to say you need to be sensitive to the fact that he is a witness who is on the stand.

MR. HOLZER: Yeah.

CHAIR: And, you know, obviously, though I understand --

MR. HOLZER: I'm talking to the Board not to him, in terms of --

CHAIR: Okay.

MR. HOLZER: -- of the merits. At the last hearing, day seven, the Board and Ms. Dopkin asked if we could go back and try to simply, clarify the presentation of various videos because, as you will recall, at least two members will recall, the, there were a lot of questions about where this video was coming from, how it was done, all sorts of, all sorts of questions. So, at the last hearing, I asked the Board if I have permission to address and to talk to Mr. Clark in order to

do the things that the Board wanted us to do.

CHAIR: I recall.

MR. HOLZER: And, and, and I have done that. As a result, and I told Mr. Schmidt this earlier this morning, the, as a result, we have reduced the number of videos. We have also, because the last time we had to put, you may remember the big disc that we had, we had to put that in and then draw up on that disc the video that was going to be two minutes or, or thereabouts in order to find it. And that took time.

CHAIR: Understood.

MR. HOLZER: So, what I have asked Mr. Clark to do is to, is to consolidate the videos that he wants to use in, in his, in his testimony, eliminate the ones that are duplicitous or not necessary at this point and then take those videos off of the CD's and put them on a, what do you call these little things that you stick in?

CHAIR: Thumb drive?

MR. HOLZER: Thumb drive. I have real trouble with computers and stuff. Put them on the thumb drive. On the thumb drive, it will refer to the disc that have already been introduced in terms, that you have knowledge of. So, it's not like we're coming in with anything new. What we're doing is we're taking them off of the big disc, putting them on the thumb drive so it can easily be retrieved and, and shown. And I thought making this statement about the process would assist

the Board and also Mr. Schmidt and also help ease our way through (inaudible).

CHAIR: I appreciate you doing that because yes, I do feel that that is a good foundation to explain what is going on.

MR. HOLZER: Right.

CHAIR: Why we're seeing what we're seeing and, and how this came to be.

MR. HOLZER: Yeah.

CHAIR: Thank you for doing that. Mr. Schmidt, do you under, did you understand what Mr. Holder had to say?

MR. SCHMIDT: Yes, sir.

CHAIR: Okay and I assume that does not cause you any problem?

MR. SCHMIDT: No, sir, not at this point.

CHAIR: Okay. So, Mr. Holzer.

MR. HOLZER: Not at this point, okay. I'm going to ask Mr. Clark in my beginning questions to layout exactly what he did so I don't want it, my testimony being the one that's the basis for this. I --

CHAIR: But your proffer, but you just proffered what he did.

MR. HOLZER: Yeah.

CHAIR: And so, I would just say, since Mr. Schmidt does not have a problem with your proffer, if you ask him

simply, did I summarize that accurately as to the process by which we came up with this thumb drive? That we don't have yet. Then maybe that resolves that entire point, we could just move straight to the substantive aspects.

MR. HOLZER: I'll try, I'll certainly try to do that and looking at him I'm seeing snow coming down on the outside, which it must have just started. Okay. Can I now ask questions on the record?

CHAIR: Yes, yes, well, hold on. We have to do Ms. Dopkin first and then.

MS. DOPKIN: Please stand up, do you swear, up.

MR. CLARK: Sorry.

MS. DOPKIN: And affirm under the penalties of perjury, that the testimony you are about to give is true and correct to the best of your knowledge and belief?

MR. CLARK: I do.

MS. DOPKIN: And just for the record, restate your name, please.

MR. CLARK: DeWitt S. Clark.

MS. DOPKIN: Thank you.

MR. HOLZER: Mr. Clark, you've now heard me make a proffer to the Chairman and the Board as to what you've done since the last hearing date when you were on the stand and we were presenting the beginning part of your testimony, you understand that? Okay. You have to answer yes or no.

MR. CLARK: Yes, yes, I understand what, what you're asking.

MR. HOLZER: Okay. Without regurgitating everything I said, can you simply say in a couple words what we're about to experience based on what I just said.

MR. CLARK: Okay. You kinda sorta got it right.

MR. HOLZER: Okay.

MR. CLARK: Yes, we reduced everything. Some are reduced to screen shots, okay? We have produced a, what I call a video control sheet, which will show each of the videos we're going to show, the length of time, where it is on those discs that, the disc library, okay? And then we have for purposes of authentication, what I called an annotation sheet, which has, I believe it's A through J, which gives the specific URL's from which those videos were drawn.

MR. HOLZER: What are URL's?

MR. CLARK: Resource --

CHAIR: They're basically the, the addresses you type in on a browser --

MR. CLARK: The, the, the web address, yeah.

CHAIR: -- to pull up a website or --

MR. CLARK: Right.

CHAIR: Right.

MR. CLARK: Right. All of them were, were produced by Petitioner and I copied them off of face page, Facebook

pages, that they themselves published.

CHAIR: When you say they themselves, you're saying the Petitioner or members --

MR. CLARK: Petitioner.

CHAIR: -- for the Petitioner, or members, whatever the (inaudible) --

MR. CLARK: I don't know who Ed Nepalese is but he was very active.

CHAIR: All right, so --

MR. CLARK: All right. So, now, now, there, there was, there was another issue that came up.

CHAIR: Okay.

MR. CLARK: Some, particularly those that were on Dr. Clarke's page have been taken down, okay?

CHAIR: Since, we --

MR. CLARK: Since, since, since my November testimony, okay? When I first introduced the videos, okay? They, they are noted in, in the sheets. We had a question about, I'm sorry, were you, were you about to ask something, Mr. Garber?

CHAIR: No, I was about to cough, we're good.

MR. CLARK: We, Mr. Garber had, or Mr., Petitioner had a question about sound on, on, on the videos, okay?

CHAIR: If I could jump in on that, what I recall from the ruling was that the sound of the one fundraising event

was not admissible but the video was. The reasoning for that was the sound would not fairly and accurately represent the sound that would be heard by someone like yourself or your wife because it's the remote, more remote distance and the prior testimony describing the sounds that were heard. So, that as what is played in this Court is not the same as what you would have heard.

MR. CLARK: Okay.

CHAIR: That was the, my understanding and my recollection. So, with that in mind.

MR. CLARK: Can I argue with you?

CHAIR: No. You can tell me, you can tell me what you're about to say. I'm just recapping what I --

MR. CLARK: Right, right.

CHAIR: -- recall from the, from the ruling.

MR. CLARK: As I, as I recall, you also said that there may be other pur, purposes, the, the discussion centered around whether or not we could understand what people were speaking, since they were speaking in their native language. And then you posited correctly, in my view, --

CHAIR: Thank you.

MR. CLARK: -- that, that there may be other, that there may be reasons other than understanding what they're saying to introduce the sound.

CHAIR: Okay. So, yes, I do seem to recall that the

issue was, the ruling as to the sound was limited to whether the sound would be the same as what you would hear from your property. That was what the ruling was based on. If there was a different, and then also the language, but then if there's a different purpose for playing the sound then we could revisit that issue.

MR. CLARK: Okay, thank you, sir.

CHAIR: So, yes, I do think that is accurate. Mr. Holzer, is that your understanding?

MR. HOLZER: Yes.

CHAIR: Mr. Schmidt, was that your understanding?

MR. SCHMIDT: Yes, sir.

CHAIR: As to whether or not you may still have objections, that's not before us. Ms. Dopkin, do you recall it the same way?

MS. DOPKIN: Oh, yes.

CHAIR: So, okay. We're all on the same page.

MR. CLARK: Thank you, sir.

CHAIR: All right. Sorry, Mr. McComas, I know you were not part of that but.

MR. CLARK: Okay. Now, I would also point out, Petitioner questioned whether or not the sound, the, the relative volumes were manipulated, either inadvertently through copying or, or, or, or purposefully, okay? I would point out that they've had three months --

CHAIR: Well, hold on, we'll, I'll stop you there because there's already a ruling on that basis, that is the volume itself, whether manipulated or not, the, --

MR. CLARK: Okay. I, --

CHAIR: -- for the purposes of the sound and whether or not that is fairly and accurately portrayed is what you may hear from your, from your house or anywhere else in the surrounding area --

MR. CLARK: Okay.

CHAIR: -- that's already ruled upon --

MR. CLARK: Thank you.

CHAIR: -- whether it's manipulated or not. So it doesn't make a difference.

MR. CLARK: Thank you.

CHAIR: Right. So, I don't, and again, I don't believe Mr. Schmidt was pointing fingers saying this has been manipulated --

MR. CLARK: No, no, he wasn't.

CHAIR: -- or whatever, but I do recall that as part of the November 29th hearing --

MR. CLARK: Correct.

CHAIR: -- so with that in mind, if you have another reason to play the sound, I'm sure Mr. Holzer will try to elicit that from you and we can work our way through that at that point. I hope this doesn't get us bogged down so does, do

we have an accurate description as to what we're about to hear, what we're about to see?

MR. HOLZER: I want to introduce these documents for you so that you can follow.

MR. CLARK: And I will, I will explain them and –

CHAIR: That's fine. So you're, basically you're giving me a road, or giving us a road map.

MR. CLARK: Yes, sir.

CHAIR: To Mr. Schmidt first, please.

MR. HOLZER: The first thing is the video control sheet that was referred to by the witness.

CHAIR: All right. So, this is fifty-one, is it?

MR. MCCOMAS: Yes.

CHAIR: So, this is Protestant's Exhibit 51.

MR. HOLZER: Yes. Do you need a copy of this?

MR. CLARK: Yeah, I probably ought to have a copy.

CHAIR: And then we're calling, I'm sorry, the, Mr. Holzer?

MS. DOPKIN: Video control sheet.

CHAIR: Thank you. Video control sheet. Thank you, Ms. Dopkin.

MR. HOLZER: I think, I think this is (inaudible) and this was fifty-one?

CHAIR: Fifty-one. And Mr. Schmidt, I see you have a copy?

MR. SCHMIDT: Yes, sir.
CHAIR: Yes, I see. Okay.
MR. CLARK: Uh, --
CHAIR: Well, hold on, before you start.
MR. HOLZER: No, no, no.
CHAIR: No, let me ask this. Out of what's been handed up to me and everyone here, I have Protestant's Exhibit 51. How many of these do we know that we've already heard in evidence?
MR. HOLZER: I'll get that from him. I don't, --
MR. CLARK: I, I can answer it.
MR. HOLZER: No, just, if I may --
CHAIR: There's no question pending to you necessarily yet.
MR. HOLZER: (inaudible) the URL's --
CHAIR: You're going that --
MR. HOLZER: -- so that you have the whole package.
CHAIR: That's fine. Okay.
MR. HOLZER: And then he can articulate where we are.
CHAIR: Thank you.
MR. HOLZER: Do you need a copy?
MR. CLARK: Yes, please.
CHAIR: So, what you're about hand, what you're handing him now is Exhibit 52 and that is the URL addresses?
MR. HOLZER: Of evidence sources provided by

Petitioners.

CHAIR: Sort of, video source, sources of the videos.

MR. HOLZER: Yes, correct. And one, two, three, four, and that is, did you say fifty-two?

CHAIR: Fifty-two. Thank you.

MR. HOLZER: If I could refer you back to fifty-one, Exhibit 51, the date introduced on the right hand side of that sheet, are these the ones that are being shown today? Not shown today, have already been shown?

CHAIR: That would make sense considering the date that's identified.

MR. HOLZER: Yes.

CHAIR: Thank you, Dr. Clark.

MR. HOLZER: It's good that somebody keeps me straight.

MR. SCHMIDT: I'm sorry, can you say that again, Mr. Holzer.

CHAIR: The far right column --

MR. HOLZER: The far right column --

MR. SCHMIDT: The ones that have a date, we've already seen on that date?

MR. HOLZER: Exactly.

MR. SCHMIDT: And what we're going to see is the other one, other, other ones?

MR. HOLZER: Some of them.

MR. SCHMIDT: Some of the other ones.

CHAIR: And I seem to recall for the most part there was, all those were admitted with the, I mean, obviously this is, I'm going to rely on the November 29th ruling and the record there.

MR. HOLZER: Right.

CHAIR: But from what I generally recall, most of those were already admitted to, subject to no objection, other than the sound one that we've already identified here.

MR. HOLZER: Right, right.

CHAIR: That's my recollection and, again, the record will speak for itself.

MR. HOLZER: I think you're correct.

CHAIR: So.

MR. HOLZER: Now, Mr. Clark, confine yourself to Exhibit 52 and tell us, you don't have to walk through every one of them, but tell us what all this A through K means and how it relates to your proposed testimony.

MR. CLARK: Okay. Okay. The, this authenticates where the, the, the files came from.

CHAIR: Um hm.

MR. CLARK: Okay? Some of them may still be there, some of them may not be, still be there.

MR. HOLZER: Take, take B, for example.

MR. CLARK: All right, that was on the --

MR. HOLZER: That, that has a date whereas on, --

MR. CLARK: Oh, okay.

MR. HOLZER: -- on A it does not. Explain that for us.

MR. CLARK: Okay. After the slash, those are notations to me, as I, as I documented things. So that A refers to an open house event.

CHAIR: There's no date identified on fifty-two as to the open house event, fair? Is that a fair way to look at it?

MR. CLARK: Wait a minute, on, on, on, on fif, oh, on fif, yes, yes, yes. Although it will be on the control sheet.

CHAIR: Okay. And then by way of illustration, fifty-two, we have it, this, for number, or letter B, a video from what has identified July 4. Now, the July 4 reference, is that the day that you captured or the day of the post --

MR. CLARK: That will be on the control sheet.

CHAIR: Okay.

MR. CLARK: The, the, the, the, the, after the slashes were simply notes to me as I was accumulating the, the, the videos. So that I knew what they were.

CHAIR: Just to be clear, the dates identified on Exhibit 52 do not reflect the date of the event captured but the day that it was captured by you, as opposed to the date of the event that's depicted within the video? Is that fair?

MR. CLARK: I just zoned out.

CHAIR: That's okay. My, these things happen. The July 4, that references when you captured the video or the event depicted in the video?

MR. CLARK: The event.

CHAIR: Thank you. All right.

MR. CLARK: Thank you, sir. Thank you very much.

CHAIR: And I understand that there's a creation date on fifty-one, but for anyone looking at fifty-two in isolation, we would know that that is the event date --

MR. CLARK: Right, right.

CHAIR: Okay.

MR. CLARK: Right, right. Okay.

MR. HOLZER: Now, is there, keep your, keeping on these two documents alone --

MR. CLARK: Um hm.

MR. HOLZER: -- is there anything else that you need to explain?

MR. CLARK: Yeah, there's, there's, there's, there's several.

MR. HOLZER: Okay.

MR. CLARK: All right.

MR. HOLZER: Could you take the next one and address that?

MR. CLARK: Yeah, the, the files names are in the left hand column.

MR. HOLZER: Of fifty-one?

MR. CLARK: Of fifty-one, thank you, sir.

MR. HOLZER: You got to re, always refer to the fifty-one or fifty-two.

MR. CLARK: Okay, okay. Fifty-one, the file names that, that, that we will be, that we will or have introduced are in column one. In column two is the evidence disc. You remember those A-1, A-2, A-3's?

CHAIR: Yes.

MR. CLARK: All right. Now there are some, I believe it's eight, that I have acquired in the last couple months and those are marked as new.

CHAIR: Well, we'll deal with those separately.

MR. CLARK: That's, yes, thank you, sir. Then in the other, then in the next column is the length of the video, not necessarily the length of what we're going to show, but the length the, of the total length of the video. Creation date is the date the video appeared on those websites or the date I created them from dashcam or my, my, my property or whatever. That's the creation date. Posted by, created by, you see a lot of Clarks there.

CHAIR: No, I, I, I get it. So, fifty-two would correspond to where it says see attached note A, the (inaudible) --

MR. CLARK: Correct.

CHAIR: You would find A on Exhibit 52 and so these two documents work together.

MR. CLARK: Right. And then date copied is the date I copied them on, on, and then the date introduced is the date that we introduced them to this body.

CHAIR: Okay. So, now we have the process by which we come up with Exhibits 51 and 52, correct?

MR. HOLZER: Correct.

CHAIR: Okay.

MR. MCCOMAS: I have a question. So, so if I type in this URL for number A, is that DSC6978 (inaudible) --

MR. CLARK: Oh.

MR. MCCOMAS: -- or is that, is it the digits up here that direct me to the actual --

MR. CLARK: Thank, thank you. Yeah, DSC6978 shows the, the --

CHAIR: Hold on. I think his question is where, what is that designation? What is the significance of it? That designation, the significance of it is there, is Protestant's designation on their system or their computers or, and they're on the disc as to the file name. So it is separate from the source material but that's where they have it stored for the, for the, for the purposes of the exhibit.

MR. MCCOMAS: But is the Facebook file the digits here, the --

CHAIR: The last character for the, for the URL address would be the backslash, before it says open house.

MR. CLARK: Correct. Thank you, sir. Yeah, I was trying, I guess I did too many things on one piece of paper, yeah.

CHAIR: All right.

MR. HOLZER: Now, is there anything else related to Exhibit 51 or 52 to understand the process of your testimony and, as it proceeds? Do we need to know anything else so that we can avoid problems?

MR. CLARK: I don't know.

CHAIR: All right. So, let's do this. Looking at the video list in fifty-one and fifty-two.

MR. CLARK: Um hm.

CHAIR: I'm assuming that some of these are targeting certain aspects of your case, the concerns that you may have. So some, for the sake of argument, I anticipate we'll see some video that would concern your noise issues, that is the complaints that has been, have been raised by several witnesses or Protestants of noise, including your wife, Dr. Clark. But she's already testified in full, that's why I reference her, and plus you would have, you would already be familiar because you live at the same address.

MR. CLARK: Understood.

CHAIR: Some may depict other conditions, such as

traffic, correct? So, if we're going to be playing some of these videos, I would request, to the extent you can, what the video is supposed to target. So, this way we know what the relevance is of the particular video that we're about to watch, or whatever snippet and this way it helps Mr. Schmidt follow along as to what am I watching and why.

MR. CLARK: Mr. Garber, there, there, there will be, on some of them, we will be showing just screen shots and saying this is what this video represents, do we, do we, do we need to show the whole, whole video to enter it into evidence.

CHAIR: Okay. Now, out of all the ones that are listed, have we already ruled upon those other than where I see it says date introduced, have there been specific rulings as to the admissibility of some of these? I have to think the answer is yes.

MR. CLARK: Yeah.

CHAIR: It would be helpful to know which ones, because I don't have my trusty sheet here in front of me, at some point which ones have already been admitted so this way it saves Mr. Schmidt time if he was inclined to object again if it's already been resolved.

MR. HOLZER: Yeah.

CHAIR: But we'll deal with that as it comes up since I don't have that readily in front of me at the moment. Is that satisfactory to you, Mr. Schmidt?

MR. SCHMIDT: Yeah, I mean, I, I don't re, off the top of my head remember which ones were shown and all the specific objections. I'll try to be consistent. I did have one other question if I could ask it, just on these sheets?

CHAIR: Yes.

MR. SCHMIDT: Bef, in the column on Protestant's exhibit number fifty-one, that is the column that is titled posted/created by, there are a number of references which says, which say see attached note and then identify a note. Is --

CHAIR: I'm sorry, I thought that that was clear, that that's what refers to the letters on fifty-two.

MR. SCHMIDT: Ah, that's what that is. I just wanted to make sure that was clear.

CHAIR: Yes.

MR. SCHMIDT: Okay, okay.

CHAIR: And the ones that say Clark, I assume, are the ones that he did with his own dashcam.

MR. SCHMIDT: Okay. Very well.

CHAIR: And that's what I understood from the testimony.

MR. SCHMIDT: Okay. I just wanted to verify that, that that's what that was referring to.

CHAIR: Okay.

MR. SCHMIDT: Okay, thank you.

CHAIR: So, with that in mind, Mr. Holzer?

MR. HOLZER: Mr. Clark, is there anything else that rel, that is going to come up that relates to your testimony and the showing of any of these videos or introduction of any of the, any documents?

MR. CLARK: Well, are, are we talking about, we're talking about testimony going forward from here.

MR. HOLZER: Yeah.

MR. CLARK: Including, --

MR. HOLZER: Yes.

MR. CLARK: -- more than these?

MR. HOLZER: Well, yes. In other words, is, are there any documents that you have that are, you want to introduce that are not listed on fifty-one or fifty-two?

MR. CLARK: Oh, yes.

MR. HOLZER: Okay and as we get to those, we will lay the foundation of where we got them and --

MR. CLARK: Correct.

MR. HOLZER: -- intended purpose of introducing them and that would be separate from what's listed on fifty-one and fifty-two.

MR. CLARK: Right and can, can, if, if I can expand on that?

MR. HOLZER: Go ahead, that's why we're trying to do this now.

MR. CLARK: Right. The evidence that, that I'm going

to be producing today and maybe tomorrow have to do, have nothing to do with zoning enforcement, all right? Nothing.

CHAIR: You mean code enforcement?

MR. CLARK: Code enforcement, yes. Thank you, sir.

CHAIR: Just for clarification for the record.

MR. CLARK: Yeah, I, I, I have three attorneys and you to explain to me that this is not --

CHAIR: This is not a code enforcement hearing.

MR. CLARK: That's right. Everything has to do with land use, with, with pass, with the land use over the last year --

CHAIR: Are you, well, let's do this. Are, it sounds to me like you're about to tell me about prior decisions or something to that effect?

MR. CLARK: No.

CHAIR: Is what you, okay --

MR. CLARK: No, no, no, no, no, no, no. It, it all, it will document how they have been using the property, all right? It will document vor, voracity, all right? It will document basically use and voracity phys, and physical use of the property.

CHAIR: Well, we're, we'll cross those bridges when we get there.

MR. CLARK: Okay.

CHAIR: I understand that you may have, from what I

understand is you're talking about maybe potential evidence to show that what has been testified to may not be fully accurate?

MR. CLARK: Correct.

CHAIR: Or some other characterization, I'll leave that to anybody else to decide, but we're not there yet. Let's just go with what we have here. Please keep in mind we don't need to have repetition on undul, let's just say, repeated instances of the same thing. So, just do your best to streamline whatever you can. I understand that this is already a streamlined version, but if it's to show, again, hey look, there's noise that's going to affect us, we obviously have a good idea from all the witnesses already and some of the other videos already in, so.

MR. CLARK: As painful as it was to hear, --

CHAIR: Yes.

MR. CLARK: -- I took Ms. Dopkin's question to heart.

CHAIR: Yes.

MR. CLARK: Okay? The only reason for including into the record, not to show, but including into the record multiple videos, for example, of volleyball is to show the extent, all right? They're not of the same, you know, that I, I, I showed an exemplar, right? But there are twenty-four dates that I have documentation, all right? I am not going to show twenty-four.

CHAIR: Right.

MR. CLARK: Okay? But it all, you know, the, the, the reason for having the density is simply to document the extent.

CHAIR: All right. Well, let's just start working through this because (inaudible).

MR. CLARK: Right.

CHAIR: But I'm just trying to reiterate the problem of when we had to try to work through on November 29th that I don't want to get bogged down here today then I feel like we're already getting there. So, why don't we just plow forward with what we can to get the evidence that you feel we need for our decision making here. So, Mr. Schmidt, you look like you want to say something?

MR. SCHMIDT: Yeah, I just, Mr. Garber, and I just, do, do you want me to raise any objection as we go along, save it to the end? I mean, I, I want to be consistent, I mean, we talked about videos and you've given us rulings previously and I'm just trying to be consistent. I mean, I'm sure the Board will want to be consistent with its previous rulings and I think I've outlined in great, excruciating detail the basis of my objections. And I don't want to keep going over the same thing. I know Mr. McComas is new to it but --

CHAIR: I'll say this. Your objections are preserved for the record, that the playing of the videos here that you previously objected to and there have been rulings on --

MR. SCHMIDT: Right.

CHAIR: -- you don't need to object again.

MR. SCHMIDT: Okay.

CHAIR: Okay. If you have, if there's another reason for an objection, obviously I'm not going to preclude you from raising an objection that you feel is appropriate, as long as it's not something that previously either had been ruled upon or could have been ruled upon and not been made. For example, we had talked hypothetically about the sound issue. If you have an issue as the sound is being played and it's being used for a different purpose, that has not been ruled upon. Obviously, we couldn't rule across the board without knowing testimony --

MR. SCHMIDT: Sure.

CHAIR: -- the last time around.

MR. SCHMIDT: Sure.

CHAIR: Mr. Holzer, that's what you understand as well?

MR. HOLZER: Yes.

CHAIR: All right. Then let's continue.

MR. SCHMIDT: All right. Thank you.

CHAIR: And, and to be clear, for the record, your objections previously asserted in writing and during the course of that hearing and any other hearing, are preserved for when they, these videos are played here today.

MR. SCHMIDT: Yeah, because we, let me be, honestly, we may see a video that we've seen before and I don't remember every single one that we've seen and whether I objected to it, to be quite honest. I just --

CHAIR: Well, I'm not, I'm assuming we're not playing again the ones that have already been admitted that had already, you know, for example, all the ones dated November 1st, I'm assuming we're not going into them again a second time.

MR. SCHMIDT: And, and I'm hoping the ones that you have ruled that are not admissible, we're not, they're not trying to get those in again too.

CHAIR: Well, again, I'm going to defer to the November 29th hearing and, and the Order or, I know it's not reduced to writing as of yet, but that transcript to determine, so if it, one is played here today and subsequently determined that it was actually objected to and that objection was sustained previously, obviously that will be stricken.

MR. SCHMIDT: Very well. And I don't have to jump up again.

CHAIR: It will be identified for the record, but it would be stricken in terms of its receipt in evidence.

MR. SCHMIDT: Yes, sir. Thank you.

CHAIR: Mr. Holzer?

MR. HOLZER: I have no problem.

CHAIR: Okay.

MR. CLARK: Can I --

MR. HOLZER: All right. Mr. Clark, let me --

MR. CLARK: Can I make one, any, any, if I do introduce something, it's not, it's not intentional, okay?

CHAIR: It's fine, Mr. Clark. Or Dr. Clark, it's understood --

MR. CLARK: And, and, and Mr. Holzer and I haven't had a chance to really talk about this.

CHAIR: We know that there's a lot of stuff so, sometimes mistakes happen. Whatever, we'll figure it out. We'll get to that point and we'll keep moving.

MR. HOLZER: I, I would say for the record again, that because he was on the stand and then there was a long period of time where we had to try to refine and so forth, I did have conversations with him but I don't know what he's going to say. We, we didn't talk about the actual --

CHAIR: Substance.

MR. HOLZER: -- substance, right. Only how to proceed and try to accommodate the Board's --

CHAIR: I assume that to be the case because of, you know, the fact that you're an attorney who's --

MR. HOLZER: Right.

CHAIR: -- representing your client and understands the rules of ethics and professional conduct.

MR. HOLZER: Exactly.

CHAIR: So, that was assumed on my part.

MR. HOLZER: Well, thank you, sir. I appreciate that. And we tried in, in going, setting all this up that you've heard to, so far --

CHAIR: The full scope of the, the nature of the conversations and why we're at where we're at sitting here in this moment.

MR. HOLZER: Right, right.

CHAIR: All right.

MR. HOLZER: Thank you.

CHAIR: With that in mind.

MR. HOLZER: All right. Mr. Clark.

MR. CLARK: Sir.

MR. HOLZER: In, in, in terms of, I believe, of your initial comments, there are some documents that might be new that you want to introduce and could, not videos, but documents, I think. Could you explain what they are --

MR. CLARK: Yes.

MR. HOLZER: -- and, and, and when, when, why you label them new?

MR. CLARK: Okay.

CHAIR: I'm sorry, you said documents.

MR. HOLZER: Documents.

MR. CLARK: We're off videos.

CHAIR: Okay.

MR. HOLZER: We're off of videos.

CHAIR: Okay. Wouldn't it make sense to show whatever documents you intend to introduce, just, as to why he's characterizing them as new, if we don't have them they're going to be new to everybody up here.

MR. HOLZER: Okay.

CHAIR: So, I'm just trying to figure out why we're asking him if --

MR. HOLZER: Because I was going to go through them in, in --

CHAIR: I'm just saying, just get to that.

MR. HOLZER: Yeah.

CHAIR: That would work.

MR. HOLZER: Well, that's where I am.

CHAIR: Okay.

MR. HOLZER: That's where I am.

CHAIR: Okay, I'm sorry.

MR. HOLZER: And, and Mr. Clark, can you explain what new, just explain what new documents you intend to produce for the Board now and then we will pull them out and, and give them to the Board (inaudible) that's a preliminary question.

MR. CLARK: Yeah. What, what I am about to introduce, I was talking about this is not a code enforcement hearing. These documents will represent our efforts to get the County to do something about what was happening at the

property.

CHAIR: Well, let's take it document by document and see where this takes us.

MR. HOLZER: All right.

MR. CLARK: Okay.

MR. HOLZER: Take the first one.

MR. CLARK: All right. Letters to Baltimore County.

MR. HOLZER: All right. Wait a minute, is this the right thing? Is this the right, no, what about this one? Oh, okay. All right. The first document, --

CHAIR: And before you answer, ask any questions and start test --

MR. CLARK: Oh, this ---

MR. HOLZER: Shh, quiet.

CHAIR: Hold on. Mr. Schmidt needs to review.

MR. CLARK: But this isn't it.

MR. HOLZER: Oh, wait a minute. What do you mean it's not it?

MR. CLARK: This is the one with Zeller.

CHAIR: Okay. Why don't we just start with that one then, --

MR. CLARK: Okay, okay, okay.

CHAIR: And then we'll get back to whatever else. So, here's what we'll do. Give Mr. Schmidt a second, Mr. Holzer will pass it out to the Board.

MR. HOLZER: Yes.

CHAIR: Before there's any question or testimony, everyone needs the opportunity to review and then we'll identify what it is for the record and whatever substance that you wish to convey --

MR. CLARK: Okay.

CHAIR: -- subject to --

MR. HOLZER: Sure, and this --

CHAIR: -- normal processing.

MR. HOLZER: -- number would be?

MR. MCCOMAS: Fifty-three.

MR. HOLZER: Fifty-three.

MR. SCHMIDT: So, this is fifty-three?

MR. HOLZER: Yes.

CHAIR: This is fifty-three.

MR. HOLZER: Fifty-three.

CHAIR: All right. So, Dr. Clark, what is Exhibit 53?

MR. CLARK: Fifty-three is an e-mail exchange between myself and Mr. Rich Zeller, who is the head of State Highway Access Permits for State Highway Administration.

CHAIR: Okay.

MR. CLARK: What it shows is that he did not --

CHAIR: Hold on, hold on. Mr. Holzer, do you want to ask a question as to the document?

MR. CLARK: Oh.

MR. HOLZER: I can, I mean, --

CHAIR: Please do.

MR. HOLZER: Okay. This, this document marked fifty-three was dated July of, 5th of 2018?

MR. CLARK: Right.

MR. HOLZER: And it was to you, I assume, from Mr. Zeller?

MR. CLARK: Correct.

MR. HOLZER: You've decided, you, you testified who Mr. Zeller is. Was this in response to an inquiry that you asked Mr. Zeller?

MR. CLARK: There is, if you look on the last page, I say I'm pleading for help, okay?

MR. HOLZER: The last page of the document?

MR. CLARK: Of, of the document, of Exhibit 53. You'll see my, my, my initial request and then on page, at the bottom of page two, Mr. Zeller replies, I'm not trying to avoid this issue, but Baltimore County is in charge of land use issues, not SHA. County has the SHA letter and is aware of our position regarding the entrance on MD-147. If the County has not approved this site for this activity, they, Baltimore County, must prohibit the NACCB, Inc. from having the activity. SHA has no authority to enforce this, okay?

MR. HOLZER: Okay.

MR. CLARK: Then the, at, at the top of page one of fifty-three, so these are in reverse order, right? They're, they're like a typical e-mail thread.

CHAIR: I understand, I understand.

MR. CLARK: Okay? Mr. Clark, it's my understanding that the County has not approved this site for the proposed use, the SHA has not approved the existing entrance for this use. From the SHA perspective, this site should not be operating at all. Will the County be shutting them down?

MR. HOLZER: Okay and that's it?

MR. CLARK: That's it.

MR. HOLZER: Okay and the purpose of showing this to the Board?

MR. CLARK: Is to say that the, it was the County's responsibility to shut this down and that SHA had, their opinion, their finding, was that this should not, their conclusion was that this site should not be being used.

MR. HOLZER: Okay. It says what it says.

MR. CLARK: It says what it says.

MR. HOLZER: Okay. I would move, do I need to move each one of these as we go?

CHAIR: Do you want to establish the record?

MR. HOLZER: Yeah, I, --

CHAIR: I, it's understood that once you're done with it, --

MR. HOLZER: Yes.

CHAIR: -- that you were looking to move these into evidence?

MR. HOLZER: Yes, that's correct. That's correct.

CHAIR: So, so Petitioner's, or Protestant's Exhibit 53, Mr. Schmidt?

MR. SCHMIDT: Objection. Move to strike. The witness started his testimony by saying he was not talking about code enforcement. That's precisely and exactly what this is. It was his efforts to institute a code enforcement activity, not to prohibit an activity which is proposed under the special exception per se, which is the religious use of the property. But to stop an event that occurred in July of 2018. What does this possibly have to do --

CHAIR: Relevance.

MR. SCHMIDT: -- with the ultimate issue in this case?

CHAIR: Relevance, based on the fact that it's, you believe it's code enforcement based, understood.

MR. HOLZER: The relevance is still the fact that their access, their entrance way, in terms of your approving this project still has not been granted by the State Highway Administration.

CHAIR: And that, I believe, is already established by even Mr. Coligaro that it's not, we're not even there yet.

Is that your recollection?

MR. HOLZER: That's correct.

CHAIR: Right.

MR. HOLZER: And to save you some time, it's already in as Exhibit 43.

CHAIR: I was about to say, we've seen this before.

MR. HOLZER: Yes.

CHAIR: I'm sure this is already an exhibit in evidence.

MR. HOLZER: Yes, it's already been introduced in evidence.

CHAIR: So, I mean, on that basis --

MR. SCHMIDT: Well, then why are we introducing it now?

CHAIR: I think he just wanted to establish his back and forth with it.

MR. SCHMIDT: Okay.

CHAIR: As to whether or not, do we need duplicate copies of it? We do not. But the testimony it, he's basically going off this letter and, and showed him the letter or, excuse me, the e-mail chain so this way he'd get the testimony on the record from Dr. Clark.

MR. HOLZER: Mr. Garber, I also want to point out for the record that Mr. McComas is sitting here for the first time and while there are prior days and you will not get into that

material, he is entitled to hear this as his first day of sitting here.

MR. SCHMIDT: No, he's not --

CHAIR: Hold on, hold on, Mr. Schmidt. Let Mr. Holzer finish.

MR. HOLZER: I, I therefore, because of the interruption and through no fault of the parties or the Board, a Board member is not sitting here. We have a new Board member. I believe he's entitled to hear some of this documentation and understand what has been going on or what is going on now. So, I think in fairness that he be permitted to see and hear some of this documentation for himself.

CHAIR: I will say, obviously I'm not Mr. McComas, but I will say that we don't need to review testimony and, and documents that have already been introduced or go over that stuff that's already in the record. And the reason being is, Mr. McComas, I, I understand, has been provided a copy of every transcript and has been provided the exhibits. Mr. McComas has made his own review and has his own understanding at this point. If Mr. McComas feels that he needs further clarification on a particular point, when it's being, when it's raised or even when it's not raised, I'm sure Mr. McComas will speak up and say wait a minute, I have a question, which he's already done here today, at least once or twice.

So, on that basis, I don't believe we do need to

review everything again for him. When I say everything, anything again that's already in the record. If you want to then point to something in the record that you feel is important, certainly you're going to have that opportunity in part with your, with your memo, at the conclusion of the evidence. But also, to the extent that there's other evidence you can say, just like this occurred on whatever other day, you could reference that way, if you feel the need to do so.

So, Mr. Schmidt, with that in mind, is there anything further from you on that point?

MR. SCHMIDT: I just, just want to make it clear. Mr. McComas, unfortunately, finds himself in a very unusual place because --

CHAIR: We all do.

MR. SCHMIDT: Right, but he, in particular, because he's got to now go through transcripts and tape recordings and a long time and I, I would stress very, very strongly he's coming in in the middle of the Protestant's case. The Petitioner has already offered its case, I mean, if there is some inference and I, not, not an inference, but a direct point that Mr. Holzer makes, that he gets to offer evidence again so Mr. McComas can hear it from the horse's mouth, in effect, that's entirely inappropriate unless on rebuttal you want me to re-present my case again.

CHAIR: Mr. Schmidt, you've heard my ruling.

MR. SCHMIDT: Thank you, sir.

CHAIR: I don't believe we need to go over the same thing that we've already done before.

MR. SCHMIDT: Yes, sir.

CHAIR: The evidence is already in the record. Do we need to have Protestant's Exhibit 53 in the record if it's already in the record as forty-three, as it has been identified, which I accept the representation it is what it is, but.

MR. HOLZER: I, I would like it be marked as, since it's been marked and pulled out as fifty-three, that's fine.

CHAIR: All right. Since it's already admitted, I'm going to admit it.

MR. HOLZER: Thank you. All right, next up.

CHAIR: But again, I, please be careful about re-introducing things that are already in the record. And I realize you're, I know you're trying your best, there's a lot of stuff going on, I recognize that.

MR. HOLZER: I know. And I'm trying to keep it simple, not only for the Board but for the record. All right. There is a new document marked from you to Mr. --

CHAIR: Hold on --

MR. HOLZER: I just want to --

CHAIR: -- he, he needs to be the one to identify what the document is. Unless there's a, give it to Mr. Schmidt

first.

MR. HOLZER: No, because I have to have him identify what it is first.

CHAIR: But Mr. Schmidt needs to see it, so please hand it to Mr. Schmidt, whatever copy you have. Please hand it to Mr. Schmidt.

MR. SCHMIDT: Thank you.

MR. HOLZER: Now, that, I don't understand that ruling.

CHAIR: You don't understand how --

MR. HOLZER: No, I don't understand.

CHAIR: Here's how we offer evidence. You have a document you want to introduce into the record, you need to provide it to counsel before you start asking your witness as to what this document is. Mr. Schmidt has the opportunity to review. You now can ask him, what is this document? But Mr. Schmidt needs to see it before you start questioning about it.

MR. HOLZER: Okay. So, from now on --

CHAIR: That's the way this has always been. This has not changed. This is how we got, why we had this motion earlier today that we had to resolve is because you showed the witness first before Mr. Schmidt had the opportunity to object. We are past that point. All we need to do now is hand it to Mr. Schmidt, or ask Dr. Clark then what is the document which is going to be labeled as fifty-four for purposes of i.d., what

is this document? We can't start questioning until Mr. Schmidt has at least the opportunity to take a look at the document you intend to ask about. So, with that in mind, Mr. Holzer, back to you.

MR. HOLZER: I'm waiting for Mr. Schmidt.

MR. SCHMIDT: Oh, I've looked, I've reviewed it, thank you.

MR. HOLZER: Well, you didn't tell me so I didn't know.

CHAIR: Okay, listen. Let's move through this. You've had the opportunity to review it, he's reviewed it. Mr. Holzer, your question to Dr. Clark, please.

MR. HOLZER: What is that document?

MR. CLARK: This is a date stamped letter received by Mr. Jablon's office from me to Mr. Jablon.

MR. HOLZER: May I give it to the Board?

CHAIR: Yes, you should, and to clarify that further, my prior speech, when you give it to Mr. Schmidt, please provide it to the Board too, to the extent that you have the necessary copies, that would be ideal.

MR. HOLZER: I think I gave you five.

CHAIR: This, and this is for purposes of the record, identified as Protestant's Exhibit 54. All right. So, this is a letter then from Dr. Clark, President of Gunpowder Falls Watershed Preservation Association to Mr. Jablon received on

July 11, 2018 and apparently also sent on July 11, 2018, one page document. So, with that in mind, Mr. Holzer, your questions?

MR. HOLZER: My question is, why is this relevant?

MR. CLARK: Actually, it relates to another document that's going to be introduced right after this, I hope, from Vince Gardenia, okay? So, --

CHAIR: Well, let's get that in the record if the two are going to be interrelated, that is if you want to provide that document to Dr. Clark, since he needs both, if he's saying that they're related.

MR. HOLZER: Do you need both?

MR. CLARK: Yeah, yes, yes, please.

CHAIR: Provide the Board two with the copies, so we can --

MR. HOLZER: Oh, I thought I had to give --

CHAIR: I'm sorry. If I was, if I was being unclear, when you provide it to Mr. Schmidt, provide it to the Board at the same time so we at least have the copies before you start asking what is this document and then having testified to it. We realize when you're handing it up it's going to be marked for identification only, then we'll leave it to you to decide whether or not you're moving it into evidence.

MR. HOLZER: Okay.

CHAIR: Is that, we're on the same page on this, on

how this is going to work? All right. You now have the doc, is that the document you were just referencing, sir?

MR. CLARK: I don't have the Gardenia letter.

MR. HOLZER: No, he doesn't have the document.

CHAIR: You don't have it yet.

MR. HOLZER: Because normally I walk up and give it to him and then give it to the Board.

CHAIR: Okay, I, I apologize, I thought he had it. I'm just a step ahead in this regard for once.

MR. HOLZER: And this would be fifty-five.

CHAIR: Fifty-five.

MR. CLARK: No, this is the wrong one.

CHAIR: All right. Let's do this. Dr. Clark, what is it, I assume you, you intend to pro, to introduce into the record there is --

MR. CLARK: Oh, oh, oh, no. It is here, it is here, it is here.

CHAIR: All right.

MR. CLARK: It's on the very last page.

MR. HOLZER: Well, let's start with fifty-four, now that you have the letter to Mr. Jablon.

MR. CLARK: Okay. Fifty-four is the last one?

MR. HOLZER: Fifty-four is the letter to Jablon.

CHAIR: Fifty-four is the one page letter.

MR. CLARK: Thank you, thank you.

CHAIR: Fifty-five is the multi-page, what appears to be an e-mail chain.

MR. CLARK: Okay. This, this, this is a letter that references an Order issued by Arnold Jablon regarding the, no activities on the site, dated July, well, that I received, all right. But a previous Order dated July 1, okay? To NACCB, Inc., okay? And I was notifying him that they are proceeding with this event in defiance of that Order. That Order, you will see on, I don't, Mr. Garber?

CHAIR: Yes.

MR. CLARK: This last page I have no idea why that got stapled there.

CHAIR: Okay.

MR. CLARK: I have no idea why that's there.

CHAIR: Understood. Last page of fifty-five that's been handed up actually appears to be from the video exhibits from what we've already resolved.

MR. CLARK: Yeah.

CHAIR: Okay.

MR. CLARK: I'm not trying to re-introduce again.

CHAIR: They're not, they're not related, understood. No problem.

MR. SCHMIDT: Can we delete the last page?

MR. CLARK: Yes, throw it out, please.

CHAIR: Fifty-five, just tear that off. So, for the

record, page, Exhibit 55, the last page has been tear, torn out of the original that's actually up here in the possession of Mr. McComas, who is handling the exhibits today.

MR. CLARK: All right. So, the last page is an exchange that came out, came out, I, all right. Now, the bottom line is, the last page is, is where Vince Gardenia sends me a copy of the enforcement Order that was sent to Mr. Kris Ghimire, okay?

Now, the way that came about was we were getting nowhere on sanitation issues and all that. And so, I went to Kevin Weis on the first page, who is the chief of the Baltimore division for Maryland Department of the Environment. He then told me that Vince Gardenia is the guy that, that he, he contacted Vince Gardenia and had Vince Gardenia get in touch with me and then finally Vince Gardenia sent me the enforcement Order that VanDomelen had sent. Why did I have to get it from Vince Gardenia? Why wasn't it sent directly to us and to counsel? That, that enforcement Order.

CHAIR: Oh, okay.

MR. CLARK: But, yeah, yeah, I mean, but --

MR. HOLZER: He doesn't answer (inaudible).

MR. CLARK: Okay, I'm sorry.

MR. HOLZER: Okay.

MR. CLARK: I'm sorry.

CHAIR: Moreover, I couldn't answer that question.

MR. HOLZER: So, this, these two documents have no relationship to a code enforcement situation?

MR. CLARK: No.

MR. HOLZER: Okay. Why are you then producing these two documents, fifty-four and fifty-five?

MR. CLARK: To show that we made numbers, a number of efforts to, to, to alert the County that their Orders were being ignored and trying to find out exactly how this process worked.

MR. HOLZER: Okay.

MR. CLARK: And no one, other than Vince Gardenia, no one ever responded to us and I believe that's going to be the subject of the next --

CHAIR: Well, if I, just to help move this along. Understanding that you guys made a, some efforts to reach out to the County to discuss why is this property being used what it is, you know, the way it is, when the Order reads a certain way and you believe that to be inconsistent with the way it's being used, right? Is that --

MR. CLARK: It goes, it goes beyond that.

CHAIR: It goes beyond that.

MR. CLARK: It goes, it goes to denial of right to due process.

CHAIR: Denial of the right of due process.

MR. CLARK: Yes. Willful, willful neglect.

CHAIR: Willful neglect. Okay. I'm intrigued by this.

MR. HOLZER: You'll, you'll find out.

CHAIR: Okay.

MR. HOLZER: The Board will find out.

CHAIR: Okay.

MR. HOLZER: Because as I said earlier, there has been improper activity on the part of the County and this is --

CHAIR: We can be, hold on, Mr. Holzer, we could be completely sympathetic with that position, that is, the County should have done more as it relates to these events and all that. It does not speak at all though to the special exception factors --

MR. HOLZER: I understand that.

CHAIR: But that's why we're here.

MR. HOLZER: But I've been around, Your Honor, and let, let me just say this.

CHAIR: Go ahead.

MR. HOLZER: For the Board. It's time that someone brings to the attention of the Courts or this Board the impropriety of what has been taking place below in terms of activity in regard to enforcing County law, rules and regulations. And if I cannot do it by having this testimony, I will proffer every one of these documents because on review, it becomes clear what has happened in this case. And I'm not

blaming anybody at the Board level but, as you know, I submitted a Motion in regard to a letter ex parte that was done between the --

CHAIR: We (inaudible) --

MR. HOLZER: I know we're not getting into it.

CHAIR: I heard, I know that that is an issue that's still pending in this matter.

MR. HOLZER: I understand and I'm not getting into it now. But this has been going on in this case and it's, it's time that this Board was provided with the documentation of not code enforcement, but what has been taking place. So, that's the relevance of why this has been, been presented.

CHAIR: My response to that and, again, with all, just to summarize this, to move this forward, Dr. Clark, to everybody else who has participated in this, I recognize you have certain frustrations and I realize that you have certain things that you think the County has failed you in your positions, in your opinions.

The big problem is, this Board cannot do much by way of addressing those problems. This is also not a code enforcement hearing. This is a matter of special exception. That is, we have certain factors. As to how any of these events and all this is, you put it, a denial of due process or whatever, however it's characterized, as to how that effects the special exception hearing and those factors, that is our

limited jurisdiction as to what we could do.

We can't tell the County Council, we can't tell Code Enforcement, we can't tell anyone else how they should have treated this back in July, back in August or any other time, because that matter certainly is, one, is not in front of us, but two, we can't compel that. To compel those things, perhaps that's subject to a mandamus action or some other type of action, but it's certainly not one that we can actually remedy sitting here today or any other day, because it's not something that is within our, what the, the matters that we are allowed to review, nor is it in the Petition from Petitioner or the appeal from Protestants that is relating to the Petition.

This is a matter, seems to me, they are using this property inconsistent with the prior Orders, do something about it. They didn't do something about it, we can't change that fact even if I'm completely sympathetic to your plight in terms of hey, why aren't people coming out to do something about this when it's apparent on its face? I'll accept all of that as true, in the end, we can't change that sitting here today.

MR. HOLZER: But you, but you can consider past activity and practice in regard to how you approach the issue of the land use issue, which is do I grant the special exception or do not. That's something that you can listen and you can evaluate the truth, truthfulness of what is being done. That's number one.

Number two, for the record, I've been, been down this road many times. There's something called exhaustion of administrative remedies and although it could be said oh, you got to present this at the Circuit Court, the ruling in a Circuit Court could say it should have been presented at the hearing before the Board of Appeals and that is exactly what I've been through battles for forty-five years doing.

CHAIR: And I, I appreciate, I appreciate what you just said greatly. My suggestion is, is to proffer that so there could be a ruling upon whether or not your administrative remedies have been exhausted by us. This, I know we've done this --

MR. CLARK: Okay.

CHAIR: -- in other cases where --

MR. HOLZER: Yes.

CHAIR: -- I don't want to say the same things, because it definitely wasn't the same type of activity, or even a special exception case, where we have done that. We have made specific rulings, the administrative remedies have been exhausted and therefore it's ripe for the Circuit Court and for the next step on these particular issues.

MR. HOLZER: I, I can accept, I accept that. So, the question is, how do we do that? Do I try to proffer everything right now that's not related to your limitation that you've imposed? Or as we go along and we present various documents,

those documents could be determined to be out of your area of responsibility or however you would want to phrase it. We can mark that exhibit that way and, in effect, at the end, we will be in a position of saying oh, exhibits, you know, one, two, three, four, --

CHAIR: My, my thinking on that is tonight you guys could come up with that list of documents, submit it as a package, of course provide a copy to Mr. Schmidt. This was it will be submitted, you'll have your proffer, it's taken care of, we can move on. Because it's more important to get to the special exception factors. If there's any impact or any issue as it relates to anything you want to raise --

MR. CLARK: Okay.

CHAIR: -- in connection with these documents and this, the matters that Dr. Clark wants to testify about, how it relates to the special exception factors, of course, that's evidence we need to hear it and whatever.

But as to what should we tell the County about what they did or did not do, that is well beyond what we have control over, well beyond what we are allowed to do and if you want to make sure that administrative remedies have been exhausted, my suggestion is, put it into a packet, say here's what we're proffering and then we can move on from there, because we're not going to go through every document if that is the issue to say this is beyond our jurisdiction, or this is

beyond the boundaries of this case. We are here to determine whether or not the special exception factors, the satisfaction of the level of evidence presented on that issue, as to whether or not Petitioners get their use.

MR. HOLZER: I understand. I understood all that.

CHAIR: And whatever conditions, if any, would follow.

MR. HOLZER: I understood all of that. I understood what the Courts require, --

CHAIR: Yeah.

MR. HOLZER: -- I understand what's happened in the past. I also would suggest that there is going to be evidence or testimony or documents related to the voracity or factual correctness of other witnesses or --

CHAIR: That's a different matter.

MR. HOLZER: I know it's a different matter, but I wanted to alert you to the fact that some of the material coming in through the witness is of that nature. So, there is a difference between both of these.

CHAIR: And then if there is a difference with some documents or some evidence compared to others, so be it. We'll go down that road and we'll, I'll see where that takes us. But as to hey, our needs are being ignored by the County, I'm telling everyone here we cannot do anything about that, unfortunately. Even recognizing your frustration with the

whole process with it. And it's, I'm sorry that, if this is the first time you're hearing this. But the fact of the matter is, we are here to talk about a special exception case, special exception factors. If the County did not do what, what you believe that they should have done, we can't change that outcome.

MR. CLARK: I think I got it.

CHAIR: Yeah. And I just want to make that clear, it's not a rejection of what you're saying, it's just an explanation as to why we're here, what we could do. Let's get to that rather than, you know, sit here and go through all this stuff when we realize, in the end, we can't change that.

MR. HOLZER: I, I would like to be able to get these documents identified as a, with a document number.

CHAIR: I didn't say you couldn't. I'm saying tonight, come up with your list of documents for that purpose, that you just, we just went through, put it in as a packet tomorrow with a proffer as to what that evidence is.

Obviously, you've heard, Mr. Schmidt, my inclination on those matters. Obviously, you'll get a copy tomorrow. If there's any comment that needs to be said, will be limited, of course. But we could go through it, this way it's in the record for purposes of identification and for purposes of the tran, any transcript so you can do whatever you feel you need to do as a result of that. Is that --

MR. HOLZER: I understand.

CHAIR: And that's --

MR. HOLZER: Whether that can be done tonight or not is another story. Whether we're going to be here tomorrow with the snow is another story. But I'll try to get that done. If I can't get it done or we don't have the hearing tomorrow, it's going to have to be later.

CHAIR: Well, then, then it would have to be submitted on February 5th, if that's the case, because that's the next, that's the next hearing date. But I'm saying to you, we have a whole bunch of documents, as I understand, we want to go through with this particular issue. By tomorrow, if you want those documents into the record, I would highly recommend you getting them into one packet so we can move forward. I don't want to sit here and delay this case anymore. Let's get to the special exception factors.

MR. HOLZER: Okay.

CHAIR: And this way you have what you need in the record. That's the reason for my now ten minute, maybe more, explanation as to how this has to unfold.

MR. HOLZER: All right.

CHAIR: And again, I want to acknowledge at least, what Dr. Clark had to say in terms of why they're presenting this and what their intent was, but that we can't do anything about it. In, in that respect.

MR. CLARK: I have a question.

CHAIR: Well, you, sir, you're under oath at the moment, so I, you can't ask questions, but.

MR. MCCOMAS: (inaudible) so you're asking him to put together any additional, because we already have fifty-four and fifty-five, so any additional ones, following the similar theme, you're --

CHAIR: Right.

MR. MCCOMAS: -- asking him to put them all together in one packet and say here are all the ones?

CHAIR: Whatever you --

MR. MCCOMAS: Not including (inaudible).

CHAIR: Right, whatever else you intended to put in on that very point, the County is not paying attention and, you know, --

MR. HOLZER: I understand.

CHAIR: -- that they should have done more or whatever the case, here's how the property is being used in this regard and the County ignored our request, State Highway said this, that and the other thing and maybe somebody else weighed in and said wait a minute, hold on, why are they doing that or whatever. All that together, so this way everyone is protected by whatever that follows. But let's get to the special exception factors.

MR. HOLZER: Part of the special exception factors

are the fact that this Board can grant the relief requested with conditions. Now, isn't it appropriate for some of this material to come in? For instance, the State Highway Administration. To, to say the, the entrance is unacceptable to us but that's up to the County to enforce. Well, but that's also a condition that this Board could put on its approval as--

CHAIR: Mr. Holzer, exactly. If you feel that speaks to --

MR. HOLZER: So, how can we get that in?

CHAIR: -- hold on, if you, hold on. If you think that speaks to a specific special exception factor for us to, that we need to weigh, then yes, you may try to put that into evidence and we'll see where that takes us. As to that point, yes, that is a, perhaps a valid argument from your perspective.

MR. HOLZER: Right.

CHAIR: As to how this has to be addressed. It is in evidence. That is SHA is saying hey, wait a minute, we got a problem here or whatever the case may be, perhaps that speaks to whatever factor under 502.1. I'm sure we'll hear from Mr. Schmidt, and as well as yourself, in memos on that point. So, that is not to exclude evidence that's connected to a special exception factor, to the contrary. I want it narrowly tailored to that special exception factor because we can't do anything about why Code Enforcement doesn't go out or why the County doesn't go out to enforce this when they're supposed to.

MR. HOLZER: But see, the problem with what you're suggesting is that if I make a packet of this material that is for purposes of the Circuit Court, potential Circuit Court argument, it's not in front of you, you're not putting it into evidence from which you could draw to make the conclusion that the access has to be by the State and, in other words, --

CHAIR: I'm not limiting you to put in evidence as, on that point.

MR. HOLZER: Than I have to go through --

CHAIR: I'm saying that if you have, if you have, for example, what looks to be fifty-five. Fifty-five, to me, fifty-four, seemed to be complaining about why aren't you guys going out to cite them for code violations, okay?

MR. HOLZER: Right.

CHAIR: That is what I'm referring to by this proffer. When it comes to fifty-three, by way of example, this is saying SHA is saying they shouldn't be using this entrance way for whatever reason, that speaks to the specific special exception factor. This is treated differently than fifty-four and fifty-five.

MR. HOLZER: Correct, correct. That's why --

CHAIR: Right, so there's a difference. I asked you for your discretion in determining that line. These documents speak to special exception factors, these speak to code enforcement matters or the failure to enforce. The failure to

enforce and code enforcement matters are not part of our, what we're reviewing here. If you want to argue to us that the SHA comments here are dispositive or at least aid us in terms of evaluating that factor, yes, this, --

MR. HOLZER: Yeah.

CHAIR: -- can, you can certainly, I'm not going to make a, a ruling saying that that's all admissible sitting here at the moment, because I don't know which each one is.

MR. HOLZER: Okay.

CHAIR: But yes, this would be subject that's appropriate for it, and I asked for your discretion in determining where that line is drawn.

MR. HOLZER: But that's the problem. I, I have to then limit or narrow and, and try to guess what this Board will admit and what you won't admit.

CHAIR: No, no, --

MR. HOLZER: Really.

CHAIR: Again, it's a proffer. You're saying look, these documents speak to code enforcement or lack enf, or lack of enforcement. They're not tied to a special exception factor. If they're tied to a special exception factor, we will work through each document.

MR. HOLZER: Okay.

CHAIR: But I mean, I, if it's going to be like ten document, or ten documents regarding noise, again, much like

the videos, we don't need ten documents.

MR. HOLZER: I understand.

CHAIR: Dr. Clark can testify on the following dates I sent correspondence or had communications with folks in the County about noise because noise was doing x, y, z. That's a different matter than, again, fifty-four and fifty-five which seem to speak to hey, you guys, here's the Order, why aren't you coming out to enforce?

MR. HOLZER: If Your Honor would permit me, then let me take what I know Mr. Clark wants to introduce and just ask him, in his opinion, are these related to a possible condition that the Board would, could impose or is it just frustration as to what took place? Can I do that? Say, and save some time?

CHAIR: I, I would, I would say if you can give guidance to Dr. Clark on that, looking at these documents, that's probably the best way to go about achieving this end goal for us all. This way you have what you need in evidence for special exception factors.

MR. HOLZER: Right.

CHAIR: And you have your record established for purposes of the other stuff that you feel should be admissible but perhaps you need to do something more because of exhaustion of administrative remedies.

MR. HOLZER: Right.

CHAIR: So, this way your record would be protected,

but also it would be streamlining the case and we can get to the heart of the matter, which again, is the special exception factors.

MR. HOLZER: Could, could I ask for the lunch break now so --

CHAIR: Oh, I was going to insist upon it.

MR. HOLZER: It's twenty after twelve.

CHAIR: Yes.

MR. HOLZER: And if, if you can give us an hour.

CHAIR: Yes, an hour is fine.

MR. HOLZER: And, and understanding that I am going to go over, I'll ask very few questions of Mr. Clark, because he's on the stand. I'll talk to Mary and see the list of potential documents that he wanted to introduce now and see if I can decem, separate them.

CHAIR: And correct me if I'm wrong here, but this seems to be incredibly, we're making this incredibly more complicated than it needs to be. We have heard numerous, we've heard testimony from all the witnesses thus far as to their concerns as it relates to the proposed use. You all have documents there that you want to put into evidence that will illustrate, perhaps, or from Dr. Clark's perspective and your perspective, here, this speaks to those particular factors. Separate those from everything else that would otherwise speak to the code enforcement matters. It should be pretty simple

because we already know what the issues are, because we've heard from Dr. Clark, we've heard from Dr. Mary Clark, we've heard from others about the issues.

I already, I think we have a pretty good grasp as to where we are, as to what the complaints are and I'm sure that they're going to be echoed by others. And I'm not restricting you in terms of being able to produce whatever evidence you need, but at the same time, we have to do this in a, a more efficient or have any efficiency in pursuing testimony and evidence from Protestants --

MR. HOLZER: I'll try to do that during the lunch break.

CHAIR: Thank you. So, why don't we do this. What time is it, like, almost 12:30? Why don't we come back at 1:30 so you'll have actually an hour and eight minutes.

MR. HOLZER: Good.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: I'm all in favor of lunch.

CHAIR: Thank you.

(RECORDING PAUSED – 12:20:37 PM)

(ON RECORD – 01:32:08 PM)

CHAIR: All right. We are back on the record, please be seated. Thank you.

MR. HOLZER: Mr., members of the Board, Mr. Chairman, your office was kind enough to make copies of the sign in

sheets. I've provided one to Mr. Schmidt. I would provide the Board one and I'd keep one.

CHAIR: Yes. You have the originals too back.

MR. HOLZER: I, I don't know whether these are the, oh, they gave us the originals here.

CHAIR: Yes.

MR. HOLZER: So, your Board took whatever was in this packet that --

CHAIR: Right, copied it, except, copied the one side because I understand it's on recycled paper. And there was various writing on the, on the other side of it.

MR. HOLZER: Correct.

CHAIR: Of the sign in sheets.

MR. HOLZER: So, I would, so I would offer --

CHAIR: Mr. McComas?

MR. MCCOMAS: Yes, fifty-six.

MR. HOLZER: I'm sorry, fifty-six?

MR. MCCOMAS: Yes, fifty-six.

CHAIR: All right.

MR. HOLZER: Okay and so that is taken care of. And during the lunch break, I tried to save as much time as possible.

CHAIR: I appreciate that.

MR. HOLZER: If I could ask Mr. Clark to step up and ask Mr. Morgan, Bruce Morgan, who previously testified, to step

back. He is a member of Kingsville, he does know the parameters. He was not there at the time the original vote was taken, but he's aware of it. Now, do you want me to put him on in this --

CHAIR: I, I'm going to leave it to you to present your case.

MR. HOLZER: Okay.

CHAIR: I don't, it's up, it seems to me that if there's a stipulation that can be reached about it, then perhaps it resolves the issue. But I, you know, I don't know if that is possible or not based on, I don't know what, whether he, Mr. Morgan is charged --

MR. HOLZER: Yeah.

CHAIR: -- Mr. Morgan is charged with the responsibility under the rule eight papers that have been submitted, that being able to do what is necessary, but Mr. Schmidt?

MR. SCHMIDT: I'm not trying to be difficult.

CHAIR: That's okay.

MR. SCHMIDT: I just don't know what Mr. Morgan is going to say. Again, I assumed that the, that the, well, if he wants to come on and, and testify about the parameters, I have no objection to that. Was he at the meeting or is he authorized to speak or?

MR. HOLZER: He is, he is a member of the board. He

was not there at the time of the original vote. I understand he was there when they reiterated the position, to write the letter to me, to represent them and take that position, so.

CHAIR: I don't think there's a question as to the position taken. I think the question is the map and, and also was it the membership or no? That wasn't really your issue, it was the map?

MR. SCHMIDT: Yeah, I'm, I'm going to have to pull the, the rule.

MR. HOLZER: He's here and I felt since he's here.

CHAIR: I, I know, I appreciate the fact that you're trying to move that forward.

MR. HOLZER: Yeah, right.

MR. SCHMIDT: Sure, why don't we put him on and we'll make quick work of it.

MR. HOLZER: Sure.

CHAIR: All right. So, once again, Dr. Clark, thank you. Just for the sake of, doesn't hurt to be sworn in twice, I suppose.

MS. DOPKIN: Do you swear and affirm under the penalties of perjury, that the testimony you are about to give is true and correct to the best of your knowledge and belief?

MR. MORGAN: I still do.

MS. DOPKIN: Thank you.

MR. MORGAN: Thank you.

CHAIR: And please identify yourself for the record?

MR. MORGAN: Bruce Morgan.

CHAIR: We're recalling Mr. Morgan for a limited purpose. Mr. Holzer, you want to take that?

MR. HOLZER: Well, Mr. Schmidt just asked if, if he could ask the questions. All I wanted to do is to have Mr. Morgan define, he has a map and he also has it on his phone and he can testify to that and then he's welcome to answer any other questions.

CHAIR: Have you shown the map to Mr. Schmidt?

MR. MORGAN: I have not.

CHAIR: Why don't we start with that? And I recognize, oh, you, so it's not just on your phone, you have a printout.

MR. SCHMIDT: Yeah, thank you.

CHAIR: And so, if you have a printout, why don't you send that up this way as well if you have an extra copy.

MR. MORGAN: I'm sorry I don't have enough copies.

CHAIR: That's quite all right, I understand.

MR. MORGAN: We made what we could while we were on lunch.

CHAIR: Thank you, Mr. Morgan, that's quite all right. So, this will be fifty-seven for purposes of identification.

MR. HOLZER: The original document was forty-eight

for i.d.

CHAIR: Right. Okay, so, but for purposes of --

MR. HOLZER: Yeah.

CHAIR: -- the record, the map is coming in as fifty-seven, is that your understanding?

MR. HOLZER: Yes.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Yes, sir.

CHAIR: Very well.

MR. SCHMIDT: Mr. Morgan, the map that you've given us which is fifty-seven it's two pages and there's a shaded area, correct?

MR. MORGAN: That's correct.

MR. SCHMIDT: And the subject property would be, looks like the map goes along Harford Road sort of below the word Glen Arm and Glen Arm Road. And I think, is it correct, that the sub, subject property is located within the gray area to the right of Harford Road?

MR. MORGAN: That's correct.

MR. SCHMIDT: Okay. So, just so I'm clear, the property if this, if this map is north, south, in terms of the top of the page and the bottom of the page, the property on the other side of the street from the subject property is not within the greater Kingsville area? That's, that's not the gray, that's not grayed, correct?

MR. MORGAN: Well, if, if I could refer to here, refer to the description. There's a, there's a --

MR. SCHMIDT: Right, and it says in the description click here for map.

MR. MORGAN: Yeah, that, and that is the map that comes up.

MR. SCHMIDT: And that's the map that you get when you click?

MR. MORGAN: Yes, sir.

MR. SCHMIDT: And is the gray area the area that the Kingsville, Greater Kingsville Community Association has interest or jurisdiction over?

MR. MORGAN: Yes, yes.

MR. SCHMIDT: Okay. So, again, this, this is sort of at the, this is, this is on, this is within the gray area, but across the street from the subject property's entrance on Harford Road, those houses across the street are not in the greater Kingsville area, that's white, correct?

MR. MORGAN: That, that's correct.

MR. SCHMIDT: Okay.

MR. MORGAN: Yeah.

MR. SCHMIDT: And now the, the community assoc, the greater Kingsville people met and produced a document, exhibit number forty-seven, I believe it is.

MR. HOLZER: Forty-eight.

MR. SCHMIDT: I'm sorry, forty-eight. That indicates that the Greater Kingsville Association opposed, opposes this request, correct?

MR. MORGAN: Yes.

MR. SCHMIDT: Okay. You were not at that meeting, as I understand it?

MR. MORGAN: I was not.

MR. SCHMIDT: Okay. Was that a meeting of the entire membership of the Greater Kingsville Association --

MR. MORGAN: As I understand it, yes.

MR. SCHMIDT: -- or just the board of directors?

MR. MORGAN: Yeah, no, it was the semi-annual September meeting.

MR. SCHMIDT: September of 2018?

MR. MORGAN: Twenty seventeen.

MR. SCHMIDT: Twenty seventeen. Has the association considered the request in any subsequent meeting to the best of your knowledge since 2017, since September 2017?

MR. MORGAN: I, I don't understand the question, what is the question?

MR. SCHMIDT: Have, has the association considered the matter further in view of anything that's happened since September of 2017, to the best of your knowledge?

MR. MORGAN: I think there was some discussion at the general meeting, which was like a month ago.

MR. SCHMIDT: Okay.

MR. MORGAN: There was some discussion. There wasn't any voting or anything.

MR. SCHMIDT: But there was no new vote?

MR. MORGAN: No, no, sir.

MR. SCHMIDT: Okay. Has any representatives of the Petitioner, Nepali, been at any of the meetings when these occurred, if you know?

MR. MORGAN: Only the, only, only that I'm aware of because I wasn't at this meeting, I was only at the, this, this previous meeting like a month or so ago. Dr. Clarke was there and I think Kris, I think Kris Ghimire was there.

MR. SCHMIDT: Ghimire was there at the subsequent meeting, at --

MR. MORGAN: At this most recent meeting like maybe six or eight weeks, six weeks ago maybe.

MR. SCHMIDT: Okay. Do you know if anyone from Nepali had an opportunity to make a presentation at any of the prior meetings?

MR. MORGAN: I, I do not know.

MR. SCHMIDT: You, you don't know one way or the other?

MR. MORGAN: No.

MR. SCHMIDT: Okay.

MR. MORGAN: I, I wasn't, I wasn't in attendance at

the prior meetings.

MR. SCHMIDT: Okay. Do you know how many, do you know how many people there are who are members of the association or how many homes there are?

MR. MORGAN: Approximately, I think I gave that sheet up. But I think it was written in the corner as two hundred and thirteen, I believe. Somebody has that top sheet.

MR. SCHMIDT: Is that, is that, is that individuals or homes? Like a husband and wife, do they count as one or two?

MR. MORGAN: Yeah, that's a single, yes, that's a single membership.

MR. SCHMIDT: Okay. So, it's, so a husband and wife would be two people?

MR. MORGAN: Would, would be a one membership.

MR. SCHMIDT: Oh, it would be one membership?

MR. MORGAN: Yeah.

MR. SCHMIDT: Okay. So, two hundred and thirteen people in this area that's highlighted in gray are actually members of the association?

MR. MORGAN: Yes, yes.

MR. SCHMIDT: Do you know how many, you have any idea how many houses there are in, in this area?

MR. MORGAN: No, I don't.

MR. SCHMIDT: You do not? Okay.

MR. MORGAN: More than two, more than two hundred and thirteen, I would suspect.

MR. SCHMIDT: Yeah, I don't know how, you know, I know it's a rural area, so okay. And do you know when the association took the vote, I understand you weren't there, but do you know from any other way how many people there were at the meeting when the vote was taken?

MR. MORGAN: I do not, I was not in attendance.

MR. SCHMIDT: Okay. So, do you have to have a quorum in order to take a vote such as this?

MR. MORGAN: They're usually, the meetings, as I understand, are, are typically very well attended.

MR. SCHMIDT: Okay. But you don't know about this one?

MR. MORGAN: I, I don't know because I wasn't there.

CHAIR: And if I could jump in --

MR. SCHMIDT: Very well.

CHAIR: -- do you know if you need a quorum of the membership or any type of percentage of the membership or is it just a quorum for the board of directors or how that is --

MR. MORGAN: I know there's a quorum for the board, I do not know because I've never been in attendance at a general meeting where there was a mem, where there was a vote taken.

MR. SCHMIDT: Okay. Do you know how many board members there are?

MR. MORGAN: No, I do not. I think there's twelve of us.

MR. SCHMIDT: Okay and you're a board member at the present time?

MR. MORGAN: Just recently, yes, sir.

MR. SCHMIDT: Okay. When did you come onto the board?

MR. MORGAN: At the last general meeting.

MR. SCHMIDT: Okay. The document, number forty-eight, that Mr. Holzer gave us, actually titles itself on the first page of it board position regarding case number 2018-0122-X, so on and so forth.

CHAIR: Mr. Schmidt, before you go further, do you have that in front of you, sir?

MR. MORGAN: I do not.

MR. SCHMIDT: Okay. I'll show it to you.

CHAIR: Okay.

MR. SCHMIDT: This is the, I'll show you my copy.

CHAIR: Okay.

MR. SCHMIDT: And I'm referring to exhibit number forty-eight. And this is from apparently the October 10th, 2018 meeting of the Greater Kingsville Civic Association?

MR. MORGAN: The more recent one, yes.

MR. SCHMIDT: So, am I correct when I read that to say that this was the position of the board? It says board

position.

MR. MORGAN: This is the first time I've seen this document. I can't speak to this document. It's the first time I've seen it.

MR. SCHMIDT: Okay.

MR. MORGAN: I didn't produce it, I didn't help produce it. I, I don't know about that.

MR. SCHMIDT: You do not know?

MR. MORGAN: I do not know.

MR. SCHMIDT: Okay. Okay. I don't have any further questions.

CHAIR: All right. So, where does that leave us in terms of your position on the admissibility of Exhibit 48?

MR. SCHMIDT: Well, it appears that the property is within the proximity, I guess, it kind of goes to the weight of the document to a certain extent. We don't know whether, I mean, it speaks for itself. And it says the board position and I don't know whether there was a quorum or how that works. And we, we don't know. I don't, Mr. Garber, I'll leave it to your discretion --

CHAIR: In other words, the (inaudible) board position and, and whether the board position is, reflects a membership and board vote or just a board vote is what your question is?

MR. SCHMIDT: And we just don't know because Mr., you

know, to be fair to the witness, he wasn't there and wasn't on the board at the time, so.

CHAIR: So, we need to, so from your perspective we would need to know how the board can act?

MR. SCHMIDT: It might be, you know, I think, so the record is clear and we've got subsequent days so maybe somebody who was there can shed some light on it at a subsequent hearing date. Maybe the Board can, this Board, not Kingsville board --

CHAIR: Thank you.

MR. SCHMIDT: Maybe the Board of Appeals can just defer on that until we see if there's another witness. I would like to know whether it was a vote of the entire membership and how many people were there because I understand that this has caused a split in the community and there may very well have been a sizeable portion of people who are in favor of it, which I think is relevant.

CHAIR: Very well. We'll, Mr. Holzer, we'll just do it that way. If Mr. Schmidt is not ready to stipulate to its admissibility, we may need another person to address the rule eight issue for Protestant's Exhibit 48 to determine its admissibility. I think you've heard the issues that he has and you'll have the appropriate person at the right time for that.

MS. DOPKIN: So, are we trying to clarify one that it was properly adopted according to the by-laws of the organization and how the vote came out for and against?

MR. SCHMIDT: And, and whether, I think too, whether it was the board's vote or whether it was the general membership.

MS. DOPKIN: Or it was a full membership.

CHAIR: But that speaks to the, whether it's adopted properly --

MR. SCHMIDT: Yes, yes, sir.

CHAIR: -- as, because, for example, by way of background, I know, for example, my community association, the board can act for the entire membership.

MR. SCHMIDT: Right.

CHAIR: We don't need to have a big meeting that invites everybody there to then take a vote, the board takes a vote. I don't know if it's that way for this particular association but that is a question that Mr. Schmidt has that Mr. Holzer will find a witness one day that we can address those very issues to figure out where Greater Kingsville stands on it, though it is obviously now stipulated that the property is within --

MR. SCHMIDT: Yes.

CHAIR: -- the bound, proper boundaries here for Greater Kingsville Civic Association. So, we've at least accomplished one check on that list.

MR. SCHMIDT: Yes, sir.

MR. MCCOMAS: So, forty-eight remains i.d. only,

fifty-seven is accepted?

MR. SCHMIDT: Yes, sir, as far as I'm concerned.

CHAIR: Very well.

MR. SCHMIDT: Yes, sir.

MR. HOLZER: You may step down, thank you.

CHAIR: Fifty-seven is admitted, forty-eight is still subject to further testimony and evidence.

MR. HOLZER: And to get to the next level of testimony, Mr. Clark.

MR. SCHMIDT: Mr. Garber, just while Mr. Clark's coming, I was at my office over the lunch break and I got a text from the Bar Association that the Circuit Court is closing at 3:30. I don't know if that affects any other building but I just wanted to tell you that. As I was walking back, the door to come here, so you may --

CHAIR: We go by the Baltimore County --

MR. SCHMIDT: No, I got a text from the --

CHAIR: No, no --

MR. SCHMIDT: -- Baltimore County Bar Association saying that the Circuit Court was closing at 3:30.

CHAIR: Right. So, we go by the County government.

MR. SCHMIDT: Okay.

CHAIR: We'll figure out where that stands at another break in the process here. Anyway, Dr. Clark --

MR. SCHMIDT: I just didn't know if you had heard, I

wanted to --

CHAIR: No, I appreciate that, yes. Thank you.

MR. SCHMIDT: -- give you a heads up, I had heard that.

CHAIR: Yes. Thank you very much. Dr. Clark, you're still under oath, you're still on the stand. You may have a seat.

MR. HOLZER: And I'm going to ask him about exhibit number forty-eight. Mr. Clark, are you a member of the Greater Kingsville Civic Association, Inc.?

MR. CLARK: Yes, I am.

MR. HOLZER: You've seen the site plan or the plan for the area that they encompass and is your house outside of or within that area?

MR. CLARK: It's outside what the map shows but I am still a member.

MR. HOLZER: And how long have you been a member of the Kingsville Civil Association?

MR. CLARK: Ten, fifteen years.

MR. HOLZER: Okay and are you familiar with the vote that was taken by them on April 4th, 2018?

MR. CLARK: No, I was, I was not there for that meeting.

MR. HOLZER: Oh, okay.

MR. CLARK: I was there, I was there for a number of

subsequent, earlier meetings.

MR. HOLZER: Okay.

MR. CLARK: Including the pre, including the 2017 vote.

MR. HOLZER: The 2017 vote, okay. What was, when was the, the 2017 vote?

MR. CLARK: That was at the semi-annual meeting on 2017 it was the full membership.

MR. HOLZER: Full membership?

MR. CLARK: Yep.

MR. HOLZER: Okay

CHAIR: Let me, let me --

MR. CLARK: Now, that doesn't mean full attendance --

CHAIR: -- stop there.

MR. HOLZER: You don't want it --

CHAIR: Only because forty-eight doesn't speak to that vote.

MR. HOLZER: I know.

CHAIR: And I understand your frustration with it, but forty-eight doesn't speak to that vote. Let, the vote was taken in April of '18. You were not there for that vote?

MR. CLARK: No, I was not.

CHAIR: I understand that the, I understand the representation that there has been opposition taken by the association.

MR. HOLZER: I will go to extra lengths to make sure the Board hears everything there is to know about the vote and this document.

CHAIR: Understood. Thank you.

MR. CLARK: At the earlier meetings, --

CHAIR: Hold on.

MR. HOLZER: No.

CHAIR: Sir, there's not a question pending at this point.

MR. HOLZER: No, it's no use wasting time or the Board's time. We will do something to answer all of the questions which will probably take us not tomorrow but more than likely in February. So, the longer this drags on, the more concern I have with the February 13th.

CHAIR: Again, Mr. Holzer, I understand.

MR. HOLZER: I understand, but I'm just explaining.

CHAIR: Protestant's Exhibit 48, again, identifies a vote taken April 4, 2018. Since the whole point of having rule eight paperwork coming forward is tied to that Oct, or that April 4th, 2018 vote, --

MR. HOLZER: Yeah.

CHAIR: -- information from the 2017 vote does not speak to Exhibit 48.

MR. HOLZER: I understand.

CHAIR: Right.

MR. HOLZER: I understand. Now, Mr. Clark, is it true that you met with me during the luncheon break to address the Board's concern about documents which may, which may illustrate some sort of, of inactivity or confusion on the part of the County in its addressing certain letters and e-mails that you brought up --

MR. CLARK: Yes.

MR. HOLZER: -- is that correct?

MR. CLARK: Yes, sir.

MR. HOLZER: We met, that's all we met about?

MR. CLARK: Yes, sir.

MR. HOLZER: All right and in reviewing the outline or the testimony that you had proposed to provide, I, I want to list these as documents that I will have to try to put together for tomorrow sometime. But it appears that a Zeller package also as Protestant forty-three --

MR. CLARK: Are we --

MR. HOLZER: -- don't, just let me read it.

MR. CLARK: Okay.

MR. HOLZER: The Jablon letter of July 11th, the Mohler letter of July the 11th, the Gardenia July 8th letter, the Gardenia July 10th letter, the e-mail to Jablon dated July 10, the Beverungen July 24th document, the Zeller/Jablon June 18 document, the VanDomelen September 12th, 2017 document, those, those documents will be placed in a packet for purpose of

protecting or addressing the exhaustion of administrative remedies as Mr. Garber has requested.

MR. CLARK: Yes, sir.

MR. HOLZER: Correct?

MR. CLARK: Yes, sir.

MR. HOLZER: Okay. In addition to those documents, the Clarke FB of September 17th, 2018, the Ghimire and Clarke FB of 5/1/18, the Ravine and Clarke FB 5/1/18, the White America Next Door document, the Clarke FB September 20th, '18 document, the Kotroco letter to Mohler, I'm striking out anything in regard to the police reports as per your direction.

CHAIR: Thank you.

MR. HOLZER: The Joann affidavit, all will be removed from your testimony before the Board today and will be placed in the packet for the Board to see and I'll submit it tomorrow.

CHAIR: Yes, thank you.

MR. HOLZER: Hopefully, I can submit it tomorrow, okay?

CHAIR: Assuming we're open tomorrow at any point, yes, thank you.

MR. HOLZER: Okay. So, that is my effort --

CHAIR: Thank you very much, Mr. Holzer.

MR. HOLZER: -- to take that material out. Now, that leaves us with going back to his regular testimony under another heading.

CHAIR: Fair enough.

MR. HOLZER: Okay?

CHAIR: Fair enough.

MR. HOLZER: And just so the Board understands, I required the witness to create headings for different parts of his testimony so that it would be organized and --

CHAIR: I appreciate that.

MR. HOLZER: -- and, and we are now going to go into a heading of clarification of facts, which I think will specifically address your concerns about the 502 and the land use issue. Okay? Now, Mr. Clark, let's turn to the clarification of facts and what, where would you like to start? And if there is going to be a written document, tell me. Or if there's going to be a visual presentation, you can tell us that and then we can proceed from there, okay?

MR. CLARK: Okay. There will be, there will be three videos shown.

CHAIR: Okay.

MR. CLARK: Okay? One will be, and they all relate to the way the road is used as it is today, okay? One will be of people using it as a pedestrian, people using it as cyclists and how, how the clearances are so constricted that tractor trailers cross, have to cross the line to make their turns, okay?

MR. HOLZER: Okay.

MR. CLARK: Those, those are the videos.
MR. HOLZER: All right. Do you want to do those now?
MR. CLARK: Why don't we, why, why don't I talk about the other things first?
CHAIR: Wait, hold on. We're just talking about three videos that we may be showing the Board.
MR. CLARK: Right.
CHAIR: And everything, why, why would we be going to another --
MR. HOLZER: Yeah, let's just --
MR. CLARK: Okay, no, no, that's fine. I'm just --
CHAIR: I know, but let's not get like, let's not get lost.
MR. HOLZER: Right.
CHAIR: The testimony has brought us to this point.
MR. CLARK: Yeah, yeah.
CHAIR: It would seem that we have three videos on Exhibit 51, where would I, where are these videos?
MR. CLARK: Okay. I need my video control sheet.
CHAIR: Sorry, do you need a copy?
MR. CLARK: No, I've got one. Thank you, sir. Okay. Let us start with road walker.
CHAIR: Sorry?
MR. CLARK: Road walker, and he is --
CHAIR: Hold on. You have to show us where --

MR. CLARK: Yeah, on, on the video control sheet, sheet two.

MS. DOPKIN: Next to the last one.

CHAIR: Rural road walker from 10/14/18?

MR. CLARK: Yes, right.

CHAIR: All right. Now, you have another one, dash cam E road walker on page one.

MR. CLARK: Yeah, that, that, that's, that's, that's from where the snippet was taken. That's, that's --

CHAIR: Okay.

MR. CLARK: -- my effort to try and --

CHAIR: That's fine. I just, for purposes of the record, they say the same designation. Rural road walker A-4 thirteen seconds 10/14/18 taken by you on page two, Exhibit 51. Is this something that previously, I guess it had to have been made part of the A-4 previously?

MR. CLARK: Yeah, it's not new, right.

CHAIR: All right. So that means Mr. Schmidt would have had the opportunity to review this previously.

MR. SCHMIDT: I think we saw that in the hearing.

CHAIR: I, as, as far as I recall, I don't recall seeing this.

MR. SCHMIDT: Okay.

CHAIR: That is in terms of what has been presented actually during the course of the hearing.

MR. SCHMIDT: Yes, sir.

CHAIR: Recognizing it's on the disc and you've had the opportunity to review it previously. So, with that in mind, we can hit play. All right. Now if we hit stop right here.

MR. CLARK: All right, stop, stop.

CHAIR: Dr. Clark, please identify what we are looking at.

MR. CLARK: Actually, what we are looking at is Harford Road south of the property, just south of the property, above Hutschenreuter Road.

CHAIR: And we're heading north?

MR. CLARK: South.

CHAIR: We're heading south?

MR. CLARK: Right. And you see that black splotch on the right?

CHAIR: Okay.

MR. CLARK: On the shoulder? That, watch, watch him carefully.

CHAIR: Hold on. I need to make sure I understand what this is. You're heading away from the property?

MR. CLARK: Yep.

CHAIR: And this is south of the property --

MR. CLARK: Right.

CHAIR: -- correct?

MR. CLARK: Right.

CHAIR: All right. Now, you said it's before Hutchenreuter Road?

MR. CLARK: Hutchenreuter Road is, is down around that bend.

CHAIR: Okay. So, it's after the bend there?

MR. CLARK: Right. And, and, and this is, and I just pulled out of my driveway, which in the County is called Mark Lane.

CHAIR: Understood, okay.

MR. SCHMIDT: How far away is this from the Bonaparte entrance?

MR. CLARK: The Bonaparte property is right there on the left.

MR. SCHMIDT: Okay.

CHAIR: So you're traveling alongside?

MR. CLARK: Right.

CHAIR: And this is you after you pulled out of your driveway?

MR. CLARK: Correct. Yes, sir.

CHAIR: Okay. So, that gives us a starting point, thank you.

MR. CLARK: Now, now, before she starts it again, all right? Joyce, can you put the cursor on the, the guy on the shoulder, right there, okay?

CHAIR: I understand that's where we keep our focus on.

MR. CLARK: Right, focus there because it goes by fast.

CHAIR: Understood.

MR. CLARK: Okay, go ahead.

VOICE: Play?

MR. CLARK: Yep.

CHAIR: Oh, wow, that was fast.

MR. CLARK: Go back, we missed it. But I, I, what I do is I --

CHAIR: Okay, just start it. Everyone stop talking. Let's just start from here and then see where that takes us.

MR. CLARK: All right.

CHAIR: Thank you. Okay.

MR. CLARK: All right. And anyway, there's a rural road, you know, people use, people use that as, as a walkway. I do have screenshots of it.

CHAIR: It's, it's okay. It's understood that you can find pedestrians along the roadway on the side of the road.

MR. CLARK: Right.

MR. SCHMIDT: Did I miss something or did it --

CHAIR: It, it de-pixilated and then jumped. But, I mean, I, I don't think it's disputed that --

MR. SCHMIDT: People walk on the road.

CHAIR: -- people can, people have the ability to walk along the roadway.

MR. CLARK: And then, and, and then look at --

CHAIR: And people, in fact, do is what I'm hearing from, from Dr. Clark, is that fair to say?

MR. CLARK: Yes, yes.

CHAIR: Okay.

MR. CLARK: And that you can see the guardrail on the shoulder.

CHAIR: Right. So, there's limited space you're saying --

MR. CLARK: Right.

CHAIR: -- between the guardrail and the shoulder.

MR. CLARK: Yes, sir.

CHAIR: The shoulder is striped.

MR. CLARK: Okay.

MR. HOLZER: Excuse me. We have photographs to make it clearer.

CHAIR: Okay. I'll say this, Dr. Clark, in the interest of expediency. If the testimony is going to be that there are occasionally pedestrians, cyclists who are on Harford Road in this stretch, we don't necessarily need to see videos of it. I imagine that the people are doing this. You've seen it, you can probably testify to those points, I'm assuming. That is, you've seen people out walking, you've seen people

cycling, right?

MR. CLARK: Yes, sir.

CHAIR: So, just to avoid the same situation where we had to de-pixilate and then jump and doesn't give an accurate portrayal of what you were trying to show.

MR. CLARK: Um hm.

CHAIR: Is it your testimony that you have seen people walking along Harford Road heading south?

MR. CLARK: Yes, sir.

CHAIR: And that is before Hutschen, Hutschenreuter Road?

MR. CLARK: Yes, sir.

CHAIR: Okay and then heading north?

MR. CLARK: Heading north, I actually walk on Harford Road north. When, when I have my car serviced up there at Carl's Service Station.

CHAIR: Is that, where, where's Carl's?

MR. CLARK: That's up in Fork.

CHAIR: Fork, is that at the light at Fork?

MR. CLARK: Yes, it's at the light.

CHAIR: Okay.

MR. CLARK: And you know, that, that's --

CHAIR: Is that where the post office is?

MR. CLARK: Yes, sir.

CHAIR: Okay.

MR. CLARK: All right and I, you know, I grew up walking four or five miles a day, you know, to go, to get someplace. We didn't have a car. So, for me to walk along that road, it's not a big deal. But I, you know, I'm mindful of the, the, the, the sight problems.

CHAIR: So, you are using these videos to show us the sight problems but also, as you pointed out earlier, the guardrail and the shoulder space?

MR. CLARK: Yes, yes.

CHAIR: Okay. Now, as to cyclists, have you seen people on bicycles going south, starting from your driveway, to Hutchenreuter Road?

MR. CLARK: Yes, sir.

CHAIR: Have you seen them coming north from Hutchenreuter Road up to Mount Vista?

MR. CLARK: Yes, sir.

CHAIR: People heading northbound, okay.

MR. CLARK: Yes, sir. In fact, fairly, there, there's a couple events, you know, these, these fundraiser events where it is used as the route. What, the, I don't want to show a video if I don't have to, --

CHAIR: I'm not suggesting yes or no. I'm just figuring out what you're --

MR. CLARK: Yeah.

CHAIR: -- trying to do. But you have firsthand

knowledge because one, you have done certain things but you've also seen certain things.

MR. CLARK: Yes.

CHAIR: So, even independent of any video, if there's any future issue, we can, your testimony is already in the record on these points.

MR. CLARK: Yes, sir.

CHAIR: So, okay. So, now we have this photo here, which is, just to go through it, which is fifty-eight? Okay, fifty-eight.

MR. HOLZER: Two pages.

CHAIR: Now, fifty-eight shows a still shot, and it shows the beginning, more or less, of the video after you pulled out of your driveway, is that correct?

MR. CLARK: Yes, sir.

CHAIR: And the person who is walking or on the bike and forgive me, I don't have my reading glasses on, --

MR. CLARK: He's walking.

CHAIR: Okay. Who is up on the right, which you previously indicated on the video with the cursor as the same as --

MR. CLARK: Yes, sir.

CHAIR: -- what we saw, just saw on the video?

MR. CLARK: Yes, sir.

CHAIR: I am assuming then page two, had the video

not jumped and de-pixilated, we --

MR. CLARK: Yes, sir.

CHAIR: -- would have seen that very picture. And that gentleman is still the same person as, on page one, also in the video?

MR. CLARK: Yes, sir, and --

CHAIR: This, go ahead.

MR. CLARK: Okay. You will see how we are in the habit, when we come across a pedestrian, we actually cross into the double yellow line.

CHAIR: I don't think you're alone in that, I think that it's --

MR. CLARK: Right, but --

CHAIR: -- a common occurrence for most if they someone on the side of the road, they try to --

MR. CLARK: Yes.

CHAIR: -- give as much space as possible, typically speaking. Speaking of which though, for Exhibit 58, Mr. Schmidt, do you have any objection to the admission of Exhibit 58?

MR. SCHMIDT: No. Mr. Clark, you were driving and this is your car you took this?

MR. CLARK: Yep, that is my 2007 Jeep Liberty.

MR. SCHMIDT: Okay. Okay, do you know this fellow?

MR. CLARK: No.

MR. SCHMIDT: Okay.

MR. CLARK: No, in fact, we have seen homeless people on there, you know, it's, it, you know, it just is.

CHAIR: Okay. So, fifty-eight is admitted.

MR. HOLZER: Thank you.

CHAIR: Sure thing.

MR. HOLZER: Now, now Mr., the Chairman has already indicated about a cyclist. We have a pictures, still pictures of the cyclist. Do you have a video or should I just show --

MR. CLARK: Well, the, the, the, the only reason, the only reason I would show the video is it would, is, is it shows clearly how people have to cross the road to avoid a cyclist, passing a cyc, when they're passing a cyclist.

CHAIR: Well, I'm going to caution everyone there, only that this cyclist video, if I'm reading fifty-one correctly, was taken on December 7th, which is after, of course, the November 29th --

MR. CLARK: Right.

CHAIR: -- day we had the review, the videos and everything, and therefore, Mr. Schmidt has not had the opportunity to see this video --

MR. CLARK: You're absolutely correct, yes.

CHAIR: So, with that in mind, first, let's show Mr. Schmidt the photos.

MR. CLARK: And we do have --

CHAIR: One second, Mr. Clark, there's no question pending.

MR. CLARK: Sorry.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Yes, sir?

CHAIR: In looking at these photos, do you have any objection to the photos?

MR. SCHMIDT: I do not.

CHAIR: All right. We can admit the photos then, Mr. Holzer.

MR. HOLZER: All right, thank you. Mr. Clark, --

CHAIR: So, as to the video, --

MR. HOLZER: Yeah.

CHAIR: -- Mr. Schmidt, what is your position on the video?

MR. SCHMIDT: I haven't seen it. I mean, if it shows this, is that what you're asking?

CHAIR: Well, I'm asking, do you want to have the opportunity to view the video?

MR. SCHMIDT: Mr. Clark, does the video show this? Is it the same deal that we just had with the guy walking?

CHAIR: Exhibit --

MR. CLARK: Yes, this is a screenshot from the video.

MR. SCHMIDT: Okay.

CHAIR: Fifty-nine is a screen shot from the video.

MR. SCHMIDT: Okay. I don't have, I don't have to see it.

CHAIR: Okay. Mr. Holzer?

MR. HOLZER: I'd like to show it.

MR. SCHMIDT: Oh, okay.

CHAIR: Then, that's why, what I'm hearing is --

MR. SCHMIDT: Then I'll watch it.

CHAIR: -- he's saying go ahead, show it.

MR. HOLZER: Thank you.

MR. SCHMIDT: Yeah, go ahead, show it.

MR. CLARK: Now, yeah, I don't know if you saw how far out a field the van had to go.

MR. SCHMIDT: Well, he wasn't crossing the center line, was he?

CHAIR: Well, hold on. We're not getting to a debate as to what the video is showing.

MR. CLARK: Yeah, he was, yeah.

MR. SCHMIDT: Okay.

MR. CLARK: Joyce, can you slow it down?

VOICE: I'm not sure.

MR. CLARK: Okay. There's the bicyclist, you just passed it.

VOICE: Okay.

CHAIR: I think what he wants you to do is go back a little farther, if you don't mind.

MR. CLARK: Right there, and go back a little bit further from there. Right.

CHAIR: That's good, probably there, right?

MR. CLARK: Yeah.

CHAIR: Okay, let it play.

MR. CLARK: Now, watch him cross, he cross, see how far over the line he was?

CHAIR: Okay.

MR. CLARK: And he's coming back into the line now.

CHAIR: Hold on, that, where we have stopped up there appears to more or less reflect what's fifty-nine anyway.

MR. CLARK: Um hm.

CHAIR: So, as to its interpretation, whatever someone's position is as to that, obviously we can see the photo, we can see the video, as to what it means, I understand because it seems to be there may be a dispute between Mr. Schmidt and, and Dr. Clark on that. We don't need to go into any argument as to --

MR. SCHMIDT: It shows what it shows.

CHAIR: It shows what it shows.

MR. SCHMIDT: Speaks for itself.

CHAIR: Thank you very much. All right. Is there anything more in that video you wish for, to show us?

MR. CLARK: No.

CHAIR: Okay. So, we're done with that video.

MR. HOLZER: Are there any other videos that relate to how the road is actually used and haz, and any hazards?

MR. CLARK: I lost my place.

CHAIR: We did pedestrians and we did cyclists.

MR. CLARK: Oh, oh, oh, oh, yes, there are. I would like to show you how tractor trailers have to, have to cross the double yellow line to make those turns, okay? First --

CHAIR: When you say make the turns, you mean go around the bend?

MR. CLARK: Go around the curves, yes.

CHAIR: Okay.

MR. CLARK: Okay.

CHAIR: So, let's start with fifty-one. Where would that be on fifty-one?

MR. CLARK: All right. Dash cam B low boy, right after cyclist.

CHAIR: Okay. So, this is, it would be on disc A-2. This is something that Mr. Schmidt would have received previously.

MR. CLARK: Correct.

CHAIR: And would have been able to see previously.

MR. HOLZER: And this is sixty? Yeah.

MR. SCHMIDT: Sixty. Mr. McComas, are you labeling these A and B when it's two pages? Or just sixty?

MR. MCCOMAS: I didn't (inaudible).

MR. SCHMIDT: Okay. Just --

CHAIR: Yeah, we just, we're just labeling it --

MR. SCHMIDT: Just calling it sixty? Okay.

CHAIR: We'll identify for the record if there are two pages as we, to the extent that that's needed.

MR. HOLZER: Right, right.

MR. MCCOMAS: My description I'm putting two pages, but I don't have A and B.

CHAIR: So, Exhibit 60 is two photographs, so when discussing them, if you're discussing a distinction between them, you have to specify page one, page two, Exhibit 60.

MR. CLARK: Yes, sir.

CHAIR: All right. So, with that in mind, what is it you want to tell us about Exhibit 60?

MR. CLARK: Sixty shows a, a heavy truck, a tractor trailer carrying heavy equipment and to make that, to make that turn down below they all always have to cross that line.

CHAIR: Correct me if I'm wrong here, in terms of orientation, but are we looking at the, more or less the same, this is after you pull out of your driveway and you're facing, bless you.

MR. SCHMIDT: Excuse me, excuse me.

CHAIR: You're facing south?

MR. CLARK: South and Hutschenreuter, we haven't hit Hutschenreuter yet.

CHAIR: Right, because if you compare page one of Exhibit 58 to page one of Exhibit 60, it looks to be roughly, you can see the similar features --

MR. CLARK: It's almost identical, yes.

CHAIR: Although you are closer in Exhibit 60 than you are in fifty-eight.

MR. CLARK: Yes.

CHAIR: Thank you. Bless you, Mr. Schmidt.

MR. SCHMIDT: Excuse me, I'm sorry.

CHAIR: Mr. Holzer, back to you.

MR. HOLZER: Are we going to show this video now or you want to describe these pictures first?

MR. CLARK: Pictures, page one of Exhibit 58, --

MR. HOLZER: Sixty.

CHAIR: Sixty.

MR. CLARK: -- sixty, page one of, of Exhibit 60 shows a tractor, a low boy carrying a piece of heavy equipment and in order to make that curve down there, he has to cross the double yellow line.

MR. SCHMIDT: And, and I just object in order to make that --

CHAIR: Please stand up if you're, if you're objecting.

MR. SCHMIDT: I'm sorry. In order to make that curve down there. I mean, it shows what it shows.

CHAIR: He, he's providing --

MR. SCHMIDT: He could be asleep, he could be drunk, he could be any number of things.

CHAIR: Mr. Schmidt, it's being received for what it is.

MR. SCHMIDT: Oh, what it shows.

CHAIR: For what it shows.

MR. SCHMIDT: I object to the commentary that this man couldn't make the curve driving this truck unless he crosses the center line.

CHAIR: Let me ask you this, Dr. Clark, have you seen other tractor trailers in this area?

MR. CLARK: That is my testimony.

CHAIR: Okay. So, the other tractor trailers you see in this area, what do you see of them as they come around the curve?

MR. CLARK: They all cut the curve.

CHAIR: And in a similar position, as to where Exhibit 60 --

MR. CLARK: Yes.

CHAIR: -- and the truck is shown?

MR. CLARK: Yes, sir.

CHAIR: On page one and two?

MR. CLARK: Yes, sir.

CHAIR: All right.

MR. SCHMIDT: Mr. Garber, I'm, I'm, I'm sorry. The photographs speak for themselves and I just object to the witness' embellishment, that's all.

CHAIR: And I under, and I understood that, Mr. Schmidt. And I was trying to get an understanding as to why he said what he said. And he has clarified that point. Mr. Holzer?

MR. HOLZER: I don't have anything to say.

CHAIR: Back to you.

MR. HOLZER: Okay. Are we going to show the video?

MR. CLARK: Yes, we should. And it, and, and to clarify, it is my testimony that trucks do that on a regular basis.

CHAIR: Well, you did testify to that slightly earlier but here we are --

MR. CLARK: Thank you, sir, yeah.

CHAIR: -- with the specific photos.

MR. CLARK: This is why we had photos. Oh, cut the sound, cut the sound. Sorry about that.

MR. HOLZER: For some reason there's a glare on it, I can't see anything.

CHAIR: I would agree with that.

MR. HOLZER: Can we turn the lights off?

MR. CLARK: This is coming out of my drive.

CHAIR: There we go.

MR. CLARK: Sorry, I should have made this snippet shorter.

CHAIR: It's quite alright.

MR. CLARK: All right. So, there's Harford Road and my, and Mark Lane.

MR. HOLZER: Did you stop at the stop sign?

MR. CLARK: I do. All right, and you'll start there.

CHAIR: All right. I assume that's what you wanted to show us?

MR. CLARK: Yeah, that's it, that's it, yeah.

CHAIR: Okay.

MR. CLARK: You can kill it, Joyce. Thank you.

MR. HOLZER: All right. Are there any other examples related to the road that we need to address?

MR. CLARK: Yeah, there's a, coming south from the traffic circle, okay? We have dash cam C, truck crossing.

MR. HOLZER: I don't see --

CHAIR: Which was taken October 22nd and it's on disc A-2, Mr. Schmidt therefore would have had the opportunity to have reviewed it in advance.

MR. CLARK: Right.

VOICE: Ready?

MR. CLARK: Yep.

CHAIR: No, hold on. Hold on. There are photographs.

MR. HOLZER: There are photographs.

CHAIR: Mr. Schmidt gets that first.

MR. SCHMIDT: Oh, thank you.

CHAIR: Thank you. Is this sixty-one? All right. Looking at photos sixty-one page one and two, what is it you want to tell us about those?

MR. CLARK: Well, page one I want to tell you that that wasn't supposed to be in there. I don't know why --

CHAIR: Page one is not supposed to be there?

MR. CLARK: Yeah. I don't know why I was concerned about the guy crossing, well, all right, leave it there. Because it shows how people cut to shoulder too.

CHAIR: Okay. So, going to, to page two of Exhibit 61.

MR. CLARK: And there you have the tractor trailer having to cut the curve, to cut the yellow lines there to make his turn. This is, this is the very turn that Mr. Collagero says is, is so dangerous.

CHAIR: Hold on. Again, to identify it, where is this in relation to this --

MR. CLARK: This is --

CHAIR: -- hold on, wait for my question. Where is this in relation to the subject property?

MR. CLARK: The subject property is on the left. It is just south of Bonaparte Ave and Harford Road, which is --

CHAIR: So, this is after the entrance way for the subject property?

MR. CLARK: Going south.

CHAIR: Right. And we should be, if we were to follow this photo along, your property will be up, well past where the tractor trailer is off on the right?

MR. CLARK: Correct, sir.

CHAIR: All right.

MR. CLARK: Thank you.

CHAIR: So, we now we have --

MR. SCHMIDT: This is sixty-one?

CHAIR: This will be sixty-one. So, we have the orientation of the photos.

MR. CLARK: Are, are heading south.

CHAIR: Yeah. No, we got that.

MR. CLARK: Okay. I'm sorry.

CHAIR: Yes, thank you. So, you want to then show us a video that shows --

MR. CLARK: Well, I would also draw your attention to the arrow mark.

CHAIR: Okay.

MR. CLARK: All right? That is --

CHAIR: There's an arrow mark in the top roughly center of the photo.

MR. CLARK: Right.

CHAIR: On page two.

MR. CLARK: Right. That is the, that is the very area that Mr. Collagero was so concerned about.

CHAIR: All right. Coming out of the circle?

MR. CLARK: Yep. I don't know why that's, oh, that's her, that's her computer. Sorry, Joyce. All right and there's Mr. Poehler's house on the left. There's Bonaparte on the right. There's the property entrance on the left. And there he goes.

CHAIR: Okay.

MR. CLARK: I will testify that I have seen --

CHAIR: Hold, there's no question pending. Mr. Schmidt, you have any objection to sixty (inaudible)?

MR. SCHMIDT: Not one bit, no, sir.

CHAIR: Those two are admitted.

MR. HOLZER: Do you have any exhibits of trucks crossing the line at night?

MR. CLARK: No, but I do have, showing what happens when the tractor trailers are going in the opposite direction at night.

MR. HOLZER: Okay and is that a video or just the pictures?

MR. CLARK: I think that's a video.

CHAIR: Okay. Where is that located on fifty-one?

MR. CLARK: That, that is dash cam D, night semi Glen

Arm.

CHAIR: That was taken June 28, 2018, therefore, located on A-2, Mr. Schmidt would have had a copy in advance, or been able to view it in advance.

MR. CLARK: Or do I, do I have a photo of it?

MR. HOLZER: You have, --

MR. CLARK: I, I probably, yes, --

MR. HOLZER: -- I can't, it appears there's only one page.

MR. CLARK: Yeah. Mr. Garber, I'm sorry, I was up real late last night.

CHAIR: That's quite alright, Dr. Clark. You can tell us when you receive the photo whether or not that's the photo you, you think may exist that shows what you're talking about.

MR. CLARK: Yeah.

CHAIR: So, photo, Protestant's Exhibit 62, which is one page photo at nighttime, what does it depict?

MR. CLARK: It depicts going east on Glen Arm Road up towards Harford, okay? And this is how narrow the roads are and at night you can see, you can just barely make it out in, in, in, with the contrast of this photograph. But that's the truck body and then my car is where the car is.

CHAIR: Okay, hold on. At the, where the arrow signs are at the top center of the photo, the, the only, really the

visible portion of the photo, is that Glen Arm or is that Harford?

MR. CLARK: That is Glen Arm.

CHAIR: So, Harford is past this point?

MR. CLARK: Harford is up the hill.

CHAIR: Right.

MR. CLARK: It, it's, yes, yes. About, about a quarter of a mile.

CHAIR: Okay. Mr. Schmidt, anything?

MR. SCHMIDT: No, sir.

CHAIR: Do you wish for this to be admitted?

MR. SCHMIDT: Yes, sir.

CHAIR: All right. Well, that was easy. So admitted.

MR. SCHMIDT: If you can tell what it is, that's fine.

CHAIR: Well, now we have a description as to where it is.

MR. SCHMIDT: Right.

CHAIR: Okay.

MR. SCHMIDT: Half a mile away or so.

MR. CLARK: Quarter mile away.

MR. SCHMIDT: Quarter mile away from Harford?

MR. CLARK: Yes.

CHAIR: Mr. Holzer?

MR. HOLZER: Okay. Do you want to show the video of --

MR. CLARK: Yeah, because, because there's questions about where the truck body is here.

MR. HOLZER: Right, okay.

MR. CLARK: So.

CHAIR: Well, I should ask this, you know, in relation to where the subject property is, I mean, this is, if it's a quarter mile away from Harford Road, therefore, it's an additional amount of distance away from the subject property.

MR. CLARK: Yeah, I, I'd say, as, well, as the crow flies, since that seems to be so popular, it would be half a mile.

CHAIR: Okay.

MR. CLARK: It's, it's in the, it's in the locale.

CHAIR: Okay.

MR. SCHMIDT: It's typical of the locale, of the roads in the locale.

MR. CLARK: Thank you, sir. I appreciate that.

MR. HOLZER: Are we going to show it?

MR. CLARK: Yes.

CHAIR: If you would, if you would like to show it.

MR. HOLZER: Just, go ahead.

MR. CLARK: Now, her, I'm sorry.

CHAIR: It's all right. Are you, are you on Harford

Road there or Glen Arm?

MR. CLARK: No, no, that's Glen Arm. That, the whole clip is Glen Arm.

CHAIR: On approach to Harford?

MR. CLARK: Yes, sir. And, you can, you can end it, Joyce. If you need to see it again, but, you know, the, the idea is is the clearances and all of that, you know.

CHAIR: Understood. Sixty-two has been admitted.

MR. HOLZER: Thank you.

CHAIR: Sure.

MR. CLARK: And, and I would like --

CHAIR: There's no question pending at the moment.

MR. CLARK: Okay.

MR. HOLZER: All right. Are, we're finished with the pictures of, of the road and the vehicles on the road, cyclists and so forth, is that correct? Yes or no?

MR. CLARK: Yes.

CHAIR: Hold on. Thank you. All right.

MR. HOLZER: Okay. Can we go to any testimony in regard to the sight, required sight distances and in terms of Mr. Collagero's testimony? Do you have any comments about that?

MR. CLARK: Yeah, yes, yes, I do. And this is just as someone who knows how to add two plus two.

MR. HOLZER: You're not an ex, traffic expert?

MR. CLARK: No, but I know how to subtract.

MR. HOLZER: Okay. All you knew is know how to add two and two and subtract, is that --

MR. CLARK: And sometimes I get five, but you know,--

MR. HOLZER: Okay, so --

CHAIR: Well, we'll, we'll cross that bridge when we come to it.

MR. HOLZER: All right. So, what is your comment about his testimony?

MR. CLARK: Well, his testimony on day three, he confirmed that both intersection sight distance and decision stopping distance cannot meet SHA requirements, all right? At the required forty-five and fifty miles an hour, okay?

MR. HOLZER: Do you --

CHAIR: With, hold on, with the existing, are you talking about from the existing entrance way?

MR. CLARK: And, and he said, no matter what they do.

MR. SCHMIDT: How, how about if the witness just testifies what he wants to say instead of giving us a description of what he thinks Mr. Collagero and what he thinks everybody else said? The record is what the record is. And he, if he wants to say whatever he, he wants to say but this, it's not even a question and answer, it's a speech and --

CHAIR: So you object?

MR. SCHMIDT: I do. It would be nice if he could

just testify.

CHAIR: Thank you.

MR. HOLZER: Let me go, let, let me rephrase it. Can you testify as to the facts that you're familiar with, having read Mr. Collagero's testimony on day three, and if you know where it was you can point that out, and why it may or may not be correct?

MR. CLARK: Yes. He test, he, he clearly testified--

MR. SCHMIDT: When?

CHAIR: Hold on. Mr. Schmidt, this is not cross examination.

MR. CLARK: On day three. On day three.

CHAIR: He's responding to Mr. Holzer's question. If you have an objection, you know you have to stand for objection and say you have an objection. Right now we're in the middle of Mr. Holzer's question to Dr. Clark. Dr. Clark started his answer so day three, Collagero testimony, go ahead.

MR. CLARK: Okay. He testified that at the specified speed, at, at the posted speeds, all right? He could not meet the five hundred and thirty-one foot requirement by the SHA for sight distances. And he also could not meet the decision, stopping sight dis, decision stopping distance.

CHAIR: Okay. The next question is what are you going to provide by way of testimony that either amplifies or contradicts or otherwise provides some type of insight into

that testimony?

MR. CLARK: Okay. We, we have his, we have his testimony.

CHAIR: Right. So, what are you saying, what are you saying about his testimony?

MR. CLARK: I'm saying it's incorrect.

CHAIR: Okay. How is it incorrect?

MR. CLARK: Or, not incorrect, I'm saying that he test, that, I'm, I'm restating the fact.

CHAIR: Are you, hold on, just to clear, clarify. Are you just saying Mr. Collagero testified to this, I agree with what he said? Is that, is in essence what I'm hearing?

MR. CLARK: Yes, and that he cannot meet the requirements.

CHAIR: Okay. Well, we obviously do not need testimony on that point.

MR. HOLZER: No, that's all it is.

CHAIR: Because it's in the record, it is what it is.

MR. HOLZER: Exactly.

CHAIR: Mr. Schmidt, I realize you are frustrated. It is okay, we understand what's going on and Mr., Dr. Clark has, whatever he wants to say about it, we've obviously identified where that was going and we have no need to go further with that point. It is what it is. Thank you. Mr. Holzer?

MR. HOLZER: Okay. So, you disagree, no, that's what you do. You're just saying, as I understand it, that he testified that he could not meet the State Highway requirements, correct?

MR. CLARK: Correct.

MR. HOLZER: Okay. So, you're not challenging what he said or any math analysis, --

CHAIR: Hold on. Again, again, this point we don't, it's, if it's in the, if it's in the record --

MR. HOLZER: I'll withdraw it, I'll withdraw the question.

CHAIR: I know. Just by way of illustration, here's what I'm understanding your testimony to be. We open the transcript, you're in essence taking a yellow highlighter saying this testimony, look at this.

MR. CLARK: Yes, sir.

CHAIR: Which is what Mr. Holzer will do in his closing memo.

MR. CLARK: Yes, sir.

CHAIR: Which is why we do not, please sit up straight too.

MR. CLARK: Oh, I'm sorry.

CHAIR: Thank you. Which we do not need to have testimony from you as to pointing out where in the transcript it may or may not speak to the issues of which you want to

raise to us. Mr. Holzer certainly will be pointing that out in a closing memo.

MR. HOLZER: Exactly.

CHAIR: On argument. So, you don't need to put that into the record. It is what it is.

MR. HOLZER: Right, thank you.

CHAIR: Sure.

MR. HOLZER: Are there any other aspects of Mr. Collagero's testimony that you either want to point out using a yellow underline, as Mr. Garber said, or disagree with?

MR. SCHMIDT: Objection. I mean, --

CHAIR: Hold on, Mr. Schmidt, hold on.

MR. SCHMIDT: -- I'm sorry --

MR. HOLZER: Well, I'm tired of --

CHAIR: Hold, everyone. Everyone hold on. There's an objection. We're doing this the proper way. Mr. Schmidt is standing up, he has an objection. What is the basis for your objection?

MR. SCHMIDT: Mr. Garber, as I understood your comments thirty seconds ago, you indicated to the witness that, and to Mr. Holzer, that it was not necessary for Mr. Holzer to ask this questions, question this witness about the points that he agreed or disagreed with Mr. Collagero on. As Mr. Holzer and no doubt I will point out by line and verse and page the sections of the testimony that we think are germane, where we

agree, where we disagree. I thought you explained that. The very next question we get is where else --

MR. HOLZER: (inaudible).

CHAIR: What?

MR. HOLZER: I'm bleeding. I hit my hand and I'm bleeding. I'd like to stop a second and go wash it off.

CHAIR: Okay.

MR. HOLZER: I was dripping all over my --

CHAIR: All right, all right.

MR. HOLZER: Can I take a one minute break?

CHAIR: We'll have, we'll have a five minute break to attend to this issue. And then we'll circle back to where we are. Do you need to go to the bathroom to rinse off --

MR. HOLZER: Yes, yes.

CHAIR: It's fine. We'll take, whatever you need --

MR. HOLZER: One minute.

CHAIR: Okay.

MR. HOLZER: I got a band aid, I'll put it on.

CHAIR: One minute break, we won't even leave, we'll stay right here.

MR. HOLZER: All right, thank you.

(RECORDING PAUSED – 02:28:41 PM)

(ON RECORD – 02:31: 56 PM)

MR. HOLZER: I apologize for screaming.

CHAIR: Nothing to apologize for.

MS. DOPKIN: Ready?

CHAIR: Yes, all right. We're, we're, yes, I see that. We are back on the record. Mr. Schmidt had objected. I understand the basis of the objection was it is the exact same type of question that was just objected to and sustained by the Board. Mr. Holzer, do you have any response to that?

MR. HOLZER: I didn't even hear it and I don't, I'll withdraw the question if that makes it easier.

CHAIR: Okay. In short, we don't need him to identify what he thinks we should, our attention should be drawn to because that, you'll be doing the same thing on, in your closing memo for your client.

MR. HOLZER: If I'm competent enough to do that.

CHAIR: I'm assuming, I've already assumed that to be the case.

MR. HOLZER: All right. All right. Let's, let's see if we can get through some more. Mr. Clark, in terms of any comments you'd like to make in regard to Mr. Collagero, and please sit up.

CHAIR: Thank you.

MR. HOLZER: Is there anything else, I, I'm sorry if I misunderstand the Board's ruling, but are there any other comments that you would like to point out that you disagree with Mr. Collagero, if that's, if I'm overstepping my bounds, let me know.

CHAIR: Well, you, I already know where Mr. Schmidt would be going with that question. He's not an expert to be able to, hold on. He's not an expert so is there something that he thinks factually was incorrect as part of his calculations or as part of his analysis that is different than what Mr. Collagero may have applied based on his experience and living within the area, or something to that effect.

MR. HOLZER: Okay.

CHAIR: Obviously, that would be fair ground. But if he's to critique Mr. Collagero's work, that is, you didn't apply the right formula, you didn't take into account the following things --

MR. HOLZER: Yeah, he's not an expert.

CHAIR: Right, that's where that runs afoul, that part of it. So, to steal what I'm sure to be Mr. Schmidt's thunder on that, let's confine it to factual matters that Dr. Clark would have some familiarity with.

MR. HOLZER: Gotcha. Are there any other comments relative to the traffic analysis, ab, absent your being a traffic expert, that you would like to do, persistent to Mr. Garber's clarification? Do you understand?

MR. CLARK: Yeah, I do.

CHAIR: Okay.

MR. CLARK: With trepidation. All right. When, when I test, when, when, I'm trying, I'm trying, I'm trying to, we

had, oh, that's what it was, it was at a preliminary motion, okay. But we had submitted maps, photographs and a statistical report generated by the Baltimore County Police Department --

CHAIR: I believe that was submitted into evidence.

MR. CLARK: Yes, it was.

CHAIR: It was used in cross examination of Mr. Collagero.

MR. CLARK: Yes, okay. So, so, so we submitted that and we had forty-one accidents.

CHAIR: Hold on. Are you going to be arguing about what was set forth within that document, which again, would be subject, what Mr. Holzer will be doing --

MR. CLARK: No, no, --

CHAIR: Or what, where are you going with this?

MR. CLARK: The only, the only thing, the only way we can, I can say is to say it.

CHAIR: Okay.

MR. CLARK: And Mr. Collagero, all right, now we had specified Mark, or Hartley Mill to Mount Vista Court. Mr. Collagero instead analyzed the, didn't even analyze, commented on thirty-one reports between Hutschenreuter Road and Mount, or Vista View Court, which was, which was apples and oranges.

CHAIR: In other words, the report that you, correct me if I'm wrong that this is what you're saying, the report that was submitted on behalf of Protestants spoke to a

different boundary than what Mr. Collagero did and, therefore, the two, if you compare them side to side, you're now talking about the same set of data from which --

MR. CLARK: Correct.

CHAIR: -- you can extrapolate whatever conclusions and analysis and everything?

MR. CLARK: Correct. Plus, plus we used a primary source of data. The, the Baltimore County Police reports, he testified he used some secondary source of data from some website.

CHAIR: Okay. So, with respect to this testimony, again, this is more of an argument that should be reserved for Mr. Holzer.

MR. CLARK: Yeah, okay.

CHAIR: On that point. I understand that there is a different, it'll be, there are some complications, we'll just put it like that.

MR. CLARK: Yeah.

CHAIR: To compare the two because you're talking about different roads and boundaries. Outside of that, is there anything else you wished to bring up then?

MR. CLARK: Yes, we, we did, we did pull all thirty-one written police reports.

CHAIR: Okay.

MR. HOLZER: Okay. Do you, in regard to that, you're

not proposing to discuss those at this point, are you?

MR. CLARK: No.

MR. HOLZER: Okay.

CHAIR: That was an emphatic no.

MR. HOLZER: Are there any, is there any other testimony presented by the Petitioners that you wanted to address under the conditions that the Board --

MR. CLARK: No, I, I, I, I, I think Mr. Garber is, you know, is, would, would say that the, that anything else I have to say would be covered in the, the, --

CHAIR: Would the argument reserved --

MR. CLARK: -- memo of law, right.

CHAIR: -- for Mr. Holzer. Okay.

MR. HOLZER: Is there any analysis of the, of Blue Iris videos that you choose to address now or can we do that at some other time, in some other way?

MR. CLARK: I, I, I, I think, this goes to the density of, of something, you know? All those Blue Iris videos are all showing --

CHAIR: And I'm lost here because I don't know what you mean by Blue Iris videos.

MR. CLARK: Oh, I, I'm sorry. That's when I set up the security camera at, at Ms. Foxworthy's to, to, to document --

CHAIR: The comings and goings of the vehicles.

MR. CLARK: Right, right.

CHAIR: Okay.

MR. CLARK: And, and, and that, and that just merely shows, is a record of the traffic that is introduced by these events. I don't, I think that probably fits in the memo of law.

CHAIR: Well, it would be, yes, I would, I would think that that would be something appropriate for the memo.

MR. HOLZER: Okay.

CHAIR: It's understood that these events had, you know, anywhere, whatever the numbers were, I'm not going to represent them because I don't recall that specific testimony.

MR. CLARK: Yeah, no, no.

CHAIR: But it was a greater volume than other days when there were not, when they don't have these festivals and events.

MR. CLARK: Well, and, and, and also what happens to southbound and northbound traffic that aren't going (inaudible).

CHAIR: Okay.

MR. HOLZER: In terms of Mr. Motsco's testimony, do you have anything that within the parameters of what the Board's outlined that you can address?

MR. CLARK: I think I do.

MR. HOLZER: Okay.

MR. CLARK: Okay.

MR. HOLZER: Could you articulate the first, I assume the first one?

MR. CLARK: Yeah. Mr. Motsco said he was unaware of any other proposed uses for the property. We have a, a draft that he provided to us in September and I --

CHAIR: September of ’18?

MR. CLARK: -- yeah, ’17, ’17, ’17.

CHAIR: Seventeen.

MR. CLARK: Seventeen, sorry, thank you.

MR. HOLZER: That Mr. Motsco provided.

MR. CLARK: Provided on, on, on the, on the 17th, or in July --

CHAIR: September 2017.

MR. CLARK: Thank you. And it, the endorsement does not say for a house of worship it says for a community center.

CHAIR: Okay. Do we have that document?

MR. HOLZER: And where is that document? Do we have it?

MR. CLARK: I think you’re being handed it.

CHAIR: And if we could show Mr. Schmidt first?

MR. HOLZER: Certainly.

CHAIR: And any copies to the Board.

MR. CLARK: Can I explain what --

CHAIR: Not yet.

MR. HOLZER: No, no.

CHAIR: Not yet.

MR. CLARK: Okay. I'm trying to save time.

CHAIR: I, no, I appreciate that. But we have to do this in a particular order so we don't get ourselves into trouble with other things. Okay, this is sixty-three, is that right, Mr. McComas?

MR. MCCOMAS: Yeah, it's going to be sixty-three, it's A through, call the first page sixty-three.

CHAIR: A?

MR. CLARK: A, yeah, then B, C, D, E, F, G. So, A through G.

CHAIR: All right. Mr. Schmidt, I see you have that in front of you. Dr. Clark, can you please identify what Protestant's Exhibit 63-A through G is supposed to be?

MR. CLARK: I need to see it, that's what I was saying.

CHAIR: You do not have a copy?

MR. CLARK: I do not.

MR. HOLZER: I didn't provide --

CHAIR: Here's an extra copy.

MR. SCHMIDT: This has been marked as sixty-three?

CHAIR: Sixty-three A through G.

MR. CLARK: Okay, all right.

MR. HOLZER: Now, before you go, answer that

question, is there another document that can explain what's on sixty-three?

MR. CLARK: We do have a, a copy that was submitted of this exact same drawing, okay? That was submitted at a later date in April of 2018, I believe, by Mr. Archia (phonetic), in support of his sign permit.

MR. HOLZER: Okay.

CHAIR: This will be sixty-four.

MR. HOLZER: I hope I gave you (inaudible) I think I did.

CHAIR: It's a one page document, correct?

MR. CLARK: Thank you, sir.

MR. HOLZER: That's correct.

CHAIR: Mr. Schmidt, I see you've had the opportunity to review it. So, Dr. Clark, Petitioner's, or Protestant's Exhibit 64, can you please identify what that is?

MR. CLARK: Sixty-four?

CHAIR: Yes.

MR. CLARK: This is a copy of the site plan submitted by Mr. Archia to the County when he applied for his sign permit.

CHAIR: Okay and what is it on sixty-four that you want to bring to our attention?

MR. CLARK: Well, sixty, all right, --

MR. HOLZER: I think --

MR. CLARK: I need to go back to sixty-three.

MR. HOLZER: -- with due respect, can he start with sixty-three?

CHAIR: I apologize.

MR. HOLZER: He hadn't done that.

CHAIR: Correct, sorry. Back to sixty-three.

MR. CLARK: All right. All right. Sixty-three is actually a series of pages showing a photo micrograph of the endorsement in the upper right hand corner.

CHAIR: Okay.

MR. CLARK: All right? Now, I'm sorry about the resolution and I think we have a better blowup of sixty-four. Mary, do we? And I apologize, but that's, I, I had, as you can see, I had to use a high power microscope to, to be able to read the endorsement, but basic, what the, what the endorsement said, req, requests, doesn't request a house of worship, it requests a community center for educational activities. And that is exactly the same document they provided to the County in support of their sign permit. So, Mr. Motsco knew that there were other, other proposed uses for this property.

MR. HOLZER: Before you make the objection, could I at least --

MR. SCHMIDT: I don't even know what it is. I don't even know what this is. I can't even read it.

CHAIR: All right, hold on, hold on, hold on,

everyone, okay. Mr. Schmidt, I understand 63-A through G you have an objection. But he, he just said --

MR. SCHMIDT: Mr. Garber, if, I believe, I believe this is Mr. Clark's microscope.

CHAIR: Yes, that's what his testimony was.

MR. SCHMIDT: And he, he apparently is enlarging this document. Since he has the document, wouldn't the best evidence rule, why doesn't he give us this document?

CHAIR: Hold on, hold on, sir. Hold on, sir.

MR. HOLZER: You already have it.

CHAIR: Hold on, sir.

MR. SCHMIDT: I mean, I, I can't, I don't even know what this is saying. I can't read this.

CHAIR: Look, Mr. Schmidt, Mr. Schmidt? We have the same copy as you. That's all I can tell you is that we have the same copy as you. It is as legible to us as it is to you, as to Mr. Holzer, as to Dr. Clark. Dr. Clark, I'm taking from the gesturing that's going on, sixty-four would be an eight and a half by eleven print, or copy, of the plan that's shown on 63-A, is that --

MR. HOLZER: That's correct. And I'm being interrupted before I even can complete it because this document, which I only have one page of, is a reflection of, of, of what is marked as Protestant's Exhibit 37, already in the evidence.

CHAIR: Okay.

MR. HOLZER: And it's a blowup --

CHAIR: Well, hold on. Let's, let's get that testimony from Dr. Clark.

MR. HOLZER: No, I, no, because he's making objections. I have a right to, to explain. He interrupted before I even got the third document in.

CHAIR: Hold on. Let's hit the reset button here. Here's my understanding of where we're at. Mr. Schmidt was, I heard him audibly complaining that he could not make heads or tails as to what was going on with sixty-three and sixty-four. I understand you have an explanation for that, but I understand there's one person probably in this courtroom who even has that explanation that we can get on the witness stand to say what that explanation is. Dr. Clark. He can probably tell us as to what's going on and we can clear this up and have it on the record and have it come from the witness.

MR. HOLZER: Sounds good to me.

CHAIR: Right. So, let's do that.

MR. HOLZER: So, I cannot give the Board this copy.

CHAIR: Hold on. May I have what, what you have there? Have you shown Mr. Schmidt first?

MR. HOLZER: No, because I interrupted.

CHAIR: Go show Mr. Schmidt, go show, okay. Fine. Go show, Mr. Schmidt.

MR. SCHMIDT: Mr., I was answering Mr. Garber's questions.

MR. HOLZER: Yeah, you were.

CHAIR: So, what has been labeled as Protestant's, Protestant's Exhibit 38.

MR. HOLZER: Thirty-seven and thirty-eight, that's correct.

CHAIR: Okay.

MR. MCCOMAS: It's thirty-eight.

MR. HOLZER: Yeah, is what --

CHAIR: Okay. Are they the same document?

MR. HOLZER: Yes.

MR. CLARK: Yes, sir.

CHAIR: Okay.

MR. HOLZER: Yes.

CHAIR: So, Mr. Schmidt, --

MR. SCHMIDT: Then why are we reintroducing them again?

CHAIR: -- hold on, everyone, hold on. Everybody. I'm asking counsel, Dr. Clark, just hold on one second. One at a time. Mr. Schmidt, do you have Protestant's Exhibit 38? Do you need a copy?

MR. SCHMIDT: If you have a copy that would be wonderful, I may have it somewhere in here, yes, sir. But I, I don't have it right in front of me.

CHAIR: Unfortunately, I dropped my file of exhibits and it's now all scattered so. Here you go. Yeah, why don't you give him the file one.

MR. MCCOMAS: Here's the file one.

MR. SCHMIDT: Thank you, Mr. McComas.

CHAIR: Thank you. All right. Now we all have the same playing field.

MR. SCHMIDT: Okay.

CHAIR: As to where we are. Now we can start proceeding with the questions.

MR. HOLZER: I don't have this, thirty, is it thirty-seven?

CHAIR: Thirty-eight.

MS. DOPKIN: Thirty-eight.

CHAIR: That particular page.

MR. HOLZER: Okay. I don't have more copies of it.

CHAIR: It's, it's already in the record.

MR. HOLZER: Okay.

CHAIR: It's already in the record.

MR. HOLZER: So I don't have to worry about it. So, if I may proceed, I would like to ask the witness, number one, can you identify exhibit number sixty-three and why it's in? Can you identify Exhibit 64 and what it shows? And can you identify what has been marked as thirty-seven, thirty-eight and its relevance to your testimony?

MR. CLARK: I answer yes to all the above.

MR. HOLZER: No, you answer what I asked you.

CHAIR: I understand what, let's, look at, look at sixty-four, please.

MR. CLARK: Yes.

CHAIR: In the upper right hand corner, there is a bunch of writing.

MR. CLARK: Yes.

CHAIR: Okay. Is that what Protestant's Exhibit 38 is?

MR. CLARK: Yes.

CHAIR: All right. Then explain Protestant's Exhibit 63-A, there's a, a plan that's identified in that photograph, correct?

MR. CLARK: Yes.

CHAIR: What is that plan and what is that plan's relationship with sixty-four and thirty-eight, Protestant's Exhibit 38?

MR. CLARK: That, sixty-three --

CHAIR: A.

MR. CLARK: -- A, shows the plan that was distributed at, at the September 2017 meeting.

CHAIR: Okay. Is that what Protestant's Exhibit 64 is?

MR. CLARK: Sixty-four is the exact same plan

submitted to the County in April of 2018 by Mr. Archia in support of his sign permit.

CHAIR: Okay. So, sixty-four may not be what's in sixty-three, correct?

MR. CLARK: It's not the same copy.

CHAIR: That's my question. Then thirty-eight is tied to sixty-four?

MR. CLARK: Yes.

CHAIR: And not necessarily sixty, sixty-three?

MR. CLARK: The, six, the Archia document and the document shown in this are the same, are, are copies of the same document.

CHAIR: I, I, okay.

MR. HOLZER: Yeah.

CHAIR: Mr. Holzer, maybe you could answer this.

MR. HOLZER: Sure.

CHAIR: Where did you get Protestant's Exhibit 38 from?

MR. HOLZER: We got Protestant's Exhibit 38 from the County itself. It was produced and submitted by the Petitioner to the County which shows --

CHAIR: I, I understand that. Which, what, where did, what is the physical document in which, from which it came from? From which it came?

MR. HOLZER: Came from --

CHAIR: Did it come from the Archia signed Petition or did it come from the September 2017 plan?

MR. HOLZER: Yeah, from the Archia Petition.

CHAIR: Okay. So, thirty-eight is tied to sixty-four.

MR. HOLZER: They're all three the same.

CHAIR: I, right, but he's saying that there are differences between sixty-three, the plan that's shown in the photo, and sixty-four.

MR. HOLZER: With all due respect, my client is wrong.

CHAIR: Okay. Mr. Schmidt, --

MR. HOLZER: Because basically --

CHAIR: -- I'm going to grant your objection as to sixty-three on that, or sustain your objection on that. Sixty-four is tied to thirty-eight, thirty-eight is already in evidence. Sixty-four will be received and admitted.

MR. MCCOMAS: So, is sixty-three i.d. only?

CHAIR: Sixty-three i.d. only.

MR. HOLZER: That's fine.

CHAIR: Because they, if they are different, if there's any differences we, it's not fair to Mr. Schmidt to not have that present here in Court. But since thirty-eight is already in evidence --

MR. SCHMIDT: Right, right.

CHAIR: -- and sixty-four is tied to thirty-eight.

MR. HOLZER: That's correct.

CHAIR: Specifically, sixty-four will be received into evidence and that's admitted.

MR. HOLZER: Thank you.

CHAIR: Okay, Mr. Schmidt? Did you get that?

MR. SCHMIDT: Yes, sir.

CHAIR: Sixty-three out, sixty-four in.

MR. SCHMIDT: Yes, sir.

CHAIR: All right.

MR. HOLZER: Now, now as a result of that exercise, what is your purpose for not only introducing sixty-four, but recalling thirty-seven or thirty-eight?

MR. CLARK: The, that Mr. Motsco did not reveal that he knew other purposes for the, he, he stated he didn't know of any other uses for, of any other possible uses for the property.

MR. HOLZER: Other than what?

MR. CLARK: Other than as a house of worship.

MR. HOLZER: Okay. Now, how is that testimony refuted by this, these documents?

MR. CLARK: They show that, that there were, that there was, they document that, I'm trying to figure out how to --

MR. HOLZER: Well, Mr. Clark, --

MR. CLARK: Yeah.

MR. HOLZER: -- let me make it real easy for you.

MR. CLARK: Please.

MR. HOLZER: Okay. Read what is on the, the documents submitted by the Petitioners to the County.

MR. CLARK: Oh, okay, okay, thank you, sir.

CHAIR: Thir, thirty-eight, I believe, is the one that's (inaudible).

MR. CLARK: Yeah.

MR. HOLZER: That's correct.

MR. CLARK: Special exception relief pursuant to Section, Baltimore County zoning regulations, to allow community building owned by non-profit civil improvement association used by its members and guests for recreational, social, educational or cultural activities in an RC-2 zone, and for a church or other building of the religious, of the religious worship.

MR. HOLZER: Okay. Now, was there subsequently something else submitted to the County that excluded the first part of that and only referenced a church or a house of worship?

MR. CLARK: Yes, this, the, the, this zoning app, this special exception application.

MR. HOLZER: Okay and do you know the dates where it was, from when it was originally submitted to when it was

changed to, or not changed, when it was only related to a house of worship? What's the time sequence?

MR. CLARK: Well, I would imagine --

CHAIR: Hold on.

MR. HOLZER: No.

CHAIR: Right.

MR. HOLZER: Don't answer imagine.

MR. CLARK: Okay.

MR. HOLZER: You know or you don't.

CHAIR: How about this, Mr., Mr. Holzer. Mr. Holzer, how about this? The plan that was submitted by Mr. Motsco on day two, I might take a guess, but it was certainly posted up on day one. Is there a difference between what was shown to this Board and what is reflected in sixty-four?

MR. HOLZER: No.

CHAIR: Okay. Is there a difference --

MR. HOLZER: There, there, yes, there's a difference between what was submitted as a Petition for purpose of the use of the property to a, subsequently to a religious house of worship.

CHAIR: So that was, that which accompanied the signed Petition has some difference compared to what was presented to this Board in terms of the ultimate use, is that my understanding?

MR. HOLZER: That's correct.

CHAIR: That would be a matter for argument for purposes of, today we don't, I don't know that Mr. Clark needs to, again, identify where Mr. Motsco is incorrect since it's already --

MR. HOLZER: He doesn't.

CHAIR: -- established in the record but getting the document in, I understand why you wanted to do that. Mr. Schmidt, you're standing, you want to say something.

MR. SCHMIDT: I do. I want to say that none of these documents, except the original site plan, has Mr. Motsco's seal on it. So, I don't know whether, the witness keeps talking about Mr. Motsco. Mr. Motsco may have prepared this plan or it may have been prepared by somebody else at Little & Associations, I don't, we don't know.

CHAIR: Well, it --

MR. SCHMIDT: More to the point, if I can be heard?

CHAIR: Sure, please.

MR. SCHMIDT: Even assuming arguendo that everything that Mr. Clark says is true, the $64,000 question is, so what? An applicant prepares a preliminary plan and subsequently files another plan that has different information on it. This Board has seen redlined plans which have changed from when they were submitted to the County to when they get to, to this Board.

CHAIR: I just saw a redline and green line plan.

MR. SCHMIDT: And, and --

CHAIR: Showing that very point.

MR. SCHMIDT: -- so there are plans that evolve. So, there, there's some big aha moment here that, at some --

CHAIR: Well, okay --

MR. SCHMIDT: -- point in time, Little & Associates prepared --

CHAIR: Mr. Schmidt --

MR. SCHMIDT: -- an unsealed plan, if I may be heard for the record.

CHAIR: I'll, well, hold on. I'll stop you there because this is again argument for purposes of, for the memo --

MR. SCHMIDT: It's not. It's argument as to admissibility, because it's simply got no relevance to this case. So what if this is true?

CHAIR: Okay.

MR. SCHMIDT: How does it bear on the ultimate issue in this case? It does not.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Yes, sir.

CHAIR: I, you heard me just say to Dr. Clark, this is a matter for argument for purposes of memos. Same thing, you are aware of this argument, you know what they're going to say. This is not something for the first time that we are hearing that they may use it for community center purposes. Mr. Holzer has been saying that repeatedly for several days

now, that that is, in fact, what some of the people on this side of the aisle, they believe is going to happen. That it's not going to be just limited to religious use.

Your argument is, no, it will be limited to religious use. Mr. Ghimire has testified to that and whatever else it is under the sun. That's what the nature of the dispute is. As to whether or not it has any affect whatsoever, whatever was prepared on some day prior to whatever was submitted, or if there have been changes since, as to the affect of the earlier documents to us, I understand your argument. But I mean, again, we're not, this witness is not going to shed any more light on those points. And I've already ruled that he cannot go into any more detail on these points because it's a matter for argument.

MR. SCHMIDT: Well, why are you allowing him to continue to testify about it --

CHAIR: I just said no, I --

MR. SCHMIDT: -- and, and introduce all these exhibits?

CHAIR: Okay. Maybe I, I'm sorry if I've not been clear. We just crossed that Rubicon where I've said this is a matter that's proper for argument.

MR. SCHMIDT: Very well.

CHAIR: Not for testimony.

MR. SCHMIDT: Thank you.

CHAIR: I have agreed with your position in that regard.

MR. SCHMIDT: Okay. Thank you, Mr. Garber. I apologize if I misunderstood the Chair's ruling.

CHAIR: No, I, perhaps I'm not communicating correctly, but I understood what Mr. Holzer was trying to accomplish and he needed to, he felt he needed to get some of the documents in to make that argument for purposes of his memo.

MR. HOLZER: They've already been in and the witness was trying to articulate why, from his perspective.

CHAIR: Yes.

MR. HOLZER: I understand.

CHAIR: We're all, we're all at the same page at the present time. So, we have this --

MR. HOLZER: Yeah, but unfortunately, that isn't the end of the story. The end of the story is there were things that produced the change from that document to the Petition.

CHAIR: Then we --

MR. HOLZER: Which I intend to get one way or the other because it --

CHAIR: Mr. Holzer --

MR. HOLZER: -- shows some --

CHAIR: Mr. Holzer --

MR. HOLZER: -- impropriety.

CHAIR: Mr. Holzer, I'm not, we've not, there's no ruling on that stuff yet.

MR. HOLZER: I know there's not.

CHAIR: Right, so you have the opportunity to try to go down that road and then if it causes an objection, we'll deal with it accordingly. We've all, now on the same page. We've reached a moment of harmony on this issue, let's move forward so we can try to get through this and prevent Dr. Clark from having to do a day three of testimony as best as possible.

MR. HOLZER: Okay.

CHAIR: So, with that in mind, I understand there may be other points you wish to raise but this is where we're at now. We don't need to hear, you know, what we just went through from Dr. Clark because that's a matter for you for argument and purposes of your memo. If there are --

MR. HOLZER: Oh, it's for me for more than just an argument, (inaudible) --

CHAIR: Perhaps. But if, if you have other points you wish to raise, now is the time.

MR. HOLZER: I will, I will, thank you.

CHAIR: Thank you.

MR. HOLZER: Thank you, Mr. Chairman.

CHAIR: Sure thing.

MR. HOLZER: All right. Was, was the testimony of Mr. Motsco, in your opinion, your recommend, your recollection,

did it inform the Board about the National Historic District?

CHAIR: In other words, hold on. Here's how I'm hearing this question. Did Mr. Motsco present information that this is a historic property? There is, obviously, there's already in evidence evid, documentary evidence, that it is, in fact, the barn and the site are on the historic register for the State, from what I recall?

MR. HOLZER: Correct, correct.

CHAIR: That has been presented into evidence, whether it came from Mr. Motsco or elsewhere, I, frankly I don't recall off the top of my head. Why is that being directed to this witness?

MR. HOLZER: Because the question was, does Mr. Motsco indicate to the Board in his analysis, and his drawing of a conclusion, that this was not a problem from the standpoint of historic issue? Did he address National Historic District? The answer is either yes or no. It's a simple question.

MR. CLARK: No, he did not address the, that it is, in fact, in a National, on the National Register as a national historic district. In fact, he said in his endorsement that it was not in a National Historic District.

CHAIR: Okay. We're now, so now we're talking about two different points. I referred to the registry for the State and I specifically referenced the property. You're saying

national historic district.

MR. CLARK: Yes, sir.

CHAIR: So, that is something different than the property.

MR. HOLZER: And he never mentioned it.

CHAIR: Okay, I'm with you now.

MR. HOLZER: Okay. So, the point of the matter is the witness has testified, his recollection, he never mentioned national historic district.

CHAIR: How do you know that this is within the historic district?

MR. CLARK: We have, we have the listing and we have the map.

CHAIR: All right, let's --

MR. HOLZER: Do we need to produce that now? Do we have it?

CHAIR: I would think you will need to produce that.

MR. HOLZER: Well, I just, I'm having problems --

CHAIR: I understand.

MR. HOLZER: -- in understanding how far I can go and how far I can't go.

CHAIR: We'll work through it, but we need to know the basis as to how he, why Dr. Clark thinks that this is in a historic district.

MR. HOLZER: This is already in? Oh, I don't have to

worry, it's already in. Protestant's thirty-nine.

MR. CLARK: Can I see it?

MR. HOLZER: Take a look at it.

CHAIR: Dr. Clark, if there's no question pending --

MR. CLARK: I'm sorry.

MR. HOLZER: I mean, --

CHAIR: Do you need to address further questions with him?

MR. HOLZER: No. It's Protestant's thirty-nine. If the Board takes a look at thirty-nine, it's clearly listed there and yet Mr. Motsco did not include that analysis in his testimony that everything was (inaudible) --

CHAIR: Okay. Well, that's going back to argument.

MR. HOLZER: Yeah, it goes back to the argument.

CHAIR: But you want to elicit the fact that it is within the historic district (inaudible) Protestant's Exhibit 39 supports --

MR. HOLZER: Yes.

CHAIR: -- Mr., or Dr. Clark's testimony?

MR. HOLZER: Exactly.

CHAIR: All right. So we can move on from there.

MR. HOLZER: And I, and I need that to be able to make in the memo --

CHAIR: Yes.

MR. HOLZER: -- the (inaudible) --

CHAIR: Understood, Mr. Holzer, yes.

MR. HOLZER: Okay, thank you.

CHAIR: Just trying to help move that through. So, yes, now we understand.

MR. HOLZER: All right. Mr. Motsco also did not, well, did he testify about the nature of the roadbed and the surrounding area?

MR. SCHMIDT: Mr. Garber, I'm just going to note a continuing objection to the, these questions about Mr. Motsco and what he said.

CHAIR: I would, I would suggest, if, if I can, the appropriate way to ask the question is, is there any testimony you wish to give, sir, about the roadbed and this, don't worry about what Mr. Motsco said or did not say.

MR. HOLZER: All right.

CHAIR: We could avoid the objections, --

MR. HOLZER: I was trying to --

CHAIR: -- because the record would be clear what Mr. Motsco has testified to or not.

MR. HOLZER: Okay, all right. That's the question.

CHAIR: Is there anything you would wish to tell the Board about the roadbed, sir?

MR. CLARK: Yes, sir, there is.

CHAIR: All right. What is it you wish to testify about the roadbed?

MR. CLARK: All right. The, the roadbed has been there for well over two hundred years. It, it has been, in the turn of the century it was called World's End Hill. It has not been changed. World's End Hill was a reference to the fact that the wagons had to stop at the barrier, at, at Mount, at what is now the circle, and get their brakes and hooves checked before they went down the hill, otherwise they wind up off the, off the side. There is, that, that was the --

MR. HOLZER: Well, excuse me.

CHAIR: One second, sir. Mr. Holzer?

MR. HOLZER: Could, could you explain down what hill we're talking about?

MR. CLARK: Oh, down, down, down, down, down the grade from Mount Vista down to the valley floor.

MR. HOLZER: Okay.

MR. CLARK: There is a historic, well, no, there is a, it's actually protected by the Maryland Historic Trust, there is a mile marker from the turnpike days. In fact, it's on the, it's on the, it's, it's on their property in the easement.

CHAIR: I believe that's already in evidence, the photo of the mile marker.

MR. CLARK: Right.

CHAIR: From what I recall.

MR. CLARK: And I think, did, did we put into

evidence the, the, --

CHAIR: I'm sorry, sir, you can't ask him questions.

MR. SCHMIDT: That's already in.

MR. HOLZER: That's all right.

MR. SCHMIDT: I mean, why are --

MR. HOLZER: Just because --

MR. SCHMIDT: -- we introducing exhibits that are already in?

MR. HOLZER: I'm not introducing it. If you would let me finish, I would explain to you that I want to show it to him.

CHAIR: Mr. Schmidt, I understand you're frustrated, please.

MR. HOLZER: He's frustrated?

CHAIR: Please. Let's move this forward. Mr. Holzer, continue.

MR. HOLZER: Protestant's Exhibit 41 was introduced. Are you familiar with it?

MR. CLARK: Yes, I, I took that picture.

MR. HOLZER: And did you just testify that there was a historic mile marker on the property?

MR. CLARK: Yes.

MR. HOLZER: On the road?

MR. CLARK: On the road.

MR. HOLZER: And what, and did you testify any time

prior to this why you think that's significant?

MR. CLARK: It's, yes, it is a relic of the days when it was a turnpike, when it was the Harford/Baltimore Turnpike.

MR. HOLZER: Okay. Now, where is that locate, where is it loc, located?

MR. CLARK: It is located right in the easement for Harford Road on their, on the east side of Harford Road, on their property.

CHAIR: Is it more or less across the street from your driveway?

MR. CLARK: Yes, sir.

CHAIR: I do recall that testimony.

MR. HOLZER: Right.

MR. SCHMIDT: Didn't he, Mr. Garber, I'm just trying to remember, and perhaps I forget, but didn't he testify about this before?

CHAIR: I just said that, the very thing.

MR. SCHMIDT: Well, why are we asking the same question?

CHAIR: I, I'm assuming these are foundational questions --

MR. HOLZER: Right.

CHAIR: -- to set up something else. I'm giving the leeway because I'm assuming they're foundational since that testimony was on November 1st and here we are January 29th,

(inaudible), are we still on the 29th? Has it turned into February yet? All right.

MR. HOLZER: I have no idea.

CHAIR: All right. So, where are we going with this to, to, to take Mr. Schmidt's point one step further, where are we going with this in terms of why, why are we talking about Exhibit 41, which is already into evidence?

MR. SCHMIDT: And came in, I think, through Mr., Mr. Clark's testimony before.

CHAIR: Right, which is how we --

MR. SCHMIDT: I think he was the witness who introduced it.

CHAIR: I, and I seem to have the same recollection, because that's why I recall that it was directly across from his driveway.

MR. SCHMIDT: Right.

CHAIR: So, Mr. Holzer, where are we --

MR. HOLZER: I forgot that two months ago, --

CHAIR: Okay.

MR. HOLZER: -- he introduced it.

CHAIR: Okay. So, --

MR. HOLZER: When I saw that it was marked as exhibit, I wanted him to explain.

CHAIR: It's understood, it's understood, it's understood. Objection is sustained. Mr. Holzer, please move

on.

MR. HOLZER: All right. Now, moving on, do you have any testimony that you would like to introduce that has not been testified before two months ago when you were on the stand, in regard to the Petitioner's association and what you would like to comment on about that?

MR. SCHMIDT: Objection. I have no idea what the question means.

CHAIR: First of all, Mr. Schmidt, stand when you object.

MR. SCHMIDT: I did.

CHAIR: Thank you. Mr. Holzer, I don't understand your question. Where were you, can you say it again, please? And I, I apologize for that.

MR. HOLZER: The NAACB, Inc. has raised issues and Mr. Schmidt did it today, in regard to Mr. Morgan's testimony--

CHAIR: I just didn't understand your question.

MR. HOLZER: Huh?

CHAIR: You can ask the question again, I just didn't understand it.

MR. HOLZER: Oh, oh. Okay. Applying your analysis of the Petitioner's Association, do you have any testimony or comment about where their members live?

MR. SCHMIDT: Objection. I still don't understand the question.

CHAIR: What information do you have regarding where, where Petitioner's Association members live?

MR. CLARK: Yeah, thank you.

CHAIR: What information do you have?

MR. CLARK: Can, can I just testify about what I --

CHAIR: You can testify as to answering the question I just asked.

MR. CLARK: Okay.

CHAIR: What information do you have?

MR. CLARK: Currently, none of them live within five miles. Mr. Clarke has sold his property, he has moved. So, there is no, there is no one in the association, or in the community center, who live within quite a distance of the property.

CHAIR: I need to ask you, because you used the phrase community center, are you referring to the community center on Taylor Road or are you referring to the subject property?

MR. CLARK: I, yeah, okay. I, I'm referring to the subject property.

CHAIR: All right. So, there is nobody, to your knowledge, of any member of Petitioner's organization that lies within five miles of the subject property.

MR. CLARK: An analysis has shown of the sign in sheets, okay? Shows that they are from Parkville, Rosedale,

White Marsh and there's even some from out of state.

CHAIR: Okay. Why, what is it about that fact that you find significant to bring to our attention?

MR. CLARK: Okay. This property, or this, this function does not provide any value to the community, to the locale, provides no benefit to the locale. While at the same time, creates quite a bit of disturbance to the locale. We pay, we are paying the price and we get no benefit.

CHAIR: Okay. So, tie it, if you can, I'm sorry, Mr. Schmidt, you were standing.

MR. SCHMIDT: I just want to say, Judge, Mr. Garber, that Mr. Clark's analysis is the precise analysis which Judge Rita Davidson in the seminal case of *Schultz v. Pritz* held was not the criteria by which a special exception should be adjudged. That is, whether there is any value brought by the special exception to the subject locale. Therefore, Mr. Clark's testimony in this regard has no relevance because it has nothing to do with the issue that this Board, nor the standard that this Board needs apply to the special exception case.

CHAIR: Well, my follow-up question, (inaudible) follow-up question just before you objected, was going to be and still is, how would, tie that, what you just said, whatever information you want to convey to us, to a special exception factor to make that relevant for the Board's consideration?

Can you do that?

MR. CLARK: Yeah, that, that's actually later in the testimony, but I, let --

CHAIR: Well, that's, it would be preferrable if we had that now.

MR. CLARK: Yeah, I'm, I'm trying to find it, sir.

CHAIR: Yes.

MR. CLARK: Okay. 502.1(A), sound and disturbance. The, all the events again sound and disturbance. Creating congestion on roads and alleys, B. Drivers unfamiliar with area. Drivers unfamiliar with hazards on the roads. Inadequate sight lines. Create a potential fire, hazard from fire, panic or other danger. And then, I will be covering detrimental to the environment, natural resources of the site and vicinity, including forests, streams and wetlands.

CHAIR: Okay. Well, let's get into that now because here's what I'm, I understand the concerns you just outlined in 502.1 which, frankly, really is the major part of your testimony --

MR. CLARK: Correct.

CHAIR: -- is what your concerns are, how it, this proposed use impacts, how it impacts you but also how it impacts the general vicinity and that particular to this property as opposed to other properties within a similar zone, or within the zone, okay?

MR. CLARK: Okay.

CHAIR: So, with that in mind, you've identified sound and noise, general welfare, creating congestion, hazards on roads, inadequate sight lines, create potential for fire, panic or danger, but the one you have not yet discussed is the environment, forest, streams, detrimental to those things.

MR. CLARK: Right.

CHAIR: What, let me ask you first, your, do you have any, I mean, any evidence you're going to offer, is it being offered as an expert witness?

MR. CLARK: No.

CHAIR: All right. So, these are all lay opinions or lay testimony that you're about to give. What is it you want to tell us about how you believe the proposed use will be detrimental to the environment, forest, streams, etcetera?

MR. CLARK: I, I wasn't really prepared --

MR. HOLZER: Well, objection. He's not ready.

MR. CLARK: Yeah.

MR. HOLZER: He just testified he wasn't ready to, to do that.

CHAIR: I, I, okay.

MR. CLARK: Yeah.

MR. HOLZER: I think you misunderstood what he said.

CHAIR: No, I, I, I did understand that --

MR. CLARK: Yeah, yeah, I think you did.

CHAIR: -- I'm just confused as to why we're not ready to deal with that. Because we have heard certainly ample evidence, not just from Protestants, but from you about the noise, about the traffic and the potential for danger. Right?

MR. CLARK: Right.

CHAIR: We've seen the videos, we've heard audio, we've heard your testimony, in addition to all the other Protestants who have come in to talk about the potential for noise, the potential for traffic, and the potential dangers. So, we've heard a lot of evidence on these points. The one thing I have not heard yet is anything about the environment. Is there a reason why you're not able to talk about that now? Because I'm trying to understand where all this is going in terms of the 502.1 --

MR. CLARK: I, I know, I know.

CHAIR: -- analysis and what you have in between, if we're, we've covered three of these grounds and there's a fourth ground, why are we not able to get to that at the moment?

MR. CLARK: All right.

CHAIR: What did you expect to offer in terms of testimony?

MR. CLARK: Yeah, no, I, I know, I know, I know.

CHAIR: I'm trying to work with you on this.

MR. CLARK: I, I --

CHAIR: Is there something I'm missing here that you wanted to testify about --

MR. CLARK: No, you're not.

CHAIR: -- that you've not otherwise identified?

MR. CLARK: You're, you're not, you're not. You just, you just caught me off script.

CHAIR: Okay.

MR. CLARK: Okay? That's the only problem.

CHAIR: I apologize for catching you off script, but it seems to me that was a logical next step.

MR. CLARK: Yeah.

CHAIR: Do you need, do you need a minute to compose, to go find whatever documents you need for your testimony?

MR. CLARK: It, it would help.

CHAIR: All right. So, let's do that. We will take five minutes to get that stuff ready and I'm sorry to have to cut it off, but I'm trying to actually get to where we're, where we need to go with this case. We have heard a lot of evidence about the noise, about traffic, about danger. We've received the videos, we've received the photos, we received audio. We've received a bunch of things and I'm assuming you still, you may even have one or more other ex, or excuse me, witnesses who may testify to some or more of these points, not to mention expert witnesses. So, from Dr. Clark, since he has now identified environmental issues that he wishes to give a,

his testimony about, let's get to that so that's in the record.

MR. HOLZER: Fine.

CHAIR: All right? So we'll take five.

(RECORDING PAUSED – 03:16:28 PM)

(ON RECORD – 03:33:12 PM)

CHAIR: Thank you. And we're back on the record and where we last left off, Dr. Clark had identified potential detriment, detriment, excuse me, detrimental effects on the environment, forests and streams, I believe were the three things that he mentioned specifically.

MR. CLARK: Okay.

CHAIR: So, Dr. Clark, the question to you is, what did you mean or what do you want to bring to the Board's attention regarding the potential detrimental effects upon the environment, forests and streams?

MR. CLARK: Actually, okay. I, I will answer that and then there's, but there's more.

CHAIR: Okay.

MR. CLARK: First of all, the, the, all right. You, you know that Petitioner awarded me a Ph.D. in naturism at the last meeting. I am a Maryland Master Naturalist.

CHAIR: Okay.

MR. CLARK: I, I work with professionals in three states in the management of forest health and specifically non-native invasive species.

CHAIR: Non-native invasive species.

MR. CLARK: Invasive species.

CHAIR: I guess that would just be the same as saying invasive species.

MR. CLARK: No, not nec, no, no, not, yeah, no. Yeah, --

CHAIR: Because if it's native, it's non-invasive, since it's already there.

MR. CLARK: Well, well, it can be invasive.

CHAIR: Okay.

MR. CLARK: It forms a (inaudible) culture.

CHAIR: Okay.

MR. CLARK: All right. Non-native are ones that don't fit into the ecosystem. They tend to overrun existing ecosystems and things like that. By way of background, there is an animal called Animal Plant and Health Inspection Service, which controls everything that is imported into the United States, okay?

By further background, there is a thing called red list, where various states, including Maryland, proscribe the sale, transport and, and planting of specific plants. For example, bamboo, okay?

We, you probably have heard about, well, I know you've heard about, well, maybe you haven't heard about the spotted lantern fly, which is a new, which is a new animal that

has come into the country and it is devastating to crops. Turns out, it found its host plant, which is tree of heaven ailanthus. That's the first instance where a non-native invasive invertebrate has found its existing host plant. The tree of heaven is used in a lot of southeast Asian plant, landscapes to, and in fact, the National Parks Service is spending millions of dollars over years controlling the escapees from the embassies in D.C. and getting into Rock Creek Park, okay?

Pennsylvania, ailanthus, tree of heaven, it got, it started at the Japanese Peace Temple in Redding, okay? It has taken over that entire county, all the ridgelines, everything, and it has spread throughout the state. Pennsylvania, because of the spotted lantern fly has started a very, very vicious program of eliminating ailanthus wherever they can find it, okay?

CHAIR: Okay. So, it, I mean, I appreciate the wind up --

MR. CLARK: Right, there, --

CHAIR: So, we're getting now to --

MR. CLARK: -- now, now we're getting to my concerns.

CHAIR: -- the subject property.

MR. CLARK: Right.

CHAIR: Okay.

MR. CLARK: Okay.

CHAIR: So, I understand the framework.

MR. CLARK: Yep.

CHAIR: As to where this is going, but let's now get back to this property.

MR. CLARK: All right. So, so, so, so there are several concerns here. First is that plantings would have to comply with Animal Plant and Health Inspection Service requirements. Which means, anything brought into the country has to be quarantined.

CHAIR: If I can jump in there. In your, leaving aside the issues as to expertise or whatever, to whatever (inaudible) exists here, is it your understanding that there are plantings that are going to be brought in from another country? Let's start with that.

MR. CLARK: Well, you know, they, there have been a number of assertions that it reminds the Petitioner of their homeland and just as at the embassies, it is not unnatural for an owner, from a, from a different land, to want to make it, you know, the Europeans did it, right?

CHAIR: And, --

MR. SCHMIDT: Mr. Garber, I'll stipulate we're not bringing in any plants from any other country, subject to, obviously, any rules that the United States government as it were, there is no intention to bring in some plants from some other country.

CHAIR: Well, let me ask you this, and I'm not saying that this is the direction we're going, you don't have to answer this question, but if there is (inaudible) as we're to move forward and there's a condition, please sit up straight, thank you. And there is a condition that only native plants can be planted on the site, --

MR. CLARK: You got it.

CHAIR: -- that, would that resolve your concern? And again, I'm not suggesting that that is something that's happening or whatever, but I'm just trying to address the particular concern --

MR. CLARK: Absolutely.

CHAIR: -- that you are identifying.

MR. CLARK: Absolutely.

CHAIR: And as to whether or not that is something that could, you know, if it is where this case goes down the line, which I have no idea sitting here today, that could be discussed at another time but that would, that would resolve your concern?

MR. CLARK: Absolutely.

MR. MCCOMAS: Was there a particular, was there a particular species that has you concerned?

MR. CLARK: It, it is, it is any, first of all, there is a list at, at, at the Department of Interior, Department of Interior Invasive Species Council. There is a list of

federally recognized invasive species, non-native invasive species. Both plant and animal, okay? Just to, to make this real, there was a case a couple years ago where up in New York City non-native frogs were being found along the Hudson River in New York. And one cultural ceremony was the release of these frogs in, in, into, into the river, you know? It's a salutation to letting things, free, letting things go or, or, or whatever. But, you know, these things happen. And they have consequences.

CHAIR: Okay. Well, now we've heard from Mr. Schmidt and please let me know if I've gotten this correct. That you are representing that if this were to move forward, you would not, you're, that is Petitioner, would not be importing any type of foreign plants or animals and putting them at this property, correct?

MR. SCHMIDT: Yes. Let me just say for the record that the Petitioner will not be violating any Federal, State or local laws as part of its conduct of any religious program here. So, we're not going to be releasing dangerous frogs, we're not going to be sacrificing children, we're not going to be doing anything that is illegal under any statute, including bringing in material or drugs or anything like that. I mean, we would obviously be compliant, I don't know, I guess you could make a restriction that we would have to obey all laws, but we will, intend to obey all laws.

CHAIR: But this is, that's a different answer to the question I asked. Because I had understood two things from what you said. I understood the we'll comply with all laws part, which is why I didn't follow up on that, but I thought you started off by saying that you'll stipulate that you're, and I may be using the wrong words that's why I'm asking you to clarify, that you would not, the Petitioner would not import any type of plants or animals onto the subject property.

MR. SCHMIDT: Yeah. I'm not a botanist, I'm not an arborist. Planting, I, I would suspect you heard testimony about, from Mr. Collagero and Mr. Motsco about the relocation of the intersection, for example, and the disturbance of that area, as well as the enlargement of the parking lot. I would suspect that Baltimore County, as part of any approval for that in terms of permits, depending on the area involved and whether it's in excess of five thousand square feet, which is typically the trigger to obtain a building, I mean, a grading permit from Baltimore County, that the County may require landscaping of some type, on some part of the property. That's just a very common requirement. I'm not sophisticated to tell you what Jim Herman, who is the County's landscape architect will require in terms of the species of planting --

CHAIR: Can we, can we agree --

MR. SCHMIDT: -- if they are whatever he says they will be, if they are not native, I, I don't know whether

they're native or not.

CHAIR: Can --

MR. SCHMIDT: But that's why I say, we will comply with any laws and not bring, we're not bringing in anything from Nepal to make, that would, that is not allowed to be imported or is contrary to any laws as my clients, we, we have no intention of doing that.

CHAIR: All right.

MR. SCHMIDT: Be willing to agree to that.

CHAIR: Okay. So, what I'm hearing is, and correct me if I'm wrong here, but we can agree that Mr. Herman is not going to order that land, landscaping that includes native plants to Nepal. We agree that he's not going to require --

MR. SCHMIDT: I have no idea what --

CHAIR: Hold on --

MR. SCHMIDT: -- I have no idea what Mr. Herman is going to require.

CHAIR: Mr. Herman is not going to require for landscaping Nepalese plants.

MR. SCHMIDT: I don't think so.

CHAIR: Right.

MR. SCHMIDT: I would agree.

CHAIR: Right. So, starting, starting with that, take it one step further, Mr. Herman could order landscaping that includes native plants only.

MR. SCHMIDT: Yes, sir.

CHAIR: Okay. So, --

MR. SCHMIDT: Well, he, I guess he could arguably, and I don't know enough about native plants, Mr. Garber, --

CHAIR: I, I'm not asking you to specify which native plants.

MR. SCHMIDT: But Mr. Herman, Mr. Herman may say uh, you want, I want you to also plant Japanese cherry trees like they have down in Washington, D.C. as part of your landscaping plan. I don't know if that's a native plant or not a native plant and that would run afoul of Mr. Clark's concerns. All I'm saying is we're not going to do anything that violates customs or anything else in, in terms of, we'll, we'll follow whatever the rules are.

CHAIR: Okay.

MR. SCHMIDT: Mr. Herman will tell us what they are and we'll follow them.

CHAIR: Mr. Holzer, is there anything you want to add or say?

MR. HOLZER: I just want to say, I mean, I think what the Board is looking for is to impose, if they decide to approve this, impose a condition.

CHAIR: I was just following up on the comment made about a stipulation that they will not be planting whatever, and I didn't know the scope of that, and that's why I turned to

Mr. Clark to ask him that question --

MR. HOLZER: Yeah.

CHAIR: -- would that satisfy you?

MR. HOLZER: Right.

CHAIR: Kind of thing, and then I don't know where that leaves us sitting here today because I think I'm more confused now than ever as to whether or not what, if anything, could be planted other than --

MR. HOLZER: My --

CHAIR: -- as long as it doesn't expressly violate local, state or federal law, they won't, they won't plant anything in violation of the law. I don't know what that, where that leaves us.

MR. HOLZER: It leaves you, if the Board decides to approve this project, leaves you with putting in a condition which addresses that issue. Not rely on the fact that the Federal government --

CHAIR: I'm sorry, I'm sorry, to be clear, what I meant is, I didn't know where that left us in terms of the representation made as to what stipulation, if anything there is, other than we won't break the law.

MR. HOLZER: I don't think there is a stipulation, I think what has to happen is the Board, if it's concerned about this, has to apply a condition and we may well address that condition in memorandums or whatever, to further define --

CHAIR: And I'm sorry to make this, belabor this point, my only, the reason why I'm bringing this up is only because it sounded as if what was being proposed would satisfy Dr. Clark, but now I don't know what was being proposed with any type of definitiveness --

MR. HOLZER: Correct.

CHAIR: -- for, to satisfy Dr. Clark. So, at the moment, we're just going to move past that, understanding that Mr., Dr. Clark has reservations as to what may be planted there, whether, you know, done innocently or, you know, whatever the case may be. He has reservations as to, I guess, non-native invasive species being made part of any landscaping plan or just planting in general.

MR. HOLZER: In a memorandum, we'll raise the issue of potential conditions that we would like to see the Board impose and as a result of doing it that way, we will attempt to define an appropriate condition for the Board to impose.

CHAIR: Fair, fair enough. Dr. Clark, you heard all that. Is there anything you wish to add to your testimony, you feel we need to know about your concerns, hold on, over non-native invasive species?

MR. CLARK: Just to add that there is a ready reference for native plants that's put out by the National Parks Service, U.S. Forest Service and the Chesapeake Bay Foundation. And it describes, I don't know, maybe a thousand

species and how they benefit both insects, vertebrates, invertebrates, which is, which for me is, is a major issue, you know? I mean, you saw the picture of our property. I mean, the forest needs all the help it can get and thirty acres is a lot of ground and lawn is a waste.

CHAIR: Okay. So, does that, have you then told us everything you want to tell us for your testimony on that point?

MR. CLARK: On that, on that point, but not done with --

CHAIR: I didn't say you were done.

MR. CLARK: Right, okay. Yep.

CHAIR: I know you're not done. On that point. We can move on. You identified forest and streams as well.

MR. CLARK: Right.

CHAIR: I'm not limiting you to that necessarily, but you have environmental concerns, but you specifically --

MR. CLARK: Yes.

CHAIR: -- mentioned forests and streams.

MR. CLARK: Yes.

CHAIR: What is it you want to tell us about forests and streams?

MR. CLARK: Well, they're, they're at the top of, of, of a hill and bordering them on the east side, there's a drainage that goes directly down into Hartley Mill, which feeds

into the Gunpowder. They have testified that they have no septic and they have no water. And we have affidavits of events held there from attendees that show no sanitation facilities.

CHAIR: Let, let me, I'll stop you there. Assuming that because, again, we're going with what they have put in their Petition, religious institution and use --

MR. CLARK: Okay.

CHAIR: -- at the property.

MR. CLARK: Okay.

CHAIR: So, assuming that fact, would you agree or not that there would be septic and water in place if they were to go forward with religious use as proposed? That they would have running water, they would have septic. I mean, you, you don't believe that they're going to conduct their property with any absence of septic and water, correct?

MR. CLARK: Oh, I do.

CHAIR: You think that they would run their property as a temple without water or septic?

MR. CLARK: Mr. Garber, I don't mean to be argumentative.

CHAIR: No, I'm just, I'm trying to get to the bottom of this to see where we can move on --

MR. CLARK: Right, right. The, the fact is, they have.

CHAIR: Okay. I recognize for fundraisers that has gone on and --

MR. CLARK: No, more than fundraisers.

CHAIR: -- for the, for the events and the fundraisers that have been held there, we don't presently have septic and water. That's been established --

MR. CLARK: Nor port-a-pots.

CHAIR: I, understood. Again, no running water, no septic and understanding they have port-a-potties, that's the way it's been functioning. I understand that. There's been plenty of testimony about that on all sides. Moving on from there, is it your expectation that if this is a religious temple that they would not have running water or septic?

MR. CLARK: That's my concern.

CHAIR: Okay. So, now please sit up straight. So, now that we've expressed your concern, assuming that to be the case, that they would not have running water and they would not have septic --

MR. CLARK: If, stuff flows downhill, flows into the drainage.

CHAIR: Okay. If --

MR. CLARK: And it, and it, and that, and my understanding is that that's a trout stream.

CHAIR: Okay. Now that we've established that if they had septic and water, what concerns would you have?

MR. CLARK: Okay. The other is that the, another is the function of the acreage has changed. And by that, I mean ecological function. It has been, what is termed an old field, which is an old farm turning into a meadow and before that it was a farm. That has a big impact on, on water filtration and also sheet flow. And it is now being maintained as lawn.

CHAIR: If I could jump in there. It was an old farm turned into a meadow.

MR. CLARK: Um hm.

CHAIR: Do you have any information as to when the property was last used as a farm?

MR. CLARK: It was an old field up until they started mowing it in 2017.

CHAIR: Okay. You're using the phrase old field.

MR. CLARK: That, that's a, that's a technical, technical --

CHAIR: I, I, I'm not disputing whether it's a technical term or not.

MR. CLARK: Right, right.

CHAIR: I just need to know what you mean by old field.

MR. CLARK: Right.

CHAIR: How are you, --

MR. CLARK: And, and --

CHAIR: -- what are you, what makes it an old field?

MR. CLARK: Old field is a farm turning into, reverting back into a meadow.

CHAIR: How long does farm re, how long do you need for farm to revert back to meadow?

MR. CLARK: It, it's generally two years.

CHAIR: Okay. So, if it's not being used a farm two years ago, what is, how does that factor into this conversion?

MR. CLARK: Well, it's been it, it, it's, it's been an old field, right?

CHAIR: Okay. So, it can be an old field for a long time?

MR. CLARK: Yes. Well, and then eventually, it's, it's a success, it's a succession.

CHAIR: I realize, it's a progression.

MR. CLARK: Yeah.

CHAIR: Okay. Because here's what I'm hearing from you, and this is where I need you to educate the Board, it's an old field, which is the conversion of farm to meadow.

MR. CLARK: Correct.

CHAIR: That can take about two years.

MR. CLARK: Right.

CHAIR: There's nothing in the record that shows this property has been used as a farm any time at all recently.

MR. CLARK: Right.

CHAIR: And when I say recently, I mean, decades.

MR. CLARK: Right.

CHAIR: So, if it takes two years to convert to meadow, shouldn't it already have converted to meadow before the, before the Petitioner had purchased the property?

MR. CLARK: All right. I have never stepped foot on the property.

CHAIR: Okay.

MR. CLARK: Okay? I mean, I've been there thirty-five years. I've never set foot on it, okay? And so, all, you know, yes, it would have been a working meadow at that point.

CHAIR: Now, the consequence of it, again, based on what we've just established, of it being a meadow today, what effect does that have on, as you just put it, water infiltration and sheet flow?

MR. CLARK: Right. A meadow is very effective in filtering water, okay? It's very impor, that, that's why it is such an important part of, of, of the State Bay initiative and it will slow down the water and reduce the speed of the sheet flow. Plus it helps to avoid channeling the sheet flow.

CHAIR: Okay. What else do you want to tell me about that? Or when I say me, I really mean the Board.

MR. CLARK: That's it for I.

CHAIR: Okay. So, that's meadow, okay, so a meadow is better for these purposes.

MR. CLARK: Yes.

CHAIR: All right. So, Mr. Holzer, I see you standing, sorry.

MR. HOLZER: Yes. I think I have something that bears on that issue that (inaudible).

CHAIR: Bless you, bless you.

MR. SCHMIDT: Excuse me.

MR. HOLZER: If it's okay?

CHAIR: Yes, please.

MR. HOLZER: Okay.

CHAIR: Sorry. I was just trying to cut to the chase as to what he meant by certain terms --

MR. HOLZER: No, I understand.

CHAIR: -- and what the consequence was for this subject property.

MR. HOLZER: I have, I have no problem but --

CHAIR: And I want to make sure he got all of his testimony that he wanted to tell us covered.

MR. CLARK: No, and I appreciate what you're doing, Mr. Garber.

CHAIR: Thank you. Where we at? Sixty-five.

MR. HOLZER: Now, can you identify this photo which has now been marked as Exhibit 65?

MR. CLARK: Yep.

MR. HOLZER: What is it and how do you know what it is?

MR. CLARK: I know it because Joann Foxworthy told me --

CHAIR: Hold on. What is it first?

MR. CLARK: Okay.

CHAIR: Let's start with that.

MR. CLARK: What, what is it? It's, it's Joann Foxworthy's backyard.

CHAIR: And you'll have to just identify for the record because it's been a number of days since we were last here talking about where Ms. Foxworthy's property was in relation to the subject property. So, where is it?

MR. CLARK: It's right across the entrance from the, the subject property.

CHAIR: On Bonaparte?

MR. CLARK: On Bonaparte.

CHAIR: Okay.

MR. CLARK: She is, she is on, she is on the west side of Bonaparte, on Harford Road at Bonaparte Ave.

CHAIR: Is it the corner house?

MR. CLARK: Yes.

CHAIR: At Harford and Bonaparte?

MR. CLARK: Yes, sir.

CHAIR: All right. So, this is her backyard, correct?

MR. CLARK: Correct.

CHAIR: All right. So, we don't see Harford Road or Bonaparte in this photo?

MR. CLARK: Correct.

CHAIR: Right.

MR. CLARK: On, Harford Road is on the other side of the fence.

CHAIR: All right. So, there's a, what appears to be a green area. We'll just call it in the top center of the photo.

MR. CLARK: Um hm.

CHAIR: What, do you know what that shows?

MR. CLARK: The, the light green --

CHAIR: Yes.

MR. CLARK: -- between the trees above the fence is the subject property.

CHAIR: Okay. Now, what is it you want to tell us about this photo?

MR. CLARK: This is how the sheet flow from that property is impacting hers?

MR. SCHMIDT: Objection.

CHAIR: Okay.

MR. SCHMIDT: Objection. The photograph speaks for itself. The con, the conclusion that this is how the sheet flow from the property impacts her house, there is, this man is not an engineer, he's not a storm water management expert, the

testimony has been that Harford Road is crowned and has channels on both sides --

CHAIR: Hold on, hold on, your objection is fine, I understand.

MR. SCHMIDT: Okay. There's --

CHAIR: He's not, he's not, he's not an expert on the subject areas that you think are required for purposes to provide that testimony.

MR. SCHMIDT: To, to make any conclusion as to, he, I guess the photograph speaks for itself. But there can be no conclusion that this witness can give that the drainage from the subject property even comes to the Foxworthy property unless he's done some kind of drainage analysis or have some expert ability or qualification to be able to have done that. And as I say, the testimony has been, and there are photographs, that show that Harford Road is crowned, which, so that water would not flow across Harford Road. And there are channels on both the Foxworthy side along the shoulder and on the subject property side, which even a non-expert would see that water would flow from the subject property into those channels and not over to the Foxworthy property. Where this flow is coming from, whether it's coming from Harford Road, whether it's coming up or down --

CHAIR: Mr. Schmidt --

MR. SCHMIDT: -- is speculative.

CHAIR: -- I understand your objection. Some of the matters you identified may be more appropriate for cross examination if allowed. Mr. Holzer, do you wish to respond to Mr. Schmidt?

MR. HOLZER: Yeah. The simple answer is, we can bring Ms. Foxworthy in and have her testify --

MR. SCHMIDT: Bring her in.

MR. HOLZER: -- as to --

CHAIR: Hold on, Mr. Schmidt.

MR. HOLZER: -- and testify ad nauseum that every time it rains heavy, the water comes from the subject site and goes into her, into her yard.

CHAIR: I do think you're going to need to have Ms. Foxworthy come to testify as to what is going on with this condition as opposed to what Ms. Foxworthy may have conveyed to Dr. Clark. I do think that some of the, there is some leap in assumptions here that may be beyond the scope of what --

MR. HOLZER: Fine.

CHAIR: -- Mr., or Dr. Clark is called for. Excuse me. I will sustain the objection but, Mr. Schmidt, we don't need to go too far afield as to it. I understood your objection. Thank you, Mr. Holzer. Thank you, Mr. Schmidt. Okay. So, leaving aside --

MR. HOLZER: Well, now, I, I want to put on the record here, again, we are being forced to bring in someone to

testify so I appreciate the fact that the Board appreciates by your rulings that we are going to have additional witnesses that need to testify. Thank you.

CHAIR: I understand the consequence of that.

MR. HOLZER: Thank you.

CHAIR: Thank you. All right. So, you've heard the ruling. Is there anything else that you could, you want to bring to our attention with respect to the photo, but recognize you can't go too far afield --

MR. CLARK: No, no, --

CHAIR: -- because it relies on, number one, things that Ms. Foxworthy may have represented but also your conclusions drawn therefrom that are not appropriate for purposes of, it really requires a, an expert witness on those issues. Is there anything else you want to tell us about the photo?

MR. CLARK: You tell me if I'm, if, if I'm over the line.

CHAIR: Oh, I think Mr. Schmidt will tell you. But is there anything else you want to tell us?

MR. CLARK: Yeah, yeah, there is. I understand the road is crowned, okay? That doesn't stop when you have the four or five inch rains that we've been having, all right, now now --

CHAIR: Again, this, since this has to take into

account the curvature of the roads and the water flow and all the other issues that we just discussed, --

MR. CLARK: Right.

CHAIR: -- is there anything else you want to tell us that would help us with this photo today, without Ms. Foxworthy being present?

MR. CLARK: Okay. No, other than as a district manager, I am very, I, I am more knowledgeable than most about sheet flow and how it travels across trails and forest roads and that crowning and ditching aren't the answer to everything.

CHAIR: Very well. So, with respect to the issues with sheet flow or water infiltration, is there anything else you want to bring to our attention?

MR. CLARK: No, no.

CHAIR: Okay. So, what else is it about the environment that you feel are potential detrimental effects that you've not otherwise discussed?

MR. SCHMIDT: Mr. Garber, Mr. Garber, has this been given a number for i.d. only?

CHAIR: Sorry, sixty-five, yes.

MR. MCCOMAS: It's sixty-five, yeah.

MR. SCHMIDT: Thank you.

MR. CLARK: I, I, --

CHAIR: I'm sorry?

MR. HOLZER: I didn't mark it.

CHAIR: Go ahead.

MR. SCHMIDT: I thought you did.

MR. CLARK: I think we're done with that one.

CHAIR: Okay. Are there any other detrimental effects on the environment that you have otherwise identified and not testified about yet?

MR. CLARK: No, I think, I think we're done with this.

CHAIR: Okay. Have we talked about all of your concerns, hold on, --

MR. HOLZER: Objection. I have five more pages of questions for him.

CHAIR: I haven't even finished my question.

MR. HOLZER: It sounded as if you're saying are we finished with --

CHAIR: I'm not saying, I, I'm not saying that he's done with your direct yet.

MR. HOLZER: Oh.

CHAIR: I'm trying to get to the end of the 502.1 factors that we've identified to make sure that we've exhausted whichever things that he wants to say. If he has more to say, I'm sure Dr. Clark will be able to let us know that.

MR. HOLZER: I have more that I need to ask him on the 502.1 conditions.

CHAIR: I'm not limiting you.

MR. HOLZER: Oh, okay. I just didn't understand.

CHAIR: I'm trying to get out of him what he wants to tell us about the environmental stuff. He said, correct me if I'm wrong, he's now done on that.

MR. HOLZER: He's finished, he's finished.

CHAIR: So, do I understand that we've had your testimony on noise, traffic, the danger and the environment? Is there --

MR. CLARK: No.

MR. HOLZER: No.

CHAIR: Okay. We haven't?

MR. CLARK: No, no. You have on the environment.

CHAIR: Okay. I need to figure out --

MR. HOLZER: Could, could I handle my witness, Your Honor.

CHAIR: Well, hold on a second.

MR. HOLZER: In terms of asking questions?

CHAIR: Yes.

MR. HOLZER: Okay.

CHAIR: But hold on one second. When we were here before the break, I specifically identified the following from his testimony. His concerns sounds and noise, creating congestion, hazards on road, inadequate sight lines, I'm, I say four because I'm interpreting that as one and the same. And then crease potential for danger, maybe the hazards go to that

too. And then detrimental to the environment, forest and streams. I asked about the first three and then we've had videos and audio and his testimony and I understood those to be relatively finished. Maybe not completely, but relatively finished. It was the environmental one that I thought okay, we haven't heard anything about that, let's exhaust all the testimony and all the whatever else that wanted to be presented on that point. So, if I'm not, if I'm mistaken as to the completeness as to any given factor, I'm not precluding you from asking questions.

MR. HOLZER: Okay.

CHAIR: I'm just making sure, do I have that correct, what I just, just said?

MR. CLARK: The, the, the, the environment, we are done with the environment.

CHAIR: Okay. So, --

MR. CLARK: I, letter I.

CHAIR: -- and your, and your understanding is we're not done yet as to your testimony as to the noise or sounds?

MR. CLARK: Can I, yeah, I need to explain a little bit.

CHAIR: Go, no, that's, yes, (inaudible). By all means, what have you not told us already with respect to the testimony that, or the evidence that you want to present to this Board on those points?

MR. CLARK: Okay. What, what, what I will do with the 502.1 conditions is these were approved, this is an approved statement by the Gunpowder Falls Watershed Preservation Association, okay? The, the, this is, this is our, --

CHAIR: You're switching hats at the moment.

MR. CLARK: Yeah.

CHAIR: From individual to a representative --

MR. CLARK: Well, and the environment, the environment was too.

CHAIR: Okay. To a, an authorized representative for the association.

MR. CLARK: Yes, yes.

CHAIR: And you'll have to forgive me, Mr. Holzer. Have we presented rule eight paperwork regarding that?

MR. HOLZER: It's in the record.

CHAIR: Again, I'm just, I --

MR. HOLZER: I think.

CHAIR: -- off the top of my head, I, I don't recall.

MR. HOLZER: I think.

MR. SCHMIDT: Mr. Garber, with all due respects and it's been a long hearing, but my recollection is there is no such rule eight material. And as a matter of fact, at least based on my last inspection, there is no entity registered with the State Department of Assessments and Taxation known as the

Gunpowder Falls Association. This is a, an organization that Mr. Clark has created and it's him, essentially, as I understand it. But at least there's nothing when I looked in Assessments and Taxation that this organization even exists.

CHAIR: Okay. I, I understand your objection. Mr. Holzer, you've heard the objection from Mr. Schmidt. While we proceed with Dr. Clark's other testimony, if we could find whatever paperwork there is, you have it there? Okay. So, let's present to Mr. Schmidt and see where that takes us.

MR. HOLZER: Before I do that, I want to see --

CHAIR: Hold on. Protestant's Exhibit 28, apparently --

MR. HOLZER: That's what I wanted to see.

CHAIR: -- Gunpowder Falls Watershed Preservation Association.

MR. HOLZER: Correct.

CHAIR: That's already been received into evidence, is that correct, Mr. McComas?

MR. MCCOMAS: Yes.

CHAIR: That's on the chart?

MR. MCCOMAS: Yes.

CHAIR: This has already been received into evidence.

MR. HOLZER: So, these objections I keep having to respond to --

CHAIR: Hold on.

MR. HOLZER: -- I mean, --

CHAIR: Mr. Holzer, I understand your frustration. But also you have to recognize we're trying to understand where this is going. Dr. Clark has indicated he wants to now present testimony on behalf of the organization, not necessarily him at, limited as an individual. So, we have to switch hats and make sure that we have the right things in place for that to occur. Understanding that this is in evidence.

MR. HOLZER: Since it is in evidence, I don't need to share it with anyone yet, do I?

CHAIR: I, I would agree that since it's in evidence, Mr. Schmidt would already have a copy.

MR. SCHMIDT: That's this?

CHAIR: That is correct.

MR. HOLZER: Yeah.

MR. SCHMIDT: And my, my point is, and I have this, a printout from the State Department of Assessments and Taxation, and so they may have a rule eight. There is no entity, no registered with the State of Maryland called the Gunpowder Falls Watershed Preservation Association.

CHAIR: All right. So, --

MR. SCHMIDT: So, you may have a rule eight that Mr. Clark signed, but it is not an entity, at least --

CHAIR: -- I believe that we will deal with that on cross examination.

MR. SCHMIDT: Okay.

CHAIR: I will let you continue, Mr. Holzer.

MR. HOLZER: Thank you.

CHAIR: Yes.

MR. HOLZER: Do you need, do you need a copy (inaudible).

CHAIR: No, we have that. For the record, I just, that's, all I wanted to make sure those I's and T's were properly crossed and dotted as necessary for, for him to be able to testify on behalf of an organization. As to whatever issues that may exist with respect to the organization's existence or other, as Mr. Schmidt wants to bring up, I'm sure he'll get into that on cross examination. And then we can determine later if there's, what effect, if any, his cross examination has on the testimony.

MR. HOLZER: A lot of community associations, they'll be shocked by hearing that.

CHAIR: I don't know, Mr., Mr. Holzer, I'm telling you I don't know the answer to the question sitting here at the moment. I'm saying, please proceed with your, your examination of Dr. Clark as the representative for the association.

MR. HOLZER: I, I will, I will. Before, I think, because of the Board's questioning that's sort of taken over from what documents I had. I do want to go back to the beginning of the testimony where Mr. Clark testified that, that

no one that lives within five miles. Mr. Clarke at least doesn't. So, I want to get this location of members that signed in at this hearing on the sign in sheets. I want to get that in the record.

CHAIR: The sign in, from listed members? I'm not following where you're going with that.

MR. HOLZER: The testimony was, his testimony was, that we have an analysis of where all the people who signed in on the sign in sheets, which are already in evidence before the Board, where they live and this is, that they don't live within five miles of the subject site.

CHAIR: Mr. Schmidt, do you dispute that, that the members of the organization all live, all live outside five miles of the site?

MR. SCHMIDT: I have no idea whether they do or don't and more importantly, what is the difference?

CHAIR: I, well, --

MR. HOLZER: That's fine.

CHAIR: -- that would be my second question as well. I don't know what the relevance is now that I sit here and think about this. That was a question --

MR. SCHMIDT: Is there some requirement under 502.1 that a congregant live within five miles?

CHAIR: I specifically, hold on, Mr. Schmidt, hold on. I specifically asked this question and we got sidetracked

So, Dr. Clark, what is the relevancy to you as to why these people live outside the five miles? I understood you to say earlier, what benefit is there to the community?

MR. CLARK: Right and --

CHAIR: Now, if you could tie that to any special exception factor, --

MR. CLARK: Yes, I can, okay?

CHAIR: Go ahead.

MR. CLARK: In fact, I can tie it directly to 502, which basically requires me to only be concerned about my community and my locale. Okay? I, it doesn't, I don't have to be concerned about Harford County, I don't have to be concerned about the needs of Parkville, I don't have to be the, be concerned about the needs of any place else. And so, my concerns are that this is, this is my community, my locale and it is being disrupted in a major way where there is no benefit to my locale. It's that simple.

CHAIR: Is there anything else you wish to get out of Dr. Clark on this point?

MR. HOLZER: I want to get in the record the location of where the people are because it is obviously relevant to the impact of the neighborhood, quote. We've heard the Petitioners talk, oh, well, you're beyond the neighborhood or where is the neighborhood? Well, this is relevant to where the Petitioners reside in relationship to their impact on the quote,

neighborhood.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Mr. Garber, there's a concept obviously of standing and obviously I understand that it is reduced or not as severe, if that's the proper terminology, in an administrative setting such as this. But certainly standing is a proper inquiry to be made to ascertain where people are from, from a standing standpoint and from a witness standpoint. That, that, it's just completely different than what the assertion is here, that people are, that the Petitioner doesn't have people who live here. I mean, that, that's got nothing to do with the special exception criteria.

There, this, this temple could be established, there could be, Mr. Clark may decide to convert to this religion and adopt this as his home temple. There might be others in the community who begin worshipping here and become, and come here because of the, the testimony. There are special exceptions involving corporations or corporate uses, which don't even have individual natural persons who are part of those entities for a, a, a corporate petitioner. So, I mean, the fact that people live here --

CHAIR: Well, if I could summarize it --

MR. SCHMIDT: -- or don't live here, has nothing to do with any subjective issue.

CHAIR: -- if I could summarize your point?

MR. SCHMIDT: Yes, sir.

CHAIR: Your, if you were to start a Catholic church, do you have to build it in the middle of a neighborhood that's predominantly Catholic?

MR. SCHMIDT: Absolutely, you, certainly you do not.

CHAIR: That would be your, that would be your argument, or the way to summarize your argument --

MR. HOLZER: Can I argue?

MR. SCHMIDT: And he went back and I, let me just say this too, Mr. Clark says again that it doesn't bring any benefit to his community. And I again, and you certainly have judged many special exception cases, if you read *Schultz v. Pritz,* that's exactly the point that Judge Davidson, and that's the seminal case in Maryland that says that is not the criteria. Whether this is beneficial to his community or not, and I would argue, I mean, I could argue that it is. But whether it is or not is simply not the criteria that this Board has to apply and his testimony as to that point, therefore, has no relevance.

CHAIR: Mr. Holzer, how do you respond to the *Schultz v. Pritz* argument? Because I will say isn't there some type of, well, it's been called a presumption in the case law, that there, that this use is not permitted by right, but it is understood to be one that would be beneficial to the community and some of these factors have already been taken into account

so that if it, if--

MR. HOLZER: I'm familiar with *Schultz v. Pritz*.

CHAIR: Right. So, --

MR. HOLZER: Been a long time, Mr. Chairman. The reason --

CHAIR: Mr. Holzer, I understand you've been around a long time. Do you wish to respond to that argument?

MR. HOLZER: Yes, yes. The fact of the location of the participants who have, will be using this property relates directly to whether or not, as you heard in prior testimony, people who live in the area know how to avoid the possible accidents, know how to drive Harford Road, know how to worry about where the curves are, etcetera. People who do not live in the community, do not necessarily share that understanding in regard to traffic, the neighborhood, if they're only visiting once a year or if they've never visited there and are going to an event, a, a, a, whatever kind of event it might be.

So, the relevance of people living in other counties, the relevance of people living in the City, the relevance of people living in another country who will be coming to this, whether it's a religious or whether it's an activity type place to play soccer or to play badminton or volleyball, is relevant to the 502 number one criteria. It's that simple. And, and, if it's not simple, if you don't let this in, I want to mark it as a proffer exhibit and I'm going to start marking documents

as proffer exhibits because I want to have a record on this case on appeal.

So, I think it's fairly clear that if you have people that are not familiar with the neighborhood, they may not be familiar with the road system.

CHAIR: Well, I, I, I'm just going to short circuit all this. I mean, at the end of the day, does it really matter this document, and this evidence? Because you certainly can argue, we all know, everybody has heard for days that people are coming outside of, they're either coming from other counties or coming from the City, they're coming from other states, whatever the case may be.

MR. HOLZER: Yeah.

CHAIR: Okay. That's already in the record. Your arguments as to well, these people aren't, don't know where they're going to be going and there's going to be confusion and there's these problems with the roads, all these arguments are still available to you, they don't --

MR. HOLZER: No, but this verifies the discussion. This verifies the analysis that supports that discussion.

CHAIR: There is no analysis of it. We, it's already established that, that you have a bunch of people coming to the site.

MR. HOLZER: But you don't know where, from where.

CHAIR: I, right, this speaks to your point. There's

nothing in the record that says that, you know, I mean, to the contrary. Like, in other words, you're not rebutting other evidence that's already in the record. This evidence also seems to, number one, I imagine what happened here is you have a list of people, you try to find out where they live. So, now it opens the door as to is this accurate information?

MR. HOLZER: All right. Then mark, then deny it, let me offer it as a proffer, proffer, Protestant's proffer number --

MR. MCCOMAS: (inaudible) so is that a summary?

MR. HOLZER: Yes.

MR. MCCOMAS: Is that just taking this and going down?

MR. HOLZER: Yes, yes.

MR. MCCOMAS: So, so, but you don't know if this is the congregation or not?

MR. HOLZER: I don't know what it is or who those people are.

CHAIR: All right.

MR. HOLZER: Nor do you.

CHAIR: I am going to sustain the objection. You may enter for i.d. only. I understand what you want to try to accomplish. I don't think that that's the way to go about doing I think what you want to accomplish and I think your argument is still preserved in any event. And I don't think

this evidence is going to help the Board one way or the other. I also find it to be, from what my recollection is, to be inconsistent with *Schultz v. Pritz*. But yes, we can mark this as sixty-six for purposes of the record.

MR. HOLZER: I would rather not mark it as sixty-six. I would rather mark it as proffer number one.

MR. SCHMIDT: What do you, what do you mean, proffer number one?

CHAIR: We're not changing designations.

MR. SCHMIDT: I've never heard of such a thing.

MR. HOLZER: I'm proffering this document.

CHAIR: Yes, we, but we have that in other, there are other exhibits that are i.d. only.

MR. HOLZER: Okay.

CHAIR: That is, for purposes of the record. So we know what document you're referring to that has not been admitted.

MR. HOLZER: Fine.

CHAIR: It's the same thing.

MR. HOLZER: That's, that's fine.

CHAIR: So, this will be Exhibit 66, which is identification only. It is not in evidence, it is being received for purposes of the record. And again, I don't think that forecloses your argument in any event.

MR. HOLZER: Sixty-six, did you say?

CHAIR: Yes, sixty-six.

MR. HOLZER: Okay.

CHAIR: All right. Next?

MR. HOLZER: Now I'm ready to ask questions.

CHAIR: Fair enough.

MR. HOLZER: Dr. Clark, you created along with others the Gunpowder Falls Watershed Preservation Association, is that correct?

MR. CLARK: Yes, sir.

MR. HOLZER: That, that organization, is it a corporation?

MR. CLARK: No.

MR. HOLZER: Is it reviewed and approved by any, either State or County local government?

MR. CLARK: Yeah, the, the, the, the County office that takes care of civic associations.

MR. HOLZER: Okay and did they place this on their list to get notification, is that the purpose of the County?

MR. CLARK: Yes, yes, yes. And that's where rule eight applies, is, as far as I understand it.

MR. HOLZER: Okay and how many members of the association are participants in the association per se?

MR. CLARK: We have what, a hundred and twenty landowners, which translates into over a hundred and fifty individuals.

MR. HOLZER: Okay.

CHAIR: When you say landowners, is that residential only?

MR. CLARK: Yes, yes.

MR. HOLZER: Okay.

MR. CLARK: And, and I, I will point out that, that in that area, landowners are far and few between because of the lot sizes.

MR. HOLZER: Now, do you, do you have a copy of the resolutions that were prepared and introduced in this case? If you don't, I can give you one.

CHAIR: You're asking does he have a copy of Protestant's Exhibit 28 in front of him?

MR. HOLZER: Yeah.

MR. CLARK: No, I do not.

MR. HOLZER: Okay.

MR. CLARK: I probably do, but I'll say not. Okay, yep.

MR. HOLZER: Now, what are the boundaries of the association, if you can testify?

MR. CLARK: Gunpowder to Gunpowder, okay? North and south.

MR. HOLZER: I'm sorry, when you say Gunpowder to Gunpowder, Gunpowder River?

MR. CLARK: Yes.

MR. HOLZER: Is north of the property?

MR. CLARK: Yes.

MR. HOLZER: Subject property?

MR. CLARK: Yes, and, and Gunpowder River south of the property.

MR. HOLZER: Okay. That's north and south, what about east and west?

MR. CLARK: East it is Belair Road and west it is Glen Arm Road.

MR. HOLZER: Okay. Does that encompass the subject site?

MR. CLARK: Yes, it does.

CHAIR: Wait, doesn't Glen Arm run east/west? I know it hooks.

MR. CLARK: It, yeah, yeah, and so the, so Long Green Pike and out that way.

CHAIR: Right, so isn't there an outer boundary?

MR. CLARK: Well, Long Green Pike out, out to, go past Fork Church, down Baldwin.

CHAIR: Okay.

MR. CLARK: There we go. Sorry.

CHAIR: No, that's okay.

MR. HOLZER: Okay.

CHAIR: And if, I assume this hasn't been asked, what is the purpose of the association?

MR. HOLZER: Well, I'm going to get to that.
CHAIR: Okay.
MR. HOLZER: But I, if I can, --
CHAIR: Sorry, I'll defer to Mr. Holzer.
MR. HOLZER: -- if I can, I would ask did you create an articles or by-laws of procedure for the association?
MR. CLARK: Yes, we did.
MR. HOLZER: And when did you do that?
MR. CLARK: November 2017, somewheres in there.
MR. HOLZER: Okay. When was the association formed, if you know?
MR. CLARK: I guess around that time.
MR. HOLZER: Okay and the document that's, that's marked here as your rule eight, how many pages of that are attached together?
MR. CLARK: I've got a total of three pages.
MR. HOLZER: All right and how did you know how to do a res, resolve under rule eight?
MR. SCHMIDT: Objection. How did he know how to do it? What's the, what's the relevance?
MR. HOLZER: Because you're going to ask him, counsel.
CHAIR: Are you asking if he, hold on, hold on --
MR. SCHMIDT: It's already in the record, Mr. Holzer.
CHAIR: Whoa, everyone, stop.

MR. HOLZER: Because you're going to ask him.

CHAIR: So, everyone, stop. I don't want to hear comments back and forth. We'll get through this. Sir, do you have familiarity with rule eight under the Board of Appeals rules?

MR. CLARK: Yeah.

CHAIR: Okay. How do you have familiarity with it?

MR. CLARK: It was explained to me by people from Kingsville Association.

CHAIR: Okay and did you review it yourself?

MR. CLARK: Yes.

CHAIR: Okay. As a result of reviewing it yourself and hearing the information that you received, what did you do?

MR. CLARK: We did a resolution and we had a, and we had a vote.

MR. HOLZER: Who had a vote? I'm sure counsel will ask that. Who had a vote?

MR. CLARK: Well, we, we, we had, we had a board vote and then we brought it to the membership.

MR. HOLZER: All right. Who's --

MR. SCHMIDT: Mr. Garber, --

CHAIR: Hold on, hold on.

MR. SCHMIDT: I just, just have a question. Isn't this already in evidence?

CHAIR: It is in evidence.

MR. HOLZER: It is in evidence.
CHAIR: It is.
MR. SCHMIDT: Okay.
CHAIR: Twenty-eight.
MR. SCHMIDT: Thank you.
MR. HOLZER: Okay. I just wanted to avoid any cross examination in regard to the technical aspects since we've had that happen before.
CHAIR: You are preempting some cross examination.
MR. HOLZER: Exactly.
CHAIR: In the interest of expediency?
MR. HOLZER: That's exactly what I --
CHAIR: Thank you very much.
MR. HOLZER: Thank you. All right. Now, if, when, in terms of this document, how did you come to the conclusion to make this resolution and what was resolved, number one? And how many votes, because this was asked before, --
CHAIR: Mr. Holzer, you're, you're asking multiple questions now. So, let's ask one at a time. First of all, we, as to what the resolution reads, we can read the resolution.
MR. HOLZER: Yes.
CHAIR: As to how the resolution came to be, I think that's the question you're --
MR. HOLZER: Yes.
CHAIR: -- you were getting at.

MR. HOLZER: How, how did it come to be? And did it follow the by-laws of the organization?

MR. CLARK: Yes, well, yes, it followed the by-laws. But how did it come to be is a big question.

CHAIR: Well, let, we'll start with this. A meeting, you, under your by-laws you're required to have a meeting?

MR. CLARK: Right.

CHAIR: Okay and who was required to be present for the meeting in order to conduct official business?

MR. CLARK: We had a call to the membership and it is five percent, all right?

CHAIR: Okay. So, you need five percent of the membership to appear. Do you, how many board members do you need to appear?

MR. CLARK: All of us appeared, actually.

CHAIR: Well, how many do you have to have appear to take --

MR. CLARK: Okay.

CHAIR: -- official action?

MR. CLARK: Fifty per, fifty percent of the board.

CHAIR: So, you need fifty percent of the board and five percent of the membership and that, does that include the board? The five percent or is it fifty plus five?

MR. CLARK: Yeah, yeah, yeah, it can, yes, sir.

CHAIR: All right. So, with that in mind, when you

take a vote, is it a vote of the membership that's present and also the board?

MR. CLARK: Yes.

CHAIR: Or is it just the board?

MR. CLARK: No, it's member, it, it would be both.

CHAIR: And what is the requirement for official action to pass? That is, do you need a majority or --

MR. CLARK: Majority, simple majority.

CHAIR: -- so, okay. So, fifty plus what basically?

MR. CLARK: Right, right.

CHAIR: All right and that's of those people present and voting?

MR. CLARK: Yes, sir.

CHAIR: As long as it's five percent of the general membership and fifty percent of the board of directors?

MR. CLARK: Yes, sir.

CHAIR: And so, on the, for your meeting that day, was, do I assume there was some type of agenda or something in which this would be discussed?

MR. CLARK: Yes, sir.

CHAIR: Okay. When you were there discussing it, was it understood that there would be a vote?

MR. CLARK: Yes, sir.

CHAIR: And did you, in fact, take that vote?

MR. CLARK: Yes, sir.

CHAIR: And did you take that vote in accordance with the by-laws?

MR. CLARK: Yeah, we did, sir.

CHAIR: And that's how you came to have the result, which is now embodied in, --

MR. CLARK: Thank you, sir, yes.

CHAIR: -- Protestant's Exhibit 28.

MR. HOLZER: That's correct.

CHAIR: All right. Do we have any other questions as to how the resolution came to be?

MR. HOLZER: No, no, as long as you've covered --

CHAIR: All right. So, next?

MR. HOLZER: All right. Now, when the resolution was passed and it authorized in the resolution you and perhaps some others to testify on behalf of the association, is that correct?

MR. CLARK: Yes, sir.

MR. HOLZER: And you are testifying on behalf of the association in regard to the 502.1 conditions, is that correct?

MR. CLARK: Yes, sir.

MR. HOLZER: Okay. I would suggest that you start with condition 502.1, condition A, be detrimental to the health, safety or general welfare of the locality involved.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Mr. Garber, just from a standpoint of,

of, of repetitive testimony, if the witness offered testimony previously, I think, in his individual capacity, if, if the testimony is being offered now in his capacity as an officer of the Gunpowder Falls Watershed Preservation Association, can we just leave it that the concerns that Mr. Clark has expressed as an individual are those of the association, as opposed to hearing the same thing again and again because he's now wearing a different hat, in effect? I would be willing to proceed in that fashion if it's acceptable to the Board and Mr. Holzer.

CHAIR: Mr. Holzer, is there any problem with proceeding in that manner?

MR. HOLZER: His, his testimony, as I understand it, on behalf of the board is not his personal testimony, it's a compilation of the board's request for him to testify to the Board. So, under the circumstances, I believe anything he says now is on behalf of the association. He's already testified as to some of his personal observations, which I'll get back to because we've been diverted from the outline. So, what he's going to say now is only representative of the board's resolution.

CHAIR: Well, I think what Mr. Schmidt is trying to propose here is whatever extent that it can be incorporated as the same testimony for both, to whatever extent that they may match, let, can we just adopt that into the testimony on behalf of the association and then, if there's inferences that he has

with wearing one hat versus an individual, that we just identify whatever differences there are, because that should be far shorter, presumably, because he has been pretty extensive, I think, to date as to his individual testimony on these issues. And if he has additional ones to offer, so be it. I'm not suggesting that you can't go into that.

MR. HOLZER: With that understanding, that he can go back to his individual testimony that he hadn't gotten to up to this point.

CHAIR: Oh, no, we're, we're talking about two different things. I'm not foreclosing that --

MR. HOLZER: Oh, okay. Okay, fine.

CHAIR: -- I'm just saying, what he has testified to to date has been understood to be as an individual. He's about to present testimony on presumably the same points, there may be some varying --

MR. HOLZER: I'll try to keep it shorter.

CHAIR: -- there may be some variation.

MR. HOLZER: Right.

CHAIR: But for example, if he has complaints about noise, I realize the complaints of the association about noise may be slightly different because the association isn't located across the street from the property.

MR. HOLZER: Right.

CHAIR: But he would have the same issue to raise,

that is, well, we have concerns about noise. That's just by way of example. Or traffic, traffic seems to me to be about (inaudible) because the association would have presumably the same concerns because it's not just limited to the Clark property.

MR. HOLZER: Right.

CHAIR: All right.

MR. HOLZER: With that understanding, I'll, I'll agree that as long as he's permitted to go back to his original testimony, I'm okay with that.

CHAIR: Right, let me just put it like this to make it easier. What differences, what differences in the testimony --

MR. CLARK: Thank you.

CHAIR: -- that you have to offer on behalf of the association compared to you as an individual, as it relates to, we'll start with 502.1(A)?

MR. CLARK: All right. I, I will try --

CHAIR: The difference between --

MR. CLARK: Yeah, that, that's right and I, I will try. Basically I'm going to reference some things and then just, and, and just move on, not introduce --

CHAIR: That's, that's fine. I want to make sure we have it in the record --

MR. CLARK: -- right.

CHAIR: -- whatever it is. I want you to let us know, but I don't want to have to rehash the same thing.

MR. CLARK: Right.

CHAIR: Like we don't want to watch additional videos --

MR. CLARK: No.

CHAIR: -- about the same thing that we just saw, (inaudible).

MR. CLARK: Let me give, let me give you an example.

CHAIR: Yes.

MR. CLARK: Okay. Be detrimental to the health, safety, general welfare of the locality. One, sound and disturbance. Reference David Poehler testimony from day five. Okay? That's what I want to say there.

MR. HOLZER: That's all you want to say?

MR. CLARK: Well, well, but, you know, that, that, that no, no, that's, that's the evidence, you know, that, that's the only evidence reference I would make.

MR. HOLZER: Okay.

CHAIR: So, okay. So, the testimony, obviously Mr. Poehler testified for some period of time from what I recall. He testified to things like music and you could hear talking occasionally and stuff like that. That's the testimony that you're referencing on behalf of the association on top of your testimony --

MR. CLARK: Yes, yes.
CHAIR: -- as an individual?
MR. CLARK: Yes.
MR. HOLZER: We're on board.
CHAIR: All right. So, next, 502.1(B).
MR. HOLZER: No, we still have more under --
CHAIR: I'm sorry. I thought --
MR. HOLZER: -- under health, safety and welfare.
CHAIR: -- I thought that's what he said that that was the (inaudible), I'm sorry.
MR. CLARK: I'm, I'm, I'm going by my outline, I'm sorry.
CHAIR: Go right ahead, sir. My, my fault.
MR. CLARK: And on day four, the, the Mary Clark testimony about the volleyball and the amplified drums.
CHAIR: I recall that.
MR. CLARK: All right. On day five, Joyce Mason, the loud noise and the amplified sound spooked her horses.
CHAIR: Right, and I recall that it spooked her horse but then since then, she got additional horses and so the second event spooked her, the four horses.
MR. CLARK: Yes, sir.
CHAIR: I understand.
MR. CLARK: Okay. We haven't introduced them yet, but under D, --

CHAIR: Well, hold on, we're, if we're moving to another factor --

MR. CLARK: No, no, no, I'm sorry, that's me. I'm misfiring.

CHAIR: Okay.

MR. CLARK: I'm misfiring.

CHAIR: I would, we got to make sure we're sticking--

MR. CLARK: Right, I, I, yeah.

CHAIR: Okay.

MR. CLARK: The, we have, we haven't introduced them yet, but we have all, videos depicting various scenes from various events, not just the, the, the August 29 or July 29, August (inaudible) --

CHAIR: Okay. So, to whatever extent we get to that, --

MR. CLARK: Right.

CHAIR: -- that would speak to some of the issues on behalf of the association?

MR. CLARK: That's right, that's, that's correct.

CHAIR: Okay.

MR. CLARK: Okay.

CHAIR: This is not to be clear, a comment as to what's going on with those videos as of yet, but understood that when that comes up in the future, that's being incorporated back into your association testimony, got it.

MR. CLARK: Yeah, yeah.

CHAIR: Okay, next?

MR. CLARK: All right. A new affidavit, Joann's, Foxworthy's health statement.

MR. HOLZER: Okay.

CHAIR: And this is under, again, A?

MR. CLARK: Right.

MR. HOLZER: This is under A, yeah.

MR. CLARK: This is, this, this, this is about the impact of this use of the way the property has been used on her health.

CHAIR: Is Ms. Foxworthy a member of your organization?

MR. CLARK: Yes, she is.

MR. HOLZER: Do you have it?

MR. CLARK: No, I don't.

CHAIR: Mr. Schmidt, do you have that in front of you?

MR. HOLZER: I gave it to him.

CHAIR: I see you do, okay.

MR. SCHMIDT: This, this affidavit?

CHAIR: Yes.

MR. HOLZER: Yes.

CHAIR: Sixty-seven.

MR. SCHMIDT: I, I have a copy of it, yes, sir.

CHAIR: I just wanted to make sure you were able to review, that's all.

MR. SCHMIDT: I, I'm looking at it now.

CHAIR: Understood. Bless you.

MS. DOPKIN: Bless you.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Yes, yes, --

CHAIR: Oh, I saw you stand, I thought you were ready --

MR. SCHMIDT: I, I was, no. I mean, I object to the document but it hasn't been offered so I'm --

CHAIR: Okay. Well, I think we're getting to that point.

MR. SCHMIDT: -- not trying to be premature.

CHAIR: So, what is your objection?

MR. SCHMIDT: My objection is, if, if this witness wants to submit this, she can come and testify. I mean, why are we getting an affidavit? I would object to an affidavit as opposed to having the witness come and testify.

Additionally, in terms of the substantive things in the affidavit, if I can summarize them, it, it appears to be that she has serious health problems and I, just not quite sure what that's got, with all due respect, I feel sorry for the lady and her health problems, and I'm not trying to minimize them. But I'm trying to figure out what that's got to do with

the special exception at issue. I, I would tell you I, I am aware of the fact that the witness has a criminal record for driving while intoxicated.

CHAIR: Well, --

MR. SCHMIDT: And I would certainly, if the, if the, based on our Maryland Judiciary Case Search, she was convicted of DWI --

CHAIR: Well, hold on. I don't want to hear that evidence right now.

MR. SCHMIDT: Okay. But I mean, I would cross examine her on whether it was alcohol problem that might be causing these problems as opposed to the special exception.

CHAIR: I under, I understand, I understand your point. Mr. Holzer, do you wish to respond?

MR. HOLZER: No.

CHAIR: Okay. So, --

MR. HOLZER: Oh, I'm sorry. I should.

CHAIR: Proceed.

MR. HOLZER: They're already in evidence.

CHAIR: What is already in evidence? The affidavit is not.

MR. SCHMIDT: The affidavit is?

MR. HOLZER: That one is not.

CHAIR: Right.

MR. HOLZER: The ones I have next are.

CHAIR: All right. Here's my thinking on the affidavit. Number one, I do think it's a concern if there are going to be substantive matters that are in here, when this witness would not be subject to cross examination. But also to the point of, this isn't on behalf of the association, where this is an individual conveying her individual issues on, but it's being submitted via the association. It seems to me that the, and do you have Exhibit 28, just so I can reference it real quick?

MR. MCCOMAS: Yeah.

CHAIR: Bear with me one second.

MR. HOLZER: Sure.

CHAIR: The resolution merely illustrates the opposition, that is understood. And it is understood that there were reasons that, for the opposition that certainly Dr. Clark is here to testify to today. Since he is a live witness and we have heard from other witnesses that are already incorporated, I think the more prudent course of action is to sustain the objection and not have the affidavit come in at this point. That does not limit the other testimony that you have given, just as to, solely as to the affidavit and to be clear, it is not to minimize Ms. Foxworthy's health issues or anything else. The concerns that she has, I assume that she may have these concerns but since it does not meet the requirements, I think, for admission here for this Board in

this case, it, we, better to set it aside for now and try to move on.

MR. SCHMIDT: And certainly, if she wants to testify, that would be appropriate --

CHAIR: She's not precluded.

MR. SCHMIDT: -- sure, and I, I look forward to cross examining her.

CHAIR: She's not precluded from testifying.

MR. HOLZER: Would her cross examination include her driving record?

CHAIR: I'm not making any opinions as to the driving record. There's a reason why I shut that down right away because I didn't want to hear it.

MR. HOLZER: But, yeah, and I didn't want to present the woman if she's going to be cross examined on that kind of irrelevant testimony.

CHAIR: Mr. Holzer, we're, we're not even there yet. So, I understand your concern that you're trying to voice here about it. I, and I don't know where it is with respect to whether or not it's appropriate or not. So, I can't make any type of comments as to whether or not she could or could not be subject to whatever questions that Mr. Schmidt, hold on, would otherwise put to her on cross examination. I'm not, I do not wish to hear anything further about any type of DUI convictions, alcohol use or anything else. She is not here. If

and when she were to show up, if it's appropriate, then we will cross that bridge then. I, we do not need to address it sitting here today.

MR. HOLZER: Well, I don't, I don't know whether I want to put the woman in that position or not, so --

CHAIR: Mr. Holzer, that is fine. And again, what I have said about it stands. We do not need to hear anything further about it so please continue with your --

MR. SCHMIDT: Mr. Garber, can I just say, I, I certainly did not intend any offense of Ms. Foxworthy. I --

CHAIR: It was not taken that way.

MR. SCHMIDT: I bring that up because the affidavit or alleged health issues and there might be many reasons for health issues so that's all I'm going to say.

CHAIR: Okay. Well, just, there's nothing more that needs to be said about it. It was not received that way. I understand that you have cross examination perhaps for her.

MR. SCHMIDT: Sure.

CHAIR: For, on whatever basis, irrespective of whether or not there ever was a record of this or not. So, I would already be inclined to not allow the affidavit in on, because there's substantive matters set forth within and there's already additional evidence for the points to which Dr. Clark wishes to use them for purposes of the association so, therefore, it's also duplicative in that, in that regard, so we

do not need to hear from, I guess, the affidavit on those points, when it's already well established through Dr. Clark's other evidence as to the noise issues.

MR. HOLZER: Again, I, I --

MR. MCCOMAS: (inaudible) i.d. only?

CHAIR: I.d. only.

MR. MCCOMAS: Okay.

MR. HOLZER: Again, even though it's been marked for identification and you precluded it from coming into evidence, I want to make sure that, that the word proffer as to its entrance is on the record, because all of this will end up being an issue.

CHAIR: I am not foreclosing your ability to argue that we made errors in our evidentiary rulings --

MR. HOLZER: I understand.

CHAIR: -- specific to any of the exhibits that we've discussed so far.

MR. HOLZER: I understand.

CHAIR: But particularly now in light of the context of Exhibit 67.

MR. HOLZER: And the only thing that I'm, I'm saying, and not to offend the Board --

CHAIR: It's not, it --

MR. HOLZER: I, I understand.

CHAIR: There's, there's no offense.

MR. HOLZER: I understand. But when, when one is in a subsequent appeal, if that is what's going to happen, the, the Courts understand that you, when you proffer a document in and it didn't end up getting considered by the, I just want them to understand what, --

CHAIR: Right.

MR. HOLZER: -- what it is and that's all.

CHAIR: And so, that's why we include it as i.d. only and it, it is made part of the file, though not admitted, --

MR. HOLZER: Right.

CHAIR: -- therefore, for the purposes of the Board's consideration, we do not consider Exhibit 67.

MR. HOLZER: Right.

CHAIR: Though it should be transmitted with the file should there be future proceedings.

MR. HOLZER: Thank you, Mr. Chairman.

CHAIR: Sure thing.

MR. HOLZER: You have certainly outlined it for the, for subsequent inquiry.

CHAIR: Yes, that is fine.

MR. HOLZER: I appreciate, I appreciate that.

CHAIR: No problem.

MR. HOLZER: All right.

CHAIR: So, we're done with Ms. Foxworthy's affidavit at the moment.

MR. CLARK: Okay. I, I, I would say --
CHAIR: Well, there's nothing --
MR. CLARK: Okay, okay.
CHAIR: -- there's no question pending.
MR. CLARK: (inaudible).
MR. HOLZER: Okay.
CHAIR: (inaudible) Mr. Holzer.
MR. HOLZER: Now, next would be in terms of documentation, Ms. Foxworthy's sound affidavit, Robert Shifflett's sound affidavit and Dave Poehler's sound affidavit. I don't want to go into all of the argument again, but in terms of those documents, I would like to put them in, if, if that's, you're familiar with --
CHAIR: If I'm understanding you correctly, you have two additional affidavits to discuss sound?
MR. HOLZER: Three.
CHAIR: Three, sorry.
MR. HOLZER: Three.
CHAIR: What I heard was Mr. Shifflett, Mr. Poehler?
MR. HOLZER: And Ms. Foxworthy.
CHAIR: We, we already dealt with --
MR. HOLZER: It's a different one.
CHAIR: Oh, we have a different Foxworthy, okay.
MR. HOLZER: Yes.
CHAIR: So, we have a second Foxworthy. Now, Mr.

Poehler has already testified.

MR. HOLZER: Yes.

CHAIR: He, he has been here, he has been cross examined by Mr. Schmidt.

MR. HOLZER: Yes.

CHAIR: And so, do I understand this affidavit to be additional?

MR. HOLZER: No. What I want to make sure of, if these three affidavits were already submitted to this Board in the preliminary motion, okay?

CHAIR: They were not received as substantive evidence but they were made part of the motion.

MR. HOLZER: Exactly. And I want to make sure that they are, in terms of the substantive presentation, not just the motion.

CHAIR: Understood. Mr. Schmidt, anything you wish to add?

MR. SCHMIDT: Yeah, yes, I object. I believe it's a fairly fundamental rule of evidence that if a witness has testified, for example, as Mr. Poehler has, I'm not sure why there would be a need, and I don't think it would be appropriate, to allow that witness who has already offered testimony and been cross examined, to then submit an affidavit. If he wanted to testify about the matters in the aff, that are contained in the affidavit, that witness certainly had an

opportunity to do so and I would have had an opportunity to cross examine him regarding those matters. But to, essentially, backdoor, my choice of words, by allowing him to come in, testify about certain things, be cross examined about those things and I would be restricted to the area of direct examination in my cross examination, and then allow him to submit an affidavit alleging or testifying about additional facts, I think is manifestly improper --

CHAIR: Well, if I, if I can --

MR. SCHMIDT: I've never heard of that even under relaxed rules of evidence.

CHAIR: If I could just jump in on that point. To, only to add, we haven't seen the affidavits, first.

MR. SCHMIDT: As, as have I.

CHAIR: And second, right, and (inaudible). But second, he actually was specifically provided direct and cross examination testimony as to the noise issues that he has, personally had experience with.

MR. SCHMIDT: Yeah, I mean, I was trying to look at my notes as I, as Mr. Holzer was saying this, and I believe he did so it's duplicitous on top of --

CHAIR: He talked about specifically music, music coming at 1:00 a.m. in June or July of 2017 from what I recall.

MR. SCHMIDT: Right.

CHAIR: That's the one thing that stands out. I'm

not suggesting it's limited to that, but I do recall testimony from Mr. Poehler on that very point and then there was questions asked about a rock concert held by another neighbor down, a bit away and he said the music didn't sound like rock music to him and, and he's an aficionado of rock music.

MR. SCHMIDT: Right.

CHAIR: Something to that effect.

MR. HOLZER: The, the point of the matter is, you got it all wrong in terms of the sequence. This, these affidavits were submitted on the first day in the preliminary motion, before he ever had a chance to testify or be cross examined.

MR. SCHMIDT: But they were motions exhibits.

CHAIR: I don't think that that makes a difference. I think what, what the point of it is, is whatever he wanted to say he had the opportunity to say, he's not here, so therefore, we shouldn't take the affidavit as substantive evidence since he's had the ability to testify to the very points, presumably that are contained in the affidavit. Now, we're going to go through the same procedure, as we did with the other Ms. Foxworthy, that is, to allow you to introduce into evidence for i.d. only, recognizing these are proffers as to the documents, correct?

MR. HOLZER: That's correct.

CHAIR: Okay.

MR. HOLZER: So, I have Ms. Fox, Joann Foxworthy.

CHAIR: There's a second one?

MR. HOLZER: The second one is Robert Shifflett.

CHAIR: So, Joann Foxworthy was the one before?

MR. HOLZER: It's a different affidavit.

CHAIR: What, there are two?

MS. DOPKIN: Two separate --

MR. MCCOMAS: Two of them.

CHAIR: There are two separate affidavits from Joann Foxworthy?

MR. HOLZER: Yes.

CHAIR: I thought we were talking about two different Ms. Foxworthy's, that's why I was confused.

MR. HOLZER: No, no, I'm sorry.

CHAIR: No, that was my fault. So, okay, so there's another, right.

MR. HOLZER: And then, well, I can tell you, Mr. Poehler testified about music and sound, so you've already said that Ms. Foxworthy and Mr. Poehler's are, are going to be marked in this three packet material, which is, I think would be safe to mark it, mark the one, the three packet material as one. But Mr. Shifflett --

CHAIR: So, 68-A, A, B and C is how we're going to do this. Foxworthy A, who's come, who's page two?

MR. HOLZER: Page two is Mr. Robert Shifflett.

CHAIR: Mr. Shifflett will be B and then finally Mr.

Poehler would be C.

MR. HOLZER: Yes.

CHAIR: These were affidavits attached to your motion at the start of this entire hearing.

MR. HOLZER: Right. Mr. Shifflett never testified.

CHAIR: I know, that's understood.

MR. HOLZER: Okay.

CHAIR: Right.

MR. HOLZER: Okay.

CHAIR: His name has been brought up, I recall, during the course of the hearing at some point.

MR. HOLZER: Right.

CHAIR: But he has not testified.

MR. HOLZER: Right.

CHAIR: Mr. Schmidt, do you understand that that's how this is being received at the moment?

MR. SCHMIDT: Yes, and you're marking all three for identification purposes only.

CHAIR: Yes, 68-A, B and C marked for identification.

MR. SCHMIDT: Yes, sir.

CHAIR: I think we've already exhausted and covered the grounds as to those points.

MR. SCHMIDT: I believe so, thank, thank you.

CHAIR: So, the same ruling that was provided for the other Foxworthy affidavit will be made part of 68-A, B and C as

well. All right.

MR. SCHMIDT: Thank you. And it's sixty-five?

MR. MCCOMAS: No, sixty-eight.

CHAIR: Sixty-eight.

MR. HOLZER: Sixty-eight.

MR. SCHMIDT: Sixty-eight, I'm sorry, thank you.

CHAIR: Thank you.

MR. SCHMIDT: I didn't think that was right.

CHAIR: All right. Next, Mr. Holzer?

MR. HOLZER: I believe you wanted to under detrimental to health, safety and welfare, Morgan Minor's sound and lighting affidavits. Has Ms., go again, explain who Ms. Morgan is.

MR. CLARK: She can't be here and Morgan Minor lives on Harford Road, about eight-tenths of a mile from the property. And she has complaints about, about the amplified sound and then the way the light, the up lighting at the mansion at night.

CHAIR: Was Ms. Minor here on any day thus far?

MR. CLARK: Yes, she was.

MR. HOLZER: She originally attended, I think, the first couple days and then she travels for employment.

CHAIR: I seem to think that on November 1st she was here because you were referencing things that she printed out from Facebook or wherever else and then --

MR. CLARK: I don't think she was here on November 1st (inaudible).

CHAIR: Okay. I seem to recall you gesturing toward the audience as if she was. I would, I don't know who she is, so.

MR. CLARK: Yeah.

CHAIR: That's why I'm asking this question.

MR. CLARK: Yeah. No, no, she's been here.

CHAIR: But she has been here. But she cannot be here today?

MR. CLARK: And, and tomorrow.

CHAIR: And tomorrow.

MR. CLARK: And then she's leaving for Europe or some, yeah, she's --

CHAIR: Okay.

MR. CLARK: -- one of those people.

CHAIR: So, you're going to submit an affidavit as to specific substantive matters --

MR. HOLZER: Very short.

CHAIR: -- for that, so that will be received in the same manner as the other affidavits. Sixty-nine. Mr. Schmidt, that is your understanding?

MR. SCHMIDT: Yeah.

CHAIR: I assume you have the same objection and which will be sustained.

MR. SCHMIDT: Yes, sir.

CHAIR: So, that will be applicable, sixty-seven, sixty-eight, sixty-nine.

MR. MCCOMAS: Mr. Holzer, do you have many more affidavits like this?

MR. HOLZER: Let me just check.

MR. CLARK: Maybe not today.

CHAIR: Hold on, sir, there's not a question pending.

MR. CLARK: Yeah, yeah, yeah.

MR. HOLZER: Let me just look. Well, there, there are, there are some affidavits that are new, not old affidavits from the motion.

CHAIR: All right. Well, let's do this in the interest of, again, trying my best to figure out what would be expedient. We know generally, obviously, haven't seen them all yet, but where we stand with respect to the affidavits. But with respect to actual testimony that this witness can give today, we could go through the affidavits and deal with that separately, it seems, if it's going to run in the same pattern it has for sixty-seven through sixty-nine. And let's just get to the association testimony as to whatever, what other evidence we can get in the record, that's, you know, while we're here.

MR. HOLZER: Okay.

CHAIR: So, is, would that be okay, Mr. Holzer?

MR. HOLZER: Yes.

CHAIR: If we do that? All right. So, we're all, as far as I know, we're still on A.

MR. CLARK: Right.

CHAIR: 502.1(A). Leave aside all affidavits.

MR. CLARK: Last thing.

CHAIR: Okay.

MR. CLARK: On, on, on A. The value of solitude, which is why we, everybody says they have moved out there.

CHAIR: Yeah, that's why everyone moved out there.

MR. CLARK: Right, you know. And the disturbance of that solitude by, by the use of the site as it has been used, all right, I've told you I'm very big in the wilderness area, all right?

CHAIR: We're talking about your testimony as the association.

MR. CLARK: Yeah, yeah, right. But as, as someone who has been, all right, I received, in 2017, I went down to (inaudible) National Forest, participated in a U.S. Forest Service training on the Wilderness Act of 1964.

CHAIR: Okay.

MR. CLARK: Okay? The only reason this is being brought in, --

CHAIR: Okay.

MR. CLARK: -- is because in 1964, the Congress, in

its wisdom, determined that solitude was a, was, had, had the same importance as minerals, water, air, all the other resources. Now, it only applies to designated wilderness areas, okay? But the point I'm trying to make is that solitude is seen as, as a very important value. A very important resource. And it has been acknowledged as such. I had, we have a copy of the Act for you, okay? Here's my little book.

CHAIR: I see he pulled the book out of his pocket.

MR. CLARK: Like the Constitution.

CHAIR: Yes, thank you.

MR. CLARK: And, you know, and, and so, and it's that, you know, and this goes to what everybody, in --

CHAIR: (inaudible) your wife has, your wife has indicated --

MR. CLARK: Well, the entire board, right, right?

CHAIR: But how does this relate to the association?

MR. CLARK: The association is, is, is very concerned about the loss of solitude.

MR. SCHMIDT: Mr. Garber, just to avoid any objection, is, is this a designated wilderness area?

MR. CLARK: I just said no.

MR. SCHMIDT: It is not?

CHAIR: That, that's how it was received by me. That it was not.

MR. SCHMIDT: Okay.

CHAIR: But he's extrapolating from that as to the value of that factor and how that's incorporated in the general health, welfare --

MR. CLARK: Yeah, yeah, yeah, that's fair.

MR. HOLZER: All right. I have the Wilderness Act here, which --

CHAIR: This will be seventy-one, sir?

MR. MCCOMAS: No, seventy.

CHAIR: Seventy, sorry.

MR. CLARK: And I can --

MR. HOLZER: No, hush.

CHAIR: Hold, hold, hold on, Dr. Clark.

MR. HOLZER: Sorry, I apologize, but.

CHAIR: It's important to listen to your counsel in this regard. There's no question pending.

MR. HOLZER: Thank you. Just wanted to make sure everything was correct.

CHAIR: All right.

MR. HOLZER: And that is number seventy?

MR. MCCOMAS: Yes.

MR. HOLZER: Now, let me ask you this --

MR. CLARK: Can I have a copy?

MR. HOLZER: Pardon?

MR. CLARK: Can I have a copy?

MR. HOLZER: Oh, okay. You can have my copy.

CHAIR: Mr. Schmidt, I assume you don't have an objection to the Wilderness Act itself being admissible? I understand you may have a concern as to its applicability, which I assume you'll reserve for argument and/or cross examination.

MR. SCHMIDT: Yeah, yes, sir, that's correct.

CHAIR: But as to the admission of Exhibit 70, it is a public, well, --

MR. SCHMIDT: Yeah, I mean, I'll be honest with you, my knowledge of the Wilderness Act of 1964 leaves a little bit to be desired, whether this is still good law or not, I don't know, but I'll argue it eventually. Thank you.

MR. HOLZER: Well, that, that's because us old people are familiar with 1964 legislation.

MR. SCHMIDT: I remember it.

MR. HOLZER: You weren't even born yet.

MR. SCHMIDT: I was here.

CHAIR: It will be, it will be admitted. It will be admitted.

MR. HOLZER: Thank you.

CHAIR: Yes.

MR. HOLZER: Thank you.

MR. SCHMIDT: We can argue what it says and its application.

MR. HOLZER: You can, you've already expressed the

parameters for introducing this, is that correct?

MR. CLARK: Right.

MR. HOLZER: You're not saying that it applies to this --

CHAIR: It is not controlling.

MR. CLARK: No, no.

CHAIR: Over the decision making but you are saying that the factor itself is a consideration as part of, again, the 502.1(A) in terms of your health, general welfare --

MR. CLARK: Yeah, that has been recognized --

CHAIR: (inaudible) do you feel that that's fair to consider as a --

MR. CLARK: -- as a, as, as an important part of the human experience.

CHAIR: Understood. That's how at least it is being received by us, that was --

MR. HOLZER: Perhaps that Act should be addressed to this proceeding too maybe.

CHAIR: Either that we're in the wilderness or that we need the solitude?

MR. HOLZER: That we need the solitude.

CHAIR: Or both, yes. All right. So, with that in mind, it sounds then from what I understand, we're done with talking about 502.1(A), because you said this is the last.

MR. HOLZER: No, we're not.

CHAIR: Is that correct or not?

MR. CLARK: I, I, I thought, Carroll, I, I don't know.

CHAIR: All right.

MR. HOLZER: Under 502.A, dealing with sound and disturbance, we are finished.

CHAIR: That, that was what I, I'm sorry if I wasn't clear. That was my understanding.

MR. HOLZER: Yeah, and I'm sorry, but we still have adequate sanitary facilities, etcetera, to, which can affect the health, safety and welfare. So, the question is, do you want to continue to proceed, is there an appropriate time for the Court, or for the Board to stop --

CHAIR: I'm willing to proceed as long as Ms. Dopkin and Mr. McComas are.

MR. HOLZER: Okay.

CHAIR: All right. So, let me back up here because what I'm hearing is, what is to come is adequate sanitary facilities, which we've heard evidence about the lack of septic and water. Yes, Dr. Clark? You need a time out? Okay.

MR. HOLZER: And I would put on the record, we did start at 9:00, which is above, an hour before the normal 10:00 start hearing and it's now 5:00.

CHAIR: Yes.

MR. HOLZER: Just for the record.

CHAIR: No, not a problem. We are going to take a five minute break so Dr. Clark can attend to other activities.

(RECORDING PAUSED – 05:00:06 PM)

(ON RECORD – 05:05:14 PM)

CHAIR: All right.

MR. CLARK: I'm talking about the need to --

CHAIR: Oh, oh, no, that's okay. Yes. All right. We're back on the record. We're resuming with Dr. Clark.

MR. HOLZER: Yes. And we're still under the health, safety and welfare of, of 502.1, conditions.

CHAIR: My idea for today is to get through as much as possible, including get through all of 502.1 factors for the association and for Dr. Clark to the extent we've not already heard whatever it is he wants to say about it.

MR. HOLZER: We're going to be here until 9:00, 10:00.

CHAIR: The, that's not going to be acceptable, whether there's a day three. Because he is one witness, though he has two different roles, most of which are overlapping. We've already had him here on the stand all day for November 1st, whatever amount of time he spent all day today. I'm trying to move this along. We're not, there's no way on earth we can have another three to four hours of direct on Dr. Clark. That can't be the case. This is a special exception case, we've identified what factors are in play. I agree we may not have

exhausted it, I understand that. I'm not saying you can't ask the questions.

MR. HOLZER: I'm going to ask the question, Mr. Chairman, unless you tell me I can't.

CHAIR: But you need to be mindful of this is one witness in a special exception case that is going to be three days that, that seems to be a bit disproportionate.

MR. HOLZER: Your Honor, I, I was concerned about that and I watched and went back and looked at what the developer put on, or the Petitioner put on. And they ended up having to recall a witness who, who after investigation --

CHAIR: Mr. Collagero came back on the stand.

MR. HOLZER: Yes. And, and went through all that again. So, I, I --

CHAIR: And, and Mr. Holzer, just to steal your thunder there. This is not a comment as to how your case is proceeding, that is, I understand you have additional witnesses to present and it may take a couple, you know, some more time with them. I'm not discounting any of that. That is what it is. I'm saying this one witness for three days is a bit much. We need to figure out how to streamline this because we've heard a lot of evidence about, again, noise, traffic, safety concerns, the environmental concerns now, for, individually. Now we're into the association which, again, I recognize there are differences, you have to go through that. So, let's try to

do what we can to get as much out today.

MR. HOLZER: I've been trying to do that in terms of the --

CHAIR: I'm not, this isn't an admonition of you.

MR. HOLZER: Okay.

CHAIR: This is not. This is just me saying let's all get through this because I don't want to, and I'm sure Dr. Clark certainly doesn't, have a third day to testify at, on these factors which we've already heard a lot of testimony.

MR. HOLZER: Your Honor, I, just for the record though, to make, to make sure the Board understands, in terms of some of his testimony, it, it almost relates to a last wit, a last lay witness from the community summarizing what has been going on. And that's, and that's what he's trying to comment on. I mean, if somebody said something and he wants to rebut it for the, for the Protestants, that's what he's trying to do. Not retry the whole case over but --

CHAIR: No, and I understand that. And I'm trying to work with it too and I understand that he's trying to make some comments here and there about certain evidence that he finds important.

MR. HOLZER: Right, right.

CHAIR: And wants to make sure that we are aware of and, you know, --

MR. HOLZER: Exactly, exactly, you nailed it.

CHAIR: Right, it just, the, the concept of where we'll need another third whole day for him is not something that this Board, at least I don't feel personally comfortable with. I can't speak for Ms. Dopkin or Mr. McComas, but again, we have other witnesses still to come and we've had heard, I will, I will classify it as ample evidence as to the specific factors that have been identified to date. If there are additional points to be made, by all means, --

MR. HOLZER: And I, and I just, I, I understand what you're asking.

CHAIR: Right.

MR. HOLZER: One of the problems is that there is documentation, either written documentation or visual documentation, that rebuts some of the testimony of the Petitioners and that has not been brought before the Board. You've heard one testimony from the Petitioners and then you've heard testimony from the community but there hasn't been a rebuttal type of testimony that the community has been able to present.

CHAIR: I understand.

MR. HOLZER: And, and that's why --

CHAIR: We'll, we'll figure that part out. Just, I want to make sure we get all the 502.1 factors into the record and then see what is left over and we'll move on from there. Where we last left off, it was adequate sanitary facilities.

MR. HOLZER: Yes.

CHAIR: You have discussed that there's no septic, no water. We went through as to your, whatever testimony you wanted to provide. If it was operated in the religious manner proposed without septic or without running water and with septic and running water. What is it on behalf of the association you, do you want to address on those points to the extent that there's a difference? If it's the same, it's understood that you're incorporating your prior testimony into it. If it's from the association, there's a difference, that's what I'm asking you to identify.

MR. HOLZER: I, I apologize. I was looking to try to move on and didn't understand --

CHAIR: I was just saying we've had testimony as to if there is the temple to go forward, does he have a concern about the septic and water? He said yes, that they may not have septic and water. I asked him to identify those concerns and bring out that evidence. And then I said, now let's assume that there would be septic and running water, was is your, what are your concerns and what is that evidence? So, we have it covered both with and without as a religious use.

MR. CLARK: Can, can I answer --

CHAIR: And then now I'm asking with respect to the association, what difference in testimony in light of that does, is it, does the association have that's different than

what he has as an individual on those two subsections.

MR. CLARK: Okay. Can, can I, basic, I think we've just got some affidavits to fill, to, to enter in as i.d., however they've been.

CHAIR: Okay.

MR. HOLZER: And that's what I was working on try to keep --

CHAIR: Oh, no, and I understand that. But just so we're clear, for the adequate sanitary facilities, is it the, any additional evidence would consist of the affidavits that have yet to be offered or proffered to the Board?

MR. CLARK: What the affidavits will concern.

CHAIR: Well, I, I, again, understanding that the aff, that Mr. Holzer will present the affidavits --

MR. CLARK: I'm getting tired, so, --

CHAIR: It's okay. He'll present the affidavits.

MR. CLARK: Right.

CHAIR: Let's leave that affidavit stuff aside for the second. Is there any other evidence that you want to present or testimony for the association on the matter of the adequate sanitary facilities?

MR. CLARK: Okay. I would just reference Robert Powell's testimony.

CHAIR: Robert Powell's testimony.

MR. CLARK: Thank you, sir.

CHAIR: Okay. What about Robert Powell's testimony?

MR. CLARK: That the septic, that the septic system has failed, --

CHAIR: The, the existing septic system has failed.

MR. CLARK: Right. Has failed, there is none at the moment and that they were preparing a well, all right? That they had no water.

CHAIR: Okay. Now, the other test, or the other evidence you wish to put forward on this point are consistent with the affidavits?

MR. CLARK: Yes, sir.

CHAIR: All right. So, let's show Mr. Schmidt those. And we'll get back to you in one second.

MR. SCHMIDT: Thank you.

MR. HOLZER: And I'll show you this, and for the record, it's a packet of affidavits.

CHAIR: Seventy-two?

MR. MCCOMAS: It's seventy-one.

CHAIR: Seventy-one, sorry.

MR. HOLZER: It's a packet of affidavits from different people.

MR. CLARK: Do I, don't, I don't really need that, do I?

MR. HOLZER: Yeah, if you need it to, to look at it in case there are any questions.

MR. CLARK: Okay.

CHAIR: All right. So, I reviewed, or gone through the affidavits here and it just, as best as I could tell, going through quickly, it establishes the same points that I don't think there's any dispute. There is no, there is, at present, no functioning septic system and no running water.

MR. HOLZER: And no port-a-potties.

MR. SCHMIDT: Well, they bring --

CHAIR: And no port-a-potties.

MR. SCHMIDT: Well, they, I think the testimony was they had port-a-potties for the fundraising events.

CHAIR: Right. So, but if I were to go to the site right now, --

MR. SCHMIDT: Today, is there a port-a-potty --

CHAIR: Well, hold on, I don't need to know that, in evidence --

MR. SCHMIDT: Oh, there is, there is one there now.

CHAIR: Okay. But be that as it may, there's not running septic and there's not running water.

MR. SCHMIDT: Right.

CHAIR: And your concern is, as you mentioned before, they just had port-a-potties and that would be your concern going forward, if there was no running water and no septic. That testimony is the same for you and the association?

MR. CLARK: Yes, sir. Yes, sir.

CHAIR: All right. So, on that basis, with respect to the affidavits, they'll be treated in the same manner. I also find it duplicative because the evidence which they put forward again, seems to be the same as what's already been established and apparently largely agreed upon on both sides, anyway.

MR. HOLZER: These were, these were affidavits --

CHAIR: I understand with the preliminary motion.

MR. HOLZER: Yeah.

CHAIR: Right.

MR. HOLZER: Gotcha.

CHAIR: Done then. But for purposes of substantive evidence today, it's going to be treated in the same manner as the other affidavits as before.

MR. SCHMIDT: Seventy-one i.d. only.

CHAIR: I.d. only.

MR. SCHMIDT: Thank you.

CHAIR: Yes. Is that it for that subject matter? Okay, does that --

MR. HOLZER: No, it's not. There is a question, did you personally observe something that you needed to testify to on behalf of the association? I mean, I don't want to put words in your mouth.

MR. CLARK: No, no, no, no. I, no, I know and thank you. But you did.

CHAIR: Okay. So, what is it you would like to say on behalf of the association?

MR. CLARK: Yeah, I, dur, dur, during the event July/August 2018, we counted a total of three port-a-pots for over five, over three hundred people a day at any rate, if not five hundred and no service trucks.

MR. SCHMIDT: Just to be consistent, objection. So, so what? Obviously, if we get an occupancy permit, we're going to have to, Mr. Powell testified about all this.

CHAIR: You, I have your, I have your objection on the record. I will say whatever happened in July/August 2018 with three port-a-pots, it's understood that there was no functioning septic system, no running water, it's understood that there were port-a-pots there. The sufficiency of which for the attendees, I believe, is not something to, correct me if I'm wrong here, but you don't have an area of expertise to even say what would be appropriate, what is not appropriate --

MR. CLARK: Other than the fact that I clean privies for a living, no.

CHAIR: Understood. And so, we can move on from there. All right. So, I'll sustain the objection in that, in that respect understanding everything that's been said prior to the testimony on that point.

MR. HOLZER: And this is, are more affidavits so we can get these out of the way.

MR. CLARK: Which affidavits were these?

MR. HOLZER: These are the affidavits --

CHAIR: Well, why don't you identify them for the record?

MR. CLARK: Oh, I'm sorry.

CHAIR: If, I mean, I guess it's coming to you unless Mr. Holzer wants to proffer it to the Board?

MR. HOLZER: No, this is, these are affidav, this is the packet that I just gave the Board regarding port-a-potties.

MR. CLARK: Oh, okay.

CHAIR: Okay. So, these, okay. This speaks to the port-a-potties and the point that you, you just, you just identified.

MR. SCHMIDT: Also talks about Councilman Marks, I believe.

CHAIR: Okay.

MR. SCHMIDT: Which, which I'm sure is, I don't think is appropriate.

CHAIR: Yeah, I don't know why that would be in there anyway. So, --

MR. CLARK: That, that actually goes to a different part of our case, someplace else --

CHAIR: I believe there was already testimony in here regarding various things said by Councilman Marks and Senator Brochin at some fundraiser when the code enforcement was called

and --

MR. CLARK: You got, okay, you got a great memory. Thank you.

CHAIR: Thank you. So, I do recall that there was some testimony in the record regarding that. Having said that, these affidavits will be received in the same manner as was just described for Exhibit 67 through 69 and 71. Because I believe seventy was a different exhibits. Yes, the Wilderness Act. All right.

MR. HOLZER: Now, for, for purposes of what his outline had next, related to the police reports. And I understand at the time this was prepared, we didn't know what the Board's decision was. So, I'm not going to get into that issue. Now, there was a question that the community had, I believe, related to fire.

MR. CLARK: Yes.

MR. HOLZER: And that was an issue under health, safety and welfare, and it could also go under create a potential hazard from fire.

MR. CLARK: Yes, yes.

MR. HOLZER: So, but this is, the Order that I have, the outline --

CHAIR: That's fine, as a topic.

MR. HOLZER: As a topic.

CHAIR: Understood.

MR. HOLZER: So, --

CHAIR: What is it you wish to tell us on behalf of the association as to a concern about fire?

MR. CLARK: We have a video, again, culled from videos that Petitioners, --

CHAIR: Well, before you describe what's on the video.

MR. CLARK: Okay.

CHAIR: Let's express what the concern is.

MR. CLARK: Oh, okay. Unsafe use of fire.

CHAIR: Unsafe use of fire. Okay. All right and I assume then that you have a video that will depict whatever it is that causes you to have that concern?

MR. CLARK: Yes, sir.

CHAIR: When I say you, obviously I'm referring to the association.

MR. CLARK: Yes, sir.

CHAIR: All right. Now, that's going to require a video to be played?

MR. CLARK: Yes, sir.

CHAIR: Mr. Holzer, I'm going to leave it up to you. Do you want to save the videos or start the videos, or just go through in accordance with your outline?

MR. HOLZER: I, I only, for purposes of this, I just need to play the one. And I --

CHAIR: Is, so, let me ask, for the remainder of the factors to be discussed on behalf of the association, are there other videos to be played that have not already been played?

MR. HOLZER: Let me look.

CHAIR: Because it would be my inclination to play videos back to back to back to, if there is more than one.

MR. CLARK: It doesn't look like it.

MR. HOLZER: There, there, there are dash cam photos, photos but no --

MR. CLARK: Yeah, most of them just reference things (inaudible) already shown.

MR. HOLZER: Okay. So, there are no more videos other than this one in, under the 502 criteria, is that correct?

MR. CLARK: It looks like it to me, yes.

MR. HOLZER: Okay, because I want to answer Mr. Garber's question.

CHAIR: So, I understand, or looking at Exhibit 51, there was a video DSC-7045 fire, is that the one?

MR. CLARK: Thank you.

CHAIR: Is that the one?

MR. CLARK: That's the one.

CHAIR: Okay. It is new, as in it has not been previously part of another disc. Therefore, Mr. Schmidt has not had the opportunity to review that video prior to it being

played here. Mr. Schmidt, in light of that, does that cause you any type of reservation as to how, how to proceed today with that video?

MR. SCHMIDT: I mean, obviously I don't have any idea what it is showing, as I haven't seen it --

CHAIR: I'm trying to be consistent with the rule, prior ruling.

MR. SCHMIDT: Yes, sir.

CHAIR: That you should have the opportunity to review videos before they're played to see what objections, if any, you may have.

MR. SCHMIDT: Yeah, and I, I guess the other part of it, I would certainly like to do that, Mr. Garber, if possible. I recognize our time constraints and I want to move it along. I guess the other, I don't know whether it's a question or a comment or how to phrase this but, I think the context of fire in 502.1 is, since the entire concept of a special exception is whether there would be a danger from fire, essentially, going to another property. I mean, because it's the impacts on adjacent properties, not on the subject property, which is the special exception criteria. And this is such a large property, I'm struggling to understand how --

CHAIR: If I could steal your thunder there on that? I have same, some of the same questions that you may have.

MR. SCHMIDT: Yes, sir.

CHAIR: I don't think that we're, we're going to sit here and be able to --

MR. SCHMIDT: Why, why don't we play the video and then I'll object if I want to.

CHAIR: That's kind of where I was going with it.

MR. SCHMIDT: That's fine.

CHAIR: Is the only way to answer some of those questions is to actually the video.

MR. SCHMIDT: Yes, sir.

CHAIR: But I wanted to at least give you the opportunity to view it beforehand if you --

MR. SCHMIDT: I'm, I'm fine with the Board looking at it.

CHAIR: All right.

MR. SCHMIDT: If I object, you can strike it.

CHAIR: You may play the video now.

MR. HOLZER: Okay.

CHAIR: Now, what we are seeing on this video, is that the unsafe use of fire or is this just the introduction part?

MR. CLARK: No, it's, it's pretty much, you know, and then it, it goes on a little bit. But it's, you've, you've got all these flammable garments inside a tent and there is, don't forget, the Bonaparte mansion was rebuilt as a result of a major conflagration that happened on the property. And there

is no ready access for the fire equipment. There are no fire extinguishers aro, avail, around. There is no kind of hosing or any kind of safety, you know, mitigation. There is not a pond to draw water from. There is no running water. So, it is our concern.

MR. HOLZER: The, the comment from Mr. Schmidt related to the effect upon adjacent properties. Now, in terms of if this tent were to go up in flames, --

CHAIR: Well, if I could just jump in there --

MR. SCHMIDT: We're not going to have a tent.

CHAIR: -- because --

MR. HOLZER: Or the building.

CHAIR: Well, we're, we're talking about an event that already happened, that the evidence introduced to date has suggested they're not going to be in a tent to do this again. So, we have to apply it going forward so take it out of the equation of what you see in the video, apply it to whatever you think is going forward for purposes of your question.

MR. HOLZER: Obviously.

CHAIR: Yes.

MR. HOLZER: Obviously. If he can ask (inaudible) I can at least suggest that the use in a religious institution, such as we just saw there, and I assume that was an action in terms of a religious connotation. At least that's what it looked like to me, if you're in a building and the building

catches fire, the question is whether or not that fire could spread, the embers could spread and so forth. So, I don't think the issue of fire, it can be excluded because this is thirty acres. I, I think the real question is whether or not in this religious connotation flames being carried around, such as you saw on the video, can potentially create a fire problem.

CHAIR: Um hm.

MR. HOLZER: And I, that's why I think the video is relative and the testimony I, I'll let, Mr. Clark go into what they, what he's concerned about. But it seems to me that's the relevance of the question related to fire on --

CHAIR: And I understood Dr. Clark's testimony to have concerns about the safety and mitigation and there's no pond to draw water in, there's no running water, there are no fire extinguishers, how would the fire, if there were to be one, how would that be extinguished or would it just burn and then would the embers or other such things, then spread to other neighboring properties?

MR. CLARK: Well, and in fact, --

MR. HOLZER: Could, could I respond to that?

CHAIR: Well, that's what I understand his testimony to be.

MR. CLARK: Okay --

CHAIR: Hold on one second, sir.

MR. HOLZER: Mr. Powell did testify that they will

have future tents on the property. So, and that's their testimony, that's their evidence, so their witness, his testimony, that there will be future tents. So, one cannot preclude the fact that, in addition to the structure itself --

CHAIR: All right.

MR. HOLZER: -- there may be additional tents. Where they are, I don't know.

CHAIR: I, we're not going to get into whether there will be tents or not because the issue is the same, I guess, from his perspective. But thank you for the clarification. The record will speak for the, itself. If there will be, if there's a suggestion that there's a potential for tents to be in the future, I understand correctly what I had said earlier.

MR. HOLZER: Yes.

CHAIR: But I understand his testimony, that is Dr. Clark's testimony, to be about what do you do in the event of fire, basically.

MR. HOLZER: Correct.

CHAIR: Mr. Schmidt, you're standing. I assume that you have something to say about this.

MR. SCHMIDT: Ob, obviously at such time as the building becomes habitable to the extent that it is rehabilitated and as Mr. Powell testified, and even since his testimony, they've made further efforts to obtain County approval of a functioning septic system and drill a well and so

on and so forth. So, when they drill a well, and like many other churches and temples, I suspect they will have fire extinguishers in the building. So, the --

CHAIR: Well, let's let, well, well, we'll stop there only because I understand where you're going with this. But if you have something you want to bring up on cross examination, or if you have a stipulation or if you're proffering something to the Board, I mean, that's, what I'm hearing is not an objection, that's how I interpreted it by you standing. Is that fair?

MR. SCHMIDT: I, I had, I don't have any objection to the video per se. It shows what it shows. My objection, Mr. Garber, is that the, the testimony is, is just strains the credibility of any person to consider it, that I just think it's inflammatory and I don't mean to use the word as a double entendre.

CHAIR: I understand.

MR. SCHMIDT: But I mean, Christian churches have, during a Christmas season candles in their building as part of their religious worship. That, in my church, which is a Christian church, we light candles, candles.

CHAIR: I understand.

MR. SCHMIDT: And to suggest that what you see here on a thirty acre property is a fire danger to other properties is just so unbelievable that such an assertion would be made

that I think it doesn't have any probative value.

CHAIR: I, I understand. It, it will be received for the evidence of which, what it is. You have the ability to cross examine and make whatever arguments down the line. It will be admitted. So, Mr. Holzer?

MR. HOLZER: Thank you. I have --

MR. MCCOMAS: Mr. Holzer, let me just ask a question.

MR. HOLZER: Yes.

MR. MCCOMAS: He said it was a new video and so I'm sort of a little nervous because I have like CD's and thumb drives here. So, is that new video, is that --

CHAIR: Oh, thank you, Mr. McComas.

MR. MCCOMAS: -- has that been admitted into evidence and any other new videos that are on the list that have, have--

MR. HOLZER: Could the witness answer that? How did you put that --

MR. CLARK: They, they, they, they have not been admitted yet.

MR. MCCOMAS: Do we have them, is what I --

CHAIR: Yeah, we do not is what I'm hearing. There are other new videos that have been identified on fifty-one.

MR. HOLZER: Yeah.

MS. DOPKIN: And played.

CHAIR: And right, they, they --

MR. MCCOMAS: And they've been played too

(inaudible).

CHAIR: Some of them have been played, the second list, for example. To which Mr. Schmidt had no objection previously to that either. So, my suggestion is, because I don't think we're going to, is it your intent to play any and all new videos that are identified today?

MR. CLARK: No, and we have evidence copies of, of DVD's for, of the new --

CHAIR: Are we, have we exhausted all potential new videos to be played as in connection with your testimony?

MR. HOLZER: Is that only related to 502, but there's other portions of testimony that we got to (inaudible) --

CHAIR: Well, in other words, I don't want to receive it piecemeal.

MR. HOLZER: I understand.

CHAIR: Right, okay. It should be one copy of whatever videos are, are to be in evidence.

MR. HOLZER: Why don't, why don't we --

MR. MCCOMAS: The new ones probably, right?

MR. HOLZER: Why don't we --

CHAIR: (inaudible).

MR. MCCOMAS: The new, the new ones.

MR. HOLZER: The new, we're talking about only new ones.

CHAIR: Well, and the ones previously ruled to be

admissible.

MR. HOLZER: Yes.

CHAIR: If it was previously ruled to be inadmissible, obviously that's a different matter. But --

MR. CLARK: Can, can I help?

CHAIR: -- so hold on, so my take is this, because it sounds as if you're going to have a second tape, or second phase of playing certain videos, or that's what you intend.

MR. HOLZER: Yes.

CHAIR: All right. Mr. Schmidt has not seen those new videos. Do you have a copy for Mr. Schmidt sitting here today?

MR. CLARK: Yes.

MR. HOLZER: I could, yes, and I could also offer it to the Board so you can mark it for identification.

CHAIR: I, I think that that's fine. Okay, why don't we do that? But I at least want Mr. Schmidt to have a copy if there are additional videos to be played.

MR. SCHMIDT: Just, do we have a container for this (inaudible)?

MR. HOLZER: No, I, I don't, we don't.

MR. MCCOMAS: And these would only be the new videos as opposed --

MR. HOLZER: Yes, yes.

MR. MCCOMAS: (inaudible).

CHAIR: I see Dr. Clark wants to tell me something.
MR. CLARK: Thank you, sir.
CHAIR: No problem.
MR. CLARK: All the videos that have appendix disc new.
CHAIR: I figured that they are on here.
MR. CLARK: That they are on there.
CHAIR: Yes.
MR. CLARK: Yes, sir.
CHAIR: All right.
MR. MCCOMAS: And (inaudible).
MR. CLARK: Right.
MR. MCCOMAS: What's that exhibit there (inaudible)?
MR. CLARK: No, it's the video control sheet, whatever it was.
CHAIR: Fifty-one. Video control sheet is fifty-one. All right. So, we're done with the fire --
MR. HOLZER: Yes.
CHAIR: -- evidence you wished to put in the record. Oh, no, we have a still photo, of course.
MR. HOLZER: Yeah.
CHAIR: All right. Seventy-three is, well, seventy-four. Seventy-four --
MR. MCCOMAS: No, no, the DVD is seventy-three.
CHAIR: -- is the photos, are the photos now.

MR. HOLZER: Okay and these, these are seventy-four. I think that's (inaudible).

CHAIR: And that is A or, two pages.

MR. CLARK: Right.

CHAIR: For that.

MR. CLARK: Now, --

CHAIR: Hold on, Dr. Clark. Is there any further testimony that you need about seventy-four, page one or two?

MR. HOLZER: Yes, if I could ask Mr. Clark. Mr. Clark, how did seventy-four, the pictures, come from this video, number one. And then secondly, what comment do you have in regard to what the picture shows.

MR. CLARK: Okay.

CHAIR: I should ask this. Mr. Schmidt, do you have any objection to Exhibit 74?

MR. SCHMIDT: No, no. And it speaks for itself.

CHAIR: It is admitted.

MR. HOLZER: Thank you.

CHAIR: So, to the extent that that helps you with your examination, --

MR. HOLZER: Okay.

CHAIR: What is it you want to tell us about the photos though that --

MR. CLARK: Well, they're screen shots from, from, from --

CHAIR: We understood where it came from.

MR. SCHMIDT: Got it, got it.

MR. CLARK: Right, right, right, right.

CHAIR: We've now seen the video.

MR. CLARK: Right.

CHAIR: But is there anything substantive that you want to tell us that you've not already told us about the fire issue that --

MR. CLARK: Yes, yeah. It is not uncommon, especially in this day and age, for fire brands and embers to go from one property to another. Mr. Poehler's property, Mr. Poehler's building is what, two hundred fifty feet from --

CHAIR: Well, we're not, you can't ask questions.

MR. HOLZER: I'm not going to answer.

MR. CLARK: No, no, no, but, you know, --

CHAIR: No, the record will speak for itself as to its dis, the possible estimate of distance.

MR. CLARK: Right, right, right, but, but, but it is, it is, and then it's directly across the street from my home. And so, yes, it is, the whole issue is, is of concern.

CHAIR: All right. And that was understood from your testimony.

MR. CLARK: Right.

CHAIR: Is there anything else further?

MR. CLARK: No, no, no.

CHAIR: Okay. So, the next factor?

MR. HOLZER: For the record, Mr. Poehler did testify as to how far --

CHAIR: Yes, he did.

MR. HOLZER: -- the subject building was from his house.

CHAIR: To the property line.

MR. HOLZER: Exactly.

CHAIR: Not to the subject house, but it was to the property line.

MR. HOLZER: To the property line.

CHAIR: And then, I believe, there may be some testimony, or maybe it's on one of the plans, the distance from the house to the property line.

MR. HOLZER: Yes.

CHAIR: So, --

MR. HOLZER: So it can be calculated.

CHAIR: Yes.

MR. HOLZER: Okay. Are there any additional hazards, and I think we've already sort of --

MR. CLARK: No, we haven't.

MR. HOLZER: -- covered this.

MR. CLARK: No, no we haven't.

MR. HOLZER: Okay. Well, let me just, what is your comment for the association relative to added hazards by

drivers unfamiliar with the, with the road?

MR. SCHMIDT: Objection. Asked and answered.

MR. CLARK: No, it hasn't.

CHAIR: Well, I, I will say this. I understand where you're going with it, however, as to the association, there has not been testimony on this point. So, your earlier testimony about the hazards, which you've gone into detail about the curve and that, you know, some other things here and there, and you know, just the, whatever accidents and whatnot, do you have anything to add that's different for the association --

MR. CLARK: I certainly do.

CHAIR: -- compared to what you said as an individual?

MR. CLARK: I certainly do.

CHAIR: Okay. As the association, what is it you wish to add to the record or otherwise, you know, put into the record --

MR. CLARK: Right, I, I, I certainly do.

CHAIR: Okay. What is that?

MR. CLARK: Okay. I told you we pulled the police reports, the accident reports.

CHAIR: Which are, which are in evidence.

MR. CLARK: Which, no, the, the accident reports are not in evidence.

CHAIR: The individual accident reports are not in

evidence, okay.

MR. CLARK: All right? And we have one that is of particular interest to the, to, to this Board and this case.

CHAIR: Okay.

MR. CLARK: If we can, I don't have it in front of me, so I --

CHAIR: I understand you were, you are requesting that from Mr. Holzer.

MR. HOLZER: I'm getting it.

CHAIR: Yes.

MR. HOLZER: I hope this is what you're referring to. I think it is.

CHAIR: This is seventy-five, right?

MR. CLARK: Um hm.

MR. HOLZER: Is that correct, seventy-five?

CHAIR: All right. So, we are looking at State of Maryland Motor Vehicle Crash Report, one, two, three pages. Looks like a crash date of September 25th, 2017. I see Mr. Schmidt has a copy and is reviewing it.

MR. HOLZER: Now, --

MR. CLARK: Well, has, has it been admitted yet?

CHAIR: It's not been admitted yet. We're still working through it.

MR. HOLZER: Yeah.

CHAIR: Your question?

MR. HOLZER: My, my question is going to be, can you just briefly indicate what was on the narrative of the police report in so far as traffic --

CHAIR: Just to move that forward, we can actually read the narrative.

MR. CLARK: Thank you.

CHAIR: If need be, but let me ask Mr. Schmidt. Do you have any objection to this, to --

MR. SCHMIDT: I just think it's preju, yes, sir, I think it's prejudicial. I mean, it's a government record, so I don't doubt its authentication. But it's just nothing but prejudicial and designed to be inflammatory. It's the same thing as all folks from Nepali who were at the concert are criminals. It's the same, same deal.

CHAIR: Well, I think that's radically different from that. That was a bit of an extreme example. This is --

MR. SCHMIDT: They're all bad drivers too, apparently.

CHAIR: I, well, I haven't heard that being argued as to this.

MR. SCHMIDT: Well, that's the inference --

CHAIR: Hold on.

MR. SCHMIDT: -- Mr. Garber.

CHAIR: Hold on, I don't, Mr. Schmidt, I understand it's been a long day. We don't need to have comments like that

on the record right now.

MR. SCHMIDT: Well, what, what else is it, then what else is it, is it produced for?

CHAIR: Mr. Schmidt, Mr. Schmidt, there has been a bunch of evidence that's been put in the record about the traffic and about accidents and whatnot. So, I had understood, and Mr. Holzer and Dr. Clark can correct me if I'm wrong, but you're introducing this because it concerns an accident that occurred out in front of the property, right?

MR. CLARK: And it indicates an added hazard.

CHAIR: So, --

MR. CLARK: And, and we have a photograph of another event, we have a photograph that's already been introduced.

MR. HOLZER: Deal with this first.

MR. CLARK: Okay.

MR. HOLZER: What, as briefly as you can, what is the point in, in terms of what have you singled out --

MR. CLARK: Well, this, this is, this is a police report of, of an accident. Somebody who was visiting the, they call it mosque, had, was, was driving on the wrong side of the road and had an accident and they said, and they advised the police officer that where they're from, in their words, in the officer's words, they drive on the left side of the roadway. This goes to people out of country, out of region, --

CHAIR: Well, so I'll just stop you there.

MR. CLARK: Okay, okay.

MR. SCHMIDT: Which is exactly what I said, Mr. Garber.

CHAIR: That is, that is definitely an objectionable --

MR. SCHMIDT: Precisely.

CHAIR: -- I realize it may be stated within the narrative itself.

MR. CLARK: Okay.

CHAIR: But this person obviously drove from Nottingham and didn't drive the other side of the, wrong side of the lane of travel from Nottingham up here, to the point of collision. So, what, for whatever went on --

MR. CLARK: Okay.

CHAIR: -- it speaks to it, it speaks for itself.

MR. CLARK: I gotcha.

CHAIR: It is not at all being received for, to suggest --

MR. CLARK: Okay.

CHAIR: -- that people from Nepal are going to drive on the other side of the road or that people not familiar with the area will drive on the other side of the road. It is merely being received for one purpose, and that is, there was an accident that happened at the property, at the subject locations, through which we've had numerous and long testimony

and documents received as to sight distances and traffic and accidents --

MR. CLARK: Okay.

CHAIR: -- and whatever else. That is it. It is not being received for any other purpose.

MR. HOLZER: What time of the morning was it, does it say on there?

MR. CLARK: Eight fifty-one.

MR. HOLZER: So, it was during the day, is that correct?

MR. CLARK: Correct.

MR. HOLZER: Okay, fine. That's exhibit number seventy-five. Previously, you just mentioned there was something at night. Protestant's Exhibit 35, do you recall what that was?

MR. CLARK: Yes.

MR. HOLZER: And what was it?

MR. CLARK: It was people exiting from a, an event held up there at night in September of '17. And this is the picture.

MR. HOLZER: There's a couple pictures if I'm not mistaken.

MR. CLARK: Yeah, yeah, yeah. Yeah, I --

MR. HOLZER: And what does, do the pictures depict without editorializing?

MR. CLARK: People, people on, heading south in the northbound lane.

MR. HOLZER: Okay.

MR. SCHMIDT: On Harford Road?

MR. CLARK: Um hm.

CHAIR: All right.

MR. SCHMIDT: Can I see the photograph, Mr. Garber?

CHAIR: The photos, I believe, are already in evidence.

MR. SCHMIDT: I understand, I just don't have them in front of me.

CHAIR: Yeah. And just so I'm clear, --

MR. SCHMIDT: Is this someone --

CHAIR: -- just, go ahead.

MR. SCHMIDT: Is this, this is someone turn, turning out of the --

MR. CLARK: Um hm.

MR. SCHMIDT: -- Nep, Bonaparte property?

MR. CLARK: Um hm.

MR. HOLZER: Objection.

MR. SCHMIDT: Well, if they were going southbound --

MR. HOLZER: (inaudible).

CHAIR: Hold on, hold on, hold on, hold on, hold on. Mr. Schmidt had a question as to what it represents. It's the same question I have. What is the relationship between Exhibit

35 and Exhibit 75, that's the question.

MR. HOLZER: They're different events, that's clear.

CHAIR: No, obviously it's not clear, because I didn't understand it one way or the other.

MR. CLARK: Okay.

MR. HOLZER: This is at night, that was at eight some in the morning.

CHAIR: Okay.

MR. HOLZER: That's why I asked the question, what time was the first police report.

CHAIR: Okay. Then perhaps I missed that point. I don't know why you were showing him thirty-five in relation, following seventy-five. So, if that could be made clear, that may resolve what Mr. Schmidt has a question about and what I have a question about. What is the relevance of, and again, thirty-five following seventy-five? Just to show that there is another example of someone being on the wrong side of --

MR. HOLZER: Another example of an accident which has occurred at the site.

MR. SCHMIDT: It's not an accident. It's someone who's turning left coming out of a roadway and in order to turn left --

CHAIR: It's okay, Mr. Schmidt.

MR. SCHMIDT: -- you have to cross a --

CHAIR: Mr. Schmidt, it will be --

MR. SCHMIDT: -- a travel lane of traffic to get to the southbound lane.

CHAIR: Mr. Schmidt, the way I, it's already in evidence. We're not going to go sit here and argue as to what it shows or doesn't show. It shows what it shows.

MR. HOLZER: Yeah.

CHAIR: Everyone has their own interpretation of it. To the extent it has whatever relevance to any of this other stuff, you guys will certainly argue that in your, in your briefs to us.

MR. HOLZER: Absolutely.

CHAIR: And we don't need to sit here and resolve today why this person was in whatever position the car is in on that particular night, whether it be seventy-five or thirty-five, it is what it is.

MR. HOLZER: The value to the Protestants of submitting photographs or video or documents is to establish that the witness who is testifying to these kinds of things, riding on the wrong side of the road, crossing the yellow line, it's not just his testimony or the other witnesses' testimony, it's verification of what they're testifying to.

CHAIR: Oh, no, I, --

MR. HOLZER: That's the purpose I'm putting --

CHAIR: -- I'm not, I'm not arguing that, I --

MR. HOLZER: Okay.

CHAIR: -- I understand why you're offering it into evidence.

MR. HOLZER: Yeah, okay.

CHAIR: I'm just trying to understand the logic of one following the other. I had it confused because I thought you were saying it's from the same event.

MR. HOLZER: No, I apologize, that was my fault because --

CHAIR: And I was wrong so, and I will correct the record. It was my understanding at the time, so we can move on from there to get to the next exhibit.

MR. HOLZER: Yeah, yeah. I thought, never mind.

CHAIR: That's fine.

MR. HOLZER: You know what I thought.

CHAIR: I, I do.

MR. HOLZER: Yes, we are now finished with 502.1(A).

CHAIR: And part of B.

MR. HOLZER: You could say that, but we haven't really started B yet.

CHAIR: Well, all right. Well, okay. Let's go into B, or whatever, what's next on your outline? Sorry.

MR. HOLZER: Okay. B is tend to create congestions in roads, streets or alleys therein. Mr. Clark?

MR. CLARK: Yes, sir.

MR. HOLZER: Is your mind focused on that part --

MR. CLARK: Well, I'm starting to fade but, yeah.

CHAIR: Well, so I'm going to make it, we'll make it clear and make it quick. What evidence do you have that we wish to, you know, put into the record, tell the Board, about the association's concerns with respect to traffic congestion that are different than ones you already expressed individually?

MR. CLARK: Okay. Dave Poehler, in his testimony, he talked about --

CHAIR: Without referencing other testimony, that is, if you look at this --

MR. CLARK: Okay. Yeah, I can (inaudible).

CHAIR: -- whatever, I, it's understood --

MR. CLARK: Right, yeah, got it, got it.

CHAIR: -- that Mr. Poehler's testimony on those points, in fact, there are lots of witnesses who testified to traffic congestion --

MR. CLARK: Got it, got it.

CHAIR: -- on these points.

MR. CLARK: All right. Then, --

CHAIR: That is well documented in this case.

MR. CLARK: -- another police report.

MR. HOLZER: Okay. Is that related to another accident?

MR. CLARK: Yes, it is.

MR. HOLZER: All right.

MR. CLARK: And it relates to --

MR. HOLZER: Well, --

CHAIR: Wait, before we go down this road.

MR. CLARK: Sorry, sorry, yeah, I'm sorry.

CHAIR: So, we have a police report. Let's have this established for the record ahead of time for Mr. Schmidt's satisfaction. Where did this accident occur? If you need reference to it, that's fine, but before you say anything further about the accident, let's establish its connection to the --

MR. CLARK: I'm, I'm really losing it.

CHAIR: -- particular factor.

MR. CLARK: I'm really losing my stamina.

CHAIR: That's okay, I understand.

MR. HOLZER: Here it is. It, the witness doesn't need to articulate it, because it's right on the police report.

CHAIR: If he needs the police report for that, that's fine. So, this is seventy-six. So, at Harford Road and Hartley Mill Road.

MR. CLARK: Um hm.

CHAIR: Okay. On November 6th, 2017. Recognizing that Hartley Mill Road, I seem to recall there is testimony about this, but you can probably better let me know now, how far is it from the subject property again? I seem to recall it

may or may not have been --

MR. CLARK: Three-quarters of a mile.

CHAIR: It was not on the map that was shown, the aerial map.

MR. CLARK: No, no, it was.

CHAIR: It was?

MR. CLARK: But it, Hartley Mill defined the southernmost point of the road segment that I asked for the, the police, County police report statistics.

CHAIR: Got you, okay. Mr. Holzer?

MR. HOLZER: Yes. You, did you obtain this police report?

MR. CLARK: Yes.

MR. HOLZER: And for purposes of your association's testifying under B, tend to create congestion in roads, streets or alleys there, therein, what was their position in regard to this?

MR. CLARK: Just that it speaks to the, the, the hazards of deer, of, of wildlife and livestock and the stuff that you usually encounter on a rural road.

CHAIR: Mr. Schmidt, any objection to seventy-six?

MR. SCHMIDT: No, sir.

CHAIR: It is, it will be received, it's admitted and it speaks for itself.

MR. HOLZER: Okay. In other aspects of the road,

congestion in the roads, etcetera, you have already shown, I believe, the videos for road walker, cyclist, I don't recall whether it was farm vehicle but --

MR. CLARK: No, we didn't have anything for, but, but that is our concern.

CHAIR: There is testimony in the record from, I believe, I want to say Ms. Mason, regarding farm equipment.

MR. CLARK: Right.

CHAIR: She, I know personally has to go between two different properties to go attend to some farm type of --

MR. CLARK: Right.

CHAIR: -- activity and it has been in the record from others about the potential for farm equipment to be on Harford Road in and around the vicinity of the stretch from Glen Arm/Mount Vista all the way down to Hartley Mill Road.

MR. HOLZER: In regard to Protestant's exhibit number seventeen, which as Mary's dash cam photo, that was already in as Exhibit 17 and I don't see any reason why we need to go over that again. It's before the Board.

MR. CLARK: Right.

CHAIR: There, I want to say, if I remember correctly, fifteen through nineteen was received for i.d. only at the time.

MR. HOLZER: Well, if that's the case, then I have the --

CHAIR: Is that not the case? Apparently the master list says it was admitted, so my recollection is off.

MR. MCCOMAS: Seventeen and nineteen were the only ones that were i.d. only.

CHAIR: Oh, so seve --

MR. HOLZER: So, seventeen is this document right here.

CHAIR: Right, okay.

MR. HOLZER: I would move to admit that.

CHAIR: Please show Mr. Schmidt before --

MR. SCHMIDT: What is it, please? I don't, I'm sorry, I don't remember what seventeen is.

CHAIR: Here's what, here's, here's my, here's my recollection as to why that was i.d. only at the time. Is that Ms. Mason was testifying and provided some testimony regarding it.

MR. HOLZER: Mary, was testimony --

CHAIR: I, this is my recollection.

MR. HOLZER: Okay.

CHAIR: And that we needed someone to authenticate whatever was depicted in there, and it wasn't Ms. Clark's, I think Ms. Clark had already testified, or Dr. Clark, excuse me. Had already testified and Ms. Mason was reviewing that particular photo but she was not present in the car and could not provide details as what was going on, other than what maybe

Dr. Clark or someone else had told her. So, that --

MR. HOLZER: If that's the case --

CHAIR: -- that's my recollection.

MR. CLARK: I think that's right.

CHAIR: The record will speak for itself.

MR. HOLZER: Yeah.

CHAIR: But that's, you, that was the reason why you withdrew it at the time to say okay, we'll talk to the person who either took the photo or otherwise authenticated. Mr. Schmidt, do you have any problem with Exhibit 17?

MR. SCHMIDT: I assume, Mr., Mr. Clark took this?

MR. CLARK: No, it was Mary. It was Mary.

MR. SCHMIDT: Your wife?

MR. CLARK: Yeah.

MR. HOLZER: It was Mary, she took it from her dash camera.

MR. SCHMIDT: Okay.

MR. HOLZER: She's here.

MR. SCHMIDT: I mean, what, what is it, --

CHAIR: Do you have any objection to, to it?

MR. SCHMIDT: No, I mean, what, what is it? I mean, just in terms of probative value, what is it?

CHAIR: Okay.

MR. SCHMIDT: What is it supposed to be showing?

CHAIR: It's a fair, Mr. Schmidt, Mr. Schmidt --

MR. SCHMIDT: I mean, somebody is going around (inaudible).

CHAIR: -- it's a fair question. It's a fair question, I understand. What is the probative value of Exhibit 17? What is it you're trying to show us?

MR. CLARK: Showing you one, the tight clearances and how there is no shoulder for when, for when things happen.

CHAIR: Similar to the video we saw already.

MR. CLARK: Yeah.

CHAIR: Similar to the other photos that we've introduced earlier with the, with the pedestrian, whatnot, correct?

MR. CLARK: Yeah, yeah, yeah.

CHAIR: Okay.

MR. SCHMIDT: I mean, my question about these, these, these are common events all over Baltimore County.

CHAIR: Mr., Mr. Schmidt, isn't that your argument (inaudible) --

MR. SCHMIDT: But it, it goes to the, it goes to the admissibility of this document. I mean, we keep getting documents that have nothing to do with Nepali.

CHAIR: Okay.

MR. SCHMIDT: I mean, guess what? People on narrow roads pull around police vehicles.

CHAIR: All right, I understand.

MR. SCHMIDT: What's that go to do with this special exception?

CHAIR: I understand.

MR. SCHMIDT: And it's common --

MR. HOLZER: Because it's on this road, it's on the road.

MR. SCHMIDT: -- and it's on, but it's on, as this witness has said, it happens on every rural road.

CHAIR: Okay. I understand that. It'll be admitted.

MR. HOLZER: Thank you.

CHAIR: Next.

MR. MCCOMAS: So, we'll strike the i.d. only --

MR. HOLZER: Yes, thank you.

CHAIR: Seventeen is admitted.

MR. HOLZER: Thank you. Do you need it? Do you need it?

MR. SCHMIDT: Do you need it? I mean, I have it, I didn't bring it with me.

MR. HOLZER: Yeah, I need it. Thanks. That's okay. All right. Let me try to get through some more. We've already seen earlier today the line cross, the yellow line crossing by trucks, so I don't think we need to replay that in your testimony.

CHAIR: Your testimony about the tractor trailers would be the same for the association --

MR. CLARK: It's the same.
CHAIR: -- as it would be individually?
MR. CLARK: It's the same.
MR. HOLZER: Right.
CHAIR: And he says yes.
MR. HOLZER: Inadequate sight lines and use of unpermitted entrance. Do you want to address that for the association and it related to the Collagero's statistics and Mr. Zeller's position?
CHAIR: And to be clear, we want to know what difference there is. If it's the same problem, there is no difference, when I say that --
MR. CLARK: Right, no, no, no, with Collagero there, there, there isn't, okay?
CHAIR: Okay.
MR. CLARK: Now, I believe the Zeller e-mails were not --
CHAIR: Zeller e-mails have been admitted.
MR. CLARK: Okay.
CHAIR: Fifty-three?
MR. CLARK: Where, where he says the County should not be doing this and --
CHAIR: Yes.
MR. CLARK: -- our position is, okay.
CHAIR: Yeah, it's forty-three and fifty-three, thank

you. Yes. So, it has been admitted.

MR. CLARK: Thank you.

MR. HOLZER: We got it.

CHAIR: Yes. Is that the extent of the association's testimony on that point?

MR. CLARK: Yes, it is.

CHAIR: All right. So, we're done with that factor, or that part of that factor.

MR. HOLZER: Number C.

CHAIR: Okay.

MR. HOLZER: Create a potential hazard from fire, panic or other danger.

CHAIR: Is there, we've heard the testimony about the fire, right?

MR. CLARK: Right.

CHAIR: Is there anything else from the association as to that factor?

MR. CLARK: Yeah, I think I already said it in there.

CHAIR: Right.

MR. CLARK: But, no water access.

CHAIR: We, we've already covered that.

MR. CLARK: Right. And the Motsco drawing shows there, there, there is at present no equipment access turnaround. I don't know if I already said that or not.

CHAIR: No equipment turnaround.

MR. SCHMIDT: He did. The, the witness already said all these things.

CHAIR: Oh, okay, I get it now.

MR. SCHMIDT: He just said it about an hour ago.

CHAIR: Mr. Schmidt, I understand.

MR. SCHMIDT: Asked and answered.

CHAIR: Thank you. It's already taken me, it took me a minute or two to figure that out. The testimony is already in the record anyway on the point.

MR. HOLZER: Mr. Motsco's testimony about the turnaround, his, it, what we're asking for is his comment, the witness' comment, about that testimony.

CHAIR: No, I think, again, we're getting back to the point of him using the highlighter on Motsco's testimony which is really a matter for you on argument as opposed to his --

MR. HOLZER: Oh, okay.

CHAIR: -- commenting as to --

MR. CLARK: Yeah.

MR. HOLZER: If that's so --

CHAIR: -- oh, Board, please look at this because you're going to do the same thing.

MR. HOLZER: I understand.

CHAIR: Right. So it is not, it's not a question as to admissibility on that point, it's already in the record and you're going to say hey, by the way, Board, look at this.

MR. HOLZER: Gotcha. No, I, you're correct.

CHAIR: Yes.

MR. HOLZER: Disregard for life safety codes.

MR. CLARK: Okay.

CHAIR: I'll say this, I hear life safety codes and I start thinking expert witness. So, do you have something that you want to, you want to add? I'm not going to limit it to just that, but that's what I'm starting to think in my head. So, what is it that you wish to say about that particular matter?

MR. CLARK: Well, --

MR. HOLZER: From a lay perspective.

MR. CLARK: -- from, yeah, from a lay perspective and from a, from a behavioral ins, perspective, I'm really losing it.

CHAIR: That's okay. We're trying to get through it.

MR. CLARK: Yeah, I know, I know, thank you. And I know Petitioner is going to say we're talking code enforcement, okay? But let me just say it and then we'll deal with the aftermath.

CHAIR: Well, hold on. Have you already testified about this individually?

MR. CLARK: No, I have not.

CHAIR: Okay. So, on behalf of the association, you have something you wish to say about life safety codes.

MR. CLARK: Right.

CHAIR: What are you referring to by life safety codes?

MR. CLARK: All right. For example, the, when the, in, in their videos of the building use, being used, all right? With several hundred people, the exterior doors open inward --

CHAIR: Okay. So, these are, when we say code violations, we're talking fire code and things along those lines, correct?

MR. CLARK: Yes, yes, --

CHAIR: Because you were talking about, you're talking about occupancy, hold on, Mr. Schmidt. Ingress, egress, those type of issues.

MR. CLARK: Yeah, yeah, yeah.

CHAIR: Do you have familiarity with the fire code?

MR. CLARK: Some.

CHAIR: Do you have familiarity with the building code?

MR. CLARK: Little.

CHAIR: So, when we talk about some familiarity, please let us know what that is for the record.

MR. CLARK: Okay. I, I have had fire inspections in, in my building, okay?

MR. SCHMIDT: Your home?

MR. CLARK: My, in my home, in my shop. And I also

am a Pennsylvania Wildland Firefighter.

CHAIR: Okay. So, as I understand it, does, does that complete the --

MR. CLARK: Yeah, yeah.

CHAIR: Okay. So, if you're going to give opinions as to what the code requires, whether under the building code, fire code or any other code, what I'm hearing is you don't have the expertise to do that.

MR. CLARK: Okay.

CHAIR: All right? Mr. Holzer, did you hear that?

MR. HOLZER: Yeah.

CHAIR: Okay. Anything further on that point?

MR. HOLZER: Yeah, I'm going to proffer what he would have been able to testify.

CHAIR: Oh, okay. Again, and I'm, we're willing to accept lay opinions, but if he's going to give opinions as to the ingress and egress is, I guess, too small or there's only, you know, a, a finite amount of spots for these number of people and there's a violation of the code, I don't think he can get to that point.

MR. HOLZER: I'm not, I'm not doing that.

CHAIR: Okay. Go ahead, sir.

MR. HOLZER: His testimony would have been with photograph showing that, at the present time, when they were using the property, exterior doors opened inward. I'm not

saying that's right or wrong, but they opened inward and the Board can draw its on conclusion or I can tell you what the code requirements are. There's no panic bar on the front door. There is no emergency lighting in the building. They have used extension cords, multiple cords chained together, running out front windows to the tent fifty feet away, running, and running over the driveway where cars drive. Now, that can be presented either in a photograph or I can just, I can just proffer that that would have been his testimony and we don't have to go any further.

CHAIR: Yeah, but to then draw the conclusion that that presents a potential danger requires an expert witness, I would think.

MR. HOLZER: No, it does not. I disagree with the Chairman. It's a person who's test, who's proffering this information. If you choose, don't require an expert, I don't believe that that's necessary for this Board to have testimony on that basis, as long as it's brought to your attention. You don't need an expert on everything.

CHAIR: I agree with you. But, but as to its consequence, that is, number one, that it is violate, it, it violates a code, which --

MR. HOLZER: I'm not saying it violates a code.

CHAIR: No, but you're (inaudible) which we would need someone to say here's how it violates the code.

MR. HOLZER: No.

CHAIR: Okay.

MR. HOLZER: You can do it, you can accept my proffer.

CHAIR: Okay.

MR. HOLZER: And say these are the physical findings of what's there. They can be --

CHAIR: So, those are two different things. That is, we have photographs in the record that show the following conditions, right? That's what you want to argue. As to its con, as to the consequence of those conditions, that's where the breakdown is. So, yes, you would have the ability to say, hey, by the way, look at Petitioner's Exhibit, I will just say, 10 whatever, and then there's no panic bar on the door, right?

MR. HOLZER: That's what I just did.

CHAIR: I understand that. But to do it through this witness, how, how are you going to do it through this witness, number one? And number two, explain then the consequence of that.

MR. HOLZER: I'm not.

CHAIR: Okay.

MR. HOLZER: I'm, I'm just telling you physically what's there and if you don't want to draw the conclusion that it is or is not a code violation, that's up to the Board. I, I, I do not have to --

CHAIR: Mr. Holzer, --

MR. HOLZER: -- present an expert on everything.

CHAIR: -- I, I'm not, I'm not arguing with you.

MR. HOLZER: Okay.

CHAIR: Have you shown Mr. Schmidt the photos?

MR. HOLZER: No.

CHAIR: Have you shown Mr. Schmidt the photos?

MR. HOLZER: No.

CHAIR: Well, you say if you want to proffer it in, one way or another, you have to show him the photos anyway.

MR. HOLZER: I'm, I'm proffering in those, that would have been his testimony if he would have been permitted.

CHAIR: Okay.

MR. HOLZER: That's it.

CHAIR: So, so leaving aside that, if there are photos to accompany that, if, maybe there, there would be an agreement as to the photos, then that helps solve part of the problem, if nothing else.

MR. HOLZER: I don't care --

CHAIR: Okay.

MR. HOLZER: -- whether or not there is a photo. I'm saying, that's the testimony of the witness and if he can be cross examined on it, if he is, he can be asked, do you have a photograph and he can produce it on cross examination.

CHAIR: Okay. We can move on.

MR. SCHMIDT: So, Mr. Garber, do I understand that this proffer that has been made is not being received by the Board as evidence?

CHAIR: It is not substantive evi, it's not being received as evidence, you are correct.

MR. SCHMIDT: Thank you.

CHAIR: No, again, --

MR. SCHMIDT: It's object, I would just note that I would have objections above and beyond those that have been identified as to why it's, as to why it is objectionable. But if it's not being received as evidence, I don't know that I need to state them.

CHAIR: Well, please, please state them for the record, just so we have completeness --

MR. SCHMIDT: First of all --

CHAIR: -- because I want to make sure I understand.

MR. SCHMIDT: -- I agree with, I agree with what you said about whether, about the, about an expert being required to do this. Obviously, this is a discussion about a proposed, a past alleged code violation, which we're not here on a code violation case.

CHAIR: Agreed.

MR. SCHMIDT: You've, you've said that.

CHAIR: Right.

MR. SCHMIDT: So, what happened? Obviously, the

testimony has been that the, my clients acquired this property, it's in the condition that it is because it was last used as a single family dwelling. They are in the midst of converting it for use as a temple. There's ongoing work that needs to be done, a septic system, other building improvements to bring it into compliance to be used as a temple, as opposed to a single family dwelling. So, the mere fact that at one time it was in a condition which was maybe, you know, as a single family dwelling and the requirements for that at that time, do not necessarily, are the same for a temple. So, all those reasons --

CHAIR: Even if it's like that, even if it's like that today, the whole point of it is, --

MR. SCHMIDT: They could, they could be changing it. They got to bring it up to code, they got to get a septic system, they got to have fire extinguishers in it, all the other things that are required for a building to be used in this nature. And the mere fact that at some point one year ago, two years ago, three years ago, fifty years ago, the building was not compliant with the 2019 International Building Code or fire code, doesn't have anything to do with the special exception.

CHAIR: Okay.

MR. SCHMIDT: In addition to that, I would say this. In the case, in the reported Court of Special Appeals decision

of *Hayfields*, and this goes to many of the objections that we are hearing, the Protestants in that case alleged that there were adverse impacts when converting a farm to a golf course. And they offered testimony about the adverse impacts as they related to this property and that's what many of the things that Mr. Clark is talking about. That this is dangerous to this property, that the fire might light the tents on fire, that these building codes would be unsafe to the people on the property who would be visiting the property. And the Court of Special Appeals said that the test in Baltimore County under 502.1 is whether there are detrimental impacts on adjacent properties.

CHAIR: Mr. Schmidt, --

MR. SCHMIDT: Not the subject property.

CHAIR: Mr. Schmidt, this is really just for the purposes of establishing the record. As to the objections you have --

MR. SCHMIDT: You've asked me for what my argument is and the basis that this argument, that this testimony --

CHAIR: I, hold on, no, no, no.

MR. SCHMIDT: -- is in relevant, please let me just finish.

CHAIR: No, I'm going to stop you there.

MR. SCHMIDT: I'll be very quick.

CHAIR: I'm going to stop you there. I'm going to

stop you there only because I asked you to identify your objections --

MR. SCHMIDT: And I'm identifying them, Mr. Garber.

CHAIR: -- just so you've (inaudible) and I understand that. But now you're getting into argument.

MR. SCHMIDT: I'm not. I'm saying that the, the, the, the basis of the objection is that the testimony is irrelevant as a matter of law because it does not go to the special exception criteria test.

CHAIR: Okay.

MR. SCHMIDT: And I'm explaining why.

CHAIR: That's why I'm saying, that could have taken ten seconds. But Mr. Holzer, can we move onto the next, since we've already had the proffer, we've already heard the proffer of the objections as well, --

MR. HOLZER: I, I don't want to argue the, the argument that he just presented.

CHAIR: Yes.

MR. HOLZER: I just want to say that the relevance of some of this evidence, or some of this, these, these proffers, relate to what the Board, if you choose to grant this special exception, it relates to conditions that you could impose. Or the simple reason that up till now, the County officials have not required them to do what the State Highway Administration said etcetera. Now, that doesn't mean that they won't, as the,

as they develop the case, as they develop the project, they will address many of these issues. But the point is, they, these concerns should be listed as a potential condition to your approval because we know from history that they haven't paid attention to other requirements of the County. And that's all I wanted to say.

MR. SCHMIDT: And I, and I want to say for the record, that there is no evidence that anywhere, that there has been a violation case brought against my clients, which has been sustained --

CHAIR: Mr. Schmidt, --

MR. SCHMIDT: -- that they have been in violation.

CHAIR: Mr. Schmidt, stop, stop.

MR. SCHMIDT: This constant, let me finish, Mr. Garber.

CHAIR: No, I'm not going to let you finish. We're, no, we're done.

MR. SCHMIDT: I'm entitled to respond to counsel's comments.

CHAIR: No, you're not. No, you're not. Because we're not getting into an argument. You've well, you know for, for certain how this Board has treated any issue when it comes to code enforcement. That is, any argument that comes to code enforcement has been ruled in your favor. So, we do not need to hear further that these are matters for code enforcement or

whatever. If he wants to argue those are conditions, that'll be in his brief. That is it.

MR. HOLZER: Thank you.

CHAIR: Next.

MR. HOLZER: All right, let's see.

CHAIR: Let's try to work through all 502.1 factors for the association.

MR. HOLZER: I, I am.

CHAIR: So we can then, yeah, that's, that's my goal here, for --

MR. HOLZER: To adjourn after we get through all these.

CHAIR: After we, we get through that.

MR. HOLZER: And that's my goal also.

CHAIR: Right.

MR. HOLZER: To help you get through that --

CHAIR: Right.

MR. HOLZER: -- as quickly as possible. Well, we've already dealt with open fire, that's no longer relevant. One of the issues related to overcrowding of building. Is there anything that you want to say in regard to that?

MR. CLARK: Yes, I think we have some pictures.

CHAIR: You're going to have to explain how it's different from association, from the prior testimony.

MR. CLARK: Yeah, right. This is one example of, I,

I'm trying, ask me a question --

CHAIR: No, it's okay.

MR. CLARK: Ask, no, ask me the question again.

CHAIR: Oh, I'm sorry. So, please explain how whatever testimony you're going to give about overcrowding for the association is different than that of what you've already provided for as an individual.

MR. CLARK: Okay. This photograph --

CHAIR: That we're about to see.

MR. CLARK: -- that we're about to see, will show use of the building prior to July 1 where it looks like there are fifty to a hundred people crowding into the room.

CHAIR: Okay. So, this sounds to me we're on the same footing as where we just were.

MR. CLARK: I, --

CHAIR: So, with that in mind, I will wait to see what the photo shows. Show it to Mr. Schmidt. But it does sound like we're walking into the same --

MR. HOLZER: I agree.

CHAIR: -- room, so to speak, as the one before. As to whether or not fifty to a hundred people, whatever the number would be, --

MR. CLARK: Right.

CHAIR: -- is appropriate for occupancy for that building, you know, again, the comments I just had about the

last issue --

MR. CLARK: Right.

CHAIR: -- would be applicable it sounds like.

MR. CLARK: It, it, but this also goes to how it is currently being used.

CHAIR: Under, understood. Mr. Schmidt, after looking at the photos, let me know when you're ready.

MR. HOLZER: Do you need the pictures?

MR. CLARK: I probably do.

CHAIR: Seventy-seven, correct?

MR. MCCOMAS: Yes.

MR. SCHMIDT: Mr. Garber, the first page appears to be --

CHAIR: Hold on. I, I assume you're objecting.

MR. SCHMIDT: Yes. The first page appears to be outside, at least there are trees in the background and one can see grass. So, I don't even think that's taken from inside. The second picture is of a little girl. I'm not quite sure what that's all about. The third picture is one, two, three, four people standing outside and six people standing inside near a doorway. Is it alleged that that's the violation of the, of some code?

MR. HOLZER: Go to the next page.

CHAIR: Hold on. No back and forth.

MR. SCHMIDT: And the final picture is a room full of

people and is there an allegation that that's illegal, to have a room full of people?

CHAIR: That's why we're here, to figure this out.

MR. SCHMIDT: And it's, and if it is, it's a code violation matter.

CHAIR: You heard what I had to say prior to receiving the photos --

MR. SCHMIDT: So, I object.

CHAIR: Dr. Clark, looking at these photos, the condition that you were describing of overcrowding, I would have to say Mr. Schmidt is correct for inside the building, the only one I see out of the four is the last one that would depict a crowd. As to whether it's over, is another matter, but a crowd inside the building. Is that accurate, basically these four photos?

MR. CLARK: Yes.

CHAIR: Okay. So, with respect to that photo, is it your contention from the association that somehow the amount of people inside the building violates some code?

MR. CLARK: No.

MR. HOLZER: No.

CHAIR: Okay. Then what is it you want to tell me about that picture?

MR. CLARK: Well, it's just that it's a potential hazard from fire, panic or other danger.

CHAIR: Okay.

MR. CLARK: Now, now, can, can I also say, Mr. Garber?

CHAIR: Go ahead.

MR. CLARK: This was one of, I would have had the entire video of this, but this was one of the ones that was removed.

CHAIR: I, I don't know what you mean by removed, all, what I'm trying to get at is --

MR. CLARK: No, that was, that was deleted from the Facebook page.

CHAIR: Okay. So, --

MR. CLARK: From the Facebook account.

CHAIR: -- looking at the photo though --

MR. CLARK: Right.

CHAIR: -- the, the one at issue, that is the last page of that --

MR. CLARK: Right.

CHAIR: -- of seventy-seven --

MR. CLARK: Right.

MR. HOLZER: Could I ask a question?

CHAIR: Oh, yeah, sorry, Mr. Holzer. I'm, I'm going to let Mr. Holzer take, do this questioning here.

MR. HOLZER: Mr. Clark?

MR. CLARK: Sir?

MR. HOLZER: If previously the Petitioners testified that they were not using the building, is that part of your recollection?

MR. CLARK: Yes.

MR. SCHMIDT: Objection.

CHAIR: Hold on, Mr. Schmidt.

MR. SCHMIDT: Objection.

CHAIR: Your objection, let me take a guess, is based on the fact that this is not a code violation or code enforcement matter.

MR. SCHMIDT: Yes, yes, sir.

MR. HOLZER: I'm not trying to show you it's a code violation.

CHAIR: I will say this. I, the question you asked made me think that that may be the road we're going down too. I can't say that it's unreasonable for Mr. Schmidt to have come to that idea. So, if you could try to steer away from that, thank you. So, sustain the objection to the extent that it could have been.

MR. HOLZER: Okay. In terms of their testimony, did anyone from the Petitioners testify that they were not using the building?

MR. SCHMIDT: Objection.

MR. HOLZER: That's different --

MR. SCHMIDT: Objection.

MR. HOLZER: -- from a code violation.

CHAIR: Okay. Here's what I'm thinking on this. Number one, there is certainly testimony in the record that this property has been used for fundraisers and other events. If it, this is to be tied to any ALJ Order or anything else, that is obviously a matter that is not in front of us at the moment. Right? So, I understood this photo to be overcrowding, to go to the overcrowding issue. I still have yet to hear anything that relates to why this would be considered overcrowding or whatever the case may be. Everything seems to tie back to a code, a potential code problem.

MR. HOLZER: I'm, I'm tired of hearing code violation. So, mark that as a proffer and I don't want to discuss anymore. Just mark it as a proffer, whatever the next exhibit is, and we'll go from there.

MR. MCCOMAS: Seventy-seven.

CHAIR: Seventy-seven.

MR. SCHMIDT: Thank you.

MR. HOLZER: Thank you.

CHAIR: Therefore, the objection will be sustained and we can go on.

MR. HOLZER: Thank you. I, I'm trying to get through this.

CHAIR: Nobody's saying you're not, Mr. Holzer.

MR. HOLZER: I'm going to, I'm going to stop at this point.

CHAIR: I'm not going to stop at this point. We are going to get through the 502.1 factors as much as we can.

MR. HOLZER: I'm finished with the 502.1 factors. I will --

CHAIR: So, we're not going to hear testimony from Dr. Clark about the 502.1 factors on direct testimony tomorrow, assuming we're here tomorrow, is that your understanding?

MR. HOLZER: It's my understanding, okay. Go for it. Sit there until 9:00. Thank you.

CHAIR: Okay. We're not going to sit here till 9:00. I'm trying to move this case forward.

MR. HOLZER: I, I, at this point, for the record, I'm being pressured into, it is now quarter after six --

CHAIR: Pressured? All right.

MR. HOLZER: And I've been, this Board never sits that late but I understand --

CHAIR: No, it's to give you the opportunity to try to develop the record.

MR. HOLZER: I understand.

CHAIR: And I'm trying to get through it as expeditiously as possible.

MR. HOLZER: I understand, Mr. Chairman. But at this point, at this hour, the witness is having difficulty even

concentrating, I'm feeling very pushed in order to be able to get into the next issue that we could take up tomorrow.

CHAIR: Okay.

MR. HOLZER: And, and, and the last part is inconsistent with the property zoning classifications and there are documents that we want to deal with that particular issue.

CHAIR: I, I will put this plain and simple. Dr. Clark has been on the stand as an individual and now for the association over the course of two full days of testimony in this matter, November 1st and all of today. We started at 9:00 a.m., it is 6:20 now. We are still hearing from Dr. Clark. His testimony is not done. This is a special exception case, there are ten factors. For whatever reason, we keep having to move this case. When we asked, how many more days do we need? We were told two more days for Protestants, one more day for rebuttal. We are now going to bleed into the rebuttal day without question with Protestant's witnesses if we have to complete Dr., Dr. Clark's direct testimony alone and cross examination tomorrow because I'm assuming, since I see Mr. Jakubiak waiting patiently all day here today, that he may be taking the stand at some point in this case.

MR. HOLZER: Right.

CHAIR: So, let's assume that, because I know tomorrow is going to be a much shorter day, much shorter day than today in any event, that we don't get through Mr. Jakubiak

in full tomorrow, assuming he takes the stand tomorrow. That means on February 5th, the rebuttal day, we are now doing still your case. I don't know what you have after that and I'm not asking you to identify that. But to the extent that we say, you say that you are pressured, we asked you to identify what will it take, this is when we were told we are operating within the confines of it, and I am really trying to get through Dr. Clark's testimony so that he has a full opportunity to get everything that he wants to tell us on behalf of himself and on behalf of the association out in the record.

MR. HOLZER: I understand.

CHAIR: I'm not trying to limit anyone in any way, shape or form. But at the same time, I'm trying to operate under the confines that you previously, and I don't want to say you, counsel has previously identified for this Board in terms of the time requirements needed for each case.

MR. HOLZER: And I didn't understand when I gave that time frame as to the extent that objections on almost everything that any witness wants to put on would be made and we would bog down in showing the videos and so forth. And it, and because of that, because of the, the length of time, the questions have been objected to constantly and so forth, I, I took the delay that the Board had to create, obviously, and tried to minimize the amount of testimony that we had to present through videos and so forth. And I've tried to cut all

that down.

CHAIR: No one is pointing the finger at you, Mr. Holzer, saying that you did something wrong, to be clear.

MR. HOLZER: I'm not saying you said I did something wrong, I'm saying the circumstances of how long it's taken to get through testimony because of the legitimate objections, cross examine, and so forth, I, I, I have not been able to move this case as normally I would if I'm in a way of getting it through quickly. Or at least getting it through completely. So, that's all I'm saying. But I also am getting the feeling that I still have more to cover regardless of the 502.1 criteria that we're going to have to get into.

CHAIR: Yes.

MR. HOLZER: And we're not going to be able to get into it tonight, I don't believe.

CHAIR: We are not getting into it tonight.

MR. HOLZER: And if that's the case, I suggest that the last portion of the inconsistent with property zoning classification, I've got four or, I've got four, three documents to get in, but they're going to go through the same thing we've already gone through. Objections, argument, etcetera.

MR. SCHMIDT: I don't, I don't even know what that --

CHAIR: Well, hold on, let's not comment.

MR. SCHMIDT: I don't know what they are.

CHAIR: I understand your trepidation in that regard, right? You touch a stove once, you don't want to get it burned the second time, right?

MR. HOLZER: Exactly.

CHAIR: I understand that. The, as far as I know, the rulings have been consistent from here. If it's a matter that goes to a code issue or an expert issue, obviously there are going to be more problems. If it's a matter that certainly Dr. Clark can testify to, whether on behalf of the association or individually, there haven't been objections or the objections have been overruled and you've been able to proceed.

MR. HOLZER: I understand.

CHAIR: So, I mean, I think it's pretty, you have a pretty good idea of what we need or what we're looking for in terms of in the exhibits and the testimony to enable Dr. Clark and the Protestants to put forward their case.

MR. HOLZER: Right.

CHAIR: I'm just suggesting, since it's now been two full days that we've done Dr. Clark, realizing the objections have bogged us down, to just consider that when we come to, to points such as talking about panic bars and what not. You can expect these objections from Mr. Schmidt and you have a pretty good idea of where we stand on it. I understand we've now come up with a process by which you proffer those kind of things. We could then bypass some of that back and forth. And I'm not

looking to, you know, take, make sure that you can't get evidence in here or anything. You simply present what it is.

MR. HOLZER: Right.

CHAIR: But you know where we stand on those particular matters.

MR. HOLZER: I do.

CHAIR: Right.

MR. HOLZER: And I've tried to comply with them.

CHAIR: Right, so I'm just suggesting for tomorrow, I understand there were additional matters to go into. You know where we're going to be. So, if there's a question as to what you think Mr. Schmidt may object to, my suggestion would be to try to resolve those matters to the extent you can prior to the start of tomorrow's hearing.

MR. HOLZER: I can, there's no way I can do that. It's now 6:30.

CHAIR: I don't mean --

MR. HOLZER: I mean, I'll do it with myself.

CHAIR: -- literally now. Yes.

MR. HOLZER: I, I can't negotiate with Mr. Schmidt.

CHAIR: No, but if tomorrow you show him the exhibits that you intend to introduce that perhaps there's an agreement that there's no objection then you've just advanced this case substantially.

MR. HOLZER: I've been trying to do that.

CHAIR: All right.

MR. HOLZER: But I'll, I'll take your, your comments.

CHAIR: And it's really, I want to get this, to get this through and, again, to make sure that whatever Dr. Clark feels needs to be in the record is in the record.

MR. HOLZER: Right.

CHAIR: So, let's try to move through it. Is there anything else further for today?

MR. HOLZER: Well, yes. I, Mary, Mary Clark wants to know, can we have until February 5th to compile, compile the Baltimore County letters that have been discussed, that we're supposed to put together?

CHAIR: What letters?

MR. HOLZER: The packet that are the proffer letters.

CHAIR: Oh. You're going to have to refresh my recollection. You don't have to do it by tomorrow morning, if that helps the matter. We'll deal with that, whatever that will be tomorrow in terms of where we stand with that.

MR. HOLZER: Okay.

CHAIR: I understand sitting here today with the time we have today, the time we start tomorrow, it gives you limited opportunity so I will not require it by tomorrow because it's plain as day to me that we're going to be here on February 5th still receiving evidence anyway.

MR. HOLZER: Yes.

CHAIR: On the Protestant's case. So, with that in mind, we will, Mr. Schmidt, anything further for today?

MR. SCHMIDT: No, sir.

CHAIR: Mr. Holzer, anything further for today?

MR. HOLZER: No.

MR. CLARK: Oh, thank God.

MR. HOLZER: I will try to make this last bit that we would have done today very quick tomorrow.

CHAIR: And I, and I appreciate your efforts in already streamlining it down and calling the matter --

MR. HOLZER: Thank you.

CHAIR: -- to make it more appropriate.

MR. HOLZER: Thank you.

CHAIR: So, I'll see everyone tomorrow at 9:00 a.m.

MR. HOLZER: Yes.

CHAIR: Well, I shouldn't say everyone. Those of you attending tomorrow, I'll see you at 9:00 a.m., unless the County government is closed or on delay. If it's on delay, we will go by that schedule.

MR. HOLZER: We talked to Sunny at the, at the Board and she said you can get online to see.

CHAIR: Yes.

MR. HOLZER: And we would open whenever the County opens.

CHAIR: Right. So, if it's a two hour delay, we'll

see you at 11:00.

MR. HOLZER: Exactly.

CHAIR: By way of example.

MR. HOLZER: Thank you, thank you.

CHAIR: Thank you, all. Thank you, Dr. Clark.

MR. CLARK: Thank you very much.

CHAIR: And by the way, you are still under oath.

MR. CLARK: Thank you for ending it. Yeah, yeah, I know. Thank you.

CHAIR: So, you cannot talk about your testimony.

MR. CLARK: Thank you for ending it because I'm really losing it.

CHAIR: Yes.

(OFF THE RECORD - 06:24:18 PM)

CERTIFICATE OF TRANSCRIBER

I hereby certify that the hearing in the matter of Nepali American Cultural Center, case number 18-122-X and CBA-19-004, heard before the Board of Appeals of Baltimore County, January 29, 2019 were recorded by means of audiotape.

I further certify that, to the best of my knowledge and belief, page numbers 1 through 393 constitute a complete and accurate transcript of the proceedings as transcribed by me.

I further certify that I am neither a relative to nor an employee of any attorney or party herein, and that I have no interest in the outcome of this case.

In witness thereof, I have affixed my signature this 30th day of November, 2020.

Christine R. Leary

Christine R. Leary

Transcriber

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BALTIMORE COUNTY
BOARD OF APPEALS

IN THE MATTER OF:

NEPALI AMERICAN CULTURAL CENTER
CASE NUMBER: 18-122-X

Hearing Date: November 29, 2018

Pursuant to Notice, the above-entitled hearing was held before the Board of Appeals for Baltimore County at the Jefferson Building, Second Floor, Suite 203, 105 West Chesapeake Avenue, Towson, Maryland 21204.

PANEL PRESIDING:

JASON S. GARBER, CHAIRMAN

DEBORAH C. DOPKIN, BOARD

PRESENT ON BEHALF OF THE PARTIES:

LAWENCE E. SCHMIDT, ESQUIRE
TIMOTHY M. KOTROCO, ESQUIRE
Counsel for Petitioner

J. CARROLL HOLZER, ESQUIRE
Counsel for Protestant

Christine R. Leary
3129 Hiss Avenue
Baltimore, Maryland 21234

(ON RECORD - 09:13:52 AM)

CHAIR: All right. We are here today for what has been otherwise scheduled as day seven in the Nepali matter, case 18-122-X. I'll just, I imagine what probably sounded like an e-mail of ominous sorts, was distributed earlier in the week to the parties to indicate that we would not be taking evidence today, particularly the testimony. The reason for, you probably have figured out by now, Ms. Murphy is not here. She is not able to it on any cases for the foreseeable future. We're hoping to have her back, maybe January, maybe February, but we don't know. There's still an uncertainty as to what's going on. So, we'll just leave it there. That presents interesting issues for this case because we've already had day, days one through six with Ms. Murphy and now we are sitting here with two Board members and one of whom, Ms. Dopkin, is subject to reappointment on April 30th. So, her term will be up by then. So, we are trying to figure out, in terms of scheduling this case, how to squeeze this in so an opinion can be written before April 30th in the, what I would hope to assume is a rare chance that Ms. Dopkin will not be reappointed. So, we're likely to have to get another Board member for Ms. Murphy, rather than wait and see what occurs. But one thing I wanted to discuss with the parties is what do you guys think as to how you want to proceed. We can proceed with two members or we can proceed by getting a third member in. There is one

Board member, as you may or may not know, that has recused himself from the case and --

MR. SCHMIDT: Who is that?

CHAIR: -- and, what's that?

MR. SCHMIDT: Who was that, Mr. Garber? I'm just trying to remember.

CHAIR: We'll just leave it at one Board member.

MR. SCHMIDT: Okay, I'm sorry.

CHAIR: Because there was a personal contact issue that, not involving him directly, involving a family member. So, that's why he decided it was better for there to not be any connection to this case. Then there is another Board member by practice, who we don't have sit in matters within their, one's jurisdiction to the extent that it can be completed. So, that leaves us with a limited supply of Board members and, two of which, also, are subject to reappointment as well. So, in other words, we have to hustle on this matter. So, we can do that by, again, proceeding with two Board members, or by getting a third Board member and then really condensing the schedule within 2019. Speaking on my behalf, I'm fine either way, frankly, with whatever you, however you want to proceed.

MR. HOLZER: You want to go --

MR. SCHMIDT: Obviously, I didn't know any of this until I just heard it. So, this is without any consideration or reflection and the first thing is I hope Ms. Murphy is okay,

whatever her situation is. So, pass that along to her, if you will. I guess I would say that my initial reaction leaning would be to get a third Board member. And two reasons, which I probably could be talked out of --

CHAIR: You don't need to specify the reasons because --

MR. SCHMIDT: No, I, I'm happy to --

CHAIR: -- if you're more comfortable having the third Board member too for purposes of this case and if Mr. Holzer wants to go in that direction, if he, but if he has a second thought, I mean, that would be what we would like to do.

MR. SCHMIDT: Sure. Well, and I'm, I'm happy to share what my thinking is. It's no big secret. One is, I think there's some language in either the rules of practice and procedure or the code that says if a Board member is unable to complete hearing a case, and I've seen that in other cases, when, even when matters have been remanded, for example, from the Circuit Court or otherwise. I'm trying to remember the specifics but I know I have seen other matters where a Board member read a transcript or read transcripts to kind of bring themselves up to date. So, --

CHAIR: Well, and luckily in this case, as it turns out --

MR. SCHMIDT: We have transcripts.

CHAIR: We happen to have transcripts for at least

the first four days.

MR. SCHMIDT: Right, right.

CHAIR: And we can get the second two transcribed so that that Board member can get up to speed and yes, that's why we thought that a third Board member can be made, I guess, have an informed approach to this case.

MR. SCHMIDT: Right.

CHAIR: For the next time it will be scheduled.

MR. SCHMIDT: Right, and, right, and the other consideration that I was thinking of, Mr. Garber, is, you know, it is not beyond the realm of possibility, because it has happened in other cases, where the Board has issued a two to one decision. And so, I don't know what happens if you have two Board members and it's a one to one decision. I've never seen it, I don't know how it would result but --

CHAIR: I imagine the ALJ opinion may factor into some of that. I don't, I don't know. It's de novo. I'm just thinking this through off the top of my head.

MR. SCHMIDT: Right.

CHAIR: It's de novo, so maybe it doesn't, because I'm just thinking, if you're in Appellate Court and you have a tie, then it's a, then you default to the lower Court decision. But here it's de novo, so maybe that doesn't apply at all. I don't know the answer to your question.

MR. SCHMIDT: Yeah. So, I mean, those are the things

that, at least, sprung to mind immediately, which would lead me to think maybe getting a third member. But I, like I say, if Mr. Holzer has another, has contrary reasons, I, I could very well be persuaded, you know, that's just what I'm thinking of off the top of my head.

MR. HOLZER: As, as Mr. Schmidt said, this came to both of us in this, this instant.

CHAIR: Well, yeah, so, and it came to us by surprise as you can imagine as well.

MR. HOLZER: Sure. I think --

CHAIR: I assume it was not something that was, you know, someone could ever predict or account for in advance.

MR. HOLZER: Right, right. I, I, I do have some thoughts on this. First of all, I don't think it's fair to our clients, either Mr. Schmidt's client or my client, some of whom are here.

CHAIR: Um hm.

MR. HOLZER: But not all. For us to have to make that decision at, at this point. I think it's only fair that we be able to talk --

CHAIR: I will give you time to talk to them today, right now, and I, I appreciate what you're saying in terms of whether to go, proceed with two or three. The reason why we can't wait is for the reasons I've already --

MR. HOLZER: I understand, I understand.

CHAIR: -- already stated. And the preference, certainly from this Board, is to go by normal practice and have three and to avoid the consequence that Mr. Schmidt has already said, plus we have two Board members who are available at some point. Certainly, I can't speak, you know, speak to any specific day, but they have availability to, to come in and then in the event that this is scheduled in the matter and there is a means by which Ms., Ms. Murphy could be here instead, we're back to normal.

MR. HOLZER: Okay.

CHAIR: And that's why I would prefer to give that opportunity, if we can avail ourselves of it.

MR. HOLZER: I'd like to talk to my clients.

CHAIR: Yes.

MR. HOLZER: And I think Mr. Schmidt might want to call his at, at this point. Okay.

CHAIR: So, leaving that aside, --

MR. HOLZER: Okay. Let me, I, I can answer your question.

CHAIR: I know you want to talk to your clients about that, that part of it.

MR. HOLZER: Yeah, no, but I, I will tell you my thoughts.

CHAIR: Um hm.

MR. HOLZER: My thoughts are that I believe we only

need three days, one day to recapture today and one additional day for the rest of my case and then one day for the reply or rebuttal. So, so assuming that that is correct, that we need three days, one to replace today, two, one additional for us and one for him, my, I have a problem also on the December dates that you suggested, I am in Prince George's County.

CHAIR: Well, those are no longer on the table.

MR. HOLZER: Okay. Okay. That's perfect.

CHAIR: Because of the --

MR. HOLZER: I'm available --

CHAIR: -- of the events that caused us to be here today in this manner, --

MR. HOLZER: Okay.

CHAIR: -- we can't do December, no matter what happens at this point.

MR. HOLZER: Thank you.

CHAIR: Because if there's a third Board member coming in, which again, would be the preference here --

MR. HOLZER: Right.

CHAIR: -- that person would need to get up to speed and therefore, go over all the transcripts and all the documents --

MR. HOLZER: Correct.

CHAIR: -- that have been submitted to date, so that way this person has at least some ability to participate in a

meaningful manner as a Board panel member, rather than cold.

MR. HOLZER: I, I'm speaking solely for myself at this point.

BOARD: They could hear the recordings as well?

CHAIR: Yes, they could, or listen to the recordings. That's right.

MR. HOLZER: Yeah, yeah. And, and whatever, whatever documentation we have, that would, that would be appropriate. I don't think that's unusual. I've had, I've had a case like that.

CHAIR: It happens. It, here, --

MR. HOLZER: I've had a case like that.

CHAIR: -- and I'm sorry to keep jumping over you because I'm trying to work through everything as expeditiously as possible.

MR. HOLZER: Yeah.

CHAIR: Here, the only unusual, I'm not saying only unusual, what makes it more unusual is the fact that there's uncertainty as to if and when Ms. Murphy can return.

MR. HOLZER: Right.

CHAIR: To the Board.

MR. HOLZER: So, my, my feeling is this. Personally, I have no objection if it turns out that the two of you have to hear this case. I understand there could be a possible future dilemma, but that's in the future, I don't know. I, obviously,

I don't know your, both your thoughts. But I would be willing in January, to continue the case, with the two of you. On the other hand, if, if you feel uncomfortable with just the two of you and you believe it would be a better practice to have a third Board member, I have no objection to that either. One of the, one of the things that I have personally experienced where this happened in another case, was the fact that the individual who was appointed the third Board member, even though they listened to the, the tape or they reviewed the documentation, it was very unfair to that person to try to have to sit in and, and intellectually encompass all of the stuff that's happened here in six days. It would be different if it was a one day hearing or a two day hearing, but this has been six days of testimony and so, so --

CHAIR: Well, the good news about that is that, again, at least we have the recordings and at least we have transcripts.

MR. HOLZER: Right.

CHAIR: As opposed to someone who is coming in without notes, who just has the file to review. This case is at least better documented for someone --

MR. HOLZER: Yes.

CHAIR: -- to be able to come in and even if, and I recognize what you're referring to, that is, the nature of coming into the middle of a case, leaving aside as a panel

member, even any attorney coming into the middle of a case and taking over some responsibility for it, it, yes, the --

MR. HOLZER: It's difficult.

CHAIR: -- the time to get up to speed, there is some difficulty with that. However, the Board members here, I'm sure, once they get into the flow of things, it won't be a problem.

MR. HOLZER: So, the end result, to make your job a lot easier, I think Mr. Schmidt and I both are in the same position. If you believe it's in the best interest of the Board to have another, an individual appointed at this point to sit in, then I will abide by that decision. I, I don't see where I'm the one that makes the point. I'm just telling you my thoughts.

CHAIR: And that's what, that's why I wanted to hear from both of you, --

MR. HOLZER: Yeah.

CHAIR: -- as to how you wished to proceed.

MR. HOLZER: Yeah.

CHAIR: Because if it was the two of us, we could conceivably start quicker, but the preference here is to have three, I think it makes sense for multiple reasons. Also, there's the potential and hope that Ms. Murphy can rejoin us sooner --

MR. HOLZER: Yes, yes.

CHAIR: -- rather than later and none of this has to become an issue at all.

MR. HOLZER: Right.

CHAIR: The only other thing to bring up in relation to all that is, of course, the back end of it. Which is, I explained, Ms. Dopkin's reappointment.

MR. HOLZER: Yes.

CHAIR: Which means that this case opinion has to be issued and out before April 30th, well, by April 30th.

MR. HOLZER: Well, I have thirteen days in January that I'm available. I'm sure Mr. Schmidt has some --

MR. SCHMIDT: I brought, I brought my calendar as well.

CHAIR: And we'll get Ms. Cannington out here at the conclusion of today so we can start identifying, or at least narrowing down that, now, remember, if we're going to get a third Board member in, now we have to get that person's schedule as well.

MR. HOLZER: Sure.

CHAIR: And then, and now, my, my thought is, you know, with the third Board member, it's actually to schedule four Board member, to schedule Ms. Murphy and the, and the --

MR. HOLZER: Yes.

CHAIR: -- potential new panel member.

MR. HOLZER: As an alternate.

CHAIR: Right. And if Ms. Murphy cannot attend on those days, well, if Ms. Murphy cannot attend on day seven of testimony, that would mean that that, whoever replaces Ms. Murphy will remain with the case.

MR. HOLZER: Right.

CHAIR: Not one person sitting in just for one day. So, --

MR. HOLZER: No, I agree with that. I mean, I, I think the Board has a handle on, on what this personal situation is with Ms. Murphy and I'm certainly not going to object to whatever the Board, in its opinion, feels is appropriate and I don't think Mr. Schmidt is going to object to it either. I think we're, we're along the lines, I, I just would like to talk, if I could have five minutes to talk to my client.

CHAIR: Absolutely. And I'll give you that opportunity.

MR. HOLZER: Okay. But that's my feeling.

CHAIR: But I wanted to bring these matters to your attention first, because I wanted to also urge the importance on getting this scheduled and getting this done, as expeditiously as possible.

MR. HOLZER: Right. No, I, I understand. I don't want to have to file anything in the new process starting in February.

CHAIR: Well, that, that I've already moved on from because --

MR. HOLZER: Right.

CHAIR: -- we have other things that are more --

MR. HOLZER: Right.

CHAIR: -- pressing, unfortunately.

MR. HOLZER: I understand.

CHAIR: That have come up that, that goal may not be achieved. That was more of a wish, I suppose.

MR. HOLZER: Right.

CHAIR: But that's fine. Now, it's more about the other matters.

MR. HOLZER: Yes, yes.

CHAIR: Which require this case to move fast.

MR. HOLZER: I, like I say, I have thirteen dates that I'm available in January.

CHAIR: Okay.

MR. HOLZER: We can pick three of them, I think they should be available.

MR. SCHMIDT: Sure.

MR. HOLZER: And, Larry, I don't know what your thoughts are.

MR. SCHMIDT: Yeah, that's fine. Just a question, Mr. Garber, without --

CHAIR: Yeah.

MR. SCHMIDT: -- certainly don't mean to ask anything inappropriate. But would it be better to have dates later in the month, is there, is, would it be better for Ms. Murphy to possibly, or we just don't know?

CHAIR: I think we, I think we just identify --

MR. SCHMIDT: The dates.

CHAIR: -- the available dates --

MR. SCHMIDT: Okay.

CHAIR: -- for all parties and Board members, so we can start moving this as quickly as possible. It would be, I would love to be able to be in a position to wait to see --

MR. SCHMIDT: What, what --

CHAIR: -- but we don't, but since we --

MR. SCHMIDT: But you can't.

CHAIR: -- don't know, we're running, we would run a big risk.

MR. SCHMIDT: Okay, that's fine.

BOARD: And would you two, coordinate your thirteen with his calendar?

MR. SCHMIDT: Yeah, if you want to bring Ms. Cannington out now, we'll, I can talk to her now.

CHAIR: We will at the conclusion.

BOARD: (inaudible).

MR. SCHMIDT: Oh, okay.

CHAIR: Because we want to address two, two other

matters.

MR. SCHMIDT: Oh, okay.

CHAIR: So, you can be seated, that's all right.

MR. HOLZER: Oh.

CHAIR: Bring this up first. Mr. Holzer filed a Motion, Mr. Schmidt, on Tuesday regarding Protestant's Exhibits 23 and 24. You have the opportunity to respond. I don't know when you think you can have a response by.

MR. SCHMIDT: I, I have had a busy week and I have read his Motion, so I understand it. I can file a response, I mean, typically in Court rules, you know, you have fifteen days to file a response to a Motion. I can certainly do it within that time frame. If you would like something sooner, I'd try to get something to you.

CHAIR: It doesn't need to be sooner.

MR. SCHMIDT: But I would say certainly within fifteen days of when it was filed, I'll have a response.

CHAIR: And the purpose of me raising it again ties into scheduling, because --

MR. SCHMIDT: Sure.

CHAIR: -- if that person, if there's to be another person, needs to be up to speed on the Motion as well.

MR. SCHMIDT: Yeah, so if he, I mean, if he filed it, if it was --

MR. HOLZER: I filed it on Wed, Tuesday.

CHAIR: Tuesday.

MR. SCHMIDT: Tuesday.

MR. HOLZER: Tuesday.

MR. SCHMIDT: I'm just looking at my cal, at the calendar. So, indulgence for a minute. I'm, just want to get my calendar in front of me. So, that was the 27th, so you'd basically be talking --

CHAIR: If I'm not mistaken --

MR. SCHMIDT: -- the 4th, say December 12th.

CHAIR: Okay.

MR. SCHMIDT: I'll, I'll get something filed by December 12th.

CHAIR: I was like, I was going to give you three days for mailing.

MR. SCHMIDT: Oh, that's great. I'll tell you what, I'll have it filed by the 14th, which is Friday.

CHAIR: Yeah.

MR. SCHMIDT: That way --

CHAIR: That's fine.

MR. SCHMIDT: -- you'll have it by the close of the week.

CHAIR: So, Motion response --

MR. SCHMIDT: Will be due on Friday.

CHAIR: December 14th.

MR. SCHMIDT: Yes, sir.

CHAIR: Very well. So, we'll dispose of the Motion one way or another at the next hearing date.

MR. SCHMIDT: Okay.

MR. HOLZER: Sure.

BOARD: Or sooner if it suits you.

CHAIR: Or if, that's right, exactly. Okay. Next, we have the objections to the videos. Now, this is where, this takes me a little longer then we would all hope, because we have to go through some of these things and I have to say, if I look at Protestant's Exhibits 32, excuse me, 31, 32 and 33, which are the indexes for all the videos, it is hard to figure out, or at least match, some of the matters raised in the objections and the response to those exhibits to determine what is in, what is out, what is, remains in dispute, etcetera, etcetera. So, we have to work through that altogether. Do you have copies of Exhibits 31, 32 and 33? I say you do not.

MR. SCHMIDT: I do not, I didn't bring much.

CHAIR: That's fine. Well, we can all work together off whatever copies we need. Mr. Holzer?

MR. HOLZER: I don't know what you're asking about the copies.

CHAIR: Okay. We're --

MR. HOLZER: I have my response and I have his, his objection.

CHAIR: Right. But we, I need to track, certainly,

what will be admitted, what will not be admitted. And I have to figure out how to go about tracking it. These are the three indexes that have been presented of the videos, so I could cross out those that will not, on my copy, and then we can resolve whatever has to be on the exhibit list by, we can attach a sheet to it to say what is in, what is out. I mean, does that make sense to everybody?

BOARD: (inaudible).

MR. SCHMIDT: Sure.

MR. HOLZER: I have, I have video descriptions and why I think they're relevant, or whatever.

CHAIR: Well, those are, that's your, I'm talking about these exhibits, which are in evidence.

MR. HOLZER: Right. I understand.

CHAIR: The videos themselves we have to rule on. So, I intend to take these --

MR. HOLZER: And I'm prepared to answer that.

CHAIR: I intend to take these lists and mark which ones are in, which ones are out and which ones may be remain in dispute, maybe needs more information.

MR. HOLZER: Well, has, has the Board looked at these, including Ms. Murphy? I mean, or has the Board not had a chance to even look at them?

CHAIR: Well, I had the, well, as you can, you know how the practice goes. I can certainly rule on the objections

and I have, we have had seven played here in Court. I have reviewed all the submissions by the parties. Ms. Dopkin, I know, has done the same. We, we obviously see that there is an ability to move forward on some of these objections and, and matters, to resolve them here today so we're not wasting this time the next time out.

MR. HOLZER: I agree. I agree. I don't object to that.

CHAIR: Right.

MR. HOLZER: I just wasn't sure be, in other words, I wasn't sure that's, that's what you were planning to do today. Assuming that you were planning to do that today, I have a list of the disc, the file numbers, 4992 for example, and why I believe it's relevant to the case.

CHAIR: No, and that I understand.

MR. HOLZER: If you care, if you care to hear that.

CHAIR: That you have, yes. So, here's what I propose we do. I propose we get the exhibits, Protestant's thirty-one, thirty-two, thirty-three, since these are the indexes, get you exhibit copies so you can track it as we go along and so you can track it, Mr. Holzer, as we go along. And then we can figure out where, where that leaves us at the end of today and the whole purpose of this exercise is to not waste time the next time out.

MR. HOLZER: I agree because the witness has to know

what he can get into and what he can't, that's --

CHAIR: Well, we would have to resolve this at the start of the next time and that would take up, who knows how long.

MR. HOLZER: Right, no, I agree.

CHAIR: So, Mr. Schmidt, are you prepared on that?

MR. SCHMIDT: Sure.

CHAIR: Okay. I mean, your submission is what it is.

MR. SCHMIDT: Yeah. I'll, I'll, --

CHAIR: And I'm sure you're ready to go with that argument on your submissions.

MR. SCHMIDT: Sure.

CHAIR: All right. So, so I will leave the bench to go get Ms. Cannington so we can get these copied so we can all move along.

MR. SCHMIDT: Okay.

MR. HOLZER: Can I take the time to talk to my clients?

MR. SCHMIDT: You absolutely may. So, we can, we can go on break from the record.

MR. HOLZER: Take a break for ten minutes.

CHAIR: Yeah, go talk, go speak with your clients. If you feel you need to make phone calls, you may go make phone calls.

MR. SCHMIDT: Okay.

CHAIR: Otherwise, I want to make sure we're all on the same page about the objections as to where we're going.

BOARD: And while you're out, if you could (inaudible).

CHAIR: Right, so you have thirteen, if he has seven, that are mutual, those are the seven we can then present to Ms. Cannington.

MR. HOLZER: Sure.

MR. SCHMIDT: Okay.

(RECORDING PAUSED - 09:35:02 AM)

(ON RECORD - 09:54:05 AM)

CHAIR: All right. Thank, thank you for providing your mutual available dates for the month of January, to continue the scheduling of this case. Up now is the passing, our review upon the objections and responses from the parties as to the videos, which I believe are Exhibits 29 and 30. Which, the indexes for which are Exhibits 31, 32 and 33.

MR. HOLZER: Thirty, okay.

CHAIR: Which I've handed copies to counsel so we can all track this together. All right. So, the first thing that's the easiest thing to figure out here are the ones where Mr. Schmidt had no objections.

MR. HOLZER: Okay.

CHAIR: The hard part to that is identifying where on the indexes we can find them and highlight them to say they are

in evidence. So, let's start with that. I note that for disc A-1, I guess it's number 4992.

MR. HOLZER: Yes.

CHAIR: All right. So, if we were to look at Exhibit 31, it would not be reflected on thirty-one. If we were to look at Exhibit 32, it would not be reflected, I guess, at all until, other pages of this, page five perhaps.

MR. HOLZER: 4992.

CHAIR: Yes, if you go to, I guess, it's coded rec center one, R-E-C-C-T-R-1.

MR. HOLZER: Yes.

CHAIR: At the top of page five of Exhibit 32. It has a designation there of DSC-4992. I'm assuming, Mr. Schmidt, when you write disc 4992, that's what you're referring to?

MR. SCHMIDT: Yes. Yes. Just, just to tell you, the, the discs were numbered, the, there were four gold discs--

CHAIR: Yes.

MR. SCHMIDT: -- that were marked in magic marker A-1, A-2, A-3 and A-4.

CHAIR: Which corresponds to Exhibit 33.

MR. SCHMIDT: Right. And when you open, when, when I opened those, then there were certain folders shown.

CHAIR: Right.

MR. SCHMIDT: And so, what I did is, in my letter,

like the first folder was 4992, then the second one was 5005, and then the third one was 5006.

CHAIR: Right, to me, the reference to the word disc, as you write D-I-S-C, would, that would correspond with the page five rec center one is the, since that's the title, DSC_4992? That's what you meant by disc 4992?

MR. SCHMIDT: Yes, yes, sir.

CHAIR: That's, that was my only question. And so, that in turn, that's reflected on Exhibit 33 at the bottom in handwriting. We all agree on that? Thirty, thirty-three for Mr. Schmidt.

MR. HOLZER: Yes.

CHAIR: That's a single page.

MR. HOLZER: Yes.

CHAIR: (inaudible) single page. There you are. Handwriting on the bottom, 4992.

MR. SCHMIDT: Yeah, that's a, that's a, that's A-1.

CHAIR: Disc A-1, right. So, we all agree that that's what we're referring to?

MR. SCHMIDT: Right.

CHAIR: Okay.

MR. SCHMIDT: And I think, as my letter indicates, yeah, okay. Okay, well, you're, you're on, you're on disc A-1, okay.

CHAIR: I am, I am trying to go through it like in

the, in the manner that you presented so disc A-1.

MR. SCHMIDT: Right.

CHAIR: Which you wrote the word disc but it corresponds to DSC_4992.

MR. SCHMIDT: Yes, yes, sir.

CHAIR: So, now we're on the same page. What we have from Mr. Schmidt we can now track from Exhibit 32 and now Exhibit 33. Okay. So, you had an objection to this on the basis, well, you wrote, I technically object to its submission as to relevance, lack of foundation, authenticity. The events depicted are not authenticated. However, I do appreciate it shows the property and building. From that standpoint, it may have some value to the Board. Correct?

MR. SCHMIDT: Yes, sir.

CHAIR: All right. Is there anything you want to add to that?

MR. SCHMIDT: No, I, I think my letter speaks for itself unless the Board needs to hear any clarification.

CHAIR: Could we all agree that's, that's something that the Board has not seen as of yet?

MR. HOLZER: Yes.

CHAIR: That is, we have not played that for everybody (inaudible) --

MR. SCHMIDT: Yes, sir.

MR. HOLZER: Right.

CHAIR: Okay. So, what I propose to do for that is give Mr. Holzer an opportunity to respond to that, that, to that video directly.

MR. HOLZER: Sure.

CHAIR: As to why it should be admitted.

MR. HOLZER: It should be admitted because it shows the door opened to the main building, or the house. It shows events occurring with the door open and people going in and out. It shows people inside carrying brass pots and as a result, the door to the mansion is open. People having religious service in the mansion, Ghimire said no religious worship held inside the mansion, ALJ said no religious activities are to be held inside the mansion. So, it goes to relevance, it goes to impeaching the testimony of one of the witnesses.

CHAIR: And that was one thing in your submission that I was trying to figure out, because you would say that the testimony is contradicted by the video.

MR. HOLZER: Yes.

CHAIR: And without referencing the testimony, so it's, the, for that particular one, 4992, --

MR. HOLZER: Yep.

CHAIR: It's the fact that Mr. Ghimire, you recall, testifying that no religious activity had taken place inside.

MR. HOLZER: And the ALJ said no religious activities

are to be held.

CHAIR: That is a different matter because what the ALJ ordered is not necessarily what's to occur here in this case. But more to the point, it's Mr. Ghimire's testimony.

MR. HOLZER: And it goes to, to test, impeaches credibility.

CHAIR: Okay. Impeachment Mr. Ghimire on no religious activity.

MR. HOLZER: Right.

CHAIR: Okay. Mr. Schmidt, any response to that?

MR. SCHMIDT: Yes. The, they weren't conducting religious activities in the building. I mean, people can go in the building. There were plenty of photos of people all standing around the building and talking but they weren't, that wasn't religious services. So, it doesn't impeach Mr. Ghimire's testimony.

CHAIR: So, would you say, are you characterizing the video as you cannot tell if it's a religious --

MR. SCHMIDT: Yeah.

CHAIR: -- ceremony or not, whether you watched the video, on the video? That is, if someone who is not involved in this case were to watch the video and say, that's a religious ceremony or not.

MR. SCHMIDT: I, I don't, I don't think people could tell. I think --

CHAIR: Because that would be a foundational question.

MR. SCHMIDT: Yes. There's no foundation that that's a religious ceremony. To the contrary, when I looked at it, it looked like four people going on in looking around the building.

CHAIR: Okay. So, I only use this as an example as to how we're going to untangle this web, okay? That's the first one on the list and I use this to illustrate how we're going to untangle this. That sounds like something we're going to have to watch and make a determination on our own as to whether or not that depicts what you're saying.

MR. HOLZER: Okay.

CHAIR: Okay? So, we'll leave that one open.

MR. HOLZER: That's okay. Then, and I'll mark it okay to show --

CHAIR: I'm going to mark it okay, I would say that's still subject to review.

MR. SCHMIDT: Okay, that's 4992?

CHAIR: Right.

MR. SCHMIDT: Okay.

MR. HOLZER: What, so you're not ruling that it's okay to show it?

CHAIR: I'm not making that ruling sitting here at the moment. I'm saying, I needed to know why you think it's

admissible. I need to hear from Mr. Schmidt in more detail in res, in, to reply to you and then now I need to figure out whether or not it shows what we're talking about.

BOARD: (inaudible).

CHAIR: I am. I'm getting to that now. I wanted to go through, illustrate how we're going to, this is how we're going to operate on this. Okay. So, now we know how we're going to approach each one of these that have been identified.

MR. HOLZER: Okay.

CHAIR: But we're going to now fast forward for the time being to eliminate the ones to which there are no objections.

MR. HOLZER: Okay.

CHAIR: So, we go down to disc A-2. Which Mr. Schmidt that's paragraph two of your submission.

MR. SCHMIDT: Yes, sir. Yes, sir. Mr. Garber, I'm going to remain seated if, when I address you, if that's okay?

CHAIR: Absolutely. For, for the purposes of today, that's fine.

MR. SCHMIDT: Okay. I'm just trying to keep these papers in front of me, if that's all right.

CHAIR: No, that's perfectly fine for today. So, disc A-2 has eleven different scenes of dash cam video footage. Do you see what, how that's marked on Exhibit 33 pretty clearly? On Exhibit 32, if someone can help direct me as to

where those eleven items are on, if they're on Exhibit 32 to identify them? Like, for example, one of them is listed as circle to Mount Vista Court. And if you look at page five again, on Exhibit 32, under, again I'm calling it rec center 3, only because that seems to be the title on top, it says circle to Mount Vista Court. I'm assuming those two things are one and the same.

MR. SCHMIDT: Not in my exhibit, I just can't tell you I, I, I agree.

CHAIR: I know, I, I'm awaiting a response from Protestants on that.

MR. SCHMIDT: Yeah.

CHAIR: I recognize you're probably trying to figure out where --

MR. SCHMIDT: The same thing.

CHAIR: Right. Let me ask this, Mr. Clark, would it be easy if we proceeded with another one while you identify where on thirty-two those eleven items may be? Since you're, you are the author of those indexes. Would that make more sense for purposes of today, rather than us --

DR. CLARK: Waiting for me.

CHAIR: I mean, it seems to me like that would make more sense to get that part started. If you could identify where on thirty-two those items are, are indicated.

DR. CLARK: Do we, do we have a copy, can I have the

copy of the, of the disc library? What we actually submitted?

CHAIR: Okay. Is that Exhibit 32 you're looking for?

DR. CLARK: Yeah, yeah, I guess.

CHAIR: Okay. So, here's what I'm going to do. Mr. Schmidt, I'm going to give him my copy of the copy that I just made that has now one indication on it, the blue for 4992. Outside of that, it's the same thing. Mr. Clark, you can take my copy.

DR. CLARK: No, I'm asking about the physical discs.

CHAIR: The physical discs, you want the discs back?

DR. CLARK: Oh, we have, we have a disc packet.

CHAIR: Okay.

DR. CLARK: Thank you.

CHAIR: So, while we are moving on with other things, if you could work on that, that would be great. So, we'll, we'll pass that for now. We'll get back to it. Paragraph three, disc A-3.

MR. HOLZER: I'm sorry, which, A-3?

CHAIR: Sir, we're now, if you take a look at, one second, Mr. Clark. If you take a look at Mr. Schmidt's objections, it's paragraph three.

MR. HOLZER: Yes.

CHAIR: Okay. He says, disc A-3, there are two entries and I'll leave the, the suffix ending there, labeled T-A-N-11-1-5-0-1, they appear to be video taken in July of '18

from a stationary camera and he has no objection.

MR. HOLZER: Yes.

CHAIR: So, are we all on the same page, Mr. Clark?

DR. CLARK: Okay. I, I figured it out.

CHAIR: Well, hold on. Let, we'll, I'll get back to you.

DR. CLARK: Okay.

CHAIR: We're going to just work through this one first now. Disc A-3, so if we go to Exhibit 33, disc A-3, there is no reference to cam and then with the suffix 11-15-0-1. Mr. Schmidt, you agree with that?

MR. SCHMIDT: I do agree with that. I, I can only tell you what was on the disc when I looked at it.

CHAIR: I, I'm, I understand. This is why we need to work through this together. Mr. Holzer, do you see that?

MR. HOLZER: I, I see on thirty-two.

CHAIR: Right, can we agree that that reference is not on Exhibit 33?

MR. HOLZER: Yeah, it's on thirty-two.

CHAIR: Right. But then that means that if A-3, if what is recorded oh, excuse me, it's at the top of page thirty-three. I see. It's out of sequence. So, there are two references to 11-15-01.

MR. HOLZER: Yes.

CHAIR: On Exhibit 33 at the top.

MR. HOLZER: Right.

CHAIR: Those two, there's no objection.

MR. HOLZER: All right.

CHAIR: So, they are admitted. Mr. Schmidt, that's your understanding, right?

MR. SCHMIDT: Yes, sir. That is, just, this, this Exhibit 33.

CHAIR: This is Exhibit 33.

MR. SCHMIDT: I'm sorry.

CHAIR: If you look at the very top.

MR. SCHMIDT: Oh, yes. Yes, sir. Yes, sir. Those are admitted.

CHAIR: Okay, because if you see where the line has been drawn, there's a grouping, A-2, A-3, --

MR. SCHMIDT: Yeah.

CHAIR: -- A-4, A-1 --

MR. SCHMIDT: Yeah, I, I was looking below where A-3 was but I see him at the top of A-3.

CHAIR: I had the same problem initially too.

MR. SCHMIDT: Yes.

CHAIR: A-3 actually has a second section that's at the very top.

MR. SCHMIDT: Yes, and that's the, the two of them that are 11-5-01, 10-16-2018 at 10:31 a.m. and then 10:35 a.m.

CHAIR: Right.

MR. SCHMIDT: Which is when I think they were created because the mov, the video actually has a date of July.

CHAIR: Okay. Well, that's a whole different matter. You have no objection for purposes of its admissibility.

MR. SCHMIDT: Right.

CHAIR: Therefore, they will be admitted.

MR. SCHMIDT: Right.

CHAIR: Everyone on the same page there?

MR. SCHMIDT: Yes, sir.

MR. HOLZER: Yes. 111501 and 4933?

CHAIR: No, we're not on 4933.

BOARD: We're not there yet.

CHAIR: We're on --

MR. SCHMIDT: The two of them that are 115001.

CHAIR: So, let's go to, everyone, hold on, Mr. Clark.

MR. HOLZER: Yeah.

CHAIR: Mr. Holzer, if you take a look at this page, Exhibit 33.

MR. HOLZER: Yep.

CHAIR: And look at the very top, there are three items.

MR. HOLZER: Yes.

CHAIR: Those are the two we're referencing.

MR. HOLZER: Correct.

CHAIR: Those two are admitted.

MR. HOLZER: Yes, okay.

CHAIR: All right. So, we're all on the same page there. Now, Mr. Clark, you wanted to say something?

DR. CLARK: I figured it out.

CHAIR: For?

DR. CLARK: For, for the whole, for that, for whole Exhibit 32.

CHAIR: Okay. Well, --

DR. CLARK: Okay. For everything on thirty-two.

CHAIR: -- hold on, hold on. Now, we're going to go back to disc A-2.

DR. CLARK: Right.

CHAIR: Which is paragraph two of Mr. Schmidt's objections.

MR. SCHMIDT: Okay.

CHAIR: There are eleven different scenes, scenes of dash cam video footage to the extent it depicts the relevant neighborhood, you do not object. But it's not clear as to where these videos were taken. Obviously, for those that were not taken of the subject property, I would have a question as to why they were relevant. But I don't know if they were taken at the subject property either. So, Mr. Holzer?

MR. HOLZER: Let me see what our response to that was.

CHAIR: You just wrote there, there was no objection.

MR. HOLZER: Yeah.

CHAIR: Well, the question has come up as to whether or not they dep, that all eleven depict the area.

MR. HOLZER: Yes, I believe so.

CHAIR: Okay. That was that, that's what you're proffering, that's your representation?

MR. HOLZER: Yes, yes.

CHAIR: Okay.

MR. SCHMIDT: If, if they depict, quote, the area and I'm not sure what the area is, but if, if they depict --

CHAIR: We'll deal with that separately.

MR. SCHMIDT: -- if they depict the area, then, then I don't have an objection to them, as I said. The, obviously, --

CHAIR: I understand --

MR. SCHMIDT: -- the problem is, is it's a video from a dash cam. When I see a street name or I see a building or I see something that I can identify, then I know where it is. But some of them are just of a rural road. I don't know where that is. But assuming they're of this stretch of Harford Road or some reasonable parameters, I don't really have an objection.

CHAIR: But you would agree --

MR. SCHMIDT: I'm going to try to make this easy for

you.

CHAIR: I know. But you would agree though, that we would suffer the same problem. That is, if there was no indication as to what we're seeing, --

MR. SCHMIDT: Yeah, you're going to have a hard time knowing what they are.

CHAIR: -- it, it won't really much matter to the Board, because we can't figure out what it is unless it's identified to us by someone, which I'm assuming, since Mr. Clark is still on the stand, he still may be able to do.

MR. HOLZER: That's correct. He'll, he'll explain.

CHAIR: Okay. So, with that in mind, disc A-2 in its, I guess all eleven dash cam videos would then be admitted.

MR. HOLZER: Okay.

MR. SCHMIDT: Okay.

CHAIR: Okay. Okay. Next, oh, and we're going to need to identify that on Exhibit 32 but we'll, I think we're in the process now that we're rolling a little bit, so we'll wait to the end to identify those in Exhibit 32. Disc 4933, this is paragraph 3-B of Mr. Schmidt's objections. So DSC_4933. That would be on disc A-3, it's at the top of the A-3 second grouping.

MR. SCHMIDT: Right.

CHAIR: On Exhibit 33. Mr. Holzer, do you see that?

MR. HOLZER: Yes.

MR. SCHMIDT: And I don't object to that.

MR. HOLZER: Okay.

CHAIR: No objection, therefore, that's admitted.

MR. HOLZER: Thank you.

CHAIR: All right. Next, just the ones where there are no objections. Disc 6985, July 4th.

MR. HOLZER: Say that again, six --

CHAIR: Sorry, DSC_6985.

MR. HOLZER: Okay.

BOARD: Paragraph 3-E on Mr. Schmidt's --

MR. HOLZER: Yes, I see it.

CHAIR: Sorry, my, my, I color coded which there were objections and no objections, so if I'm moving too fast, just let me know.

MR. SCHMIDT: That's the fourth one down on, under A-3 on Exhibit 33.

CHAIR: Thank you. In the second grouping, right.

MR. SCHMIDT: That's the, apparently it looked like the 4th of July. I don't object to the date.

CHAIR: Yes.

MR. SCHMIDT: Said God Bless America.

CHAIR: I, I, appreciate your, your proffered stipulation and your objections.

MR. SCHMIDT: I wasn't trying to be a smart, wise guy, but I'm happy they --

CHAIR: Obviously we can't receive that as evidence but thank you very much for the, for the offer. All right. Mr. Holzer, you're on the same page?

MR. HOLZER: I got it.

MR. SCHMIDT: Okay. So, that's admitted too.

CHAIR: 6985 is admitted.

MR. SCHMIDT: Okay.

CHAIR: All right. Next. By my color coded copy here, disc A-4, which is paragraph four of Mr. Schmidt's objections, that's page four. Let me know when you're ready, Mr. Holzer.

MR. HOLZER: Um hm. Disc A-4.

CHAIR: Go to para, subparagraph I, which is on page five. Entitled front deck.

MR. HOLZER: Got it.

CHAIR: Okay.

MR. SCHMIDT: Okay and that's on thirty-three, that's from deck, September 10, 8:20 p.m.wave, right?

CHAIR: Now, that is an audio file that we have heard in Court. Does everyone recall that?

MR. SCHMIDT: No, I don't think you've heard that one. That, you, you saw the one that was a stationary camera shot of his front yard and had a lot of audio. This is no pho, this is no picture at all.

CHAIR: I understand that.

MR. SCHMIDT: Yeah.

CHAIR: I had in my notes from the day that we went over seven of these in Court, the audio one was the second one played. It was just audio.

MR. SCHMIDT: Okay.

MR. HOLZER: It was played.

MR. SCHMIDT: Maybe it was played, okay.

CHAIR: Right.

MR. SCHMIDT: All right. I, I missed that.

CHAIR: So, I, I want to make sure we're all on the same page. That was the one that has been played in Court.

MR. HOLZER: Yes.

CHAIR: It is admitted because there's no objection.

MR. HOLZER: Right.

MR. SCHMIDT: Okay. So, that's the from deck --

CHAIR: September 10 --

MR. SCHMIDT: -- one, two, three, fourth one from the bottom.

CHAIR: Right, on disc A-4.

MR. SCHMIDT: Okay. Got it. So, that's admitted.

CHAIR: Right. And that has, that's one that has actually been played in Court.

MR. SCHMIDT: Okay.

CHAIR: Dash cam video Gunpowder Park to circle. I seem to recall that that may, that was actually the first video

played.

MR. SCHMIDT: Yep.

CHAIR: It was identified as being on April 10th, 2018. Does everybody have the same recollection or same understanding?

MR. SCHMIDT: Yeah, and that's admitted too.

MR. HOLZER: And this, this is J?

CHAIR: Yes.

MR. HOLZER: This is J.

CHAIR: Sorry. Mr. Schmidt, there's no objection?

MR. SCHMIDT: No, sir.

CHAIR: So, therefore, that will be admitted. Subparagraph L, rural road walker. Though Mr. Schmidt indicates he's not sure what the point is, he still has no objection, so we'll go with the no objection part of this.

MR. SCHMIDT: Yeah, that one had the road sign for Hutschenreuter Road, so it's in the area, so I don't know what the point of it is, but I don't object to it.

CHAIR: That would be the bottom of the type written, in, on the type written index part of Exhibit 33.

MR. SCHMIDT: Right.

CHAIR: Mr. Holzer, your understanding of that --

MR. HOLZER: Yes, um hm.

CHAIR: -- that is admitted.

MR. HOLZER: Yeah.

CHAIR: Okay. Solitude, I do recall that.

MR. SCHMIDT: Saw them with the crickets.

CHAIR: I, I recall that from your, from your, I guess, you know, from your response here. Yes, that you wrote crickets. I do recall the video and, Mr. Holzer?

MR. HOLZER: Yes?

CHAIR: You recall which one that is?

MR. HOLZER: Yes.

CHAIR: That is admitted.

MR. HOLZER: Okay.

MR. SCHMIDT: All right.

CHAIR: That is the hand written one on Exhibit 33.

MR. SCHMIDT: All right.

MR. HOLZER: Yes.

CHAIR: Okay. So, that takes care of the numbered discs, we're now moving onto the white discs. Page five of Mr. Schmidt's objections.

MR. SCHMIDT: Right.

CHAIR: BIVIDS-1, 2, 3, 4 and 5. These are all videos on what appear to be stationary camera position across the street from the entrance. Now, I understood BIVIDS-1, 2, 3, 4, 5, if you look at Exhibit 32, there are numerous clips. It covers three pages of Exhibit 32. That's what you're referring to, Mr. Schmidt?

MR. SCHMIDT: Yes, yes, sir.

CHAIR: Okay. Mr. Holzer, is that your understand?

MR. HOLZER: Let me just, I'm just looking at thirty-two.

CHAIR: I will note that eleven, or no, excuse me, that's not the right one. Eleven fifteen oh one, the one we first reviewed in A-3 is also on BIVID-5, it's the top one listed on BIVID-5 on Exhibit 32, page three.

MR. HOLZER: Right.

CHAIR: You're following, Mr. Schmidt?

MR. SCHMIDT: Yes, sir, I am.

CHAIR: All right.

MR. HOLZER: They're okay?

CHAIR: Mr. Schmidt, you said no objection?

MR. SCHMIDT: Yes, sir, that's correct.

CHAIR: Okay. So, VID, BIVIDS-1, 2, 3, 4, 5 are admitted. Let me, let me back up. There's no objection to them. We'll talk about something else coming up. So, I'm going to hold on that, whether it's admitted, quite yet. White disc paragraph four, dash cam one, two videos, the first from the deck and the second a dash cam.

MR. SCHMIDT: Yes, and that's the first, yes, yes, sir. And that's, that's on page four of Exhibit 32, under dash cam one.

CHAIR: Got it.

MR. SCHMIDT: The top entry in the top left, right?

CHAIR: Yes. I see that, where that corresponds now.

MR. SCHMIDT: And that's admitted, right?

CHAIR: Ms. Dopkin? Mr. Holzer?

MR. SCHMIDT: It's, it's this, right?

CHAIR: Yes, that's what I have.

MR. SCHMIDT: Up, up in the top corner.

CHAIR: Are you there, Mr. Holzer?

MR. HOLZER: Yes.

CHAIR: Okay. So, those will be admitted.

MR. SCHMIDT: It's up in the top left hand corner, the first entry in the top of the column.

CHAIR: So, page four of Exhibit 32, which are the two videos, they're identifying the two videos at issue. There's no objection, those two are admitted. All right.

BOARD: Thank you.

CHAIR: Now, I wanted to go back to the BIVIDS-1, 2, 3, 4, 5.

MR. HOLZER: I'm, I'm sorry, we're going back to?

CHAIR: Exhibit 32.

MR. HOLZER: Wait a minute, thirty-two.

CHAIR: The first three pages.

MR. HOLZER: Okay.

CHAIR: Which corresponds to Mr. Schmidt's --

BOARD: Five.

CHAIR: -- page five, white disc, paragraph one, in

which he does not object.

MR. HOLZER: Yes.

CHAIR: I don't know, looking at it, how many videos we're talking about here, but it seems to me, I'm going to estimate roughly about sixty to seventy.

MR. SCHMIDT: They're all stationary camera?

DR. CLARK: Yes, yes.

CHAIR: I want to know what is the relevance of the entirety of it, number one. Number two, I want to know is there an issue of duplication for it before there's a ruling. Because if, there are, if there, if all we're watching is the fact that someone is coming to and from, that doesn't help the Board any by itself. If it's a matter of there are videos that show a high volume, which I understand you guys have argued about in this case.

MR. HOLZER: Right.

CHAIR: Or it shows some other type of condition or something you want to bring to the Board's attention, obviously, we would want to know that. But otherwise, if it's just a matter of hey, look, we set up the camera over the course of months and we, here's what this looks like at, you know, particular snippets from every day of the, of like a four month period, I don't know how that really helps the Board as much that as would directing us to the actual evidence to show that there's something at, that supports your case that you've

argued thus far, or something that is yet to come.

MR. HOLZER: Can I check with my client?

CHAIR: Yes, and we, I'll, I'll actually give you time to talk with him so that we can resolve that later. But that is my concern about that, is that there's an issue as to duplication and relevance to seventy of these videos and I'm not suggesting that, you know, that it may not be relevant without knowing more, I just want to know before we have to go, deep dive into seventy videos what does it do for the Board?

MR. HOLZER: I think he can answer it right now.

CHAIR: Okay.

MR. HOLZER: And, so you can keep --

DR. CLARK: Do you want me to answer it directly or should I answer it through counsel?

CHAIR: I, well, since you are a person who is on the stand, I would prefer it goes through counsel.

MR. SCHMIDT: And, and I, yeah, and I would agree, because I may have questions of him if he identifies something that he thinks is relevant.

CHAIR: I'm sure you're going to have those questions anyway. And I, but the, I mean, he's not here to testify.

MR. SCHMIDT: I understand. I'm just trying to get through this, that's all.

CHAIR: And so, right. And I understand you had no objection to those videos but --

MR. SCHMIDT: I mean, they were relevant to the extent that they show the front of the property. So, to the extent, I mean, when I say relevant, they're not relevant, they're --

CHAIR: I, no, I understand what, I understand what you mean.

MR. SCHMIDT: You know, it's not like --

CHAIR: It's like they're showing a Pizza Hut.

MR. SCHMIDT: Yes, like some --

CHAIR: Right, they're showing the property so, therefore, it's tied to this case but --

MR. SCHMIDT: Right.

CHAIR: -- as to the significance, I got --

MR. HOLZER: It, it, it goes to show the, on July 28, 29, the amount of traffic on the Sunday that was going on to the subject site, that's what --

CHAIR: So, each of these videos would represent the high volume that's --

MR. HOLZER: Yes.

CHAIR: -- that you've been arguing about or --

MR. HOLZER: Yes.

CHAIR: -- presenting testimony about as well.

MR. HOLZER: Exactly.

BOARD: And they were all taken on July 28th and 29th?

MR. HOLZER: Yes, that's what he says.

CHAIR: Okay. So, now, so, now we're past perhaps the relevance part in my concern. Now we're into the duplication part of the concern.

MR. HOLZER: Right.

CHAIR: Because to see seventy videos of cars coming and going when we all have agreed, thus far, it seems to me, at least both sides agree, there was an event which had a higher volume then normal.

MR. HOLZER: That's, that's correct.

CHAIR: Right.

MR. HOLZER: And what I would suggest is if they are permitted to be shown, we simply select certain portions to show the Board, that's all. I don't think we have to sit here for seventy, sitting here and watching for two days.

CHAIR: Well, if it's in evidence, I think that then we're going to have to review it. If it's not to be in evidence, obviously, we won't have to review it. If there are ones that you feel are representative, understanding, that there are more, Mr. Schmidt has seen them at least, then obviously that representation can be made during the course of testimony that there are other videos throughout the entire day that show the same pattern, or whatever the case may be, which is, this is what I'm picking up from everyone, what they're speaking about here. But perhaps that might be a better approach then putting all, all in.

MR. HOLZER: That's what I was trying to suggest.

CHAIR: Yes.

MR. HOLZER: Maybe inartfully, in terms of for, for the whole group of pictures, we could show, we could show samples of that and, and conclude or, if the Board wanted to watch them all, okay. But we're only for purposes --

CHAIR: It's not a matter of want, it's a matter of--

MR. HOLZER: Has to.

CHAIR: Well, but also now a matter of getting a third person to do the same thing.

MR. HOLZER: Right, right.

CHAIR: Not saying we're handicapped one way or the other, but it just, looking at seventy videos that seem to show the same thing over and over and over again creates a duplication concern that is not needed to have the entirety in evidence, unless the entirety shows something that is of significance to the Protestant's case that cannot otherwise be depicted in representative samples or in photographs that have already been introduced.

MR. HOLZER: I understand. You also have a witness on the stand that can articulate --

CHAIR: That's a different matter. Because his testimony is going to be able to amplify whatever it is you want to amplify.

MR. HOLZER: Right, right.

CHAIR: I'm just talking solely about these videos.

MR. HOLZER: So, I don't, I'm not sure I understand what you want me to say.

CHAIR: Pick out representative ones, would be my --

BOARD: Can you cull through them --

MR. HOLZER: That's what I was trying to say inartfully that that, I didn't think that you needed to sit for seventy videos as opposed to selected --

BOARD: But will you be able to present selective portions and identify them to coordinate with Exhibit 32?

CHAIR: Thank you.

MR. HOLZER: Yes.

BOARD: When we start taking evidence again?

MR. HOLZER: Yes.

BOARD: As representative and identify what other videos they are representative of, so that --

MR. HOLZER: That is exactly what I would want to do and certainly Mr. Schmidt can, if we're not showing ones that he thinks we should show, he certainly can ask that, so --

CHAIR: Well, he's going to have the ability to cross examine, obviously. He's already indicated he has no objection to the videos by themselves.

MR. HOLZER: Right.

CHAIR: That is, the substance, the content of the videos, does not present an issue for Mr. Schmidt. But again,

rather than, you know, keep going back to the same point of well, here's another car going in, we were trying to figure out a way to streamline that process.

MR. HOLZER: I think I can take care of that. If the Board will allow me to take those seventy or sixty, show illustrative examples and say that there are others that we don't necessarily need to repeat.

BOARD: And that would be helpful --

MR. SCHMIDT: Mr. Holzer, can you tell me which ones you're going to show?

BOARD: Excuse me.

MR. HOLZER: I, yeah, --

CHAIR: Wait, Mr. Schmidt, Ms. Dopkin is speaking.

MR. SCHMIDT: Oh, I'm sorry.

BOARD: It would be helpful where you show an illustrative example to identify which other clips it illustrates.

MR. HOLZER: Exactly, exactly.

BOARD: So that we can identify, that we can either include or exclude those --

MR. HOLZER: Well, you're admitting them all now, but the idea of the Board's --

CHAIR: Well, there's an issue as to the duplicative aspect of it.

BOARD: (inaudible).

MR. HOLZER: I understand.

CHAIR: Right, so that's why I'm reserving on the, on the, on it all being admitted, not saying I wouldn't --

BOARD: All we're saying is Mr. Schmidt does not object, however, we want to make sure that what we are admitting is it --

MR. HOLZER: Members of the Board, that's exactly what a witness does when he goes through --

CHAIR: Mr. Holzer, we're, we're aware of that. We're all just trying to come to the same place and we're all close to that but we want to make sure what we're spelling out. We don't want you, we don't want to hamstring your case, so if you feel that there is some of these videos that have a separate value other than it's the same representation of here's another car going in, then by all means, leave that in.

MR. HOLZER: Okay.

CHAIR: If there are, if it's to be, for the sake of argument, four, there are forty-five videos of cars entering in or exiting, we don't need to see all forty-five, we can, we understand already and it's already been testified to, certainly by the other side as well, that there was an event with a larger number of people on these dates, so to show that cars going in and out, we, we already know that that happens.

MR. HOLZER: I understand.

CHAIR: That's where I'm going to leave it.

MR. HOLZER: And, and, thank you, because what I will do when the witness is testifying to that document or those, those discs, I will have him articulate what he's showing and why, and there are others that could be cross examined --

CHAIR: And that he's, that he had a stationary camera up throughout the day and --

MR. HOLZER: Yeah, right.

BOARD: And if by chance they're hugging cats in there that shouldn't be, then we can eliminate that.

MR. HOLZER: I understand.

BOARD: Thank you.

MR. HOLZER: I understand.

CHAIR: Which was one of the objections you raised.

MR. HOLZER: We will, we will --

MR. SCHMIDT: The hugging cats, I didn't see the relevance in that, yes, sir.

MR. HOLZER: We will call --

CHAIR: We're still waiting to find out.

MR. HOLZER: We will cull through that --

BOARD: Okay.

MR. SCHMIDT: I (inaudible) interested in that one myself.

MR. HOLZER: -- to accommodate the Board.

CHAIR: Well, it's not just to accommodate the Board, it's to accommodate the record too.

MR. HOLZER: Right.

CHAIR: Because that's, that's my primary concern is if the record is clear, that the matters that you want to point out are, were drawn, our attention is drawn to those, those matters.

MR. HOLZER: Right, right.

CHAIR: Not as in --

MR. HOLZER: I can do that.

CHAIR: -- hey, you know, here's yet another car and now we're --

MR. HOLZER: No, I, I think that the, what the Board is asking is something that I would acknowledge as being appropriate, that is, what we're showing is relevant to our, the, the oral testimony of the witness period.

CHAIR: Right. And I do understand Mr. Clark will be providing additional testimony with respect to these videos anyway.

MR. HOLZER: Right, right.

CHAIR: And again, the testimony is a different matter then the videos themselves at the moment.

MR. HOLZER: Yes. As I understand what you're saying, the, right now, you are acknowledging that they can be shown but they're not admitted until you have the opportunity to rule on whether it was relevant or not relevant.

BOARD: Or duplicative.

MR. HOLZER: Or duplicative, yeah, I understand.

CHAIR: Well, I sus, I suspect that they're, they're going to be relevant based on the fact that Mr. Schmidt has not objected on that basis. I assume that they'll be relevant because you've already decided that these are appropriate for this case, although, and if they all depict the site and the activity as proffered, that may, that hurdle may not come up.

MR. HOLZER: Right, gotcha.

CHAIR: It's, to me, it's more of a matter of this seems like we don't need seventy videos to show the same thing. If it's, all seventy shows, and again, seventy is not the actual number, it's just a number I'm picking.

MR. HOLZER: I understand. I understand.

CHAIR: So, that will be reserved upon in terms of its admissibility.

MR. HOLZER: Yes.

CHAIR: You may play them with the representative samples for, with Mr. Clark the next time. I'm assuming he'll authenticate how they came to be and then everything will be fine.

MR. HOLZER: Correct.

CHAIR: Great and in, and one more caveat to everything, on BIVID-5, it lists the matter of suffix 11501, which has already been admitted. Mr. Schmidt, you're on the same page there?

MR. SCHMIDT: Yes, sir.

CHAIR: Thank you.

MR. HOLZER: Got it.

CHAIR: Okay. Sorry that had to be somewhat more complicated then it, then it would first initially appear, but I wanted to make sure that the record is clear in this case and that we are able to do this in an expeditious fashion as best as possible. So, now, we're going to move to the videos that had been played in Court because I'm assuming what remains, and Mr. Schmidt, correct me if I'm wrong, what would remain are matters to which you have an objection.

MR. SCHMIDT: I believe that's correct, yes, sir.

CHAIR: Very well. So, now we'll move on to the ones that have been played in Court, so if we were to go do that, we will mark, bear with me, update my chart here, okay. If we go to Exhibit 33. I have on my list, my Exhibit 33 from the day we were playing all these initially, sorry. Identify which of the seven on Exhibit 33 have already been played. Out of those, five of which have already been admitted into this case. So, let's identify those for the record. Top to bottom, it should be six. We have both 111501's at the, numbers two and three on the typed part, disc A-3, can we agree on that?

MR. HOLZER: Um hm, yes.

CHAIR: Mr. Schmidt, are you looking at the very top?

MR. SCHMIDT: Yeah, the, the, the two, --

CHAIR: Yes, 111501's.

MR. SCHMIDT: Yes, sir, those are admitted.

CHAIR: And they have been played in Court already?

MR. SCHMIDT: Yes, sir, I believe they have.

CHAIR: At least, at least one of them has for sure. But they are both admitted anyway. Circle to Mount Vista Court, I have that down as the second video played but the third media file played, because there was an audio one in between. That's been admitted already, circle to Mount Vista Court.

MR. HOLZER: Yes.

CHAIR: Okay. Moving down the list, go to the bottom or A-4.

MR. SCHMIDT: Solitude.

CHAIR: Well, not that far yet.

MR. SCHMIDT: Okay.

CHAIR: From deck September 10.

MR. SCHMIDT: Yes, sir.

CHAIR: That has been admitted.

MR. HOLZER: Yes.

CHAIR: Gunpowder Park to circle, that has been admitted.

MR. SCHMIDT: Yes, sir.

MR. HOLZER: Yes.

CHAIR: Solitude has been admitted.

MR. SCHMIDT: Yes, sir.

MR. HOLZER: Yes.

CHAIR: All right. So, what does that leave us with? That leaves us with gate open --

MR. HOLZER: What about the rural, what about --

BOARD: Rural road (inaudible).

MR. HOLZER: What about the rural road walker?

BOARD: That was also (inaudible).

MR. SCHMIDT: Yes.

CHAIR: That was admitted but that was not played yet for Court.

BOARD: Yes.

MR. HOLZER: Gotcha.

CHAIR: I'm only talking about the ones that have actually been displayed during the course of testimony already.

MR. HOLZER: Okay, gotcha.

CHAIR: That is admitted though, to answer your question.

MR. HOLZER: Yes.

MR. SCHMIDT: Yes.

CHAIR: So, we have 7016, disc A-3, gate open, 7040 amplification, --

MR. SCHMIDT: Okay. You're saying those, 7016, gate open, which is under A-3, has been played in --

CHAIR: Has been played in Court.

MR. SCHMIDT: -- played in hearing and admitted?
CHAIR: No.
MR. SCHMIDT: Oh, okay.
CHAIR: It has been played in Court.
MR. SCHMIDT: Okay.
CHAIR: Amplification has been played in Court, that's the YouTube video.
MR. SCHMIDT: Amp, amp, --
CHAIR: That's in one directly under gate open.
MR. SCHMIDT: Oh, okay, okay.
CHAIR: That's on disc A-4.
MR. SCHMIDT: Yes, sir.
CHAIR: Mr. Holzer, are you with me yet?
MR. HOLZER: No, I lost --
CHAIR: Okay. So, we go to the middle of, of Exhibit 33.
MR. HOLZER: Right.
CHAIR: Go to the last A-3 entry on the second grouping, that's the gate open, right?
MR. HOLZER: Yes.
CHAIR: Immediately under that is amplification?
MR. HOLZER: Yes.
CHAIR: Those are the two that have been played in Court.
MR. HOLZER: Yes.

CHAIR: There has been no ruling upon whether or not they're admitted.

MR. HOLZER: Right.

CHAIR: Okay. Mr. Schmidt, do you have specific objections to 7016 or 7040?

MR. SCHMIDT: Look at my letter.

CHAIR: 7016, I will say you have on page four at paragraph 3-L. And then you have paragraph four, subparagraph A, disc 7040 and you object to relevance?

MR. SCHMIDT: Yes.

CHAIR: Okay.

MR. SCHMIDT: Yes.

CHAIR: Number one, there are, there is an issue that you raised as to the language of the video, that is, they're in Nepalese. And you had an objection as to a certified transcript, if we were to include that as evidence in this case, that is the words being spoken or sung or whatever the case may be?

MR. SCHMIDT: Yeah, I have, I have no idea what anyone is saying.

CHAIR: No, and that's understood.

MR. SCHMIDT: So, to the extent that at the end of the case, Mr. Holzer is going to submit a memo and provide a trans, --

CHAIR: Right.

MR. SCHMIDT: -- a translation and those people are all saying to the members of the Board of Appeals, please turn this down, I would object. I don't know what they're, I say that tongue in cheek. But I, I don't have any --

CHAIR: No, understood.

MR. SCHMIDT: -- idea what they're saying.

CHAIR: So, Mr. Holzer?

MR. HOLZER: Yeah.

CHAIR: Do you intend that the words or whatever spoken, whatever is being spoken on these videos, are you intending to have that into evidence by itself?

MR. HOLZER: No.

CHAIR: It is merely the depiction of the event in these videos that you are intending to have in evidence?

MR. HOLZER: You can, from this video, you can hear amplified sound and music outside of the tent.

CHAIR: It is the volume to you and the amplification by mechanical means --

MR. HOLZER: Extension cords, door open, video shows inside --

CHAIR: Well, hold on, hold on. The question is far more basic. You don't intend the words to be --

MR. HOLZER: No, no.

CHAIR: -- the evidence.

MR. HOLZER: No.

CHAIR: You intend what's being visually depicted and, by audio, not the words, but the sound --

MR. HOLZER: Right, exactly, the sound, that's exactly right.

CHAIR: Does that resolve your objection?

MR. SCHMIDT: If, if, if he's not going to put the sound, if he's not going to put the sound in.

CHAIR: No, it's not the sound, it's the words themselves.

MR. SCHMIDT: Okay. If he's not going to put the --

CHAIR: The meaning of the words.

MR. SCHMIDT: -- if he, if he's not going to put the spoken, the words in, then that resolves that objection.

MR. HOLZER: Yeah.

CHAIR: You're not going to argue from the words that somehow they have relevance to this case?

MR. HOLZER: No. I don't speak Nepalese.

CHAIR: Right, and nor do you intend to find someone who does to, to provide a translation to this Court?

MR. HOLZER: No, no, I do not.

CHAIR: Is that satisfactory?

MR. SCHMIDT: As to the words, yes.

CHAIR: Okay. What is the next objection to those videos then?

MR. SCHMIDT: Well, I mean, to make this really,

really simple, I, I would say this. We have agreed and acknowledged, as you said this morning, Mr. Garber, that there was a fundraising event out there in the summer of 2017 and the summer of 2018. We acknowledge that. I don't believe that has any relevance to whether this property can be used as a church, as a building for religious worship. It, it was a one time or two time, one time a summer fundraising event. So, I would object to any of the videos as they relate to, to that. I think there's an authenticity issue because most of these, if not all of these, are, I mean, I understand hearsay and I understand that this is an administrative proceeding. But they are, they are videos of a computer screen on a posting on Facebook. So, they're at least double, if not triple, or quadruple hearsay.

CHAIR: Well, hearsay is no longer a problem since the words are not, since at least the words are not being offered.

MR. SCHMIDT: Okay. Well, then I would, I would, then I would argue as to authenticity. Do we even know, do I know what we're seeing? I mean, I, I want to be candid with the Board. Some of these I can see what appears to be the building in the background, others I can't, they're inside a tent. I don't know where that's taken.

CHAIR: And without trying to put too much pressure on you on this point, are you disputing the fact that these

events depicted in those two videos, took place at a particular site during the times identified by Mr. Clark, Mr. Holzer --

MR. SCHMIDT: We do not dispute that there were fundraisers out there in the summer of July of '17 and the summer --

CHAIR: That's not my question. My question is, do you dispute that those videos are not of what they say is depicted of the fundraiser itself?

MR. SCHMIDT: I, I don't know whether they are or not.

CHAIR: Okay. Or --

MR. SCHMIDT: They haven't been authenticated. I do not know.

CHAIR: Okay. Are you disputing whether or not that the videos show the property at issue?

MR. SCHMIDT: Some of the videos clearly show the property at issue.

CHAIR: The, the two at issue I'm talking about right now, 7016 and 7040.

MR. SCHMIDT: I, --

CHAIR: To the extent you can recall and if I'm putting, if it's too much, that is, you don't recall them specifically, it's fine.

MR. SCHMIDT: I don't recall them specifically.

CHAIR: Okay.

MR. SCHMIDT: There, there are some, Mr. Garber, I know you haven't seen these, there are some --

CHAIR: No, I've seen those two, that's why I'm, if it's easier to deal with those two.

MR. SCHMIDT: Okay and I can't remember those two, quite honestly, but --

CHAIR: Okay.

MR. SCHMIDT: -- I mean, quite, there's a lot of, there's a lot of duplication in a lot of these videos.

CHAIR: Yes, that's why we're --

MR. SCHMIDT: A ton of it.

CHAIR: -- trying to work through all this.

MR. SCHMIDT: Right, and, and what it's showing, what they are, what most of them are, and I don't know that Mr. Clark would dispute, it's Facebook, it appears to me to be --

CHAIR: One is a YouTube video.

MR. SCHMIDT: -- Facebook posting or YouTube posting, some type of post, posting on a computer that somebody took a video of. In some of those, you can see the building, which is the subject on the property. So, when you can see the building, I can see that yes, that's the building. That appears to be the building. It's yellowish stone, large structural building, I recognize the building, I've been out to the property. To the extent that they show the property and they have some value there, my primary, my primary objection is

two, now that we're beyond the language. First of all, so what, they had a fundraiser out there. This case isn't about a fundraiser, it's, they're not proposing a community building. They're proposing a church. They haven't operated the property as a church yet. They haven't had religious worship services out there. How they use the property is irrelevant. If it's a, if there's a problem with that, it's a code enforcement matter. If Mr. Clark or his friends and the people out there believe there's a problem, it doesn't have any relevance. The other, the other --

CHAIR: If I could jump in, if I, if I may jump in on that point? I already can anticipate at least one argument from the other side because they have said it thus far. And that is, if you think about the amplification part of it, that is, the noise to reach the Clarks' for example, that is, as I understood, one of the reasons why that video is selected to show that hey, look, look how loud this is. This is what we hear in our house, maybe not to the same degree because they're a bit removed but --

MR. SCHMIDT: I was going to get to that.

CHAIR: Hold on. That they show that. And it was a condition, I seem to recall, that the ALJ had ordered to which they are going to argue that if this matter were to move forward in your favor, that condition should remain in place or some condition to protect their, the, the excessive noises, you

know, the Clarks have argued.

MR. SCHMIDT: And I'm happy to talk about the imposition of such a condition. I'm happy to talk about that, whether that's appropriate or not. But the other, the problem with that, is, is this, Mr. Garber. You can, you can adjust the volume of how you play the video to however loud you want to make it sound but not only, not only that --

CHAIR: Mr. Schmidt, that's cross examination, isn't it?

MR. SCHMIDT: Pardon me?

CHAIR: Wouldn't that be a cross examination matter?

MR. SCHMIDT: No.

CHAIR: As to, as, as --

MR. SCHMIDT: No, because it's, it, --

CHAIR: Hold on. Let me just finish this thought. As I recall, maybe, maybe this will help refresh your recollection, one of these videos shows a series of microphones with musical instruments and stuff like that. So, it's not just the matter of the sound itself. Is the sound representative of what you would have heard on that day within that room --

MR. SCHMIDT: No.

CHAIR: I don't know that part of the question.

MR. SCHMIDT: No, well, it can't be. It can't be.

CHAIR: Hold on. Hold on, Mr. Schmidt, let me

finish. But if they're using this equipment, what would that mean to the Clarks, who are neighbors? That is, does it amplify the noise so that it disrupts their well-being? That's the question that they are raising.

MR. SCHMIDT: Then you --

CHAIR: And I, and I have had this very issue come up in a case that I have tried, whereas it's not representative as to the conditions that occur at that time. That is, are you going to, you're arguing that it's an unfair representation perhaps --

MR. SCHMIDT: Yes.

CHAIR: -- as to the volume --

MR. SCHMIDT: Yes.

CHAIR: -- that you would have heard because it could be adjusted several different ways when you're talking about, number one, on site, number two, on video, number three, on YouTube, and then number four, on your, when you capture that video on, on another video.

MR. SCHMIDT: Precisely, precisely. During all four of those stages, when, when it was recorded, when it was then put on YouTube, when it was then recorded by them, when it was then put on this disc that you have, the video could have been changed, altered, made louder, made softer or whatever. We don't know. And to me, it goes to the admissibility of the document as to whether, or the admissibility of the exhibit as

to whether it is prejudicial and un, and inherently unreliable because it's gone through so many levels of filtering and recording.

CHAIR: I'll let you respond.

MR. SCHMIDT: That how in the world can you possibly tell how loud things were when it's been recorded and re-recorded at least three times?

CHAIR: Mr. Holzer, do you wish to respond?

MR. HOLZER: Thank you. On disc 7016, the video of the fundraiser, --

CHAIR: 7060?

MR. HOLZER: 16.

CHAIR: 16.

MR. HOLZER: 7016.

CHAIR: Okay, sorry.

MR. HOLZER: That you're talking about.

CHAIR: Yes.

MR. HOLZER: Okay. Shows extension cords, it shows the door opened, people coming and, a woman coming in and out. It shows people --

CHAIR: I remember the video.

MR. HOLZER: -- in the kitchen, it, it shows people. Here's the relevance. The door to mansion is open. Ghimire's, Ghimire's --

MR. SCHMIDT: So what?

CHAIR: Hold on. Mr. Schmidt.

MR. SCHMIDT: I'm sorry.

CHAIR: Let Mr. Holzer finish.

MR. HOLZER: Ghimire said that the property gate was open, not the door. So, that's a misrepresentation.

CHAIR: Well, we're not going to get into whether it's a misrepresentation, whatever the case may be.

MR. HOLZER: Okay.

CHAIR: I understand what your argument is as to its relevance, it's for impeachment purposes as to show how it was being used.

MR. HOLZER: Yes.

CHAIR: Whether or not it has anything to do with the code enforcement matter is not really relevant to this case.

MR. HOLZER: And in 7040, 7040, is again a man, a stage with a man speaking and many musicians, six microphones on the stage, drums, etcetera. Everything in this video contradicts Ghimire's testimony. He said one mic for the presenter, no drums, tent closed, not hear amplified sound and music outside the tent. So, that's the relevance to show Mr. Ghimire's testimony should not be believed by this Board.

CHAIR: I, I don't think relevance is as much the question as to whether or not it depicts what it is proffered to depict and that means the audio. That's where Mr. Schmidt is arguing right now.

MR. HOLZER: Yes, yes.

CHAIR: He's not, from what I hear, and correct me if I'm wrong, disputing that these events occurred. It's the matter of the representation to this Court as to how they occurred, or the effect of the events, correct?

MR. SCHMIDT: Yes, sir.

MR. HOLZER: The answer to that is real simple --

CHAIR: So, the relevance is already --

MR. HOLZER: -- even if you didn't have the sound on this video, even if you didn't have the sound on it, it still shows things that, six microphones. You don't have to have the sound to see six microphones.

CHAIR: Okay. Can I stop you there? Can I stop you there?

MR. HOLZER: Yeah.

CHAIR: So, would you agree then to take this, to remove the sound from those videos?

MR. HOLZER: I don't think --

CHAIR: Because that would resolve his objection, but it would also get in the matters that you want, that is, there are multiple microphones. Look at all the electrical equipment and all the other things that you feel are relevant to your case.

MR. HOLZER: No, I, I still think, I still think the sound is relevant to this issue. However, if the Board

precluded the, the sound, there are still relevant points that this video shows.

CHAIR: I'm not, we're past that, I think --

MR. HOLZER: And, and I know you're not arguing that.

CHAIR: -- we're past the, I think the relevance point of it.

MR. HOLZER: Exactly.

CHAIR: It's more the authentication and whether or not the sound depicts, is a fair depiction or a fair representation of how it occurred or it sounded on the day of and at the time of. That's the objection and it's not an unfair objection, I'm just trying to figure out where this falls in the, terms of the, its necessity for your case. It's understood that if there are multiple microphones there, that there is amplification, which as I understand, the point that you want to make.

MR. HOLZER: One of the points in regard to that. The fact that Ghimire said the door to the gate was what was open when it was --

CHAIR: Again, we're only talking sound at the moment.

MR. HOLZER: Okay.

BOARD: So, the question is, do you object to removing the audio portion of the clip?

MR. HOLZER: I would prefer that it not be removed.

I, I would prefer that it not be removed. But it's only part of why it is relevant, why it is relevant, they are relevant.

CHAIR: Okay. Hearing all this through, I think my decision will be as follows. The videos are, well, I will say this. The sound will be excluded. As to the video itself, Mr. Clark is obviously going to have to lay the foundation as to what, I think it's maybe already in the record, but just to reiterate how he came to capture it, where he came to find it, because then the issues as to where it came from and all this other stuff, I understand it's several layers of its capture, its posting and then recapture by Mr. Clark, that would go to the weight of the matter, so pending, you know, further foundation to the extent necessary on your behalf, the video will come in but the audio will not.

MR. HOLZER: Okay and I can object to that if I need to, if I want to later on.

CHAIR: There, well, I think it, I understand you will object to, to that or you will take issue with that ruling.

MR. HOLZER: Correct.

CHAIR: That's fine.

MR. SCHMIDT: Do I, do I understand, Mr. Garber, because we didn't get to, I think, my fundamental objection, which I have indicated in both my letter and today, that I don't see how evidence of what occurred at these fundraising

events, which we acknowledge occurred, I'm not disputing that, that there were events at the property. Mr. Ghimire testified as such. As I understand your ruling, you believe evidence about those events is proper, appropriate and relevant evidence to the issues to be determined by the Board in this case?

CHAIR: Yes.

MR. HOLZER: Yes.

MR. SCHMIDT: Okay. As long, long as that's on the record.

CHAIR: Now, yes, that's fine.

MR. SCHMIDT: Thank you.

CHAIR: As to whether or not there needs to be multiple videos of the events, I assume that there are, there's large duplication here?

MR. SCHMIDT: Incredible duplication.

CHAIR: Right. Once again, I would request that you narrow that down to what you believe is relevant to this Board in light of the positions and arguments you have in this case.

MR. HOLZER: Sure.

CHAIR: So, I don't believe we need to see the same event depicted seventeen different ways or if you have multiple days, as different events or different days of events, I can understand that you would want to perhaps identify those but I also don't need to have, you know, multiple videos from those days unless they show something --

MR. HOLZER: Something different.

CHAIR: Something different and something that you believe --

MR. HOLZER: Of course.

CHAIR: -- is relevant to your defense.

MR. HOLZER: I understand that.

CHAIR: Or this case.

MR. HOLZER: I haven't been practicing law for sixty years to not understand --

CHAIR: This is not a lecture as to that, Mr. Holzer. It's a matter of the unnecessary duplication and trying to narrow down what is needed for the, for these cases.

MR. HOLZER: I understand. I understand.

MR. SCHMIDT: So, you're allowing all the videos depict --

CHAIR: Hold on. We've only ruled on 7016 and 7040. The others, the others have not been played yet for the Court. I'm solely confining this at the moment to those to which, that have been played. I, it, what I've said about other videos, if they intend to rely on them for anything else, we'll have to go through maybe something similar on those, and we can reserve as to that. But I want there to be a culling down of, an elimination of unnecessary duplication of the same event, or the same issues or the same points to be made by Protestants.

MR. SCHMIDT: Okay.

MR. HOLZER: Yeah.

MR. SCHMIDT: Can I, can I just ask a question to kind of --

CHAIR: Go ahead.

MR. SCHMIDT: -- make sure I understand what your ruling is? And I'm just trying to get through this.

CHAIR: It's fine, it's fine.

MR. SCHMIDT: My understanding is that as to the videos that relate to the fundraisers on the property, and I know you've only seen one, and I assume you're going to be consistent in your rulings, that what --

CHAIR: I would hope.

MR. SCHMIDT: -- the Board's position is and what your position is, Mr. Garber, is that you find the video itself to be relevant, you're not going to allow the sound accompanying the videos and you also want, I guess, Mr. Holzer to avoid any unnecessary duplication. But in terms of, in a nutshell, you're going to allow the videos of the fundraisers without the sound and not a lot of duplication. I mean, that's kind of a summary of it all.

BOARD: (inaudible) authentication.

MR. SCHMIDT: Subject to authentication.

BOARD: Correct.

MR. HOLZER: Yeah.

CHAIR: Right.

MR. SCHMIDT: Okay. Then I, I mean, we can get through this because --

CHAIR: And the matter is that --

MR. SCHMIDT: -- that covers a lot of that.

CHAIR: And there are matters, of course, that you will have for obvious cross examination.

MR. SCHMIDT: Sure.

CHAIR: And, yeah, I think that that's the best way to go about handling this. Now, it is not a universal ruling in terms of application throughout all videos because if there is a particular matter that they believe to have relevance that's different then what's depicted in 7040 or 7016, obviously, we may have to revisit some of this discussion so by, for sake of argument, if there are, something is depicted in a video that has not otherwise been viewed, they obviously would like to try to get that in and you may have your opportunity at that time to renew your objections on the same basis for that video in that, in that context.

MR. SCHMIDT: Okay.

MR. HOLZER: Understood.

CHAIR: Okay. Next? That takes care of the, the videos we've seen in Court. Now, when I say videos, I'm not just trying to limit it to videos, any audio as well. So, now, where does that leave us? We have, by my count, one, two, three, four, five, six, seven, eight, nine, ten, eleven,

twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen more videos on Exhibit 33 that have not been discussed. So, going back to Mr. Schmidt's response. So, we've already disposed of 1-A, we're now looking at 1-B, 5005, (inaudible) video, Facebook post, one of the fundraisers at the property, date is unknown and that is another important point, sorry, Mr. Schmidt. Mr. Holzer, we'll need to know the dates of the events depicted in the videos, otherwise, if they are not of a relevant time frame, that would become a problem for this Court in terms of its admissibility. So, we need that identified.

MR. HOLZER: Now?

CHAIR: No.

MR. HOLZER: Or at, by the witness before its, before he shows you?

CHAIR: Yes, I'm giving you the --

MR. HOLZER: Yes.

CHAIR: -- opportunity to lay a foundation.

MR. HOLZER: Right.

CHAIR: As necessary. But Mr. Schmidt is correct on that, that you need to at least provide some type of relevant time frame for the videos you intend to put into evidence.

MR. HOLZER: Right, understand. Okay.

CHAIR: So, that's one. We already resolved the language issue. And then Mr. Schmidt raises the issue of

relevance.

MR. SCHMIDT: Which you resolved, right? Where, which, which one are you on right now, Mr. --

CHAIR: 1-B.

MR. SCHMIDT: Yeah.

MR. HOLZER: Wait a minute.

BOARD: (inaudible).

MR. SCHMIDT: Mr. Garber, I, I mean, I think we can make this a lot simpler and that is, --

CHAIR: I want the, I just want the record to be clear, that's my primary motivation.

MR. SCHMIDT: I understand. But what, the way I tried to break it down is, is there are videos of, of what I'm going to call traffic. There are videos from a dash cam and there are videos from the entrance. You've ruled on how those are admittable and what they're not. Okay, that's one part of it. There are videos related to the fundraisers. You've ruled that you believe that admissible without the sound as long as it's going to be authenticated, as long as they show the date, etcetera. Okay, we've got past that, okay? The third issue, it seems to me, is that they're, there are videos not from the site and that's what we ought to be talking about next. And there, there are videos of what appears to be a concert, not at the site. There are videos of priests speaking, not at the site, and I think, can't we take that as a group and just say

are you going to admit them?

BOARD: Are you saying that disc 2005 and disc 5005 and disc 5006 should be treated --

CHAIR: The same as 4992?

MR. SCHMIDT: Yeah, I mean, it's, it's all the same thing.

BOARD: So, it --

MR. SCHMIDT: Except for the cats hugging.

CHAIR: Well, hold on. We, actually we don't know if it's all the same thing, still.

BOARD: Because we haven't seen them.

MR. SCHMIDT: I understand, but can't you just give us --

CHAIR: Hold on, Mr. Schmidt, just be patient a second.

MR. SCHMIDT: We're going to be hear seventy hours going through all this stuff.

CHAIR: I understand. Look, I understand what your objection is as to date, okay? That is still an open question. So, there's still certain foundational elements on some of these videos that can't be resolved here today.

MR. SCHMIDT: Right.

CHAIR: That Mr. Holzer may try to address the next time we're here. So, therefore, there cannot be definitive rulings on some of these matters sitting here today. I'm going

by your list to address your individual objections, as I think you would agree, I should do for purposes of the record since they are your objections rather than leave one of your objections open, rather than dismiss with one hand a whole group of them that are not identified so that, for the sake of argument, that if someone were to have some interest in this case down the line, they would be able to understand what is happening, what is in, what is out and where things stand. And also, for the next time that we're here, where does that leave us with things. That is the purpose of this exercise.

MR. SCHMIDT: And I, and I appreciate that, Mr. Garber, but I mean, that's why I kind of asked, and I think Ms. Dopkin said, and I wrote it down, subject to authentication, which authentication means to me that, that it can be explained, it can be dated, all those, I use the term authentication, without sound. The videos of the fundraiser are admitted without duplication.

CHAIR: I have made a ruling on 7016, 7040. I think it's reasonable to have an expectation that there will be consistency throughout. There may be another purpose, so there is not a definitive ruling on the others if there is another purpose to which they want to use --

MR. SCHMIDT: Okay.

CHAIR: -- that video. And then we will have to resolve that in the time frame that it arises. So if we get

here the next time and they play a video and it has audio to which you object, but they think has a separate relevance then what's already been addressed, then we'll have to address it then. So, I cannot make a definitive ruling on one hand and wave and say all these videos have the same treatment.

MR. SCHMIDT: But you can't make a ruling on any of these until you've seen them or until they're going to be played.

CHAIR: I'm seeing what can be resolved here today so we can narrow what's going to be played.

MR. SCHMIDT: Okay.

BOARD: Or if Mr. Holzer and his client determine they're duplicative and identify other videos as representative of what's on them. Which is, I hope, a possibility for some of them.

CHAIR: That is definitely an objective.

MR. HOLZER: It is a possibility and it does make sense, Ms. Dopkins, because I am going to make sure when we present the testimony of the witness and he starts showing documentation, I don't want to sit here and watch things three and four times either, I want to make sure that what we're, our point is made by the video. So, yes, I will do that. And, and for example, on disc, on 4992, which was one of the first that we took up, if you, if you note there, the relevant video, the first one, should stop at 8.29.

CHAIR: On which, which one? 4992?

MR. HOLZER: The one with the cats, the one with the cats and the priest. That should be --

CHAIR: I understood the cats one was 5006, is that not correct? Or the priest was 4992.

MR. HOLZER: 4992.

CHAIR: And then the final portion of the video is a little girl talking to her parents and then that should be out too, I agree with that.

MR. HOLZER: That's all out. After 8.29, so it's eight minutes and twenty-nine seconds. The rest of that, the video camera wasn't stopped but it should have been.

CHAIR: Okay.

MR. SCHMIDT: So, it's totally irrelevant.

CHAIR: Okay. Well, hold on. We'll work through that. 5006 is the one with the cat, hugging the cat. I know Mr. Schmidt was dying for an explanation on that. I'm assuming it may have been included in error, but I don't know that for a fact.

MR. HOLZER: Was it in error? Stipulated, we'll stipulate it was in error.

CHAIR: So, that will be excluded and that, that's objected to and sustained.

MR. SCHMIDT: Damn, I was hoping you were going to admit that.

CHAIR: It was the linchpin of their closing. I'm guessing. All right. So, that will be removed. And again, there's not a definitive ruling as to these videos, I'm awaiting further foundation work and/or culling of your video list.

MR. HOLZER: Yes. I'll be glad to.

CHAIR: And it would be ideal by the way, for any videos to be played, that is, if you want, that you want to be admissible, to identify the reasons why it would be admissible, to be ready with that the next time, hold on. So, like for example, if you want to play 5005 and 5006 and they are the same basic things, you would need to explain why those two things need to be played. As opposed to just one of the two.

MR. HOLZER: I got it ready to go.

CHAIR: All right. Next? We already covered 5006. I'm sorry, Mr. Schmidt, we're going on two, three, 3-D now, 6978. Another video of fundraiser on property, women dressed in, okay. So, same thing as the above then. We all on the same page?

MR. HOLZER: Yes.

CHAIR: All right. 6985 we've already addressed. 6986, Facebook posts from fundraisers, everyone speaking, okay. Same objections as above. So, same thing would apply to 6986.

MR. HOLZER: Yeah, I'll go through all of them with you.

CHAIR: 6888, same, okay. 6989, same.

MR. HOLZER: Yes.

CHAIR: 6990, (inaudible) six individuals sitting at a table, property, moderated by Mr. Ghimire, that included that deputy, deputy secretary of state who was there on behalf of Governor Hogan. I will say Mr. Schmidt's description of that did peak my interest as to its relevance. So, --

MR. HOLZER: Use, the use of the property as a community center is what the, what the Protestants want to argue. The door to the mansion is open and it contradicts the Ghimire testimony about the door and the gate again. So, it's, it's, it's just, it, it, it's relevant in one respect, it's duplicative in another and I can make sure that we don't do that at the next hearing.

CHAIR: I will say that on 6990, my leaning at the moment is at, it's, I should sustain the objection because the fact that there would be six people in addition to Mr. Ghimire would not indicate to me that it's being used as a community center, it would just, to me that just sounds like a meeting in a, in a building, but --

MR. SCHMIDT: It's, it's not in the building, it's outside.

CHAIR: Outside the, what, I mean, whatever the case may be. My point is, it's not a necessary use as a community center at that point.

MR. HOLZER: I'll show the relevance at the time we go to enter this.

CHAIR: I've explained to you where --

MR. HOLZER: Yeah.

CHAIR: -- what my thought is on this.

MR. HOLZER: And I understand.

CHAIR: When, so when you are deciding what videos you want in, you understand where, --

MR. HOLZER: Yes, --

CHAIR: -- what, what my present thought is.

MR. HOLZER: -- I understand. At first blush, I would be concerned also but there's a reason for it, so. I'll explain that.

CHAIR: Okay. 6994. Same as, same issues as we discussed above.

MR. HOLZER: Yep.

CHAIR: 7010, footage appears to be a concert of some type, date and location not shown. It is not the property, it appears, so Mr. Holzer, you have said that is a Nepal (inaudible) concert in Baltimore on January 20th --

MR. HOLZER: That's handled, that's handled by the Motion I filed.

CHAIR: I was about to say and I wrote that down, that this is, seems to be the subject of your Motion.

MR. HOLZER: Yes, correct.

CHAIR: To which, Mr. Schmidt, you're going to have the chance to respond to that, recognizing that we've already given a ruling as to its admissibility but you would, you're asking that we revisit that ruling.

MR. SCHMIDT: Yeah, I think he's --

MR. HOLZER: No, you, you already said that it was to be marked for identification purposes and not admitted at that time.

CHAIR: We had, --

MR. SCHMIDT: Yeah, you sustained my objection, I believe, correct?

CHAIR: That's what, I, we're on the same page here.

MR. SCHMIDT: Okay.

MR. HOLZER: Okay.

CHAIR: Yeah, that is, we had given a prior ruling on this. You were basically asking us to revisit that ruling and you were explaining it in this, some part, through this description of the video. But in large part, through your Motion, why that decision needs to be revisited.

MR. HOLZER: Right on the money.

CHAIR: Which is why Mr. Schmidt has the opportunity to respond to that, but this is where we are on that point.

MR. HOLZER: Correct.

CHAIR: So, 7010 will be tied to the Motion.

MR. HOLZER: Yes.

CHAIR: So, the disposition of the Motion won't help with that, resolve that. 7016, right? That's the next one. We've already discussed that, 7040, same thing. There's an A, B and C on --

BOARD: And D.

CHAIR: And D, sorry. On Exhibit 33, we have only heard, I guess, what would be A. So, B, C and D have not been ruled upon as of yet. I'm assuming because it's a continuation of the same video or the same subject matter, then it, then, on this I can say, that the ruling should extend to all videos unless there's some specific relevance that is different from what we have already seen and ruled upon.

MR. HOLZER: 7040 the relevance --

CHAIR: No, hold on, Mr. --

MR. HOLZER: Oh, I'm sorry. I thought you were asking me.

CHAIR: No, no. I'm assuming you're going to review and determine if there is separate relevance to what has already been discussed as to 7040. We're not going to rehash those arguments here today because that would be the same ruling unless there's some specific reason why this is to be treated different than 7040-A. Is that your understanding, Mr. Schmidt?

MR. SCHMIDT: Yes, sir.

CHAIR: Very well.

MR. HOLZER: And they're, they're --

CHAIR: 7042, 45, 47, seem to be the same thing.

MR. SCHMIDT: Same thing.

CHAIR: And is that your understanding, Mr. Holzer?

MR. HOLZER: Yes, and there will be, there will be an explanation of why their relevance is --

CHAIR: With the understanding that they have to have separate relevance as opposed to, unless there's a collective relevance, but separate relevance to what's already been discussed.

MR. HOLZER: Yep.

CHAIR: 7057, same video, (inaudible) that's what you wrote. 7010, where is that? Okay. Same concert as --

MR. SCHMIDT: That's the Nep, Nepalese American Idol concert.

CHAIR: Right. So, 7057 will be also treated at the time of the disposition of the Motion?

MR. HOLZER: Yes.

CHAIR: Okay. Mr. Schmidt, is that your understanding?

MR. SCHMIDT: Yes, sir.

CHAIR: Okay. Bear with me, I'm updating this. Okay. Going down to paragraph K on page five, Route 94 dash cam. So, I understand from Mr. Schmidt that the date shows, or the date listed is April 14th of 2020?

MR. SCHMIDT: Yes, sir.

CHAIR: I'm assuming you don't have a future looking camera, so I assume that the date is incorrect. So, we have a date wrong and Route 94, as Mr. Schmidt points out, is in Western Baltimore County.

MR. SCHMIDT: That's how it's, I don't know what, I didn't recognize the road, but it's labeled Route 94.

CHAIR: I, I, that's how I understood your, what you cited. Mr. Holzer?

MR. HOLZER: I see it. I'll look into it. I don't know that it is relevant if it shows a road, except for comparison.

CHAIR: Well, I would have to agree, and again, I will review it.

MR. HOLZER: Yeah.

CHAIR: But I would have to, my leaning here is that Mr. Schmidt is correct on that and the objection should be sustained but I guess we'll have to revisit that, so. Next.

MR. SCHMIDT: You've finished L and M already, right?

CHAIR: Yes, we're now on the white discs.

MR. HOLZER: Okay. Could, if I could, if I could go back to that, just, I found the point.

CHAIR: Which point to what?

MR. HOLZER: The last point about the Route 94.

CHAIR: Well, you indicated it was a contradiction of

Mr. Calagero's testimony.

MR. HOLZER: Yeah, right.

MR. SCHMIDT: About Route 94?

MR. HOLZER: It's a comparison of Harford Road versus Route 94 and Calagero's testimony.

CHAIR: What part of Calagero's testimony?

MR. HOLZER: He did not con, well, he did not look at comparable sites, did not do traffic analysis initially, did not look at accident reports, etcetera. So, I --

CHAIR: I'm not sure that the video would --

MR. HOLZER: I, I'll clarify it.

CHAIR: -- eliminate those arguments. But okay.

MR. HOLZER: If I could, if we go to show it, I'll clarify it.

MR. SCHMIDT: I would still object that it's irrelevant, I believe.

CHAIR: I, again, my leaning is, it may be irrelevant. Your point still can be made without, because the video by itself would not have separate relevance, even with the amplification of your arguments, because you --

MR. HOLZER: I understand what you're saying.

CHAIR: So, that's my suspicion. So, maybe you want to consider that. As to the white discs, we're now on rec center one through fourteen, which you'll have to help me here. Let's see, okay. Relevant because they provide evidence of a

use of the property as community center, recreation center and, of course, health, safety, general welfare, inconsistent with the zoning classifications, regulations. Where are we with that? Is this all fundraiser information?

MR. SCHMIDT: Some, --

CHAIR: You have classified it as --

MR. SCHMIDT: You're talking rec center one through fourteen?

CHAIR: Yes.

MR. SCHMIDT: It's, there, there are some of the fundraisers and then there are videos of priests, I, I compared it, for example, if this was a Catholic church, there are videos of the pope, okay? At least that's what it looks like. There are these men who are, appear to be high priests, who, and they're speaking and they're not on the property. And of course, I can't understand them because they're speaking Nepalese. And there are some of the fund, more of the fundraiser, more of the duplication of the fundraiser.

CHAIR: Okay.

MR. HOLZER: The white discs are, are volleyball incidents.

CHAIR: Okay. Well, Mr. Schmidt has a different identification of rec center one through fourteen. He says that they are from the fundraisers, I'm assuming maybe that includes some volleyball or maybe not, I don't know.

(inaudible) other outside activities. I will say my, --

MR. HOLZER: They're all volleyball.

CHAIR: Okay. Well, we don't need all volleyball, I assume.

MR. HOLZER: I know, but some of them may --

MR. SCHMIDT: Rec center one through fourteen --

CHAIR: Hold on.

MR. SCHMIDT: -- is volleyball? That's what it is?

MR. HOLZER: That's what I'm told, yes.

MR. SCHMIDT: Okay. I'll look at those again, Mr. Garber.

CHAIR: Okay. So, for the moment, I will, you will withdraw the objection with the right to re, you know, right to reissue those objections.

MR. HOLZER: And I'll clarify what they are. But I bel, I'm told they're the volleyball examples.

CHAIR: Okay. So, I will say my instinct, looking at his description of it, absent more to whatever extent those videos are concerning the videos of priests from other areas or other sites or other, other offsite activities, to the extent that exists on some video that someone has witnessed, my instinct would be that those would not be admissible.

MR. HOLZER: I probably can't argue with that.

CHAIR: Right. So, Facebook videos one through fifteen.

MR. SCHMIDT: Same thing, sure.

MR. HOLZER: Oh, I understand. It's the same as the other problem. The video camera wasn't stopped and, therefore, it went into all of those, which I could clarify at the time they're shown.

CHAIR: It would be ideal if we could remove the parts from the videos that are not to be played or relevant or part of evidence because we're going to admit one CD with videos, which we're saying we're going to cut at a certain point.

MR. HOLZER: We will do that.

CHAIR: That would mean, that would make this a lot easier of an exercise.

MR. HOLZER: And I'll get rid of the cats and dogs.

CHAIR: Mr. Schmidt, I assume that works for you.

MR. HOLZER: Cats.

MR. SCHMIDT: I kind of liked looking at the cats.

CHAIR: I'm not disputing that. So, we, maybe we can have a still photo.

MR. HOLZER: If he wants cats, I don't want cats.

BOARD: (inaudible) surgically edited to be non-duplicative and limited to the purpose for which (inaudible).

MR. HOLZER: We have a month to do that based on the Board's ruling that we're now going to have hearings in January so we will make sure that that's correct.

CHAIR: I do believe what Mr. Schmidt has to say in his, in his, in his objections here, that is, the videos should be tied to the property, tied to a specific time frame, tied to traffic conditions in the general area, those are the relevant things. So, anything that is not one of those things, unless there's some separate relevance or separate issue for them, the presumption you, you should take away from this, that the presumption is going to be they are not going to be admissible.

MR. HOLZER: I understand.

BOARD: (inaudible) need to be individually authenticated, so that (inaudible).

MR. HOLZER: We will do that.

CHAIR: Right, right.

MR. HOLZER: Now, one of the, one of the problems, members of the Board, would be that in order to accomplish some of this, as, since November 1st, I have not talked to Mr. Clark at all except for one phone call when I called to talk to Mary.

CHAIR: It, it, it's okay.

MR. HOLZER: Now, I understand, and he answered the phone.

CHAIR: You're going to need to speak with him to go over the video stuff.

MR. HOLZER: Okay.

CHAIR: Mr. Schmidt, I assume that doesn't, that --

MR. SCHMIDT: Mr. Holzer, I, I trust you. I've never

known you to be anything other than ethical and appropriate, so.

MR. HOLZER: Okay. Thank you.

MR. SCHMIDT: It's not a problem. I, the, and let me just say this, if possible, if you create a new video that's like a --

MR. HOLZER: Composite.

MR. SCHMIDT: -- composite or de, or where you've deleted things or whatever.

MR. HOLZER: Yeah, an amended --

MR. SCHMIDT: You can give me a copy of it, I'll look at it and that, that might help.

CHAIR: Oh, I was going to specifically say, that when you do that, please provide it in advance, so we don't have to have a second day of doing this.

MR. SCHMIDT: That way I can take a look at it in advance.

BOARD: (inaudible) condense it down to one video, one disc, it will make the hearing go faster as well.

MR. HOLZER: I'll see if that can be done.

CHAIR: Right.

MR. HOLZER: I'll see if that can be done.

CHAIR: And I hope that this gives you both an idea as to where, we're thinking as to the videos, as to what we're thinking in terms of the evidence, as to where the focus should

be as opposed to other things. As not to try to, you know, give our opinions as to how, you know, what's important to your case. You have to identify that for us but at the same time, all these videos by themselves, if it's of the same fundraiser over and over and over again, it does nothing for Ms. Dopkin or myself. And nor does it help your case, nor does it do anything for you in terms of cross examination because your cross examination as to one would be to all.

MR. SCHMIDT: Yes, sir.

MR. HOLZER: I understand.

CHAIR: So, let's try to streamline this, let's try to, and if you can, my suggestion is, if you get that video footage together as best as possible, sent to Mr. Schmidt, perhaps we can have stipulations as to certain videos and then we can even bypass this entire process the next time, the next go round of it. That would seem to make some sense to me. So, what we have here, we have a number of videos that have been admitted and some audio. We have a number of which certain things have been, certain objections have been sustained, I've indicated some idea of what, where we may be going as to certain other objections and sustained some of them, depending on what Protestants do with those videos. Do you have any questions about anything today in any of the rulings or anything that's occurred?

MR. HOLZER: I have no questions, I just would like

to know what the Board, and I don't have to do it now, I would like to know whether the Board has definitely decided to get a third member. I would like to know as soon as possible --

CHAIR: If I, if I, I'll address that right now. Yes, we, we intend, my intent would be to schedule four Board members for the next hearing. And if Ms. Murphy can be here, then she'll be part of the panel and remain part of the panel. If Ms. Murphy cannot be here, then a new Board member will be appointed to replace Ms. Murphy for the duration of the case.

MR. HOLZER: Will we be permitted to know who that Board member is?

CHAIR: I, well, the, keeping with usual practice, normally you don't find out in advance. So, I'm going to --

MR. HOLZER: I know, but this is not a use, this is not a usual practice.

CHAIR: I'm not sure how that'd be relevant to your case, because I don't think they would be, it would, it, it would present any imposition to not identify --

MR. HOLZER: Well, I'll tell you one, I'll tell you one thing.

CHAIR: You may.

MR. HOLZER: If, if, if it's somebody that's appointed as a third member of the Board or fourth member of the Board and we run into Board members and we start talking to them about this case, that would be --

CHAIR: It's very simple. Don't talk to any Board member about the case, then the issue is resolved.

MR. HOLZER: Well, well, that's why I think it's relevant to, to --

CHAIR: Mr. Holzer, I've known you long enough to know that you don't talk about your cases to Board members, even if they're not on your panel or on your panel or whether you know they're not one way or the other. In other words, if I were to run into you on the street, you wouldn't say, hey, I got this great case in front of the Board of Appeals.

MR. HOLZER: No, but that's exactly, things like that happen.

CHAIR: Right.

MR. HOLZER: Both, both parties and I, frankly, I believe the parties deserve to know who the Board member is out of fairness, that's number one. And, and not because we're going to converse with them or tell them what we think about it, because we know that would be an ex parte and that would be wrong. But if I run into a Board member over at the restaurant and say, man, that seven day hearing, that case is going nuts, you know, it's wasted a lot of time and it could be the member that's sitting there. That would not be good, so.

CHAIR: I would agree, so you avoid all those conversations, the issue is resolved and we'll keep it --

MR. HOLZER: Well, that's hard to avoid.

CHAIR: -- we'll keep, we'll keep with the normal practice, because at the same time, Ms. Murphy may very well be here and then this issue would not be presented.

MR. HOLZER: Okay.

CHAIR: And so, we don't need to worry about that until, until we're here next and we have the dates, the dates have been provided to Ms. Cannington to start working on, to schedule them. I appreciate the parties' willingness to work through some of these issues here today and I, I certainly emphasize and as much as I possibly can, let's try to get some stipulations here as to some of these videos. There seems to me that there is some agreement, some of these videos show the property as to whether or not I understand you have an argument as to the weight that any evidence that comes from them may carry, that's a different matter necessarily then whether or not it should be admissible in the first instance and the duplication part of it, you know, I would seriously, seriously take a look at that considering we also have a ton of photos in this case already, depicting some of the conditions that you have identified as ones of concern for the Clarks, the neighborhood and for others.

MR. HOLZER: Will the new Board member, now that you've made the decision, will the new Board member be provided with all of the material necessary to, to be ready in January?

CHAIR: Absolutely. There's no way that we would go

forward if that person would not have some familiarity with the case, and by that, I mean, been provided with all the materials.

MR. HOLZER: Okay.

CHAIR: Recognizing, of course, having not sat for those other days, you know, I understand your argument from earlier, but they're going to have all the materials. They'll be able to converse with this case, and be able to think independently on their own as to where this case should go from their prospective.

MR. HOLZER: Thank you.

CHAIR: In an educated and informed manner, so with that in mind. Unless there's anything further for today, we'll be hearing from Mr. Schmidt on his response by December 15th. If I can, if I can request of you, if you could get those videos to Mr. Schmidt by the end of the year, if not some day earlier than that, that would be fantastic so that we can resolve that stuff as quick as possible. Not to mention, if you could provide that to the Board at the same time, so that if there's to be a new third member of the Board, that person would have the ability to look at the videos if need be.

MR. HOLZER: I don't, I don't know that I can do that at this point. I mean, we'll try.

CHAIR: Well, we have --

BOARD: (inaudible) distill it down to, as I said,

one disc.

MR. HOLZER: One disc.

BOARD: And you can provide each of us, it gives a lot more flexibility in it.

MR. HOLZER: Sure.

BOARD: (inaudible) preview it.

MR. HOLZER: I understand.

CHAIR: So, I, I understand that it may not be a process that takes a week to finish up, that's why I requested by the end of the year, which gives us at least a month. And I realize even if that's not doable, the sooner the better, rather than the day before or something like that and I realize there's no discovery in this process.

MR. HOLZER: Right.

CHAIR: But otherwise, we'd then have to perhaps add additional time reserved to address these issues again, which I'm trying to avoid to the extent I can avoid it in light of the urgency as to deadlines in this case, which I believe, this case has to be resolved with all testimony and all evidence in and closing memos in by no later ten mid-March.

MR. HOLZER: Oh, I thought you were going to say January.

CHAIR: Well, I'm leaving some leeway because I don't know what's going to happen as of yet.

MR. HOLZER: Right.

CHAIR: And I, nothing has been scheduled.

BOARD: If we learn, if we learn that (inaudible).

MR. HOLZER: Okay. Would it make sense then to ask, instead of for three, three days to ask for four days or something? Would that make any sense at all at this stage?

CHAIR: I, well, I would say you've submitted dates, let's work with what we have, get that scheduled, see where that takes us because if we get here in early January, we knock out a couple days, --

MR. HOLZER: Yeah, it's over, it's over.

CHAIR: Right.

MR. HOLZER: Yeah, I don't have a problem with that. I'm just saying --

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Yes, sir.

CHAIR: That works for you?

MR. SCHMIDT: Yes, sir. I'm here at your pleasure.

CHAIR: You say pleasure. No.

MR. SCHMIDT: I'll be here. Just tell me when to show up.

CHAIR: No problem. Okay. Mr. Holzer, is there anything else?

MR. HOLZER: No, I've got to be at Court of Appeals tomorrow.

CHAIR: Mr. Clark, I think wants, wants your

attention.

DR. CLARK: Yes, I do.

MR. SCHMIDT: I'm going to return your highlighter.

CHAIR: Thank you.

MR. SCHMIDT: Thank you.

CHAIR: Well, this sounds like something that could be discussed, do you guys want --

DR. CLARK: Well, I, but I think it will help you, that's, that's --

CHAIR: Yes, but with the instructions we've given here today --

DR. CLARK: Okay.

CHAIR: -- that issue will be resolved with, you know, that is, here's the source material from what's, you know, whatever it is.

DR. CLARK: Yeah, yeah, that's --

CHAIR: But we're talking about the admissibility of it, that's what we tried to resolve here today in large part. Okay?

MR. HOLZER: Understand.

MR. SCHMIDT: Yes, sir. Thank you, thank you.

CHAIR: Thank you.

MR. SCHMIDT: Thank you.

CHAIR: Thank you, all. Have a great day. We are adjourned.

MR. SCHMIDT: You want to go see Sunny?

MR. HOLZER: Hm?

MR. SCHMIDT: You want to go see --

(OFF THE RECORD - 11:24:14 AM)

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I hereby certify that the hearing in the matter of Nepali American Cultural Center, case number 18-122-X, heard before the Board of Appeals of Baltimore County, November 29, 2018 were recorded by means of audiotape.

I further certify that, to the best of my knowledge and belief, page numbers 1 through 105 constitute a complete and accurate transcript of the proceedings as transcribed by me.

I further certify that I am neither a relative to nor an employee of any attorney or party herein, and that I have no interest in the outcome of this case.

In witness thereof, I have affixed my signature this 26th day of December, 2018.

Christine R. Leary

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NEPALI AMERICAN CULTURAL CENTER
CASE NUMBER: 18-122-X

Hearing Date: November 1, 2018

Pursuant to Notice, the above-entitled hearing was held before the Board of Appeals for Baltimore County at the Jefferson Building, Second Floor, Suite 203, 105 West Chesapeake Avenue, Towson, Maryland 21204.

PANEL PRESIDING:

JASON S. GARBER, CHAIRMAN

MAUREEN E. MURPHY, BOARD

DEBORAH C. DOPKIN, BOARD

PRESENT ON BEHALF OF THE PARTIES:

LAWENCE E. SCHMIDT, ESQUIRE
TIMOTHY M. KOTROCO, ESQUIRE
Counsel for Petitioner

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TABLE OF CONTENTS

Description	Page
Direct exam of Dr. DeWitt Clark by Mr. Holzer	10
Protestant's Exhibits 29, 30	23
Protestant's Exhibit 31	24
Protestant's Exhibit 32	31
Protestant's Exhibit 33	33
Protestant's Exhibit 34	35
Protestant's Exhibit 35	69
Protestant's Exhibit 36	74
Protestant's Exhibit 37	91
Protestant's Exhibit 38	103
Protestant's Exhibits 39, 40	107
Protestant's Exhibits 41, 42	109
Protestant's Exhibit 43	119
Protestant's Exhibit 44	133
Protestant's Exhibit 45	143
Protestant's Exhibit 46	179
Protestant's Exhibit 47	184

(ON RECORD - 09:14:22 AM)

CHAIR: Okay. All right. Sorry about that. We are here again today on day, I got to do math, one, two, three, --

VOICE: Six.

CHAIR: Thank you. Day six of the Nepali matter, case 18-122-X. We, let's first get counsel to introduce themselves for the record.

MR. SCHMIDT: Good morning, Chairman Garber, members of the panel. I'm Lawrence E. Schmidt, with the Law Firm of Smith, Gildea & Schmidt, 600 Washington Avenue, Towson, on, here on behalf of the Petitioner, Nepali.

CHAIR: Thank you.

MR. HOLZER: J. Carroll Holzer, 508 Fairmount Avenue, Towson, Maryland on behalf of the same Protestants that I was for the prior five years.

CHAIR: That's good, okay. All right. Number one, I understand also we have a request about the videographer from Petitioner's side, is that correct?

MR. SCHMIDT: No, not at this point. We were, we were contemplating that but the answer is no.

CHAIR: Okay.

MR. SCHMIDT: We had inquired of Ms. Cannington yesterday or the day before about the Board's procedure, but we've decided not to do that.

CHAIR: Okay. Well, if you change your mind in the

future, the only thing that I thought, when it was brought to my attention, was Mr. Holzer, I, I envisioned was going to play a video.

MR. SCHMIDT: Yes, sir.

CHAIR: Which would have created complication with where to set up the videographer because we obviously would need the center aisle here through the back wall clear for Mr. Holzer's presentation. So, just, if we're going to do that in the future, just to think about the logistics of it, where that would go and how that would be done.

MR. SCHMIDT: Yeah. In part, realizing that Mr. Holzer was going to have a video which we, he delivered a copy to me yesterday.

CHAIR: Thank you.

MR. SCHMIDT: Somewhat eliminated that, was part of our decision process.

CHAIR: Oh, okay. All right.

MR. HOLZER: And I'll for the record, we'll get to introducing the video, the, the disc and so forth, explaining what they are and how they proceed. But they are, they were provided to counsel yesterday, before lunch time.

CHAIR: Great.

MR. HOLZER: Even though he may not have had the chance to look at them. And, and I'm going to have Mr. Clark begin his testimony and when we get to showing this, I'm going

to be very careful about how he, what he introduces, that you understand what you're seeing versus what you're going to also be given and then we can talk about it if you have any questions.

CHAIR: Okay. There was a, I believe that there were supposed to be exhibits to the Board and counsel otherwise too, that have not been delivered yet?

MR. HOLZER: I'm sorry, the what?

CHAIR: Were there certain exhibits that were supposed to be delivered to the Board and counsel?

MR. HOLZER: Well, delivered to the --

CHAIR: Oh, I get you. Okay, yes, sorry. I understand now.

MR. HOLZER: Yeah.

CHAIR: Never mind.

MR. HOLZER: It was, no, the Board is going to get, unfortunately, one copy of all of the disc.

CHAIR: Yes.

MR. HOLZER: Because it's thousands of dollars to make more than that. So, we made one for the, for Mr. Schmidt, one for myself and one for the Board, so.

CHAIR: Okay and I'm guessing that there are also still photos that would show part of that story in any event.

MR. HOLZER: We have still photos, we also have documents and they will be introduced in a sequence.

CHAIR: Right.

MR. HOLZER: And I'll make sure they're, I'll make sure there is testimony about the document before we produce it.

CHAIR: Okay.

MR. HOLZER: Okay.

CHAIR: One other point too, as I'm (inaudible) discussion with counsel or not, or just one or the other, that you need two more days, you estimate, for this case?

MR. HOLZER: I, I can, I can tell you this, just so the Board has an opportunity. We have two more lay witnesses to produce on the 29th, who couldn't make some of these hearing dates that we've had. We will have potentially three experts. Hopefully, we can get through all that on the 29th, but if we can't --

CHAIR: Three experts and two lay witnesses?

MR. HOLZER: But if we can't, --

CHAIR: I've seen the way this case has gone so far.

MR. HOLZER: I, I'm trying --

CHAIR: But I, I appreciate your optimism.

MR. HOLZER: Yes, I'm trying to be --

CHAIR: Yes, I'm on board with it, to be clear.

MR. HOLZER: Okay and if we cannot get all of that and rest our case on the 29th, we will need to go over to another, hopefully just a part of a day. I don't hope, I don't

see where we have to have another full day, but much like Mr. Schmidt did when he wanted to call a person back and he took an extra half a day. So, that's what I would anticipate and then I think Mr. Schmidt wanted a full day for re-direct or rebuttal. So, it really looks like we're looking for two more days.

CHAIR: Okay and, and just as a, to throw an incentive in as to when those days could be scheduled, keep in mind that (inaudible) the County turns to MDAC in February, so that presents its own issues with this case too.

MR. HOLZER: That, that, I'm dealing with that in Cecil County and some other counties and I, I appreciate what you just said because that can be a real pain at the beginning.

CHAIR: And that's why I'm thinking that the sooner those two days are scheduled in terms of close to the last presently scheduled day, that may make it easier for everybody.

MR. HOLZER: The, the problem is, is the Christmas holidays in December.

CHAIR: Oh, I understand.

MR. HOLZER: But I, I agree with you. If we could get this done in January, that would be, by, you know, --

CHAIR: Well, because then think of, think of it like this though, then you have to closing memos, then we have to have deliberation.

MR. HOLZER: Right, right.

CHAIR: And then, --

MR. HOLZER: But is that going to be effected by the new process?

CHAIR: I would think --

MR. HOLZER: Once, once we close the case, I think that the rest of it becomes pretty easy for the Board or, or submitting a memo.

CHAIR: I think that that is a journey that we will all look forward to together. It has not yet experienced in this County as of yet and I'm sure that there will be a lot of false starts along the way.

MR. HOLZER: I've been through the whole process and let me tell you, there, and, well, you know, the Court of Special Appeals is on that now.

CHAIR: Um hm.

MR. HOLZER: And it can create a nightmare with attorneys on both sides, trying to submit their regular doc, documents and pleadings that they normally would and getting, getting problems through the airways.

CHAIR: Yes, so, I just use that as an example as to for scheduling purposes if we could try to figure out a way to get this done close in time to, when I say done, I mean, two extra days, close in time to November 29th date. That would actually probably work out best for everybody in this room.

MR. HOLZER: Okay.

CHAIR: And I realize that is a, you know, a, a specific ask coming out of Thanksgiving, but also then before Christmas or close thereto. The Christmas holiday, that is, the, --

MR. HOLZER: I have received, I have a Court of Appeals argument the day before the 29th and then I have three Court of Special Appeals --

CHAIR: It's okay.

MR. HOLZER: -- in early December.

CHAIR: It's okay. Again, I'm not asking that it be done December 3rd and 4th or something like that. I'm just suggesting that if you can figure out a way to clear your calendars in a close period of time --

MR. HOLZER: Will do.

CHAIR: -- that would be advantageous for everybody.

MR. HOLZER: Yeah.

CHAIR: So, with that all in mind, number one, everyone who's here, please make sure your cell phones are off, so we don't run into those problems as we did last time. Also, when you're handing up exhibits, please make sure counsel reads the exhibits first so that before you present to the witness,--

MR. HOLZER: Sure.

CHAIR: So, that we can hopefully avoid some of the other issues that arose the last time out, so.

MR. HOLZER: Sure.

CHAIR: With that in mind, are we ready to begin?

MR. HOLZER: Yes.

MR. SCHMIDT: Yes, sir.

CHAIR: All right. Mr. Holzer, it's still your case.

MR. HOLZER: Yes. I'd call Dr. Dewey Clark.

BOARD: Mr. Clark, do you, do you swear and affirm under the penalties of perjury, that the testimony you are about to give is true and correct to the best of your knowledge and belief?

DR. CLARK: I do.

BOARD: Would you state your name and address for the record?

DR. CLARK: My name is Dr. DeWitt S. Clark, 12150 Harford Road, Glen Arm, Maryland 21057.

BOARD: Thank you.

MR. HOLZER: Dr. Clark, you can have a seat. And I'd like to ask you to give the Board a little bit of the history of, of, about yourself and also about the, your property at the 12150 Harford Road. How long have you lived there?

DR. CLARK: Thirty-three years.

MR. HOLZER: Okay and could you then go on and explain?

DR. CLARK: Sure. It's the only house my wife and I have ever owned. We built it. My daughter was raised there and she made, she, she went through the local public schools

and was nominated to Princeton by the alumni association. My mother died there. In my free time, I am a Maryland Master Naturalist. I am a district manager for two hundred and forty miles of trail in the Pennsylvania, in, in Pennsylvania, which includes the Appalachian Trail. I am the Club Naturalist for the, for the organization that does those trails. I'm a Pennsylvania wild land firefighter and I work with State foresters and national park service staff in three states in the, in the area of forest health. We manage our property as a natural, native habitat. I think we have a picture of there that will be shown later. But it might, you know, we could do it now. Okay.

MR. HOLZER: Well, let's get through some of this background.

DR. CLARK: Okay. All right. We manage it as a natural, native habitat. It is Chesapeake Bay certified.

CHAIR: Do you have one of those plaques out front that says that?

DR. CLARK: Yeah, yeah, yeah. But it, it's, the full two acres has been turned into a meadow and then a boundary layer around the meadow and as a consequence, we do very well with monarchs, spiders, praying mantis. We have three kinds of woodpeckers, who are, who, who have nested around us. Hawks and eagles. We've counted forty-five species of birds visiting our property over the course of a year. We've seen a return of

black, black rat snakes, box turtles, mammals, everything from chipmunks to fox and I suspect there's a coyote that, that, that comes around our property. My background, my educational background, well, no, and, and then I do want to say, to me this is a house, it's a thing, all right? To my wife, it's her home. My educational background is I have a Ph.D. from University of Virginia, which Mary also has. In fact, she is two years my senior. My, my degree is in policy analysis and evaluation in the area of education. Do you want, --

MR. HOLZER: Yeah, tell us a little bit about your, about your background.

DR. CLARK: Okay.

MR. HOLZER: Where you grew up, etcetera?

DR. CLARK: I grew up in the projects in New York, played with Italians, African-Americans, Puerto Ricans, Irish, Slavs, Native Americans. The noise, chaos and unpredictability of living in that area was, is, is a major driver in my life. I actually had night terrors of being sucked back into the projects until I was thirty-five. Long after I had achieved professional success as a Ph.D. And that was even after we built our home at 12150 Harford Road, all right? You don't know the trauma that those kinds of things produce. Give you an example. Playgrounds were paved, they gave us one or two forty-eight inch culverts on a paved playground as, as a playground, all right? If you, if you got caught on the grass,

your family was fined. Spent most of our time roaming the nearby woods and farmlands. Boy Scouts was a very important part of my socialization. They also provided me access to solitude and peace. I spent much of my time taking trips into the back country. In college, I would routinely get lost in the Adirondacks. I went to, my undergraduate was up in Potsdam and when things just got to stress, I just said, the heck with it and I went and got lost for a couple days. Almost all of my family's vacations involved back, back country trips and national parks. And for us, a vacation is, was spending time with the park professional crew doing trail work. I remember Christmas baskets left on the front porch prior to moving to the projects. That was after my father deserted us. My father flew the hum in World War II with the first air commandos. He committed suicide eighteen years later. My mother took a job as a matron in, in a public school, which served an area that had a sizable population of Jews who escaped the Nazis. This was in the sixties, fifties and sixties. She was the daughter of, of a man of standing. Her father was the superintendent of printing for the paper of record, but she personally had no skills so that's what happened and then we wound up in the projects. I remember listening to her count change at night. I personally started to work at the age of twelve picking currents for a farmer, who picked us up at the post office one mile from the, from the projects and then drove us to his farm.

I worked through, I worked through school selling shoes and giving, giving money to my mother to help make things work. We did not even own a car until I bought a '65 Valiant at the age of twenty-one. Experienced first-hand the advantages of being white and from a fallen but respectful family. I spent more time in the Jewish Community Center then I did in a CYO. I was invited to the parties of my Jewish schoolmates until we got of age where things started to get with dating and all that kind of stuff and then their parents said, well. And then, I did have a community of respectable elders that knew my, that knew my grandfather, who helped me become acquainted with the middle class.

CHAIR: If, if I can, sir?

DR. CLARK: Yeah.

CHAIR: You know, you're, you said you're a master naturalist.

DR. CLARK: Yes, sir, I am.

CHAIR: Okay. What do you mean by that?

DR. CLARK: I'm a Maryland Master Naturalist. I was trained by the Department of Natural Resources Wildlife Heritage Services down in Annapolis. I was directly trained by the staff. That means, I call myself a twelve week wonder, but it's, it's gone beyond that. That, that means that I can serve as, as an interface between volunteer organizations and what professionals need, okay? That means that I do outreach to, to

all sorts of groups, whether it's disadvantaged --

CHAIR: Well, I guess where I'm going with it is --

DR. CLARK: Yeah.

CHAIR: -- what do you mean by naturalist, like how would you define that?

DR. CLARK: Oh, all right. My specialty is forest health and --

CHAIR: Right, and I got that from some of the other things you said.

DR. CLARK: Right, yeah, yeah, yeah. And so, that means that I spend a lot of my time working with the professionals in three different states, the, the, the, the state foresters, identifying areas that are at threat for invasive species or that the forest is sick. Then I help them, I, I recruit volunteers to work with them and then I go onsite and manage them. And it can be anything from pulling out a ailanthus, from killing a, ailanthus, tree of heaven, to creating a new meadow, all right? It's forest, it's, it's, starts as invasive species control.

CHAIR: Um hm.

DR. CLARK: But really, if you just talked about that, people would get real depressed. I, I, I frame it as forest health.

CHAIR: Understood. Mr. Holzer? Oh, --

DR. CLARK: Wait a minute.

BOARD: On that, --

CHAIR: I'm sorry.

BOARD: -- you said it was a twelve week training?

DR. CLARK: Yes, ma'am.

BOARD: And when you complete the training, you are certified in some way?

DR. CLARK: Yes, ma'am. Yes, ma'am.

BOARD: By the State DNR?

DR. CLARK: Yes.

BOARD: Thank you. Do you have that certification?

DR. CLARK: Yeah, I do. I don't have it with me, but yes, ma'am.

BOARD: (inaudible).

DR. CLARK: Yeah, yeah. No, and you combine that with my wife's Master Gardner and you see what we did at the house.

CHAIR: Understood. Mr. Holzer?

MR. HOLZER: Yes. All right. Can we get, get on with why are you in this fight?

DR. CLARK: Yeah. Mary and I moved and stayed here because it met our needs for peace from the chaos of the world. All right? I was very sick for about ten years. Shortly after I got my, got my degree. I was on fifteen milligrams of Prednisone for, for ten years, just to get out of bed. All right? I had not, I had not getting out of bed arthritis.

Mary had to tie my tie. It finally resolved, but it took three years for me to get off the Prednisone. If, I'm sorry about that.

CHAIR: Hold on a second. Just make sure --

DR. CLARK: Yeah, we're trying to keep the computer awake.

CHAIR: Got it. So, that's (inaudible) the computer.

DR. CLARK: Yeah.

CHAIR: Okay. So, I just wanted to make sure that (inaudible).

DR. CLARK: Yeah.

CHAIR: Okay.

DR. CLARK: I'm sorry, I didn't mean to interrupt you.

CHAIR: It, it, it's quite all right. It's quite all right. So, you said, I'm sorry, you were, it took you three years to get off the Prednisone?

DR. CLARK: Yeah. I mean, if you know anything about it, tapering off, I would get down to five milligrams and then I would suddenly flare and then I'd have to go back to fifty and try again. It took three years to get off that stuff. I was in this primarily to protect Mary's home, all right? She's my partner. This means a lot to her. It would be very easy for us to move because to me, it's just a piece of property. But it's her home. Now, I am also motivated by the friends we

have made throughout the process and to carry forward the efforts of those who came before me to protect this rural farmland valley, which is one of the last of its kind in the valley.

MR. HOLZER: Dr. Clark, I, I think this might be the moment where you will begin to refer to various videos and so forth. So, could you pull out the, the pile of CD's that you have?

DR. CLARK: Can I ask Ms., can I ask Dr. Clark to do that?

CHAIR: Will this take a minute or two?

DR. CLARK: Is it okay if I refer to her as Mary?

CHAIR: It's fine by me.

DR. CLARK: Okay.

CHAIR: I would take that up with her.

DR. CLARK: I'd rather ask you.

CHAIR: No, that's fine with me. I think we all can agree who you're referring to.

DR. CLARK: Okay.

CHAIR: So, as long as that's clear for the record, that's really my concern.

MR. HOLZER: Larry, this is what we gave to you yesterday.

MR. SCHMIDT: Okay. Are you going to --

MR. HOLZER: I'm going to explain what each one of

them is.

MR. SCHMIDT: Okay and, and --

MR. HOLZER: I know you didn't, may not have had time to look at them.

CHAIR: Well, if I can, Mr. Holzer, --

MR. HOLZER: Yeah.

CHAIR: -- you're going to explain what each one of them is, keep in mind, the witness is going to have to identify, obviously, the subject matter.

MR. HOLZER: Sure.

CHAIR: Okay.

MR. HOLZER: Yeah, oh, yeah. That's what I wanted him to do.

MR. SCHMIDT: Okay.

MR. HOLZER: Yeah. And there, you're about to hear, that there are videos that, that contain clippets, because I knew the Board didn't want to look at three hours of, of video at a time. So, we have made snip, I'll call them snippets, I don't know whether that's the correct word. But they are no more than thirty seconds to two minutes, showing various things, that's the first part. So, there will be a video that, of those, and then there are videos that are, that are called the library. The library videos are videos, oh, I'm sorry, I'm standing in front of you.

MR. SCHMIDT: That's okay.

MR. HOLZER: The library videos are the documents from which the snippets came.

CHAIR: Okay.

MR. HOLZER: So, --

CHAIR: So, in other words, there was, there were longer clips and then you pulled out sections of the clips?

MR. HOLZER: Yes.

CHAIR: Okay.

MR. HOLZER: Yes.

CHAIR: And, Mr. Schmidt, you have received those videos?

MR. SCHMIDT: Yes, sir.

CHAIR: And, and have you reviewed them?

MR. SCHMIDT: No, sir.

CHAIR: Okay. Did you review the snippets?

MR. SCHMIDT: No, sir.

CHAIR: Okay.

MR. SCHMIDT: I, unfortunately, was in Richmond, Virginia yesterday arguing a case at the 4th Circuit.

CHAIR: It's not a matter of --

MR. SCHMIDT: Got back late and they, I got them, I, I did get them over to my client yesterday when they were delivered in the office, but I haven't personally seen them.

CHAIR: Okay. It's, I guess my thinking was, is if they're snippets pulled out of the longer videos, are we

playing all the snippets and also all the videos?

MR. HOLZER: Oh, of course not.

CHAIR: Okay.

MR. HOLZER: That, that's why, I knew what the Board wanted and, and I knew what my client wanted. He wanted to be able to show snippets of certain things.

CHAIR: Okay.

MR. HOLZER: Of the property, of, of what was going on.

CHAIR: Understood.

MR. HOLZER: And also as a preface, most of the snippets are from the YouTube of the applicant. In other words, they've put material up on line so people could see what was going on.

CHAIR: Understood.

MR. HOLZER: And we have taken pictures of that and that's what will be shown.

CHAIR: Okay.

MR. HOLZER: That's one part. The second part, and lesser amount of snippets, is from the cam, dash cam of Dr. Clark, showing you a little bit of the neighborhood and Harford Road.

CHAIR: Understood.

MR. HOLZER: So, so in that respect, I would imagine that the Board may well want to, in its deliberations, review

the snippet CD's, unless you have a question, or unless Mr. Schmidt says, well, you should see more than that, and then you can go to the library and take a look at from whence they came.

CHAIR: Fair enough. Are you, is that the exhibit in your hands?

MR. HOLZER: Wait a minute. Mr. Schmidt, just so that you know, since you didn't have time, these are the colored, these gold ones.

MR. SCHMIDT: Yes, sir.

MR. HOLZER: Those are the snippets CD's, okay?

MR. SCHMIDT: Okay.

MR. HOLZER: So, you know what to look for when you need to look for them.

CHAIR: Just, and again, I'm just trying to make this clear for the record, you have in one hand the stack of CD's and you have in another hand several sandwich bags, individually, with CD's.

MR. HOLZER: That's correct.

CHAIR: So, the stack of CD's, is that the exhibit that we're going to be handed?

MR. HOLZER: I'm going to hand both of them to you.

CHAIR: Okay. So, --

MR. HOLZER: You get both of them.

CHAIR: -- Ms. Murphy, what would make sense to you in terms of designating for exhibits?

BOARD: However you'd like them labeled as --

MR. HOLZER: It's labeled Protestant's Exhibit, why don't we label the whole packet one number?

BOARD: Okay, sure.

MR. HOLZER: And so, the gold CD's are the snippet CD's.

BOARD: Is that going to be talked about first?

MR. HOLZER: Yes.

BOARD: Okay.

MR. HOLZER: That's all we're going to talk about today. The, the white, the box with the white CD's is the library.

BOARD: All right.

MR. HOLZER: From whence this snippets came.

BOARD: So, I just need two labels?

MR. HOLZER: I only, I only had one, I didn't --

BOARD: No, it's fine, no, no, it's fine. I just, for me though, I don't, I don't need to individually label each CD?

MR. HOLZER: Oh, no, no, no, no.

BOARD: Right. Gold, gold ones are twenty-nine and the larger library is thirty. That was easy.

MR. HOLZER: Okay, that's fine.

BOARD: Okay.

MR. HOLZER: That's fine.

CHAIR: All right.

MR. HOLZER: Let's see, is there anything more that I need to.

DR. CLARK: All right.

MR. HOLZER: Dr. Clark, would you care to elaborate on my analysis?

DR. CLARK: Yes, yes. I, maybe I can make it a little bit, I'm, I'm a researcher, okay? I collect observable data and then I also document them, okay? And I document my sources. So, we have a list of all the URL's from --

MR. HOLZER: What are URL's? Because (inaudible) don't understand that.

DR. CLARK: The, the website.

CHAIR: I understand.

DR. CLARK: Yeah, yeah, yeah, I don't even know what it stands for.

CHAIR: (inaudible) and whatever the address is.

DR. CLARK: Yeah, yeah, yeah, right. I don't even know what it stands for anymore.

CHAIR: You said you have a list?

DR. CLARK: Yes. We have --

CHAIR: Would it make sense to tender that list as an exhibit?

MR. HOLZER: We are going to.

CHAIR: Okay.

MR. HOLZER: That was the next thing I was going to do, before we even get into any of it. Do you have the list?

CHAIR: Yes.

DR. CLARK: I believe Mary does. Okay, may I see it so I can --

CHAIR: Well, first you need to show Mr. Schmidt.

MR. HOLZER: I want to show it --

DR. CLARK: Oh, sorry, sorry.

MR. SCHMIDT: Thank you.

MR. HOLZER: This is --

MR. SCHMIDT: Is this my copy?

MR. HOLZER: Yep.

MR. SCHMIDT: Thank you, sir.

MR. HOLZER: It's your copy and --

CHAIR: And hold on, before, let Mr. Schmidt review it before you --

MR. HOLZER: I, I will.

CHAIR: -- present it to Dr. Clark. Thank you.

MR. SCHMIDT: Okay, I don't know what it is, but okay.

MR. HOLZER: Yeah, that's the same as I. That's why it needs to be explained. Okay?

MR. SCHMIDT: Yes, sir.

MR. HOLZER: Okay. I'm handing forth to the Board and I'm handing one to Dr. Clark and I'm keeping one. Now, Dr.

Clark, could, could you just, it says URL's and movie segment files. What does that mean? And then there's a list.

DR. CLARK: Right.

MR. HOLZER: With dates. Could you tell us what that means?

DR. CLARK: All right. The, the, the first line is the website, okay?

CHAIR: Let me ask, (inaudible), did you create this exhibit?

DR. CLARK: Yes, sir.

CHAIR: And this is Exhibit 31, I believe?

DR. CLARK: Yes, sir.

CHAIR: So, you created Exhibit 31 and the videos that are in the full video library in Exhibit 30, they would correspond to the URL addresses on Exhibit 31?

DR. CLARK: And I have a second document.

CHAIR: Well, is that part of Exhibit 31?

DR. CLARK: Yeah, why don't we do that.

CHAIR: Well, hold on. Is that part of Exhibit 31?

DR. CLARK: No, no, it is not part of this exhibit.

CHAIR: Okay. So, we're going to go one step at a time.

DR. CLARK: Okay.

CHAIR: So, so the URL addresses here would correspond to the video library and the video library would

correspond to these URL addresses in Exhibit 31.

DR. CLARK: Correct.

CHAIR: Okay. So, that's where you would have gotten some of those videos, I understand from Mr. Holzer's proffer earlier, that some came from a dash cam. Is that listed on Exhibit 31?

DR. CLARK: No, it is not.

CHAIR: So, so Exhibit 31 is solely confined to what you were able to access on line?

DR. CLARK: Correct, sir.

CHAIR: All right and Mr. Holzer?

MR. HOLZER: Thank you.

DR. CLARK: There's one more thing I need to explain.

CHAIR: Mr. Holzer, if you ask him --

MR. HOLZER: Please explain.

DR. CLARK: Okay. Under that, under the URL, you will see DSE underscore 6978.

CHAIR: Understood.

DR. CLARK: That is a thirty minute, I'm going to call them segment, all right? And, and that, that was pulled directly from their, their, that website. So, if the, if the, if the website, if that, if that video was less than thirty minutes, it will have a single file listed, okay. If that video went on for three hours, it will have six video files.

CHAIR: It will have multiple DSC prefix files?

DR. CLARK: Correct, and those are in the library.

CHAIR: Understood.

MR. HOLZER: Okay, thank you. Now, --

CHAIR: Mr. Schmidt, have you seen Exhibit 31?

MR. SCHMIDT: Yes, sir, I have.

CHAIR: Okay. On Exhibit 31, do you have any problem with that?

MR. SCHMIDT: No, sir, I do not.

CHAIR: I assume you're going to put that into evidence?

MR. HOLZER: Yes.

CHAIR: So, we can admit Exhibit 31. We're not on twenty-nine or thirty yet.

MR. HOLZER: Right.

CHAIR: But thirty-one, yes.

MR. HOLZER: Now, you have another document that you said you want to further articulate.

DR. CLARK: I do.

MR. HOLZER: What we're seeing, and where is that?

DR. CLARK: I believe Mary has it.

CHAIR: Yeah, Ms. Clark, or Dr. Clark, sorry.

MR. HOLZER: Yeah.

CHAIR: You can't look at him for, to know if that's the right exhibit or not.

MR. HOLZER: Oh, okay. I just want to --

CHAIR: I know it was instinct so, (inaudible) just nevertheless.

MR. HOLZER: Can I ask him questions?

MR. SCHMIDT: Sure, yes, sir, I'm sorry.

MR. HOLZER: Okay, thank you. Now, Dr. Clark, you handed me a, a document called video file contents and then BIVDS number one and number two. Could you explain, first of all, did you do this yourself?

DR. CLARK: I did.

MR. HOLZER: And could you explain --

DR. CLARK: Oh, no, no, I'm sorry, I did not.

MR. HOLZER: What did, who did it?

DR. CLARK: It was the people who did, who created the, who actually imprinted all two hundred and forty DVD's.

MR. HOLZER: Okay.

DR. CLARK: This is the inventory that the provided me.

MR. HOLZER: Okay and they, and you took it to that reducer, or whatever it was, to make all these copies of the CD's?

DR. CLARK: I did.

MR. HOLZER: And then they provided this, this contents list to you?

DR. CLARK: Correct.

MR. HOLZER: Okay. What does it show, what does it

mean?

DR. CLARK: All right. What this, and I'm sorry about the, the, the title. It should say video library contents, okay? This relates directly to the stack of DVD's, the big stack, okay? And I believe I, I put the DVD's in there in order of the contents, okay? But these list, this is the crosswalk where if you want to access, I forget what exhibit number this was.

CHAIR: Thirty-one.

MR. HOLZER: Thirty-one.

DR. CLARK: If you want to access the con, the, the, the files that are shown in thirty-one, you would then use this list to find which DVD they're on.

MR. HOLZER: Could you give us an example?

DR. CLARK: Yeah, let's take 6978.

CHAIR: Hold on, 6978, where would --

DR. CLARK: Yeah, oh, that, that, that would be the first one, the first one under URL.

CHAIR: (inaudible) Exhibit 31?

DR. CLARK: Yeah. If you look on one, two, three, on page four, of the library contents, okay? You will see on --

CHAIR: When you say library contents, you're referring to Exhibit 32?

DR. CLARK: Yes, sir. You would look up, you would see on FBVDS, the second one down is DSC 6978. So, you would

find 6978 on, on the library disc labeled FBVDS three.

CHAIR: Got it.

DR. CLARK: Okay? I'm sorry, I, it would have been better if I did this in Excel so you could do it but, you know, sort of but --

CHAIR: So, (inaudible) would you refer to this Exhibit 32 as more or less a table of contents of the stack of videos?

DR. CLARK: Yes, sir, perfect.

MR. HOLZER: I'd buy that. All right. Now, we have twenty-nine, thirty, thirty-one and thirty-two as, as the understanding of what the CD's are, are going to show. And am I correct in saying that the gold colored videos are the ones that, are in the machine now and you'll be referring to them during the course of your testimony?

DR. CLARK: Yes, sir. I hope.

MR. HOLZER: Okay. The other thing is, did I mislead the Board in any way when I said each clip will probably run between thirty seconds and two or two and a half minutes?

DR. CLARK: Well, you told a mis-tale on this first one.

MR. HOLZER: Okay. All right. Which is the first one we're going to look at?

DR. CLARK: The first one is going, because you can't come out there, we felt it was very important for you to get a

sense of the locality in which we are arguing.

CHAIR: And correct me if I'm wrong, if I'm wrong here, but at least the videos of the events or the dates they're represented on the 31st, did capture events that occurred on those dates, so even irrespective of our ability to visit, we're not going to be able to go see it if we went out there tomorrow.

DR. CLARK: No, no, no, no, no.

CHAIR: Right?

DR. CLARK: That's, that's not what I'm talking about.

CHAIR: Okay.

DR. CLARK: It's going to be a dash cam.

CHAIR: Oh, you're talking about the dash cam?

DR. CLARK: Yes.

CHAIR: Okay. Well, I was referring to the Facebook, okay.

DR. CLARK: I know.

CHAIR: I shouldn't have, sorry.

DR. CLARK: All right. Go ahead.

MR. HOLZER: So, the, so the first video that you are about to show is, relates to something you did yourself?

DR. CLARK: Yes, sir.

MR. HOLZER: Okay and it's not something that you took off of the YouTube or internet?

DR. CLARK: No, sir.

MR. HOLZER: Okay. All right.

DR. CLARK: It, it, it, it --

MR. HOLZER: Is there, is there anything else that you need to explain to the Board and to counsel as to what they are seeing and how they can go about finding it, finding it from their documents that we've produced for them?

DR. CLARK: Well, it will be identified on the silver disc. Oh, or on the, on the gold disc.

MR. HOLZER: Gold disc.

DR. CLARK: And I believe we have an inventory for the gold discs.

MR. HOLZER: Do we have that to give to the Board at this point? And to counsel?

CHAIR: So, if this is of the snippets, it would seem at this, Ms. Murphy, do you think this should be Exhibit 29-A, because it is the index for the snippet videos? You want to make it thirty-three, that's fine by me. Whatever you think is best.

BOARD: Thirty-three works.

MR. HOLZER: This will be thirty-three? Okay. Well, I'm not going to mark it until later.

MR. SCHMIDT: Okay, thank you.

CHAIR: Before you give it to the witness, let Mr. Schmidt review, please.

MR. HOLZER: One, two, three, four. Now, I don't have --

CHAIR: One second, let Mr. Schmidt --

MR. HOLZER: I am.

CHAIR: Sorry, Dr. Clark.

MR. SCHMIDT: I, I've looked at it, thank you.

MR. HOLZER: Thank you. Okay. I don't have a copy but I don't need now, Dr. Clark, explain what Exhibit 33 is?

DR. CLARK: Okay. The simplest way for me to do this was to take a, a screen shot of, of the files on my computer and then identify which disc they are on, these gold discs. You'll see at the bottom A-1's, that's 4992, 5005, 5006, those were already included in the preliminary Motion that was accepted as evidence. They were on USB. I understand you can't access USB's, so they are on, they are on the video. I don't even, on, on the first gold disc. Then you will see --

MR. HOLZER: Just explain it. Are you saying that they were in the first Motion that we filed on the first day?

DR. CLARK: Yes, sir.

MR. HOLZER: Okay. Do you happen to know what exhibit number they were?

DR. CLARK: They were the appendixes. Appendixes 320 or something and.

MR. SCHMIDT: Okay.

MR. HOLZER: Okay. I'll show you what's in an

envelope attached to a blue folder.

DR. CLARK: Yes, sir, 320 and 22.

CHAIR: What, 320 and --

MR. HOLZER: Appendixes 320 and 22.

CHAIR: Okay, thank you.

DR. CLARK: But they were in a USB and you can't access it.

MR. HOLZER: I don't, do, do --

CHAIR: When you say you can't access it, what do you mean by that?

DR. CLARK: We, we, we are told that the, that County employees cannot put a USB drive into the, into a County computer.

CHAIR: Fair enough.

BOARD: (inaudible).

CHAIR: That was the, the Motion.

BOARD: (inaudible).

MR. HOLZER: The first day's Motion.

BOARD: Got it.

MR. HOLZER: Appendixes 320 and 22. I don't know that I need to introduce this unless the Board would like it.

CHAIR: Well, if it, if it corresponds to what Dr. Clark's testimony is, you know, I'm going to leave it to you as whether or not that should be evidence because, keep in mind, the Motion is in evidence but the subsequent appendixes are

only exhibits to the Motion.

MR. HOLZER: To the Motion.

CHAIR: Not substantive evidence of the case.

MR. HOLZER: That's correct, that's correct. Then I'll introduce this and it contains a, whatever.

MR. SCHMIDT: That's number thirty-four?

BOARD: Thirty-four.

MR. HOLZER: Thirty-four.

DR. CLARK: Okay. All right and so, and so then the rest of these are pretty much grouped in presentation order. A-2, which is what we, did I just lie? I did. But all, all the videos, you'll see next, you'll see next to, for example, circle to Mount Vista Court, A-2. That will be on the disc, on the gold disc labeled A-2.

CHAIR: So, each designation that is handwritten on, on Protestant's Exhibit 33, should correspond to a snippet video, Exhibit 29, but then you have each one of those labeled A-1, A-2, A-3, etcetera?

DR. CLARK: Yes, sir.

CHAIR: Okay. Mr. Holzer?

MR. HOLZER: Okay. Now, is there anything else we need to establish, to, to tie all of this information together so that the Board can re, can re-examine it if they desire?

DR. CLARK: I would imagine that there will be some questions, some questions as we go forward, but I tried the

best I can to, to provide crosswalks and documents and all that kind of stuff. But it, it is, it, it's not going to be, you know, it's not as easy, as easy as I would like it to be.

MR. HOLZER: I, I, --

MR. SCHMIDT: Mr. Holzer, can I just ask, --

MR. HOLZER: I was going to, can I --

CHAIR: Well, wait a minute. Let's, let's do it like this. Mr. Holzer was about to say something, you ask your question, then we'll see where that leaves us. You were about to say something?

MR. HOLZER: Yes. I was about, I don't want to prejudice anything, but just so, so that we understand about all this and I thought of this as we were doing it. Suppose, suppose one of the exhibits, or one of the snippets that is being shown is objected to and sustained. I wanted to make sure that the, you know, obviously the whole disc wasn't, wasn't rejected. It was only that video. So, that's why I asked Dr. Clark to create these documents so that if one of the videos is denied in, it can easily be marked out on these exhibits. So that, so that in the future, in a, in an appeal or whatever, the Court will know whether something was denied and they'll know if it wasn't crossed out, they'll know it was admitted.

CHAIR: Mr. Schmidt?

MR. HOLZER: Is that a fair, I'm trying to be fair

for both sides.

MR. SCHMIDT: I think that's fine. I just, just so I understand what we're looking at. I'm sorry. The, so, so we're going to be seeing the snippets, not the library?

DR. CLARK: Correct.

MR. SCHMIDT: Is that correct?

DR. CLARK: Correct.

MR. SCHMIDT: And, and there's four snippet discs, A-1, 2, 3 and 4?

DR. CLARK: Correct.

MR. HOLZER: Yes.

MR. SCHMIDT: Is that, I'm just trying to understand so I know what we're doing.

MR. HOLZER: No, that's fair.

MR. SCHMIDT: And then, we're not going to be looking at the library, which are the white discs?

DR. CLARK: Correct.

MR. SCHMIDT: Okay and just to give us an idea, how, how long are the, are the gold discs? How many, how many minutes of video is that?

DR. CLARK: Okay.

MR. SCHMIDT: Just approximately.

DR. CLARK: No, no, no, no, I mean, and it's going to be kind of scary. Each DVD has approximately two hours, all right? That you are not going to see the whole two hours. But

the, they, they are there so that when it, when, when Mary shows time, time, I, I'm going to have her, I'm going to direct her to time, to, to time stamps to show you specific things. And, you know, even though the video may be twenty minutes long, you're only going to see ten seconds.

CHAIR: A snippet of a snippet?

DR. CLARK: Right. Thank you.

CHAIR: Understood.

MR. SCHMIDT: Okay.

MR. HOLZER: Right.

MR. SCHMIDT: And, and how long is, so this, the snippets are about eight hours of video?

DR. CLARK: Right.

MR. SCHMIDT: And the library is?

DR. CLARK: Two, two hours times thirty.

MR. SCHMIDT: Two hours? Okay, so that's sixty hours?

DR. CLARK: Yes.

MR. SCHMIDT: Okay.

CHAIR: But I understand that some of those are matters taken from, is it, Petitioner's Facebook page?

DR. CLARK: Well, yeah, a Facebook endorsed by the Petitioner, yes.

CHAIR: Facebook page endorsed by the Petitioner, okay?

DR. CLARK: Yes.

CHAIR: We'll figure out what that means later.

DR. CLARK: Yeah.

MR. SCHMIDT: Mr. Garber, I was, I was just going to suggest, because it's such a volume of information, and because I haven't seen it, even if I looked at it yesterday, I couldn't have reviewed sixty hours' worth of videos from yesterday till today. Maybe what I'll, what I'll do with Mr. Holzer's permission is try to review these between now and the next hearing and then tell you what objections I have, since everything is being offered into evidence. I mean, because it's just so much.

MR. HOLZER: Well, they can all be marked for identification.

MR. SCHMIDT: Yeah, no, that, that's fine, but I'm just saying. I'm, it's going to be very difficult, I don't, I mean, it just sounds like a lot of material.

CHAIR: No, I, I, I'm sympathetic to your position on that and I understand that there is a lot and your concerns that you raise, Mr. Holzer, --

MR. HOLZER: Right.

CHAIR: -- about if there's an objection what to do on that point. Does seem, it seems like a fair way to at least try to approach this, whereas --

MR. HOLZER: You mean, not proceed today?

CHAIR: No, no, no, no.

MR. SCHMIDT: No, you can show as much as you want, but any objections I make, I will let you know what they are next time.

MR. HOLZER: Oh, that's perfectly fine.

CHAIR: Rather than have the objection be raised contemporaneous with the showing of the video, I mean, this does seem to be a, a way to try to accommodate those interests.

MR. HOLZER: I have no, no objection to that. I understand what the, what Mr. Schmidt is suggesting. I know he was in Federal Court yesterday, so I know he (inaudible) had the opportunity to look at these when I delivered them. And as a matter of fact, I haven't looked at the library myself, so.

CHAIR: I would suggest that between now and the next hearing then, that you, you submit in writing to Mr. Holzer and to the Board your objections, not wait till November 29th.

MR. HOLZER: Right.

CHAIR: But you submit in writing, preferably, I would say, it's better to do, I mean, at least, you know, if you can do it closer in time to --

MR. SCHMIDT: Sure.

CHAIR: -- today.

MR. HOLZER: I'm leaving tonight for two weeks.

CHAIR: Well, his objections. Right, they're, those are his objections.

MR. HOLZER: Right.

CHAIR: But I mean, rather than wait till November 27th or 28th --

MR. HOLZER: Right.

CHAIR: -- so that they're out there in advance, they can be identified by Mr. Holzer to address the next time, if need be, and specifically, just to be clear, this solely relates to the videos themselves, not to Dr. Clark's testimony necessarily. So, if you have a problem with the testimony, that's a, that's a different matter.

MR. SCHMIDT: Yes, sir, I understand.

CHAIR: Okay. We all on the same page?

MR. HOLZER: Not only on the same page, I think that was a wise approach to the problem. I think both counsel are, are agree, in agreement to this. I don't have any problem with it.

CHAIR: Do you think you could have your written objections to any videos to Mr. Holzer and to the Board by, can we say, November 15th? That's two weeks from today.

MR. SCHMIDT: Yes, yes, sir. I'll make --

CHAIR: And you're gone for two weeks, I know, so you may not get a look at it till the, if I do math correctly --

MR. HOLZER: Twentieth.

CHAIR: Twentieth, thank you. So, you may not get to look at it till the 20th, but if you have any response that you

feel that should be submitted to the Board in writing in advance of the 29th, that would be much appreciated too. Because I don't want to waste the 29th sitting here arguing about objections to the extent possible.

MR. SCHMIDT: Yeah.

MR. HOLZER: Right.

MR. SCHMIDT: When, Mr. Holzer, when are you coming back? I'll have it to you on your desk by the time you get back. Are you coming back the 20th?

MR. HOLZER: Monday the 20th.

MR. SCHMIDT: Monday, okay.

MR. HOLZER: I think that's the 20th.

CHAIR: Nineteenth.

MR. HOLZER: Nineteenth? Monday the 19th.

CHAIR: Monday the 19th is fine.

MR. SCHMIDT: I'll, I'll have the objections to him by the 19th.

CHAIR: And to the Board.

MR. SCHMIDT: And to the Board.

CHAIR: And, and why don't we do this, just to be, if you have a response to any of the objections, why don't you have it to the Board by Monday, the 26th, giving you one week to get that, I realize Thanksgiving falls between.

MR. HOLZER: Right.

CHAIR: But we have to have it before the 29th because

I don't want to waste two hours on the 29th trying to sort through objections to the extent that there are any or whatever the case may be.

MR. SCHMIDT: Thank you. Thank you, Mr. Garber.

CHAIR: I mean, and, because I understand there is a lot of stuff to this, not all of it is going to be shown here today and I do appreciate Mr. Holzer getting the disc to you in advance and I realize the short, the inability to be able to, even if your schedule was clear, to be able to get through everything for today. So, thank you all, so.

MR. HOLZER: So, the, Mr. Schmidt's will be filed, given to me by the 19th of --

MR. SCHMIDT: And the Board's, and I'll give a, the copy to the Board.

MR. HOLZER: And, and then --

CHAIR: You're exchanging object, your objections to him, that Mr. Schmidt's to Mr. Holzer the 19th, your response on the 26th and then we come in here on the 29th and, you know, we'll try to resolve everything as expeditiously as possible.

MR. HOLZER: I think that's a fair procedure.

CHAIR: Yeah. So, but again, Mr. Schmidt, this solely is limited to the videos, to the extent possible, okay?

MR. SCHMIDT: Yes, sir. Thank you.

MR. HOLZER: And I think, Dr. Clark, are we ready to show one of the first videos?

DR. CLARK: I, well, I, I don't know if this is a good time to clar, to, to, to make clear how some of these were created?

MR. HOLZER: Yes, please.

DR. CLARK: Okay.

MR. HOLZER: That's what I'm trying to get through.

DR. CLARK: Okay. All right. There are basically three categories, four categories. First, are the, the videos that, and these, and these are the ones that were put up on the Facebook pages, okay?

MR. HOLZER: The applicant's --

DR. CLARK: The applicant's Facebook --

MR. HOLZER: Okay.

DR. CLARK: Well, or someone associated with the applicants.

MR. HOLZER: Okay.

DR. CLARK: (inaudible) Nepalese is the, is the one.

CHAIR: We'll have to figure that part out --

DR. CLARK: Right, right. But they were on the Facebook page and what I did is set up my camera in front of the computer screen and then copied the thirty minute segment. I'm going to call those thirty minute things, segments.

CHAIR: So, you didn't grab the video directly to your computer, you recorded it through another device just simply by watching it?

DR. CLARK: Correct.

CHAIR: I, you, you, on YouTube, you cannot do that.

CHAIR: No, I understand.

DR. CLARK: All right. So, and, and the reason for the thirty minute segments, it's an FDC ruling, anything over thirty minutes is a video camera, anything under thirty minutes is a camera. I have a Nikon, all right? So, there we go. Then there is another class of videos that were taken from my dash cam.

CHAIR: Well, if I can, if I can maybe make this even simpler than that. If we're playing one disc and one disc contains, for the sake of argument, you know, Facebook snippets, identify how you came to record that snippet disc and then when we play the next disc, offer how that came to be recorded --

DR. CLARK: Okay, okay.

CHAIR: -- or, however, --

DR. CLARK: Got it.

CHAIR: -- captured for that disc.

DR. CLARK: Got it.

MR. HOLZER: That makes sense.

CHAIR: Because otherwise, it's just going to get lost.

MR. HOLZER: Yeah.

DR. CLARK: Okay. All right.

MR. HOLZER: Do you understand what the (inaudible)?

DR. CLARK: I understand what the Board wants.

MR. HOLZER: Okay, okay. Now, are we ready to show the dash cam photos that you took, or the videos that you took?

DR. CLARK: Right.

MR. HOLZER: Okay.

DR. CLARK: Now, the --

MR. HOLZER: Go ahead.

CHAIR: Go ahead.

DR. CLARK: Okay. This first one is about seven and a half minutes in length, okay? It is, it was taken, shot by me, back in April, I believe, and it is a drive up from Gunpowder Park up to Mount Vista Circle.

CHAIR: Well, before you offer what it is, make sure that everything corresponds, I guess, first. That is, put the video on, he'll be able to recognize it.

MR. HOLZER: Okay.

CHAIR: And then explain what we're about to see, --

DR. CLARK: All right and this, this --

CHAIR: -- rather than have a description and then if the video doesn't match, then we got to start it all over.

DR. CLARK: Okay.

MR. HOLZER: Yeah.

DR. CLARK: This video is labeled, it's on disc A-4, okay? Towards the bottom, and it's Gunpowder Park to Circle.

CHAIR: Okay. So, Gunpowder Park to Circle is the first video we'll see, which on Protestant's Exhibit 33 is on the bottom, roughly about four lines up from the bottom, in type, not print.

BOARD: Do you need more light, Mr. Holzer?

MR. HOLZER: No, I don't think so.

CHAIR: Mr. Schmidt, do you understand where we are?

MR. SCHMIDT: Yes, sir.

CHAIR: Okay.

MR. SCHMIDT: This is disc A-4, the gold disc.

MR. HOLZER: As long as the Board can see it.

CHAIR: Yes, and the, the fourth one up from the bottom.

MR. SCHMIDT: Yes.

CHAIR: That's typed.

DR. CLARK: Now, I'm going to ask Mary to stop at a couple minute markers, but what you will see, the, the purpose of this video is since you can't come out and see the valley in which we live, it is intended to show you the locality in which we are discussing, of which we are discussing.

CHAIR: Understood.

DR. CLARK: I will ask Mary to stop at a couple time stamps to show specific things, all right? And she's got, she actually has those in front of her.

CHAIR: Okay.

MR. SCHMIDT: And Mr. Garber, just, --

CHAIR: Yes.

MR. SCHMIDT: -- is, is the witness going to be testifying while this is going on or we just going to watch the video?

CHAIR: I understood that he will identify what the video is when it, at the start, and then at the end he'll present his, his testimony (inaudible), right?

MR. HOLZER: Yes.

CHAIR: He's not going to narrate through?

MR. HOLZER: No.

MR. SCHMIDT: Okay.

MR. HOLZER: He doesn't have to.

DR. CLARK: But we, but, but I would like to stop at specific time stamps.

CHAIR: I understood that you were going to, you were going to have specific stops and present testimony at the stop times.

MR. SCHMIDT: Okay.

MR. HOLZER: Yes.

CHAIR: And then the video will restart for whatever to follow, is that, Mr. Schmidt, you understand that?

MR. SCHMIDT: Yes, sir, thank you.

CHAIR: All right.

DR. CLARK: And I think I can promise this will be

the longest video you see.

CHAIR: Oh, well, let's not go down that road quite yet. All right. Dr. Clark, when you're ready? I'm sorry, Dr. Mary Clark, when you're ready.

MR. HOLZER: She says please just call her Mary.

CHAIR: Thank you.

MR. HOLZER: Go ahead.

DR. CLARK: Get a little closer, Mary. A little bit closer. Right there. That's the fifty mile an hour stop sign that Mr. Calagero, who drives up this road several times a week, denied existed. Okay. Stop. This is Sharon Drive. The location from which I shot the photo that's called iconic view and if you look straight ahead a little bit to the right, you can, you can see the pinnacle and the property, okay? Go ahead, Mary. And, and by the way, Mr. Motsco testified you could not see this property from Harford Road.

MR. SCHMIDT: Objection. He didn't say that.

DR. CLARK: Yes, he did.

CHAIR: Well, the record will reflect what was said. We can proceed. We're not arguing with counsel. Thank you.

DR. CLARK: Yes, sir. And there, there you see it very specifically up there, the yellow dot in the ridge, okay? Go ahead, Mary. All right. Can you stop here a second, Mary? Well, that's good. The, the, it blanks because the dash cam takes three minute clips and then I had to stitch them

together. Okay? But you can see from this that it is a pinnacle that, that it reflects right down the valley. You can see the hills that make the valley on either side. Okay, go ahead. Go a little bit closer, Mary, up to the house. Okay, right there. That's Hartley Mill. That is the point from which I requested the Baltimore County police report on accidents. A little bit closer, right there. That's Hutschenreuter Road. The point at which Mr. Calagero started his accident analysis. Go forward. That is Mark Lane, which is our property entrance. That is the point at which Mr. Calagero identified the iconic view as having been taken from, okay?

CHAIR: You mean, the drive off to the left?

DR. CLARK: Yes, the drive off to the left. That, that, that used to be called Mark Lane and on a lot of maps it still is. But, it, it, it reverted. The right of way reverted, okay? Go ahead. I don't see it yet. We're looking for, oh, where is it. What minute marker are you on? It should be at 6:59, you got few more, few more seconds, four more seconds, I see it. Right there, right there, off on the right and we have a better picture of this, but there is a historic mile marker for the turnpike, two hundred year old turnpike, that marks ten miles to Baltimore. That's on the MHT list. Mr., Mr. Motsco failed to identify that. That is on the subject property and it will cause them problems if they want

to do any kind of road work. Okay? Go ahead. Here's the curve. Stop here. On the left is Ms. Foxworthy's house, that is Bonaparte Ave, on the right is the entrance to the subject property. Also, just above to the right, you can see the barn, which was of so much interest last week, okay? That is Mr. Poehler's barn. Go ahead. And this is the traffic circle. And it should end pretty soon, yep, okay. What I would like --

CHAIR: Hold on one second, Dr. Clark.

DR. CLARK: Yes, sir. Yes, sir.

MR. HOLZER: Is that the end?

DR. CLARK: That should be the end, yes, sir.

MR. HOLZER: Okay.

CHAIR: And so, would that be Mount Vista Road?

DR. CLARK: No, that's Glen Arm going down.

CHAIR: Glen Arm going down, sorry. Mount Vista is on the other side, right?

DR. CLARK: Mount Vista is the other side, yes, sir.

CHAIR: Okay.

MR. HOLZER: Now, what was the purpose of showing that, I mean, is there anything you want to say now? Because Mr. Schmidt is going to be able to ask you questions.

DR. CLARK: Sure.

MR. HOLZER: As a result of seeing that. What is your point on showing that?

DR. CLARK: My point in showing that is primarily

that the Board understands that this is an RC-2 valley. It is, it is farmed, it does not have a lot of development and it is a unique locality. I would also like to the Board to, to, to, and the, one of the exhibits of the aerial views also exemplifies it, that the subject property sits at the highest point of land and that all sound is directed down what is basically a box valley. That, I have another video that I just shot yesterday and it wasn't provided to Mr. Schmidt, that maybe we can introduce but it's very short dash cam that was taken yesterday to show that from April till October, or from October till April --

CHAIR: Well, if, well, if you're going to describe the video --

DR. CLARK: Okay.

CHAIR: -- I mean, you can describe what you did personally, but don't describe the video.

DR. CLARK: Okay. But, can, can I say, can I say this?

CHAIR: I gave you advice.

DR. CLARK: Right, okay. If I get smacked, I get smacked.

MR. SCHMIDT: Can we just have Mr. Holzer ask him a question?

CHAIR: That's fair.

MR. HOLZER: That's fair. Okay. In terms of, I, I

don't want you to show a new video.

DR. CLARK: No.

MR. HOLZER: If Mr. Schmidt hadn't been provided, so let's just get away from that. And in terms of having seen the video, starting where you started and ending at the circle, what is your definition of the locality or the community?

DR. CLARK: That valley is my locality.

MR. HOLZER: Okay.

DR. CLARK: Well, no, --

MR. HOLZER: And where does it start and where does it stop?

DR. CLARK: Basically, from when you come up out of the park to, to Mount Vista Circle.

CHAIR: When you say park, Gunpowder Park?

DR. CLARK: Yeah, Gunpowder Park.

MR. HOLZER: Okay.

CHAIR: And, and goes to the circle?

DR. CLARK: Yes, sir.

MR. HOLZER: Is there, in your mind, the area that's north of the circle, is that part of your community or part of your locality?

DR. CLARK: I would include it as a locality but it is a different community, that is RC-5, it is more of a hamlet, suburban residential as defined, or rural residential as defined by, by, by the codes. They have --

MR. HOLZER: You mean by, defined by the zones?

DR. CLARK: Zones, yes.

MR. HOLZER: Okay.

DR. CLARK: Thank you, sir.

MR. HOLZER: All right.

DR. CLARK: They have, it includes a post office, gas stations, garages, which you did not see in what I consider my community, my locality. There are, there are much, almost call them McMansions along Mount Vista and then more modest new homes up on Harford Road, above the circle, going into Fork.

MR. HOLZER: In terms of the video that you just showed, I mean, we obviously saw some vehicles coming in an opposite direction. How is this, how is this road actually used up there, in, in other words, can you articulate a little more?

DR. CLARK: Yeah, yeah, yeah. Well, as you saw, there's a lot of farms, on either side of the road. There's a lot of farm vehicle traffic. There, there are pedestrians who actually walk on the shoulder. I walk on that shoulder, believe it or not. When I've had to take my car up to Fork, I walked down the road. Bicyclists use it. Then you run, you know, then there are hazards.

MR. HOLZER: What type of hazards?

DR. CLARK: Well, you have, when Mr. Dachico owned it and I guess he was renting it out, the, the pasture out, but we

would routinely have bulls come down to our property. One got pretty familiar with my '71 Dart.

MR. SCHMIDT: I'm sorry, I didn't hear?

DR. CLARK: Bulls.

MR. HOLZER: B-U-L-L-S.

MR. SCHMIDT: Bulls, I'm sorry.

DR. CLARK: Bulls, bulls, yeah.

MR. SCHMIDT: I didn't understand what he said.

DR. CLARK: Yeah, yeah.

MR. SCHMIDT: I thought he said bowls, I'm sorry.

CHAIR: I thought that at first too but that didn't, right.

MR. SCHMIDT: I'm sorry. I just didn't know what that was.

DR. CLARK: It's my, it's, it's my New York accent.

CHAIR: Got it. Okay. So, bulls, one, come down to your property with your '71 Dart.

DR. CLARK: Right, you know.

CHAIR: And then you were describing other hazards.

DR. CLARK: Right, and, and, and then you, and then you have deer, you have the hay wagons going up the road slowly, you have hay bales falling off. On our, on our easement area, we have pulled out mufflers, we have pulled out tires, we have pulled out all sorts of stuff that's not being dumped there, it just falls off of people's stuff. And so,

there are all these hazards that are associated with a rural road that is used for many different purposes.

MR. HOLZER: All right. Let's move on --

CHAIR: And if I, if I could ask, when was the video taken?

DR. CLARK: Yes, sir. That was taken, I believe, Mary, can you go back, the, go back --

MR. SCHMIDT: April the 10th, April the 10th.

DR. CLARK: Thank you, sir.

MR. SCHMIDT: It had up in the corner.

DR. CLARK: Thank you, sir.

MR. SCHMIDT: If that's correct.

CHAIR: And you personally took the video?

DR. CLARK: Yes, I did.

BOARD: Dr. Clark, is there anything on Exhibits 33, 32 or 31 that would identify the dates on each of these videos (inaudible)?

DR. CLARK: Now, I think you got me.

BOARD: That would be helpful.

DR. CLARK: Yeah, I know. What, what I can tell you, and I apologize for that, --

BOARD: Is it identified on each of the videos as it is here?

DR. CLARK: Yes, it will be.

BOARD: That's fine.

DR. CLARK: And, and then I should explain to you that within each video, if you, and I know this is geeky, but if you look at the file properties, yeah, you know what I, yeah, okay, thank you. I'm sorry.

CHAIR: It would be ideal, yeah, if we could match a date to the videos. I realize you may be not in a position to do that today, but perhaps that could be supplemented for the future.

BOARD: Or as you testify, if you could start out with the date that you create it.

DR. CLARK: Yeah, yeah.

BOARD: That would be helpful.

DR. CLARK: With, with the, with the gold disc, not a problem. With, and I believe --

CHAIR: Let's start with that, and we will see where that takes us.

DR. CLARK: Okay.

CHAIR: Because we're, I think, Ms. Dopkin's question was about when you're describing the videos and giving testimony about the videos, --

DR. CLARK: Right, yeah.

CHAIR: -- understanding it's only going to come from the snippets on the gold discs, that if you could somehow correspond some date so we understand what time of year and what we're looking at, that would be ideal. Sorry, Mr. Holzer.

MR. HOLZER: Sure. No. As a matter of fact, aren't some of the videos that you will show, actually were identified by the event that you were filming?

DR. CLARK: Yes.

MR. HOLZER: Okay. So, we'll get to that. We'll just be cognizant, be aware of that the Board is interested in --

DR. CLARK: Yes.

MR. HOLZER: -- prefacing what we're going to see with the date. Now, Mr. Dave Poehler testified, and I think you, you want to address some points that, that came up as a result of his testimony.

CHAIR: Is this on video?

MR. HOLZER: No, I don't think so.

DR. CLARK: No.

CHAIR: So, we can use the lights again?

MR. HOLZER: Yes. Actually, I, the Board could leave that light on, I mean, if you're going to turn these off, that's okay, we could leave your lights on so you can write or see.

CHAIR: Well, if it's not concerning a video, we mine as well just have the lights on. I'm sorry, Dr. Clark, do you remember the question?

DR. CLARK: Yeah, I do. Yeah, I just wanted to cover some, some things that were left un, that, that were ambiguous

last week in terms of Mr. Poehler's testimony. Regarding the variance, an attorney of known repute, repute owned the Bonaparte tract at the time Mr. Poehler applied for the variance, Mr. Dachico. In fact, I took a picture of the zoning sign, so I could see what Mr. Poehler wanted. Mr. Dachico knew better than most how to oppose Mr. Poehler and if he found the request objectionable, as Mr. Schmidt made clear, the attorney chose not to oppose this. If the current owners are unhappy, that's just the way it is. At least it was there when they purchased the property. As opposing counsel knows, such variances become permanent. This is why we're working so hard to make our case. This request will permanently change our, the character of our rural, RC-2 locality.

MR. HOLZER: Now, I, I know your wife Mary testified as to, as to music, I think. Do you have any comment or anything that you'd like to show in regard to that?

DR. CLARK: Yeah, we have a sound file from September 10th, 2017, of music coming off the property at night. Now, bear in mind, you know, we, we are maybe, well, we're about, well, we, we, we adjoin the property but anyway, she has a sound file music that I believe she took from her cell phone and then we, and then I also have photographs of car leaving, of cars leaving at night on 9/10/17.

MR. HOLZER: All right. Well, what exhibit are we going to next?

DR. CLARK: I believe the sound file. It will be, oh, it will be, it is on this --

CHAIR: Protestant's Exhibit 33.

DR. CLARK: Okay. It is just above Gunpowder Park. It's from, it, it is titled from deck, September 10th, 8:20 p.m. and then we have some photographs to accompany that.

MR. HOLZER: Well, let's do the sound first and then I'll do the photos.

MR. SCHMIDT: And Mr. Garber, I, I know I'm reserving my objections but I think, and I'm certainly not a tech person, but I would expect that, unlike videos, which we all know how to take pictures and operate video cameras and the videos show what they are. I would expect that, I would anticipate that the levels of sound or what you might be able to hear, may very well be able to be manipulated more easily depending on exactly what's going on and I'm not sure how this was done or if these folks are expert witnesses or any of that. So, I, I know I'm going to make my objections --

CHAIR: Well, Mr. Schmidt, no, I think it's appropriate to make, if you have an objection to the audio file.

MR. SCHMIDT: Yeah.

CHAIR: I think it's appropriate to do so now. I understand what you're saying is, it may not accurately represent the conditions, you know, as reflected on September

10th of 2017.

MR. SCHMIDT: Right.

CHAIR: Because, obviously, we're in a different environment, number one. But number two, you don't know how the file came to be and all that. But you're going to have that chance for cross examination.

MR. SCHMIDT: Right.

CHAIR: On that point. But recognizing (inaudible) than what was there.

MR. SCHMIDT: Yeah. I would, I would object because I just think the production of a picture or video I can understand that lay people can do that. I would not agree that sound, recordation of a sound, is the same kind of animal. So, I would object for that basis.

CHAIR: Mr. Holzer?

MR. HOLZER: This document, sound file, was entered into before the Administrative Law Judge.

CHAIR: Well, okay, well, leaving that part aside, I think it, we haven't heard it yet.

MR. HOLZER: Right.

CHAIR: But I will say that, obviously, that would go, you know, some of these issues would go certainly to the weight that we give the recording, which we have not yet heard.

MR. HOLZER: Right.

CHAIR: As to what, there's a question as to

authenticity or, or, you know, something, the authentication of this exhibit. Dr. Mary Clark, who apparently was the one who recorded it on her cell phone, is available if need be.

MR. SCHMIDT: She's already testified as well and didn't introduce it at that time.

CHAIR: Understood and that, we'll leave that to Mr. Holzer to figure out how he wants to deal with that issue.

MR. HOLZER: I just want to show the thing, if it's going to be --

CHAIR: Understood.

MR. HOLZER: -- stricken, it will be stricken.

CHAIR: I, I, --

MR. HOLZER: If it's going to be admitted, it's going to be admitted.

CHAIR: -- well, as of right now, I think Mr. Schmidt said that he had questions when it came to the authentication aspect of it, so we're not quite towards admission yet, but as to the condition objection, that would go to the weight.

MR. HOLZER: Dr. Clark, where did this come from in terms of your preparation for this hearing?

DR. CLARK: Okay. As I said, this came from Mary's cell phone from our deck. I am going to say that no files had been manipulated. I will swear to that.

MR. HOLZER: Well, you've already sworn to tell the truth, so let's, let's (inaudible) all that kind of stuff and

let's just get on --

CHAIR: Did you take the audio file from your wife's cell phone --

DR. CLARK: Yes, sir.

CHAIR: -- and then put it onto the disc?

DR. CLARK: Yes, yes.

MR. HOLZER: And it's listed on Exhibit 33, is it, I think it's thirty-three?

DR. CLARK: Yeah, yeah.

MR. HOLZER: And where is it listed?

DR. CLARK: It is the fourth one up from (inaudible), September 10th, 8:20 p.m.

CHAIR: Were you out with your wife on September 10th, two thousand, is it seventeen?

DR. CLARK: We were coming home, I believe.

CHAIR: Is it 2010, 2017?

DR. CLARK: Yeah, yeah, September 10th.

CHAIR: Two thousand seventeen.

DR. CLARK: Yes, that's 2017, thank you.

CHAIR: Okay and were you out on the deck when that was being recorded?

DR. CLARK: I can't remember.

CHAIR: Very well. Mr. Holzer?

MR. HOLZER: All right. Can we show it?

DR. CLARK: Hear it?

MR. HOLZER: Yeah, hear it?

CHAIR: I understand what your objections are.

MR. SCHMIDT: Yeah, I mean, I've made my objections so I, I think the ruling is up to the Board.

(AUDIO PLAYS)

DR. CLARK: That's probably enough (inaudible).

MR. HOLZER: Now, the witness, can you turn it off?

DR. CLARK: That's enough, okay.

CHAIR: I believe she's (inaudible).

DR. CLARK: I took my glasses off, so. There we go.

CHAIR: It's okay, take your time. It's not the end of the world here. We'll get it stopped.

MR. SCHMIDT: It speaks for itself.

CHAIR: Thank you, yes.

DR. CLARK: Can I talk over it?

CHAIR: Let's do this. Why don't we just take a brief recess and then we'll figure out where that, where we are, take five minutes.

MR. HOLZER: Okay.

DR. CLARK: Okay.

MR. SCHMIDT: Yes, sir.

MR. HOLZER: That's fine.

CHAIR: Okay. Thank you.

MR. SCHMIDT: Thank you.

(RECORDING PAUSED - 10:40:40 AM)

(ON RECORD - 11:05:46 AM)

MR. SCHMIDT: Thank you.

CHAIR: And once again, please make sure your cell phones are off from the break and Mr. Holzer, we had just heard the audio file.

MR. HOLZER: Yes.

CHAIR: I believe, Mr. Schmidt, you had said it, it represents what it represents or something to that effect. So, where is, where are we at now?

MR. HOLZER: I'm just ready to ask the next question.

CHAIR: Okay. You, Mr. Schmidt, is that your understanding then too?

MR. SCHMIDT: Yes, sir.

CHAIR: Okay, thanks.

MR. HOLZER: I mean, I understood he was going to object in writing or what, if that's what he, and I was going to respond to it and so I figured to get through this before the Board --

CHAIR: I was just reminding everybody where we were.

MR. HOLZER: Oh, okay.

CHAIR: And then we turned, and then we had to get the sound off.

MR. HOLZER: Right.

CHAIR: So, --

MR. HOLZER: We got that done.

CHAIR: I mean, we're all in agreement that that's where we were?

MR. HOLZER: Okay.

MR. SCHMIDT: Yeah, and I'll just, I'm sorry, Mr. Garber, I'll follow up with any objection. I, I, having listened to that, I don't know that I have any objection but.

CHAIR: Understood.

MR. SCHMIDT: Okay.

CHAIR: Okay, Mr. Holzer?

MR. HOLZER: Sure. Now, on September the 10th of 2017 when the sound was just played, that, before the break, are you on that date with me?

DR. CLARK: Yeah, I have a couple comments.

MR. HOLZER: Well, let me just ask you a question. You said that you were coming home and was it dark outside?

DR. CLARK: Um hm.

MR. HOLZER: Okay and --

DR. CLARK: Yes.

MR. HOLZER: -- when you got home --

CHAIR: Thank you.

MR. HOLZER: -- and the, the video, which had the sound going on that we just heard, what, what, if anything, did you do as a result of hearing what was heard?

DR. CLARK: Okay. First, I'm glad we all do agree that it is what it is, okay? The significance of that and the

photos I'm going to show are not about the noise level, obviously. What it goes to is the claim expressed last week that Mr. Poehler could not have heard music at night from the subject property. And Mr. Poehler is a lot closer to where that sound came from then we did and I think that this is a far more parsimonious explanation than an undocumented party at a house a half a mile away from Mr. Poehler.

CHAIR: And just to be clear for the record, Mr. Holzer, your question referencing video with audio, there was obviously no video, it was just the audio file.

MR. HOLZER: Yes, that's right.

CHAIR: Just for purposes of the record so they know that there's not a video that was on display with (inaudible).

MR. HOLZER: Right, that's, that is correct.

DR. CLARK: And then subsequent to that, I went up to the subject property and took some photographs of cars leaving.

CHAIR: On the same day?

DR. CLARK: Same night.

CHAIR: Or you mean, okay.

MR. HOLZER: And what time was that about?

DR. CLARK: Around 8:30, 8:40.

MR. HOLZER: Okay and had anyone testified that there were no events after 7:00 or 8:00 at night?

DR. CLARK: Yeah, I, I think Mr. Ghimire did.

MR. HOLZER: Okay and you, there's a series of three

photographs which you stapled together and I'll give one to Mr. Schmidt --

CHAIR: Prior to giving it to --

MR. HOLZER: Yes, yes.

CHAIR: -- Dr. Clark, for Mr. Schmidt to review.

MR. HOLZER: One, two, three, and I'm giving four to the Board.

CHAIR: Thank you.

MR. HOLZER: Four packs.

CHAIR: What number is this? Mr. Schmidt, I can hear you up here.

MR. SCHMIDT: I'm sorry.

MR. HOLZER: We're marking this as Protestant's thirty-five?

BOARD: 35-A, B and C?

MR. HOLZER: A, B and C. Make it easy. Now, are you, you okay, Mr. Schmidt?

MR. SCHMIDT: Yes, sir.

MR. HOLZER: Okay. Now, Dr. Clark, what is 35-A? Did you take this picture?

DR. CLARK: I did take these pictures.

MR. HOLZER: And did you take them the night of September 10th, 2017 after 8:30 or 8:40?

DR. CLARK: I did.

MR. HOLZER: Okay. Obviously, it looks like the

picture depicts that it was dark?

DR. CLARK: Correct.

MR. HOLZER: Okay. What does 35-A depict?

DR. CLARK: A couple things actually.

MR. HOLZER: Well, please tell us.

DR. CLARK: It, it, it is depicting one of the cars leaving subject property at that time of night and you can even see what side of the road he's on.

MR. HOLZER: What do you mean, what side of the road he's on?

DR. CLARK: He's heading south and he's in the north bound lane.

MR. HOLZER: I mean, what, what direction is he going?

DR. CLARK: He's going south.

CHAIR: I think it would be helpful if you could identify where you were taking the photos.

DR. CLARK: Oh, I was taking the photos from the corner of Bonaparte and Harford.

CHAIR: And which direction were you facing?

DR. CLARK: Well, in this one, I was, well, okay. Yes, I was facing east.

MR. HOLZER: Okay and so, are you alleging that that vehicle that was shown in the picture was on the wrong side of the road?

DR. CLARK: The picture shows what the picture shows.

MR. HOLZER: I understand that, but tell me. What, in your opinion, being there as the person taking the picture, was he on the right side or the wrong side of the road?

DR. CLARK: He was on the wrong side of the road.

MR. HOLZER: All right. Now, that was some sort of dark vehicle. 35-B, are you still standing in the same place?

DR. CLARK: I am.

MR. HOLZER: And where did the silver car come from?

DR. CLARK: From the subject property.

MR. HOLZER: And where is he headed?

DR. CLARK: Looks like he's trying to head south.

MR. HOLZER: Is he on the right or wrong side of the road?

DR. CLARK: I would have to say he's not on the correct side of the road.

MR. HOLZER: All right and Exhibit C is another photograph of a red car?

DR. CLARK: Correct.

MR. HOLZER: What, is that the entrance to the subject site?

DR. CLARK: That, yes. That was the entrance as it was configured at the time.

MR. HOLZER: Okay.

DR. CLARK: And you can see another car coming down

in the middle of the photograph, you can see his headlights.

MR. HOLZER: Those yellow-ish lights that are at the rear of, well, it's between the two poles that are depicted, that are seen?

DR. CLARK: Correct.

MR. HOLZER: Okay.

DR. CLARK: And you can see that there is no gate.

MR. HOLZER: At the time this was taken, there was no gate?

DR. CLARK: Right.

MR. HOLZER: Now, I would also like to add that as a district manager of trails, I have keys to a number of forest gates. They are closely guarded. We know the temptation of especially younger people when they have access to a property that they think is their own, that they will go up there without telling anybody in leadership.

CHAIR: I'm confused. What, what, --

DR. CLARK: Well, it's not unusual for young people to access --

CHAIR: No, I understand that. How does that relate to 35-C?

DR. CLARK: Well, because Mr. Ghimire testified that this could not have happened.

CHAIR: What's this?

DR. CLARK: The, the night time event with music and

I'm just saying well, you know, it's hard for, it, it's hard to control access. You don't know what people are, you, you don't know what you don't know.

MR. SCHMIDT: Mr. Garber, I'm just going to object. This, this is so speculative, talking about what young people might do and, and I just don't think it, I think it's too speculative and not credible testimony.

CHAIR: Mr. Holzer, would you, could you please stand, could you please stand when you're addressing us?

MR. HOLZER: I don't want to argue the issue. The pictures show what they show, the testimony, previous testimony, was that they didn't, they're not there at night after seven or eight o'clock, they were, they've got three cars going the wrong way, or two cars going the wrong way on the road, period, that's it. I don't want to go any further. So, don't say anything else, wait till I answer, ask you a question then we can get through this and I withdraw whatever was objected to.

CHAIR: That resolves that, okay.

MR. HOLZER: Thank you. Now, you were here the whole time, Dr. Clark, and you heard testimony from Mr. Callagero, is that not right?

DR. CLARK: No, that is right.

MR. HOLZER: Okay, that is right. Now, did you develop certain responses that you wanted to present to the

Board about his testimony?

DR. CLARK: I did.

MR. HOLZER: All right. Let, let's try to make this simple and quick, so just, just listen to my question and we'll get through this. In regard to Mr. Calagero's testimony, he testified, did he not, that he thought Harford Road was forty-five miles per hour, south of the site?

DR. CLARK: Yes.

MR. HOLZER: Okay and did you, well, we've already seen a vid, your video that was first shown showing the fifty mile an hour sign, is that right?

DR. CLARK: Correct.

MR. HOLZER: All right. Just for the record, so that I have, have it documented in terms of paper in the file, I think that's, is that four or --

BOARD: Three. Oh, four, never mind.

MR. HOLZER: Okay and this is thirty-six. Did you take this picture?

DR. CLARK: I did.

CHAIR: Hold on. (inaudible) photos.

BOARD: 36-A, B and C?

MR. HOLZER: Yes.

CHAIR: You said this picture.

MR. HOLZER: I'm sorry.

CHAIR: Thank you.

MR. HOLZER: I'm sorry, because I only thought that I had one there.

CHAIR: Mr. Schmidt, you've seen them?

DR. CLARK: Actually, this first one --

CHAIR: One second, sir, sir.

MR. SCHMIDT: I'm sorry. Just, I want to make sure, these are the black and white photographs of the speed limit sign?

MR. HOLZER: Yes.

MR. SCHMIDT: Yes.

CHAIR: The third photo I have is color.

MR. HOLZER: Yeah, there is a color picture.

MR. SCHMIDT: I only have two.

MR. HOLZER: Here.

MR. SCHMIDT: Oh, okay.

CHAIR: So, 35-C is the color photo, the first two, A and B, are black and white photos?

wo, A and B, are black and white photos?

MR. SCHMIDT: Yes, sir.

CHAIR: Okay.

MR. SCHMIDT: No objection.

CHAIR: Sorry. Mr. Holzer?

MR. HOLZER: Okay. Is there a date on that photograph, since I don't have a copy now?

DR. CLARK: Yes, and I misidentified it.

CHAIR: You can give it back.

DR. CLARK: Okay. I misidentified it. The first one is taken from, from, from Google View, okay?

MR. HOLZER: Okay.

DR. CLARK: It is dated August 2013. With that sign in the photograph.

MR. HOLZER: Okay.

CHAIR: With the speed limit sign on the --

DR. CLARK: Yes.

CHAIR: Isn't, and correct me if I'm wrong here, is this photo already in evidence?

BOARD: I was going to say that.

MR. HOLZER: It may, it may well be. I, I just have a list here.

MR. SCHMIDT: I think it is and I think Mr. Calagero, when he came back said that he had misspoken and it was, indeed was fifty.

MR. HOLZER: That's, he did say that. He corrected his, his prior testimony.

MR. SCHMIDT: Yeah.

MR. HOLZER: After he was told.

CHAIR: And it's understood, just to be clear for the record, when Mr. Holzer asked about south, he meant south of the site, heading north bound, there is a sign that is fifty miles per hour, which is depicted in 36-A, as well as the video

that we've seen this morning and perhaps is already in the same photo or a similar photo was already in evidence.

MR. HOLZER: Yes.

BOARD: 7-A is the, is 36-A.

MR. HOLZER: Right.

CHAIR: Protestant's?

BOARD: Protestant's. And Protestant's 7-B is the colored fifty miles an hour sign.

MR. HOLZER: Right.

BOARD: But we do not have Protestant's 36-B, so, put it in again.

MR. HOLZER: I don't have any more copies.

BOARD: No, no, no, I'm saying, --

MR. HOLZER: Oh, oh.

BOARD: -- in other words, let's just make another copy, we'll just mark it as we mark it --

MR. HOLZER: The, I think the point of the matter, this was prepared before Mr. Calagero came back and changed this opinion as to fifty miles, that's what --

CHAIR: Understood. Mr. Schmidt has already said he had no objection.

MR. HOLZER: Yeah.

CHAIR: So, those photos can be admitted.

MR. HOLZER: That's fine. All right. Do you have any other comments related to Mr. Calagero's testimony in, as

it related to traffic or entrance to the facility, etcetera?

DR. CLARK: Well, first, I, I would say that in relationship to the sign, Mr. Calagero testified that he drove that road several times a week and yet he did not know the speed limit.

MR. HOLZER: Okay. Continue.

DR. CLARK: All right. There was an exhibit, one of his road plans, I forget whether it was 6-A, B, you know, what, whatever those, those drawings were.

CHAIR: Well, we're going to need to identify that.

DR. CLARK: Yeah.

CHAIR: If this is going to be the substantive part of your testimony here.

DR. CLARK: Do we have, do we have his plans available?

BOARD: I mean, they're all in here. You have to, you'd have to look at it. I don't know which ones you want.

DR. CLARK: Thank you.

MR. HOLZER: I don't want to mess up the Board's, yeah, this, let me ask it another way. Is there, why don't you just say what you believe Mr. Calagero took a picture or showed or testified and tell him, tell the Board why he was wrong.

DR. CLARK: Well, --

MR. HOLZER: Or why you believe he was wrong.

DR. CLARK: -- if you remember, in the, in the video,

I stopped, I, I asked Mary to stop at Mark Lane and I said this is where Mr. Calagero identified a shot of the subject property incorrectly as being taken from Mark Lane when, in fact, it was taken from Sharon Drive.

MR. HOLZER: Okay. All right. Keep going.

DR. CLARK: All right. Initially, he failed to do a traffic count. Then he never did a traffic count during the event.

MR. HOLZER: Excuse me, during what event?

DR. CLARK: Oh, during the, the event from July 29 to August 3rd, July 28th to August 3rd.

MR. HOLZER: Of what year?

DR. CLARK: Of 2018.

MR. HOLZER: Okay.

DR. CLARK: All right.

MR. HOLZER: What else?

DR. CLARK: He failed to account for the weather during his traffic count. As you remember, October was a pretty rainy month. As a professional, I was really struck by, his first professional opinion was that the original entrance was safe and the proposed new entrance was less safe. And then when it became expedient, he testified to the opposite.

MR. SCHMIDT: Objection. I mean, I certainly have no problem with Mr. Clark testifying about his own personal knowledge. He, he's not a traffic engineer and this is just

like legal argument as to the, that Mr. Holzer can certainly make in his closing memorandum about the failures of the, if he was a traffic engineer and he took issue with his methodology, then that would be appropriate but Mr., he, Mr. Clark says as a professional, as a professional what, naturalist? That qualifies him to, to be able to render opinions on how the traffic study was done?

CHAIR: Okay, I understand the objection.

MR. HOLZER: I believe the witness, even though he's a lay witness, is entitled to testify as to evidence that was presented by a traffic expert or a land planner or any other expert that you choose to call. I mean, he can certainly opine what he believes is incorrect or evasive or whatever. So, I think it's an appropriate comment, not, should not be stricken.

CHAIR: I, I'm going to say, I do understand what Mr. Schmidt is talking about. I mean, there is some argument embedded within the testimony that is here's how I find that Mr. Calagero was not credible, right? And, you know, in terms of, well, he didn't do any traffic counts, he didn't do this, he didn't do that, he changed his opinion on it.

MR. HOLZER: Right.

CHAIR: And, and we know, Mr. Holzer, that you're going to be covering a lot of that ground in your closing memo no matter what happens from this. I, if there's a particular point, by all means, you can elicit it from Dr. Clark but

otherwise, I'll say that, you know, I've given him a bunch of leeway on it so far.

MR. HOLZER: Yes, you have.

CHAIR: So, I guess let's try to move on from there as best as possible, unless there's something specific to raise.

MR. HOLZER: Okay.

CHAIR: About Mr. Calagero's testimony and what Dr. Clark can provide an opinion upon.

MR. HOLZER: Sure. Okay, thank you. So, Dr. Clark, you disagree with many things that Mr. Calagero testified to about the site and about the road situation?

DR. CLARK: Yeah, and I would point out, Mr. Garber, that I have verbal comprehension and reading comprehensial, comprehension at the Ph.D. level.

CHAIR: Dr. Clark, no one here is questioning your, your abilities in this regard, no one is questioning anything about your area of expertise, your education, your background or anything like that. Mr. Calagero is a traffic expert --

DR. CLARK: I understand.

CHAIR: -- (inaudible) from the Board. I understand that you have, you differ in opinion with him as to certain points. If you're saying well, he didn't do a traffic count at first, the question of whether one should be done, you can't give an opinion on.

DR. CLARK: No, I cannot.

CHAIR: Right. We were certainly here to, to witness, obviously, the same testimony you were. Mr. Holzer is going to be presenting arguments in his closing memo regarding Mr. Calagero's testimony, any type of faults that he finds with Mr. Calagero's testimony and any changes of testimony by Mr. Calagero during the course of the two times he was on the stand here in during, over the several days of this hearing.

MR. HOLZER: Right.

CHAIR: So, nobody is here questioning your ability to be able to do that.

DR. CLARK: I think Mr. Schmidt did when he dismissed me as a Ph.D. master naturalist.

CHAIR: Okay. We can move on from there. We can move on from there.

DR. CLARK: Okay.

MR. HOLZER: All right. And specifically, in his inclusion of his report for, for police, or for accident report, did he utilize a strip or a portion of Harford Road that you believe was, was not appropriate?

DR. CLARK: Yes, he, he included, as you recall, I pointed out where he started at Hutschenreuter and then he went up to Mount Vista Court. The section from the traffic circle to Mount Vista Court is a straight, flat road and, of course, the accident rate there is going to be much reduced.

CHAIR: Where?

DR. CLARK: We have a video.

CHAIR: Right, you said the, the accident rate there, where --

DR. CLARK: The Mount Vista Road, the --

CHAIR: North of there?

DR. CLARK: No, yeah, from traffic circle to Mount Vista you wouldn't expect any accidents in there.

CHAIR: Isn't the traffic circle at Mount Vista?

DR. CLARK: No, Mount Vista Court, I'm sorry, sir.

CHAIR: Okay.

DR. CLARK: Mount, yeah, yeah, it gets, and we do have a video of that.

MR. HOLZER: Did you, did take a video, is there a video? How long is it?

DR. CLARK: I don't think it's very long, I mean, it's a short stretch of road.

MR. HOLZER: Okay.

DR. CLARK: It's a half a mile.

MR. HOLZER: And how, did you take it through your vehicle?

DR. CLARK: Dash cam.

MR. HOLZER: Dash cam again?

DR. CLARK: Again. I, I, I created it.

MR. HOLZER: Okay. Can we show it?

BOARD: Can you identify it?

DR. CLARK: Oh, yes, ma'am. It should be, I think we're going to the fourth one from the top, Circle to Mount Vista Court, A-2?

CHAIR: And what date was this taken?

MR. HOLZER: October 22nd.

CHAIR: Well, that's the date that's on the computer file so that could be when it was uploaded, we don't know.

MR. HOLZER: Oh.

DR. CLARK: Yeah, no, I agree with you. I, I'm, --

CHAIR: If you do not know the answer to that sitting here today, I'm sure you could provide it at a subsequent time.

DR. CLARK: I guess I better mark, I guess I better write that down.

CHAIR: Well, we need to know what we're looking at and what it is.

DR. CLARK: Yeah, I, I know. I'll just, all right.

BOARD: Does it show on the clip itself?

DR. CLARK: Yeah, I think it does. I think it, I think the date stamp is on there. Thank you. Upper left hand corner.

CHAIR: Oh, it is 10/22/18.

DR. CLARK: And that's Mount Vista Court.

MR. HOLZER: Okay. That's the end?

DR. CLARK: That's the end.

MR. HOLZER: Now, do you believe that that, fact that he included that flat stretch we've just seen, change his analysis or his opinion in regard to the accident rate?

MR. SCHMIDT: Objection. How, how can this witness know if that change --

CHAIR: Please stand.

MR. SCHMIDT: I'm sorry, I apologize. How could the witness know if that changed Mr. Calagero's analysis? He would have to get into the mind of Mr. Calagero to, to answer that question.

MR. HOLZER: The simple answer to that is he doesn't have to get into Calagero's mind. What he's saying is that the flatness of the road where the, where he believes there are less accidents wouldn't automatically change the analysis of the, of the traffic count or the accident count. It's that simple.

CHAIR: I think if you worded your question differently, you probably could avoid the objection.

MR. HOLZER: Maybe so.

CHAIR: Well, because as, as asked, I have to sustain it, I believe, but I believe you can ask the question in another way that you can get what you need out of it.

MR. HOLZER: That's all right. Thank you. No, I'm not going to ask it.

DR. CLARK: I --

CHAIR: There's no question pending, sir.

DR. CLARK: Thank you.

MR. HOLZER: I'm trying to avoid repetition of, of, of your comments, of your testimony. You've already testified that Mr. Calagero did not attend any of the special events that took place, is that correct?

DR. CLARK: I believe that's what he testified.

MR. HOLZER: Right, okay. Is there, is there any relevance to August 29th evidence that, in regard to the traffic count?

DR. CLARK: Yes.

CHAIR: Two thousand eighteen?

MR. HOLZER: Yes.

DR. CLARK: Yes.

MR. SCHMIDT: I'm sorry, I didn't hear what you said, Mr. Garber?

CHAIR: I was just clarifying the year for the record, that it was 2018.

MR. SCHMIDT: Twenty eighteen, I'm sorry.

MR. HOLZER: Twenty eighteen, yeah.

MR. SCHMIDT: I just didn't hear you, I apologize.

CHAIR: That's all right.

MR. HOLZER: What is the relevance, do you have any evidence or video of, of that?

DR. CLARK: Yeah. We have, we have, we do have a

video or what, back up. The, the barbecue at Joann's house, at Ms. Foxworthy's house.

CHAIR: Thank you.

DR. CLARK: That we held on July 29th, the Sunday.

CHAIR: I'm sorry, the question was about August 29th.

DR. CLARK: No, sorry.

CHAIR: No, I understand.

DR. CLARK: Yeah.

CHAIR: I just want to make sure that we're on the same page, about the same thing before we go down some road.

DR. CLARK: Correct, right.

MR. HOLZER: Right.

CHAIR: So, are we talking about August 29th or we talking about July 29th?

DR. CLARK: August 29th.

CHAIR: Okay.

DR. CLARK: I apologize.

CHAIR: It's quite all right.

DR. CLARK: But the, we had a barbecue up there and I have a security system, which also has motion sensitive cameras and so we brought that up there and placed it on her fence facing east subject entrance. And this particular clip shows the traffic, not even of, of, of, of anything going on with, with their property, although there are people pulling in and out, you will see how much traffic is going there, is using

Harford Road on a Sunday.

MR. HOLZER: And how long is this video?

DR. CLARK: I don't think it's very long.

CHAIR: Can you please identify it on Protestant's Exhibit 33?

DR. CLARK: Yes, yes, yes. I believe it's cam 115001, which would be at the top.

CHAIR: The second line down?

DR. CLARK: No, third line.

CHAIR: Third line down.

DR. CLARK: 001, yeah.

CHAIR: Thank you.

DR. CLARK: A-3.

CHAIR: When the video pulls up, can you just confirm that that is the video (inaudible).

DR. CLARK: Yeah, that, that's, that's not it.

CHAIR: Right, no, I, this is the conclusion of the last video.

DR. CLARK: Right, thank you.

CHAIR: So, before you go into anything else, just please confirm it's the same video.

DR. CLARK: Can, can I, can I help her? Mary, click on the, click on, no, right next to where you were, there you go, all right, you got there.

CHAIR: And that's 115001?

DR. CLARK: Yep, second one down.

CHAIR: And this is what you're referring to, right?

DR. CLARK: Yeah, well, it was.

CHAIR: Okay. The date stamp says July 28th of 2018.

MR. SCHMIDT: And, and (inaudible) Saturday --

DR. CLARK: Yeah, that, that is --

MR. SCHMIDT: -- and I think the witness said, he was testifying about a Sunday.

DR. CLARK: Right, but, so apparently I was wrong. That's good enough, Mary.

MR. HOLZER: No, don't turn it off yet.

DR. CLARK: Okay.

MR. HOLZER: I want to try to save some time. While you are looking at that, I know this is out of order of your presentation, but the sign, the two signs that are on the center island of the entrance way, explain the signage issue now instead of waiting for later.

DR. CLARK: Correct, I got, I got it.

MR. HOLZER: Since it's there, everybody can see it.

DR. CLARK: I got it.

MR. HOLZER: What's the sign, is that an appropriate sign under Baltimore County Code requirements?

DR. CLARK: No, it is not.

MR. HOLZER: And explain what happened.

DR. CLARK: Can we have Mr. Arcias' (phonetic) permit

application? And the code enforcement order? Can we, can I, can we have that now?

MR. HOLZER: Okay. If we can find it. Well, this is the code enforcement.

DR. CLARK: I also need the --

MR. HOLZER: Where's the sign --

DR. CLARK: Mary would know that.

MR. HOLZER: Okay. Sign file. Okay. I'm just trying to save the Board some time.

CHAIR: No, it's okay.

MR. HOLZER: If, if, while this thing is up, and then it can understand what is going on.

CHAIR: Well, we have, we have the photos of the sign that were put in earlier.

MR. SCHMIDT: Right.

MR. HOLZER: Right.

MR. SCHMIDT: And the sign has been removed.

CHAIR: The sign has been removed and there was testimony about how that came to be and what the problems were, I think, from Mr. Ghimire.

MR. HOLZER: All right. Well, we want the documents to show what, what, --

CHAIR: Right.

BOARD: Mr. Holzer, one more three?

MR. HOLZER: What's that?

BOARD: One more?

MR. HOLZER: Oh.

BOARD: Thank you.

MR. HOLZER: I don't have --

CHAIR: And this is thirty-seven, Protestant's thirty-seven?

BOARD: Thirty-seven.

MR. HOLZER: Did you have any problem (inaudible)?

MR. SCHMIDT: Just as to relevance, but I'm sure I'll be overruled so.

CHAIR: All right. Hold on, before we go any further. Let the Board take a look to rule on the objection. And you heard the objection from Mr. Schmidt. What is your response?

MR. HOLZER: The response is, it's what took place, it's appropriate it's not here for determining whether it's a code violation or not, it's here to determine whether, whatever Baltimore County rules and regulations are or whatever the applicant is told, it doesn't seem to make any difference, they go ahead and do whatever they want anyway and then subsequent, subsequently they had to be, it had to be reversed and the sign taken down.

CHAIR: Have we, have we not established that already on, with the (inaudible) examination of Mr. Ghimire, that the sign had to be taken down because it was not in compliance with

the Baltimore County zoning regulations?

MR. HOLZER: Yeah, I, he, he said that, but we don't have the witness, Mr. Clark being able to explain. This is a consistent thing. I mean, you've heard code violation the first day and I understand --

CHAIR: Mr. Holzer?

MR. HOLZER: -- the Board, could I put it on the record, sir?

CHAIR: I'm just, my question was solely limited to, is the evidence that you want to put in, that is, that the sign was not in compliance and I understand your argument --

MR. HOLZER: Yes.

CHAIR: -- and I understand what your argument will be down the road.

MR. HOLZER: Okay.

CHAIR: As to the nature of the sign being up and why and --

MR. HOLZER: I don't recall whether, when, on cross examination of Mr. Ghimire, whether or not we had the actual code violation and we had the actual picture of what the sign was supposed to be, which was one sign. So, I don't know, I don't recall that going in as a document and if it did, then there's no harm in putting this in over the objection. It just simply, it's a packet that shows everything that related to the sign while it was up on the, up on the wall.

CHAIR: I think you need to lay a foundation as to why this witness would be appropriate for that purpose. Not saying you can't get it in, just a matter of this witness and the foundation through this witness for whatever purpose you believe it has relevance to.

MR. HOLZER: That, that's, I couldn't do that until everybody had ruled on the motion to accept it but I, now I can. Dr. Clark, explain why this is relevant, why you're putting it in and what is the purpose of your --

DR. CLARK: I would point your attention to the third page, the picture that was submitted to the County.

MR. HOLZER: All right.

DR. CLARK: Their, their promise was a single panel sign meeting code requirements. What you see up there is not what, is what they promised the County.

CHAIR: I got to, got to jump in here again. This is ground I believe we have already covered, that is, that, I believe Mr. Ghimire testified that it was confusion on their part and you may have an argument as to whether it's confusion or, or what the intent is. But it was confusion from their part as to why they had the double faced sign instead of a single face sign and that the single face sign was what was required by the County. And it's just why the double faced sign then came down and they put up a new sign.

MR. HOLZER: It wasn't, he testified, but Mary

testified, as I remember, that it had to do with height, not square footage.

CHAIR: I believe it was both in terms of the height and also the double face.

MR. HOLZER: But that's not, that's not in my notes.

CHAIR: Okay.

MR. HOLZER: But if it is, if I missed it, okay. But the, I don't know why we're arguing. If it already came in, then what's the prejudice against this document coming in?

CHAIR: Well, number one, how is this witness authenticating anything or providing anything further with this?

MR. HOLZER: Because he went to the County and got the documentation.

CHAIR: That's the question I've asked you to, to lay some foundation that --

MR. HOLZER: I'm sorry, I, I, I apologize. I apologize. Did you go to the County and get the documentation that's the subject of this exhibit?

DR. CLARK: Yes, sir.

MR. HOLZER: Okay and you received this information directly from the County?

DR. CLARK: Yes, sir.

MR. HOLZER: You made copies of it for the Board and for counsel?

DR. CLARK: Yes, sir.

MR. HOLZER: I would offer it.

CHAIR: Mr. Schmidt, do you have anything you would like to say?

MR. SCHMIDT: I just, I just don't know what the relevance is to the special exception, Mr. Garber, and, and I'll --

MR. HOLZER: It's, the --

CHAIR: Mr. Holzer, wait, let Mr. Schmidt finish, please.

MR. SCHMIDT: If I could, if I could just finish? And, and I, you know, I resent and my clients resent this implication that my client doesn't pay any attention to what the County says and Mr. Holzer's speaking objection. It's not, it's not appropriate.

CHAIR: Mr. Schmidt, you, your, your objection is relevance, right, correct?

MR. SCHMIDT: It is.

CHAIR: Okay. Mr. Holzer, do you wish to address that?

MR. HOLZER: Yes. As we've said all along, if there are certain rules that developers have to comply with, whether it be a violation, code violations, etcetera, I understand this Board doesn't decide code violations. I understand that. But code violations are relevant as to the motive and as to the

intent and the potential future of conditions that this Board may apply. And so, you know, it's all, I, I remember back in the old days, oh, just do what you want to do and then ask for forgiveness. That's a history that I've learned over thirty years of doing this. So, okay, just do what you want to do. The point of the matter that that history doesn't address is upon who does enforcement of this Board's Order if it decides to grant the, the special exception? Who enforces it? I know People's Counsel has gone to all sorts of lengths to try to get this Board's conditions complied with and I've experienced that. So, as part of the factor of the Board deciding if you'd grant it, to attach conditions seems to me it's the responsibility of this Board to make sure that you are satisfied that your conditions will be enforced and accepted and applied, not make, not say, we put the conditions on, let the community go out and enforce it and that happens. So, that's why I think, I understand, I'm overwhelming the Board with documentation but I've been there, I've done that and the Board has to understand that if you grant this special exception, that you can't look to the community to enforce your Orders.

CHAIR: Okay. Mr. Holzer, --

MR. HOLZER: I'm sorry, I apologize.

CHAIR: That's okay.

MR. HOLZER: I withdraw, but I, I just am

frustrating.

CHAIR: Are you withdrawing? Because then, then it's not in evidence.

MR. HOLZER: No, I'm not, no, I'm not going to withdraw it. I stand on what I say.

MR. SCHMIDT: Mr. Garber, I'd just like --

CHAIR: You seem to want to address that point.

MR. SCHMIDT: -- just, just, if I could just briefly be heard? First of all, this Board obviously is not the Division of Code Enforcement. If there is a violation, that is the agency of County government that will enforce any violation and as you have no doubt seen after five and a half days, if my clients sneeze the wrong way during the operation of this property, they will be reported by Mr., by Dr. Clark or one of the other Protestants to the community. So, Mr. Holzer's premise that it's up to you to make sure your conditions are enforced is, in my opinion, legally incorrect. That's not the responsibility of this Board. But more to the point, the entire inference of this, I mean, the reality is, the neighbors complain because traffic backs up and people can't see the entrance. So, my clients go out and get a sign and because of the way the intersection is laid out, they get a side --

CHAIR: Let's --

MR. SCHMIDT: -- let me finish, let me finish if I may, sir.

CHAIR: We're not going to get into why the sign was there or anything like that.

MR. SCHMIDT: You gave Mr. Holzer an opportunity, Mr. Garber.

CHAIR: Hold on, Mr. Schmidt. He was explaining why it was relevant. You explain to me why it's not relevant, not as, as to the intent or whatever the, why they're putting the sign up or not, in response to whatever is being alleged. So, just address the point about it being irrelevant or, you know, whether it should be admitted, that's all I'm asking.

MR. SCHMIDT: Mr. Garber, you allowed Mr. Holzer to go on and on about the justification of the admission of this document and the relevance of this document was because my clients are unreliable and would not be, and would not be abiding by any conditions that you would impose. That's what I just heard Mr. Holzer say in about a five minute speaking objection as to why the document is relevant. I think I'm entitled to rebut that or at least address it, sir. If you're telling me I'm not, I will sit down.

CHAIR: I'm telling you, you're allowed to address it as terms, in terms of the relevance, not as to why the sign is up or was not up, or whatever the case may be, because that's evidence that you're trying to argue on.

MR. SCHMIDT: I'm not trying, I'm doing nothing more than trying to address and respond to Mr. Holzer's argument.

CHAIR: Oh, please continue.

MR. SCHMIDT: It is not relevant as it relates to the special exception and there is no relevance in the Board enforcing its own conditions that it may impose and I take umbrage to the suggestion that my clients are operating illegally. First of all, it's not relevant to this proceeding, but even the inference of that, I take umbrage to and it's not factually correct. Thank you, sir.

CHAIR: Thank you. It'll be admitted because it was part of the testimony from Mr. Ghimire and sheds light as to the facts testified to by Mr. Ghimire previously. But obviously, the weight of it will, as to the special exception factors, we're not sure where that's going to go. Thank you.

MR. HOLZER: Right, I understand.

DR. CLARK: Mr. Garber?

MR. HOLZER: No.

CHAIR: Dr. Clark, there's no question pending.

DR. CLARK: No, I got to go.

CHAIR: You got to go?

DR. CLARK: I got to go.

CHAIR: You mean, all right, are we going to take a break?

MR. HOLZER: A restroom.

CHAIR: That's what I figured. He wasn't talking about leaving for the day.

MR. HOLZER: No.

CHAIR: I'm sure he was prepared to be here for a bit.

MR. HOLZER: Yes.

CHAIR: So, yeah, why don't we take a ten minute break then. And then we will be back at twelve, I guess.

(RECORDING PAUSED - 11:48:45 PM)

(ON RECORD - 12:01:51 PM)

CHAIR: And we're back. All right. Dr. Clark is on the stand.

MR. HOLZER: Yes. Dr. Clark, let's go to Mr. Motsco, do you remember who he was?

DR. CLARK: Yeah, but there were, we, we got distracted by the sign on the Calagero, so.

MR. HOLZER: I, I understand.

DR. CLARK: Okay.

MR. HOLZER: Let's go to Mr. Motsco.

DR. CLARK: Okay.

MR. HOLZER: Okay? Who was he?

DR. CLARK: I believe he was their land planner.

MR. HOLZER: Okay and did, when we look at the previous exhibit, yes, I just, whichever (inaudible). When one looks at the packet that was accepted, we had the code enforcement correction page one, we had the sign use permit page two, we had a drawing of a proposed sign on three and then

on the next to last, there was a, an exhibit as part of the application from Little & Associates, Inc., is that correct?

DR. CLARK: Yes.

MR. HOLZER: All right and this was submitted as part of the signed documents that you requested?

DR. CLARK: That is what I received from the County as included in his application package.

MR. HOLZER: Okay and it's very difficult to read what is in the upper right hand corner of that document, is that not true?

DR. CLARK: Correct, that I have 20/15, 15/20 vision and I can't really see it.

MR. HOLZER: Right, it's very, it's very small. If I show you this, --

MR. SCHMIDT: Just as a reminder, since we came back from break, if you have your cell phones on, please turn them off.

MR. HOLZER: I'm going to hand you, after Mr. Schmidt has a chance to look at it, of a blow-up of that document. Did you, well, I won't ask you any questions until he has a chance.

MR. SCHMIDT: Okay. I reviewed it. Thank you, Mr. Holzer.

MR. HOLZER: Okay. That document that was submitted to the County, in the County file for the permit, was an original drawing of the proposal as I, as I see it, is that

correct?

DR. CLARK: Yes.

MR. HOLZER: Okay and when one looks at the zoning request on this document, it says special exception relief pursuant to code section to allow a community building owned by a non-profit, civic or improvement association and used by its members and guests for recreational, social, educational or cultural activities, some, in the RC-2 zone, semi-colon, and for a church or other building for religious worship?

DR. CLARK: Correct.

MR. HOLZER: Okay. Let me ask you, do you, did, did Mr. Motsco, according to your understanding of his testimony here, introduce a, a photograph or testify about what was inside of the building, do you remember?

DR. CLARK: Yeah, I think there was a picture, and he said he went there and he saw a hundred and fifty chairs or so.

MR. HOLZER: Okay.

DR. CLARK: And I think we have a photo of that.

MR. HOLZER: Yes, we do. (inaudible). Oh, okay. It was already submitted, Larry, as 9-L, Petitioner's Exhibit 9-L.

MR. SCHMIDT: Yes, I believe that's the one.

MR. HOLZER: Right.

MR. SCHMIDT: And I think he counted eighty-six chairs, or something like that.

MR. HOLZER: Right.

MR. SCHMIDT: And the one that's submitted as an exhibit is in color?

MR. SCHMIDT: Yes, sir, that's correct.

MR. HOLZER: Yes, and this is just a black and white.

CHAIR: I just noted that that's a black and white photo, there's one in color, (inaudible).

BOARD: Is there an objection to thirty-eight?

MR. SCHMIDT: Yes.

BOARD: Objection --

MR. SCHMIDT: It hasn't been offered, I don't believe, but.

MR. HOLZER: Well, I offered, offered it.

MR. SCHMIDT: I don't think it has any relevance. I, I'm not, I noted, I, I noted that the language is all highlighted and --

CHAIR: The language is highlighted?

MR. HOLZER: That was only on my copy, not on the Board's.

MR. SCHMIDT: Oh, okay. I assumed you got something that looked like this.

CHAIR: No.

MR. HOLZER: No.

CHAIR: My copy is now highlighted because that's the section that he read.

MR. SCHMIDT: Okay. Mine, mine was red underlined as

it was handed to me.

BOARD: The exhibit doesn't have highlights.

MR. HOLZER: Right.

MR. SCHMIDT: Okay.

CHAIR: And, and neither does the copy provided by the Board, except for I literally just highlighted it when Mr. Holzer was reading.

MR. SCHMIDT: Okay.

MR. HOLZER: And I gave him my copy.

BOARD: And (inaudible).

CHAIR: Yes. Yes, Exhibit 38 is actually --

BOARD: It's a blow-up of thirty-seven.

MR. SCHMIDT: Yes, sir. Yes, ma'am, it is. It is, it is, and I still object to it.

BOARD: Okay.

MR. SCHMIDT: I don't think it's relevant, it's taken out of context, I can explain if you want, but I object.

CHAIR: All right. Well, it's going to be received because it's already part of Exhibit 37, it just makes it visible and legible, you know, for the Board to look at to the extent it has whatever weight connected to why we're here. That's a matter that I guess we'll talk about at another time.

MR. SCHMIDT: Okay and let me just say for the record, if I can, Mr. Garber, so it's clear for any subsequent proceedings, that the reason that I did not, oh, I think I did

object to thirty-seven, but I would have also identified the same objection to thirty-seven that I made as to Exhibit 38, but I, as I think everyone agreed, I could not read Exhibit 37 to make that objection at the time.

CHAIR: Mr. Schmidt, and, and to make that clear for the record, yes, I interpreted your objection to thirty-eight as also incorporating that to thirty-seven.

MR. SCHMIDT: Yes, sir. Thank, thank you.

CHAIR: Yes.

MR. HOLZER: Is there any, from your laymen's per, perception and position, what relevance does the picture of the hundred and fifty chairs or so from Mr. Motsco's testimony and introduction by the developer, Petitioner, what do you have to comment on that?

DR. CLARK: Well, it looks to me like Mr. Motsco knew of other planned uses for the site. And again, I'm going, I'm going to say as a professional researcher, I was struck by his lack of intellectual curiosity --

MR. SCHMIDT: Objection. I, I, Mr. Garber, this is, this is, I'm, I'm sorry, sir, but this is totally inappropriate that, same objection as to Mr. Calagero and commenting on something that other professional did.

CHAIR: Mr. Holzer?

MR. HOLZER: I don't have any reaction.

CHAIR: (inaudible).

MR. HOLZER: I'm sorry, I have no reaction.

CHAIR: So, that's, okay. The objection is sustained.

MR. HOLZER: Okay.

DR. CLARK: Okay.

MR. HOLZER: Any other issue in regard to that point before we go into another topic?

DR. CLARK: Okay. Still Mr. Motsco?

MR. HOLZER: Yes.

DR. CLARK: Okay. He, he failed to inform his clients of several historic facts and monuments related to the development of that property.

MR. HOLZER: Okay and how do you know that?

DR. CLARK: Because I, I looked up the national historic district of Long Green, I pulled down the map that is registered with the Department of the Interior identifying and, and I specifically printed a section of that map. And then I also obtained, downloaded the Maryland Historic Trust document that states the Long Green historic district is, in fact, a historic district.

MR. HOLZER: All right. Let me do this.

DR. CLARK: And I believe we have a better picture of that mile marker that I pointed out.

MR. HOLZER: Well, we'll get to that in a second.

DR. CLARK: Okay.

MR. HOLZER: And do you have any objection to (inaudible)?

MR. SCHMIDT: No, I don't have any objection to the exhibit. I, I do object to he's saying, him saying Mr. Motsco failed to inform his client. How does he know what Mr. Motsco told my client. If he would just testify as to what he found, it would make it easier.

MR. HOLZER: I'll move to strike it.

CHAIR: Well, I, I'd actually, think a bit, the objection is appropriate. I don't think he can critique Mr. Motsco in terms of what he said or did not say without knowledge of everything that went on in terms of the communications but Mr., or excuse me, Dr. Clark can say is what he did in terms of his research.

MR. SCHMIDT: Sure.

CHAIR: On, as to the historic aspects that I believe we're about to get into. And to the extent that there's any difference between that and what Mr. Motsco has previously presented, I'm sure Mr. Holzer will be pointing that out to us at another day, another time.

MR. SCHMIDT: Okay.

MR. HOLZER: Thank you.

CHAIR: So, yes, so objection is sustained, Mr. Schmidt.

MR. SCHMIDT: Thank you.

MR. HOLZER: So, so you got this as a result of your, just your testimony, you, you obtained this which shows that the Long Green Valley historic district is where it is?

DR. CLARK: Yes.

MR. HOLZER: Okay. I'd offer that as the next exhibit.

CHAIR: And no objection, so it's admitted.

MR. HOLZER: Thank you. Before I show the witness the next exhibit, Mr. Schmidt can take a look at it. Okay?

MR. SCHMIDT: Yes, sir. I mean, I don't know what it is, obviously, it's the side of a road, but, I mean, --

MR. HOLZER: Yeah, it's already been shown on the video when, when he, Dr. Clark stopped the video and said there's a marker.

CHAIR: And I'm sure he's about to --

MR. HOLZER: Yes.

CHAIR: -- identify, Dr. Clark, Protestant's Exhibit 40, what is, can you identify what's in, what's in Protestant's Exhibit 40?

DR. CLARK: Yeah, and I think we have a better picture of it.

CHAIR: But even still.

DR. CLARK: But, but --

CHAIR: We're talking about Exhibit 40.

DR. CLARK: -- it, it, it is, it, it is a mile marker

that was put there at least a hundred and fifty years ago identif, when it was the Baltimore Harford Turnpike. That roadbed is a historic roadbed. There, it, there is a monument marker down in the park. But this particular marker is right across from my house and it marks ten miles to Baltimore.

CHAIR: Okay.

DR. CLARK: It's been there, you know, forever.

CHAIR: Okay and did you take that photograph?

DR. CLARK: I did and it's on the Maryland Historic Trust inventory.

CHAIR: You mean, the marker is, not the photograph?

DR. CLARK: Yes, yes.

CHAIR: And then, does this fairly and accurately depict the, what is depicted in, I guess, Exhibit 40 at the time you viewed it?

DR. CLARK: Yes, sir.

CHAIR: Any objection, Mr. Schmidt?

MR. SCHMIDT: No, sir.

CHAIR: Okay. So admitted. Now, we were also presented a second photograph now, Protestant's Exhibit 41.

MR. SCHMIDT: And no objection to that either.

CHAIR: No? Okay, very well. No objection to Exhibit 41. That is, that is also admitted.

DR. CLARK: I get mine before they get theirs.

MR. HOLZER: I can't, can't imagine you have an

objection to (inaudible) --

MR. SCHMIDT: No, just like to know where this is.

DR. CLARK: This is in --

CHAIR: Hold on one second, sir. One second, sir. So, we're now looking at Protestant's Exhibit 42. First thing, can you please identify what's in Exhibit 42?

DR. CLARK: Exhibit 42 shows a State of Maryland State Roads Commission historic marker identifying the Baltimore and Harford Turnpike Company. It is taken, this is, this is at, I'm trying, this is in the Gunpowder Falls Park, on Harford Road, it's, it's right at, there's a, used to be an old park ranger building on the right and it's at, it's in that area.

CHAIR: Okay and does this fairly and accurately depict what you viewed on the day of the photograph?

DR. CLARK: Yes, sir.

CHAIR: And, okay. Do you know when you took the photo? Approximately?

DR. CLARK: It would have been, geez, that, that would probably be in the spring from the trees, because I didn't take it recently.

MR. HOLZER: Twenty eighteen?

DR. CLARK: Yes, 2018.

MR. HOLZER: Okay.

DR. CLARK: Do you need me to give that specifically?

CHAIR: Mr., Mr. Schmidt, any objection?

MR. SCHMIDT: I, I'm not trying, I just don't know what the relevance, I mean, this was taken in the park and I even think he described the locale as from the park to the property, so it's apparently outside the locale. I mean, I mean, it doesn't, I, I don't know what the significance of it is in this case, but I don't have any, it shows what it shows and it is where it is, so, I'll defer to the Board.

CHAIR: And, and it's understood that it relates back to the testimony regarding the mile marker that's on the subject property referencing Baltimore and Harford Turnpike.

MR. SCHMIDT: I, yeah, I get, yes, sir, but I don't, I don't know what the significance of that is either, but I guess we'll, we'll find out.

CHAIR: Fair enough. It'll be admitted.

MR. HOLZER: Okay, thank you.

DR. CLARK: I also believe we --

CHAIR: Sir, there's no question pending.

MR. HOLZER: How long do you want to go because I'm getting into another area now?

CHAIR: How long do you think that will be? As best as you can --

BOARD: Before you answer that, I have a question, Dr. Clark.

DR. CLARK: Yes, ma'am.

BOARD: Would you go to Exhibit 37 with the site plan (inaudible).

DR. CLARK: Is that, is that, or do you want the whole, the, are we talking about --

BOARD: The site plan, which is the first page, Exhibit 37.

DR. CLARK: Okay, I'm, --

BOARD: (inaudible).

DR. CLARK: Yeah, yeah. I, I guess, oh, no, I've got it. I'm sorry. Yep.

BOARD: Is your property, can you locate your property on this for us?

DR. CLARK: I'm sorry?

BOARD: Could you locate your property on this?

DR. CLARK: Yep, yep, yep.

BOARD: Because I can't read it.

CHAIR: Can you, can you --

DR. CLARK: Yeah.

CHAIR: -- actually take your pen --

BOARD: Mark it.

CHAIR: -- and mark the property and put your initials above it? Thank you, Mr. Holzer.

DR. CLARK: He's going to give me a red pen.

VOICE: No, no, this is the exhibit copy, use this.

CHAIR: Right, using the witness copy is not going to

help as much.

DR. CLARK: All right.

BOARD: After you do that, would you similarly mark on here the approximate location of the mile marker you're talking about?

DR. CLARK: Yes, ma'am.

BOARD: Since you said it was opposite your property?

DR. CLARK: Yep. Okay, I --

CHAIR: Show Mr. Schmidt before you start testifying.

MR. SCHMIDT: Just, just want to --

MR. HOLZER: Are you finished?

DR. CLARK: Yes, I believe so.

MR. HOLZER: It's hard to read this but.

DR. CLARK: I can tell by the --

MR. SCHMIDT: Okay, so he's --

CHAIR: Hold on, hold on, Dr. Clark.

MR. SCHMIDT: He's, he's this one?

MR. HOLZER: Yeah.

MR. SCHMIDT: Okay. Okay.

MR. HOLZER: Do you want to make sure?

MR. SCHMIDT: Yeah, no, that's fine. I was just, no, that's fine. That's good, thank you.

CHAIR: Mr. Schmidt, you saw that?

MR. SCHMIDT: Yes, sir.

CHAIR: Okay.

BOARD: That was my question.

MR. HOLZER: And let me just put on the record, it's hard to read, but he has identified as his house on the opposite side of the road from the subject site and there's a, a red dot with MM, mile marker, it's very hard to read but it, it's very small, but that. And I have one question for you. Did you testify during the video that the mile marker is on the subject site?

DR. CLARK: Correct.

MR. HOLZER: And I believe you said something about changing the road in that area could be a problem?

DR. CLARK: Yes, sir.

MR. HOLZER: Okay. That's all, I just wanted to clarify it. Members of the Board, I'm looking at the rest of the presentation. It'll be more videos at, in the second half and depending on how far we get through it, there could be one or two more, more difficult issues. If you catch my drift.

CHAIR: Fair enough.

MR. HOLZER: So, I don't know whether this is appropriate time to take a lunch break or what you would like to do.

CHAIR: Is it at all possible to try to resolve any difficult issues that you anticipate during the course of the break?

DR. CLARK: No.

CHAIR: You don't, that is, you do not think that they will be resolved during the course of a break?

MR. HOLZER: No, they will not.

CHAIR: Very well. My intent today would be to try to get through all of Dr. Clark's testimony.

MR. HOLZER: We would like to do that.

CHAIR: And cross examination to the extent we can possibly do that. So, please, I guess everyone, keep that in mind, because we don't want this to drag into another day, you know, to the extent that can be avoided.

MR. HOLZER: I agree. That's why I intend to use the lunch break to try to narrow down some areas.

CHAIR: Yes, and we do appreciate that. With that in mind then, if now is the appropriate time to break, is what I'm hearing, --

MR. HOLZER: Yes.

CHAIR: -- Mr. Schmidt, Mr. Holzer?

BOARD: (inaudible).

CHAIR: I should ask that, does anybody else have a hard stop today?

MR. SCHMIDT: No, sir.

CHAIR: Hard stop time.

MR. HOLZER: Oh.

CHAIR: That is, you're not getting on a plane at like 7:00 or something?

MR. HOLZER: No, but the faster I can get out of here the better.

CHAIR: I think Mr. Schmidt will agree to that.

MR. SCHMIDT: No, I, I, I agree and I have no hard time, I'll stay here as long as you would like to stay here.

CHAIR: Okay. Dr. Clark, same?

DR. CLARK: I'm at your convenience.

CHAIR: All right. Well, with that in mind, how long do you think for lunch, an hour?

MR. HOLZER: Yes.

CHAIR: Or do you think we can come back at like 1:15, which is fifty minutes?

MR. HOLZER: One fifteen is fine.

MR. SCHMIDT: I'll be here when you tell me to be here.

CHAIR: And, okay, that's what I'm asking you, would that be sufficient for you?

MR. SCHMIDT: Sure, yes, sir.

CHAIR: To actually get lunch and do what we need to do?

MR. SCHMIDT: Yes, sir.

CHAIR: Check in with other things, or whatever?

MR. SCHMIDT: Yes, sir, that's fine. Thank you.

CHAIR: Yeah, okay.

MR. HOLZER: Okay.

CHAIR: Very well.

BOARD: Last instruction, you can't talk to the witness.

MR. HOLZER: I won't.

BOARD: Oh, no, not you, but the witness can't also talk.

DR. CLARK: I understand.

BOARD: To anyone else, okay, thanks. Perfect.

CHAIR: Right. Off the record.

(RECORDING PAUSED - 12:23:23 PM)

(ON RECORD - 01:29:20 PM)

CHAIR: Just so counsel knows, during the break, Mr. Clark asked me if it was okay to be either on that side of the Board of Appeals (inaudible) because his wife is in here. I said, you can be in there, you just can't talk about your testimony or anything to do with this case.

MR. HOLZER: Right.

CHAIR: You know, and that's pretty much where the conversation ended. But just so everybody knows that that --

MR. HOLZER: I stopped in and --

CHAIR: Right.

MR. HOLZER: -- we were not, they were not communicating.

CHAIR: Right, and I, not thinking that they would, but just that there was a conversation.

BOARD: (inaudible).

MR. HOLZER: Pardon?

BOARD: They're not communicating, they've been married thirty-three years.

MR. HOLZER: Gee, I should have just automatically made notice of that fact, right?

CHAIR: But anyway, I just wanted to bring it to everyone's attention, but that was the conversation.

MR. HOLZER: Okay. I'm ready.

CHAIR: All right.

MR. HOLZER: Okay. We're back on the record, I will tell the Board that I have gone through an outline that I had and I've gone from page six to nine.

CHAIR: Oh.

MR. HOLZER: I hope that helps as far as the time. However, --

CHAIR: Well, it's your case and I figured you'll know what's best.

MR. HOLZER: One more, one more question before I move to page nine. Mr. Clark, in terms of another document that you wanted to put in in the record, there was, in regard to the, the State Highway Administration, there was, you had communications with State Highway Administration that you got a response back from them, did you not?

DR. CLARK: Yes, I did.

MR. HOLZER: Do you recall when that was?

DR. CLARK: I'd have to see the e-mail, but it's the one that was referenced last week.

MR. HOLZER: Was it in, was it in 2018?

DR. CLARK: Yes, it was.

MR. HOLZER: It was recent, okay. And before I ask you any questions about it, I hand it to the Board. Let Mr. Schmidt take a look at it.

DR. CLARK: Can I look at it now?

MR. HOLZER: Yeah. Well, you can have it, you can't look at it.

CHAIR: Well, hold on, right. Mr. Schmidt, did you have a chance to review?

MR. SCHMIDT: I've, yes, sir. Yes, sir.

CHAIR: Thank you.

MR. SCHMIDT: I've seen it.

CHAIR: Thank you. And if I'm not mistaken, this is forty-three, Protestant's forty-three?

BOARD: It is, yes.

MR. HOLZER: Forty-three. Is it okay to --

CHAIR: Yes.

MR. HOLZER: -- ask questions now?

CHAIR: Yes.

MR. HOLZER: Okay. Mr. Clark, obviously, from this Exhibit 43, you had contacted the State Highway Administration?

DR. CLARK: I had contacted Mr. Rich Zeller, who is the branch chief for State Highway access permits.

MR. HOLZER: Okay.

CHAIR: And were you, is your e-mail address historictimekeeper@gmail.com --

DR. CLARK: Yes, sir, it is.

CHAIR: Hold on, wait until I finish my question. Your e-mail address is historictimekeepers@gmail.com?

DR. CLARK: Yes, sir.

CHAIR: Okay.

MR. HOLZER: And is it appropriate that on July 2nd, 2018 you wrote to him at, which is on this, on this page at the bottom?

DR. CLARK: Um hm.

MR. HOLZER: Just briefly, and I mean briefly, explain what you were seeking and what response you got.

DR. CLARK: I had previously met with Mr. Zeller and there's an affidavit in the preliminary motion to that extent. About what the appropriate use was for the access at 12231 Harford Road. At that time, he told me that it was not, it, it was, it was not appropriate to be using it as a commercial access and that is how he classified it and then I wrote him the letter below, giving him specific references to testimony and, and, and all of that, in the, in the ALJ. And then he wrote back the note above. It is my understanding that the

County has not approved this site for the proposed use temple. The SHA has not approved the existing entrance for this use. From the SHA perspective, this should not be operating at all. Will the County be shutting them down?

CHAIR: Just by way of a quick correction, the sentence from the SHA perspective, this site should not be approved --

DR. CLARK: Oh, thank you.

CHAIR: Will the County be shutting them down?

DR. CLARK: Thank you.

MR. HOLZER: And the date of that response was July 5th?

DR. CLARK: Yes, sir.

MR. HOLZER: Of 2018?

DR. CLARK: Yes, sir.

MR. HOLZER: Did you make any follow-up to this in terms of whether or not there's been a final --

DR. CLARK: No, but what I did do is I, I forwarded this to Mr. Mohler, Mr. Jablon, various people asking them what are you going to do? Got no response.

MR. HOLZER: Okay and then ultimately you sat here during the hearing and heard the testimony of, of where conceptually the State Highway Administration has suggested an alternate route?

DR. CLARK: Okay.

MR. HOLZER: Just answer my question.

DR. CLARK: Yes.

MR. HOLZER: Okay and, and so, when was the last time you got a confirmation from State Highway?

DR. CLARK: Monday before this one.

MR. HOLZER: October 22nd, is that --

DR. CLARK: Yeah, yeah.

MR. HOLZER: Okay. Okay. Do you have anything else that you need to add to what we've established there?

DR. CLARK: Well, yeah, I, what, the, the 22nd contact, October 22nd contact, --

MR. HOLZER: Right.

DR. CLARK: -- was a phone call asking Mr. Zeller where this stood.

MR. HOLZER: Okay.

DR. CLARK: He told me no application had been submitted and he told --

MR. SCHMIDT: Objection. Hear, objection, hearsay.

MR. HOLZER: Well, hearsay is permitted here where it's an agency --

CHAIR: It is and I think it's also consistent with what Mr. Calagero said.

MR. HOLZER: Yeah.

CHAIR: That there was no application that has been submitted as of yet anyway.

MR. SCHMIDT: Okay.

DR. CLARK: Yeah, and that no site plans had been submitted.

MR. HOLZER: Okay. All right. That's going to be all for page six. So, we're moving on and I want to direct your attention to the, the land use portion of our, of our presentation, okay? Because --

DR. CLARK: Oh, we're up to page six, yeah.

MR. HOLZER: -- because it seems to me that this Board would like to see something in terms of the video that is, that is germane to the question. So, let's go to the first video. Could you explain what they will be seeing in that video?

DR. CLARK: Well, I'm probably going to be surprised too. I think it's a video involving volleyball or, actually what I would prefer to do is go to the video called Solitude.

MR. HOLZER: No.

DR. CLARK: Okay.

MR. HOLZER: You're going to do what I ask.

DR. CLARK: Okay.

MR. HOLZER: You're going to go to that video, explain what it is and when it was taken, if you know.

DR. CLARK: I don't even, I'm, I'm not even clear which one we're going to.

CHAIR: All right. Well, just take a moment to

regroup. Which, which video are we going to play? And Mr. Holzer, you can take a minute with your clients, that's fine.

MR. HOLZER: Yeah. I want to go to the first one. Okay. Just go to the first one so we can get this show on the road.

DR. CLARK: Okay. If you referenced it by the, by this paper, by, by this cheat sheet.

MR. HOLZER: Yes.

DR. CLARK: Then I would be able to --

CHAIR: Protestant's Exhibit 33.

DR. CLARK: -- yeah, which, which video is it on thirty-three? Oh, well.

MR. HOLZER: She's going down to it now. Solitude.

DR. CLARK: Oh, Solitude, okay. So, we are going to do Solitude.

MR. HOLZER: What is that video going to show?

CHAIR: Hold on one second, please. Just if I can,--

MR. HOLZER: Oh, I'm sorry.

CHAIR: -- because we keep referencing Solitude. It was --

BOARD: It was handwritten (inaudible).

CHAIR: -- hand, thank you, yes, on the bottom of Protestant's Exhibit 33, there's a handwritten note that says Solitude A-4.

DR. CLARK: Okay.

CHAIR: Is that what we're referring to?

DR. CLARK: Yes, sir.

CHAIR: Okay and seeing this, does that match it?

DR. CLARK: Yes, sir.

CHAIR: Okay. So, the video matches the description.

DR. CLARK: Yes, sir.

MR. HOLZER: And who took this?

DR. CLARK: I did, but.

MR. HOLZER: All right. I want you to lay the foundation.

DR. CLARK: All right. Can Mary pause it?

MR. SCHMIDT: (inaudible).

DR. CLARK: What this is, is a video with sound taken from my porch pointing east to Harford Road and subject property.

CHAIR: When was the video taken?

DR. CLARK: Mary would have to go back to the file, but it, it would, it would have been in the spring.

CHAIR: So, we'll just say spring of 2018 (inaudible)?

DR. CLARK: Correct, sir. This was taken with, with, with a Nikon D7, D750 and a mounted microphone, okay? Do I need to describe what they will hear on the video?

CHAIR: No.

DR. CLARK: No.

CHAIR: You do not need to describe what we will hear.

MR. HOLZER: Just --

CHAIR: Right now, this is you sitting outside the back of your, looking at the back of your house?

DR. CLARK: Yes, sir.

MR. SCHMIDT: Can I just ask what time of the day this was taken, if he knows, if, if you know? You don't know?

DR. CLARK: I can, I can provide that.

MR. SCHMIDT: Okay, that's okay.

CHAIR: No, that's fine. You can try to get that information?

MR. HOLZER: Yes.

CHAIR: All right. Why don't we play the video?

(VIDEO PLAYS)

DR. CLARK: That's probably enough.

MR. HOLZER: Go, go ahead, ex, explain.

DR. CLARK: Okay. There are, some of the, I, I have, over the course, now I lost my place, of, what page are we on?

MR. HOLZER: Nine.

DR. CLARK: Nine, nine. Well, there were forty-two separate instances of this between, actually between May, May 20th and June 20th of --

CHAIR: What do you mean by this?

DR. CLARK: By, instances of these kind, of these

kinds of recordings, okay?

CHAIR: You have forty-two different recordings between May of this year and --

DR. CLARK: April and into June, okay?

CHAIR: And this is one of the forty-two or --

DR. CLARK: This is one of the forty-two.

CHAIR: All right. So, between April and June of this year, you did forty-two recordings.

DR. CLARK: Right.

CHAIR: And this video we just saw with the audio, was one of the forty-two?

DR. CLARK: Correct. And what it, and what it document --

CHAIR: One second.

MR. SCHMIDT: And I just wanted to, just, are they all part of the library?

DR. CLARK: Yes, sir.

MR. SCHMIDT: Okay.

DR. CLARK: Yes, sir.

MR. SCHMIDT: Thank, thank you.

CHAIR: Go ahead, Mr. Clark.

DR. CLARK: What, what they document are when, are the fact that they were using the volleyball court during those times. Also, I think Mr. Schmidt was confused about how to characterize my wife's testimony. As you can see, there is, it

is very quiet there and the cars do, in fact, sound like waves breaking on the surf. It is not two million cars going up there a year, sounding like 95. There has been testimony and, and, and, and also there have been assertions in various media that they were not using that as a regular volleyball court.

CHAIR: They were not using the court as a regular volleyball court?

DR. CLARK: Right, right, for, for regular volley, but, as I said, I have forty-two instances. Now, I, can I explain one thing, Carroll?

MR. HOLZER: Sure.

DR. CLARK: Okay.

CHAIR: Hold on. Respond to a question, don't ask your attorney (inaudible). Mr. Holzer, if you have a question you would like to ask Dr. Clark, please do.

MR. HOLZER: Please explain.

DR. CLARK: Okay. Very early on, we realized that this could not be a he said/she said kind of case. So, given my background as a researcher and given that we had decided this cannot be a he said/she said, we started documenting things very early on. And that explains why our video evidence is so extensive. All right? We weren't going to play around with this.

MR. HOLZER: Okay.

MR. SCHMIDT: Mr. Holzer, can, while that's up, can I

ask one, just one, or one or two questions?

MR. HOLZER: Yeah, sure. Sure.

MR. SCHMIDT: Thank you. Mr. Clark, I've just, this was taken from your yard?

DR. CLARK: It was taken from my deck, yes, sir.

MR. SCHMIDT: And there was a, there was a car that drove by that was kind of in the, --

DR. CLARK: Right.

MR. SCHMIDT: Okay. So, those trees that we're looking at, that's in your yard?

DR. CLARK: Correct.

MR. SCHMIDT: And then Harford Road is on the other side of those trees?

DR. CLARK: Correct.

MR. SCHMIDT: Okay. I just wasn't clear if, if, if that car was on the subject property or on Harford Road.

DR. CLARK: No.

CHAIR: Just to be clear, what we are face, what we are looking at, the Petitioner's property would be on the other side of those trees?

DR. CLARK: Yes, sir.

CHAIR: Okay.

MR. SCHMIDT: Well, you get to Harford Road and then the Petitioner's property.

CHAIR: Yes, and then, right. That, that part is

understood. Just, because before I thought we were actually in the back of his house facing away. I understand we are facing, actually facing the property.

DR. CLARK: Yes, my, my, my backyard faces the property.

CHAIR: Understood. Okay, that's why I was turned around.

MR. SCHMIDT: And just one other, and, and there was, there was volleyball going on?

DR. CLARK: Yes, sir.

MR. SCHMIDT: Okay.

DR. CLARK: And, and that's the shouting you heard and there, and there are others where you hear the ball and all, and there are some where it sounds like they're right in our backyard.

CHAIR: Mr. Holzer?

MR. HOLZER: I'm sorry, I was, I was --

CHAIR: Oh, no, no, no, I'm saying --

MR. HOLZER: She said that the, that the volume was turned down from before and she wanted to replay it showing what the volume was at a normal volume.

CHAIR: I, I think we got a sense of what was going on.

MR. HOLZER: You could hear the volleyball?

CHAIR: Yeah.

MR. HOLZER: Okay.

CHAIR: Well, whatever noises were captured.

MR. HOLZER: Whatever, right.

CHAIR: I heard it.

MR. HOLZER: Okay.

CHAIR: I'm not going to speak for everybody up here, but I heard various noises on the recording.

MR. HOLZER: Yeah, that's fine.

BOARD: I heard birds chirping.

MR. HOLZER: I (inaudible) the other one.

BOARD: That's all I heard.

MR. SCHMIDT: That's kind of what I, that's kind of what I heard.

BOARD: Well, why don't we --

CHAIR: You want to play it again?

BOARD: Five or ten seconds?

MR. HOLZER: Yeah, just a little bit.

DR. CLARK: Yeah, it, it's, it's in the first thirty seconds that you can, that it really comes up. That's, I think that's plenty.

MR. HOLZER: That's enough. Is that enough?

CHAIR: Ms. Dopkin?

BOARD: Fine, thank you.

MR. HOLZER: Thank you.

DR. CLARK: Now, can I --

CHAIR: There's no question pending, sir.

DR. CLARK: Okay, okay, all right.

MR. SCHMIDT: Okay. So, just from an exhibit, that's, is that forty-four? Are we marking that as an exhibit or what?

CHAIR: I'm still under the impression that this is among the snippets in Exhibit 29.

MR. SCHMIDT: Okay.

CHAIR: But I'm marking it on, how I'm cataloguing it is on Protestant's Exhibit 33, the order in which they're being played.

MR. SCHMIDT: Okay, thank you. I just --

CHAIR: That being the fourth video part of the presentation.

BOARD: (inaudible).

MR. SCHMIDT: That's fine. I just wanted to make sure we weren't marking it as its own exhibit, that's, I was just trying to keep track.

MR. HOLZER: Did you ever find a document in which there was a discussion by the applicant of the barn, use of the barn?

DR. CLARK: Yes, we did.

MR. HOLZER: And how did you find that document?

DR. CLARK: That was on a Facebook page.

MR. HOLZER: A Facebook of who?

DR. CLARK: I believe Mr. Carky.

MR. HOLZER: Okay.

CHAIR: So, the barn we're referring to is the barn on the subject property, not, not Mr. Poehler's barn?

MR. HOLZER: Yes. No, no, the barn on the subject, subject property.

CHAIR: Mr. Schmidt, let me know when you're ready to proceed.

MR. SCHMIDT: Okay.

MR. HOLZER: Okay. I handed it to the witness.

CHAIR: Well, wait a second. Mr. Schmidt's not done yet.

MR. SCHMIDT: I, I've read it.

CHAIR: Okay. Are you ready to, are we ready to proceed then, Mr. Holzer?

MR. HOLZER: Yes, yes.

CHAIR: This is exhibit what, forty-four?

MR. HOLZER: On Exhibit 44, you have a copy of it, Dr. Clark?

DR. CLARK: Yes, I do.

MR. HOLZER: All right. How was this taken?

DR. CLARK: It's a screen shot.

MR. HOLZER: And of what?

DR. CLARK: Of a particular page on Mr. Carky's Facebook page. You can just barely make out www.facebook and

then Shayam Carky and, on the upper side.

MR. HOLZER: And does it indicate when it was posted, in case the Board wants to know that?

DR. CLARK: I can't read it on this.

CHAIR: Yeah, I mean, we have a date on here --

MR. HOLZER: It's under, it's May something underneath Shayam Carky.

CHAIR: Oh.

MR. HOLZER: If you see it. May 10th or May 19th, I can't --

CHAIR: Yeah, it's really faint.

DR. CLARK: Okay, yeah.

MR. SCHMIDT: What Shayam Carky are you, --

DR. CLARK: Well, you can see pictures of him off to the left. It's his Facebook page. The, the Mr. Carky who is, who is connected with this --

CHAIR: One second. Mr. Schmidt, if you look at the thumbnail photo in the center, top center of the page.

MR. SCHMIDT: Yes, sir.

CHAIR: And then it says the name Shayam Carky after that. And then immediately after that, in really faint writing, there, there's a, additional information, one of which appears to be a date that is admittedly hard for me to make out, but I think I do see something that says five something or other.

MR. SCHMIDT: It, it's --

MR. HOLZER: May 10th or May 9th, I can't tell which.

MR. SCHMIDT: On the copy, on the copy that I have, I, I, I don't even see that but.

CHAIR: Underneath the name?

MR. SCHMIDT: Can I approach?

CHAIR: Yeah.

MR. SCHMIDT: Maybe you can show me where you're pointing.

CHAIR: Right here. But again, I can, maybe Mr. Holzer can. Can, Mr. Holzer, can you please point out for Mr. Schmidt?

MR. HOLZER: Right here.

MR. SCHMIDT: Oh.

MR. HOLZER: I, I thought it was either May 10th or May 19th.

MR. SCHMIDT: See, my copy doesn't show that.

MR. HOLZER: You're welcome, that one doesn't show it either. I'll give you mine.

CHAIR: Mr. Schmidt, you, looking at Mr. Holzer's copy, can you make out the date?

MR. SCHMIDT: It looks like it says to me May the 19th. But I, I don't see --

CHAIR: Is there a year?

MR. SCHMIDT: -- I don't even see a year.

MR. HOLZER: Twenty seventeen, I think.

CHAIR: Well, we're going to have to figure that part out later. But all it says is May 19?

MR. HOLZER: Correct.

CHAIR: That's what you're representing?

MR. HOLZER: Yes.

CHAIR: That was posted and Mr. Schmidt, you agree, it says at least May 19th?

MR. SCHMIDT: It says May, it looks like it says May the 19th. I don't see a year on either --

CHAIR: Why don't we do this? Can, do you have the exhibit copy? Can you see it?

BOARD: No.

CHAIR: Mr. Holzer, if your copy is better than the exhibit copy, I would recommend putting your copy in as the exhibit copy, as exhibit copy so that that's preserved in the record. Because I can, I can tell you the exhibit copy is incredibly faint as well.

MR. HOLZER: If you think this is better, you're welcome to it.

CHAIR: That is definitely better.

BOARD: (inaudible).

CHAIR: So, we are replacing the originally tendered forty-four version with the one that clearly shows the date of May 19th.

MR. HOLZER: That's fine with me. And if we could move on. What was the purpose of your taking this off of Mr. Carky's Facebook page?

DR. CLARK: Well, it, it describes future plans.

MR. HOLZER: And, and particular reference to the barn, which I started all this with.

DR. CLARK: Right.

MR. HOLZER: What is the potential proposal and where do you find it on this document?

DR. CLARK: Well, if, if you look, I'm sorry, I should have waited. If you wait, if you look half way down, the, the long section that's highlighted, it reads, barn is huge and may accommodate up to a thousand people. However, all the wooden walls are rotten and the whole structure may need to be rebuilt. May be a good project for a large auditorium hall, community center and what not for 2022. We started discussing the possibility of building a home for the elderly just like the Indian community is building one next to the Sheba Vishnu Temple. It goes on and describes later on other recreation center type activities, such as a 5K run and all that kind of stuff.

CHAIR: Dr. Clark, when did you take this screen shot?

DR. CLARK: It would have been in 2017.

CHAIR: And who is Morgan?

DR. CLARK: She is the one that we, that was there when I took, when we took it, we were using her account.

MR. HOLZER: And she will be testifying probably the next time.

DR. CLARK: May I? No?

MR. HOLZER: No.

CHAIR: No question is pending, sir.

MR. HOLZER: Does the Board have any more questions?

MR. SCHMIDT: If this is being offered, I'm, I'm going to object and just for the record, we don't know when this is, apparently May 19th. We don't know what year it is, I, I think it's just highly prejudicial. Dr. Carky, who is the author of these comments, apparently, isn't the Petitioner in this case. It's the owner of the property, Nepali Community Center. Whenever these comments were made, may have been one man's vision of what he would like to see on the property, but that's not the Petitioner. The Petitioner is the Nepali Community, Baltimore Community Cultural Center and it's just so highly, I mean, we're requesting what we're requesting in the Petition for Special Exception and has been described in the site plan that we submitted. There's no plan shown for a change to the barn, there's no elderly housing. I mean, this, it, it's just, the purpose of this is to just, it's so prejudicial I think it outweighs any probative value. It's just for the purpose of trying to infer that we're going to do

something that we're not proposing.

MR. HOLZER: Oh, that's, that --

CHAIR: Mr. Holzer?

MR. HOLZER: -- certainly isn't what it's for. It's to show that they have multiple opportunities to talk to their members. Mr. Carky is a board member, he is a participant, he's been here, he's testified on behalf of the, of the organization and yes, this is exactly what I was referring to earlier this morning in terms of there have multiple proposals that using thirty acres as opposed to 2.2 And do they, do they want to do it now? Maybe not. They don't show it on the site plan now, but it is a potential and it is prejudicial to the community not to have the Board be aware of what potential could be down the line because if you do want to grant a special exception, and you do want to attach conditions, you might be able to use these facts in order to form a conclusion or form a reason why you are attaching condition to the, to the approval. So, it is entirely relevant and it's, you know, there's no way that the applicant can just come up and say, oh, this is all we're going to do and then not have information relative to what their plans may be or will be or are without going into the evidence before the Board, that's, that's my position.

CHAIR: Okay.

MR. SCHMIDT: Mr., Mr. Garber, first of all, Dr.

Carky has not testified in this case. I think Mr. Holzer is wrong about that.

MR. HOLZER: Well, Mr. Carky did, I don't know --

MR. SCHMIDT: Not testified in this proceeding, he's not testified before the Board of Appeals. In any event, I mean, this is a, this is a group, you, you've heard that this is the Nepalese community, when I say that, I don't mean the corporate structure, but it's the people of Nepalese heritage who live in the greater Baltimore area who may be using this temple at some point in time to worship. There, you've also heard that there's as many as ten thousand people in the Nepalese community in the greater Baltimore area. I, I'm sure there are one or ten or hundred or however many there are who would love to have a huge facility here and who might express that on their Facebook page. But that's not what's being proposed. And the, the inference here, the continued inference, it's not, it's not even an inference, is that my clients are not going to do what they're proposing to do, they're going to do something else, there's no evidence of that other than these, these allegations and it's just so speculative, it's just prejudicial and it doesn't have any probative value. Quite honestly, who cares what one member of the congregation would like to do if he had the authority to do that? Moreover, this Board can impose conditions and restrictions on the grant of any relief and I said before, I

think I argued a couple days ago in a prior hearing, that if the Board indicates that the proposal will be as be shown on the site plan and if there's an amendment to that, the Petitioner would be required to file, the typical process would be a Petition for Special Hearing to amend a prior site plan, it's done frequently as shopping centers may add a new wing, a new store, I mean, it could be anything. That's just an example. Then that's acceptable to the Petitioner. But for this witness and this ongoing inference of oh, they're not going to do what they're saying, they're going to say they do, they're going to build an elderly housing facility, it's just, first of all, it's wrong and secondly, it's prejudicial and I don't think this is reliable evidence. So, with that, I'll be quiet.

CHAIR: Is there any last response from you, Mr. Holzer, proponent of the evidence?

MR. HOLZER: A nice response. Mr. Carky is a founding board member, one of the largest donors --

CHAIR: Is that in evidence as of yet?

MR. HOLZER: Pardon?

CHAIR: Is that in evidence as of yet?

MR. HOLZER: No, not yet. But it is with some of their documentation, I think. It, and it, look, --

CHAIR: Here's where we're at. I, Mr. Schmidt's point about how this ties back to the organization is a fair

one. I understand what you're trying to do, I think for now, it'll just be received but not admitted as of yet. You can still continue with your foundation to show that it should be something that maybe does tie back to the community organization, but if this is as understood, one person's viewpoint, that becomes a bit more attenuated to the matter at hand.

MR. HOLZER: He happens to be the corporate charter signer.

CHAIR: We're, it's not in evidence yet.

MR. HOLZER: All, all right.

CHAIR: You can put --

MR. HOLZER: You're going to be, you're going to be discovering a lot of future evidence in the next couple of cases.

CHAIR: That's fine, but it needs to be in evidence--

MR. HOLZER: Then just mark it for identification.

CHAIR: -- unless you're going to proffer the fact that that's what you're going to do.

MR. HOLZER: Yes.

CHAIR: Is put that in evidence, correct?

MR. HOLZER: I'm going to put --

CHAIR: So, then once that's put in evidence, we can revisit the ruling to see if it should be admitted.

MR. HOLZER: Fine.

CHAIR: All right. So, it's identification only at the moment.

MR. HOLZER: The corporate charter is already in.

CHAIR: The corporate charter is in but we, but it, again, Ms. Murphy?

MR. HOLZER: It's the signatory, it's his e-mail.

CHAIR: Mr. Holzer.

MR. HOLZER: I, I'm sorry. If, if, if delay is the purpose of (inaudible) --

CHAIR: Ms. Murphy, I think it's around, it was day one, I believe, or day two. (inaudible).

MR. SCHMIDT: What are you looking for? I got --

CHAIR: The charter.

MR. HOLZER: I believe it was the motion.

CHAIR: Oh, well, the motion is not substantive evidence.

MR. HOLZER: I understand that.

CHAIR: Right, so that's not in evidence then at this point so that you're going to have to put that in evidence.

BOARD: Oh, wait, Petitioner's five.

CHAIR: Petitioner's five.

MR. SCHMIDT: Petitioner's number five is articles of incorporation in Nepali, I believe.

CHAIR: Okay. It does identify Mr. Shayam Carky as, (inaudible), as trustee of the corporation.

MR. SCHMIDT: Right. Doesn't, doesn't --

CHAIR: So, as to whether or not this --

MR. SCHMIDT: -- change my objection. He's a member of the organization.

CHAIR: I understand. And I also understand this was done May 19th, 2017 on the heels of the purchase of the property and everything else, so we're going to admit it and give it the weight that it's due.

MR. HOLZER: Fine, thank you. The, --

MR. SCHMIDT: So, it is in evidence, okay.

CHAIR: It is now in evidence.

MR. SCHMIDT: Okay, thank you.

CHAIR: Because now there's more of a connection to the organization at issue.

MR. HOLZER: And we'll be doing that (inaudible). Dr. Clark, was there discovered any other information from, from Nepal in regard to the property?

DR. CLARK: I think so.

MR. HOLZER: All right. I'm going to show counsel.

MR. SCHMIDT: Thank you.

MR. HOLZER: Um hm. I've always given you one too many, but.

BOARD: (inaudible).

DR. CLARK: Mr. Holzer, may I have a copy?

MR. HOLZER: Oh, I'm sorry.

CHAIR: No, hold on, before you give it to, before you give him a copy, I want Mr. Schmidt to be able to review it. Protestant's Exhibit 45.

MR. SCHMIDT: It, isn't it forty-six? Forty-five was the Facebook post, isn't it? Or am I --

BOARD: Forty-four was the Facebook post.

CHAIR: I have forty-four as the Facebook post and then forty-five is what was just handed.

MR. SCHMIDT: You are correct, I'm sorry. You're correct, I'm sorry. I wrote it down twice.

BOARD: No? Okay.

MR. SCHMIDT: I apologize.

BOARD: No, we're good.

MR. SCHMIDT: Okay. So, forty-five is this second Facebook post?

MR. HOLZER: Yes.

CHAIR: Mr. Schmidt, whenever you're ready.

MR. SCHMIDT: Okay. I, I've read it.

CHAIR: Okay. Mr. Holzer?

MR. HOLZER: Thank you. Mr. Clark, --

MR. SCHMIDT: I'm sorry, my second page is cut, cut off. I don't know if I just got a bad page or --

MR. HOLZER: I don't have anything on the second page either.

MR. SCHMIDT: Okay.

MR. HOLZER: I think it's just the first page. Mr. Clark, can you tell us how this was produced, when it was produced and whether you were the one that produced it?

DR. CLARK: Yeah, at the bottom of the page is the date stamp, 7/22/2018, okay?

MR. HOLZER: Wait a minute, I'm sorry.

DR. CLARK: At the bottom right hand corner, sorry.

MR. HOLZER: I got it. I see it, okay.

DR. CLARK: 1:46 p.m.

MR. HOLZER: Okay.

DR. CLARK: Again, it's a screen shot and it's from Sanazar Hamranasar (phonetic), I think that's, I'm saying that correctly.

MR. HOLZER: Was he, Shayam Carky's name mentioned?

DR. CLARK: Yes, it is. It says at the top that Mr. Hamranasar, Ham, Hamrosansar, there we go, Hamrosansar was with, shared a post with Shayam Carky and forty-seven others.

MR. HOLZER: Okay.

CHAIR: Sir, I'm sorry, could you please sit down? Thank you.

MR. HOLZER: And what was this posting in, in relationship, or, or ref, in reference to, would be a better way to say it?

DR. CLARK: It was advertising the event to be held from July 28th to August 3rd.

MR. HOLZER: Of what year?

DR. CLARK: Of 2018.

MR. HOLZER: Okay. Without reading the whole thing and I believe both, both the Board and, and counsel have had a chance to read it, what would you like to just highlight, if you will, in regard to what is in the document?

DR. CLARK: Basically, it's, it's the, what do you call the, it's the program of events. Basically, it's the, it's the program of what's going to be conducted at this event. I also think we have a, a cover page showing that Mr. Ham, Hamrosansar is, resides in Katmandu.

MR. HOLZER: Okay.

DR. CLARK: No, I, I don't, I, I, I may be wrong on that, but we, you know, there, there's, but that, that, he's not, he may not be the one.

MR. HOLZER: Okay. Go ahead. What, what are your points?

DR. CLARK: Well, it, it just, you know, they're saying it's going to be music, there's going to be educational activities, there's going to be prayer, you know, it's, it's the program of events.

MR. HOLZER: Well, the bottom three paragraphs starting with Kayla Seatra (phonetic), --

DR. CLARK: Yep.

MR. HOLZER: -- talk about prayers, part of, I would

assume, recitation of verses from sacred books and discourses, discourses --

DR. CLARK: Right.

MR. HOLZER: -- on them. Is, to your recollection, or to your knowledge, was the ALJ's decision in regard to holding religious events and also his subsequent letter from Mr. Kotroco, did that, did those prohibit religious activities until the special exception was approved?

MR. SCHMIDT: Objection.

CHAIR: Please stand.

MR. SCHMIDT: I'm sorry, objection.

CHAIR: What is he basis for the objection?

MR. SCHMIDT: I don't know what the relevance is of, I'm trying to understand how testimony about a fundraiser, which we would acknowledge we had on the property in the summer of 2018, assist this Board in deciding whether a special exception should be granted.

CHAIR: Mr. Holzer?

MR. HOLZER: Very simple. The Administrative Law Judge said in his decision, until the special exception is granted, that there shall be no religious activity. To further enhance that argument, he wrote at the bottom of a letter prepared by Mr. Kotroco, which has been offered as Exhibit 34 by the Petitioners, said that there shall be no religious activity on the site and as a result of that, this shows,

again, not our burden, but it shows again, that they are disregarding what was done by the Administrative Law Judge, how he was, what, what he did and we're still here presenting material that shows that they don't seem to care what limitations are imposed on them. And it's not just for that this time. This goes further. This shows you that, that there is a broader presentation of, of, of what they're planning to do on the site. So, you know, again, it's the same thing as the previous exhibit, it just goes for the same purpose as that.

MR. SCHMIDT: And again, Mr. Holzer misrepresents what the letter said. If one reads, first of all, we're not here on a violation case, no matter what happened before, doesn't matter. This Board is conducting a de novo hearing as to the proposed special exception. What Judge Beverungen's letter says is not that they can't have religious activity from the site --

CHAIR: Why don't you, why don't you read that into the record so it's clear for the record?

MR. SCHMIDT: It says, the owners are free to gather on their property for so long as no religious activities are occurring within the subject building and all other permit requirements, if any, are satisfied. If this is the case, referring to what Mr. Kotroco said about having a fundraiser here, there is no violation of my Order. This owner should be

treated no differently than any other citizen who wishes to host a party, a picnic, or any other social event on their property. That's why they wrote to Judge Beverungen to determine if they could have a fundraising event. My client, in fact, I do not speak Nepalese, I don't know if any members of the panel do, but the word, if I pronounce this correctly, Mr. Ghimire, mahaparan, mahaparan (phonetic) in Nepalese means a fundraiser and that's what they conducted or a religious fundraiser. A fundraiser for the religion. We admit we had a fundraiser there. What that has to do with this case, I still am struggling to figure out but there are multiple reasons why this is improper.

CHAIR: Have you stated all those reasons why it's improper?

MR. SCHMIDT: I believe I've covered the majority of them. Thank you.

MR. HOLZER: I'm not going to respond.

CHAIR: Okay. Well, I will say this. I, I do think there's a problem here because it's not complete, page, it refers to a page two of three, it does look like, assuming page three may be just the tail end of the post, it doesn't have anything substantive on it. Page two appears to have been cut off and so I don't know that it's complete, but even still, I would say that in terms of its relevance, that in, was there music there and all this other stuff, those are issues that

have been in this case. I don't see a reason on that basis to hold this out from evidence. Mr. Holzer, if you could get page two, that would be ideal, so it would be complete. Until then, we will reserve judgment as to whether or not it should be admitted.

MR. HOLZER: Thank you.

MR. SCHMIDT: Mr. Garber, I misunderstood when you asked my, me the question about whether that was all the reasons. I objected to the question that was asked of the witness. I did not hear a motion for this to be admitted, but --

CHAIR: I was under the impression that's what you were objecting to, so I apologize if I got that wrong.

MR. SCHMIDT: With all due respect, you did. I was objecting to the question to this witness. I would agree with all the reasons that you've identified and, and in addition to everything that's been stated, either by you or me, I do not know who the gentleman is who is identified as creating this post. The witness indicates that he believes he lives, I believe, overseas, which makes it more irrelevant, in my view, that, how is it that, that a Facebook post of someone who is not even in this country has relevant, relevance.

CHAIR: Well, if I can address that point? We can move off the relevance point, because it's, it would be clearly relevant by content that, that we have seen so far because it

does discuss the program and it does touch on the testimony that everybody has already testified about. That there was a fundraiser, the activities that went on during the course of that fundraiser, all those things are already in the record. This is yet another example of a description as to what's to occur and the events and what not. I understand that there may be problems in terms of authentication, there may be problems in terms of completeness, to which you've already alluded to, to which I've already stated, so as for now, I'm not going to deny it, but I will say if you could find page two, at least for completeness, completeness, we can actually have a better chance at being able to fully review whether or not it should be admitted. As to the question posed, I do forget what that was at this point.

MR. HOLZER: Whatever it was, I withdraw it.

CHAIR: Fair enough. So, then that objection is resolved.

MR. HOLZER: Okay. Let me see. Can we go to the video and there's a video here, and Dr. Clark, tell us, we're going to go to a video that I have captioned as drums. Can you articulate what that, what we will see or how it was created and what is on it?

DR. CLARK: Okay.

MR. HOLZER: Without going into a long --

DR. CLARK: We are moving into the videos that were

collected from the YouTube pages. And this particular clippet is from DSC-7047, I'm sorry the battle of the crosswalks, and it shows the various drums, the, the fact that they were microphoned.

CHAIR: On Protestant's Exhibit 33, it's DSC dash, underscore, that is, 7047 drum with a capital S?

DR. CLARK: Right, A-4, it will be --

CHAIR: On, on disc A-4?

DR. CLARK: Correct.

CHAIR: And that's about, I'm going to say, seven up from the bottom that's typed?

DR. CLARK: Right.

MR. HOLZER: Okay. Are we prepared to start it? Mary? Start it.

DR. CLARK: All right. Can you stop there, Mary, a second? All right. Now, now --

CHAIR: Just turn down the audio a bunch there.

DR. CLARK: Yeah.

CHAIR: So, we can actually understand.

DR. CLARK: What you can see on this, it is the Facebook page, Facebook page belonging to N. Nepalese, and that it was posted on July 26.

MR. HOLZER: What year?

DR. CLARK: Of 2018, sorry.

CHAIR: Okay. So, let's start with this. Who, was

it you that made this recording?

DR. CLARK: What I did, yes, it was me. And what I did is I took my camera and put it in front of the computer screen and recorded this off the computer screen. And I think, I don't, I think you can see part of my shop off to the left there, I don't, I don't know what that is.

MR. HOLZER: For the record, it also shows 20, July 28, not 26.

DR. CLARK: Oh, July 28, okay. I'm reading from quite a distance away.

CHAIR: All right. Are we all ready?

MR. HOLZER: Okay. Well, excuse me, before we start, can you put it on the same volume that your previous --

CHAIR: Turn, turn it down, please, because I could not, when I first heard that, it was just, it was too much to it. Let's see where this takes us, if this works or not.

MR. HOLZER: Okay.

DR. CLARK: All right. Well, wait a minute, stop right there. Can we stop a second? You see over in the right hand corner?

CHAIR: Yes.

DR. CLARK: All right. The drums and the microphone?

CHAIR: Okay.

DR. CLARK: Okay, that's it. Thank you.

CHAIR: Is that the, I'm sorry, is that the purpose

of you showing the video or do you want to hear the video too?

DR. CLARK: Well, you, you probably want to hear it.

CHAIR: Okay.

MR. HOLZER: Go ahead.

DR. CLARK: Oh, yeah. Mary, that's probably good enough. Okay.

MR. HOLZER: Now, I want to ask you a question because one of the previous witnesses was asked a question by Ms. Murphy in regard to was this inside or was it in the tent. Which was it, can you tell?

DR. CLARK: Comes to the definition of inside, doesn't it? I see grass on the, on the floor, I, I see, I see dirt on the floor, I see the sides of the tent open. Whether or not you want to make the case that inside the tent means inside or not, I don't think that meets any definition in the vernacular for inside.

MR. HOLZER: The, the, the picture that you've shown up to date looks as if there are no walls to the tent.

DR. CLARK: No, there, they, there were, if, if you look at other videos, you can see that they are, in fact, a lot of them are vinyl panels, clear vinyl panels. But then you will also notice in other videos where a number of them are opened up.

MR. HOLZER: Okay.

CHAIR: I need to ask you a pretty basic question

here. How do you know that this, what is depicted on this Facebook page, ties back to Petitioner and the property?

DR. CLARK: Yeah, because there are plenty of pictures of the building.

CHAIR: On this video?

DR. CLARK: In, in, in, in, on, on, on the video from, on the entire video from which this was collected, yes.

CHAIR: When you say the entire video that was collected, is that within the video library?

DR. CLARK: Yes, sir. All right. Now, Mary, maybe, maybe we can, can you just move the scroller and maybe we can see? Just move the, just move the, keep, just move it along. Just keep moving it. It may not be on this one, but keep going. Now, that wasn't what I selected this one for. But I, I, I don't think Petitioners would deny that this is that.

MR. HOLZER: Is this, is there another video somewhere else that would show the relationship with the mansion or the home?

DR. CLARK: There are plenty.

MR. HOLZER: Well, maybe next time we could show those if you can't pull them out right now.

DR. CLARK: No, I can --

CHAIR: Hold on, Mr., Dr. Clark, I do think that that is a, that would be ideal to do because I anticipate without that connection, I can easily foresee some arguments the next

time around.

MR. HOLZER: Sure. So, the next time, at the next hearing, for a single purpose, you will show that tent with that event and its relationship with the mansion or the house, whatever you propose to call it.

DR. CLARK: Yes, sir.

CHAIR: Because I notice on the Facebook page from which the video was taken, it appeared, at least from up here and my lack of familiarity with the language, but it appeared to be certainly in a foreign language, perhaps Nepalese language. So, by English, you wouldn't be able to tell that that is this property. So, that's the connection we need to make between these, between the video --

DR. CLARK: That's fair enough.

CHAIR: Right.

MR. HOLZER: Do you want to make it now? Can you make it? The, Mary said she can make the connection now.

CHAIR: Well, that's, let's do this. At the break, set that up. But we can keep pushing through until, until then.

MR. HOLZER: Sure, sure. It's 2:30, we'd like to get through the direct at least.

CHAIR: That's what I'm thinking. That's why I set that up on the, at the break, (inaudible) better.

MR. HOLZER: Yes, okay. Can you do that, Mary?

Okay. Then let's get back to where, where we were going and the next one, video would be gate versus door, does that?

DR. CLARK: Yeah, yeah, yeah.

MR. HOLZER: You have that?

DR. CLARK: If, if you recall, last week there was testimony that the gate referred to the door of the temple.

MR. HOLZER: Okay.

DR. CLARK: And that's what was meant by the gate will be closed, will be, will be open.

MR. HOLZER: Open.

DR. CLARK: At one, --

MR. HOLZER: At a certain --

DR. CLARK: -- at a certain time.

MR. HOLZER: Yeah.

DR. CLARK: Yeah.

MR. HOLZER: Okay and I don't know whether the Board recalls that testimony or not, but, the Chairman is shaking his head, so let's not go any further (inaudible).

DR. CLARK: Yep.

MR. HOLZER: Let's then look at the video in relationship to the gate versus the door issue.

CHAIR: And on that, on Protestant's Exhibit 33, there is a video entitled DSC_7016, gate open MP4 on disc A-3, is that the one we're referring to as best as you can recall?

MR. HOLZER: Yes, I think that's the one I'm asking

about.

MR. SCHMIDT: It's 7014?

CHAIR: 16.

MR. SCHMIDT: 16, thank you.

CHAIR: DSC_7016 gate open.MP4 on disc A-3.

MR. HOLZER: Can you get it?

CHAIR: Technology is (inaudible).

MR. HOLZER: Yes, it is.

CHAIR: All right, let's, hold on. Since we have this situation going on at the moment, let us take a break now then.

MR. HOLZER: Sure.

CHAIR: This way we can solve whatever problem is going on with the video we're about to play and also cue up the one that would tie the video that was just played to Petitioner and the subject property.

MR. HOLZER: Mary, can you do that?

DR. CLARK: May, may I, do technical --

CHAIR: No, Dr. Clark, there's no, there's no question pending at the moment.

MR. HOLZER: No.

DR. CLARK: No, okay.

(RECORDING PAUSED - 02:29:52 PM)

(ON RECORD - 02:54:55 PM)

CHAIR: This looks different than before. So, I

assume you have something worked out.

MR. HOLZER: Well, we, we finally fixed the machine. It got hung up and, and now we have hopefully what you asked for at the end of the last, before the break.

MR. SCHMIDT: I haven't been asked, but in the interest of trying to move the hearing along, I talked to my clients during the break and they believe that the video was, was of the fundraiser at their property.

CHAIR: Thank you for that because that --

MR. SCHMIDT: Yeah, it, it appears, it appears to be so. With that being said, they also indicated to me that the sound of the video is, sounds like it was increasingly turned up.

CHAIR: I'm going to let you deal with that separately because you're going to have the ability to go review the videos, submit objections and then, of course, --

MR. SCHMIDT: Yeah.

CHAIR: -- on rebuttal, call whatever witnesses you feel you need to address the video stuff.

MR. SCHMIDT: Okay. Well, the only thing I would say about that, Mr. Garber, I'll do it however you would like, but we noticed that it was on volume eighty-six, I think, of zero to a hundred, that you can turn it, they believe the sound is closer, if you would play it at say twenty. I don't know if you want to hear that again but I can deal with that later.

CHAIR: So, if I could --

MR. SCHMIDT: But I'm, I'm willing to agree that that appears to be the Nepali, one of the events at the Nepali fundraiser, several of the people who are here today, I asked them if anyone was there that day and did that look like what it was and they told me yes.

CHAIR: All right. That, I do appreciate that. That does save us substantial time, I anticipate. Mr. Holzer, I assume that's acceptable to you, what has been --

MR. HOLZER: We're still going to show the ones that you asked.

CHAIR: I understand that.

MR. SCHMIDT: And can I do one other housekeeping item? We had sent to the Board the transcripts of the prior days hearings electronically, but I got delivered to me during the break the written transcripts from days one through four. So, here they are.

CHAIR: Okay.

MR. SCHMIDT: If I could give them to Ms. Murphy, you had asked for them.

CHAIR: Yeah, well, what I'm going to do, literally, right now, is I'm going to go just dump them in the back there so they --

BOARD: That's our copies?

MR. SCHMIDT: Yes, yes, ma'am, it is.

BOARD: Okay.

MR. SCHMIDT: And here's another, --

BOARD: Oh, wait, Mr. Garber, there's one more.

MR. SCHMIDT: That's, I think, that's either day one and two and this is three and four, or the other way around.

CHAIR: You know, I haven't been to the gym in a week or two, so this is good.

BOARD: Do you need me to get the door?

CHAIR: No, I got it. Thanks, though.

BOARD: Do you want to pause the record while --

(RECORDING PAUSED - 02:57:20 PM)

(ON RECORD - 02:57:38 PM)

CHAIR: We're good.

MR. SCHMIDT: Ms. Dopkin, are you back, and just so the record is clear. Mr. Garber, you should also have those electronically. I think they were previously sent.

CHAIR: Okay. I just knew that when I picked up this file today, it seemed awfully light compared to what I would have expected had the paper copies been in there.

MR. SCHMIDT: Yes.

CHAIR: Which is why I made sure to remind myself to bring it up. And so, thank you very much, Mr. Schmidt, for all that.

MR. SCHMIDT: Yes.

CHAIR: All right. Mr. Holzer?

MR. HOLZER: Yes, thank you.

CHAIR: I believe we're now to you and with the, I mean, Mr. Schmidt, is it fair to call that a stipulation, that the video that we had seen appears to depict the fundraiser in 2018?

MR. SCHMIDT: Yes, sir. Yes, sir.

CHAIR: I mean, whether it's, whether what date, July 28th or August 3rd, whatever it said on the, I think it was July 28th according to the video, okay.

MR. HOLZER: Dr. Clark, what, what is this next snippet going to show us?

DR. CLARK: Well, it's going to show us more of the event but what is particularly of note here on this very shot, is I believe there was testimony that the volleyball was a soft court, which implies grass or dirt. As you can see, it is, in fact, a hard court.

CHAIR: Let me stop you here real quick before we start this video. Where is it on Protestant's Exhibit 33?

DR. CLARK: It's in the lower left corner going diagonally.

CHAIR: No, no, in the, in the, in your index.

DR. CLARK: Oh, I'm sorry.

CHAIR: So, we can mark it. Is this, this isn't the gate open one, correct?

MR. HOLZER: I think it is.

DR. CLARK: I think it's, yeah, 7016, I think, I believe it is.

CHAIR: That's what this is, okay.

DR. CLARK: I believe it is.

CHAIR: Okay. Just so we know and then once it starts, if you find that it's not that one, by all means, let us know.

DR. CLARK: Yes.

CHAIR: I see that says --

DR. CLARK: All right. So, you see the volleyball court.

CHAIR: Thank you.

DR. CLARK: You, you should also note the embankment, all right? That point, that reflects the sound directly across to my property.

CHAIR: Okay.

DR. CLARK: Okay? Let's fire it up.

(AUDIO PLAYS)

DR. CLARK: Can you stop it there, Mary? And pause it, Mary? Can you pause it? All right. You, you, you get the differential sound levels between the speaker and the amplified sound coming outside the tent.

CHAIR: I, you're going to have to say it again.

DR. CLARK: Yeah, I'm, I'm sorry.

CHAIR: Sorry.

DR. CLARK: All right. You, you have the differential there between the speaker, the narrator, and the sound coming outside, coming out from the tent, the amplified sound coming out. So, that gives you a good sense of what's going on, okay.

MR. HOLZER: And the photograph that we're looking at or the portion of the video that we're looking at right now, the tent was, was placed across the driveway from the main building, is that correct?

DR. CLARK: Yes, sir, that's what it looks like to me.

MR. HOLZER: Okay. Is there any more on this particular that you need to testify to?

DR. CLARK: Yes. What this, this goes to the issue of whether the gate meant the gate at the front or, as Mr. Ghimire testified, the gate was the door to the temple. And in this, you will see that the, that, that the, that the building is open and, in fact, there's a tour --

MR. HOLZER: How, how do we, how do I see that?

DR. CLARK: Well, it's later on down the road here. Mary's going to have to screen, fast forward to it.

MR. HOLZER: Can you do that now?

CHAIR: And forgive me --

DR. CLARK: Yeah, that sounds about, that looks like about right, Mary.

CHAIR: If I can --

DR. CLARK: Mary, you passed it. You had it and then you went past it. Right there, right there. That's plenty, Mary. Mary, that's plenty.

MR. HOLZER: That's enough.

CHAIR: Okay.

MR. HOLZER: All right.

CHAIR: And if I can, where did you get the video from?

DR. CLARK: Again, this was in video 76, 7016, it would have been from one of the E. Nepalese streams, which if we do a crosswalk and if I can find that paper --

CHAIR: All right. Let me, page two of Protestant's Exhibit 31 in reference to DSC_7016, right?

DR. CLARK: Yes, sir.

CHAIR: The second grouping from the bottom, on page two of Exhibit, Protestant's Exhibit 31.

DR. CLARK: Oh, oh, we're on the URL's, yes. It will be on that. I'm sorry. I've got things all over the place here. Oh, got it, got it. Yes, sir. It would be the, it would be the second --

CHAIR: I used the word grouping.

DR. CLARK: -- segment.

CHAIR: Yeah.

DR. CLARK: Of, of that video.

CHAIR: Right.

DR. CLARK: And that references the exact Facebook page that you can get to.

CHAIR: So, second segment of the second grouping from the bottom of page two, Protestant's Exhibit 31, is the DSC dash, or underscore, 7016, gate open on disc A-3?

DR. CLARK: Yes, sir.

CHAIR: Next question.

MR. HOLZER: All right. Are you familiar with, are you familiar with Mr. Beverungen's letter marked Exhibit 34, Petitioner's Exhibit 34?

DR. CLARK: Yes, familiar.

MR. HOLZER: Are you familiar with the second paragraph?

DR. CLARK: I'd be more familiar if I could see it.

CHAIR: That's a, that's a fair request.

MR. HOLZER: Don't, don't tear anything or mess my papers up, but take a look at that.

CHAIR: Well, have you shown Mr. Schmidt?

MR. HOLZER: He already just read it, he's got it.

MR. SCHMIDT: (inaudible).

MR. HOLZER: Yep, he just read what was in there.

CHAIR: Thank you.

DR. CLARK: Okay. You're talking in the bold?

MR. HOLZER: Yes, that was what --

DR. CLARK: I understand the owners are proposing to host a gathering on the property July 29th through August 3rd. I understand the Code Enforcement Bureau contends that the gathering would violate the terms and conditions of my January 22, 2018 Order granting special exception relief. I respectfully disagree and would note those conditions as envisioned by BCZR, Section 50, 502.2 relates solely to the operations of a building for religious worship, which was the relief granted for the special exception case.

MR. HOLZER: What about the next paragraph?

DR. CLARK: Oh, all right. The owners are free to gather on their property so long as no religious activities are occurring within the subject property and all other permit requirements, if any --

MR. SCHMIDT: That's not what it says.

CHAIR: Hold on, hold on. Mr. Schmidt, if you have an objection --

MR. HOLZER: Read it as --

CHAIR: Hold on, everyone.

MR. SCHMIDT: But if he's --

CHAIR: Mr. Schmidt, if you have an objection, stand up. Let me know what the objection is.

MR. SCHMIDT: Mr. Clark, it doesn't say within the subject --

CHAIR: Hold on, it's not a question, this is not,

just, you tell me, you're saying he's not reading --

MR. SCHMIDT: Objection. The witness is not reading the text of this document.

CHAIR: Thank you. All right. We can stop there. Mr. Clark?

DR. CLARK: Okay.

MR. HOLZER: Read it.

CHAIR: Please start that again.

DR. CLARK: Yes. The owners are free to gather on their property so long as no religious activities are occurring within the subject building and all other permit requirements, if any, are satisfied. If this is the case, there is no violation of my owner, Order. The, the owner should be treated no differently than any other citizen who wishes to host a party, picnic or other social event on their property.

MR. HOLZER: Okay. Now, my question is, from the, from your viewing the video that we just saw, what is your comment, relative to the interior, or use of the interior of the building?

DR. CLARK: Looks like people are in it --

MR. SCHMIDT: Objection.

CHAIR: Hold on. Mr. Schmidt, please stand up.

MR. SCHMIDT: I'll withdraw the objection.

CHAIR: Okay. No need to stand up. Mr. Clark, or Dr. Clark, you may answer.

DR. CLARK: It doesn't matter, it doesn't matter. Looks like people are using it.

MR. HOLZER: Okay. People, let me ask you this, people are inside. Do you know what they're doing inside?

DR. CLARK: Not really.

MR. HOLZER: Okay. Was, in, in terms of your prior discussion about gate versus door, now that we've seen that, explain what you think was wrong with the prior testimony of the applicant.

DR. CLARK: Yeah, --

MR. SCHMIDT: Objection. If he can understand the question as to what was wrong with the prior testimony of the applicant.

MR. HOLZER: What does he believe is wrong.

CHAIR: First of all, do you understand the testimony that's being referenced in the question?

DR. CLARK: Yes, sir, I do.

CHAIR: And I understand that you have a different opinion, based on the question and your immediate answer, is that correct?

DR. CLARK: Yes, sir, I do.

CHAIR: What is it within the video that tells you that the, your recollection of the testimony is incorrect when you see the video?

DR. CLARK: My recollection is that last week, Mr.

Ghimire made a point, made a very specific point, that the gate referred to in one of the e-mails was the gate to the temple, not the gate of the property. This video shows that the temple is open, so even if he was saying the gate was the gate to the temple, it just seems to contradict that.

CHAIR: Okay.

MR. HOLZER: Okay. Are there any more issues in regard to this, so we can move on to the next video?

DR. CLARK: I think we can move on.

MR. HOLZER: Okay. As I understand it, the disc has to be changed and that'll take a second.

CHAIR: Do we have other questions we can ask him in the interim?

MR. HOLZER: She can get it done before I --

CHAIR: Fair enough.

MR. HOLZER: And now, could you tell us what, what numbers and so forth are we going to be looking at?

DR. CLARK: I need to see it. Okay. Mary, --

CHAIR: Hold that.

DR. CLARK: Okay. DSC_7040-A, DSC_7040, yep, that will be A-4. I feel like I'm calling bingo.

CHAIR: Well, I need to point out that there are four videos --

DR. CLARK: Yeah, the, the third, the third one --

CHAIR: Hold on, hold on. Protestant's Exhibit 33

are four, pre, prefix of DSC_7040.

DR. CLARK: Okay, that, that, hm.

CHAIR: Do you know by looking at the, at the picture that's on the screen, --

DR. CLARK: Can, can, can I, can I see, can you go back to the file, Mary? Yes, thank you. I'm sorry.

CHAIR: That's okay. We just need to make sure it's clear for the record.

DR. CLARK: Can I go, can I approach the screen and read the file information?

CHAIR: Yes.

DR. CLARK: I think this is going to be the one that demonstrates the amplification of sound.

MR. HOLZER: All right and could you give --

CHAIR: So, once again, when we start, if you can, if it's not that one, can you please let us know?

DR. CLARK: I will, sir.

CHAIR: Thank you. Sorry, Mr. Holzer.

MR. HOLZER: No, I just wanted to make sure you were satisfied that we had the right identification.

CHAIR: Right, well, it's also for, really for the record.

MR. HOLZER: Yes.

CHAIR: So, it can be tracked by everybody.

MR. HOLZER: Could you explain what this, what this

is supposed to be showing?

DR. CLARK: It's supposed to be showing how the amplifiers were used and all the mics that were there.

MR. HOLZER: Again, this was not something you created, but was what?

DR. CLARK: This was on YouTube, 7040, 7040, oh, I hate this system.

CHAIR: I have it on DSC_7040 on page two.

DR. CLARK: Yes, yes, yes, yes, yes. I see it. Third URL down ending in 9890, it'll be the last video segment.

(AUDIO PLAYS)

DR. CLARK: That's enough, Mary. Okay. So, what you, again, what you can detect off of that is the background noise versus the amplification. You know, the, the, the, the relative differences between the two sound levels is pretty significant, all right? So, it's not like the whole thing was boosted.

MR. HOLZER: Is there anything else that this video depicts --

DR. CLARK: It shows, it shows the sophisticated micing, I believe Mr. Ghimire testified there was one mic. And you can see that all of the musicians have mics in front of them. So, --

MR. HOLZER: When you say that, what, I, I see the one gentleman on the right hand side --

CHAIR: Mr. Holzer?

MR. HOLZER: I can't --

CHAIR: I understand but that should come from the witness.

MR. HOLZER: Okay. I just want, point out where the microphones that you can identify are for me.

DR. CLARK: Okay. There is a man sitting on the right who has a mic in front, a mic in front of his mouth so that his voice is amplified. You, you can see and, you can see a mic, can, can I approach the screen?

CHAIR: Dr. Clark, why don't you go up to the screen and point out all the mic, microphones that --

DR. CLARK: Thank, thank, thank, yeah. Thank you.

CHAIR: -- you see.

BOARD: Here's a pointer.

CHAIR: I mean, sitting here, I think I can identify, but it would be better if you go up and point out --

DR. CLARK: Right, right.

CHAIR: -- which you say are microphones.

DR. CLARK: Microphone, microphone, microphone, microphone, I don't know what that is.

CHAIR: Okay. So, we are pointing to four microphones and starting from the right side of the photo in front of the second right figure, one in front of his, that gentleman's mouth, another one to the, starting, starting from

the right, to the left of that one, just slightly below and, you know, the fourth one being just slightly above to the left of the person, the third one who is below the other three.

MR. HOLZER: That's correct. Thank you. Is there anything else that one needs to point out on this, on this video before we leave it?

DR. CLARK: Yeah, I guess.

MR. HOLZER: Because I see some things.

DR. CLARK: Down here you see the second kind of drum, the smaller drum and then here you see the tambourine and there's a microphone right here, going to the drum.

CHAIR: So, on the right side center of the photo, you, where you point out the drums, there's a microphone adjacent to those drums.

MR. HOLZER: Is that the end of your testimony in regard to this video?

DR. CLARK: I mean, people are having a good time, you know.

MR. HOLZER: Anything else you want to testify to about the video?

DR. CLARK: No, no.

MR. HOLZER: Okay. Let's move on. Let's, that, that was the amplification.

CHAIR: And for recordkeeping, I had that down as the seventh video played at the eighth (inaudible).

MR. HOLZER: Okay. Which one is next? This? Okay. In the prior testimony, you heard that there, from the applicant, you heard that there was a cultural center on Taylor Avenue, is that correct?

DR. CLARK: Yes, sir.

MR. HOLZER: All right. Did you take a look at that? Do you have any information in regard to that?

DR. CLARK: Yes, sir, we do.

MR. SCHMIDT: Objection. I believe, Chairman Garber, that you ruled that you were not going to be hearing testimony about sites other than this property. I believe, that was, there was, there was an objection that I made before and if we're going to discuss the Nepali Cultural Center on Taylor Avenue, I don't believe that's appropriate. Thank you.

CHAIR: Mr. Holzer?

MR. HOLZER: Of course it's appropriate because they suggested in their testimony that all cultural events would be held at the cultural center and the religious events held on the subject site. That is the direct testimony that they gave last hearing. That sounded to me like we ought to know for sure whether that was correct or not. So, we, I sent the witness to Taylor Avenue to take a look at what they were proposing to be their cultural center.

CHAIR: Now, before you get into the substance of what's to follow, so I understand that this witness went over

to the Taylor site and I anticipate that there's going to be some type of evidence presented as to activities at that site?

MR. HOLZER: No.

CHAIR: Okay.

MR. HOLZER: Just, just the site itself.

CHAIR: That it's a, I'm sorry, its existence?

MR. HOLZER: Existence and photographs and we have conducted, we have checked with the County and we know some of the, (inaudible) dimensions or some of the --

CHAIR: Okay. Overruled. You may, you may continue.

MR. HOLZER: Thank you, thank you. Dr. Clark, did, did you visit the subject site or did someone else visit the subject site?

CHAIR: Let's identify the subject site. Is the subject site --

MR. SCHMIDT: Is the subject site the --

CHAIR: Mr., Mr. Schmidt? We've been calling the property --

MR. HOLZER: 2906 Taylor Avenue.

MR. SCHMIDT: Oh, okay, that's the subject site.

CHAIR: Okay.

MR. HOLZER: That's the --

CHAIR: The community site previously identified as 2906 Taylor Avenue?

MR. HOLZER: Yes.

CHAIR: Okay.

MR. SCHMIDT: Mr. Garber, just note a continuing objection to this line.

CHAIR: Yes, will do.

MR. SCHMIDT: Thank you.

MR. HOLZER: I asked the question, do you have an answer?

DR. CLARK: I visited the subject site yesterday as a matter of fact.

MR. HOLZER: Okay.

CHAIR: I just want to, again, be careful using the phrase subject site, that's how we've been referring to the property on Harford Road.

DR. CLARK: The, the prop, right.

MR. HOLZER: The Taylor Avenue property.

DR. CLARK: The Taylor, I visited the Taylor Avenue property yesterday.

MR. HOLZER: That was referred to in the testimony of the applicants at the last hearing date?

DR. CLARK: Yes, sir.

MR. HOLZER: Okay and did you take any photographs?

DR. CLARK: I did not.

MR. HOLZER: Who did?

DR. CLARK: Mary.

MR. HOLZER: Did she accompany you?

DR. CLARK: No.

MR. HOLZER: Okay. She went on a separate occasion?

DR. CLARK: She went on a separate occasion.

MR. HOLZER: Okay.

MR. SCHMIDT: Well, then I'm going to object if this witness did not take these photographs, for reasons of authenticity. We're going to play this game.

CHAIR: Well, Mr. Schmidt, you are certainly aware that there are other ways photos can be authenticated. You don't necessarily need the person who took the photos. If Mr. Holzer does it by one of those other methods, that still could be properly authenticated. So, we're going to wait on your objection pending to see what Mr. Holzer does in terms of his questioning.

MR. SCHMIDT: Thank you, sir.

MR. HOLZER: And I think there may be more than one way of doing it but. I am going to, for now, since all these are stapled together, I recognize that he's objected to the photograph, but I'm going to leave that attached to the other documents, just so that if it ultimately comes in, I don't have, you don't have extra exhibits.

CHAIR: Whatever you think is best, Mr. Holzer.

MR. HOLZER: Okay.

CHAIR: Just give Mr. Schmidt the opportunity to review them prior to giving it to the witness.

MR. HOLZER: And I'm going to leave this here, upside down.

MR. SCHMIDT: What exhibit number is this, Ms. Murphy?

BOARD: Forty-six.

MR. SCHMIDT: Thank you.

MR. HOLZER: Are you finished?

CHAIR: Mr. Schmidt, you've reviewed forty-six?

MR. SCHMIDT: Oh, have I looked at the picture, yes. I had objected to it already and I thought you overruled my objection.

CHAIR: Okay. We were waiting for you to review before he starts with the witness.

MR. SCHMIDT: Oh, I apologize. I have reviewed, yes.

CHAIR: Thank you.

MR. HOLZER: Now, you can now look at this exhibit.

DR. CLARK: Okay.

MR. HOLZER: First of all, the covered photograph on page one, you actually visited the site, did you not?

DR. CLARK: Yes, I drove past it, yes.

MR. HOLZER: Did you see this building that's depicted on page one?

DR. CLARK: I did.

MR. HOLZER: Did you read the sign?

DR. CLARK: I did.

CHAIR: What did the sign say?

DR. CLARK: Community Center, I forget exactly, but a Community Center.

MR. HOLZER: Okay and the second page, could you refer to that? What is that and how did you obtain it?

DR. CLARK: This was taken off of Zillow and it shows the, the building, when it was for sale, well, shortly after, on Taylor Ave.

MR. HOLZER: Okay and what about page three?

DR. CLARK: Page three shows it, the, the square footage of the lot.

MR. HOLZER: On the left hand side?

DR. CLARK: Right, of the lot.

MR. HOLZER: Okay.

DR. CLARK: And then down below, it gives the dimensions of the floors.

CHAIR: My page three, it seems to be cut off. I don't have full (inaudible).

MR. HOLZER: Cut, cut off where?

CHAIR: No. Yeah, this is the exact same way mine appears but --

BOARD: (inaudible).

CHAIR: Right, nor does the square footage show.

DR. CLARK: Oh, the, the square footage shows of the lot, shows up, well, yeah, no, that's cut off, you're right.

MR. HOLZER: Okay.

CHAIR: Well, be that as it may, let's do this. So, sir, you drove, you visited the site by driving past what's depicted in 46-A, correct, the photograph?

DR. CLARK: Correct. I, well, no, I didn't take the photograph.

CHAIR: I didn't ask you if you took the photograph. You've driven by, you've driven by that building, correct?

DR. CLARK: Yes, sir.

CHAIR: When you drove by the building, you, let me ask, do you recognize the sign out front of the building?

DR. CLARK: Yes, I do.

CHAIR: And when you drove past, was that sign out front of the building?

DR. CLARK: Yes.

CHAIR: Okay. So, does the, what's depicted in 46-A fairly and accurately depict the building as you observed it when you drove past?

DR. CLARK: Yes, it does.

MR. HOLZER: Okay. Can I proceed?

CHAIR: Yes.

MR. HOLZER: Okay. Also, on, on page, I've lost, page three.

DR. CLARK: Yep.

MR. HOLZER: It also says that nine parking spots are

provided for the property, is that correct?

DR. CLARK: That is correct.

CHAIR: I'm going to, we, I don't think we can go down that road at the moment because, again, it's cut off. The nine --

MR. HOLZER: It's on there.

CHAIR: I, I see it says nine and it says the word parking spot the next line. I can't say that I know that those two run together.

MR. HOLZER: Oh, I can. Mr. Chairman, it's a comma after alarm system, then it's nine parking spots period. There's no doubt that that's what it is. You, you --

CHAIR: I am under the impression that this page is not complete. Page three is, what appears to me, to not be complete.

MR. HOLZER: All right. What I'll plan to do, this is, we will get at the next hearing a copy, a full copy of page three, to satisfy the Board. But I will tell you as a proffer that it's nine parking spaces.

CHAIR: There well may be nine parking spaces, but the problem is when it appears to be cut off and I don't have all the information in front of me to make a determination one way or the other, you could very well be correct.

MR. HOLZER: I am correct. I'm sorry, I mean, I don't be, I don't want to be rude.

CHAIR: It's, Mr. Holzer, it's okay.

MR. HOLZER: But the real --

CHAIR: Mr. Holzer, it's okay. You're going to provide it, you know, next time to show us to satisfaction that it's a complete page, that's a different matter. I've already noted my problem with it in the sense of its completeness. We already have 46-A established so it's B and C if, if C is part of B, looks like two pages, correct?

MR. HOLZER: And I'm going to get more for you. The occupancy permit is for twenty-three people and I will get the documentation for that, even though that's not on page two.

CHAIR: Very well.

MR. HOLZER: We'll get that from the County. Okay. And oh, I'm sorry, did you say that the square footage, you didn't accept at this point?

CHAIR: Well, there is no square footage identified on page three, which Dr. Clark even acknowledged.

MR. HOLZER: Okay. Then I'll also get you documentation that it's two thousand two hundred and fifty square foot. So, I'll present all that at the subsequent hearing.

CHAIR: Very well. So, as for now, we can admit 46-A, but we cannot B and C at the moment. So, they will be held in identification. Mr. Schmidt, I understand you have a continuing line of objection, one way or another, as to those

questions?

MR. SCHMIDT: Yes, sir, that's correct.

MR. HOLZER: He opened the door to the cultural center so.

CHAIR: Mr. Holzer? I'm not --

MR. HOLZER: I'm entitled --

CHAIR: We were, we've already resolved that.

MR. HOLZER: I, I know, but, I know, but I understand that, that it's 3:30 and we're not even half way through this testimony so, I, I apologize, but the Board, because of --

CHAIR: That's okay.

MR. HOLZER: -- these interplays, this Board is not going to be able to finish, I don't even think I'm going to finish the, the direct today.

CHAIR: It is what it is. And it's okay. You know what? If it takes longer, it takes longer.

MR. HOLZER: Okay.

CHAIR: But the fact of the matter is, we're trying to get through this.

MR. HOLZER: Right.

CHAIR: So, let's, we'll try to keep going as much as we can.

MR. HOLZER: Okay. Mindful that I have to drive a thousand miles starting this evening. I know that's off the record. Okay. Now, let me go back. There is a portion of

your testimony that deals with NACCB Inc., is that correct?

DR. CLARK: Yes, sir.

MR. HOLZER: All right. I want to, I want to direct your attention to the Nepali American Cultural Center and what your comments are in regard to the articles of incorporation and various statements that may have been made, or were made by the leadership.

DR. CLARK: Yes, sir.

MR. HOLZER: Okay. Setting that up as the area of questioning now, is there anything you need to testify to in regard to the articles of incorporation since, since they are already in the record, as I believe it to be?

DR. CLARK: I would like a copy.

MR. HOLZER: All right.

CHAIR: Petitioner's Exhibit 5.

MR. HOLZER: I don't know whether, (inaudible).

CHAIR: You want us to give the exhibit copy for purposes of the testimony?

MR. HOLZER: Yeah, number five? Thank you.

DR. CLARK: And do I give it back to you or can I give it directly?

MR. HOLZER: Please be quiet.

CHAIR: Yeah, Dr. Clark, if you're handed an exhibit, we need the exhibit back.

MR. HOLZER: Okay. It's marked as the Petitioner's

exhibit number five. I hand this to you and please you're your comments related to that document alone and what your response to it is. You may begin.

DR. CLARK: Yeah, first of all, I would like to point out that the name of the organization is Nepali American Cultural Center. Their purpose, which Mr. Ghimire could not remember last week, is to promote religious, educational, social and cultural aspects of Hinduism. To participate and coordinate in activities with other institutions with like-minded objectives. To promote peace and harmony among all members of the corporations.

CHAIR: Dr. Clark, we can read that document.

DR. CLARK: Okay.

CHAIR: Yeah.

DR. CLARK: Okay.

CHAIR: You want to tell us something about the articles of incorporation though?

DR. CLARK: Well, just that that is what they, what they incorporated as and it has listed on it who the primary members are, the, the primary, the board of trustees are, or, or were at the time. And that's about it.

CHAIR: If you don't mind handing me the exhibit then --

DR. CLARK: Oh, oh, yeah, yeah, can I --

CHAIR: Is there something else you wanted to bring

up?

DR. CLARK: No, no, no.

CHAIR: Okay, thank you.

MR. HOLZER: And then, are there statements that have been made by the leadership, either on their Facebook or postings of things that you wanted to bring to the Board's attention?

DR. CLARK: Yes, there were.

MR. HOLZER: Okay and do you, okay.

CHAIR: Thank you.

MR. HOLZER: No, you can't see it until Mr. Schmidt has had an opportunity.

CHAIR: Mr. Schmidt, you ready?

MR. SCHMIDT: Yeah, I've, I've reviewed it, yes.

CHAIR: Okay. Mr. Holzer, whenever you're ready.

MR. HOLZER: What, if any, purpose did you have in providing this document, I'm sorry, and I forgot what number it was marked?

CHAIR: Forty-seven.

MR. HOLZER: Forty-seven, thank you.

MR. SCHMIDT: Objection. There's no foundation for this and I particularly say that because it's, it's not been established that this is the website of my client and my client would, in fact, dispute that this is their website.

MR. HOLZER: Okay. Well, let me go back and just

ask, now that the witness can, can finally see it --

CHAIR: So, if I may, I'll sustain the objection for now so you can lay your foundation.

MR. HOLZER: Yes. Thanks. How did you get this document and, just how did you get it first?

DR. CLARK: Yeah, this was provided to me by Ms. Minor.

MR. HOLZER: Okay and she'll be testifying at the next hearing, is that correct?

DR. CLARK: Correct.

MR. HOLZER: Okay and do you know where she got it?

DR. CLARK: Well, I know it's a screen shot. I know she went to NACC Baltimore.org.

MR. SCHMIDT: Objection.

MR. HOLZER: How can you tell --

MR. SCHMIDT: Just objection, I mean, --

CHAIR: I'm with you. Mr. Schmidt, --

MR. SCHMIDT: -- this witness can't authenticate this.

CHAIR: Mr. Schmidt, I believe he's still trying to lay the foundation. We're not at the point of even remotely close to being admitted or substantive testimony on it. I understood these questions to be foundation.

MR. HOLZER: That's correct. And I'm looking at the document that's marked as forty-seven and it says

www.naccbaltimore.org. Do you recognize that --

DR. CLARK: URL? Yes.

MR. HOLZER: Yes.

DR. CLARK: I do.

MR. HOLZER: What is it?

DR. CLARK: Well, as you can see, the symbol in the center, in the upper center of the page.

MR. HOLZER: Yes?

DR. CLARK: Is the same symbol you have seen or will see on other promotional videos. I don't know if we can recognize any of the people in the photo who have, or whether or not they have been attending these hearings.

CHAIR: Well, okay, so, here's where we're at, what I'm hearing thus far with the questions. This is a document provided by Ms. Miner, who will be testifying the next time around. She entered, as best as we can tell, www.NACCbaltimore.org. There seems to be a question as to whether or not this is or not the website of Petitioner. We're still not at the point of connecting it to Petitioner.

MR. HOLZER: I don't understand. And apparently, for the record, they are denying that this is their website.

CHAIR: And I don't believe the question is a matter of denial as much as foundational for purposes of evidence, what evidence is there to show that this is, in fact, Petitioner's website, that is, this speaks for Petitioner.

MR. HOLZER: That's what Mr. Schmidt said was that this is not their website or not their document. And I just want that on the record so that when we do come in with Ms. Miner, we will be able to make the connection and show that that is a misrepresentation.

MR. SCHMIDT: I'll make it very clear for you, Mr. Holzer. It's not their document.

CHAIR: Thank you.

MR. HOLZER: Thank you.

CHAIR: Okay.

MR. HOLZER: Okay.

CHAIR: So, I'm going to sustain the objection for now, with the right, of course, for you to be able to come back so that Mr., Dr. Clark will be back on the stand again the next time we're here. So, perhaps after that foundation is laid, we can get back into the content of Exhibit 47.

MR. HOLZER: That's fine. I think we need about three more days, not two more days, after this.

CHAIR: Mr. Holzer, if that's what you need for your case, then that's what you need for your case.

MR. HOLZER: And it's going to be all presented.

CHAIR: Okay. All right. Mr. Clark, Dr. Clark, there, there have been various numbers in regard to events and people that either have there or have potential to be as part of this institution or whatever. Do you have any comment in

regard to that?

DR. CLARK: I've seen numbers from ten thousand to twenty thousand.

MR. HOLZER: Okay.

DR. CLARK: And I believe in one of Mr. Carky's posts, he says twenty thousand members living in Baltimore.

MR. HOLZER: Okay. Do we have any documentation that you obtained to show that?

DR. CLARK: I think we do.

MR. HOLZER: Pardon?

DR. CLARK: I think we do.

MR. HOLZER: Okay. Well, this is already marked as Protestant's Exhibit 25. You should have it. No, I'm not going to give it to you now.

CHAIR: Well, wait a minute, hold on.

MR. HOLZER: It's Protestant's Exhibit 25.

CHAIR: Let's make sure that was admitted before anything else.

BOARD: Facebook page of Mr. Carky?

DR. CLARK: Yes.

MR. HOLZER: Yes.

BOARD: 12/21/17?

MR. HOLZER: Yes.

DR. CLARK: Um hm.

CHAIR: Is that admitted? Okay.

MR. HOLZER: Yep.

CHAIR: And, Mr. Schmidt, do you have that in front of you?

MR. SCHMIDT: I don't, I don't know that I, I don't know that I do.

MR. HOLZER: Here.

MR. SCHMIDT: If you have a copy, Mr. Holzer, I --

MR. HOLZER: Well, not for you to keep but you're free to look at it.

MR. SCHMIDT: Certainly. I will return it, I'll give you my watch if you would like it as collateral. Oh, I remember this one.

MR. HOLZER: Right.

CHAIR: Okay.

MR. HOLZER: Okay?

MR. SCHMIDT: Yes, sir.

MR. HOLZER: Thanks.

MR. SCHMIDT: Is there a question?

MR. HOLZER: Yeah.

MR. SCHMIDT: Oh, okay.

MR. HOLZER: Are you okay?

MR. SCHMIDT: I've seen it, yes, sir.

MR. HOLZER: Okay. I show you what has been marked previously as Protestant's twenty-five. I believe there is probably only one or two points that you need to make out of

that.

DR. CLARK: Yes, sir.

MR. HOLZER: What are they, please?

DR. CLARK: Mr. Carky states that there are fifteen thousand Nepali, people from Nepali origin in Baltimore. The growth of the, of the population Nepalis in Baltimore has been phenomenal in the last decade. What was barely a thousand a decade ago, it has mushroomed to fifteen thousand.

MR. HOLZER: Okay. Is there any other area in terms of his, look at the bottom of the page.

DR. CLARK: Yeah, I see it. At, at the, the second, the second paragraph from the bottom, initiate all programs and services like health camps, yoga, interfaith collaboration in the area, soup kitchen and contribute to the overall well-being of the neighborhood.

MR. HOLZER: Okay. Thank you. And this is the same Shayman Carky that some of the previous exhibits related to, is that correct?

DR. CLARK: Yes, he's on the board of trustees.

MR. HOLZER: All right. Are there any other documents that you're aware of that related to the proposed number of the congregation or the people that could be attending the subject site?

DR. CLARK: Well, there has, has been testimony that there are a hundred and fifty people who would worship there.

And then there has also been testimony that a thousand people are members of the cultural center. And so, I guess, I wonder what the other eight hundred and fifty are getting out of that membership and how they prevent a thousand people from showing up at once.

MR. HOLZER: You only have the question, you don't have an answer, do you?

DR. CLARK: No.

MR. HOLZER: Okay. So, there is a, is there a potential for either all the Nepalese in, in the Baltimore County area of fifteen thousand to want to attend one of the religious ceremonies or one of the festivals or is there also the potential for eight hundred and fifty persons who are members to want to attend to an event?

MR. SCHMIDT: Objection.

CHAIR: Basis?

MR. SCHMIDT: It's so speculative and I mean, how can this, how can this witness even begin to formulate testimony on this? The question asks for such a speculative answer, I guess there's, anything is possible. I'll stipulate that anything in the world is possible here. This just, Mr. Garber, continues to go along the line of the witness, at least in my view, would like to offer legal argument as to why this case should be denied as opposed to what I understood him to be, to be a fact witness and talk about the factors which impact him as a

resident.

CHAIR: Mr. Holzer?

MR. SCHMIDT: And we just continue to go down this road.

MR. HOLZER: I'll ask it in another way. Are you worried that the potential number of fifteen thousand people or eight hundred and fifty people that have been designated or, or indicated by the applicant here, are you worried that they all may want to attend at various points or different points?

MR. SCHMIDT: And objection. There's still no foundation for that.

CHAIR: I think the concern is the number of people to be on the property and his concern as to the effects of that upon he and the other Dr. Clark.

DR. CLARK: My response to, to this whole last interchange is that they, they claim a membership of a thousand, all right? When you're a member of an organization, you, that, that gives you entitlement to use the resources of that organization, whether it's a YMCA, --

CHAIR: You don't have to identify other organizations. (inaudible).

DR. CLARK: Yeah, but, but, okay, okay, okay. And so, I, yes, to me, it's perfectly reasonable to, to, to wonder how they will control a thousand people from using the property at one time and that does not, and, and, and that, and that

precludes the whole thing of having three to five hundred people a day for a week for an event.

MR. SCHMIDT: Just, just objection. For the record, and the testimony, there's no foundation because the testimony was not a thousand people as members, it was there could be donors, including people from all over the world, could be a thousand. So, there's no foundation for this. Mr., Dr. Clark heard --

CHAIR: Mr. Schmidt, the evidence --

MR. SCHMIDT: -- heard what he wanted to hear and then he's basing it on something that's not in the record.

CHAIR: Mr. Schmidt, I, the evidence is being issued for what it is, and that is, how do you, what do you do in the event that there is a surge of people at the property. So, again, it'll go to the weight. So, objection overruled on that basis.

MR. SCHMIDT: Thank you.

MR. HOLZER: Mr. Chairman, I think it's, it's about ten minutes of four. I've got another, at least, a day's worth of testimony here.

DR. CLARK: Oh, God.

CHAIR: Okay.

MR. HOLZER: I, I believe, this is my own belief, that I'm going to need all that time that, on the 29th, to finish with this witness, to get the documentation necessary to

allow the Board to consider whether to permit entry into the record or to deny it.

CHAIR: I would suggest, yes, lining up the foundational questions in advance --

MR. HOLZER: Yes.

CHAIR: -- of the next hearing to fast, you know, make this a more efficient --

MR. HOLZER: And I also think --

CHAIR: -- proceeding.

MR. HOLZER: Excuse me. I also think that because of the number of, of objections or confusion or the questions over documents and so forth, that maybe Mr. Schmidt would be better served if the rest of this presentation was delayed so that he would have until the 29th of November to look at the disc, look at the information, so that we could move a lot faster than we've been able to move today.

CHAIR: If I can offer a suggestion as to that? Number one, we already have the agreement in place as to how to handle the videos in terms of objections and everything in, that was offered before in the hopes that we can resolve some of these issues ahead of time, recognizing that Dr. Clark would likely still be called as a witness on the 29th.

MR. HOLZER: Yes, oh, definitely.

CHAIR: Even post, even post objections.

MR. HOLZER: Yes.

CHAIR: So, leaving that part aside, how about, I know you're going to be going away for a two week period time, is there a way that you can come to a stipulation as to the, the authentication of certain exhibits, photographs, videos, anything else, and then perhaps we can avoid, --

MR. HOLZER: I could do that when I get back on the, I'm getting back on the 19th, but the 20th really will be the first day --

CHAIR: And that's fine. I would strongly recommend it, because that would make this proceeding move faster.

MR. HOLZER: Well, he's going to have the opportunity to look at all the videos, to look at the documentation that is, that is on those documents. I have a feeling this afternoon, since the last break, that really what we're doing is we are wasting a lot of time. As you said, I am supposed to leave tonight on vacation for two weeks and I don't know where we're going, but I hate to keep wasting time like we're wasting over these objections and so forth. So, as a matter of personal request, I would like to be able to end soon as opposed to going into five, six or seven o'clock at night.

CHAIR: That's fine. I would just suggest that we get through as much as we possibly can today, just so there's less to do next time.

MR. HOLZER: I understand.

CHAIR: And I would suggest also, with respect to the

objections that have been made by Mr. Schmidt and those, and maybe you picked up on this with ones being overruled and ones being sustained and my explanations for anything in between, what in particular I'm looking for is something that ties a particular exhibit to the organization or the particular witness and I know Dr. Clark, while he has done certainly a lot of work in this regard, there's only a, a certain amount of information --

MR. HOLZER: There are doubts.

CHAIR: -- he may be able to provide.

MR. HOLZER: Yes.

CHAIR: And then perhaps those foundations could be laid through other witnesses or the, the preferred way is to find out what stipulations there may be among counsel to further that exercise so that we don't have to waste as much time as you, but with respect to objections and then me trying to hear out everybody on their objections and then coming to some ruling.

MR. HOLZER: I, I agree.

CHAIR: And so, there are, and I'll direct it to Dr. Clark too, because I know that Dr. Clark did all this work. So, it's a matter of trying to figure out for the sake of argument, I will use by way of example, we'll take Protestant's Exhibit 47, now how do we know that this page is, in fact, the same organization as Petitioner? There should be some

copyright or something, other information on the bottom of the website that may indicate who is the owner of that website. There may be some other piece of literature out there that identifies a website for the organization. Those are the, that's the missing gap here between the documentation and whether or not it could be used in evidence. You know, when it comes to critiquing the Petitioner's evidence, some of these arguments are best reserved for Mr. Holzer, who has done this, you know, certainly more, more than enough and certainly, you know, has a well, well documented career doing it all. So, some of this is better served coming from Mr. Holzer as opposed to a critique perhaps of Mr. Calagero. Now, so, that just gives you all an explanation --

MR. HOLZER: Yes.

CHAIR: -- as to --

MR. HOLZER: Yes.

CHAIR: -- where we are and what to do with these ex, these objections going forward and how we can resolve them, or at least minimize them in advance of the next hearing day.

MR. HOLZER: Yes, and, and because of your presentation the other day, we have been able to make that connection on some of the documents --

CHAIR: Yes.

MR. HOLZER: -- that were not admitted. So, I believe that is a wise position and it would certainly save us

a lot of time and save the Board the, the, the, the time.

CHAIR: It's really --

MR. HOLZER: I, I just think we're, we're really, I mean, I understand Mr. Schmidt's position. He's going to object to whatever he can object to and I would do the same thing. But we really do need to, to try to get through this and I, when I get back, I'd be glad to try to, not all, but some stipulations.

CHAIR: I recognize not everything is going to be resolved, however, but when it comes to things like photographs and the videos, that's a good example of it.

MR. HOLZER: Yes.

CHAIR: That is, is this the property? As long as that's the property, then okay.

MR. HOLZER: Yes.

CHAIR: Then auth, you know, authentication does not become a problem for the Board.

MR. HOLZER: Right.

CHAIR: And then there may be other objections that maybe can't be resolved, but then we'll deal with that accordingly. Mr. Schmidt, you want to say something too?

MR. SCHMIDT: Yes, sir. Mr. Garber and members of the Board, I, I certainly am not objecting just for objection's sake. I'm objecting to items that I believe are improper in this case. I'm trying to protect the record of this case, not

only in the event of any appeal or not only, obviously, for your consideration but any other proceedings that might ever result as, as a result or springing out of this case so my objections are not to delay this. To the contrary, I think my behavior has reflected that I stipulated to the one video and no one even asked me to stipulate it, just to get through that. If Mr. Holzer wants to provide to me any of the documents that he intends on offering, I will be more than, give them to me today, he's got a stack of folders over there, and I'll look at them and tell him which ones I would agree to and which ones I wouldn't. I'll leave that up to him. I certainly can't require it and you can't require it.

CHAIR: Exactly.

MR. SCHMIDT: But the fact of the matter is, I mean, I've gotten seventy some hours of video about twenty-four hours ago.

CHAIR: And, and again, --

MR. SCHMIDT: And it's just, --

CHAIR: On that point, you'll have your ability to, to, to --

MR. SCHMIDT: I will.

CHAIR: -- review that, you know, before the November 29th date.

MR. SCHMIDT: I absolutely will. But this --

CHAIR: That's why we structured the objections and

everything the way we did, so you would have that ability to do so and, and be able to respond in a reasonable time frame.

MR. SCHMIDT: But I, I just merely wanted to address at least the inference that I was delaying this proceeding and objecting for objects sake only or for reasons of delay. Nothing would please me more than to conclude this case as quickly as possible.

CHAIR: Thank you, Mr. Schmidt. All right.

MR. HOLZER: I think he's, I, I wasn't trying to, to do that. I was just recognizing how this afternoon has gone. I, I was just recognizing how this afternoon has gone.

CHAIR: And I appreciate that. So, I think I, we've said our piece in terms of you have an, everyone here has a better idea of what the problems have been slowing it down and how to resolve them in advance of the next day so that we are not falling into the same traps, so to speak, and again, to whatever degree the parties can come to a stipulation as to authentication or even just the admissibility to --

MR. HOLZER: Yes.

CHAIR: -- of the evidence, that would be fantastic. I realize that Mr. Holzer is under no obligation to provide anything else. The videos are, to me, a different matter, because it's hard for Mr. Schmidt in real time to be seeing something for the first time as it's being narrated and that's why I appreciate the fact that you delivered those in advance.

MR. HOLZER: Right. And, unfortunately, when I got, I got them yesterday in the morning --

CHAIR: It's okay, Mr. Holzer, it's quite all right.

MR. HOLZER: No, I understand, but I, I, and I knew Mr. Schmidt was in Federal Court yesterday aft, yesterday so I didn't expect him to, to be able to look at all of it, or even part of it. So, that's another reason why I'm saying, he'll now have a month, literally, twenty-nine, twenty-eight days, to do it and when I get back --

CHAIR: Technically he has to the 19th, but yes.

MR. HOLZER: Yes, yes. I'm going to, and I'll be glad to share with him what I can. There are a couple things that I really can't.

CHAIR: And that's understandable.

MR. HOLZER: And I understand.

CHAIR: Yeah.

MR. HOLZER: So, we'll have to debate over those on the 29th. Now, I would say this. If Your Honor, if, if, we are getting close to finishing today, I would have Dewey Clark finish up and like I say, I think it's going to take a substantial, at, at least all morning now, to get through his last part of his testimony. If we can start at 9:00, we finish at around noon, then cross examination is going to take whatever cross examination is going to take. I will have available, Ms. Morgan, who was involved, as you heard her name

mentioned, taking the photo, and so forth --

CHAIR: It was the Facebook page.

MR. HOLZER: Yeah, yes.

CHAIR: I recognized that it belonged to somebody named Morgan.

MR. HOLZER: I will have her, she has a number of exhibits that she's also got. I don't know whether she's gotten them off the internet or whether she's taking pictures or whatever but --

CHAIR: And consistent with today, she can provide the internet addresses to whatever --

MR. HOLZER: Yes.

CHAIR: -- videos that she has captured that are publicly available?

MR. HOLZER: Yes.

CHAIR: We're going to need to have that so there's not a question as to where did this come from.

MR. HOLZER: I have a great paralegal back here who's taking --

CHAIR: Congratulations on your new career.

MR. HOLZER: -- whose taking, who is, who is taking copious notes on, on what you've just suggested and I'm sure she'll follow up in the next two weeks while I'm gone and do it, and pulling that together.

CHAIR: And again, just my recommendations as to this

are just merely to streamline this process --

MR. HOLZER: Yeah.

CHAIR: -- in terms of where we are and how to get about moving on and getting through Dr. Clark and other witnesses.

MR. HOLZER: And I, I will get an e-mail from Mr. Schmidt, I know, before I go, get in the front door of my office today saying tell me when any experts are, are going to be there so he can have his. I would say this. I cannot now see any experts being presented on the 29th. I think we're going to be lucky to get through his testimony and Ms. Miner's testimony. Then the next day that we come up with, would be the expert's day. I will say this. Having been around doing this stuff for a long time, I think the three experts that we could present will not be lengthy experts. They will be probably no more than forty-five minutes. I don't know how long the cross will take but, in any event, I, what I'm trying to say --

CHAIR: You're not projecting full days for the experts?

MR. HOLZER: Exactly.

CHAIR: Right. For each expert.

MR. HOLZER: Exactly.

CHAIR: I understand.

MR. HOLZER: I don't think the, the three experts

will take all day, either direct or cross examination.

CHAIR: All right. So, let's do this. Let's, one, let's close one loop. Sir, who, who is Ms. Miner, what is her first name?

DR. CLARK: Morgan.

CHAIR: And that's what I figured. But, so that takes care of one issue.

MR. HOLZER: Yes.

CHAIR: The second issue, yes, why don't the both of you send dates to Ms. Cannington to let us know your availability and, again, I urge that we try to get all testimony done before the end of this calendar year. So, that we won't run into other problems that are going to be arising come February.

MR. HOLZER: I've been there and done that in Cecil County and it's a nightmare when it first starts.

CHAIR: Yes, and right now this case is lining up to be within the nightmare zone. So, we're trying to avoid that as best as we can.

MR. HOLZER: Now, I do think that as long as the, as long as the testimony has concluded, if there, if it needs to be a time for the memorandum to be submitted and, and the new law has taken, or new act has taken the place, sending a memo via that route is really not that bad. It's trying to tie all the other documents and exhibits and, and the testimony and

things like that together that's terrible.

CHAIR: It's, in the event that somebody wishes to pursue additional relief beyond this Board, maybe in light of this Board, that's where I'm envisioning that playing out and that's why I feel that to the extent that we can figure out a way to fast track the remainder of the testimony and get it done by the end of this calendar year as best as we can, then I think that that might be the more prudent course of action.

MR. HOLZER: Yes.

CHAIR: And again, I realize, perhaps calendars don't permit that but let's try to, let's try to achieve that so we can also have as expeditious of a process as we possibly can still yet achieve.

MR. HOLZER: I can tell Mr. Schmidt that he doesn't want to have to deal with this online stuff either, because it's a nightmare. I just talked to the, to Mr. Zimmerman's secretary. They're also worried about it in terms of, of how to do it and what to do and the cost and the problems that it'll relate to. So, I, I think those are words of wisdom.

CHAIR: Right. So, to the extent I would say if you estimate that there's another full day with, with Dr. Clark and Ms. Miner, then another full day with up to three experts.

MR. HOLZER: Yes.

CHAIR: And then you are under the impression that may conclude your case, right?

MR. HOLZER: Yes.

CHAIR: And then we'll have rebuttal. It sounds like we're going to need a minimum of three days.

MR. HOLZER: I think so.

CHAIR: Mr. Schmidt, would you agree with that assessment?

MR. SCHMIDT: That's what it sounds like, yes, sir.

CHAIR: So, if you can, three days then, you know, --

BOARD: (inaudible).

CHAIR: That's a good question. So, I guess it would be two additional days beyond the 29th. Because if the 29th is the rest of Dr. Clark, basically Ms. Dopkin does better math than I do.

MR. HOLZER: Yes.

CHAIR: Is where I'm going with this. Ms. Miner and then the next yet to be scheduled day would be experts and then the day after that presumably will be your rebuttal day and hopefully maybe the conclusion of evidence.

MR. HOLZER: Yes.

CHAIR: But again, whatever your cases need.

MR. HOLZER: No, I think, I, I think --

CHAIR: So, it's, but just to be on the safe side, why don't you set it up for three days?

MR. HOLZER: Right.

CHAIR: And again, I will urge before the calendar

year expires.

MR. HOLZER: Yes. Can I plead personal privilege and ask that I be permitted to go to Florida now?

CHAIR: Are we --

MR. HOLZER: It's after 4:00.

CHAIR: All right. So, with that in mind, if you feel it is the appropriate breaking spot.

MR. HOLZER: Yes.

CHAIR: And appropriate spot to get on I-95, yes, that's fine, motion granted.

MR. HOLZER: Thank you very much, members of the Board.

CHAIR: Again, keep in mind your deadline for responding to written objections of the 26th.

MR. HOLZER: Twenty-sixth, got it.

CHAIR: And Mr. Schmidt, you're already aware of the 19th.

MR. SCHMIDT: Yes, sir.

CHAIR: All right.

MR. HOLZER: Thank you.

CHAIR: Thank you all very much today and everyone have a great day.

MR. HOLZER: Thank you.

DR. CLARK: Can I, --

MR. SCHMIDT: Thank you.

DR. CLARK: -- can I talk to my wife in the meantime?

CHAIR: Not about this case.

DR. CLARK: Yes, sir.

CHAIR: I know it's going to be weird for a month. And Thanksgiving is going to be very awkward (inaudible). However, you are still under oath.

DR. CLARK: We will play by the rules, sir.

CHAIR: I appreciate that.

(OFF THE RECORD - 04:06:10 PM)

CERTIFICATE OF TRANSCRIBER

I hereby certify that the hearing in the matter of Nepali American Cultural Center, case number 18-122-X, heard before the Board of Appeals of Baltimore County, November 1, 2018 were recorded by means of audiotape.

I further certify that, to the best of my knowledge and belief, page numbers 1 through 212 constitute a complete and accurate transcript of the proceedings as transcribed by me.

I further certify that I am neither a relative to nor an employee of any attorney or party herein, and that I have no interest in the outcome of this case.

In witness thereof, I have affixed my signature this 19th day of December, 2018.

Christine R. Leary

Christine R. Leary

Transcriber

IN THE MATTER OF:

NEPALI AMERICAN CULTURAL CENTER
CASE NUMBER: 18-122-X

Hearing Date: October 23, 2018

Pursuant to Notice, the above-entitled hearing was held before the Board of Appeals for Baltimore County at the Jefferson Building, Second Floor, Suite 203, 105 West Chesapeake Avenue, Towson, Maryland 21204.

PANEL PRESIDING:

JASON S. GARBER, CHAIRMAN

MAUREEN E. MURPHY, BOARD

DEBORAH C. DOPKIN, BOARD

PRESENT ON BEHALF OF THE PARTIES:

LAWENCE E. SCHMIDT, ESQUIRE
TIMOTHY M. KOTROCO, ESQUIRE
Counsel for Petitioner

J. CARROLL HOLZER, ESQUIRE
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TABLE OF CONTENTS

Description	Page
Direct exam of Joyce Mason by Mr. Holzer	7
Protestant's Exhibit 15	9
Protestant's Exhibit 16	17
Protestant's Exhibit 17	21
Protestant's Exhibit 18	27
Protestant's Exhibit 19	35
Cross exam of Ms. Mason by Mr. Schmidt	36
Re-direct exam of Ms. Mason by Mr. Holzer	47
Direct exam of David Poehler by Mr. Holzer	53
Protestant's Exhibit 20	70
Protestant's Exhibit 21	73
Cross exam of Mr. Poehler by Mr. Schmidt	80
Petitioner's Exhibit 31	92
Petitioner's Exhibit 32	100
Petitioner's Exhibit 33	109
Re-direct exam of Mr. Poehler by Mr. Holzer	114
Direct exam of Kris Ghimire by Mr. Holzer	117
Protestant's Exhibit 22	127
Protestant's Exhibit 23	140
Protestant's Exhibit 24	157
Protestant's Exhibit 25	171
Protestant's Exhibit 26	183
Protestant's Exhibit 27	191

Cross exam of Mr. Ghimire by Mr. Schmidt..... 219
Petitioner's Exhibit 34..... 225
Re-direct exam of Mr. Ghimire by Mr. Holzer..... 243
Protestant's Exhibit 28..... 246

(ON RECORD - 09:13:13 AM)

CHAIR: All right. Hello, everyone. We are here today for day five of the Nepali case, case number 2018-0122-X. We are in the middle of Protestant's case. Just by way of some housekeeping things. The people in the back row, I guess, you guys are fine for now but I understand, I mean, this side has been packed. People have been cutting across the front here during the course of testimony. So, if this side becomes packed again today, I might ask you to move forward a row, so that we can leave the backrow open for people to come and go. But as for now, since there's only two people on this side, it doesn't seem to be a problem. And for those people on this side, if you could somehow squeeze in through the aisles back there, that'd be fantastic, if you need to leave. Other than that, I wonder, is there anything else we need to address preliminarily?

MR. SCHMIDT: I don't believe so, no, sir.

CHAIR: All right. I understand today there's, I'm putting this on the record for CourtSmart. We do not have a court reporter. The court reporter was provided by Petitioner and I understand Petitioner gave Protestant the option of, of retaining the same court reporter, but obviously we're being recorded by CourtSmart anyway.

MR. SCHMIDT: That, that's correct, Mr. Garber.

CHAIR: And we have a, I understand, a presentation

today?

MR. HOLZER: Yes.

VOICE: Yes.

CHAIR: All right. So, by way of a road map for today, how many witnesses do you think you might get through today?

MR. HOLZER: Well, I had planned for one, two, three, four, five, six, seven. But I'm not sure.

CHAIR: I assume, the first four were before lunch and five, six, seven were after?

MR. HOLZER: I was, I was --

CHAIR: Given the break in your cadence there?

MR. HOLZER: There would be no, no experts presented today.

CHAIR: Not today? Okay. Do I understand that you'll, you may have some the next time?

MR. HOLZER: Oh, definitely. We, we have about, well, the next hearing would be November 1st, which would be next week. I would anticipate there may --

CHAIR: That's right.

MR. HOLZER: -- yeah, I would anticipate that there may be a couple experts testifying then, as well as, as some other witnesses.

CHAIR: And that would conclude Protestant's case?

MR. HOLZER: No.

CHAIR: Okay. Could always hope.

MR. HOLZER: I have, I have some other things that I need to present on the last day.

CHAIR: Okay, no problem.

MR. HOLZER: The prob, the prob, one of the problems, Mr. Chairman and members of the Board, is that there's a lot of people involved and, you know, and trying to get them all together, some are at work and they couldn't show up today, etcetera, etcetera, so.

CHAIR: No, I understand. We do what we can.

MR. HOLZER: I would say we've only had a half a day's hearing so far for our case.

CHAIR: I mean, this isn't about, this isn't a commentary about Protestant's case.

MR. HOLZER: Okay.

CHAIR: It's just a, we're just trying to have this done in as expedient as a matter as possible on all sides, so.

MR. HOLZER: And I, I previously had told the Board that on November 29th, I could possibly be at the Court of Appeals arguing a case. Turns out that I'll be there on the 28th, so I'll be able to be here on the 29th. Imparting a lot of Court of Appeals wisdom to the Board.

CHAIR: Well, at the present moment, I am scheduled for jury duty on the 29th. I will have to make that request to have that moved. I'm just waiting to see the outcome of your

request.

MR. HOLZER: Oh, okay.

CHAIR: To figure that part out.

MR. HOLZER: Yeah. Well, that's, if you'd like to take that day off too, that would be fine and just move it till December some time, but.

CHAIR: I think we were just going to get through the schedule as best as we can.

MR. HOLZER: Right.

CHAIR: Since everyone has already pre-cleared those dates, so the Circuit Court will just have to wait, for me that is.

MR. HOLZER: The Circuit Court can wait, the Court of Appeals won't wait.

CHAIR: They, they, all right. So, with that in mind, Mr. Holzer?

MR. HOLZER: Yes.

CHAIR: Would you like to call your next witness?

MR. HOLZER: Yes, I would. Joyce Mason.

CHAIR: Oh, and I should ask one more question, to the extent you can assess it today or for anyone here, does anyone have a hard stop time that they're aware of at the moment?

BOARD: Do you swear and affirm under the penalties of perjury, that the testimony you are about to give is true

and correct to the best of your knowledge and belief?

MS. MASON: Yes.

BOARD: Would you state your name and address for the record, please spell your last name?

MS. MASON: Joyce Mason, 11813 Harford Road, Glen Arm, Maryland 21057.

BOARD: And your last name is M-A-S-O-N?

MS. MASON: Correct.

BOARD: Okay and I should ask, if anybody has a cell phone, should turn it off.

CHAIR: Thank you. Yes, if you have a cell phone, please make sure they're off. There have been several occasions where they've gone off in the middle of testimony and it is very distracting to the parties and to the panel. And it is also, depending on how loud it is, picked up by CourtSmart, so keep that in mind. I'm sorry, you said your address was 11?

MS. MASON: 813.

CHAIR: 13, thank you. Harford Road.

MS. MASON: Correct.

MR. HOLZER: Mr. Chairman, I apologize, I should have put this up beforehand. I just wanted her to be able to show the Board where she lives and some of the other (inaudible).

CHAIR: That's great, thank you. No problem.

MR. HOLZER: If I'm not mistaken, was this entered earlier?

VOICE: I believe it was.

CHAIR: Well, wait a minute. On the, Mr. Schmidt, does that look familiar to you?

MR. SCHMIDT: Well, there's a --

CHAIR: Because we have something similar to it, I don't know if that --

MR. SCHMIDT: Yeah, I, I want to say there's something similar and I also noticed Protestant's fourteen is an aerial photo. That was from the last hearing date. And then Petitioner's number two was an aerial. I'm not sure, Mr. Garber, whether they're the same exact one or something similar.

CHAIR: So, hold on before you start. You in the backrow, sir, I'm going to have to ask you to move up because in case people come, just so we won't be faced with this situation (inaudible). If people are going to be coming in after things have started, I appreciate it. Thank you very much. Sorry to ask you to move, but it just seems to be the most efficient way for this to unfold. Thank you, all. Sorry, Mr. Holzer.

MR. HOLZER: What is the next Protestant's number? I'll mark this.

BOARD: Fifteen.

MR. HOLZER: In case there's a, fifteen?

BOARD: Fifteen.

MR. HOLZER: Could you possibly go up to this, what is marked as Protestant's fifteen? Just show the Board, and, and stand over on this side, show the Board what, where your house is in relationship to the subject site?

MS. MASON: Okay. My house is right here. This is my driveway.

CHAIR: Could we mark that with a red pen?

MR. HOLZER: Yes.

CHAIR: Do you have your red pen there, Mr. Holzer? And if you don't mind, ma'am, could you please put your initials above what you're marking?

MS. MASON: Certainly.

MR. HOLZER: Right it out there in the field so you can see it better.

MS. MASON: Okay.

CHAIR: Thank you.

MS. MASON: Okay.

MR. HOLZER: All right, thank you.

CHAIR: Mr. Schmidt, did you see that?

MR. SCHMIDT: Yes. Thank you.

MR. HOLZER: And, Ms. Mason, how long have you lived there?

MS. MASON: I've lived there for thirty years.

MR. HOLZER: All right and during the course of those thirty years, what have you been doing in terms of the

neighborhood, if anything, or, you know, your relationship or were you there when the previous attorney lived there?

MS. MASON: Yes, yes.

MR. HOLZER: Okay.

CHAIR: When you say lived there?

MR. HOLZER: Lived on the subject site. And were you, how long were you there while he was living there?

MS. MASON: Well, I believe that he was there up until the property went into foreclosure, so probably twenty years.

MR. HOLZER: Okay and during that course of time, was the property just used as a single family home?

MS. MASON: Yes, it was.

MR. HOLZER: All right. Did you ever visit the site while he was living there?

MS. MASON: No, I had not the opportunity.

MR. HOLZER: Okay. Have you ever had the opportunity to go onto the site?

MS. MASON: When it was, when it was put up for sale, I did go up there and just look at it because it was always an iconic staple in the neighborhood.

MR. HOLZER: Okay, okay. How, do you know how far it is from your house to the entrance of the facility or the subject site?

MS. MASON: Yes, 1.3 miles.

MR. HOLZER: Okay and have you been following the request of the applicant to, to utilize this property in a different way from that of a single family house?

MS. MASON: Yes.

MR. HOLZER: Okay. How long have you been aware of what's been going on?

MS. MASON: Since last, probably last fall.

MR. HOLZER: Okay. As a result of this request, that the applicant has, has submitted, do you have any concerns as a, a neighbor about what they're asking for?

MS. MASON: Yes. My concern is about the increased traffic burden and, and my personal, and my neighbors' safety on Harford Road. Harford Road is a rural two lane road with no shoulder and many blind curves. The Bonaparte property is located on a section of that, of Harford Road with blind curves and makes this a hazardous area. My husband and I have heard of many and seen many acc, traffic accidents on Harford Road. Just north of where we live, which is the intersection of Harford Road and Hartley Mill Road and south of our, our home by the drainage culvert there in front of 11737, near our home. And some of these were fatal accidents.

MR. HOLZER: Now, how do you know that?

MS. MASON: Well, one of them, it probably happened about five years ago. It was about quarter to twelve and I was just getting ready to go to bed and I was getting ready to

close the blinds on our kitchen windows and I heard this big loud boom and looked out the window and it, the vehicle literally exploded. It hit that culvert bridge and it exploded. And I, I did find out that the young lady was in a pick-up truck and she was, she died right on the scene.

MR. HOLZER: Have you had any occasions where helicopters or medivac helicopters have visited the site and could you explain where now that we know you're 1.3 miles south of the subject site?

MS. MASON: Yes, a meta, medivac helicopter landed in my neighbor's field twice. One time it was for an accident that was right in front of our home. I don't know exactly what happened but the car flipped over and the, I know that medivac landed in the field where I used to live at 11939 Harford Road, at least three times and I was told by the neighbors that it landed at the Redeemer School on Mount Vista Road two times.

MR. HOLZER: Okay. Where did you previously live? Was it any further away from the subject site or closer to it?

MS. MASON: It was closer.

MR. HOLZER: Where, and --

MS. MASON: Three houses closer. Before we moved to our home.

MR. HOLZER: Okay.

MS. MASON: And it is this property here.

MR. HOLZER: And the address of that, do you know

what it is?

MS. MASON: Yes, 11939.

MR. HOLZER: Would you like her to put her initials next to that?

CHAIR: Since she's pointing to it on the exhibit, yes, please.

MR. HOLZER: Okay.

CHAIR: And if you don't mind, now, since we have two of those markings, can you draw a number one and number two next to it?

MS. MASON: Certainly.

CHAIR: Draw a number two next to the one you just did and a number one to the first one. Thank you.

MS. MASON: Um hm.

MR. HOLZER: Thank you.

MS. MASON: Um hm.

MR. HOLZER: You can have your seat. Are you, are you familiar with the Baltimore County zoning regulations and Code 502.1?

MS. MASON: Yes.

MR. HOLZER: And how did you become familiar with that?

MS. MASON: By researching and looking at what would affect our, our neighborhood.

MR. HOLZER: Okay. All right and you don't have to

refer to the specifics or the language, but as a result of knowing what the 502.1 criteria is, how do you, let me put it another way. What is the impact of the proposed use on the subject site in relationship to 502.1 criteria?

MR. SCHMIDT: Objection. Mr. Garber, I know I made this objection before and I believe you overruled my objection. I just note a continuing objection. I would say in this case that the question that's been asked in this case, I think is even more inappropriate to the extent that the question was not about impacts on her property but as I understand it, just generally the area and I think as she's not an expert witness, she could not render an opinion. But I know your ruling. I just wanted to put that on the record.

CHAIR: Well, so, as asked, I can understand why you raise the objection again. Mr. Holzer, do you have a response?

MR. HOLZER: Yeah. She can certainly, doesn't have to testify as an expert or a zoning expert, but she can certainly testify as to the impact on her property and/or the surrounding community.

CHAIR: Okay. Well, I mean, it's understood that she is not an expert --

MR. HOLZER: Of course.

CHAIR: -- in Baltimore County zoning regulations, not an expert in the 502.1 factors. She has read them, reviewed them and has an understanding of them and she's about

to present testimony as to the, as to her lay opinions as to the impact upon her property and/or the surrounding sites, therefore, it would (inaudible) under that basis.

MR. HOLZER: Thank you.

MS. MASON: Well, my concern it's detrimental to the health, safety and general welfare of the locality involved and it's about the increased traffic burden and the safety on all who live and have to travel Harford Road. I was personally involved in an accident on Harford Road on September 14th when we were --

MR. HOLZER: Of what year?

MS. MASON: Of this year.

MR. HOLZER: Okay.

MS. MASON: I'm still suffering consequences from that accident. When we were traveling south from our home at 11813 Harford Road and we got to the seven sisters turns, which are just south of us --

CHAIR: Mr. Holzer, is it appropriate to ask if she has representation in relation to that matter?

MR. HOLZER: What do you mean represent, you mean an attorney?

CHAIR: If she has an attorney representing her in the accident case?

MR. HOLZER: I don't see why that's relevant.

CHAIR: Well, if she's going to be going into what

happened during the course of the accident and she has an attorney representing her for the accident, perhaps for your case, the mere fact that there was an accident in a particular location would be sufficient without going into the details, if she has an attorney for the accident.

MR. HOLZER: All right. Do you have an attorney?

MS. MASON: Yes.

MR. HOLZER: Okay. I, I understand what your question is, Chair, Mr. Chairman. The point of the matter is, she would like to express what, what she, what took place and I don't see where that's going to conflict or cause any problem with her attorney or her other case.

CHAIR: Okay. If, well, as long as you, well, with that in mind, I guess you can proceed. But I would just proceed with caution on that point.

MR. HOLZER: Thank you.

MS. MASON: Okay. As we were going through the seven sisters turns, which are those turns that are south, just south of us, we got to about the fourth curve and in front of Mr. Maurice Brown's house, which he lives at 10910 Harford Road, and as we crested that curve, there was a silver SUV in our lane coming at us. He had crossed the double yellow line on the blind curve, and as we turned he was there. And on the right of us was the guard rail. My husband was driving, on the right of us was the guard rail, there was really no place to go

and my husband, in that split second, kind of turned the face of the, the, the front of the car just a little bit so that the gentleman didn't hit us head on, he hit the side of the car and then got caught on our rear wheel and then I really don't know what happened and he, he was flipped over at that point because the airbags went off.

MR. HOLZER: Okay. Do you have any pictures of that?

MS. MASON: Yes, I do. This is what happened to our car. Do you need the rest of them?

MR. HOLZER: There's one, two, three, four copies here.

MS. MASON: Just one picture?

MR. HOLZER: Yes, just one picture.

MS. MASON: Okay. And this is what happened --

MR. HOLZER: Wait, wait a second.

CHAIR: There's no question pending at the moment. So, this is sixteen?

BOARD: Sixteen.

MR. HOLZER: This is sixteen. Now, this is a photo of your car?

MS. MASON: Correct.

MR. HOLZER: Okay and what direction are we facing? Are we looking south or are we looking north?

MS. MASON: We are looking south.

MR. SCHMIDT: Okay and, and as you said, the car hit

you on the side and, and did that cause you to run into the guard rail?

MS. MASON: It, it flipped us around and then we ended up against the guard rail in this con, in this position.

MR. HOLZER: Okay and that happened on what date?

MS. MASON: Friday, September 14th, 2018.

MR. HOLZER: I would mark this as, move in as sixteen then.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Just a, if I can just ask, this is south of your house?

MS. MASON: Correct.

MR. SCHMIDT: And your property is south of the Nepali site, correct?

MS. MASON: Correct.

MR. SCHMIDT: So, your driveway is 1.3 miles south of Nepali, correct?

MS. MASON: Correct.

MR. SCHMIDT: How much further south --

MR. HOLZER: Objection.

MR. SCHMIDT: -- is, is this? I'm just trying to understand where this is.

MR. HOLZER: Come on. Well, you can cross examination, that's what it's for.

MR. SCHMIDT: Well, then I'll, I'll object for the

record, because if it's so far away then it doesn't have any relevance, it's, we know it's at least 1.3 miles away and apparently more than that.

CHAIR: All right. Well, I think it will be received and understood that --

MR. SCHMIDT: Okay.

CHAIR: It'll carry whatever necessary weight and you can always cross examine on that point and I think that all Mr. Schmidt was trying to do is just get to the bottom of that point for expediency sake.

MR. HOLZER: I understand. I didn't object to the first part of it.

CHAIR: Yeah.

MR. HOLZER: Thank you. Now, what, what else has occurred in terms of, of your concern on the impact of the proposed extra traffic being on here because of the application?

MS. MASON: Well, on October 18th at 8:54 a.m., the dashcam that Dr. Mary Clarke's, captured in her car, that, and I have pictures of that also, that a broken down dump truck, I mean, a broken down car, excuse me, had, the car had broken down just south of the first curve as you're traveling north to the Bonaparte property, that area of the road is only about a three foot shoulder, so there was not enough shoulder for the car to pull out of the travel lane and I do have a picture of

that. The police car was behind the broken down car and when the dump truck was going north, it had, it had to cross the double yellow line to get past the two cars that were just south of the blind curve. What you don't see in this photo is that, that there is a south bound car coming toward the dump truck but it's obscured, obscured by the dump truck. Fortunately, in this instance, it didn't result in an accident but this is another example of how dangerous the blind curves on Harford Road are.

MR. HOLZER: Now, let me ask you this, --

CHAIR: This is seventeen?

BOARD: Seventeen.

CHAIR: Thank you.

MR. HOLZER: We are looking south --

MS. MASON: North.

MR. HOLZER: I'm sorry, north, towards the subject site?

MS. MASON: Correct.

MR. HOLZER: Okay and the police car is sitting on the shoulder and there's a vehicle in front of it, is that correct?

MS. MASON: Correct.

MR. HOLZER: Okay. The dump truck went across the yellow line going north?

MS. MASON: Correct.

MR. HOLZER: Okay. Towards the subject site that we're talking about?

MS. MASON: Correct. And there also is a car in front of the dump truck coming south, but you can't see it in the picture.

MR. HOLZER: Okay and, and this was taken from Mary's car?

MS. MASON: Yes, Dr. Mary Clarke's car.

MR. HOLZER: Okay and --

MR. SCHMIDT: I'm sorry.

CHAIR: (inaudible).

MR. SCHMIDT: Object, I'm just going to object.

CHAIR: You can't answer the question.

MR. SCHMIDT: Did, did she take the picture?

CHAIR: No.

MR. SCHMIDT: Was she present when the picture was taken?

CHAIR: I think that question has not been established yet.

MR. HOLZER: Were you present when --

MS. MASON: No, I was not.

MR. SCHMIDT: Well, then I'm going to object. How can she say there was a car south bound if she wasn't there?

CHAIR: I'll sustain that.

MR. HOLZER: Okay. The picture speaks for itself the

way it is.

MR. SCHMIDT: And there's no car coming south bound, right?

CHAIR: Mr. Schmidt, we don't need to --

MR. SCHMIDT: Okay, I'm sorry.

CHAIR: -- make comments as to the picture. We all can see what it is.

MR. HOLZER: What, what concerns, again, related, as I asked you before, to the 502.1 criteria, what concerns do you have as to how it impacts your property or your health, safety and welfare in the community?

MS. MASON: Well, 502.1(B) says tends to create congestion on roads, streets and alleyways therein. Over the years, the traffic on Harford Road has increased dramatically. It's a two lane rural roadway, which has many farms. With those farms, comes farm equipment, tractors, combines, bailers, hay wagons and such being moved from farm to farm. Many of these farmers tend to, to farm fields that are not located in the direct vicinity of their farm. I know that the Snyder family, just south of our property, cut and bail hay off of the Hutschenreuter Road property and they move hay equipment up and down Harford Road in front of my house. As a matter of fact, I saw Bob Snyder just the other day passing by my house as I was, he was going north and I, he, I was turning into my driveway and he had the tractor with his wide hay wagon that took up the

whole lane, attached to his tractor. I know this because I buy hay from him on a regular basis.

MR. HOLZER: Have you had any personal experiences with farm equipment on the prop, on Harford Road?

MS. MASON: Yes, I have. I, I've, we, our bottom field is separate from our top field by a stream and so to get to it to mow, you have to go out onto Harford Road and go into the gate and then coming out of the, our bottom property, if I'm coming back to my driveway, I have to go onto Harford Road, which I go into the south bound lane to travel with the flow of traffic. Well, on one occasion I, and I put my blinkers on, on the tractor and it has a slow moving triangle, and on one occasion, I was, I mean it's, it's about five, maybe about seventy-five to eighty feet that I have to travel and I put my arm out to turn left and just as I was getting ready to turn, a car zoomed around me and we almost collided. So, now when I go to do that, I have to actually physically turn around to make sure nobody is going to whiz by me as I'm signaling to make the left hand turn. And it's just very dangerous.

MR. HOLZER: It, did you, did you, were you here when the traffic expert for the applicant testified? Were you here when, when that --

MS. MASON: Yes.

MR. HOLZER: Okay. He testified that there were no problems on Harford Road in terms of the volume of traffic or

in regard to the speed. Do you have a thought in regard to those comments that he made?

MS. MASON: Well, yeah, I mean, the, the speed in front of our home, going south, of course, is forty-five and going north is fifty. And people do speed along there. They, they, it's, it's, that road is ill suited for increase in traffic mainly because of the, the nature of the road. It has farm traffic on that roadway that, you know, as I pointed out, it's just really not, it's very ill suited for, for the increase in traffic.

MR. HOLZER: Okay, okay. Do you have any concerns about your, or quiet enjoyment of your property?

MS. MASON: Yes. During the event that NACCB Incorporated held in the middle of the summer of 2017, I, I don't know the exact dates of that because, but we could hear very loud talking over an amplification system most of the day at our home. I have hor, I have a horse and, well, I had one horse at the time, I have four now. And it was very unsettling to my thirty-three year old horse. He was spooked at the loud noise and was just running around, just really strangely.

MR. HOLZER: Okay.

MS. MASON: And it did scare him.

MR. HOLZER: I'm not sure whether horses are covered by 502.1, to be honest with you. Did you, did you have any personal experience in regard to any noise emanating from the

subject site?

MS. MASON: Well, yes, because I'm out there with them, so that's why I knew that there was loud talking and, again, during this fundraiser that NACCB Incorporated held on July 28th through August 3rd of this year, 2018, we could hear loud talking again and again, it was unsettling to my four horses. I mean, if the, if my horses get spooked at this loud talking, I cannot, you know, the wildlife can certainly be impacted by all the noise and could run into the road and cause more chaos on Harford Road.

CHAIR: So, did you say there were two occasions where you heard that?

MS. MASON: Yes. It was last, summer of 2017, and I don't know the exact date. It was in the middle of the summer and then again, this year in 2018, July 28th through the 3rd, it was off and on.

CHAIR: Okay. Thank you.

MS. MASON: You're welcome.

MR. HOLZER: And in talking about your own reasons for moving to this site, I understand you had lived at two different places on, along Harford Road. Why did you move to this area to begin with?

MS. MASON: Well, in 1979, I had the opportunity to move to this valley at, and to live at 11939 Harford Road and I was thrilled. I would have a place to put my horses and enjoy

the tranquility of that area because it's just so, so quiet. I've lived there for nine years and my husband and I, when we bought our home, our current home at 11813, which is just three houses south of 11939, and I love leaving there. I love the peacefulness of the rural area, enjoy watching the native wildlife and this is a, just an overhead valley picture similar to that one up there.

MR. HOLZER: Is that the same thing or --

MS. MASON: I believe it is.

MR. HOLZER: If it is, then there's no need to introduce it.

MS. MASON: Okay.

MR. HOLZER: Let me just --

CHAIR: Well, I would say that since we don't have copies for ourselves here at the panel --

MR. HOLZER: Oh, okay, I'm sorry.

CHAIR: -- if you want to make that 15-A or, Ms. Murphy, what would you like?

BOARD: We could just use that as, the big one is fifteen, if you want, I mean, --

CHAIR: Right, and then just hand us individual --

BOARD: Sure, we could use those.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Is it the same photo?

MR. HOLZER: No, it's not.

CHAIR: Oh.

BOARD: Oh.

MS. MASON: It's similar.

BOARD: Eighteen.

CHAIR: Scratch everything I just said.

MR. HOLZER: Now, could you describe --

CHAIR: Thank you.

MR. HOLZER: -- describe this picture?

MS. MASON: This picture is a picture of the valley that shows the valley from the subject property down past Sharon Drive, just showing the, the, how nice, how wooded and how quiet and tranquil the valley is.

MR. HOLZER: Now, I'm looking at it and if I look to the far left of the picture, if I'm holding it vertically with Glen Arm Road vertically, the curve and the subject site is to the left in the middle of the picture, is that right?

MS. MASON: That is correct.

MR. HOLZER: And then Harford Road would, would begin going south and it would go past Hartley Mill Road, it would go past Sharon Drive, etcetera, right?

MS. MASON: Correct, yes.

MR. HOLZER: Okay and so, the purpose of this picture that you wanted to show the Board is to show what?

MS. MASON: The, the tranquility of the valley. That it's, it's a RC-2 valley that, with farms and farmland and

single family homes.

MR. HOLZER: Okay. Okay.

MR. SCHMIDT: Ms. Murphy, what number is this?

MR. HOLZER: Eighteen.

BOARD: This is the same thing.

CHAIR: Yes.

MR. HOLZER: Is it really?

BOARD: If you turn it, yeah, if you turn it sidewise, it's exactly the same photo.

MR. HOLZER: Well, this color showed much more brown than that picture did, that's --

CHAIR: One was during the summer and fall --

MR. HOLZER: Yeah, yeah. Well, if it is, it's still eighteen.

BOARD: It's still fif, you want to make it a --

MR. HOLZER: No, make it 15-A or B?

CHAIR: Why don't we just leave it as is? At eighteen, this way we won't confuse the record and --

MR. HOLZER: Okay.

CHAIR: -- and it has to be, we'll just acknowledge the fact that it appears that Exhibit 15 and 18 look to be the same. We'll leave it at that.

MR. HOLZER: Okay, thank you.

CHAIR: How's that?

MR. HOLZER: Let's move on. Now, have you

experienced in the last year or two, have you experienced any events at the subject site that you care to share your experience with the Board?

MS. MASON: Just the noise and, and the increased traffic. We can hear, we can just hear the, the talking. We don't so much hear the music, but we hear the talking, the loud talking. It has to be over an amplification system because we're 1.3 miles away.

MR. HOLZER: Okay and, when these events were, were held, do you know how many events have been held there on the site?

MS. MASON: We heard just the two.

MR. HOLZER: Um hm.

MS. MASON: But we travel up to Bel Air so we go by the site and we see the traffic going in and going out. You know, we see the cars parked there so we know that there's quite a few, we've, I've heard through the testimony that sometimes there's three, sometimes they say there's five, not quite sure. (inaudible) next door, different --

CHAIR: Well, let's --

MR. HOLZER: Okay.

CHAIR: -- not go down that road.

MR. HOLZER: So, but you've heard two?

MS. MASON: Yes, I heard two.

MR. HOLZER: Okay.

MS. MASON: Myself, personally.

MR. HOLZER: All right. Is there anything else that you'd like to share with the Board before I stop asking you questions?

MS. MASON: Well, I grew up in Baltimore County in, in an area that's one mile away from Bethlehem Steel. Noise, congestion, that makes the serenity of this valley important to me. These concerns are not mine alone. Many of my neighbors living in this valley have similar concerns. This is one of the last rural valleys in Baltimore County. The residents there have worked hard to maintain the RC-2 rural nature of this valley. You know, we enjoy looking at the valley and we enjoy looking at the scenes of the valley. We have an iconic view of the subject property and I can show that. And we want future generations to be able to have this same opportunity that we have. We can see the, the subject property, the home.

MR. HOLZER: Okay. Is this --

MS. MASON: It's an iconic view of the, the --

MR. HOLZER: Where is your home in relationship to the bottom part of this picture?

MS. MASON: Okay. My home is --

CHAIR: Which picture are we looking at?

MR. HOLZER: I'm, I'm going to, I just want her to, to identify it.

MS. MASON: Okay. My home is further down Harford

Road, but as you're driving, we drive frequently --

MR. HOLZER: I think they've seen that before.

MS. MASON: -- you can see the property.

MR. HOLZER: All right.

MS. MASON: I think Mr. --

MR. HOLZER: I'm, I'm sorry, wait a minute.

CHAIR: Yeah, one second. There's no question pending.

MR. SCHMIDT: I just would like, if we can, before we admit this photograph, to have an idea of where this picture was taken and whether this witness took it. I think that's appropriate.

MR. HOLZER: I can proffer that she did not take it, someone else took it.

CHAIR: Well, hold on. Mr. Schmidt, so far, as I recall, nothing has been admitted into evidence as of yet. Mr. Holzer has yet to, yet to do that.

MR. HOLZER: Right.

CHAIR: As to your, if you have an objection to it, you can get to that if need be, you can get to some matters on cross examination but I'm sure Mr. Holzer is going to lay a foundation --

MR. HOLZER: Right.

CHAIR: -- as to the photograph before he offers it into evidence.

MR. HOLZER: Yes.

CHAIR: Thank you.

MR. HOLZER: Did you, did you take this picture?

MS. MASON: No, I did not.

MR. HOLZER: Do you know who did?

MS. MASON: I believe that Mr. Dewey Clark took this picture.

MR. HOLZER: Okay and he's going to be a witness later on in another, either today or another day?

MS. MASON: Yes.

MR. HOLZER: Okay and you, when, when one sees, looks at this picture, the building at the top of the ridge line or the, the tree line, is that the subject site?

MS. MASON: Yes.

MR. HOLZER: The subject property?

MS. MASON: Yes, it is.

MR. HOLZER: Okay and the road that proceeds from the bottom of the picture in a north, northern direction, that's Harford Road, is that correct?

MS. MASON: Yes.

MR. HOLZER: Okay. Now, you were in the process of showing where your property is in relationship to this picture. Can you do that?

MS. MASON: Well, you can't visibly, visibly see my property, it's down further. Like, it would be like right in

this area.

MR. HOLZER: I'm sorry --

MS. MASON: Behind the trees.

MR. HOLZER: I'm sorry. The witness put her finger somewhere to the right of the last telephone pole. Would you want to mark this, mark the picture with where --

CHAIR: You want to use the red pen?

MR. HOLZER: Yes.

BOARD: (inaudible).

MS. MASON: Okay.

CHAIR: Mr. Schmidt, you following along here?

MR. SCHMIDT: Yes, sir.

MS. MASON: I mean, you can't --

MR. HOLZER: You cannot see your home.

CHAIR: Understood that you can't see your home on the photo.

MS. MASON: No, you cannot.

CHAIR: But you can locate the general vicinity of where your home is in relation to what's depicted in the photo?

MS. MASON: Correct.

MR. HOLZER: Can you put your initials next to the X? And I'll show it to Mr. Schmidt.

MR. SCHMIDT: Okay, thank you. Do, do I understand, I'm sorry, Mr. Holzer, but do I understand this picture is taken further away from the Nepali property than where the

witness lives?

MR. HOLZER: That's correct.

MR. SCHMIDT: Okay. So, this is further south of the Nepali property, okay.

CHAIR: It's beyond 1.3 miles then.

MR. SCHMIDT: Okay.

CHAIR: That would be my understanding.

MR. HOLZER: It was apparently taken, and I'll proffer this for now, it was taken from Sharon Drive, right here. Sharon Drive and Harford Road. So, it was taken south of both of her homes and south of the entrance way to the subject site. And I'm sorry, we offered this as nineteen?

BOARD: As nineteen.

CHAIR: Do you have any objection to Exhibit 19?

MR. SCHMIDT: Well, I guess, I, I do have some questions of the photographer as to if that photographer was standing on the ground or whether the photographer is elevated.

MR. HOLZER: I proffer you'll get your chance to cross examine.

CHAIR: Right, but for purposes of this (inaudible).

MR. SCHMIDT: But for the purpose of putting it in right now, I mean, I, I would technically object because the photographer hasn't taken that and established a foundation for it.

CHAIR: You don't need the photographer to, for the

auth, to authenticate the photo. She's familiar with the --

MR. SCHMIDT: Well, assuming that's what it looks like, assuming that, that there's no unusual lens that was used or anything. I just don't know, Mr. Garber, and that's why the witness --

CHAIR: Well, no, okay.

MR. SCHMIDT: -- the witness who has taken the photograph I can't ask. So, I, I have no idea and this witness doesn't know either.

CHAIR: Mr. Holzer, do you wish to --

MR. HOLZER: Mark it for identification.

CHAIR: Okay.

MR. HOLZER: And it'll be, you'll have plenty opportunity, days.

BOARD: So, none of these exhibits are in so far, fifteen through nineteen?

MR. HOLZER: Yeah.

BOARD: Okay. Just to let you know.

MR. HOLZER: Yeah.

BOARD: All right.

MR. HOLZER: Actually, I think there are some other ones that are not.

BOARD: Just to let you know, that's where we are.

MR. HOLZER: I'm laying the foundation.

BOARD: Oh, okay.

MR. HOLZER: Well, just for parenthesis purposes, I believe the applicant put in a picture similar to that. Whether it shows the, the building as clearly as this one or not, so I'm not going to worry --

CHAIR: I recall a similar photo.

MR. HOLZER: I'm not going to worry about it right now. Do you have anything else to, to testify to before the Board before I let you go?

MS. MASON: Yes. The proposed use of this property does have a greater impact on the community than other RC-2 zoned rural areas due to the unique terrain of the area, which includes many peaks and valleys, blind curves and agricultural activities. In my opinion, this does not meet the standard for a special exception. If the past is a prelude to the future, the past practices of NACCB Incorporated shows that they will continue to be bad neighbors in the future. Thank you.

MR. HOLZER: No further wit, no further questions. Your witness.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: Ma'am, the last sentence that you read, who wrote that?

MS. MASON: I did.

MR. SCHMIDT: You did? With the assistance of anyone?

MS. MASON: No.

MR. SCHMIDT: Okay. So, that's your --

MS. MASON: A grammar, grammar review.

MR. SCHMIDT: Okay. That's your work product?

MS. MASON: This is my work product.

MR. SCHMIDT: Okay. You have a copy of Section 502.1 in front of you?

MS. MASON: Yes, I do.

MR. SCHMIDT: Okay. Can you tell me where in that section the word noise appears?

MS. MASON: It is detrimental to the health, safety and general welfare of the locality involved.

MR. SCHMIDT: Ma'am, let me ask you the question.

MR. HOLZER: Objection. Let her finish her answer.

CHAIR: Hold on. Let her finish her answer.

MR. SCHMIDT: Okay. Go ahead, ma'am. Be detrimental to the health, safety and general welfare of the locality involved.

MS. MASON: Yes.

MR. SCHMIDT: Okay.

CHAIR: Was that the complete, is that --

MS. MASON: No, that is not my complete answer.

MR. SCHMIDT: Yes, ma'am.

CHAIR: Please, please go, please go on.

MS. MASON: The noise interferes with the health of my family.

MR. SCHMIDT: Okay. Let's try this again. I'm going to ask you to answer the question that I ask, if I can. You're familiar with the word noise, N-O-I-S-E, correct?

MS. MASON: Yes, sir.

MR. SCHMIDT: Okay. Where does that word appear in 502.1?

MS. MASON: That word does not appear as N-O-I-S-E in 502.1.

MR. SCHMIDT: Thank you, ma'am. And now, your property is 1.3 miles south of the subject property, right?

MS. MASON: Yes.

MR. SCHMIDT: Is that as the crow flies or is that as one drives Harford Road?

MS. MASON: That is as one drives Harford Road.

MR. SCHMIDT: Okay. Do you know how far the property is, your property is from the (inaudible) as the crow flies, if you know? Do you know?

MS. MASON: No, I don't.

MR. SCHMIDT: You do not know. Okay. I noticed on exhibit number sixteen, which is the vehicle, which is the photograph of your vehicle. Do you have a copy of that?

MS. MASON: Yes.

MR. SCHMIDT: Okay. Let me ask you a question about that, if I can, ma'am. Let me know when you have it, you have it in front of you?

MS. MASON: Yes.

MR. SCHMIDT: Okay. Behind, overtop the roof of your vehicle is a road sign that appears to indicate that there is a, a turn, is that right?

MS. MASON: Yes.

MR. SCHMIDT: Okay. You referred to a series of turns south of your property as the seven sisters turns?

MS. MASON: Correct.

MR. SCHMIDT: Is that a sign for one of the seven sisters turns?

MS. MASON: Yes.

MR. SCHMIDT: Okay and that, those, those turns are also in the valley, are they not?

MS. MASON: They are in the Long Green Valley, yes.

MR. SCHMIDT: Okay and, and within the area that you've described as your valley or the valley that you're concerned would be adversely impacted by the Nepali project, is that correct?

MS. MASON: Correct.

MR. SCHMIDT: Okay and there are a series of seven turns in that location, is that correct?

MS. MASON: Yes.

MR. SCHMIDT: Is this the first one as one would go south that we're looking at in the distance or are there already turns as one would look south in the photograph?

MS. MASON: The turn that this sign indicates is about the fifth turn.

MR. SCHMIDT: Okay. Okay. Now, this accident, how far south of your property did this occur?

MS. MASON: I don't know exactly how far south of my property, but it's 3.3 miles, well, it would be two miles then. Because it's 3.3 miles south on Harford Road from the subject property, so it makes it two miles from my home.

MR. SCHMIDT: Okay. So, this accident occurred 3.3 miles south of the Nepali property?

MS. MASON: Correct.

MR. SCHMIDT: Okay. Ma'am, what do you anticipate the increase to be in the volume of traffic which would be generated by the Nepali facility?

MS. MASON: I'm not a traffic expert. I'm just a lay person and I just know that there, that they had said in their post on Facebook that they had anywhere from three hundred to five hundred people attend their festival fundraiser event.

MR. SCHMIDT: Okay and you indicated, I think you indicated, that over in, in the calendar year 2017, there was one event that you were aware of that you could hear?

MS. MASON: Yes.

MR. SCHMIDT: And in the calendar year 2018, there was also one event that you could hear?

MS. MASON: Yes.

MR. SCHMIDT: Okay. Did those events cause traffic congestion in front of your home?

MS. MASON: Well, I didn't, I didn't go out and watch the traffic. I don't know if it was traffic events. All I noted was the noise.

MR. SCHMIDT: Okay. So, you didn't note any increase in the volume of traffic in front of your home? There wasn't stop and go traffic in front of your home on the days of this events in 2017 or 2018 that you noticed, that you took any pictures of, that you called the police to complain about why is Harford Road a gridlock or anything like that?

MS. MASON: No.

MR. SCHMIDT: Okay, all right. The impact of those events, as far as you're concerned, was the noise, which unsettled you and unsettled your horses?

MS. MASON: Correct.

MR. SCHMIDT: Okay. Was that amplified noise?

MS. MASON: I would say yes. I don't know, I don't have proof of an amplification system.

MR. SCHMIDT: Well, did it sound like it? Did it sound like a microphone?

MS. MASON: Yes. For me to hear at 1.3 miles by the roadway, I would say yes.

MR. SCHMIDT: Yeah, I, I mean, I don't know that anybody could scream without amplification and be heard on your

property 1.3 miles away, do you, do you think that to be the case?

MS. MASON: I don't think that's the case.

MR. SCHMIDT: Okay. So, there had to be some kind of amplification, is that correct?

MS. MASON: Yes.

MR. SCHMIDT: So, if there was no amplification of any noise on the Nepali property, would that alleviate your concerns as it relates to noise?

MS. MASON: In this instance, yes.

MR. SCHMIDT: Well, how about in any instance?

MS. MASON: I can't answer for any instance because I don't know what other instances there would be.

MR. SCHMIDT: Well, let me say this. If the Board of Appeals chose to enter a restriction as the Administrative Law Judge did in this case, which prohibited the amplification of sound out, on the Nepali property, outside the building, would that then alleviate your concern?

MS. MASON: Well, I believe they did and we had amplification in 2018.

MR. SCHMIDT: I understand that, ma'am. And apparently, I guess, one could argue or say that the, that that restriction, for whatever reason, was not being followed. But again, if you could answer my question, I would appreciate it. I'm not trying to trick you, but I would like an answer to the

question that I'm asking and that is, if there was no amplification of outdoor sound, be it music, voices, whatever it might be on the Nepali property, would that alleviate your concern as it relates to noise?

MS. MASON: I believe it would alleviate the concern for noise, for voices. I don't know about music.

MR. SCHMIDT: Okay. Okay. Yeah, so, so someone playing, strumming, for example, an acoustic guitar, you might be able to hear that?

MS. MASON: I don't know.

MR. SCHMIDT: Even if it was, you don't know, but it would alleviate your concerns as to people talking or singing or anything like that because, obviously, you can't hear that a mile and, 1.3 miles away without amplification?

MS. MASON: I wouldn't think so.

MR. SCHMIDT: Okay. Okay. Well, and you never heard it without amplification? The noise that you've heard --

MS. MASON: That I'm aware of.

MR. SCHMIDT: -- is amplified voices, is that correct?

MS. MASON: That I'm aware of.

MR. SCHMIDT: Okay. Well, you're the one that heard it. Nobody else would be aware of it.

MS. MASON: But I can hear it, but I don't know if, what type of amplification, if there was any or not.

MR. SCHMIDT: You can't tell if a voice is being amplified by a microphone or some type of equipment like that?

MS. MASON: We could just hear a voice, we could just hear people talking.

MR. SCHMIDT: Okay. Maybe it was God, who knows (inaudible).

MR. HOLZER: Objection. I mean, that's a little far --

CHAIR: Mr. Schmidt, please, --

MR. SCHMIDT: Okay.

CHAIR: Mr. Schmidt, please stick to your questions. Sustained.

MR. SCHMIDT: Have you ever heard of any noise from the Beachmont facility?

MS. MASON: No.

MR. SCHMIDT: The Christian Redeemer facility, you know what the property that I'm talking about?

MS. MASON: Yes, over on Mount Vista Road.

MR. SCHMIDT: Right, how far are you from that, if you know?

MS. MASON: I don't know.

MR. SCHMIDT: Okay. Are you familiar with that operation at all?

MS. MASON: No, I drive by when I need to use Mount Vista Road. I have never been at that location.

MR. SCHMIDT: Never been inside that facility?

MS. MASON: No.

MR. SCHMIDT: And you've been to this property, I think, you said one time, correct?

MS. MASON: Yes, when it was for sale.

MR. SCHMIDT: Okay. Are there any plans that the Nepali congregation has to change the exterior of the subject building, if you know?

MS. MASON: I don't know.

MR. SCHMIDT: Okay. Well, if that building was to, were to, would be, were to remain the same in term of its, terms of its appearance, would that alleviate any concern that you would have in terms of a visual impact?

MS. MASON: I would guess it, I, that, no, I wouldn't, that wouldn't bother me, no.

MR. SCHMIDT: So, so if it chooses a temple, or if it chooses a house, if it continues to look the same to the eye, in for example, the photograph number --

CHAIR: Nineteen?

MR. SCHMIDT: -- I believe it's nineteen, then the visual impact, or the visual effect would be the same, would it not?

MS. MASON: If, I believe it would be.

MR. SCHMIDT: Okay. You have any idea how much traffic goes up and down Harford Road on an annual basis?

MS. MASON: Oh, a lot. I don't know quantities or anything, but all I know is a lot.

MR. SCHMIDT: Okay. Do, were you here for Mr. Callagero (phonetic), the traffic engineer's testimony?

MS. MASON: Yes.

MR. SCHMIDT: Do you recall what he said the volume of traffic was on an annual basis?

MS. MASON: I don't know the annual, I think the, it was six thousand cars a day in that area of the subject property, somewhere around six thousand or sixty-five hundred cars a day.

MR. SCHMIDT: Okay. But I don't, that's not in front of my home, that's in front of the subject property.

MR. SCHMIDT: Okay. Okay. Board's indulgence. No other questions, thank you.

MR. HOLZER: Thank you. Ms. Mason, the Administrative Law Judge imposed that there would be no outside amplification. Are you aware of that?

MS. MASON: Yes.

MR. HOLZER: Okay and as a result of that, if there was outside amplification so that you could, so that you could hear people talking from the site, would that be a violation of the condition that he imposed?

MS. MASON: Yes.

MR. HOLZER: Okay.

MS. MASON: I would believe it would.

MR. HOLZER: Now, suppose this Board imposes that same condition, there will be no outside amplification and a year from now there is outside amplification. Would you like that?

MS. MASON: Absolutely not.

MR. HOLZER: So, there is a concern relative to the applicant not, not adhering to the conditions of any decision of either the Administrative Law Judge or the Board of Appeals, is that correct?

MS. MASON: Yes.

MR. SCHMIDT: Objection. It's turning into a violation case and that's not why we're here.

CHAIR: I think the question was, do you have a concern that they will not follow any restriction imposed by the Board of Appeals, is really where he was going with that.

MR. HOLZER: Right, right.

CHAIR: That, that's correct?

MR. HOLZER: Yes.

CHAIR: All right.

MS. MASON: Yes, based on their past behavior, I would believe that the future behavior would be the same, my opinion.

MR. HOLZER: Okay. As Mr. Schmidt asked you about the, the building, if nothing changed about the building, would

that, would you be satisfied with that, okay? In the special exception hearing before this Board, the building and its surrounding acc, accomplishes about 2.2 acres. But they've asked for thirty acres in terms of, of the special exception. Do you have any concern that there could be expansion of that build, the particular house that they're talking about to some other building?

MR. SCHMIDT: Objection. And Mr. Garber, I mean, this --

MR. HOLZER: You opened the door.

CHAIR: Hold on. Hold on.

MR. SCHMIDT: No, I didn't.

CHAIR: One at a time. Mr. Schmidt?

MR. SCHMIDT: If I can be heard on my objection?

CHAIR: Yes. Mr. Schmidt?

MR. SCHMIDT: Okay. This, if the Board approves this special exception, assuming arguendo, the Board would do so, would it, it would improve, it would approve it in accordance with the site plan which had been submitted. And if there was to be a change to that site plan, it would be required that the applicant come in and get that approval and get that expansion or whatever it might be approved, approved. So, we're not asking for additional, we're, we're asking for approval of the use of the property as it's shown on the site plan. The site plan is what the Board --

CHAIR: Is what's in front of us.

MR. SCHMIDT: -- would approve and what, not fifty years from now if they decide to build a new building or something like that. And the neighbor, and if that's, if, if, not that Nepali couldn't come back and do that, but if they did, just like in countless other zoning cases, they would be required to come in and amend the site plan. I know Ms. Dopkin has probably represented people who's done that herself, as, as you may have done too. So, it's a, it's, it's not a relevant question.

MR. HOLZER: It is a relevant question because client after client, neighbor after neighbor, is told the same thing and once they get the special exception for 2.2 acres or thirty acres, development in the future comes back and these people, the Protestants, the neighbors, the people who are not, you know, are not involved in making money or not involved in these events, are forced to come in here again. That is a legitimate concern of anyone who lives in the neighborhood. Do you understand --

CHAIR: Hold on, hold on (inaudible).

MR. HOLZER: I'm sorry.

CHAIR: We still have to work this part out before we get to the next question. So, just to seize upon what your last point was, wouldn't that be the same concern if it's restricted to 2.2 acres or thirty? As they choose to expand,

you would be here one way or the other, whether it's granted on the thirty or granted on 2.2.

MR. HOLZER: Makes it a lot easier if it's granted on thirty. You don't have to come back to go beyond the 2.2. And, and, and the conditions of 502.1 would apply again, which would be different than, than what's happening now. I've had these cases.

CHAIR: Um hm.

MR. HOLZER: People are, are sitting there looking at 2.2 and then they're concerned about, well, what happens if there's an enlargement, so my --

CHAIR: So, if I can?

MR. HOLZER: Yeah.

CHAIR: So, your question is, are you concerned about the potential for expansion?

MR. HOLZER: Yes. Simple as that.

CHAIR: I think that that, overruled on that, as to that question.

MS. MASON: Yes, I am concerned. The, the organization is called Nepali American Cultural Center. That could be a lot of things and they could expand and build many different things. They could build a chur, I mean, build a school, they could build buildings for activities. There could be many things there.

MR. HOLZER: Okay. Thank you. I have no further

questions.

CHAIR: Thank you.

MR. SCHMIDT: Nothing further.

CHAIR: Thank you very much.

MS. MASON: Thank you.

BOARD: Ma'am, before you step down --

CHAIR: Oh, I apologize.

BOARD: -- I have just one question. You indicated you were in an accident on September 14th and that there was also a condition because of a broken down vehicle on October 18th?

MS. MASON: Yes.

BOARD: Do you know if there was any activity at the subject property on either of those days?

MS. MASON: No, I don't know.

BOARD: Okay, thank you.

CHAIR: Thank you.

MS. MASON: Thank you.

CHAIR: And we have extra copies of your photos so.

MS. MASON: Pardon?

CHAIR: You, you have extra copies of these?

MS. MASON: Yes, thank you.

MR. HOLZER: Okay.

CHAIR: Thank you.

MR. HOLZER: Mr. Poehler?

BOARD: Do you swear and affirm under the penalties of perjury, that the testimony you are about to give is true and correct to the best of your knowledge and belief?

MR. POEHLER: I do, yes.

BOARD: Please state your name and address for the record and spell your last name?

MR. POEHLER: Dave Poehler, P-O-E-H-L-E-R. I live at 12241 Harford Road, Glen Arm, Maryland 21057.

CHAIR: Please keep your voice up when you, when you testify. You may have a seat.

MR. HOLZER: Thank you. Mr. Poehler --

CHAIR: Sorry. Whoever has the cell phone on, please turn it off. I mean, I've asked this several times throughout every day. Thank you.

MR. HOLZER: Mr. Poehler, you've seen Protestant's exhibit up here. I don't know whether this would be of any assistance to you as to locate your, your home, but could you take a look at it?

MR. POEHLER: Actually, my home is --

CHAIR: Sir, if you're answering the question, you have to keep your voice up so the microphone catches what you're testifying to.

MR. POEHLER: My home is actually just north of the subject property.

CHAIR: Is it depicted on Petitioner's, Protestant's

Exhibit 15?

MR. POEHLER: Very, very top.

MR. HOLZER: Okay. Could you use the red pen to put an X where it is and put your initials next to it?

MR. SCHMIDT: And it's Mr. Poehler?

MR. POEHLER: Poehler.

MR. HOLZER: Mr. Poehler, David Poehler.

MR. SCHMIDT: Okay.

MR. HOLZER: And you can have, you can have a seat. Now, Mr. Poehler, so, you live at this property with your wife?

MR. POEHLER: I do.

MR. HOLZER: Okay and that's at 12241 Harford Road?

MR. POEHLER: Yes, it is.

MR. HOLZER: Is the entrance to your property and it wouldn't show on this exhibit, but would the entrance to your property be the next entrance above the entrance to the subject site?

MR. POEHLER: It is approximately two hundred feet north of their entrance.

MR. HOLZER: Okay. In terms of your wife, will she be testifying today?

MR. POEHLER: She will not be.

MR. HOLZER: And why not?

MR. POEHLER: She can't handle this case.

MR. HOLZER: Okay. In what respect?

MR. POEHLER: She's emotion, emotionally distraught about all this.

MR. HOLZER: Okay. So, you're testifying, in effect, on, for her as well as for yourself?

MR. POEHLER: Yes.

MR. HOLZER: Okay. You, I know you've been here a couple times. I don't know whether you were here at the last hearing when the applicant is proposing to move their entrance from where it is now, further north?

MR. POEHLER: I've been here for every hearing.

MR. HOLZER: Okay and so, how close will the new entrance, if it's approved, how close to your entrance will that be now?

MR. POEHLER: From what I understand, they proposed to move it seventy feet north, which would be seventy feet closer to my driveway.

MR. HOLZER: Okay. Okay and how is, does your property adjoin the applicant's property?

MR. POEHLER: As far as I understand, my property is the only residential property that actually butts their property. Behind us is farmland and to the east side of their property is Harford Road.

MR. HOLZER: Okay, okay. And how long have you lived there, if I haven't asked that?

MR. POEHLER: Five years.

MR. HOLZER: Okay and why did you acquire that property?

MR. POEHLER: To, to make a long story short, I've had my fair share of shortcomings and I was actually born in a house at 8310 Harford Road, which is approximately seven to ten miles south of where I live today.

MR. HOLZER: Uh huh.

MR. POEHLER: And it was always a dream to actually move up into Glen Arm. Glen Arm, the valley, Long Green Valley, was always just a dream, I always wanted to live there. And I never thought that it would be possible for me to move where I actually live today.

MR. HOLZER: How many acres do you have, if you know?

MR. POEHLER: We have five acres.

MR. HOLZER: Five acres?

MR. POEHLER: Yes.

MR. HOLZER: And is there just a home on the property?

MR. POEHLER: It's, it's a single family residence, yes.

MR. HOLZER: Okay. You just testified that you had been here at every hearing, is that correct?

MR. POEHLER: Yes.

MR. HOLZER: Did you also attend the Administrative Law Judge hearing?

MR. POEHLER: I did.

MR. HOLZER: All right. Did you testify there?

MR. POEHLER: I did not, my wife did.

MR. HOLZER: Oh, okay. Okay. What are your, what are your concerns in regard to the request that the applicant has submitted, that we've been testifying to for four or five days now?

MR. POEHLER: One of my largest concerns is, is traffic.

MR. HOLZER: Okay.

MR. POEHLER: I am not a traffic expert, but I live there, so I'm involved in it every single day. I know exactly how the traffic runs up and down my road. People come out of that circle, they're not hitting their break, they're on the gas.

MR. HOLZER: You mean, the circle that's north of your --

MR. POEHLER: At Mount Vista and Harford Road.

MR. HOLZER: Okay. Well, why don't you just tell the Board what you've experienced and what your concerns are, based on your living there?

MR. POEHLER: My, like I said, one of my largest concerns is, is the traffic in general. And then with the added traffic from this site, last year they had their first event, I believe, in June of 2017. I had approximately twelve

vehicles come into my driveway and use my front yard to turn around on looking for this site. It's a very large concern, is traffic.

MR. HOLZER: Okay. In addition to that, I mean, what else, at, living where you do, north of the curves, have you experienced any accidents, any problems --

MR. POEHLER: Several, several.

MR. HOLZER: And explain, if you could.

MR. POEHLER: I mean, just living at the property and living along Harford Road, you're going to experience accidents and high traffic, you're just, it's, it's almost a way of life there.

MR. HOLZER: Okay. Okay. The, in addition to your concerns about the traffic and you've heard the traffic experts for the applicant?

MR. POEHLER: Um hm.

MR. HOLZER: Talk about the numbers of accidents and where they were and, and, and the volumes. Do you have any comment on that kind of testimony --

CHAIR: Hold on (inaudible). Sir, sir? Could you walk through the back row and if the gentlemen, if you, the two of you in the back row, would you mind moving forward one row? We're trying to leave that open as much as possible to allow people to ingress and egress on to the other side of the room, rather than having them come around to counsel's table? Either

to the front and back of it? Thank you. Appreciate it from all of you and all your cooperation. Sorry, Mr. Holzer, to cut you off.

MR. HOLZER: That's all right. I'm not sure where I was.

CHAIR: Yes, I'm sorry.

MR. HOLZER: Before I went into the next, well, let me, let me try to remember. The, are there any specific events related to traffic that you personally were involved in or aware of or, or experienced?

MR. POEHLER: I know at one of their events, we had had a cookout and you cannot not experience the traffic impact from my location of where I live. You just, I mean, I'm, I don't feel that I should be responsible to have to worry about taking car counts of how many cars are coming up and down my driveway, their driveway.

MR. HOLZER: Okay.

MR. POEHLER: But it, it's, it happens a lot.

MR. HOLZER: Okay. Do you think moving the entrance way closer to your driveway will assist, particularly if they have signage or something like --

MR. POEHLER: I don't believe it's going to make any difference at all. It's a dangerous stretch of Harford Road period, in my opinion.

MR. HOLZER: Um hm.

MR. POEHLER: When people leave my driveway, family and friends, I tell them, when they get out on Harford Road, you better floor it.

MR. HOLZER: Floor it?

MR. POEHLER: Floor it. Get up to speed because people fly up and down, the turns doesn't slow them down.

MR. HOLZER: You mean, the, the curves that are right south of the entrance to the, of the applicant?

MR. POEHLER: North and south.

MR. HOLZER: So, I mean, we heard the traffic engineer say oh, everybody doesn't go fifty miles an hour around those turns.

MR. POEHLER: He doesn't live there.

MR. HOLZER: Okay. Have you experienced the speed of that, that kind of speed?

MR. POEHLER: I, I have, I have. Like I said, people, where I live is just north of the property so when people come out of the Mount Vista circle, my wife and I sit on our front porch a lot and just watch the traffic. They come flying out of that, which is a downhill crest and then they're hard on the break right before that turn. So, they're either sliding, skidding, beeping horns.

MR. HOLZER: Okay, okay. Let's go from the, the traffic aspect to, do you have any, have you experienced any noise issues?

MR. POEHLER: Very much so.

MR. HOLZER: Okay. Let me ask you this. When you're sitting, or in your house, or sitting on your porch and you look south, can you see the, the home and the area around the home?

MR. POEHLER: I can, looking from my driveway --

MR. SCHMIDT: Excuse me.

MR. POEHLER: Bless you. Looking from my driveway, looking south, I look basically right into the front of their property.

MR. HOLZER: Okay. So, you can, you can see, to some extent, what's going on on their property?

MR. POEHLER: I can.

MR. HOLZER: Without getting off of your property?

MR. POEHLER: Absolutely.

CHAIR: If I can jump in real quick. What part of the property, if you're standing at the end of your driveway and you're looking south, what part of their property can you see?

MR. POEHLER: Of their property?

CHAIR: Of the property at issue, the, the site?

MR. POEHLER: The, there is a circle driveway right in front of the main entrance. I can see that.

CHAIR: Anything else?

MR. POEHLER: The driveway leading up to that circle.

CHAIR: Okay. On your property, hold on, one second.

MR. HOLZER: I'm sorry, I apologize.

CHAIR: That's okay. We're done? All right. So, on your property, what else can you see from, what else of their property can you see from your property if you were at your house, outside your house?

MR. POEHLER: The grass plot on the right side of their driveway where they do a lot of car parking. I can see all of that ground.

CHAIR: Okay and if you were in your backyard, I'm assuming you have a backyard?

MR. POEHLER: Yes.

CHAIR: Because you have five acres?

MR. POEHLER: Yes.

CHAIR: I'm assuming that from your backyard, you'd be able to see part of their property?

MR. POEHLER: I can.

CHAIR: And what part of the property can you see?

MR. POEHLER: Same.

CHAIR: The grass area?

MR. POEHLER: Yes.

CHAIR: Okay. Can you see the temple at all?

MR. POEHLER: I can.

CHAIR: Okay. From what location on your property can you see the temple?

MR. POEHLER: The, my side yard, front yard, back yard.

CHAIR: From all sides?

MR. POEHLER: From --

CHAIR: You can see the temple?

MR. POEHLER: Yeah, so if I'm facing my house and I look to my right, so that would be my, my driveway comes up the side of my house.

CHAIR: The, the side closest to the subject property?

MR. POEHLER: To the, yes. I can see basically their front yard.

CHAIR: When you say their front yard, I need to know what you mean by that.

MR. POEHLER: Their driveway, their front door, the--

CHAIR: At the temple?

MR. POEHLER: At the temple.

CHAIR: Okay. Sorry.

MR. HOLZER: That's okay, fine. Do you have a picture that you could show the Board what you can see?

CHAIR: Mr. Holzer?

MR. HOLZER: Yes?

CHAIR: If I can, we can start with this. Petitioner's Exhibit 9-E and D. Mr. Schmidt?

MR. SCHMIDT: Yes, sir?

CHAIR: Have you seen these?

MR. SCHMIDT: Yes, sir, I think I put them into evidence.

CHAIR: Well, I know you've seen these, they're your exhibits.

MR. SCHMIDT: So, I have seen them.

CHAIR: So, (inaudible).

MR. SCHMIDT: And I, actually, truth be told, I think --

BOARD: You don't, you don't want to talk, sir. There's (inaudible) no question.

CHAIR: You think there's another?

MR. SCHMIDT: Well, I think. I thought there was one. In FF, it's viewing towards the area where the driveway would be relocated and I was just trying to see if you could see Mr. Poehler's --

CHAIR: Oh, yes. There was one you could see that, the building through, I do recall that.

MR. SCHMIDT: -- house or farm. I thought, I thought there was one that looked --

CHAIR: I recall the same testimony.

MR. SCHMIDT: I'm having, yeah, I'm having a hard time finding it, but I thought there might be one that showed that.

CHAIR: Mr. Holzer, may I? Here we go. Which

picture is that, FF?

MR. SCHMIDT: F, yeah.

CHAIR: Okay. So, I can trouble you to take a look at Petitioner's Exhibit 9-B, D and FF. So, we'll start with FF because that's the one in front of you.

BOARD: Let me give you exhibit copies (inaudible).

MR. SCHMIDT: Is that the same, just, I just want to make, is that the same thing that you were showing me?

CHAIR: Yes.

MR. SCHMIDT: Mr. Holzer, are you looking at Petitioner's exhibits?

MR. HOLZER: I wasn't over there so I have no clue what you were looking at.

MR. SCHMIDT: Okay, okay.

CHAIR: Petitioner's Exhibit 9.

MR. HOLZER: Yes.

CHAIR: B, D and FF.

MR. HOLZER: B.

CHAIR: Right.

MR. HOLZER: Okay.

CHAIR: B and D show a driveway just north of the site property.

MR. HOLZER: All right. Can I ask the question now?

CHAIR: Yes, sorry.

MR. HOLZER: Okay. Looking at nine, Exhibit,

Petitioner's nine, photograph B, can you identify your driveway?

MR. POEHLER: Yes, yes.

MR. HOLZER: He just pointed to the last left turn or left sign --

CHAIR: By the roads, a yellow road sign, there's a driveway.

MR. HOLZER: Yes.

CHAIR: That, that is your driveway, sir?

MR. POEHLER: Yes, it is.

MR. HOLZER: Yes.

CHAIR: Thank you and then the same thing on, on D?

MR. HOLZER: Same thing on D, that's exactly right.

CHAIR: Okay and if turn to FF.

MR. HOLZER: FF. FF, do you know what this is a picture of?

CHAIR: There's been some testimony that through the clearing, within the trees, that's in roughly the right center of the photo, that there's a building there?

MR. POEHLER: I can, not make out what that is, actually.

CHAIR: Okay. Well, let me ask you, when you're looking at picture FF, does that, do you have any, does that look familiar to you in any way, shape or form?

MR. POEHLER: It could be my other neighbor's house.

CHAIR: Okay, okay.

MR. POEHLER: To the, to the left of me. I'm not --

CHAIR: Okay.

MR. POEHLER: My house sits way back off of Harford Road.

CHAIR: Okay. So, that may be a whole different --

MR. HOLZER: Yes.

CHAIR: -- your other neighbor?

MR. POEHLER: Yes.

CHAIR: Okay.

MR. HOLZER: All right.

CHAIR: Okay, hold on. Someone's cell phone just went off. We're going to take a recess here. Everyone, please take a look at your cell phones during the course of this recess and turn your phones off. Okay? We're going to do a recess.

MR. HOLZER: Thank you.

(RECORDING PAUSED - 10:28:33 AM)

(ON RECORD - 10:56:07 AM)

CHAIR: Okay. So, when we last left, someone's cell phone had been ringing and I said we're taking a recess. We have been here for five days. I realize some people arrived and, after I gave my, I guess, cautions this morning. In the future, counsel, please tell everybody who appears on your side in advance to have their cell phones shut off. It is

distracting, it interrupts the witnesses and it interrupts counsel and the Board also feels that it is improper because this is a courtroom. There is a matter of decorum that needs to be observed at all times and it is inappropriate to have your cell phones on and audible. So, that's one. Two, we're going to leave as best as we can the backrow over there open so that people can ingress and egress through there. That means, we go in and out through the back row from this side of the room, so this way no one has to cross in front or behind counsel table and get in front. Another point. When we do objections, please stand with your objection, state your objection. This way we're not going to have people talking over one another, over one another, nor will we have people going back and forth with one another with lengthy explanations and other things that they want to bring up. Just state what the objection is, we can move on from there. That, I think I covered it all. Oh, yes, thank you. Another thing is, people who are in the front, I can hear your conversations sometimes up here. If I can hear your conversations up here, it's being recorded by CourtSmart and odds are, it's actually jumping over the testimony of the witness. So, it could very well make it into a transcript, things that you want to be held private with your counsel. So, please keep that in mind as well. It should not, we should not be having conversations during the course of testimony. Thank you. And with that in mind, we can proceed

with this witness. Thank you, Mr. Poehler, for your patience. And Mr. Holzer, I believe you were in the middle of a question?

MR. HOLZER: Thank you. I believe we were trying, the Chairman was trying to find out exactly what Mr. Poehler could, could see from his property and we looked at a couple of exhibits, Petitioner's exhibits.

CHAIR: And we established that it is his driveway in, in, in Petitioner's Exhibit 9-B and D, that is to the right of the subject property driveway.

MR. HOLZER: Correct. Pull out your pictures. Okay, I need all of them. I mean, I need all of the copies that you have.

MR. SCHMIDT: Thank you, Mr. Holzer.

MR. HOLZER: Uh huh. I'll take the black and white on.

CHAIR: Thank you.

MR. HOLZER: Now, Mr. Poehler, I marked, haven't marked yet, but can you identify this picture?

MR. POEHLER: I can, yes.

MR. HOLZER: Were you present when it was taken?

MR. POEHLER: I was.

MR. HOLZER: And did you take the picture?

MR. POEHLER: I did not take the picture.

MR. HOLZER: Who took it?

MR. POEHLER: I believe Mr. Clark.

MR. HOLZER: Okay. Now, could you tell us where you and he were standing and what we see on this picture? I see vehicles.

MR. POEHLER: That is basically standing in my front yard looking through a tree line into the adjacent property.

MR. HOLZER: Okay. So, would, so does this, can you see more than just these vehicles?

MR. POEHLER: I can. As I walk along my property, that's obviously just standing in one location on my property, but there's several different areas in my location.

MR. HOLZER: Okay. Are these vehicles parked on the grass or are they moving on a driveway or something?

MR. POEHLER: They are parked off the side of the driveway.

MR. HOLZER: Okay and I would offer this as the next --

BOARD: Twenty.

MR. HOLZER: Twenty? Now, --

CHAIR: Mr. Schmidt?

MR. SCHMIDT: I would object because I would like, I, I have no problem if it's marked for identification, I would like to ask Mr. Clark --

MR. HOLZER: They're all marked for identification.

CHAIR: Mr. Holzer, we wait.

MR. HOLZER: I'm sorry, but they, it's --

CHAIR: Are you not moving this into evidence at this time?

MR. HOLZER: I'm marking it for identification, so when the, --

MR. SCHMIDT: Oh.

MR. HOLZER: -- when the photographer gets here --

CHAIR: I apologize. But you don't need the photographer, there was a, I would say I was confused just like Mr. Schmidt there, as to whether or not you were offering it into evidence. That's fine. Thank you, Mr. Schmidt. Thank you, Mr. Holzer, you may continue.

MR. HOLZER: Thank you. Thank you. Now, I show you what has, what you've handed to me. Can you describe what this picture is?

MR. POEHLER: I believe this is a drone shot.

MR. HOLZER: Right.

MR. POEHLER: Just south east of the property and just to the north in the center, you can see the roof of my barn.

MR. HOLZER: Okay and where is your house, can we see it?

MR. POEHLER: My house? You can see the roof of my house, which is right to the left of my barn.

MR. HOLZER: All right, I, I will --

CHAIR: Can you please use your red pen?

MR. HOLZER: -- have him mark it with a red pen. Well, let me, this is my copy so whatever the, --

CHAIR: So, yeah, please mark your house, but also your barn since you pointed out two structures. We get, why don't you right H and B next to each respectively.

MR. HOLZER: All right. He has, he has done that in red and --

CHAIR: Make sure, Mr. Schmidt.

MR. SCHMIDT: I understand.

MR. HOLZER: You know --

MR. SCHMIDT: Right here, yes, sir.

MR. HOLZER: Yep.

CHAIR: Thank you.

MR. HOLZER: And I would, now, from, from your house and your barn, can you see these cars, cars parked in this grass area?

MR. POEHLER: Not every single one of them, but many of them.

MR. HOLZER: Right. In other words, you can see that car. Could you see up to where the tent is on the right hand side?

MR. POEHLER: Yes, I can.

MR. HOLZER: And can you see, what, do you know what this is, this green rectangle?

MR. POEHLER: I believe that to be a tennis court,

volleyball court.

MR. HOLZER: Okay and can you see the house, which would, where would the house be?

MR. POEHLER: Off of this picture, it's right in front of this white tent.

CHAIR: The temple?

MR. POEHLER: The temple.

CHAIR: Referring to, the house, temple?

MR. POEHLER: The house, house, temple.

CHAIR: Yeah, well, he, we have him identify his house on that photo. You used the word house, that's why I'm trying to distinguish --

MR. HOLZER: I'm sorry, I'm sorry. Yeah, I was asking about where is the subject site's home.

CHAIR: Thank you.

MR. POEHLER: Right in front of this white tent.

MR. HOLZER: Okay.

MR. POEHLER: Which is off the picture.

MR. HOLZER: Okay and you can see that from your house?

MR. POEHLER: I can see the front porch of it, yes.

MR. HOLZER: The front porch, okay and I would offer that as the next exhibit, which is --

BOARD: Twenty-one.

MR. HOLZER: Twenty-one.

CHAIR: Exhibit, for identification only.

MR. HOLZER: For identification only. Now, Mr. Poehler, at the beginning of your testimony, you said your wife had testified before and, and she's not going to testify now. Could you just start, briefly explain why?

MR. POEHLER: She gets too upset with the whole matter, that she feels that our side is not being heard. She doesn't believe that it's being fair and she's, she's highly concerned of our property value. She just gets too upset.

MR. HOLZER: Okay. Has she attended any of the hearings here at the, before the Board?

MR. POEHLER: Not, not these hearings, no.

MR. HOLZER: Okay. Now, you, you were, I think you had started to talk about noise emanating from the property. Could you tell us, give us examples of, of what you mean by that and how it's impacted you, your property?

MR. POEHLER: Well, my first interaction with the noise was, I believe, on June 3rd, I think it was. I actually had just came home from a concert, ironically, in Bristow, Virginia, which is several hours away from Baltimore. It was late at night, 1:00 in the morning, and they still had concert music, I mean, they have a, I love music, they had a heck of a sound system over there. So, when I'm pulling in my driveway, 12:30, quarter to one at night, I'm still hearing music.

MR. HOLZER: Was that music amplified or just normal

--

MR. POEHLER: Definitely amplified.

CHAIR: Let, let, make sure he finishes his question before you start answering.

MR. HOLZER: Okay. I started to say, was it amplified or was it just normal, with instruments outside of the house?

MR. POEHLER: It was definitely amplified.

MR. HOLZER: Okay, okay. Okay. Any other issue, any other incidents that affected you?

MR. POEHLER: I mean, just the noise and the traffic.

MR. HOLZER: Okay.

MR. POEHLER: On that instance.

MR. HOLZER: Okay.

BOARD: What was that date?

MR. POEHLER: That was June 3rd.

BOARD: Of what year?

MR. POEHLER: Twenty seventeen.

MR. HOLZER: Have there been any other events where you've been able to hear noise?

CHAIR: Guys, I can hear you over here, so please, sorry, Mr. Holzer. Have, have there been any other occasions where you heard noise?

MR. HOLZER: Yes.

MR. POEHLER: There has been. There's been several

occasions where it's been extremely noisy. They've had large gatherings, some call it picnics. I don't know the exact dates of them because I, I really honestly didn't know that I was going to have to keep track of all these dates and times.

MR. HOLZER: Okay.

MR. POEHLER: But, like I said, I live there, so.

MR. HOLZER: When, when you first heard of, that, that someone had purchased the property and, and was interested in submitting an application, did you do anything about that?

MR. POEHLER: Well, I know that when the house went into foreclosure and was on the market for sale, obviously, I was interested in what was going to happen with the property. So, we actually got a real estate agent and went over and walked through the property. And then all of a sudden, I don't know exactly what had happened, but it went off the market and then we heard that it was sold.

MR. HOLZER: Okay.

MR. POEHLER: And I, I don't know the exact date of it, like I said, I'm not sure why I would have to keep track of all these specific dates.

MR. HOLZER: Right.

MR. POEHLER: But I drove over onto the property and introduced myself to a group of individuals who I, at that time, understood had purchased the property, as a friendly neighbor. Hi, I'm Dave, my wife and I live next door, if

there's anything that we can do to help, I was under the impression that maybe it was just a family and they had friends over to help clean up the property and observe, I, I don't know, I, maybe fifty or so people, a dozen or so were trying to cut down a tree and I actually offered my assistance to come over and help them to safely cut down a tree with my chain saw, as they were not using a chain saw.

MR. HOLZER: Um hm.

MR. POEHLER: And I never heard anything from anyone for anything after that.

MR. HOLZER: So, did they, so they never responded to your offers?

MR. POEHLER: No one has ever reached out to me for anything, for any reason.

MR. HOLZER: Do you find that unusual or do you find that, what is your feeling?

MR. POEHLER: I'm a man that, of honor, I mean, I'm a friendly neighbor. I'm there to help people if they need help, that's the first thing I did. I was excited that someone had purchased the property and I'm the type of neighbor that would go over with my tractors and my equipment and I'll help them do anything. I'll build them a fence, I'll cut down trees, I would do that. But I got no response out of anyone.

MR. HOLZER: Okay. Have you been satisfied the way that the events have occurred since then?

MR. POEHLER: Not at all.

MR. HOLZER: And can you explain?

MR. POEHLER: It, it's very hard to explain because it's such an emotional issue for me. It has turned into that. That, that I just can't believe that any neighbor could move in and, and not reach out to their other neighbors and, and I can tell you that five years ago, I would not have purchased the property if I'd have known that there was some type of a temple or commercial venue being built there or, or there. It wouldn't have been an option for me. I, I moved to that area for the peace and quiet.

MR. HOLZER: In addition to the traffic and the noise, are there, do you have any other concerns in regard to what's going on over there?

MR. POEHLER: I'm definitely concerned with my well and my septic. My well is not a very strong well at all.

MR. HOLZER: Where is your well located relative to their property line?

MR. POEHLER: To their property line? I would have to say probably maybe two hundred feet, two hundred and fifty feet, maybe, somewhere in there.

MR. HOLZER: Okay and, and what is your specific concerns about your well? Why do you think it's going to get contaminated?

MR. POEHLER: Large gatherings. I mean, I, I have

parties of forty people, I run out of water. So, I understand neighbors are going to have friends and relatives and family or whatever gatherings, twenty, thirty, fifty people, but hundreds of people? It's a large difference.

MR. HOLZER: Okay. Well, but pollution, and pollution, well, explain that. I don't understand why you were concerned about pollution to your well.

MR. POEHLER: Well, with vehicles, I mean, one or two vehicles is one thing, but when you take twenty, thirty, fifty vehicles and park them on a grass lawn parking lot, there's got to be runoff. Where's that runoff going to go? And that portion of their property, where they're proposing to put this parking lot, the runoff comes my direction.

MR. HOLZER: Okay. When you say parking lot, are, you mean the paved parking lot or the grass area?

MR. POEHLER: Both.

MR. HOLZER: Okay. All right. Any other concerns?

MR. POEHLER: Financially, I don't know if that's relevant or not, but this is my retirement, this property is my retirement plan. I'm a hard working blue collar, I don't have a retirement plan. My property is my retirement plan. Since this all has been going on, everyone can see if you drive Harford Road how many houses have already been up for sale. The previous five, four years, there were no houses, people wanted to move there, not get out. People are moving out of

our neighborhood.

MR. HOLZER: The --

MR. SCHMIDT: I would just object and move to strike. I don't think he can offer testimony about property values unless it relates to his own property, I believe, is the rule, unless he's an expert witness and there's no foundation for a conclusion --

CHAIR: Okay.

MR. SCHMIDT: -- that a bunch of people have moved out of Harford, off of Harford Road because of this project.

CHAIR: And, well, Mr. Holzer, your response?

MR. HOLZER: My response is, he can say what he wants, --

CHAIR: Please stand up.

MR. HOLZER: -- he's not an expert.

CHAIR: Please stand up for your response.

MR. HOLZER: Oh, I'm sorry. He can say what he wants, he's not an expert. He's, and, and any property owner can testify that the, the impact on their property. So, he's, that's what he was doing and then he, then he enlarged it by saying a lot of houses are for sale. But I'm going to ask him a follow-up question.

CHAIR: The objection is overruled and it's understood that he's not an expert, not testifying about anything specific as to property values and, I believe, his

testimony included a period of time well before the subject property was actually purchased anyway. So, with that in mind, Mr. Holzer, please proceed.

MR. HOLZER: Thank you. Can you, can you express, give us some reasons why you think it's going to impact your property values?

MR. POEHLER: I mean, first and foremost, traffic and noise would be my biggest concern of who would want to live next to all this traffic and noise?

MR. HOLZER: Okay. In, in, in terms of what about the events are being held? Since you can see what's going on over there, do you think that's a negative for the potential resale of your property?

MR. POEHLER: I, I believe that could be definitely impact.

MR. HOLZER: Okay. Okay. I have no further questions.

CHAIR: Thank you. Mr. Schmidt, cross examination?

MR. SCHMIDT: Thank you. Mr. Poehler, could you give us your full name, please?

MR. POEHLER: Full name?

MR. SCHMIDT: Yes, sir.

MR. POEHLER: Clarence David Poehler.

MR. SCHMIDT: Okay. Thank you, sir. And sir, what kind of work do you do?

MR. POEHLER: I'm a contractor.

MR. SCHMIDT: Okay. I, you've offered some testimony about your well. Do you know how deep your well is?

MR. POEHLER: Two hundred and twenty feet.

MR. SCHMIDT: And do you know what your well yield is in terms of gallon per minute?

MR. POEHLER: It's less than a gallon.

MR. SCHMIDT: Okay. Did you drill that well or did the prior owner drill it?

MR. POEHLER: Prior owner drilled it.

MR. SCHMIDT: Have you, have you done any testing of that well since you've been the owner of the property or prior to your ownership of the property?

MR. POEHLER: Yes.

MR. SCHMIDT: Okay and when was that done?

MR. POEHLER: That was done, I don't have the exact date, but it was right before we purchased the property.

MR. SCHMIDT: And what was the purpose of that testing?

MR. POEHLER: To do a well yield.

MR. SCHMIDT: Okay. Do, do you have any other, other than a concern, do you have any type of substantive study or data or analysis that you've done that would lead you to believe that your well would be polluted from any activity on the Nepali property? Is there anything anybody's told you that

your well is subject to pollution because of Nep, the Nepali use?

MR. POEHLER: Not in specific to them.

MR. SCHMIDT: Okay.

MR. POEHLER: But just in general, wells can get polluted.

MR. SCHMIDT: Okay.

MR. POEHLER: It has happened in the past.

MR. SCHMIDT: Sure, and your well is two hundred and fifty feet from your property line?

MR. POEHLER: No. From, yes, from their property line, our property line.

MR. SCHMIDT: From the common property line?

MR. POEHLER: Yes.

MR. SCHMIDT: And then, and then the location of the proposed Nepali well would be another several hundred feet from the property line, correct?

MR. POEHLER: I'm not sure where they're going to drill.

MR. SCHMIDT: Okay. You don't know where they're going to drill, you weren't here for that testimony?

MR. POEHLER: I was.

MR. SCHMIDT: Okay. Okay. You also indicated that you have parties of more than forty people on your, at your property and I think you indicated that you run out of water at

that time, is that correct?

MR. POEHLER: Yes.

MR. SCHMIDT: How often do you have parties of more than forty people?

MR. POEHLER: That's only been one time in the five years, and that's, was a housewarming party.

MR. SCHMIDT: Okay. So, five years ago you had a party and you ran out of water?

MR. POEHLER: Yes.

MR. SCHMIDT: Have you run out of water any other time since then?

MR. POEHLER: One time.

MR. SCHMIDT: And what were the circumstances there?

MR. POEHLER: Trying to fill a hot tub, actually.

MR. SCHMIDT: Okay, okay. Okay. You indicated that there were people who were coming down your driveway in 2017, and you had to get them to turn around because they had, I believe you said, mistaken your driveway for the entrance to the Nepali property, is that right?

MR. POEHLER: Yes.

MR. SCHMIDT: Did you, did you actually talk to those people and --

MR. POEHLER: A few.

MR. SCHMIDT: Okay and they had gone into the wrong driveway?

MR. POEHLER: Yes.

MR. SCHMIDT: Okay. Now, that was in 2017, in June of 2017, I believe you said?

MR. POEHLER: I believe it was.

MR. SCHMIDT: Okay. At that time, did the Nepali property have a sign in the front by their driveway advertising where their property was located?

MR. POEHLER: Not a sign, but they had balloons.

MR. SCHMIDT: Okay. So, just like party, regular kids party balloons, type of thing?

MR. POEHLER: Yes.

MR. SCHMIDT: Okay. But there was no sign at that time indicating where the Nepali property was located, correct?

MR. POEHLER: Yes.

MR. SCHMIDT: In 2017?

MR. POEHLER: Yes.

MR. SCHMIDT: Okay. Now, there did come a time, did there not, sir, when they put a sign up on, in the island between the two access drives on the Nepali property, correct?

MR. POEHLER: Yes, they have.

MR. SCHMIDT: Okay and that, that sign is there now, is that correct?

MR. POEHLER: It is.

MR. SCHMIDT: Do you know how long that sign has been there?

MR. POEHLER: I don't know the exact date.

MR. SCHMIDT: Has it been at least a year, if you know?

MR. POEHLER: I don't believe it's been a year yet.

MR. SCHMIDT: Has it been since, say, the spring of this year being 2018?

MR. POEHLER: I would say --

CHAIR: Let him finish.

MR. POEHLER: I would say spring.

MR. SCHMIDT: Okay. So, it was there this summer, correct?

MR. POEHLER: Yes.

MR. SCHMIDT: Okay. Now, they had another event this summer that you've testified about, correct?

MR. POEHLER: Yes.

MR. SCHMIDT: Did anyone come down your driveway in 2018?

MR. POEHLER: They did.

MR. SCHMIDT: How many people?

MR. POEHLER: I did not get a count because I actually put a chain across my driveway to keep them out.

MR. SCHMIDT: Okay. So, did people drive around the chain to get down your driveway?

MR. POEHLER: They did not, they would just use it as a turn around.

MR. SCHMIDT: Oh, okay. So, all right, so people had, apparently, did you see the, where those vehicles went?

MR. POEHLER: I did, some, not all.

MR. SCHMIDT: Okay. Where were you during, when this was going on?

MR. POEHLER: In my driveway and on my property.

MR. SCHMIDT: Okay. Okay and how many vehicles turned around in your property, do you know?

MR. POEHLER: That I witnessed, at least a half a dozen.

MR. SCHMIDT: Okay. Over a period of how many days?

MR. POEHLER: That was probably over that week that they had that large event.

MR. SCHMIDT: Okay. So, you had about six vehicles over a week's time that pulled into your driveway apparently could, didn't see the sign, correct?

MR. POEHLER: I would imagine.

MR. SCHMIDT: Okay. Is the sign still there?

MR. POEHLER: It is.

MR. SCHMIDT: Okay. Has it been relocated?

MR. POEHLER: It has, actually.

MR. SCHMIDT: Okay. Do you know why?

MR. POEHLER: I believe that it was a permit violation.

MR. SCHMIDT: Okay. Were you, did you make a

complaint to the County about the sign?

MR. POEHLER: I personally did not.

MR. SCHMIDT: Okay. Do you know who did?

MR. POEHLER: I don't.

MR. SCHMIDT: Okay. Do you know if any of your neighbors did?

MR. POEHLER: I'm not sure, but I would think so.

MR. SCHMIDT: Okay. Wouldn't the sign be helpful to folks find, finding the property?

MR. POEHLER: I believe the sign would be helpful.

MR. SCHMIDT: Do you know a lady named Patty Thorne?

MR. POEHLER: I do.

MR. SCHMIDT: And do, who is she, if you know?

MR. POEHLER: She was a lady that was at one of our meetings.

MR. SCHMIDT: Okay.

MR. POEHLER: That's only, I know her name, I don't know her personally.

MR. SCHMIDT: Okay. Do you know where she lives?

MR. POEHLER: I believe she lives back Hutschenreuter Road.

MR. SCHMIDT: Okay and how far is that, is that on the other side of the Nepali property from where you live?

MR. POEHLER: It is.

MR. SCHMIDT: In other words, the Nepali property is

between you and her house?

MR. POEHLER: I believe so.

MR. SCHMIDT: So, if you were looking at where she lives, you would live across, you would look, again, assuming there was no topography issue or no trees or anything like that, you would look towards the Nepali property, across the Nepali property to look towards Hutschenreuter Road where she would live? Am I describing that correctly?

MR. POEHLER: I, I believe so. I'm not sure where, I know she lives on Hutschenreuter Road, I don't know where.

MR. SCHMIDT: Okay. Are you familiar with the fact that she has a, a rock concert, a concert featuring rock bands at her house on a regular basis?

MR. POEHLER: I am not aware of that.

MR. SCHMIDT: Okay. Have you ever heard any concert music or rock music coming from her property?

MR. POEHLER: I have not.

MR. SCHMIDT: Okay. Is it possible when you heard music at 12:30 at night that it was not coming from the Nepali property but coming from a property in that direction?

MR. POEHLER: It was --

MR. SCHMIDT: Is it possible?

MR. POEHLER: I guess it's possible.

MR. SCHMIDT: Okay and the music that you heard on that 12:30, was, sounded like a rock and roll band?

MR. POEHLER: Definitely was not a rock and roll band.

MR. SCHMIDT: Oh, okay. Well, I thought that's what you had testified before?

MR. POEHLER: I went to a concert.

MR. SCHMIDT: Okay.

MR. POEHLER: That was a rock and roll concert.

MR. SCHMIDT: Okay. Maybe I misunderstood. Okay, but it was music?

MR. POEHLER: That I had heard?

MR. SCHMIDT: Yes, coming from --

MR. POEHLER: Yes, it was.

MR. SCHMIDT: Okay. What type of music was it, do you know?

MR. POEHLER: Not music that I am familiar with.

MR. SCHMIDT: Okay. Okay. How many buildings are there on your property?

MR. POEHLER: There are three buildings.

MR. SCHMIDT: Okay. You have your house, correct?

MR. POEHLER: Yes.

MR. SCHMIDT: And you also have a shed, correct?

MR. POEHLER: I do.

MR. SCHMIDT: And you also have a garage, correct?

MR. POEHLER: A barn.

MR. SCHMIDT: A barn, okay. And do you use those

buildings in association with your contractor's business?

MR. POEHLER: I do.

MR. SCHMIDT: Okay.

MR. POEHLER: Storage.

MR. SCHMIDT: Okay. So, you operate, at least store, your contracting equipment or contractor's equipment on your property?

MR. POEHLER: Hand, hand tools.

MR. SCHMIDT: Okay. Do you store, do you do any snow plowing during the winter?

MR. POEHLER: I do.

MR. SCHMIDT: Do you store your snow plowing equipment on your property?

MR. POEHLER: It's attached to my truck.

MR. SCHMIDT: Okay. So, that type of, I wouldn't call that a hand tool because it's, goes on the front of a truck, right? You have, you have to answer because of the --

MR. POEHLER: Yes.

MR. SCHMIDT: Okay, okay. How long have you operated, or how long have you had your contractor's business?

MR. POEHLER: Fifteen years.

MR. SCHMIDT: Okay and I guess when you moved here in what, 2013?

MR. POEHLER: Thirteen.

MR. SCHMIDT: You had your contractor's business at

that time?

MR. POEHLER: I did.

MR. SCHMIDT: Okay. Do you have a, if, what's the name of your contractor's business?

MR. POEHLER: Poehler Enterprises.

MR. SCHMIDT: Okay. If I googled Poehler Enterprises, where, what, what would the address be that it would tell me?

MR. POEHLER: Would be my address.

MR. SCHMIDT: Your, your, be your house, okay. Okay. Okay. And the, the contractor's equipment that you indicate you store here, do you keep that in your house, the shed, or the barn or some of those or all of them or what?

MR. POEHLER: The shed.

MR. SCHMIDT: In the shed?

MR. POEHLER: Yes.

MR. SCHMIDT: How about in the barn?

MR. POEHLER: A little bit.

MR. SCHMIDT: Okay. I believe, let me show you a photograph, and I think I've got enough pictures, and hopefully this shows, shows this, and I'm going to mark, let me, I'm sorry. I believe this would be marked as Petitioner's exhibit number thirty-one, as I believe what I'm on, Ms. Murphy.

BOARD: Yes, sir.

MR. SCHMIDT: Which is, I'll just give a copy to Mr.

Holzer. And I've got three copies. I'll give you the fourth copy, but let me give it to the witness, if I can. Mr. Poehler, to be fair to you, this is a photograph that's taken from a County website, as you can see at the bottom, there's a seal of Baltimore County and it says My Neighborhood map. And I would represent to you that this, in the dark black line, is the outline of the Nepali property.

MR. POEHLER: Yes.

MR. SCHMIDT: Does that look correct to you from, based on your familiarity with the area?

MR. POEHLER: Yes, yes.

MR. SCHMIDT: Is any of your property shown on this, on this photograph?

MR. POEHLER: It is.

MR. SCHMIDT: Okay.

MR. POEHLER: It is --

MR. SCHMIDT: On the right hand side?

MR. POEHLER: On the right hand side.

MR. SCHMIDT: Okay. Now, there's a pink line and the pink letters RC-5 in the top right hand corner of this photograph, is that correct?

MR. POEHLER: Yes.

MR. SCHMIDT: And there appears to be that that pink line below the RC-5 would be on Harford Road?

MR. POEHLER: Yes.

MR. SCHMIDT: Okay and then there's a driveway leading vertically from the top of the page towards the bottom of the page, is that your driveway?

MR. POEHLER: Yes, yes, it is.

MR. SCHMIDT: Okay. Now, you can see in that, as one would come in your driveway, that there would be a building sort of on your left hand side and it appears a building on the right hand side of the driveway, is that right?

MR. POEHLER: That is right.

MR. SCHMIDT: Okay. So, what's the building on the left side?

MR. POEHLER: My house.

MR. SCHMIDT: Okay and what's the building on the right side?

MR. POEHLER: The barn.

MR. SCHMIDT: Okay. Is the shed shown in this photograph? It might not be, I don't know.

MR. POEHLER: It does not look like it is.

MR. SCHMIDT: Okay and the barn, the barn, the house was there when you bought the property?

MR. POEHLER: Yes.

MR. SCHMIDT: The shed was there when you bought the property?

MR. POEHLER: Yes.

MR. SCHMIDT: The barn you built?

MR. POEHLER: Yes.

MR. SCHMIDT: Okay and this is a photograph, and the barn is shown --

MR. POEHLER: Yes.

MR. SCHMIDT: -- on this photograph? So, the barn is actually between your, between your house and the Nepali property?

MR. POEHLER: Yes, it is.

MR. SCHMIDT: Okay. So, does the barn, in any way, shield your view of the Nepali property from your house or your porch or anything?

MR. POEHLER: Depending on where I'm standing.

MR. SCHMIDT: It could, okay.

MR. POEHLER: It could.

MR. SCHMIDT: All right. I would offer this as Petitioner's exhibit number thirty.

BOARD: Thirty-one.

CHAIR: Thirty-one.

MR. SCHMIDT: I'm sorry, thirty-one, I apologize. Thank you, Ms. Murphy. Mr. Poehler, you, you required a zoning variance, did you not, in order to construct that barn?

MR. POEHLER: I did.

MR. SCHMIDT: Okay and you filed a zoning variance with Baltimore County, is that correct?

MR. POEHLER: I did.

MR. SCHMIDT: And you obtained a zoning variance from the County to allow you to construct your barn?

MR. POEHLER: I did.

MR. SCHMIDT: And do you know what that variance was for, what zoning regulation you were getting a variance from?

MR. POEHLER: The, I, I believe it was for a height restriction and --

MR. SCHMIDT: Okay, with the, I'm sorry, go ahead.

MR. POEHLER: And that the building was being built in my side property, not my back property.

MR. SCHMIDT: Right, and that would be in the side property facing the Nepali property?

MR. POEHLER: Yes.

MR. SCHMIDT: Closest to the Nepali property? Okay. And you, I believe, and unfortunately, I will make other copies, Ms. Murphy, but I only have a single copy. But I believe, sir, that you, the variance you obtained from the County was what's called an administrative variance, is that correct? If you know what I'm talking about.

MR. POEHLER: Not, yeah, I'm --

MR. SCHMIDT: If you don't know, that's, that's fine.

MR. POEHLER: Yeah, I'm not sure.

MR. SCHMIDT: Okay. You didn't have a public hearing?

MR. POEHLER: No one contested it, from what I

understand.

MR. SCHMIDT: So, it was, it was approved without the necessity of going to a hearing like this?

MR. POEHLER: Yes.

MR. SCHMIDT: Okay and Mr. Poehler --

MR. HOLZER: I object to everything from here on in.

MR. SCHMIDT: Okay. Mr. Poehler, --

MR. HOLZER: There's a --

CHAIR: Hold on, hold on. First of all, stand up, so I know you're objecting. Thank you.

MR. HOLZER: I'm sorry. I'm objecting to all this. We're not trying this case and this witness in terms of zoning violations or, you know, this particular case had code violations and yet I was precluded --

CHAIR: Hold on.

MR. HOLZER: -- and yet I was precluded from dealing with that.

CHAIR: I understand your, I understand your objection.

MR. HOLZER: Okay.

CHAIR: Mr. Schmidt, what is your response?

MR. SCHMIDT: I'm not presenting this evidence for any type of code violation and I'm not trying to retry Mr. Poehler's zoning variance case in any manner. I believe these photographs were submitted by Mr. Poehler in support of his

variance request and show his property and show where his improvements are located. I believe they would be helpful and have some probative value to the Board to actually show where the improvements on his property are, since he's testified that he can see much of the Nepali use, including the cars and the building and so on and so forth, so I think it certainly has probative evidence in that regard.

CHAIR: On that basis, overrule the objection.

MR. HOLZER: I would --

CHAIR: You want to speak to something?

MR. HOLZER: -- I would, yes, I would want to say something. If it only relates to that, then there's no reason to go into the zoning violation, the discussions of the hearing, whatever. If that's all he was showing, all of the ex, testimony and questions before are irrelevant.

CHAIR: Well, we, that time has passed.

MR. HOLZER: I understand that. But I'm trying to stop it from this point on.

CHAIR: So, well, here --

MR. SCHMIDT: I, I was only --

CHAIR: So, wait, hold on, here's what we're doing. I'm overruling the objection for now, not, I understand there may be some questions (inaudible) run too far afield.

MR. SCHMIDT: All right.

CHAIR: But I'm, as on this question, I'm overruling

it. You may go ask questions as to what you've, you've stated.

MR. HOLZER: It's a, these photographs are only for the purpose of him being able to describe what he can see of the subject site and what his property looks like.

CHAIR: That's --

MR. HOLZER: That limited --

CHAIR: That's what I understand is on the floor at this time. If he goes too far afield, you certainly may object again.

MR. HOLZER: I will.

CHAIR: And then we could revisit the issue if we have to.

MR. SCHMIDT: Okay.

CHAIR: Thank you.

MR. SCHMIDT: Mr. Poehler, I'm going to show you three different photographs, and then I'll give them to the Board and, again, I apologize to the Board, but I didn't know--

CHAIR: Have you shown Mr. Holzer?

MR. SCHMIDT: I've shown them to Mr. Holzer.

MR. HOLZER: He's shown them to me, but he has not given me a copy.

CHAIR: Understood.

MR. SCHMIDT: And I will get a copy during --

CHAIR: Gentlemen, we've established Mr. Holzer has seen them. Mr. Schmidt will provide copies. You may ask the

witness.

MR. SCHMIDT: Thank you. Mr., Mr. Poehler, I'm going to give you three photographs and I'll ask that you look at those. And when you're done looking at them, let me know, and then I'll ask you a question.

MR. POEHLER: I'm done.

MR. SCHMIDT: Okay. Mr. Poehler, have you ever seen these photographs before?

MR. POEHLER: Absolutely.

MR. SCHMIDT: Okay. Do you know who took these photographs?

MR. POEHLER: I did.

MR. SCHMIDT: Okay. Do you know when these photographs were taken?

MR. POEHLER: I don't know the exact date. I could figure it out.

MR. SCHMIDT: Okay. For what purpose were these photographs taken?

MR. POEHLER: For the permit for the building.

MR. SCHMIDT: Okay. When you were seeking a zoning variance for the building?

MR. POEHLER: Yes.

MR. SCHMIDT: Okay and I would just represent to the Board, that these were taken, that I obtained these from the file when you got your zoning variance at the County. Okay.

The, the first one, and I'm --

CHAIR: Hold on. This is Pet, this is now Petitioner's Exhibit 32, so if you're going to go one, two, three, or A, B, C, delineate which photo you're about to refer to.

MR. SCHMIDT: Yes, sir. I'm, I'm going to mark this, if I may, as Pet --

CHAIR: Well, hold on. Ms. Murphy can put the sticker on and then we can figure out how we do (inaudible).

MR. SCHMIDT: Ms. Murphy, I would ask you mark that as Petitioner's Exhibit 32-A.

BOARD: Okay.

CHAIR: Thank you.

BOARD: There we go.

MR. SCHMIDT: Okay. Now, this one on 32-A, I'm going to hold it like this, if I can, just so the Board can see it and I'll let Mr. Holzer see it. I want to hide it from Mr. Holzer. And, Mr. Poeh, Mr. Poehler, this, this is just indicating photograph one of three, or 32-A, so we know what we're looking at, okay? Now, there's some writing on this photograph, is there not?

MR. POEHLER: There is.

MR. SCHMIDT: Do you know, I'm going to start at the top, do you know, did you write the language, is that your handwriting across the top of the page?

MR. POEHLER: It does not look like my handwriting, no.

MR. SCHMIDT: Okay. So, you may not have written that, it may have been written by somebody at the County or whatever, but it's not yours?

MR. POEHLER: Um hm.

MR. SCHMIDT: Okay. They're then on the sides and in the picture is some writing in, appears to be like a black marker.

MR. POEHLER: Yes.

MR. SCHMIDT: Is that your writing?

MR. POEHLER: It does not look like it.

MR. SCHMIDT: Okay and then there are some typed writing across the bottom. Was that yours that you put as an explanation of this photograph?

MR. POEHLER: It looks like we did, yes.

MR. SCHMIDT: Okay. All right. So, since you did not write the top or the black marker, but you did do the bottom, I'm trying to read that upside down. Can you read what the, it says across the bottom, that you did type?

MR. POEHLER: East facing view depicting proposed site of garage in side yard with surrounding property, area not in neighbor's view from any angle.

MR. SCHMIDT: Okay. So, you indicated that this area of this photograph was not in your neighbor's view?

MR. POEHLER: Yes.

MR. SCHMIDT: Who were your neighbors who you were referring to?

MR. POEHLER: I was actually referring to the neighbors to my left.

MR. SCHMIDT: Not the Nepali people?

MR. POEHLER: Not at the time.

MR. SCHMIDT: Okay. Well, the, not the peop, not the neigh, when you use the word neighbors, that was not referring to the Nepali property?

MR. POEHLER: Yes, no.

MR. SCHMIDT: Well, you got to say yes or no. It was not referring --

CHAIR: I understood what he said, but it was referring to your neighbors on the opposite side of your property, correct?

MR. POEHLER: Correct.

CHAIR: Thank you.

MR. SCHMIDT: Well, isn't, isn't the, isn't the garage between your house and the Nepali property line?

MR. POEHLER: It is.

MR. SCHMIDT: So, isn't the closest property line to where the garage is, the Nepali property line?

MR. POEHLER: It is.

MR. SCHMIDT: So, when you were referring to

neighbors, you were not referring to the closest neighbors from a distance wise, but from the neighbors on the other side of your house, is that right?

MR. POEHLER: Yes.

MR. SCHMIDT: Okay, okay. Fair enough. That's what you were referring to. Okay. All right. I'm going to next refer you to paragraph, I'm sorry, not paragraph, photograph number thirty, let me have this marked --

CHAIR: 32-B?

MR. SCHMIDT: Now, this one, I'm assuming, just for the sake of expediency, that the language across the top of the page and the black magic marker is not yours? But the typed language is?

MR. POEHLER: Yes.

MR. SCHMIDT: Okay. Now, this photograph, can you tell us what this is?

MR. POEHLER: That is proposed site of where the building would be.

MR. SCHMIDT: Okay and the, and the foliage which is in the back, this appears to be taken in the winter time because the grass is pretty --

MR. POEHLER: Yes.

MR. SCHMIDT: And the, looks like the, there's no green, it's just bushes. Is that the property line between you and Nepali?

MR. POEHLER: It is.

MR. SCHMIDT: Okay and through that foliage, you're able to see the Nepali property?

MR. POEHLER: If you walk, facing this picture, if you walk to the right and look across, then you can see the property.

MR. SCHMIDT: But to the right would be towards Harford Road, correct, towards the front of the property?

MR. POEHLER: Yes, towards, yes.

MR. SCHMIDT: The Nepali Temple is actually well back to the left, is it not?

MR. POEHLER: Actually, the Nepali Temple is straight there.

MR. SCHMIDT: Okay.

CHAIR: Wait, hold on. Describe that, where is straight --

MR. SCHMIDT: Straight there being --

CHAIR: What was it, what was it, what would you call the object in the left center, thank you, there?

MR. POEHLER: Wood pile.

CHAIR: So, from the wood pile, if you drew a line straight back to the trees and --

MR. SCHMIDT: That's --

MR. POEHLER: Yes.

CHAIR: -- and in between the trees and the center of

the photo is where you say the Nepali, well, the, the house that sits at the subject property, where that house is?

MR. POEHLER: Yes.

MR. SCHMIDT: Okay. Okay and then there's a, appears to be a large snow plow?

MR. POEHLER: Yes.

MR. SCHMIDT: That's the snow plow that goes on the front of your truck?

MR. POEHLER: It's an old one.

MR. SCHMIDT: Okay. Or at that time, that's the one you had?

MR. POEHLER: It was, yes.

MR. SCHMIDT: Okay. Ms. Murphy, how about the last one? I'd ask you to mark it 33-A.

BOARD: 32-C, right.

MR. SCHMIDT: 32-C, just got the wrong number. Okay. Same drill, Mr. Poehler, if I can. Again, the handwritten comments and the black language and this in, this is a view of what?

MR. POEHLER: This is a view of the front yard in front of the barn.

MR. SCHMIDT: Okay and that's your house on the left hand side?

MR. POEHLER: It is.

MR. SCHMIDT: Okay and I assume that's your white, it

looks like, is it a van or a --

MR. POEHLER: It is, yes.

MR. SCHMIDT: That's your, that's your construction--

MR. POEHLER: That was my work truck.

MR. SCHMIDT: At the time?

MR. POEHLER: At the time.

MR. SCHMIDT: Okay and then there's a, is there a dumpster?

MR. POEHLER: That was a dumpster, yes.

MR. SCHMIDT: Is that still there?

MR. POEHLER: It is not, no.

MR. SCHMIDT: Okay and then the location of the garage, which is sort of in your side yard, you said.

MR. POEHLER: Yes.

MR. SCHMIDT: That's why you needed the variance, between the house and the Nepali property.

MR. POEHLER: Yes.

MR. SCHMIDT: And then the shed is in the, kind of behind that?

MR. POEHLER: Yes.

MR. SCHMIDT: Okay, very well. And again, some of the tree line and vegetation, particularly on the right side of the photograph, would be towards the Nepali property?

MR. POEHLER: Yes.

MR. SCHMIDT: Okay. I would offer these three

photographs as the Exhibits 32-A through C.

CHAIR: Thank you. So admitted, 32-A through C.

MR. SCHMIDT: And you also, okay, as, as a, again, and I'll have to make a copy of this as well, but I'll show it to Mr. Holzer first. In connection with your variance request, do you recall submitting a statement, not just the photographs, but an actual statement indicating why you believe the granting of the variance was appropriate?

MR. HOLZER: Objection.

CHAIR: Before you answer.

MR. HOLZER: Objection. We said it was only for the purposes of locating what's on his property, what he could see. He's got a document here that goes to the variance case and so forth, and I object.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: I would just proffer to the Board, his affidavit indicates, in part, quote, granting the relief of the area ordinance would not impact public safety or the welfare of the community and based on the curvature of the street, the area placement of the structure will not be noticeable to the community. And that's what is relevant within this affidavit. If you want to strike the rest of it, you may, but this witness has testified that he can see Nepali, he can see the building, he can see all these improvements on the Nepali property, yet his affidavit indicates that you cannot see his proposed garage

from the community, that's what it says.

MR. HOLZER: Objection. It's totally irrelevant.

MR. SCHMIDT: It's an inconsistent statement, I believe, on behalf of the witness and it's proper for cross examination.

CHAIR: Overruled. You may proceed.

MR. SCHMIDT: Okay and I'll ask Ms. Murphy to mark this.

BOARD: Petitioner's thirty-three.

MR. SCHMIDT: You've already, my thunder has been stolen, Mr. Poehler. I'm going to, in fact, direct you to the one, two, three, four, fifth sentence, which I just read. And you indicated in this affidavit that the area placement of the structure, being the garage, would not be noticeable to the community.

MR. POEHLER: Um hm.

MR. SCHMIDT: Now, I assume, unlike when you said before, that the neighbors you were referring to were the neighbors on the other side of the house, the community would include everybody in the community, is that correct?

MR. POEHLER: That's correct.

MR. SCHMIDT: So, you believed your garage was not going to be noticeable to anybody?

MR. POEHLER: I did.

MR. SCHMIDT: Okay. Okay. I would offer that as the

next exhibit. We'll save the rest --

MR. HOLZER: Objection.

MR. SCHMIDT: -- we'll save the rest for argument.

CHAIR: Overruled. It will be so received.

MR. SCHMIDT: Okay. Board's indulgence for just a second, Mr. Garber. I may be done. And just to be, just to be clear, Mr. Poehler, you can see from your property, from I guess, portions of your property, do, the, the actual Nepali building, the, the house?

MR. POEHLER: I, I can.

MR. SCHMIDT: Okay. Can you see that all year round or just when the leaves are off the trees or is it visible all the time?

MR. POEHLER: Obviously, more when the leaves are off, but certain positions I can see the front of the building.

MR. SCHMIDT: Okay. Do you have any pictures of that that you've taken?

MR. POEHLER: I do not.

MR. SCHMIDT: You do not?

MR. POEHLER: No.

MR. SCHMIDT: Okay.

MR. POEHLER: My, I have an I-Phone, that's the only camera I own.

MR. SCHMIDT: Okay.

MR. POEHLER: It doesn't take very good distance

pictures.

MR. SCHMIDT: How close are you to the, to the Beachmont and the Redeemer property? Say as the crow flies.

MR. HOLZER: Objection. This goes way beyond, objection, this goes way beyond direct examination. I didn't ask him anything about, about the other properties north and what's going on there.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: I mean, the witness has testified, not only about the impacts on his property, as a matter of fact, I objected when he attempted to offer testimony about the impacts on the community and so, I think I'm asking about other properties in the community and I think that's certainly fair cross examination.

CHAIR: I'd have to agree. So, yes, overruled. You may proceed.

MR. SCHMIDT: Are you, how far are you, I guess, as the crow flies, flies, if you know, Mr. Poehler, from the Beachmont and the Redeemer property? If you know. If you don't know, that's, that's fine too.

MR. POEHLER: A thousand, two thousand feet.

MR. SCHMIDT: Okay. Okay. Two thousand feet, so that'd be something less than a half a mile?

MR. POEHLER: It could be under that.

MR. SCHMIDT: Okay.

MR. POEHLER: As the crow flies.

MR. SCHMIDT: Do you ever hear any activity over on the Beachmont property?

MR. POEHLER: Very little bit of soccer games.

MR. SCHMIDT: Okay. So, you can hear sport, I guess, people cheering, yelling at the kids?

MR. POEHLER: A, a little bit.

MR. SCHMIDT: Okay. Other than that, do you hear, have you ever heard anything else over there?

MR. POEHLER: I have not.

MR. SCHMIDT: Okay. No other, no music coming from that direction?

MR. POEHLER: No music.

MR. SCHMIDT: Okay. No loud speaker with voices on it?

MR. POEHLER: No.

MR. SCHMIDT: Okay. Just sounds of sporting, what sounds like sporting events?

MR. POEHLER: Yes.

MR. SCHMIDT: Okay and I understand that the problem, chiefly, with the Nepali property was the, and I know the prior witness, was the event in the summer of 2017 and the event in the summer of 2018?

MR. POEHLER: Yes.

MR. SCHMIDT: Okay, okay. Are people at the Nepali

property mostly, in an average week, how often do you hear people over in the Nepali property? Not, I'm not talking about those large events which you've testified, but just this week, last week, how, did you hear anything going on over at Nepali property?

MR. POEHLER: I saw activity.

MR. SCHMIDT: Okay. What kind of activity?

MR. POEHLER: Vehicles up and down the driveway.

MR. SCHMIDT: Okay. People going in and out?

MR. POEHLER: Yes.

MR. SCHMIDT: Okay. But did you hear anything, any kind of yelling or screaming or any of that?

MR. POEHLER: A little bit of talking. I, the sound travels very easily between our two properties. We're on the same plane.

MR. SCHMIDT: Okay. Conversations?

MR. POEHLER: Yes.

MR. SCHMIDT: Okay. You've been on the Nepali property one time, I think you said?

MR. POEHLER: I have.

MR. SCHMIDT: Strike that. You might have said more, you went up there when it was for sale, I think you said?

MR. POEHLER: I did.

MR. SCHMIDT: And then you went up to introduce yourself at least another occasion?

MR. POEHLER: I did.

MR. SCHMIDT: When you went up there for sale, what was the condition of the, of the building?

MR. POEHLER: It was a little distressed.

MR. SCHMIDT: Why so?

MR. POEHLER: It had been abandoned apparently.

MR. SCHMIDT: Okay. Was it, appear to be vandalized?

MR. POEHLER: It did have a little bit of vandalism, yes.

MR. SCHMIDT: Graffiti on it?

MR. POEHLER: A little bit.

MR. SCHMIDT: Okay. Do you know who did that?

MR. POEHLER: I have no idea.

MR. SCHMIDT: Okay. As a neighbor, you didn't see any people going in and out there doing that?

MR. POEHLER: No.

MR. SCHMIDT: Okay. Okay. Thank you, sir. That would be all.

CHAIR: Mr. Holzer, re-direct?

MR. HOLZER: The, what was the date of the variance hearing or variance that you asked for?

MR. POEHLER: I don't know the exact date.

MR. HOLZER: Okay. Let me ask it another way. Was the subject property, the applicant's property, was that in existence at the time or was it vacant?

MR. POEHLER: It, no, it was, someone was living there.

MR. HOLZER: Okay. What --

MR. POEHLER: As far as I know.

MR. HOLZER: Who was living there, do you know?

MR. POEHLER: I believe his name is Dachico?

MR. HOLZER: Oh.

MR. POEHLER: Robert Dachico.

MR. HOLZER: So, he was an attorney in Baltimore County, was he not?

MR. POEHLER: That's what I had heard.

MR. HOLZER: Okay. So, when you went to get the variance and the pictures that you've identified, there wasn't, there was a single family, private owner living on the property that is now the subject of this hearing?

MR. POEHLER: Yes.

MR. HOLZER: Okay.

MR. SCHMIDT: And I'd be happy to proffer, Mr. Holzer, --

CHAIR: Hold on, Mr. Schmidt.

MR. SCHMIDT: I just would say, I would be happy to advise the Board and Mr. Holzer that the date of the variance was January of 2014, before the Nepali folks bought the property. Happy to proffer that.

CHAIR: Do you see a problem with that?

MR. HOLZER: No.

CHAIR: Okay.

MR. HOLZER: No. No problem with the proffer and no problem with the fact that the witness answered that it was Mr. Dachico living there and not Nepalis.

CHAIR: Yes.

MR. HOLZER: Okay. I have no further questions.

CHAIR: Thank you. Thank you, sir, for your time. Mr. Holzer.

MR. HOLZER: Yep. I'd call Mr. Ghimire as an adverse witness.

CHAIR: And if I may ask, Mr. Holzer, to the best you can assess this, do you know how long your direct of Mr. Ghimire may be?

MR. HOLZER: Yes, hours.

CHAIR: Okay. So, we'll just have to find a natural breaking point.

MR. HOLZER: I would, I would think if he was sworn in, if you wanted to break for lunch, it's ten minutes of twelve, we could be back --

CHAIR: I (inaudible) we should push as far as we can.

MR. HOLZER: Okay, I'm ready to push.

CHAIR: And then, I mean, we're going to have to split up his testimony anyway so, let's do that.

MR. HOLZER: I'm ready to push.

BOARD: Do you swear and affirm under the penalties of perjury, that the testimony you're about to give is true and correct to the best of your knowledge and belief?

MR. GHIMIRE: I do.

BOARD: And would you once again for us, state your name and address for the record?

MR. GHIMIRE: Kris Ghimire, 5048 Springhouse Circle, Rosedale, Maryland 21237.

CHAIR: Please spell your first and last name.

MR. GHIMIRE: First name spelled K-R-I-S, last name spelled Ghimire, G-H-I-M-I-R-E.

CHAIR: Thank you. And, Mr. Holzer, I'm going to leave it to your discretion as to when you think a natural breaking point is in your direct.

MR. HOLZER: Okay.

CHAIR: And, and perhaps even if we get through direct, then maybe that would be the natural breaking point. But I'll leave it to you. Thank you, sir.

MR. HOLZER: Okay. Mr. Ghimire, you had previously testified, isn't that correct?

MR. GHIMIRE: Yes, I did.

MR. HOLZER: And you testified on behalf of the applicant in this particular case as to the request for a special, special exception?

MR. GHIMIRE: That's correct.

MR. HOLZER: Okay and I, I can't remember, you are a business man, are you not?

MR. GHIMIRE: I am.

MR. HOLZER: And what is your office address?

MR. GHIMIRE: 8030 Belair Road, Nottingham, Maryland 21236.

MR. HOLZER: Okay and, and what is your business?

MR. GHIMIRE: Real estate.

MR. HOLZER: Real estate, okay. When you were before the Administrative Law Judge, I believe you testified you were not particularly devout, maybe going to religious, church or synagogue or, or whatever your religion calls for, is that correct?

MR. GHIMIRE: My wife is Catholic and I am Hindu and we both, we practice both religion. I go to church on Sunday with my wife and my three kids.

MR. HOLZER: Okay.

MR. GHIMIRE: (inaudible) and I would like to go to temple more often, but we don't have a temple yet.

MR. HOLZER: Okay.

MR. GHIMIRE: So, that's (inaudible).

MR. HOLZER: Okay. Now, when did you get involved in, in this idea of acquiring the property for a cultural center and/or a temple?

MR. GHIMIRE: I've been working to serve the community as long as I, I've been here in the United States, since 1998. I've been president of Baltimore Association of Nepalis in America, I have work in many different of, platforms helping the community, helping, helping the young community settle in this country. At all different level of, not only just building a temple but, you know, trying to help the community in any way possible. This conversation probably started a long time ago, but it started to take roots back in 2016.

MR. HOLZER: And in 2016, is that when you became aware that this property was on the market?

MR. GHIMIRE: That's correct.

MR. HOLZER: Okay. Had it been on the market before that 2016?

MR. GHIMIRE: I can't recall. That's the, that's the time I saw it, the multiple listing, it may have been in the market for a few days and we jump on it right away.

MR. HOLZER: Okay. Now, have you acquired the property or is it just under contract?

MR. GHIMIRE: What do you mean?

MR. HOLZER: Do you own the property or is it --

MR. GHIMIRE: As of right now?

MR. HOLZER: -- just under contract?

CHAIR: Sir, let him finish his question before you

start answering. Thank you.

MR. HOLZER: Okay.

MR. GHIMIRE: As of now?

MR. HOLZER: Yes.

MR. GHIMIRE: It's been owned by us, yes.

MR. HOLZER: Okay. So, the, the, the transfer of the title has taken place and you now are the owners of the site?

MR. GHIMIRE: The Nepali Community Center is, yes.

MR. HOLZER: Yeah, okay. And, and what is the name of your organization again?

MR. GHIMIRE: Nepali American Cultural Center of Baltimore.

MR. HOLZER: Okay. Is that how, were they create, was that created under Articles of Incorporation?

MR. GHIMIRE: Yes, and it was, a copy was provided to you and the Board, I believe.

MR. HOLZER: Yes, yes, I believe that it was. And what are the three purposes of your organization? I just want some introductory questions and then I'll get to something else.

MR. GHIMIRE: What's the three purposes?

MR. HOLZER: What, what are the, yeah, are, are they listed in the Articles of Incorporation, what the purpose --

MR. GHIMIRE: I don't have article in front of me. So, I can't, I don't want to give you the misinformation. But

I can tell you from, from my heart.

MR. HOLZER: Yeah.

MR. GHIMIRE: That the primary single goal of our organization, is to create a Hindu temple where my family and all of our members' family go to that temple and pray.

MR. HOLZER: Okay.

MR. GHIMIRE: That's primary and the objective, yes.

MR. HOLZER: And, and how many members of the organization are there in existence right now?

MR. GHIMIRE: How many, you'd have to --

MR. HOLZER: How many members, and if it were Christian it would be called a congregation, if it was Hebrew, it would be called something else, what, what is your congregation?

MR. GHIMIRE: Unfortunately, we don't have a temple yet. So, we don't have a congregation. We don't have a functioning, operational temple yet.

MR. HOLZER: Okay.

MR. GHIMIRE: So, all we have is donors.

MR. HOLZER: Okay. So, you have, do you have eight hundred and fifty members that are not donors or, or are they all donors?

MR. GHIMIRE: They're all donors.

MR. HOLZER: Okay.

MR. GHIMIRE: And we have donors from people who

wanted to save, I mean, preserve the culture, help us establish a first Hindu temple, they might be donor from my home country in Nepal and could be my parents, could be anybody.

MR. HOLZER: Okay.

MR. GHIMIRE: Yeah.

MR. HOLZER: Okay. So, that, eight hundred and fifty doesn't necessarily mean --

MR. GHIMIRE: Not a congregat --

MR. HOLZER: That those are people that, in a congregation, that are coming, right?

MR. GHIMIRE: That's correct, yeah.

MR. HOLZER: Okay. Now, you've, you've hosted a number of different events, both on the site and elsewhere, to try to encourage this get together and, and promote this opportunity?

MR. GHIMIRE: As I stated in my first hearing in the, when it was approved and, and my first testimony, trying to raise, you know, half a million dollar to buy a property and another half a million dollar to renovate and, and bring people together, it needs a lot of fundraise, just not one fundraiser.

MR. HOLZER: Right.

MR. GHIMIRE: And not just one event, and not at a bad location. And we hosted events outside of the temple location and, and we do that pretty often, yes.

MR. HOLZER: Could, could you tell me how many events

you've actually hosted on site?

MR. GHIMIRE: I can, I don't have the numbers yet, but could be three or four fundraisers.

MR. HOLZER: Okay and were these the summer of, of 2017 and the summer of 2018, were they fundraisers or were they religious get togethers or could you just describe in your own words what, what they were?

MR. GHIMIRE: The, the ultimate goal was fundraising.

MR. HOLZER: I, so there was no religious activity taking place at the time?

MR. GHIMIRE: I wouldn't say it's a normal congregation where you go pray, it was more of a person of religious stature coming and asking for donation to build a temple.

MR. HOLZER: Okay. Was there music and, at any of these events, as you've heard from the witnesses' testimony?

MR. GHIMIRE: So, part of the prayer involves the music, not the rock concert, it's just, you know, a person playing a flute and I didn't hear anybody saying they heard somebody playing flute, so.

MR. HOLZER: Well, they heard someone speaking on what had to be a microphone or amplification system. Did you have the amplification systems there for these events?

MR. GHIMIRE: We had a little microphone for the speaker inside the tent that you saw in the picture, that was

enclosed.

MR. HOLZER: The white tent?

MR. GHIMIRE: That's correct.

MR. HOLZER: Okay and you never had it outside of the tent? In other words, just out in the open?

MR. GHIMIRE: No, not this year. The first event we had in 2017, I believe, was a holy festival. We did have, did have music and I can, I can tell you and I can, nothing took place after 7:00 or 8:00, nothing took place at 1:00.

MR. HOLZER: So, you disagree with the last witness who said he heard you at 1:30?

MR. GHIMIRE: Absolutely, absolutely. No, there was nobody, nobody there at 1:00 in the morning.

MR. HOLZER: All right. Were, were you, were you there when, were you there when, during all of these events, as the chairman or as the --

MR. GHIMIRE: Yeah, I'm not a chairman, I'm just a volunteer. And we all work as a volunteer.

MR. HOLZER: Right.

MR. GHIMIRE: We're donating time, just like I'm donating today.

MR. HOLZER: Right.

MR. GHIMIRE: I'm not gaining anything, I'm not, there's, there's no monetary (inaudible) I don't get paid. I do for the love of my community and for my children and, and

it's, and I can tell you (inaudible) probably not. Then I would have to quit my job.

MR. HOLZER: Okay.

MR. GHIMIRE: Or my business, but I (inaudible).

MR. HOLZER: Did you sponsor an event in January of 2829, on January 28th, 29th of 2018 at St. Joseph's Catholic Church?

MR. GHIMIRE: Did I sponsor an event?

MR. HOLZER: Well, did you host, host it?

MR. GHIMIRE: (inaudible)?

MR. HOLZER: Yes.

MR. GHIMIRE: All the time. Not only one time, just hosted --

MR. HOLZER: At St. Joseph's Catholic Church?

MR. GHIMIRE: Yes, I did.

MR. HOLZER: Okay.

MR. GHIMIRE: I, I may have but I have, I could say just recently last week, I, I sponsored another event for, for Catholic church, yes.

MR. HOLZER: Okay. At that, at that time, were the Baltimore County police called as a result of activity that was going on at the site?

MR. SCHMIDT: At, at the Catholic church?

CHAIR: Mr. Schmidt?

MR. SCHMIDT: I'm sorry. Objection. I don't

understand the question.

CHAIR: Okay. Mr. Holzer, can you please specify, or provide more specificity in your question?

MR. HOLZER: I sure can.

CHAIR: Thank you.

MR. HOLZER: At January 28th, 2018 at 22.39 hours, police were called to an, to the event that you were sponsoring.

MR. GHIMIRE: So, you're talking about --

MR. SCHMIDT: Objection.

MR. GHIMIRE: Yeah.

BOARD: Wait a minute.

CHAIR: Hold on, hold on, sir.

MR. SCHMIDT: Objection.

CHAIR: Hold on.

MR. SCHMIDT: Objection. I still am not clear, Mr. Garber, as to where this event occurred, if it occurred at the subject property or if it occurred somewhere else. If it occurred somewhere else, --

CHAIR: I understand there's an objection.

MR. SCHMIDT: -- then I would object, because I don't believe it has any relevance.

CHAIR: Mr. Holzer, do you have a response?

MR. HOLZER: Yes.

CHAIR: Okay.

MR. HOLZER: I'm tired of --

MR. GHIMIRE: And --

CHAIR: Sir, there's no question at the moment.

MR. SCHMIDT: You can't --

MR. HOLZER: I'm tired of these irrelevant objections when, in fact, he knows darn well that they had an event at St. Joseph's Church and it was, it was under his guidance and it ended up with a police report for an aggravated fact, people were arrested, and I want to get into that.

CHAIR: Okay, Mr. Holzer, his question, or I understand the objection is he, the, which location did this occur at? Just to make it clear for the record, why don't we just identify that for Mr. Ghimire, all right? On January 28, 2018 at around 10:39 p.m. the Baltimore County police appeared at what location?

MR. HOLZER: I'm going to do it even better.

CHAIR: No doubt.

MR. HOLZER: I'm going to give him the police report.

CHAIR: That's fine.

MR. HOLZER: Maybe they haven't seen it. Have you seen the police report?

CHAIR: So, before you do that, we have to mark it.

MR. HOLZER: There's the original.

BOARD: Twenty-two?

MR. HOLZER: Twenty-two.

MR. SCHMIDT: Okay.

CHAIR: Thank you.

MR. HOLZER: And I would address the witness to look at the first page and Mr. Schmidt, Baltimore County Police Department Police Report, location 8416-8420 Belair Road and it was second page, assault second degree --

CHAIR: Well, hold, hold on. Let's just take it one step at a time if I may. Page one, you're referring to, is page two of the exhibit?

MR. GHIMIRE: Yes.

CHAIR: Okay and an incident that occurred at 8416/8420 Belair Road on January 28th, 2018 at approximately 10:00 at night, correct?

MR. HOLZER: That's correct.

CHAIR: Okay. Now, what do you want to ask him?

MR. HOLZER: You didn't go to the next, the offense was assault second degree, simple, on police, parking lot of the church.

CHAIR: Mr. Schmidt?

MR. SCHMIDT: I, I'm going to object to all this. What relevance this possibly has for a Petition for Special Exception at an, at a different property. I mean, I know there is some latitude given in an administrative quasi-judicial hearing, and we're not in a formal Court of law, but this is a quasi-judicial hearing and I, I've never seen this before. I

knew nothing about it, but it appears that there was a fight, a fist fight, between a couple people at, at this Catholic church, at another property. And what that has to do with --

CHAIR: Okay, I understand.

MR. SCHMIDT: -- whether the special exception should be granted.

CHAIR: I understand.

MR. SCHMIDT: I object.

CHAIR: Mr. Holzer, your response?

MR. HOLZER: My response is, the police report relates to his event that was being held there, which he says that he had on the 28th, 29th. The police report, if Your Honor permits it to go in, it starts off as a police officer responded to St. John, St. Joseph Catholic Church for a fight.

CHAIR: Okay.

MR. HOLZER: Upon arrival --

CHAIR: So, let's just, hold on, Mr. Holzer.

MR. HOLZER: I mean, it's his, it's these folks --

CHAIR: Let's take it back a second because prior to that, the objection was, at what location did this occur.

MR. HOLZER: And we know.

CHAIR: At 8614/8620 Belair Road is the St. Joseph's Catholic Church. Mr. Schmidt, did you understand that?

MR. SCHMIDT: I understand it to be at --

CHAIR: Okay. So, hold on, we're going to go --

MR. SCHMIDT: -- the St. Joseph's Catholic Church.

CHAIR: -- we're going to work through this. The second point now is the objection presently raised, which is, what relevance does it have? You're indicating the relevance is, look, there's a sponsored event, this gentleman was in charge of and there was this fight, correct?

MR. HOLZER: That's correct. And he also said that he held events offsite and this was the offsite event.

CHAIR: Okay. We're going to overrule the objection at the moment and then see where this goes.

MR. HOLZER: Thank you.

CHAIR: Thank you very much. You may proceed.

MR. HOLZER: Thank you.

MR. SCHMIDT: Mr. Garber, may I be heard for just a second, please?

CHAIR: Go ahead.

MR. SCHMIDT: Thank you. I would draw the Board's attention to the very first page of this document, which says at the very top line, at the very top, DMV events in association with Everest Entertainment presents live in concert.

CHAIR: Okay.

MR. SCHMIDT: I do not believe that says the Nepali Cultural Center of Kris Ghimire or anything like that, so how we get this connection that this is an event, I mean, this is

so irrelevant and, quite honestly, --

MR. HOLZER: Oh, come on.

CHAIR: Guys, listen, counsel, --

MR. HOLZER: I'm really getting aggravated.

CHAIR: -- here's what we're going to do. I understand the objection, I've made my ruling. It's overruled for now. I anticipate he's going to get into it and/or you'll get into it in cross.

MR. HOLZER: Thank you.

CHAIR: So, you may proceed.

MR. HOLZER: Thank you. Now, you hired, you rented the hall at the church for your event of your folks, right?

MR. GHIMIRE: I'm so glad you asked me this question, asked this question. I can't, I've been waiting here to answer this and wanted to clarify for the Board, for the members of the community, member for the Nepali community, how false this information is, how targeted it is.

CHAIR: I'm sorry, how?

MR. GHIMIRE: How targeted. Just like an Italian person holds a concert in Glen Arm and something happens. You can't blame the whole Italian population for that, that's, that that incident. So, the Nepali --

CHAIR: Hold on, if I can. Whoever is back there making noises or laughing or whatever the case may be, that's not appropriate.

MR. GHIMIRE: I think, I feel it's very insulted by this, this, this question and this report. Nowhere in this charge that I'm involved. I feel very personal about this. You're charging me for something that I was, when you said, when you asked me --

MR. HOLZER: Are we just going to let him just talk?

CHAIR: Yes, he is answering the question. Wait till he's finished.

MR. GHIMIRE: Yeah, and, and this is a personal charge and I take it personally. I want to answer in full, give me, give me a few minute, allow me a few minute to answer this question.

CHAIR: Well, I, --

MR. HOLZER: I object.

CHAIR: -- you have to, you have to answer the question that is asked. If that is your answer, you're offended by it, you're insulted by it, it's not fair to your community, I understand your answer. Do you wish to go on with your answer in response to his question?

MR. GHIMIRE: Yes, yes, I do. So, when initially asked me to do sponsor the events, I was misled. He didn't told me this, he asked me without showing this, this pictures. So, yes, I sponsored, not this event, I may have sponsored some Nepali event that took place there but when I say, yes, I sponsor events that took place and hosted by St. Cath, St.

Joseph Church, that's where my two kids go to school. I just recently, last week, we offer a prayer, we did offering for Catholic (inaudible), we were the main sponsor. So, that's what I answer, very excitedly, saying yes. That's what I sponsor, the St. Catholics. But where is my name here?

CHAIR: Okay. Sir, you don't get to ask the question.

MR. GHIMIRE: Yeah.

CHAIR: Mr. Holzer, you, your next question, please.

MR. HOLZER: After the St. Joseph event in which eleven Baltimore County police cars were called to the event, is there another place where your members or your group would go to meet? And I would suggest Mt. Everest restaurant.

MR. GHIMIRE: So, when you say a group, you're saying - -

MR. HOLZER: I'm not talking, I'm talking --

MR. GHIMIRE: What group? Define that.

CHAIR: Well, hold on, again. I'm going to make this abundantly clear as best as I possibly can. He's going to ask a question, then you're going to have to answer. When you're answering, please don't ask another question.

MR. HOLZER: I won't.

CHAIR: So, one at a time. What is your question to Mr. Ghimire?

MR. HOLZER: After the event that was held at the

church and the police arrive and arrested a number of people, did they go, did your members or people that are associated with your organization, go to Mt. Everest Restaurant?

MR. GHIMIRE: I did not go and I don't know. I can't, I didn't track our people that I know.

MR. HOLZER: Okay.

MR. GHIMIRE: That's not my job.

MR. HOLZER: Who, who owns, what type of restaurant is Mt. Everest Restaurant?

MR. GHIMIRE: It's a Nepali cuisine authentic restaurant.

MR. HOLZER: Okay.

MR. SCHMIDT: Objection. Now, if we're going to, and I'll just --

CHAIR: Go ahead.

MR. SCHMIDT: -- I just want to object for the record.

CHAIR: Mr. Schmidt, go ahead.

MR. SCHMIDT: And make a continuing line of objection. If Mr. Holzer and his clients wish to insult the Nepali community and make this all about --

CHAIR: Mr. Schmidt, --

MR. SCHMIDT: -- etcetera, then they may do so.

CHAIR: -- what is your objection?

MR. SCHMIDT: And my objection is, Mr. Garber, that

it's totally irrelevant and inappropriate.

CHAIR: Mr. Holzer, first of all, I have to say, I'm not clear as to whether or not Mr. Ghimire, what role he played in connection to this. Was it individually, was it on behalf of the organization or what was his exact role? I know that we've referred to it as sponsor.

MR. HOLZER: Yes, yes.

CHAIR: But it is not clear to this Board as to what that means.

MR. HOLZER: He rented the hall.

CHAIR: Him personally?

MR. HOLZER: That's what I understand.

MR. GHIMIRE: That's false.

CHAIR: Hold on. There's not a question pending, sir.

MR. HOLZER: Okay.

CHAIR: Mr. Holzer, so that part, I think, --

MR. HOLZER: I'm answering --

CHAIR: -- would help resolve some of these issues.

MR. HOLZER: All right. Subsequent, well, the answer to, to resolving the issues is simply read the police report and you can see, as, as I was trying to get to, they were called to this event, there were Asian males, one was beating the other, etcetera --

CHAIR: Mr. Holzer, I'm going to make this, I'm going

to make this clear. Mr. Ghimire, what was your role in connection to the event that is Protestant's Exhibit 22?

MR. GHIMIRE: None, zero.

CHAIR: Were you the sponsor of this event?

MR. GHIMIRE: No.

CHAIR: Did you have any type of role as, in leadership, management or whatever of this event?

MR. GHIMIRE: No.

CHAIR: Did the Nepali community, that is, the --

MR. GHIMIRE: Nepali Cultural Center --

CHAIR: -- sir, that is the organization that is Petitioner in this case, have any role with sponsoring this event?

MR. GHIMIRE: No.

CHAIR: Did they have any other role when it came to the leadership or management or, or otherwise for this event?

MR. GHIMIRE: Absolutely not.

CHAIR: Okay. So, what exactly is your role or affiliation with this event that is Protestant's Exhibit 22?

MR. GHIMIRE: Nothing that I know of.

CHAIR: Okay. Mr. Holzer, with that in mind, did you want to follow up now as to figure out what his relationship is or if any? I know you said read the report, but right now, the report is not in evidence, so we need to figure out what bearing this has for this particular witness.

MR. HOLZER: Well, maybe this particular witness didn't then follow the church incident back to the restaurant, in which there was another battle, another fight, with Baltimore County police cars arriving, eleven cars, plus ambulances, plus the fact that involved in the, in the incident was a large knife. Now, if you want me to, if, if you want me to try to connect his event, I can just simply tell you that these were all individuals in the first case, they were all individuals in terms of police reported Asian males. There were people that wanted, and their names was, arrested was Mr. Sarki, was arrested --

CHAIR: What, I got, I got to stop you there, because what does that have to do with the Nepali community organization that is the Petitioner in this case, or Mr. Ghimire, the individual witness on the stand? Whether in his individual capacity or on behalf of the Nepali community? That's the point we're trying to tie this police report to this witness.

MR. HOLZER: Correct. And these, this police report shows that the individuals that attended that, the individuals that went back to St. Joe, back to the Mt. Everest restaurant, all acted in a way that should not have occurred and, as a result, police were called. Now, if he wants to say, oh, I didn't go there, I can't say that he was there because I didn't, I didn't attend the event. But these --

CHAIR: I believe Mr. Ghimire did just testify that he was not at, certainly at the Mt. Everest part of this. As to the introductory part at St. Joseph's Church, I don't know what's been established about that as of yet.

MR. HOLZER: Well, maybe, maybe we can show you, to your satisfaction, when he marketed this event on Facebook.

CHAIR: Again, I'm still mystified as to how he is tied to the event to which leads to --

MR. HOLZER: The organization marketed the event to raise money at the church.

CHAIR: Do you have questions on that basis for this witness?

MR. HOLZER: No.

CHAIR: Okay. Then, as for now, I'm going to have to sustain the objection from Mr. Schmidt as to this report.

MR. HOLZER: Okay. You may sustain the objection, we will come back to that. But for now, I'm going to proffer this report, that's marked as Protestant's twenty-two. I'm going to proffer what was in it and what, what was said, which I'm entitled to do.

CHAIR: I think, I, I would say this, we already heard what's in the report, to some, to some degree. I've sustained the objection. If you are going to have that report in, it needs to connect to this witness and what I've understood from you is it can't connect to this witness right

now. If you want to ask him about a Facebook post or something that shows his sponsorship, whether individually or on behalf of the community, that would be the next phase.

MR. HOLZER: I'm saying, I am going to proffer what's in both reports.

CHAIR: I think --

MR. HOLZER: I'm entitled to proffer for the record what's in both reports, even though you're not accepting them yet.

CHAIR: You have introduced this into evidence for identification, the documents itself. You don't need to any more proffer, it's already part of the record as something that is, an objection has been sustained upon. We can move on.

MR. HOLZER: All right. Is it more, what is twenty-two and what is the restaurant marked as?

BOARD: We, we haven't had it yet, we, you haven't given it to us yet.

MR. HOLZER: I'll have to give it to you.

CHAIR: Gentlemen, please keep your comments to yourselves about it.

BOARD: And if the people behind Mr. Kotroco and Mr. Schmidt could not make references to the witness while he's on the stand, any gestures, any good job, none of that, that would be helpful, because he's under oath.

MR. HOLZER: Now, for purposes of the record, you

have denied, at this point, these two documents, Protestant's Exhibit 22 and 23 and I am proffering that the documents are submitted at this point as part of two proffers related to the police reports, related to Baltimore County, related to the Nepalis.

CHAIR: But that, but, but the point we're missing here is the connection between the reports --

MR. HOLZER: I understand.

CHAIR: -- and the Petitioner, or this individual witness.

MR. HOLZER: I understand.

CHAIR: They cannot be admitted and, therefore, any, and they are already marked for identification. I don't believe we need a proffer to what went on during the course of these events --

MR. HOLZER: I, I'm not trying --

CHAIR: -- if they're, hold on, in the reports without that bridge being connected.

MR. HOLZER: I understood that. I'm just saying, I am, instead of me trying to read it in the proffer, I'm saying that you ruled that they are marked for identification in, in, in the Board's --

CHAIR: They are.

MR. HOLZER: They are. So, I don't have to read them.

CHAIR: That's correct.

MR. HOLZER: That's what I was trying to say.

CHAIR: That is correct.

MR. HOLZER: Okay. All right. Now, Mr. Ghimire, you made some personal comments during the course of this, these presentations. Do you believe the Gunpowder Falls Watershed Preservation Association, you think they're racist?

MR. SCHMIDT: Objection.

MR. GHIMIRE: Can I get a glass of water before I answer that question?

CHAIR: No, there's a question pending at the moment, hold on a second. And there's an objection pending. So, stand up, please. What is your objection?

MR. SCHMIDT: Objection, Mr. Garber. I don't believe that Mr. Ghimire's opinion as to whether the Gunpowder Falls Community Association, if I've stated the name correctly, and if I haven't, I apologize. And the question is, if Mr. Ghimire believes they're racist and with all due respect, Mr. Garmer, Garber, I do not see how that would solicit any relevant testimony to the question of whether the special exception should be granted in this case.

CHAIR: Mr. Holzer?

MR. SCHMIDT: So, I believe there's no relevance.

CHAIR: Your response? Stand up, please.

MR. HOLZER: I just, I just want to know whether he

believes that my clients, all the people that are sitting here, are racists and are against the Nepalese.

CHAIR: Well, I will --

MR. HOLZER: That's not relevant?

CHAIR: You are given leeway at the moment, but you are not going to go too far afield because it does go to motive, or bias, or other such things that are commonly asked for any witness in any case in any Court. So, whether or not, you know, I understand you may have an objection as to its relevance, but I'm going to overrule your objection. Mr. Holzer, you may ask your question at, but again, we're not going to be going too far afield here.

MR. HOLZER: I, --

MR. SCHMIDT: Mr., Mr., if I can, Mr. Garber, can I ask that the Chair identify, since the nature of the Chair's overruling my objection was that it goes to the potential bias of the witness. Could the, could the Chair explain for the record in this case, what, what bias the witness would have towards that organization and how that would relate, even if there was bias towards that organization, to the Petition for Special Exception?

CHAIR: Sure. So, it, by way of example, if this witness is under that belief, I'm assuming that there would be reasons for that belief. Those reasons may call into credibility some of the testimony by others.

MR. SCHMIDT: Thank you, Mr. Garber.

CHAIR: Thank you. Mr. Holzer?

MR. HOLZER: Yeah, I'm not trying to be offensive, really, Mr. Ghimire.

MR. GHIMIRE: Yes.

MR. HOLZER: I really just want to know whether your organization believes that they are being unfairly treated in Baltimore County.

MR. GHIMIRE: Can I get a glass of water or something before I answer that?

MR. KOTROCO: May he have some of that, or do you want me to go out in the hall and get him a glass?

MR. GHIMIRE: Thank you. My, my throat is getting dry. And I will answer the question right after.

CHAIR: Yes, thank you.

MR. GHIMIRE: Thank you, sir. Can you, excuse me.

CHAIR: I believe the last question was from Mr. Holzer saying do you believe that the Petitioner is being unfairly treated by Baltimore County?

MR. HOLZER: Yes.

MR. SCHMIDT: No, that's not, I think the question was, --

CHAIR: There were two questions, so that's fine.

MR. SCHMIDT: -- with all due respect, I think the question was, does he believe that the organization, the

Gunpowder, and I don't have the name off the top of my head --

CHAIR: It's okay, Mr. Schmidt, we'll just have him ask another --

MR. SCHMIDT: -- is racist?

CHAIR: We'll, we'll, all questions just prior to that will be stricken.

MR. HOLZER: All right.

CHAIR: Mr. Holzer, ask your question and that'll resolve this situation.

MR. HOLZER: Do you believe that your organization has been unfairly treated by either the neighbors or by Baltimore County?

MR. GHIMIRE: Somewhat.

MR. HOLZER: And could you explain?

MR. GHIMIRE: Yes. There is many example, but let me go with one. We had event on Sunday, the, the July event that you keep referring to and many witness have done that.

CHAIR: Is this 2018?

MR. GHIMIRE: Two thousand eighteen.

CHAIR: Thank you.

MR. GHIMIRE: When we had, it was a Sunday. We had just a few people starting to gather for the fundraiser, then Baltimore Public Health Department got called, called on us. So he came back, came there and happens that Senator Jim Brochin was there, David Marks stopped by later on and she was

there, she, she said Mr., Mr. Clark called, complained and said she had to come, --

MR. HOLZER: Who said that, I'm sorry? I couldn't hear, understand you.

MR. GHIMIRE: Okay.

MR. HOLZER: Who said something to you?

CHAIR: Who made the phone, right, who told you this, that Mr. Clark called (inaudible)?

MR. GHIMIRE: The lady from Baltimore Health Department, which I have her card, I can provide that. I, not at this moment, I didn't know I was going to ask this question. And Mr. Clark made a call, she came and she said she had to come and Senator Brochin confronted, if I had a fundraiser at my house, I'm running for office right now, would you come to my house? And she had a no good answer. And after a few discussion, a few phone calls with her supervisor, she said, I'm sorry, we have to come because the complaint was made. And at that moment, I felt like, look, I'm a citizen of this country, citizen of this County. I pay a lot of taxes. I felt like I was targeted.

MR. HOLZER: Okay.

MR. GHIMIRE: Yes, I was, I felt like I was targeted and, and that's another incident where one of the members is right here, a witness, again, health department came. That was last year, 2017. I don't know who made that call and the, the

County official says, you guys cooking here something? And my, he's raising his hand right there, he calls me from the --

CHAIR: No, hold on, hold on.

MR. SCHMIDT: You can't raise your hands (inaudible).

MR. GHIMIRE: I'm sorry.

CHAIR: This, oh, my. Guys, everyone here, you cannot give any type of clue, gesture, sound and it goes for both sides of this room, as to anything any witness is on the stand for. It is up to the witness to recall what they recall. If they get it right, so be it. If they get it wrong, so be it. You have counsel here who's going to be able to cross examine or otherwise question them to let them know whatever they think is right or wrong about whatever they just said. So, please, nobody mention anything, say anything, gesture about anything or do anything other than sit there and listen during the course of testimony. Or else, the next option will be we clear the room of every witness here and anybody who wants to attend this hearing, it'll become a counsel only party. Thank you. That is the last, that is literally going to be the last warning I'm giving about this.

MR. GHIMIRE: Sorry about that.

CHAIR: No, it's okay.

MR. GHIMIRE: May, may I continue with my answer?

MR. HOLZER: Sure, sure.

MR. GHIMIRE: So, one of the member calls me on the

phone and said it's a County official and asking me that we are cooking food over here, (inaudible) are you? He said no, we're just cutting the grass and I, you know, he handed the phone over to me and I said, why are you here? I mean, why is the, I felt like we've been targeted and harassed for things that we haven't done. So, that was the second incident. About the community, I had a conversation with Mr. Clark a few times on the phone. He seemed very nice in the beginning. We had few conversation. He even offered to meet, I, I said okay. Right after that, he hosted a meeting. I can't remember the location, that was right in Long Green Valley and, and he had the police present over there and he specifically told me, I'm not invited or anybody from the Nepali community is not invited to this particular meeting. At that point, I felt like I had been, you know, not only disinvited but I felt excluded from the, from the, from the, from the issue that we are supposed to work together to solve. And all I hear is, we have not invited the neighbors, we had open house, we had two and fifty people show up for the open house. So, yes, that's my answer.

MR. HOLZER: Okay. So, was, was one of the things that precipitated your holding these, these events and having various County employees show up, were you ever cited for code violations? And I don't mean you personally, I mean the organization?

MR. GHIMIRE: They decided for code violations saying

no more, you know, --

MR. HOLZER: No more?

MR. GHIMIRE: -- building, but when went back to the County at, we met with Mr. Jablon, was I think director of the zoning, in that department, and he said, look, I mean, this is just a warning. I mean, I'm, there's nothing I'm enforcing or taking action against. We explain our side of the story and we were given that opportunity to explain what took place.

MR. HOLZER: Okay. So, there, there were no code violations issued or there were but they were not enforced?

MR. GHIMIRE: We got a warning letter, that's what I can, you know.

MR. HOLZER: Warning letter. And, and what was that for?

MR. GHIMIRE: It said no, no building, no improvement and no activities, that's what it said.

MR. HOLZER: No act, no activities, meaning no events being held there, right?

MR. GHIMIRE: No, no, I think what he said, I, I don't have the document in front of me, so I don't want to kind of give you the mis, you know, the wrong information.

MR. HOLZER: Right.

MR. GHIMIRE: I think more towards like no, you know, practice of religion, since it's not approved for, at that time was before the first hearing, I think.

MR. HOLZER: Okay. Okay. Thank you. Now, have any of your folks in your organizations complained about white America?

MR. GHIMIRE: Not that I know of.

MR. HOLZER: Maybe you can know who this, this is.

MR. SCHMIDT: I, I, Mr. Garber, I'm going to object and I've just, I just, --

CHAIR: Yes?

MR. SCHMIDT: Again, I, I believe we are here on a Petition for Special Exception related to a land use and zoning issue and, quite honestly, sir, this hearing is getting completely out of hand. And I say this with all respect to you and to the panel members, but this is not an appropriate manner in which this hearing should be conducted. These personal assaults and personal, inflammatory comments about both sides, or either sides, have no place in this hearing in my opinion. You are here, and I mean this most respectfully, Mr. Garber, to conduct a hearing about a proposed land use and that's what the charge of this Board is. And I understand that the Board gives a lot of latitude to allow evidence in these hearings. I was on this Board and served in the 1980's and I understand the long history of that, of that philosophy and the rule. But this is entirely inappropriate. It is, it is, it is --

CHAIR: Okay. I understand, I understand --

MR. SCHMIDT: -- gone, let me finish, sir, if I may.

CHAIR: Mr. Schmidt, hold on --

MR. SCHMIDT: I have the floor, I believe.

CHAIR: -- hold on, Mr. Schmidt. I understand your objection. You feel the evidence that's about to come is inappropriate and irrelevant and whatever other things that you've just mentioned. I understand what you have to say about it, I don't need a speech about it. Is there anything else, any other legal basis as to why you have an objection?

MR. SCHMIDT: No, sir.

CHAIR: Okay. Mr. Holzer, do you have a response? I don't even know what we're, what we're talking about at the moment because it's not in front of the Board. So, Mr. Holzer, what is your response?

MR. HOLZER: My response is, Your Honor, that, that as Mr. Schmidt said, bias, racism, religion, has no bearing in this case. And we agree with that. But we have been charged with, members, as you just heard, that there is a bias from the witness who said that he was constantly interrupted or had, had County employees coming to the, their events, who were checking up. The reason for that was, that there were certain limitations that were clear, that were liming their, their use until this Board made a decision, limiting their use to the, to the enjoyment of the property. Those have been violated as if they never occurred. It's like a code violation warning --

CHAIR: This is not a code violation hearing.

MR. HOLZER: That's, I understand, Your Honor. And that's exactly what you made at the very beginning.

CHAIR: Yes.

MR. HOLZER: It is not a code violation hearing, but this goes to show that there is bias in the, in the part of what has been going on. And number two, whether or not that the, that the occupants of this facility will con, will comply with your terms and conditions that may be imposed if you decide to grant this.

CHAIR: Okay. Now, --

MR. HOLZER: And that, and that, one more sentence.

CHAIR: Go ahead.

MR. HOLZER: And that, and that is, really goes to the crux of this, because they haven't shown that they're willing to obey whatever decision, zoning decision, is made.

CHAIR: What does that have to do with the exhibit that you are about to use with Mr. Ghimire?

MR. HOLZER: Well, because this exhibit that I'm about to use, he's saying we're biased against, against them.

MR. GHIMIRE: I didn't say that.

CHAIR: No, hold on. Just, Mr. Ghimire, there's not a question pending.

MR. GHIMIRE: Sorry.

MR. HOLZER: It simply says, I do not think there is much freedom left in this country, this --

CHAIR: Wait, is that from Mr. Ghimire?

MR. HOLZER: Huh?

CHAIR: Is that from Mr. Ghimire?

MR. HOLZER: It's from one of his member's e-mail.

CHAIR: Okay. Is that from Mr. Ghimire?

MR. HOLZER: No, it's from one of his members.

CHAIR: Is it from the community, is it from the Nepali community organization?

MR. HOLZER: I don't know, is it?

CHAIR: Well, hold on, no, no. We're, this is --

MR. HOLZER: I was going to ask him to identify this.

CHAIR: I, well, we're going to get into that in a second. So, do I understand what you were offering here is an e-mail --

MR. HOLZER: Yes, yes.

CHAIR: -- from who to, from who to whom?

MR. HOLZER: That's what I was going to ask him. I can't, I don't know the names of these people. (inaudible).

CHAIR: Is it on behalf of the organization?

MR. HOLZER: I don't know, that's what I was going to ask him.

CHAIR: Here's what we're going to do. We're going to take a break, we're going to break for lunch. I'm hoping that this is going to reset emotions in the room, but also try and call everyone here to streamline what's going on here and,

and focus on the main points as to why we're here. So, please, consider that both sides of the counsel table here.

MR. HOLZER: All right.

CHAIR: We will break, what time is it now? Twelve thirty.

MR. HOLZER: Twelve thirty.

CHAIR: Okay. So, we are going to be back here at 1:30.

MR. HOLZER: Okay.

CHAIR: Thank you.

(RECORDING PAUSED - 12:32:22 PM)

(ON RECORD - 01:36:13 PM)

CHAIR: Okay. Before we get started, I'm going to ask that everyone who's not counsel or not seated at the table, and Mr. Clark, you can stay, everyone else, please, step outside for a couple minutes.

BOARD: You can stay.

CHAIR: Yeah, you can stay. Because you're at the table, Mr. Clark has been at the table.

VOICE: Do we need to take our purse?

CHAIR: No, no, no, this is literally a couple minutes.

VOICE: Okay.

MR. HOLZER: I, I do have something that I hope you don't take offense at. But it's, it's very cool in here

between Mr. Schmidt and I, so could you turn the heat up a little bit?

BOARD: (inaudible).

CHAIR: Yes. But anyway, so I, I wanted you guys all here, Mr. Ghimire, because you've been the primary representative on behalf of your organization, Mr. and Mrs. Clark, you guys have been the primary representatives you're your side, but also counsel. So, I'm going to say this to counsel particularly. You guys are representatives, this is a Court. You guys need to remember you're showing something to people who don't normally come in front of this Board or into courtrooms. We expect the decorum and we expect this to be run professionally and I know that this is more informal than others, and I know that there's some familiarity between everybody here and you guys normally appear in front of us and have appeared together, on opposing sides, regularly. But this is the message we are sending to both communities. That is, you know, this is how things go, that we yell at one another, that we scream at one another, that we call each other names or we say ridiculous things to one another and that's not the case, and that's not the way this Court should be run. I personally do not try to ever engage in stuff like that. I can't say I'm always perfect and I know that we all have our moments to where we all achieve, should achieve to do better. Let's try to keep that in mind for the second half of this.

Now, also, when it comes to people again gesturing, making comments and all that other stuff, I am at my end with this, Mr. Clark, this applies to you too. I understand and have seen you act in a certain way where you are trying to engage with Mr. Holzer, it's, I'm sure, distracting to Mr. Holzer, what's that?

VOICE: I apologize.

CHAIR: Thank you. But it's also distracting to the Board and distracting to the witness and not just Mr. Ghimire who happens to be sitting there, but also from your side, people in the back nodding in approval, raising their hands and those kinds of things are wholly inappropriate for a courtroom, especially when they're trying to communicate something to the witness who is on the stand. So, I hope that we can do better this time around in the second half. Now, we know that there are going to be questions asked that you may not like and that you may not like. We deal with them with objections, not with indignation, not with yelling, not with anything else. We deal with it with objections. And we'll resolve it, we will work through it, we will get through this, but the fact is, we are wasting time by getting into these petty squabbles about this kind of stuff. And I realize there are some questions presently that may be offensive to some people, but at the same time, we have to work through it. We can't make rulings on things that we don't know what is about to come. Even if we

have a suspicion as to what may come, we don't know what's to come and we, that needs to be introduced into the record, so that there's a basis for any ruling that may follow, no matter what, whether it's to be in evidence, not in evidence, whatever the case may be, we have to establish something on the record. So, if you have an objection to something, that's fine. And if you have an objection to something, that's fine. Thank you. Mr. Clark, would you mind inviting everyone back in, please? Thank you. Anything else we (inaudible).

VOICE: Do I have time to (inaudible)?

CHAIR: You, yes, but you can invite everyone back in. Thank you. And I'm sorry, Ms. Clark, I'm sorry, Mr. Ghimire, that you had to be part of it, but you are parties to this case. All right. Other than Mr. Clark, who had, (inaudible) run a personal errand --

MR. HOLZER: I'm ready.

CHAIR: -- is everyone here? (inaudible) can tell? Can everyone make sure their cell phones are off? Okay. Can everyone make sure, those people who are sitting here, can you make sure your cell phones are off, please? And we, do you wish to start before Mr. Clark comes back?

VOICE: Yes, go ahead.

MR. HOLZER: I can.

CHAIR: Okay.

MR. HOLZER: I can. Right?

VOICE: Yes.

MR. HOLZER: Are we ready?

CHAIR: We are ready.

MR. HOLZER: Okay. Mr. Ghimire, did you, you've been here just about every day or if not every day, is that correct?

MR. GHIMIRE: That's correct.

MR. HOLZER: Okay and did you hear Mary when she testified about the volleyball noise and what was going on?

MR. GHIMIRE: Yes, I was here.

MR. HOLZER: All right and did, were you aware that, well, let me, let me just show you this. And I only have one color picture, so I'm going to get that to the Board.

MR. SCHMIDT: Thank you.

MR. HOLZER: But I'm going to show you this so it's easier. Is this familiar to you as a July of 2017 volleyball tournament that was held?

MR. GHIMIRE: This is the, the fundraiser, 2017, as I can recall, Dr., Mrs. Clark, Dr. Clark, she was referring to the event this year, this, this summer and that's what thing I got.

MR. HOLZER: Okay. There's, there's a black and white copy here. I'm going to submit this to the, to the Board.

CHAIR: And that's exhibit number?

BOARD: Twenty-four.

CHAIR: Twenty-four.

MR. HOLZER: And here are the photo, here's the extra for the Board. I didn't have, I didn't have (inaudible). So, this was twenty-four. So, if, if you notice on there, even though this was 2017, have you had a volleyball tournament in 2018?

MR. GHIMIRE: There was part of the fundraiser, it was a fun festival.

MR. HOLZER: Right.

MR. GHIMIRE: Where like the family came and play.

MR. HOLZER: Right.

MR. GHIMIRE: And not in 2018. I think what she was referring to, I think that they kind of coincide with the, the tournament that was going in DC, if you're referring to Facebook posts. So, I can't tell you exactly what she was referring to, but from the date she was referring, that's the time the tournaments was taking place in DC, which was actual tournament, not like the picnic style fundraiser that we had in 2017.

MR. HOLZER: Are you saying that this volleyball tournament was not at the subject site?

MR. GHIMIRE: It was in 2017, not in 2018.

MR. HOLZER: Right, okay and you see there, could you tell us where these, I see these teams, Belmont A, Belmont B, Columbia, is that Columbia, Maryland team?

MR. GHIMIRE: That's correct.

MR. HOLZER: What is number eight, where is that team from?

MR. GHIMIRE: Number eight.

MR. HOLZER: Top of the right hand column.

MR. GHIMIRE: That's, I think that's from Harrisburg.

MR. HOLZER: Pennsylvania?

MR. GHIMIRE: That's correct.

MR. HOLZER: What about the old dragon team, which is seven?

MR. GHIMIRE: I have no idea what that is.

MR. HOLZER: What about the other one, bistro team from Pennsylvania?

MR. GHIMIRE: That's from the Harrisburg area.

MR. HOLZER: Okay and the last two, and the last one, I guess, it's --

MR. GHIMIRE: That's, that's a Baltimore, you know, Baltimore group.

MR. HOLZER: Okay. So, you're saying that while this occurred on 2017, a fun day, summer fun festival, held at the site, that there was no volleyball tournament held in 2018?

MR. GHIMIRE: That's correct.

MR. HOLZER: Okay. As, as someone who, you're the resident agent, are you not, of the organization?

MR. GHIMIRE: Yes, I am.

MR. HOLZER: Okay. As someone who is, is so instrumental in making sure that this project gets going and so forth, how, how do you intend to handle growth of your, of, of this institution, the cultural center, the religions center, how do you propose to handle growth in, in respect to those activities that you're having?

MR. GHIMIRE: Growth in our community, as general?

MR. HOLZER: Yeah. Let me, let me just say, in any, in any other church, synagogue or so forth, there's always an effort to encourage more people to come and worship. In your case, I'm sure there is an effort to have people come and learn about your cultural, practice their religion and so forth, so as you encourage the, the number of people to grow and, and join your activities, how do you propose to handle that?

MR. GHIMIRE: It's like with any migrant community of people coming from different country, as you can see, the sources, a temple, synagogue, as the community grows, they build different churches, they add more churches and temple (inaudible) that demand. So, in Nepali community situation, within last two years, not only we started a temple in Glen Arm, that's a community center that was built which I used to be president of ten years ago right here on Taylor Avenue. You can check it out, Baltimore Association of Nepalis in America.

CHAIR: I'm sorry, what was that?

MR. GHIMIRE: Baltimore Association of Nepalis in

America. It was just, I think within a year, year and a half and there's also another temple for people from the City, in the City, that's also, that's (inaudible) few years ago, but has actually started taking roots last year. It's called Pashupati Temple.

MR. HOLZER: And where is that located?

MR. GHIMIRE: That's, it's by the golf course right in the City, so I can't tell you the road, the name of the road, but if you google Pashupati Temple.

BOARD: How do you spell that?

CHAIR: Yeah, thank you.

MR. GHIMIRE: P-A, don't hold me to it, sorry, P-A-S-H-U-P-A-T-I, Temple.

CHAIR: Pashupati Temple.

MR. GHIMIRE: Pashupati Temple, yes.

MR. HOLZER: Now, is that in a home or is that in a, in a religious institution, I mean --

MR. GHIMIRE: It's a small, it's a very, very small temple.

MR. HOLZER: In a home?

MR. GHIMIRE: It's a temple, it's a small temple.

MR. HOLZER: When you say --

MR. GHIMIRE: But I'm not, you know, I'm not a part of operation or anything, so I just know that it started there, so.

MR. HOLZER: All right and I think somewhere in your, your advertising or whatever, there's about fifteen thousand Nepalese in, in Baltimore, is that right, correct statement?

MR. GHIMIRE: If you ask the official data from Maryland, I think they have less than a few thousand, but unofficial data, I will say close to ten thousand in whole metro Baltimore area, that may include Columbia, Towson, Catonsville, Perry Hall but this temple would be more a focus of Perry, people who live in Perry Hall.

MR. HOLZER: People that, how, approximately how many people that would live within a ten mile an hour, a ten mile radius of, of this (inaudible)?

MR. GHIMIRE: I don't have exact data.

MR. HOLZER: Okay.

MR. GHIMIRE: Could be five hundred families, but not everybody go to temple, just like not everybody go to church, you know, that would be --

MR. HOLZER: I understand, I understand. In, is, I noticed that in some of your literature and, and online material, you emphasize it's a cultural center and, and put aside the religious worship that you've testified in direct examination. What is going to attract people to come to this building so that they can enjoy, quote, cultural activities?

MR. GHIMIRE: So, just a little bit of debate in our community, so should it be a community center, temple, the,

what we decided, we wanted it to be temple, so we had a temple. People who wanted to have a community center, they open a community center right on Taylor Avenue. So, I think that answer your question.

MR. HOLZER: Okay. So, so, the cultural, now what would take place at the one on Taylor Avenue in Baltimore County that would not take place on subject site?

MR. GHIMIRE: Yeah, our hope is not, they're not going to be a duplication, so you know, temple would be place of prayer, so temple would have some strict guidelines to follow. For example, you know, you can't have a, you know, parties with serving, meeting alcohol and reception and all that stuff. If you wanted to have a reception, you would go to the community center. If you wanted to invite a, you know, maybe a County official, a politician, have a, a, some kind of talk show, we'll go to community center, not at the temple. So, temple would be more stricter and adhere to the temple rules.

MR. HOLZER: So, so the subject site then will be more stricter and, and in terms of the religious activity, is that what you're saying?

MR. GHIMIRE: That's correct, yeah.

MR. HOLZER: Okay. Now, how does one control what's taking place there? Who, who's responsible, are you personally responsible to tell people yes you can come in or no you can't?

Is there a key that, that will permit these folks to come in? Just explain a little bit.

MR. GHIMIRE: So, once we have the, you know, the approval, hopefully the approval, and we have, you know, the building ready for use, we get our (inaudible) permit, parking lot and everything, so we'll have a management team and a board of trustee and other mechanism that, that, that's set up, that board of trustee can supervise and see what the operation team does, the management team does, so we'll have a whole, you know, professional people managing it. Obviously on a volunteer basis.

MR. HOLZER: So, they won't be living there?

MR. GHIMIRE: No, we have no plan for anybody to live there.

MR. HOLZER: Okay.

MR. GHIMIRE: Yeah.

MR. HOLZER: So, are you doing anything now to control access? In other words, can anybody just drive up and go into your entrance way or is it, is there a key lock or something like that?

MR. GHIMIRE: We have a gate and we have a combo box. Only a few, few members have access to that log box.

MR. HOLZER: Okay.

MR. GHIMIRE: So, they go there on the weekend and sometimes some other time too, but it's, it's restricted, yeah.

MR. HOLZER: Well, like the volleyball players, do they, do they have access to go up there whenever they want to play volleyball?

MR. GHIMIRE: Some of our active member actually love playing volleyball. I used to be a volleyball player and not the player, but I used to play volleyball so we, you know, enjoy playing volleyball but I haven't played there recently.

MR. HOLZER: But my, my question really was how do, how do you or someone control the volleyball folks that want to come in and play? I mean, suppose some of them want to come in and play at 6:00 in the morning, or they want to play at 10:00 or 11:00 at night? How, how, what controls do you have in place?

MR. GHIMIRE: I mean, first, there's no light, it's not lighted. So, you can't really play 8:00 at night, that's, you know.

MR. HOLZER: Well, now you can't.

MR. GHIMIRE: Yeah.

MR. HOLZER: In the summer you could play at 9:00.

MR. GHIMIRE: Summer you could, summer you could.

MR. HOLZER: Right.

MR. GHIMIRE: Yeah.

MR. HOLZER: So, what are, what controls do you have that will, you know, sort of control the volleyball playing and the potential noise on, on the site, anything?

MR. GHIMIRE: So, once we get going, once it's operational, that the focus would not be fundraiser, trying to get donation from people, trying to get people there to see the place and, you know, solicit a donation. Once we get started, we will be solely focusing on operation, like the daily activity, the normal activities. That's our hope and, and we'll, we'll, we are very, we are already in process with developing a set of rules and they will be, they will be enforce, absolutely. I mean, --

MR. HOLZER: And, and, and when, when will you have those rules?

MR. GHIMIRE: As soon as we, before we go operational, it's, you know, I'm in real estate, I'm in the business. I don't want somebody going there and getting hurt. When I'm not there, one of the management team is not there. I mean, this is (inaudible). So, I'm worried about that too. As, as much as the neighbors are.

MR. HOLZER: Sure, sure.

MR. GHIMIRE: So, yeah, there will be a set of rules, that has to be followed, not only by the members, but anybody who goes there.

MR. HOLZER: Now, as I recall your test, direct testimony the first day of the hearing, you testified that there may be folks that will come up to the site and, and go in for purposes of religious prayer or whatever. And, and how

will that work? I mean, is there going to be somebody at the gate saying, yes, you can come in but no you can't? Or --

MR. GHIMIRE: Just like the previous (inaudible), we'll have, even, even more stricter hours where we can have somebody attending, (inaudible) who would be, it doesn't need to be in, in the temple. People can go and pray but we'll have a, one or two priests will be available to help, help with the prayer.

MR. HOLZER: Okay. So, the person that wants to come to offer prayers or seek solace of, of whatever is going on in their life, will they have to call the site to make sure somebody is there to let them in or to help them in their worship?

MR. GHIMIRE: (inaudible), yes, but just for the regular prayer, I wouldn't, I wouldn't think so. If they're (inaudible) the hours, they can come in and pray and go.

MR. HOLZER: Okay. There, I thought in your direct testimony, and correct me if I'm wrong, that you said that one of the, one of the buildings on the site was going to house a, a priest or a caretaker. Has that changed?

MR. GHIMIRE: That hasn't changed. I mean, look, not at the temple but the in-law suite that we have, you know, not attached to the house, it's a separate house, that may be used as a, if we have a full-time priest, he may be living in there. But we don't know that, that yet.

MR. HOLZER: You don't, you don't have one lined up or proposed, like --

MR. GHIMIRE: No, no.

MR. HOLZER: Okay. Are there priests in the, in the Taylor Avenue or not?

MR. GHIMIRE: That's a community center, that's not a temple.

MR. HOLZER: Right. What about the one in the City? Is there a priest at --

MR. GHIMIRE: There are multiple of them.

MR. HOLZER: Okay. All right. Now, is, is it true that, that there are folks overseas that are supporting and sponsoring and are interested in this particular site, helping do some --

MR. GHIMIRE: Interested in terms of what?

MR. HOLZER: Con, paying money, contributing money, attending, having their families attend? I mean, will it be, let's say someone's in Nepal and they say oh, well, we'd like to visit Baltimore to watch the Orioles and the Ravens and, by the way, we'd like to go to this facility, the cultural center. Are there people from overseas that would want to do that?

MR. GHIMIRE: If my friend and relative be coming all the way from Nepal to see me, you think I'm not going to take them to temple that I worked so hard to build?

MR. HOLZER: Okay.

MR. GHIMIRE: Of course.

MR. HOLZER: All right. The events, I noticed on the volleyball that, as you said, there were people from Pennsylvania that came down and, and participated in that. Is this a regional type facility? In other words, could people from Pennsylvania, New Jersey, the eastern shore of Maryland, West Virginia, could, would, would this be an attraction for them or are you holding yourself out to be an attraction for them?

MR. GHIMIRE: It was a one-time fundraiser in 2017 when we had people from, and that I personally know this, this fellow from that team who used to live in Baltimore. When he heard that we building a temple, he just came to support, you know, he just brought, brought whole restaurant crew and that was his team. So, if you called it a team, a, people who work in the kitchen and waiters, that was just, that's the name of the restaurant that the team, that it's named after.

MR. HOLZER: Well, no, the, the more interesting question would be there, would there be volleyball tournaments there? In other words, there's a difference between some of your participants coming and playing volleyball and having an organized event like that, like you say occurred in DC.

MR. GHIMIRE: It will not be like Beachmont. That I can, it's not regular athletic sporting events, tournaments, none of those. The one that happened in DC, what happened

actually inside a basketball gymnasium and they invited a lot of players, they had prize money and all this stuff. And the Baltimore team happened to be participating in that on the same week that Mrs. Mary was, Mrs. Clark was referring.

MR. HOLZER: Okay.

MR. GHIMIRE: And I don't know if that's, you know, had any connection.

MR. HOLZER: Who is Mr. Carky (phonetic)?

MR. GHIMIRE: Dr. Carky is a good friend of mine.

MR. HOLZER: Right.

MR. GHIMIRE: One of the first few people to come to America.

MR. HOLZER: Is he any off, hold any official capacity in your organization?

MR. GHIMIRE: In Nepali Community Center?

MR. HOLZER: Yes, um hm.

MR. GHIMIRE: He is one of the biggest donor or one of the, you know, --

MR. HOLZER: And he testified during the first day, I think, first or second day.

MR. GHIMIRE: I don't think he did.

MR. HOLZER: He didn't? Oh, I thought he had testified. Okay. This is something that he put on Facebook and can you --

CHAIR: Show Mr. Schmidt.

MR. HOLZER: Whoops, sorry. Can you take a look at this and --

CHAIR: Please let's have it marked before.

BOARD: Twenty-five.

MR. HOLZER: They're all marked twenty-five. When you've had a chance to look at it, I'll ask you the next question.

MR. GHIMIRE: Do I have to read the whole thing, or just --

MR. HOLZER: No, no. Are you familiar with this Face --

MR. GHIMIRE: Pretty much, yes.

MR. HOLZER: Okay. So, in, in, in there, and I want to see whether you agree or you disagree, he talks about the excitement in paragraph two, that there are fifteen thousand Nepali people from Nepali in Baltimore and it's grown phenomenally in the last decade. Is that something you agree with?

MR. GHIMIRE: On his first line it says, these are my personal views, don't reflect official position of NACC.

MR. HOLZER: I know.

MR. GHIMIRE: And I --

MR. HOLZER: I'm just asking whether you, whether you have those same opinions or not.

MR. GHIMIRE: I don't necessarily know fifteen

thousand, but it's closer to ten thousand, I think. But I don't think it makes any difference.

MR. HOLZER: Okay. No, maybe not. Five thousand people, okay. And after, in his next to the last paragraph, he says, he wants to init, and apparently he's a big con, contributor to you as you just testified, initiate programs and services like health camps, yoga, interfaith collaboration, soup kitchen and contribute to the overall well-being of the neighborhood. Are those still your object, or, I don't want to use the word objections, objectives.

CHAIR: Objectives, yes.

MR. HOLZER: Right, I'm stumbling over myself.

MR. GHIMIRE: No, as I say, I mean, we haven't discussed some of the activity may take place, that's related to temple and solely related to practice of religion, not necessarily community, community related activity. I think the distinction comes where we have a community center now, we didn't have it, you know, eighteen month ago. So, some of the activity would be taken at the community center, not at, right now if you look it up, there's a health camp going on on, right now, at that community center.

MR. HOLZER: I'm sorry, it's what?

MR. GHIMIRE: It's a health camp.

MR. HOLZER: Okay.

MR. GHIMIRE: Taking place, it's in collaboration

with Nepali group and another, a rotary club. So, that's taking place right at this, right at the location in Taylor Avenue.

MR. HOLZER: So, there would be no need for --

MR. GHIMIRE: That's correct.

MR. HOLZER: -- health camps?

MR. GHIMIRE: That's correct, yeah.

MR. HOLZER: Yoga?

MR. GHIMIRE: So, in speaking about the Nepali community need, not necessarily speaking about the need of the temple.

MR. HOLZER: Okay.

MR. GHIMIRE: So, I think at the larger picture, what the community needs in terms of like the services, doesn't necessarily, this temple is responsible for providing every type of services, so that's --

MR. HOLZER: So, if, if, if someone, a Nepali, lives in Parkville or Perry Hall, would they be, would they be attracted more towards the one here in Towson or would they be people that you would encourage to come out to, to your facility, or your --

MR. GHIMIRE: No, again, two separate goals. If they're going to pray and they're going to, you know, attend a religious services, they would go to our temple. If they have a health camp, if they have community activities, awareness

program, any of those, they would go to community center, that's what they're designed for.

MR. HOLZER: Let me, let me just use your imagination for a minute and, and what you perceive as, as an objective. Let's, let's say this is approved and you get it fixed up in the next six months or a year, to the point where it's supposed to be, to be, you know, well, water, etcetera, all that stuff we've, we've talked about. Let's say two years from now, do you see yourself having the, these special events for fundraising, for activities where, where you would draw people in just for the purpose of either contributing or, or playing volleyball or doing whatever else you can do on thirty acres of property up there?

MR. GHIMIRE: Yeah, I don't anticipate a fundraiser of the magnitude we had, had this summer or last summer, because we only need it to get that seed money that we needed and now we have that, it's just operational and our goal is to just the regular prayer, people come, donate, offer money and that will be sufficient to, to run the operation, to, the upkeep, the clean-up and all this, because the mortgage is paid off, if it's, you know, built, now the legal cost paid up, and --

MR. HOLZER: Well, I'm sure that's a lot, isn't it?

MR. GHIMIRE: Then we wouldn't have to have this big fundraiser, yes.

MR. HOLZER: Okay. Did we have this as twenty-five? Do you have any objection, Mr. Schmidt?

MR. SCHMIDT: This?

CHAIR: Exhibit 25.

BOARD: Twenty-five.

MR. SCHMIDT: No objection.

MR. HOLZER: Okay, thank you.

CHAIR: So admitted.

MR. HOLZER: Yes. One of the, as, as you can tell, one of the concerns of some of the citizen, protestants, neighbors, is that there would be microphones or sound system on the outside that the neighbors can hear. And, and one of the, I think one of the ALJ conditions was that there not be outside speaker systems. Do you remember that? Am I right, do you recall?

MR. GHIMIRE: I think they said, no amplification.

MR. HOLZER: No amplification, okay. So, after, after, if this is approved and all your work is done, is there any reason why you need amplification of either speaking on the outside of the temple or music on the outside of the temple being amplified?

MR. GHIMIRE: If the building is ready to be used and we start using the main hall inside, then there's no reason to be outside.

MR. HOLZER: Okay. So, you would not object to any

more than you did before the Administrative Law Judge, but you would not object to that same kind of, of condition being opposed by the Board if they decide to approve this?

MR. GHIMIRE: No.

MR. HOLZER: Okay. Would there be outside cooking as part of your cultural expressions of, of prayer or of celebration? Would there be that kind of --

MR. GHIMIRE: We're blessed with a lot of Nepalese running restaurants in the surrounding areas. When we just put up one Facebook post, we have a six or seven restaurant volunteer, volunteering to bring food from their licensed sources. So, we have been very fortunate and it's --

MR. HOLZER: But, but it was, but that food was brought outside of the building for people to consume outside, is that going to continue or would all food related eating, celebrating, be inside the building, that's what I'm trying to find out.

MR. GHIMIRE: Summertime, it could be maybe, the kids might, may run around outside and eat. I can't just simply say they can't eat outside.

MR. HOLZER: I'm just, no, I'm just trying to find out what, what to anticipate.

MR. GHIMIRE: Yeah.

MR. HOLZER: Will you still need tents on the site once the building is fixed up the way you like it?

MR. GHIMIRE: No.

MR. HOLZER: Okay. So, there would be no, no tents being imposed during the summer or winter months, usually you don't put a tent up in the winter time.

MR. GHIMIRE: No.

MR. HOLZER: But in the summer for any of these special events?

MR. GHIMIRE: That was an expensive tent by the way.

MR. HOLZER: Did you get Loane Brothers? Never mind. That was another case of mine on Joppa Road that Loane Brothers had lots of tents all over the place. Okay. Let's see. Mr. Powell, who was your sanitarian, when he testified, he said that he was told that he could expect or con, consider that there would be four outdoor festivals outside each year. Was, was he right on a temporary basis but wrong on a, on a long term basis or is that still something he would --

MR. GHIMIRE: I think he's, I think he's right on the, you know, overall, you know, --

MR. HOLZER: So, you're still, so you're still going to have at least four outdoor festivals on this site?

MR. GHIMIRE: They wouldn't be totally outdoor anymore because we're going to have a space inside.

MR. HOLZER: I understand.

MR. GHIMIRE: But there would be people, it's, it's a culture in Nepal that people, you know, enjoy outdoor and a lot

of temples, it's hard to describe, but you go to temples in Nepal, they have people stand around outside and, you know, (inaudible) can be found outside of temple on the regular ground.

MR. HOLZER: Okay. But that's, I'm not trying to criticize it or not criticize it or do, I'm just trying to establish that, that the Board, the neighborhood, can anticipate that at least four times a year, there may be outside activities of some sort, am I right?

MR. GHIMIRE: A little different from what, what has been done in last two years, yeah, because we --

MR. HOLZER: How, how different?

MR. GHIMIRE: Different in a way that we had no working bathroom inside the main building, we had no, the hallway to use for a microphone or a, a, you know, sitting chair, (inaudible) beside the normal, you know, prayer. So, most of the activity will be inside the building but the kids, we might have a bouncy for kids to, you know, jump around while the parents are, you know, doing prayers. Yeah, so, it would be a more, kind of a different structure, yeah.

MR. HOLZER: Okay. Let's see. I think you may have already said this when, in your direct, but from your standpoint, even though you're asking for the special exception to apply to thirty acres, you are, you have no projection now to build a, let me, let me take it easy, a, a school there?

MR. GHIMIRE: No.

MR. HOLZER: Would a school be an appropriate thing for you all to, to have, to enjoy in one of these, one of these locations or do the Nepalese religious institution even have schools, I'm not, I don't know.

MR. GHIMIRE: Yeah, just to kind of clarify things for the Board and for you and for everybody, I don't think I have seen any Hindu temple that holds a school like the Catholic do, like my kids go to Catholic school and I know how it is run.

MR. HOLZER: Okay.

MR. GHIMIRE: So, --

MR. HOLZER: So, that's not something that is, would be normal to your religious background?

MR. GHIMIRE: No.

MR. HOLZER: In terms of, of a new building that could be built on the site, I understand that's not on the site plan now, but in the event that everyone really enjoys this site, would there be a potential for a, a larger building to either house food, you know, events such as, instead of going to a restaurant, you could have something there? And let me just say this, I'm an Episcopalian and I grew up with my parents having events at, at the parish house all the time and so would that be something that, in, in your culture, in your religion, that you could foresee?

MR. GHIMIRE: No, not at this time.

MR. HOLZER: I, I understand not at this time, but is it something that you could foresee not in this time, in the future?

MR. GHIMIRE: I foresee a couple of entrepreneur already, I see and been talking to, they, building some kind of Martin West, Martin East kind of things on Belair Road, Perry Hall area, where people can have parties, you know, reception into their liking and, and, and the set up that, that fits their requirement.

MR. HOLZER: Okay.

MR. GHIMIRE: I don't see that's happening at the temple and I (inaudible) honestly, I, you know, I would be first person to oppose that, you know, and (inaudible).

MR. HOLZER: Call me if you need to, okay. Kidding, kidding. You didn't like that question, that comment? I'm trying to liven it up or lighten, loosen it up a little bit. Okay. Let me see if, what else I. Do you, you, you were here when Mary Clark testified about the solitude that she could hear and the cars going by and, and on, on Harford Road and then the sound of volleyball and the amplified sound of music. Do you disagree with her, that that didn't happen or she's not telling the truth?

MR. GHIMIRE: I'm not, I wouldn't say she's not telling the truth. But when I pull from Harford Road getting

into the temple, I can hardly hear anything that, that's happening at the, even at the (inaudible) or at the temple. I mean, kids play basketball there, you know, just, you know, pick a basketball, the sound of basketball she was referring to when (inaudible). I don't know, I don't know, I can't tell you what she heard and, you know.

MR. HOLZER: Okay. Mr. Chairman, we have a disc and on this disc are multiple short videos of different events, okay? I believe these, what, what we would like to show at this point are probably ten or twenty seconds at all. Now, they're all, everything that you're going to hear through this cross examination and through any testimony of any of the other folks, including Mr. Clark, are all in this document, this disc and, and he can play them on either photographs or whatever. So, I'm going to offer this so that, and on the disc, he has it broken down as the exhibit that's being shown to this witness and then they're all itemized. They're not run consecutively and you can't understand what is what, they're all labeled.

CHAIR: It would make sense then that for each video clip, they are different exhibits, so we know how to cross reference it in the record.

MR. HOLZER: Yes. The easiest way to do that, would be to mark the disc as an exhibit and then mark, and mark --

CHAIR: The individuals.

MR. HOLZER: -- the individual --

CHAIR: Clips.

MR. HOLZER: -- they're all done that way, so that--

CHAIR: Does that work for you?

BOARD: Yep.

MR. HOLZER: And let me just say this, so, before we get into any, any problems. If, for instance, there is an objection to one of the videos, that can be identified by the label, is that correct, (inaudible)? And the record will know which one was accepted by the Board and which one, if any, was not accepted by the Board and so, it's all organized in a way that the record should be in perfect shape when it gets to you and goes beyond.

CHAIR: So, just to be clear, are we labeling it one number, A, B, C, D, E, F, G, different numbers, how, how are we going to do that for purposes of identifying which clip is at issue with any particular testimony?

MR. HOLZER: The disc will be Protestant's exhibit, whichever the next number is.

BOARD: Twenty-six.

MR. HOLZER: Twenty-six?

BOARD: Twenty-six.

MR. HOLZER: And Mr. Clark, they're all labeled up there, A, B, C, D, E, F, as you can see on the board.

CHAIR: Well, I can't see, but I, I'll assume that's correct. All right.

MR. HOLZER: All right. So, I just wanted --

CHAIR: Mr. Schmidt?

MR. HOLZER: -- I just wanted to do that, well, before I hand it to Mr. Schmidt.

CHAIR: Do you have anything you want to add?

MR. HOLZER: Do you have anything you want to ask before I present it?

MR. SCHMIDT: I guess I would ask if, I know the clip that we showed at one of the prior hearings did not have any sound to it, as I recall, does, do these clips have sound to them?

MR. HOLZER: Most of them do not because I told him what the Board will accept. He, the witness will be testifying to a, to an exhibit, one of the exhibits, that's silent and the witness will be test, like we would normally do if you were showing it.

CHAIR: Um hm.

MR. HOLZER: However, there could be, there could be an exhibit that's produced for purpose of sound. There will be no commentary about it, but for instance, if it's sound, if it shows you what the sound sounds like on a particular event, you will be able to hear that.

CHAIR: Are we just taking it on a case by case basis?

MR. SCHMIDT: I guess, will I be given an opportunity

to have this material? I assume Mr. Clark, or someone of Mr. Holzer's clients, produced this and if I have questions about when it was produced, how it was produced or so on and so forth, obviously, I, I can't ask Mr. Ghimire, I suspect, because he didn't produce it and I would expect that he may not know the answer. So, is there going to be an opportunity, I'm, I guess I'm somewhat confused as to why it's coming in during Mr. Ghimire's testimony, but if, am I going to have an opportunity to question whoever made this about when they did it, where they were and how they did it and those kinds of things?

MR. HOLZER: Can I answer that?

CHAIR: Please.

MR. HOLZER: I anticipated that, okay? If I give him this document, this disc now, he can watch it for whatever amount of time he wants to watch it, okay? And it will show what it shows. On top of that, he previously summonsed Mr. Clark, in other words, he wanted to have in anticipation so he knew what the (inaudible). He'll have it.

CHAIR: Is that a representation of Mr. Clark is the one who made these videos?

MR. HOLZER: Yes, yes.

CHAIR: Does that answer your question?

MR. SCHMIDT: I guess I can, I mean, as you recall, Mr. Clark hired Mr. Biser (phonetic), who was here last time,

who moved to quash my subpoena and I withdrew it rather than to get into a lot of debate about that subpoena.

CHAIR: Um hm.

MR. SCHMIDT: So, I do not, today, have Mr. Clark under subpoena. I suspect that I could issue a subpoena for him at a future date if it's necessary.

MR. HOLZER: Well, Larry, --

CHAIR: Well, one second, one second. I understand that Mr. Clark has still yet to be called as a witness, but he is going to be called as a witness.

MR. SCHMIDT: I, I don't, I don't know that.

CHAIR: Well, that, thus far, that's what's been represented, as is, whether or not that comes true, I think certainly you would have the ability to subpoena Mr. Clark for the same, the same type of basis as Mr. Ghimire is apparently testifying here today, with or without subpoena, so you'll have that same ability.

MR. HOLZER: Could I just make a comment?

CHAIR: Please.

MR. HOLZER: Larry, Mr. Schmidt.

CHAIR: Thank you.

MR. HOLZER: Okay. If I don't use this today, I, you'll not know what Dewey is going to say.

CHAIR: Mr. Clark.

MR. HOLZER: Mr. Clark, until he says it. If you

permit me to use it today, you will have everything on it that presumably he's going to testify to that, as far as showing.

CHAIR: I think Mr. Schmidt's concern is, is he going to have the ability to cross examine Mr. Clark as to the creation of those videos?

MR. HOLZER: Of course (inaudible). You don't want to do it, you don't want to do it.

CHAIR: No, Mr. Holzer --

MR. SCHMIDT: I'm, I'm not objecting. I asked a question, that's all.

CHAIR: If I can, all Mr., all Mr. Schmidt is asking is for the opportunity to cross examine Mr. Clark as to the creation of the videos. It doesn't have to be right now, he's saying at some point.

MR. HOLZER: Of course. I've already said.

MR. SCHMIDT: Okay.

MR. HOLZER: As a, as a practitioner before this Board, as an officer of the Court, he's going to be called.

CHAIR: Okay. Mr. Schmidt, is that satisfactory to you?

MR. SCHMIDT: Yes, sir.

CHAIR: Okay. Then we can go on. You may play the videos.

MR. HOLZER: I will show these to you first.

CHAIR: Thank you. Mr. Clark, we can't take anything

from you, thank you.

MR. HOLZER: I'm sorry.

CHAIR: All right.

MR. HOLZER: If you have too many, I'll take one back.

BOARD: (inaudible).

CHAIR: This is now twenty-six.

BOARD: (inaudible) ask Mr. Clark to control himself. Yesterday (inaudible) inappropriate. Very distracting to us.

MR. HOLZER: He was asking can we turn the lights down so that you can see it easier.

CHAIR: Right, but it's more appropriate to be directed to you, that's all.

MR. HOLZER: Yeah.

CHAIR: Yes.

MR. HOLZER: Now, Mr., Mr. Ghimire, I think he's going to show two videos of the volleyball issue that was testified to by his wife, Mary.

CHAIR: Well, let's, before we make a representation, let's have him see the video, see if he can identify it first.

MR. HOLZER: Okay, all right. Well, you know, with all due respect to the Board, if I'm going to have, continue to have this kind of problem in terms of the presentation, I'll just present it, I, I don't need to have him look at this and I don't need to have the Board look at it right now. I'll just

wait until, till Mr. Clark is ready to go and we'll, and we'll put it then.

CHAIR: Mr. Holzer, it's your case. If you want to how it to Mr. Ghimire, it's fine. The problem is, you're telling him what's on the video before he can identify what's on the video, that's all. If you show him the video and he can identify what it is, that would be the better option for the record. Thank you.

MR. HOLZER: I'm going to withdraw it. Turn it off, turn it off. I'm not showing it. We'll show it later.

CHAIR: It's for i.d. only.

BOARD: Yeah.

MR. HOLZER: In, when, when you all were at the Administrative Law Judge's level and he said that you were not supposed to use the building, is that correct? Do you remember that as a condition, that you're not supposed to use the building?

MR. GHIMIRE: Supposed to use the building? Not supposed to use the building as a place of worship.

MR. HOLZER: Yes, yes.

MR. GHIMIRE: Yeah.

MR. HOLZER: Okay and have you used the building like for the July 28th to August 3rd event when you said to the folks that were coming, the doors will open after 1:00?

MR. GHIMIRE: No, that's maybe reference to taking a

look at the building inside, how we have improve but that's not what meant by open the door to the temple.

MR. HOLZER: Okay.

MR. GHIMIRE: Again, I don't know what you're referring to.

MR. HOLZER: All right. I'm going to show you this document, which I believe is on your website. Is that --

MR. GHIMIRE: That's not ours, by the way.

CHAIR: Can you please have it marked so we know which document we're talking about?

MR. HOLZER: Well, it's the, it's July 28th, August 3, to your, to your Hindu Buddha Temple at 12231 Harford Road, so note, the door of the temple will remain closed before 1:00 p.m.

MR. GHIMIRE: So, to our confession, English is second language so a lot of people want to say door, they meant gate, I mean, the front gate. So, that's what they mean. So, it's not a door to the temple but the front gate, that's what it mean, means. So, that's clearly, they're talking about the gate, not the door. And --

MR. HOLZER: Who produced this document?

MR. GHIMIRE: You can see the name here, this lady, I think she is, I don't personally know her but I have seen her.

MR. HOLZER: Does she hold any office or a membership??

MR. GHIMIRE: No.

MR. HOLZER: Well, then how come she was advertising this event?

MR. GHIMIRE: As you can see, she's just sharing the event with her own commentary. I mean, anybody can, you know, post what they want to post on Facebook.

MR. HOLZER: Okay. Well, someone had to have told her that the door of the temple will remain closed before 1:00 p.m. Somebody in your group must have told her that, since you're in charge of the (inaudible)?

MR. GHIMIRE: I think I just said that, it's a gate, she meant, gate of the temple. And event for the July, for this, we've been talking for the last six days, was held outside, why would be the gate, door to the temple be open, I mean, that has no relation to what we're trying to do on that, that fundraiser. Fundraiser was held outside and that was, the temple didn't have to be open, you know, it was, it was a tent outside as you saw in the picture to the Board and everybody.

MR. HOLZER: But it was, but it was not supposed to be, the temple was not supposed to be used and if, and if the English language is, is clear on this, that meant it would, was going to be used.

MR. GHIMIRE: No, I mean, it's the gate she's talking about and --

MR. HOLZER: Well, you don't even know the woman.

You just said, you don't even know who she is, how do you know what she was talking about?

MR. GHIMIRE: I have seen her.

MR. HOLZER: Huh?

MR. GHIMIRE: I didn't know her as a board member, she's, you know, part of the operation and management, she's one of the person who came, participated.

MR. HOLZER: All right. Do you --

BOARD: Is there any objection to twenty-seven?

MR. HOLZER: Pardon?

BOARD: Is this twenty-seven, Protestant's twenty-seven?

MR. HOLZER: Yeah. Any objection?

BOARD: Any objection?

CHAIR: Mr. Schmidt?

MR. SCHMIDT: No objection.

BOARD: Okay, twenty-seven.

CHAIR: So admitted.

BOARD: How do I identify it? Facebook, Facebook entry?

MR. HOLZER: Yes. I, --

BOARD: And I don't know the lady's name.

MR. HOLZER: I couldn't, he'd have to read what, what her name is, I can't read it.

BOARD: Sir, do you, is her name on there?

MR. HOLZER: Yes, it is.

MR. GHIMIRE: It has like, it's not her real name, it has some kind of a nickname. It says (inaudible), that literally means motherland and so, that's not her name. See, it just, so you can make out of, whatever you want to make it out of.

BOARD: Well, what, what's her name (inaudible)?

MR. GHIMIRE: I, I don't know her name.

BOARD: Oh, you don't know her name?

MR. GHIMIRE: Yeah, I don't know her name. I don't know her name.

BOARD: I'm just going to put Facebook entry.

MR. HOLZER: That's fine.

BOARD: Is there a date on this?

MR. HOLZER: Yes.

BOARD: Oh, August 1st.

MR. HOLZER: Yes.

BOARD: Okay, 2018, is that right?

MR. HOLZER: Yes.

CHAIR: Yes.

BOARD: Okay, thank you.

MR. HOLZER: Yeah. And I couldn't translate the rest of what was on there either, so. If, if it meant that the gate wasn't opening until 1:00, why were there people driving through it onto the property before 1:00?

MR. GHIMIRE: Why? Are you asking me if there were people before 1:00?

MR. HOLZER: No, I'm suggesting to you that there were people that were driving through the gate before 1:00 so to me, that verifies the fact that when she says that the, the, when she says the door of the temple will remain closed, that's exactly what she meant.

MR. GHIMIRE: So, there may have been volunteer who supposed to be there an hour or two hours before to set everything up. You can't just have people come, start coming at 1:00 and start setting up the place at 1:00.

MR. HOLZER: Right, so the gate was, in fact, open before 1:00?

MR. GHIMIRE: No, may have open and close, you know, this was just telling public what time to come, that's basically what the message is.

MR. HOLZER: How was the gate secured back, back then?

MR. GHIMIRE: This is just this year, I think she's talking about.

MR. HOLZER: Yeah, right.

MR. GHIMIRE: Yeah, at that time, we already had a gate.

MR. HOLZER: Was it, did it have to be open or closed or locked or what?

MR. GHIMIRE: Yeah, it would have to be open.

MR. HOLZER: Okay. All right. Yeah, I'm sorry, since I withdrew, could I have the disc back? I want the disc back, please.

CHAIR: Well, I mean, you have it in for identification at the moment.

MR. HOLZER: I didn't, I didn't, I didn't, I did not offer it for identification only. I just offered it because I assumed we were going to go ahead, but I would like to request it back.

CHAIR: Are you withdrawing that exhibit?

MR. HOLZER: Now, yes, yes.

CHAIR: Assuming that (inaudible) you will withdraw it?

MR. HOLZER: Yes, yes.

CHAIR: Mr. Schmidt, how do you feel about that? I mean, here's what, here's what, what I see, is if he withdraws it now, I think it's only fair that you provide it to Mr. Schmidt in advance then the next time, so we don't have to sit here for another thirty minutes to figure out what's on the video and how we're going to approach it. I mean, is that --

MR. HOLZER: Maybe I would do that if I was treated fairly too. I'll, I'll agree to do that.

CHAIR: Mr. Schmidt, would that be acceptable to you?

MR. SCHMIDT: That's fine. I, I haven't said hardly

anything this afternoon.

CHAIR: I know, but nevertheless.

MR. HOLZER: Then give me, give me the disc back.

CHAIR: Nevertheless.

BOARD: Can we leave this as an exhibit because I've already marked it --

MR. HOLZER: No, I'm withdrawing it. I'm withdrawing the whole thing.

MR. SCHMIDT: If I'm directed to give it back, I'll, I'll do whatever the Board tells me to do.

CHAIR: As of right now, it is not in evidence. And if he is going to withdraw it from any, from the record at this time, that means it's still not here.

MR. HOLZER: Yep.

CHAIR: I would say that's fine. I have written on my copy that I thought was going to be mine.

MR. HOLZER: I'll make sure it's yours when we come back.

CHAIR: But it only says Nepali with the case number and Protestant videos.

MR. HOLZER: I'll make sure you get it when you, when it comes back in.

CHAIR: Thank you. And, yeah, just strike it, I guess.

BOARD: Withdrawn.

CHAIR: Yeah, withdrawn, right. And then, and then please, I would say, if you could provide a copy to Mr. Schmidt the day before, the, the day you intend to show them.

MR. HOLZER: I will. More than likely will probably present it next, next week, next Thursday, so I'll try to get it to him on Wednesday.

CHAIR: And --

MR. HOLZER: I will get it to him.

CHAIR: -- but with sufficient time so he can, so he can view it and, therefore, that would resolve all the problems that we have with this video that I'm aware of at the moment.

MR. HOLZER: I hope so.

CHAIR: I hope so too.

MR. SCHMIDT: I just have one, one question and I don't, I don't pretend to be much on tech, is this an MP3 or a DVD? Maybe Mr. Clark can --

MR. HOLZER: I can't even open, I can't even open my own computer.

CHAIR: Let's figure this out after today.

MR. SCHMIDT: Okay.

CHAIR: Just keep moving with today.

MR. HOLZER: Yes.

MR. SCHMIDT: Thank you.

CHAIR: That's a fair question, but we're not going to be able to solve all tech issues (inaudible).

MR. HOLZER: Thank, thank you. I don't know.

CHAIR: Fair point. Okay.

MR. HOLZER: Did, you recall your, your land planner engineer, Mr. Motsco (phonetic)?

MR. GHIMIRE: Yes, I do.

MR. HOLZER: Okay. Had you talked to him before his testimony?

MR. GHIMIRE: Did I talk to him before testimony?

MR. HOLZER: Yeah, um hm.

MR. GHIMIRE: Not right before testimony, but we've been coming (inaudible).

MR. HOLZER: Yeah, right, right. Did he ever ask you for any information about what took place at the festivals and how many people attended or so forth and did you tell him?

MR. GHIMIRE: Yeah, we had few discussion, yes.

MR. HOLZER: So, you told him how many people showed up and, and, and what to ex, what --

MR. GHIMIRE: I can't tell, I did not exact number (inaudible) had a couple meetings at Tim's office, at Mr. Schmidt office --

CHAIR: Who?

MR. HOLZER: Mr. Kotroco's office.

CHAIR: Thank you.

MR. GHIMIRE: Yeah. Before the first hearing and before the, this hearing, about how we, you know, (inaudible)--

MR. HOLZER: Do you know, do you know why Mr. Motsco did not visit the property during those days of the, of the special events?

MR. GHIMIRE: I don't think it was, you know, invited or required, any of (inaudible) fundraiser. If he was going to give us money, then I would have invited him.

MR. HOLZER: I was just asking whether or not he had the opportunity then to observe what took place at these festivals and obviously he did not. Okay. Mr. Calagero (phonetic), he was your traffic expert. Did he talk to you about the access and the State Highway permit that was necessary?

MR. GHIMIRE: Did he talk to me or did he talk to the State?

MR. HOLZER: No, talk to you?

MR. GHIMIRE: Yes.

MR. HOLZER: You told him, you told him that, did, well, let me rephrase it. What did you tell him you wanted to use the current entrance in, as it existed, is that what your request was as someone --

MR. GHIMIRE: We would have prefer that but, you know, after discussing with Mr. Calagero, he said we have to go with whatever the State Highway feels safe for the public and for us and we have, we have to go by their recommendation, that's what --

MR. HOLZER: So, the State, to your knowledge, the State Highway felt that that was not an appropriate entrance to use for the purposes that you intended to use, is that correct?

MR. GHIMIRE: Can you, can you repeat that question again?

MR. HOLZER: Yeah, since the, since the entrance and exit was only for purposes of a single family home, when you proposed to use it for an institutional use, the State Highway had a different perspective on whether or not it was safe or not, did they not?

MR. GHIMIRE: If they had to review the plan, that's my understanding.

MR. HOLZER: Yeah, well, and, and as a result of their reviewing the plan, they felt that it was not safe for the purpose that you intended to use the entrance and exit and that it should be relocated, correct?

MR. GHIMIRE: I don't think they said it's unsafe. They said it would be, they would be recommending that whatever they're recommending in the, in the plan. That has to be done to be, is a more proper way to exit out and come in, yeah.

MR. HOLZER: So, you allowed at least two functions to occur there during the summer, using an entrance and exit that, that at least the State Highway Administration felt was not appropriate?

MR. SCHMIDT: Objection. I, I don't think there's

any evidence in this case that the State Highway Administration, I guess Mr. Holzer used the words felt the entrance and exit was inappropriate. Certainly, they made a recommendation to Mr. Calagero as he described it, that before the special exception should be granted, or could be granted, there should be improvements to the intersection. But to characterize that as a position of the State Highway Administration and, and the inference that the intersection is now unsafe and the Petitioner deliberately employed, utilized an unsafe intersection is unfair.

CHAIR: Mr. Holzer?

MR. HOLZER: Well, this document is already --

CHAIR: Which document, please?

MR. HOLZER: The one I'm about to show.

CHAIR: Right. I, I meant for the record though, because you were saying this document.

MR. HOLZER: I'm going to tell you exact, it's already in evidence.

CHAIR: Okay.

MR. HOLZER: If you look at the preliminary Motion which was admitted on the first day, it would be appendix eleven. Since the witness does not have that document, I'm going to show him.

CHAIR: Can you show Mr. Schmidt first?

MR. HOLZER: Well, it's the same, it's the same

thing. You can look and see appendix eleven. It is what it is.

CHAIR: Mr. Schmidt, do you have that?

MR. SCHMIDT: Yeah. Just one clarification. I know the, there was a Motion submitted. Do I understand that, that that means that all the attachments have been accepted as evidence in this case?

CHAIR: It, well, it's part of the Motion.

MR. HOLZER: Yeah, yeah.

MR. SCHMIDT: Okay.

MR. HOLZER: And looking at this document dated July 5th, 2018 from Richard Zeller of the State Highway Administration, he says, the State Highway has not approved the existing entrance from the State Highway perspective, this site should not be operating at all. Will the County be shutting them down?

BOARD: What page are you on?

MR. HOLZER: App eleven.

BOARD: I don't have app eleven.

CHAIR: It is one, two, three, four, five pages in Exhibit 11. Five pages in. Department e-mail, the subject line follow up at the top --

MR. HOLZER: You got it?

CHAIR: -- date of July 5th, 2018 with an e-mail chain, the specific one you're referencing is an e-mail on July

5th, 2018 from Mr. Zeller to Mr. Clark.

MR. HOLZER: Yes. So, at least in the opinion of the State Highway Administration, Mr. Zeller, you should not be using that entrance at all.

MR. SCHMIDT: Objection. If I can be heard?

CHAIR: Yes, please.

MR. SCHMIDT: If, if you look at, at the bottom, I mean, I, I don't know what Mr. Zeller and Mr. Clark meant and, obviously, I, Mr. Zeller is not here to testify. But at the very bottom of the page, it says, this concerns the use of a single property residence as a commercial and, and I don't, I don't even know what a commercial is. And then, so I don't, and I don't, by the way, that, that came from HTI gmail, historic timekeepers. I don't, I don't know who that is but, in, in any event, and then he replies, I don't know, I don't know how you can, what you can, I guess, I don't know that you can, what, I'm sorry, I don't mean to stumble, but I --

CHAIR: That's okay.

MR. SCHMIDT: -- there's a question that seems to have an inference of what is this of, or an interpretation of what this is saying, that I don't know is clear from the body of the document. So, I'm just going to object because I don't know, unless the witness can understand what this means, I certainly cannot.

CHAIR: I mean, Mr. Holzer, I do see a problem in the

sense that this is a communication between Mr. Clark and Mr. Zeller.

MR. HOLZER: Correct.

CHAIR: Which does not include Mr. Ghimire, and so, as to whether or not they had any, any information about --

MR. HOLZER: That's appropriate.

CHAIR: -- what, what the SHA had said.

MR. HOLZER: Yeah, I'll ask him.

CHAIR: Okay. Why don't you ask him that and see where that takes us.

MR. HOLZER: Okay. Did you know that the State Highway Administration said what it said at the top of this e-mail?

MR. GHIMIRE: No, we didn't get any, any letters from the State Highway, we didn't get any, any e-mail from the State Highway telling us not to use it. It looks like it's from Mr. Clark and Mr. Zeller talking to each other. No, I haven't, this is the first time I'm seeing it.

MR. HOLZER: Now, that you've seen it, would you be reluctant to utilize that entrance in terms of any of your festivals or anything else like that again?

MR. GHIMIRE: No.

MR. HOLZER: You would not be reluctant?

MR. GHIMIRE: We, as of right now, we're using it as a private property to have a private fundraiser and what

information was fed, fed to Mr. Zeller from Mr. Clark, or anybody else, he didn't hear, maybe at this moment, didn't hear from what I had to say, what the festival or fundraiser was about. So, did he have the information from both side to come to whatever question he's asking? And, and they ended up approving the (inaudible).

MR. HOLZER: Let me suggest, let me suggest that now that you've seen it, would you be a little concerned about inviting people to the subject site using the existing entrance way?

MR. GHIMIRE: No, we, we talked to County official.

MR. HOLZER: Yeah, I know.

MR. GHIMIRE: We talked to councilman, everybody. We didn't have this fundraiser in secrecy. Everybody knew about it.

MR. HOLZER: What does the councilman have to do with knowing whether an entrance way is, is safe or not? How does a councilman know whether it's safe or not?

MR. GHIMIRE: As a public official overseeing the area and district, I think it is appropriate to inform them what's taking place and --

MR. HOLZER: Okay.

MR. GHIMIRE: -- and we, inform, you know, all the (inaudible) parties that supposed to be notified.

MR. HOLZER: Did you know anything at all about the

number of accidents or the, the road curvatures that are in front of your property before you bought the property?

MR. GHIMIRE: Yeah, I drive on Harford Road all the time, I do real estate for a living, I sell quite a bit of homes in Perry Hall and the surrounding areas. I go to Bordy Winery there and I've been buying their merchandise for many, many years.

MR. HOLZER: And you didn't understand that there is a potential problem with the entrance way and it's safety and with the curvature of Harford Road?

MR. SCHMIDT: Objection and I would just say, Mr. Colagero testified that he believed that the entrance --

MR. HOLZER: I'll withdraw the question.

MR. SCHMIDT: -- was safe as it is.

MR. HOLZER: I'll withdraw the question.

CHAIR: He withdraws his question. Thank you.

MR. HOLZER: Did you undertake any traffic problems, any traffic examination of Harford Road which relates not only to the road but to the speed, but to the entrance way at all, did you undertake any study of that before you acquired the property?

MR. GHIMIRE: Not before we acquired the property.

MR. HOLZER: Okay. Would, would that be something that you normally, as an expert dealing with real estate, that you would normally do if you had a prospective buyer looking at

a piece of property?

MR. GHIMIRE: Traffic studies and traffic counts, they take time, you know, they, you, I think that would be one thing to consider, that you'll do detail analysis as you get into --

MR. HOLZER: After you buy the property?

MR. GHIMIRE: A lot of times, I think, yeah.

MR. HOLZER: Okay. Did you know anything about the water and septic problems before you acquired the property?

MR. GHIMIRE: I got quite a few friends live in Kingsville and sold property in Kingsville, (inaudible) aware of, you know, being in a private septic and water, you know, --

MR. HOLZER: No, but did you know that there, that the well needed to be replaced? That the septic system needed to be replaced?

MR. GHIMIRE: We assume that it has to be replaced, I mean, it wasn't being used and there was no water, running water in the usable toilets so we assume the worst.

MR. HOLZER: Okay. Before you acquired the property?

MR. GHIMIRE: Yes.

MR. HOLZER: The, insofar as the State Highway access, isn't it true that the Administrative Law Judge said that one of the conditions was, was that you need the approved access?

MR. GHIMIRE: Yes, that's, yeah.

MR. HOLZER: And that still hasn't happened, has it? Has that been approved yet?

MR. GHIMIRE: I think you got the same letter that I saw last week, so.

MR. HOLZER: Re, remind me, what did that say?

MR. GHIMIRE: The letter, that conceptually the design has been approved.

MR. HOLZER: But the permit hasn't been issued yet, correct?

MR. GHIMIRE: (inaudible), yeah.

MR. HOLZER: Right.

MR. GHIMIRE: And I, I don't know the technical terms of, technical step that, that leads to that point.

MR. HOLZER: Okay.

MR. GHIMIRE: So, I would, I would leave the engineer to answer that question.

MR. HOLZER: Okay. Is it fair to say that all of the, for all of the events that have occurred, whether it's 2017, 2018, high access, highway that you have gotten no permits at all for this project?

MR. GHIMIRE: What do you mean by no permits?

MR. HOLZER: I mean, no permits. Well, have, it, maybe there is an exception. Was there a permit issued for your sign?

MR. GHIMIRE: Yes, and --

MR. HOLZER: Was it, when the sign was put up, was it in violation of the, of the permit and you were required to take it down and put up another one?

MR. GHIMIRE: I'm glad you asking this question so I can clarify.

MR. HOLZER: Good.

MR. GHIMIRE: My, our engineers, sorry, I don't mean to point, our engineer who working on the side, went to the County office, showed them the plat of the area and we're going to put the sign right here, they pointed to the, the island, the entrance. And they said okay, that's fine. And we put the sign there and, until somebody made a complaint and they came back and said, somebody made a complaint so we have to measure from the, from the street to, to make sure it's not above six feet from the ground. That was right before the second hearing, I think. And we rushed to make that adjustment and satisfy what they were asking for. And not, we meant to not follow their permit or, you know, the requirement but was, that's what we were told to do and that's what we did and, but I guess what they said was, wasn't complying with their own specification, but.

MR. HOLZER: In other words, you applied for it, you ended up putting up a, two signs or a two faced sign, they ended up coming out and citing you for a code violation and required you to change that to a one sign, is that correct?

MR. GHIMIRE: That's not correct.

MR. HOLZER: What did they do?

MR. GHIMIRE: The, the, the, the, what they said was, the height from the ground to the sign has to be, I can't, it has to be less than six foot or something like that. So, that was the issue with them, not having a two sign.

MR. HOLZER: The height has to be five feet, it has sizes three by five --

MR. GHIMIRE: There you go, thank you.

MR. HOLZER: -- and fifteen, total fifteen square feet, right? And that's what your first sign that you put up violated that figure?

MR. GHIMIRE: Yeah, again, they showed them the plat and they said this is where we're going to put this, you know, sign and they okayed that. Until a complaint was made and they came and measured from the ground to the top and now, I guess, the specification for the, you know, the, I think there was a confusion (inaudible), we thought the height was supposed to start from where the sign were mounted but their definition of height was from, all the way from the road. So, that, that, that was the confusion.

MR. HOLZER: But, but wasn't it also not just the height, but it was also whether you had two signs and whether the one sign was the, was the correct square footage?

MR. GHIMIRE: My understanding was the height, so,

you know, I could be wrong but my understanding was height.

MR. HOLZER: How, how many signs do you have up there now?

MR. GHIMIRE: It's one sign since you, we had to bring it down to the road, you know, it doesn't look as nice as used to look, but, you know.

MR. HOLZER: It doesn't look like the one that you first put up?

MR. GHIMIRE: Yeah.

MR. HOLZER: Gotcha.

MR. GHIMIRE: As, as, --

MR. HOLZER: Gotcha. And who was responsible for dealing with your signs? Who --

MR. GHIMIRE: We have, we have a team for like, for instant, I handle legal side. I have, we have engineers and a team who handles the legal, engineering, front (inaudible). We have people who good with fundraiser, they handle fundraisers, so we have --

MR. HOLZER: Was that Mr. Motsco that, that got in wrong?

MR. GHIMIRE: No, it wasn't Mr. Motsco. He, he, he didn't have to be involved with the sign, it was our internal engineers.

MR. HOLZER: Oh, you have internal engineer?

MR. GHIMIRE: Our member who happened to be engineer,

who know technical details, just for the sign, you didn't have to go out to hire engineer and pay them money.

MR. HOLZER: I got it. So, it was somebody internally that --

MR. GHIMIRE: Went to the County, got a permit and, and --

MR. HOLZER: Gotcha, gotcha. If, in regard to the sanitation issue, if I, because I'm trying to get through this and hopefully I, I'm almost there. When, at the ALJ, and I think at the first day here, you testified the plumbing was destroyed, the septic could not be found and there was no running water, is that right, when you first saw the property?

MR. GHIMIRE: I believe so, yes.

MR. HOLZER: Okay and how, how many people since 2017 have used this property and, and then I'll ask you what facilities have you produced for each one of those. But let me just say, if you could, if you know how many people showed up in your special events and how many people play volleyball and how many people were actually working on the, on the site, how many people would you say have been on the property since 2017 through 2018?

MR. SCHMIDT: I, I'm just going to object. I don't see the relevance to, and I just will say this, and I'll try to keep it brief, Mr. Garber. Obviously, the special exception was granted by Judge Beverungen, but the tenure of Mr. Holzer's

questions and, and this line of questioning seems to suggest that until the septic system is done, the State Highway access permit is, is done, that the property owner cannot come on his own property for almost any purpose. Those, those restrictions relate to the use of the property as a temple, the special exception. There, there is no prohibition for people coming onto the property today. If they want to come on, they can't come onto the property and worship at the temple until, until the conditions specified in Judge Beverungen's Order are satisfied and I understand that. But the testimony of the witness has been is they've had fundraisers, they've had volleyball games, that's not worshipping at the temple. And so, all these questions about, well, you had people come in and out and you had people use the access and it's unsafe and it's in violation of the State Highway, it isn't. I mean, they, they can come onto their own property.

CHAIR: Mr. Holzer, would you like to respond?

MR. HOLZER: If, if the Board doesn't care about the health, safety and welfare of the people using the site and the neighbors in regard to what efforts were done to take care of the plumbing or use porta potties or whatever, then I'm not going to ask any more questions. I, I, I don't really care.

CHAIR: Mr. Holzer, I will say with respect to the question that you asked, you asked a, we'll just say, call it a compound question with four or five questions in a row.

MR. HOLZER: Okay.

CHAIR: That was the first part. I know that wasn't raised so I was confused as to which question we were going with for this witness. Number two, the matter of this, whether the Board cares or not as to what happened or not, we're trying to figure out this case, the special exception factors, and I understand what your purpose of, your last question, or this last series of questions, what they are aimed to. There has been some testimony presented already in the record as to how they treated some of the larger events. I understand that, perhaps, you're not remembering as to what that testimony was. If you want to explore that, I understand that. But, I mean, let's try to work through this rather than --

MR. HOLZER: Well, I, I, I, I respect what the Board is really saying here and the reality is if you have requirements of the County or the State that have to be met for the health, safety and welfare of not only the neighbors, but the project itself, then under those circumstances, the failure to comply with that, tells is, is evidence in terms of the 502.1 criteria, as to whether or not the Board's decision and future conditions, if you decide to grant this, are going to be effective, or are going to be ignored by these people. So, it goes to the voracity, it goes to the motivation, it goes to all of those things.

CHAIR: Again, I'm not saying you can't ask the

questions, but first, the series of questions you asked, pick, (inaudible) one of them. The second part of it is, --

MR. HOLZER: I ask compound questions, I'm sorry.

CHAIR: I understand.

MR. HOLZER: Yeah, I apologize.

CHAIR: Mr. Schmidt's objection was that there is a suggestion that they can't somehow use the property in any way shape or form. That may be an opinion that you hold that if we cannot really, through this witness, identify what this witness' understanding of it, at least, not as of yet, as to how they could use their property. If you wish to explore that, by all means, go ahead.

MR. HOLZER: I appreciate the Board's ruling. No, I'm not going to explore it because I have something else that is going to --

CHAIR: Okay.

MR. HOLZER: -- address that issue and it's not going to be for today.

CHAIR: Okay.

MR. HOLZER: Have you gotten any permits for, to do any plumbing, any electrical work inside the house, inside the house?

MR. GHIMIRE: I think the whole reason we're here for hearing, we get the, the exception approved, then we move on to the building part of, you know, occupancy permit and all those

things.

MR. HOLZER: So, --

MR. GHIMIRE: We, we are doing the whole exercise to be compliant with every law out there in Baltimore County.

MR. HOLZER: So, there's been no work done on the inside at all of that building?

MR. GHIMIRE: It has been, I mean, it's been cleaned up from what you saw from the beginning.

MR. HOLZER: Right.

MR. GHIMIRE: And we couldn't just leave the house in that condition and --

MR. HOLZER: Has any electrical work been done in there?

MR. GHIMIRE: Not new electrical but I think what's, you know, has been fixed up is what was already there, so.

MR. HOLZER: Okay. Any plumbing done in there?

MR. GHIMIRE: There's no water, can't do plumbing.

MR. HOLZER: Well, you can get it ready to be, have water. I'm just asking you, what, you keep saying and other witnesses have said, that there are workers that are going in there to work and, on the house. Now, is it only to remove dirt or debris or is it to do construction work of some sort? Is it to prepare one of the rooms for the temple area? Is it to prepare one room for the kitchen area? What, that's all I'm asking, it's not a tough question.

MR. GHIMIRE: Maintenance, painting, clean up, that's what's we, we have done. Primarily last year when we acquired the property, not, not this year. Most of the work was done last year.

MR. HOLZER: What about the kitchen? Have, have you done any work in the kitchen?

MR. GHIMIRE: No.

MR. HOLZER: New, new cabinets, new fur, new furniture, nothing?

MR. GHIMIRE: No, it's just the kitchen in there with the cabinet and countertop that we have no plan on using.

MR. HOLZER: Okay. That, that'll be torn out?

MR. GHIMIRE: I don't know that, but it's, we have no plan of using it.

MR. HOLZER: Oh, well, that's what I thought you meant, that you have no plan on using it.

MR. GHIMIRE: Doesn't mean that we have to remove it.

MR. HOLZER: Okay. No plan on using the furniture that's in there or no plan to use the kitchen, which one?

MR. GHIMIRE: I thought I said cabinet, not, that's no furniture in the kitchen.

MR. HOLZER: Cabinet.

MR. GHIMIRE: Cabinets, yeah.

MR. HOLZER: No plan to use the cabinet, no plan to use the kitchen, those are two different questions.

MR. GHIMIRE: No plan to use any of those for the purpose of cooking and eating there, but cabinet, if I store a plastic plate in there, I can't just come and say you were using kitchen.

MR. HOLZER: Did you use, what type of lighting did you use for the July 4th event of this year? Did you have lighting in, in the building?

MR. GHIMIRE: There's always been lighting in the building. There was light to begin with.

MR. HOLZER: So, there's, so you're using the existing electrical wires, if you, if you --

MR. GHIMIRE: That's, that's correct. We have the, we had a little spotlight outside but, you know, there's always been electric in the building, when we bought the building.

MR. HOLZER: Okay. I thought I asked you about electrical work but what you're saying is, you didn't need to have electrical work done because there is existing lighting in the building itself?

MR. GHIMIRE: I'm not, we had another gentleman from our group was handling the clean-up, maintenance and painting so he would know more detail of what took place. That was not one of my area that I oversaw but what I can tell you in summary is that we did clean up, paint, we changed the carpet because the carpet was dirty, all the graffiti on the wall, we had to, it took many, many weeks to remove them and repaint

them and refinish them. So, that's, --

MR. HOLZER: So, you really can't testify that new electrical work was not done since you don't know?

MR. GHIMIRE: I don't know the detail of it, yeah.

MR. HOLZER: Right. So, he, whoever was doing this, could have rewired the house to make it suitable for your use?

MR. GHIMIRE: As far as I know, he hasn't rewired the house. I mean, he added the spotlight outside that I know of.

MR. HOLZER: Okay. So, he added that, how did he have to run that from the electrical box inside the house?

MR. GHIMIRE: There is actually was a big (inaudible) and the previous guy I think did a, you know, he ran the light even line all the way to the street, some of them are functioning and some of them are not. So, he was able to use some of the line that was already out there underground. Again, --

MR. HOLZER: Did you, go ahead, I'm sorry.

MR. GHIMIRE: Yeah, again, I, I don't know all the details. I wasn't there every day to oversee that.

MR. HOLZER: Did you use extension cords to be able to supply electricity to the events outside of the house?

MR. GHIMIRE: That's correct.

MR. HOLZER: And what were, what was the purpose of using those? I mean, what, what did you need to use the electrical extensions for?

MR. GHIMIRE: Electric fans, lighting inside the tent, it was a microphone for the speaker, and those things.

MR. HOLZER: Okay. If I could have a minute, I think I'm. I have no further questions.

CHAIR: Okay.

MR. HOLZER: Thank you very much.

CHAIR: Mr. Schmidt, would you like to take a break now or would you, do you think you might be quick with Mr. Ghimire?

MR. SCHMIDT: I'll leave it up to the Board. I've got many ten or fifteen minutes of questions.

CHAIR: All right. Why don't we push through and see if that could complete Mr. Ghimire.

MR. HOLZER: That's fine.

MR. SCHMIDT: Very well. Mr. Ghimire, do you have Protestant's exhibit number twenty-five in front of you? That's the Facebook posting from Dr. Carky.

MR. GHIMIRE: Yes, I do.

MR. SCHMIDT: Okay. Let me draw your attention to the second to the last, well, let me, strike that. Let me start by saying, Dr. Carky indicates in the very second line of his Facebook posting, that the comments in that Facebook posting were his own personal views and don't reflect the official position of the Nepali American Community Center, correct?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: So, this was his own comments, correct?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: And Mr. Holzer had you read parts of the paragraph, not the last sentence, but the paragraph immediately above that, where he highlighted specifically in that first line that he thought you should initiate programs and services like health camps, yoga, interfaith collaboration. I think Mr. Holzer stopped there, but the next words are, in the area, correct?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: So, that would include in the Baltimore area, which could include the cultural center over on Taylor Avenue, correct?

MR. GHIMIRE: Community center, yes.

MR. SCHMIDT: Yeah, and in the next line, doesn't Dr. Carky further indicate that we must be responsible citizens and good neighbors?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: And you agree with that?

MR. GHIMIRE: I agree with that.

MR. SCHMIDT: Okay. All right. Now, as I understand it, Mr. Ghimire, you, when I say you, I mean, the OLC, your, the organization of which you're a volunteer. You purchased the property in December of 2016, correct?

MR. GHIMIRE: Yeah, around that, yes.

MR. SCHMIDT: Okay. So, you've owned it for almost two years, coming up on two years in, in a couple months, correct?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: Okay and you have not operated a temple out there to this point in time, correct?

MR. GHIMIRE: No.

MR. SCHMIDT: Okay. The building has not been open at this point, since you've owned it, for the purposes of having religious services there, is that correct?

MR. GHIMIRE: That's, that's correct.

MR. SCHMIDT: And in fact, since the period of time that you've owned it, you haven't had running water and other, I'm not even going to call them amenities, but necessities which would be required to have the building operational, is that correct?

MR. GHIMIRE: There's no heat, no water and no running toilets.

MR. SCHMIDT: Okay. So, it has, so the property has not been used at this point as a building for religious worship, correct?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: And you're familiar that in order to use it for that purpose, you would need to obtain a special

exception, as you obtained from Judge Beverungen and now, obviously, before the Board of Appeals, correct?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: Okay. Now, you have had some use of the property, corr, isn't that correct?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: Specifically in June of 2017, you had an, an event on the property, correct?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: And that was in the nature of a fundraising activity, I, I might have said June of 2017, July of 2017, I believe is when it was, is that correct?

MR. GHIMIRE: Yes, July (inaudible), yes.

MR. SCHMIDT: Okay. You had a multi-day event in which was a fundraising event, correct?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: And part of that, people were out on the property, they were playing volleyball, I mean, that, on, on the, on the volleyball court that you have and were generally on the property for the purpose of visiting the property and hopefully, from your, from your organization's perspective, being willing to donate, correct?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: Were you ever advised by anybody that you couldn't do that, you couldn't use your property to

entertain people?

MR. GHIMIRE: We were told otherwise when we went to County and they say, this is your private property, you want to have a private fundraiser.

MR. SCHMIDT: Okay.

MR. GHIMIRE: Meet with your members, that's, that's fine.

MR. SCHMIDT: You, okay, you, you heard Mr. Poehler testify this morning, correct?

MR. GHIMIRE: Yes.

MR. SCHMIDT: Now, you didn't know him when he bought his property?

MR. GHIMIRE: No, I did not know him.

MR. SCHMIDT: Okay. So, you weren't invited to his housewarming event at his house, correct?

MR. GHIMIRE: No.

MR. SCHMIDT: Okay. You don't know if he needed or required any special permits to have forty people to come over to his house?

MR. GHIMIRE: I have no idea.

MR. SCHMIDT: Okay. But you, as far as you were concerned, you didn't need any special approval to have people come to this property as long as it wasn't for the purpose of operating the temple inside the building, correct?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: Okay. Now, after that time, is, is it fair to say, Mr., Mr. Ghimire, that the activities of your organization and, and the members of your organization have been, have been closely scrutinized by members of the community and your neighbors?

MR. GHIMIRE: I would think so.

MR. SCHMIDT: And they've been looking at everything you do and if there's any, and, and to the best of your knowledge, have called Baltimore County on multiple occasions complaining about things that have occurred on the property, is that a fair statement?

MR. GHIMIRE: It's a very fair statement.

MR. SCHMIDT: Okay. Now, before you, you, you've had a second event on the property in 2018, correct?

MR. GHIMIRE: Yes.

MR. SCHMIDT: We've heard about that as well and we've heard about the alleged impacts of that event on the community. You've been here for all that testimony?

MR. GHIMIRE: That is correct.

MR. SCHMIDT: Okay. Prior to 2018, in view of all of the, the inquiries and complaints that have been made by the community, did you, did you make any efforts through your attorney, Mr. Kotroco, to verify whether you could have the event on the property in 20, in Jul, late July, August of 2018?

MR. GHIMIRE: We did. Not only we did that, we went

as far as one of the event, we even got a permit, an outdoor permit, to have an event.

MR. SCHMIDT: A gathering permit?

MR. GHIMIRE: Gathering permit.

MR. SCHMIDT: Okay.

MR. GHIMIRE: And after that, we were told, we didn't need one because it's just a fundraiser.

MR. SCHMIDT: Okay.

MR. GHIMIRE: It's your private property.

MR. SCHMIDT: I'd like to mark this as the next exhibit, if I can. I'm going to show you a copy of a letter, of a letter on the letterhead of Timothy M. Kotroco dated July the 2nd, 2018. Are you familiar with that letter, Mr. Ghimire?

MR. GHIMIRE: Yes, I am.

MR. SCHMIDT: And was that letter written with your permission and at your instruction?

MR. GHIMIRE: Yes.

MR. SCHMIDT: Okay. Now, that letter was written to the Administrative Law Judge, Mr. Beverungen, was it not?

MR. GHIMIRE: Yes.

MR. SCHMIDT: And it was asking him if having a gathering on the property in 2018, July of 2018, would be considered a violation of his Order. And he was the one that entered the Order with the restrictions, did he not?

MR. GHIMIRE: Yes.

MR. SCHMIDT: Okay and, and without reading that, that letter indicates, does it not, that it would be, it would not be a violation of his Order for you to have a gathering on the property, correct?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: Okay. So, just like any other property owner might have people come to their property, you've had people come to this property, at least on those two occasions, in the summer of 2017 and the summer of 2018, is that correct?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: Okay. Now, insofar as Mr. Beverungen's restrictions, there are certain restrictions that he required before you could use the building as a building for religious worship or a temple, is that right?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: You're familiar with those restrictions?

MR. GHIMIRE: Generally, yes.

MR. SCHMIDT: Okay. One of them is that you have to get a well and septic system approved by the Department of Environmental Protection in Baltimore County. Are you agreeable to that?

MR. GHIMIRE: Yes.

MR. SCHMIDT: Before you operate the, the property as a temple, you'll get the required permits from Department of

Environmental Protection?

MR. GHIMIRE: Absolutely.

MR. SCHMIDT: Okay. Are you also agreeable that you will get a State Highway Administration access permit before you use the property as a temple?

MR. GHIMIRE: Yes, will do.

MR. SCHMIDT: Okay. There's a further restriction that says that any special events at the property will be limited to the hours of 10:00 a.m. to 10:00 p.m. Are you agreeable to that restriction?

MR. GHIMIRE: Yes, we are.

MR. SCHMIDT: Are you also agreeable that there cannot be any outdoor amplification of music or sound on the property?

MR. GHIMIRE: Yes.

MR. SCHMIDT: Okay.

CHAIR: And just by way of, for the record, the letter of Mr. Kotroco and attached materials, that's Petitioner's Exhibit 39.

MR. SCHMIDT: Yes, it is. And I would move that, please, Mr. Garber.

BOARD: Thirty-four.

CHAIR: Oh, thirty-four? Sorry, did I not read that correctly?

BOARD: Thirty-four.

MR. HOLZER: Thirty-four?

BOARD: Should be thirty-four.

CHAIR: Sorry, thirty-four. My bad.

MR. SCHMIDT: Now, one of the other re --

CHAIR: One second. Are you moving it for admission, Mr. Holzer?

MR. SCHMIDT: Yeah.

MR. HOLZER: I have an objection to it that I'll be prepared to discuss next week.

CHAIR: Oh, are you, well, I mean, that puts us in a very interesting position here today.

MR. HOLZER: It, it certainly does because I was prepared to --

CHAIR: Can you please stand up?

MR. HOLZER: I was prepared to introduce this next week.

MR. SCHMIDT: Well, then, --

MR. HOLZER: With, with certain Motions.

CHAIR: Okay. So, then what would be the problem here today if we're --

MR. HOLZER: Because I'm not ready to, because I haven't rewritten it yet. Go ahead and let it in.

CHAIR: Well, that's, I don't know, --

MR. HOLZER: Go ahead, let it in.

CHAIR: I'm processing this. You intend to --

MR. HOLZER: I have no objection to this letter.

CHAIR: Oh, then, fine. It's, Petitioner's Exhibit 34 is admitted.

MR. HOLZER: At this time.

MR. SCHMIDT: Thank you, Mr. Garber.

CHAIR: At this time.

MR. HOLZER: Yes. Everybody else can say at this time, so I'm saying no objection at this time.

CHAIR: I don't know what would cause us to revisit the decision of its admissibility.

MR. HOLZER: I will present that next week.

CHAIR: Well, I guess we'll just have to have that cliffhanger out there.

MR. HOLZER: Unless you want to mark it for identification only.

CHAIR: I, I believe that Mr. Schmidt is looking to have this moved into evidence.

MR. SCHMIDT: Mr. Garber, at this time, I am requesting that this be ad, admitted into evidence in this case.

CHAIR: It is admitted.

MR. HOLZER: Good.

CHAIR: And if we, and I don't know what's coming next that would cause it to be revisited, if it would be revisited, but we'll just have to leave that for November 1st.

MR. HOLZER: Thank you.

CHAIR: Thank you.

MR. HOLZER: Thank you.

CHAIR: All right.

MR. SCHMIDT: Now, Mr. Ghimire, just con, returning back to some of the restrictions that Mr. Beverungen imposed. He also required that there be a landscape and lighting plan for the site. Are you agreeable to that restriction as well?

MR. GHIMIRE: Yes.

MR. SCHMIDT: And I think you testified last time that you don't really intend on adding any outdoor lighting on to the property, that there might be some security lighting, porch lights and outdoor lights as there are now, but you're not proposing to light up the property?

MR. GHIMIRE: No.

MR. SCHMIDT: Okay. I think I covered the environmental issues. You're agreeable to any requirements of Department of Environmental Protection, correct?

MR. GHIMIRE: Yes.

MR. SCHMIDT: Okay. Now, you're also required to have a sign and as I understand it, you did put a sign on the property after Judge Beverungen's decision, the sign out front, correct?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: And as one would enter the property

from Harford Road, there is a landscaped island, is there not, between the two macadam or asphalt access drives, correct?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: And that sits up above, in terms of topography of grade, where the bed of Harford Road is, is that correct?

MR. GHIMIRE: That's, that's correct.

MR. SCHMIDT: And that's where you installed the sign, correct?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: And then you were ordered, that was originally, the location of that was originally, at least, orally approved by somebody at Baltimore County, is that correct?

MR. GHIMIRE: Yeah, we literally took the (inaudible) to them so there would be no confusion and pointed out here.

MR. SCHMIDT: That's, on the landscape island?

MR. GHIMIRE: Yeah, yeah.

MR. SCHMIDT: And that's where it's shown, I think, in Petitioner's Exhibit 9-A and 9-B, the photographs which show that double faced sign, correct?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: And somebody complained about that and said it was too high, among other things, that it was too high, that it was higher, more than, greater than five feet above the

bed of Harford Road, correct?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: So, you've had to relocate it?

MR. GHIMIRE: Yes.

MR. SCHMIDT: Okay, thank you. I believe you said you only have one volleyball court, isn't that correct?

MR. GHIMIRE: There's one volleyball court.

MR. SCHMIDT: Okay and --

MR. GHIMIRE: Kids use it as a volleyball, basketball, not tennis right now, but you know, it's just a one small court, yes.

MR. SCHMIDT: Okay and that's that one, I don't know what they'd call it, I'm not a tennis player, but the hard surface, like they play the U.S. Open on as opposed to grass --

MR. GHIMIRE: Yeah, it's a soft surface, yeah, yeah.

MR. SCHMIDT: Okay and, and that's where all the volleyball games or basketball games would occur?

MR. GHIMIRE: That's correct.

MR. SCHMIDT: Okay. Let me ask you, in terms of the music that's related to your religious surface, services and religious functions that might occur here, can you tell us what musical instruments would be utilized as part of any religious service that would be inside the temple? What typically, I know in, just by way of, I know you say you go to a Catholic church, I go to a Methodist church, I think every church that

I've ever been to, at least of the Christian denomination, has an organ and a piano. Do you have an organ and a piano in a Hindu church?

MR. GHIMIRE: It, it's, it's called harmonium, it's like, like a piano.

MR. SCHMIDT: Okay.

MR. GHIMIRE: So, it's, it's like piano, yes.

MR. SCHMIDT: Okay.

MR. GHIMIRE: That's what --

MR. SCHMIDT: So, you would have that?

MR. GHIMIRE: Yes.

MR. SCHMIDT: That'd be inside the building?

MR. GHIMIRE: That would be inside the building, yes.

MR. SCHMIDT: Okay. Other, other than that, are there drums, brass instruments, woodwinds, anything like that?

MR. GHIMIRE: No drums, yeah.

MR. SCHMIDT: Okay. Have you ever had any drums on the property?

MR. GHIMIRE: No.

MR. SCHMIDT: Okay. I think you mentioned that someone may have been playing the flute or an instrument of that nature during one of the two events that you've had there?

MR. GHIMIRE: Flute and this, they call it tavala, like they play with the hand, not like a stick, so a small, it looks like a drum but it's like a tiny little instrument. I'm

not a musically talented person so I can't describe the instrument.

CHAIR: Can you spell that, please?

MR. GHIMIRE: Tavala?

CHAIR: Yeah.

MR. GHIMIRE: T-A-V-A-L-A.

MR. SCHMIDT: Okay.

CHAIR: T-A-V-A-L-A.

MR. GHIMIRE: Yeah.

CHAIR: Which is, as you described, and if I have the description wrong, please correct me.

MR. GHIMIRE: That's correct.

CHAIR: Sort of as an appearance, like a drum but is not a drum?

MR. GHIMIRE: Yeah, a drum I would imagine like you, you know, --

CHAIR: You use drum sticks.

MR. GHIMIRE: -- drum like, sound like a drum, right? A tavala is small, like you play with your, with your hands, that's --

MR. SCHMIDT: Do you know what bongos are? I'm probably dating myself. Do you know what the instrument bongos are?

CHAIR: That's what I thought of.

MR. GHIMIRE: Yeah.

MR. SCHMIDT: Do you know what that is?

MR. GHIMIRE: Vaguely, yes.

MR. SCHMIDT: Okay. It's two, maybe the size of coffee cans with a --

MR. GHIMIRE: Yes, something similar to that, yeah.

MR. SCHMIDT: Okay. Is that what it's like?

MR. GHIMIRE: Yeah, that's something similar to that.

CHAIR: Thank you.

MR. SCHMIDT: Okay.

MR. GHIMIRE: Yeah. And just to clarify, that's not a, you know, not like a Catholic mass, that usually there's a choir and, and, and the, and the pastor comes by. In the Hindu ceremony, doesn't have to have that musical component to it unless that's a special occasion.

MR. SCHMIDT: Okay.

CHAIR: So under Hindu religion, you don't need music to accompany the service outside a special occasion?

MR. GHIMIRE: That's correct.

CHAIR: What special occasions would come with music?

MR. GHIMIRE: Like if there's a group of, we call it bhajan.

CHAIR: You call it?

MR. GHIMIRE: Bhajan, like B-H-A-J-A-N, so that's a group of people praying together and chanting some songs with or without instrument. That would take, you know, maybe ten,

fifteen minute.

MR. SCHMIDT: But this would all be part of the, of the religious ceremony within the building?

MR. GHIMIRE: Yes, that, that's, that's within the building, with, yeah, that's.

MR. SCHMIDT: Okay.

CHAIR: I'm sorry. I just want to clarify the point of --

MR. SCHMIDT: Yes, sir.

CHAIR: -- the, which occasions come with music? So, just to keep this all hopefully straight. Which occasions, if any, would you, the property be used for religious purposes with music that is outdoors, if any?

MR. GHIMIRE: None, it's all --

CHAIR: There will be none?

MR. GHIMIRE: Yeah, none, all indoor.

CHAIR: Anytime that there will be music, it'll be as part of the religious service indoors and only on special occasions?

MR. GHIMIRE: That's correct.

CHAIR: How frequent would the special occasions occur?

MR. GHIMIRE: It's a, it's a family have a, a rice feeding ceremony, if they request, you know, a choir to sing, you know, that's up to the family.

CHAIR: So, what I'm, what I'm hearing is it's by request, not just, because you said done by the family.

MR. GHIMIRE: Yeah.

CHAIR: But also for the bhajan, did I say that correctly?

MR. GHIMIRE: Yeah, yeah.

CHAIR: It's up to them to determine their musical needs for part of their praying?

MR. GHIMIRE: If they, yeah, yes.

CHAIR: Okay. So, it would be by request and the accompanying, would be as part of the religious ceremony?

MR. GHIMIRE: That's correct. And it's not a professional singers, a group of dedicated singers, it's just anybody, I could sing bhazan and the next person can sing bhazan or anybody, it's just, it's a prayer in, in a kind of melody, you know.

CHAIR: And you don't need, for the sake of argument here, just to tie this loop together, you won't need any amplification --

MR. GHIMIRE: Not for bhazan, yeah.

CHAIR: Well, let me finish the question. Any amplification of any singing or musical instruments as part of that?

MR. GHIMIRE: No.

CHAIR: That's correct?

MR. GHIMIRE: That's correct.

BOARD: Outside or inside?

MR. GHIMIRE: For the bhazan and singing, you don't need amplification. Whether it's inside or outside.

CHAIR: Sorry, Mr. Schmidt.

MR. SCHMIDT: Certainly.

BOARD: The Protestants testified that they heard a drum hooked up to an amplification system. Did you have that at some point during one of these gatherings?

MR. GHIMIRE: We, we had a person playing flute and person playing a tavala. I, I, my opinion, I think that the speaker might be, might have a little bit louder voice then what those guys are playing because they were just, it was just a background person. When he was intermission, he would just, you know, they would just play a little transition music or something. So, it wasn't, you know, they were drumming or playing guitar, no drum, you know.

CHAIR: Are you recalling specifically the events from July of '17 and '18 into August?

MR. GHIMIRE: The last, the most recent event that is.

CHAIR: And so, do I understand your testimony correctly, that you thought the speaker would have been louder than the instruments?

MR. GHIMIRE: Yeah, the person who was speaking, yes,

would (inaudible).

BOARD: But they were playing this drum instrument and the flute?

MR. GHIMIRE: Yeah, that was all inside the tent, yeah.

BOARD: Okay. But, but was, were they hooked up to amplification systems, those instruments?

MR. GHIMIRE: I think we had a little (inaudible) that was designed to plug the mic in and yeah, the instrument may have been plugged in. We didn't really go out and hire a, a professional DJ because of the, you know, the financial, you know, cost of it. So, we had very, kind of homemade, you know, smallest speaker and like one that was used to save money, actually, so.

BOARD: But Judge Beverungen's decision indicated there's no amplification or sound outdoors. So, how does that jive with his Order?

MR. SCHMIDT: Well, it was inside the tent --

BOARD: Wait a minute, wait a minute.

MR. HOLZER: Objection.

BOARD: Let the witness testify. Let the witness testify. Go ahead.

MR. GHIMIRE: So, that's one of the reason why we wanted to get a, get this big tent that has cover all around it. It was, it was pretty, it was just not a regular tent, a

tent that would, that, that had like going in and out, it has built in fans and they even built a stage for us inside.

BOARD: Did, so, did you think this outdoor tent that you rented was going to keep the amplification of sound inside the tent?

MR. GHIMIRE: Yes.

BOARD: Okay and did you then believe you were in compliance with the Order?

MR. GHIMIRE: Yes.

BOARD: Because it was not outside?

MR. GHIMIRE: Yeah.

BOARD: Yes?

MR. GHIMIRE: Yes.

BOARD: Okay. That's all right. I just wanted to understand that, okay. I'm sorry, you were in the middle of a question, so we interrupted you, Mr. Schmidt.

MR. SCHMIDT: That's okay, it's your prerogative to do so. And just one final thing, I'm going to, I'm, I'm mispronounced the name, Gamiro Matrobomi (phonetic) means my motherland, my motherland, is that correct?

MR. GHIMIRE: Yes.

MR. SCHMIDT: Okay. So, that's not an individual?

MR. GHIMIRE: She, she could be an individual but that's the name she's using.

MR. SCHMIDT: Oh, okay.

MR. GHIMIRE: Yeah.

MR. SCHMIDT: So, that's like a pseudonym that she is using?

MR. GHIMIRE: Yeah.

MR. SCHMIDT: Possibly?

CHAIR: Would you know the name if you heard it?

MR. GHIMIRE: I have seen that on Facebook. She may even have, be my Facebook friend, one of five thousand that I have but --

CHAIR: If I were, if I were to hopefully not butcher her name, pronounce it, Satchi, Satchki Manali (phonetic)?

MR. GHIMIRE: That may be it, yes, Satchi Manali. Where did you see that, did you see that --

CHAIR: Because I'm looking at Protestant's Exhibit 27 and on the right side, under team members, is that name with the same photo as the upper left corner.

MR. GHIMIRE: Yeah, that, that, that, that name sounds familiar, I guess.

CHAIR: Mr. Schmidt, did you see what I'm referring to?

MR. SCHMIDT: Yes, sir, I do.

CHAIR: Mr. Holzer, do you see?

MR. SCHMIDT: I'm not sure that's the same person or not.

CHAIR: I don't know.

MR. SCHMIDT: On my copy, it's very difficult to say.

CHAIR: I also note that underneath the name where it says my motherland, there, I guess what appears to be, Nepalese writing and then after that, there's a name, Satchi with and then if you have the address at minalisatchki, I apologize if I'm butchering her name. So, it seems they're all tied together to that.

MR. SCHMIDT: I see.

MR. GHIMIRE: It, it looks like, yes.

MR. SCHMIDT: And, and so during the event in July/August of 2018, she was out there, Ms. whatever the name is.

CHAIR: Take your best guess.

MR. SCHMIDT: She was there, apparently reading, reading stories, is that, do I understand that correct, that that's what she was doing? That--

MR. GHIMIRE: I think so, yeah. She, she was one of the attendant or participant, she was --

MR. SCHMIDT: Okay. Would that have been to the children or, that she would have been reading stories to? If you know, Mr. Ghimire.

MR. GHIMIRE: I don't, do not know.

MR. SCHMIDT: Okay.

MR. GHIMIRE: I don't know.

MR. SCHMIDT: Okay. I don't have any further

questions.

BOARD: Is the volleyball court going to be removed if this gets approved?

MR. GHIMIRE: Volleyball court? We have no plan of removing it. We don't have that in the plan.

BOARD: And would, do you know if whether you would agree to have it removed?

MR. GHIMIRE: It wouldn't matter to me either way. It's not really part of essential, but you know, the temple operation.

CHAIR: I was going to ask that.

BOARD: That was, that was my next question.

CHAIR: Thank you.

BOARD: Is it part of the religious service at all?

MR. GHIMIRE: It was there, we used it, so, that's, that's, that's about it.

BOARD: Okay.

CHAIR: It's not any part, you're not going to use it for any religious purpose, in other words?

MR. GHIMIRE: No.

CHAIR: That's correct?

MR. GHIMIRE: That's correct.

CHAIR: I'm sorry. Mr. Holzer?

MR. HOLZER: I just have one question that I forgot to ask on direct. And I think you've already testified to this

during the first day. I understand there might be weddings that take place at the temple, is that correct?

MR. GHIMIRE: Weddings, meaning the blessing from the priest, not the reception, yes. There are two part in the weddings.

MR. HOLZER: That's what I was, that's what I was going to follow up. I just wanted to make sure that I think you testified that there would be a religious ceremony for the wedding but that any reception would be held off the property somewhere else?

MR. GHIMIRE: That's correct.

MR. HOLZER: Okay. I, nothing further.

CHAIR: And I take it, Mr. Schmidt, you have no follow-up based on that?

MR. SCHMIDT: No, sir.

CHAIR: All right. Thank you, Mr. Ghimire. Yet again, thank you.

MR. GHIMIRE: Thank you.

CHAIR: All right. Mr. Holzer, that leaves us at, let's see, it's 3:38.

MR. HOLZER: We're to almost quarter of four.

CHAIR: So, what, where do we stand in terms of your witnesses?

MR. HOLZER: We have a witness that's going to be all day, so it doesn't make much sense to call him now.

CHAIR: That's fair.

MR. HOLZER: And I'm sure you can understand too. There is only one other witness that I would have at this point and it would be Carol Shaw, who can just testify about rule eight in terms, in terms of the community association. It's going to take, I don't know, ten or fifteen minutes. But I don't have to put it on today, I think we can, she'll be here the next hearing and we can put it on, put it on --

CHAIR: Well, my preference would be to get it done today but I was under the impression we already had that in through Ms. (inaudible) at one point or do I have that incorrect?

MR. HOLZER: That, that's Kingsville Community Association.

CHAIR: That explains why I don't know, right, okay. So, now we have a second association.

MR. HOLZER: Yes.

CHAIR: Have you spoken to Mr. Schmidt about that?

MR. HOLZER: No.

CHAIR: Mr. Schmidt, so, just to be clear, you're proffering (inaudible) calling them to the stand to testify that they have the right certification and everything in place to testify on behalf of the, which association?

MR. HOLZER: Yeah, the name of the association is, what, what do we have there? Gunpowder Falls Watershed --

CHAIR: Gunpowder Falls Watershed.

MR. HOLZER: Protection, Preservation Association.

CHAIR: Preservation Association. And Mr. Schmidt?

MR. SCHMIDT: Yes, sir?

CHAIR: Do you have, well, let me ask Mr. Holzer. Do you have the paperwork for that?

MR. HOLZER: Yes, Ms. Carol Shaw has it.

CHAIR: I'm just trying to see if we have any agreement as to the least, the foundation aspects of this to make this as painless as possible. But, --

MR. SCHMIDT: I, I just, I haven't, I haven't seen it. I don't, I mean, I don't know anything about it.

CHAIR: I know. I'm aware. That's what I'm saying is, let's get the paperwork and see if we have any way to have agreement as --

MR. HOLZER: That's fine.

CHAIR: -- to the foundational parts of it and then we can have the representative take the stand and, and get whatever testimony you need.

MR. HOLZER: All right, yeah.

CHAIR: And if there's any problem with the foundational aspects of it, Mr. Schmidt, I'm sure, will bring it to our attention.

MR. HOLZER: May I can, maybe I can get, get it from her right now?

CHAIR: Yes.

MR. HOLZER: Just want to make sure we have enough copies. Okay.

MR. SCHMIDT: Thank you.

MR. HOLZER: Um hm. And this would be?

BOARD: Twenty-eight.

MR. HOLZER: Protestant's twenty-eight?

BOARD: Yes.

MR. HOLZER: And on the first page, it would be the Gunpowder Falls Watershed Preservation Association resolve and that they are opposed, as you can see, signed by the president and the secretary. The second page is the affidavit signed by the president and secretary. And the third is resolve that as to position and then it lists the individuals who are authorized to testify. So, that, that's basically it.

CHAIR: Okay. Mr. Schmidt, do you have any question about the authentication needed for --

MR. SCHMIDT: And I, Mr. Garber, I'm not trying to be difficult.

CHAIR: No, that's fine.

MR. SCHMIDT: I, I certainly have heard of the Greater Kingsville and they've been around forever. This organization I've never heard of so I just don't --

CHAIR: That's fine.

MR. SCHMIDT: -- know much about it. I'm, I'm

looking at rule eight as we're discussing it and I would assume any objection that I would have, they would probably cure by the next meeting. I don't know if it's in, it indicates it's supposed to be a written affidavit. I don't know that this is actually the appropriate affidavit language, for example, but, you know, it sort of is what it is.

CHAIR: Well, why, why don't I, why don't we do this. We'll take a five minute break.

MR. SCHMIDT: Okay.

CHAIR: You can go through and see if it meets your satisfaction or not.

MR. SCHMIDT: Yes, sir.

CHAIR: And then, we'll see where that takes us and then if need be, do everything you need to do with your representative and --

MR. HOLZER: Today? This afternoon?

CHAIR: Yeah, today. I would like to try to get through that today. It sounds like that's probably going to wind up being the last witness of the day in any event.

MR. HOLZER: Yes.

MR. SCHMIDT: Okay.

CHAIR: So, I'd rather just get that out of the way so we have less to do the next time.

MR. HOLZER: I agree.

CHAIR: And I appreciate that, thank you.

MR. SCHMIDT: Thank you.

CHAIR: All right. So, we're on break for just five --

(RECORDING PAUSED - 03:42:02 PM)

(ON RECORD - 03:55:53 PM)

CHAIR: Thank you. So, where do we stand with respect to Protestant's Exhibit 28?

MR. SCHMIDT: Mr. Garber, I reviewed the document and I believe it to be compliant with rule eight. I assume you've gotten duplicate copies, I, I've just gotten a single copy except for one thing and I, and I think Mr. Holzer may be able to cure that between now and, and next time. The rule, as I understand it, does require that the, one of the certifications be under affidavit and I don't see that this is under affidavit. Typically, at least in my experience, oh, I stand corrected. There is an affidavit attached. I missed that page. I, I apologize. So, I don't object to it. Okay. I missed it, I just didn't see it, the bottom of the language.

CHAIR: That's okay.

MR. SCHMIDT: So, --

CHAIR: So, does that mean you have no objection to Pet, --

MR. SCHMIDT: Yes, sir.

CHAIR: -- Protestant's Exhibit 28?

MR. SCHMIDT: Yes, sir. I don't have any objection

to this document.

CHAIR: Understood.

BOARD: Can we just go through the exhibits real quick, that Mr. Holzer tried to put in today? Are you objecting to the aerial photograph?

MR. SCHMIDT: I am not objecting to the aerial photograph.

BOARD: Fifteen is in.

CHAIR: (inaudible) identification earlier.

MR. HOLZER: Yes.

BOARD: Yeah, and then sixteen is the photo by Joyce Mason's car, 9/14/2018. Joyce Mason testified.

CHAIR: She had the car accident herself.

BOARD: Yeah.

CHAIR: Do you know which one I'm referring to?

MR. SCHMIDT: Yes, yes, sir. Yes, ma'am. I'm aware of that and I don't object to it.

BOARD: No objection. Photo of 10/18/2018, the dash cam from Mary Clark. I think you did object.

MR. SCHMIDT: I did object to that because there was testimony that it supposedly shows another car and she didn't take that --

BOARD: No, that's fine, no, no, you don't have to, that's fine.

CHAIR: We're just housekeeping.

BOARD: I just, I'm just marking i.d. only on my list because I know you'll look at --

MR. SCHMIDT: Okay.

MR. HOLZER: It's still for i.d. We'll catch it --

BOARD: For i.d. only. Small, okay, eighteen is the small photo of Protestant's fifteen, well, that's the same thing.

MR. SCHMIDT: Yes, yes, ma'am.

BOARD: It's the same thing.

CHAIR: So admitted.

BOARD: And then nineteen is the photo of the Bonaparte house, right?

MR. SCHMIDT: Right.

BOARD: This was i.d. only?

MR. SCHMIDT: Yes.

BOARD: (inaudible) took the picture.

MR. SCHMIDT: That's correct.

BOARD: Twenty is the photo from Dave Poehler property. I thought this was in because this was from his property?

MR. SCHMIDT: It is in.

BOARD: It is in, okay.

CHAIR: Yes. Admitted, right.

BOARD: And photo, the drone of the site, oh, this was taken by Mr. Clark.

MR. SCHMIDT: It is not in.

BOARD: It is not in. I.d. only.

MR. SCHMIDT: Yes.

BOARD: And then the Baltimore County police reports, twenty-two and twenty-three, were i.d. only.

MR. SCHMIDT: Yes, I, I believe the objection was sustained.

CHAIR: Objection was, were sustained.

BOARD: Okay.

CHAIR: To those.

BOARD: Of those. And twenty-four, the fundraiser flier from July of 2017, twenty-four.

MR. SCHMIDT: Is that the one about the, the volleyball tournament?

BOARD: Volleyball.

MR. HOLZER: Volleyball tournament.

MR. SCHMIDT: I don't have any objection to it.

CHAIR: Okay.

BOARD: All right and then the Facebook entry from Dr. Carky, twenty-five.

MR. SCHMIDT: I don't have any objection to that.

BOARD: Twenty-five is in. Twenty-six was withdrawn.

CHAIR: Withdrawn.

BOARD: Twenty-seven, the Facebook entry dated Aug, August 1st, 2018 by, we don't know who --

CHAIR: Perhaps Sakchi Manali.

BOARD: Perhaps.

MR. SCHMIDT: I don't have any objection to that.

BOARD: Okay and then the Gunpowder Road Falls Watershed, we just talked about is twenty-eight and they're all, and otherwise, so five of those documents were not in, as we noted.

CHAIR: And also, can we just go through real quick the Petitioner's, whatever they (inaudible) today?

MR. SCHMIDT: I think the Petitioner's are all in, I believe.

BOARD: Thirty-one through thirty-four were in.

MR. SCHMIDT: Yes.

BOARD: In evidence.

MR. HOLZER: Thirty-four was over objection.

BOARD: Correct, right. You have an objection that you're going to raise next time.

CHAIR: Right.

BOARD: Right, we talked about that.

MR. SCHMIDT: And I actually brought, Ms. Murphy, during the lunch break, sufficient numbers of copies and left them up there for you.

CHAIR: Yes. We received them.

BOARD: You did, thank you.

MR. SCHMIDT: Yes, ma'am.

BOARD: Perfect, okay.

MR. HOLZER: And I also got copies he gave me.

CHAIR: I assume that.

MR. HOLZER: Just so I'm being nice.

CHAIR: Well, thank you for putting that on the record.

BOARD: All right, we're clear.

CHAIR: All right. So, we're now at Protestant's Exhibit 28, which has been admitted, so you have a witness on that?

MR. HOLZER: No.

CHAIR: Or no, you're good?

MR. HOLZER: No.

CHAIR: Okay. Where does that leave us for today?

MR. HOLZER: Finished, I hope.

MR. SCHMIDT: Well, I thought we were going to have somebody testify? No?

CHAIR: That's, well, that's what I was asking. Or is simply this contain just the opposition and that's enough?

MR. HOLZER: Well, it's enough, I'll have someone identify before they testify whether they're speaking on behalf of themselves or whether they're speaking on behalf of the association.

CHAIR: Understood. Mr. Schmidt, you understand that now?

MR. SCHMIDT: Yes, sir, I do.

CHAIR: Okay. So, you indicated at the top of the day that there may be up to seven witnesses today and while I liked that optimism and we are, that we are a bit short at the moment. Is there anyone else that would be, that would not take too long, that we could put on today?

MR. HOLZER: No, I, no, the witnesses that would go on the next hearing, I think they'll take the whole day.

CHAIR: That means that we still have not reached your experts, if any.

MR. HOLZER: That's correct.

CHAIR: For this case.

MR. HOLZER: That's correct.

CHAIR: Very well. So, that, we'll have to meet yet another day, another time.

MR. HOLZER: Well, we have the 29th.

CHAIR: Right. Okay.

MR. SCHMIDT: Mr. Garber, I just have one question, sir. In view of our schedule, should we talk to Ms. Cannington about any additional days or I would appreciate your direction on that one.

CHAIR: Well, of course, the preference would be to try to do what we can to wrap things up but do it in a manner that the Protestants are able to get their case out and do it in a manner that any rebuttal on your part, it would seem that

the 29th may not be adequate to contain all those things. So, it's probably best to clear at least one more day and see where that takes us.

MR. HOLZER: Yes. I will try to be able to rest on the 29th.

CHAIR: Well, that's kind of what I was envisioning based on what you were just saying.

MR. HOLZER: Right.

CHAIR: So, therefore, any rebuttal, I mean, I'm anticipating you're not going to need multiple days for rebuttal.

MR. SCHMIDT: I think that's correct, sir.

CHAIR: Especially considering that Mr. Ghimire was just on the stand again.

MR. SCHMIDT: Yes, sir.

CHAIR: So, why don't we see about one more day after the 29th?

MR. HOLZER: Yes, that's agreeable.

MR. SCHMIDT: Yes, that's fine, that's fine.

MR. HOLZER: One other thing. Once the case is completed, normally the Board likes to have a memo or something. Is that going to be the case in this situation?

CHAIR: We will be doing closing memos.

MR. HOLZER: Okay and since I'll be away the first two weeks of November and we're having the 29th, I'll be back in

time to write anything we have to write. So, now I'm happy.

CHAIR: Well, you don't, again, so we have the 29th and then we're going to have --

MR. HOLZER: A possible nother day.

CHAIR: A possible nother day so, then, memos wouldn't be due till after that in any event.

MR. HOLZER: Sounds like, right.

CHAIR: But if you choose to work on it ahead of time and have it done and ready to go, we're all in favor of that.

MR. HOLZER: Thank you.

CHAIR: Then unless there's anything else, I will, you know, we will see you all on November 1st.

MR. SCHMIDT: And I look forward to getting the disc next week from Mr. Holzer.

CHAIR: Yes. Indeed. All right. Well, --

MR. HOLZER: Send me an e-mail to remind me. I am so busy, I know you are.

MR. SCHMIDT: I, I will.

CHAIR: Thank you for your cooperation on that and everything else. Until then, we are adjourned. The hearing is done for the --

(OFF THE RECORD - 04:02:59 PM)

CERTIFICATE OF TRANSCRIBER

I hereby certify that the hearing in the matter of Nepali American Cultural Center, case number 18-122-X, heard before the Board of Appeals of Baltimore County, October 23, 2018 were recorded by means of audiotape.

I further certify that, to the best of my knowledge and belief, page numbers 1 through 257 constitute a complete and accurate transcript of the proceedings as transcribed by me.

I further certify that I am neither a relative to nor an employee of any attorney or party herein, and that I have no interest in the outcome of this case.

In witness thereof, I have affixed my signature this 10th day of December, 2018.

Christine R. Leary

Christine R. Leary

Transcriber

IN THE MATTER OF: * BOARD OF APPEALS

Nepali American * OF

Cultural Center * BALTIMORE COUNTY

* Case Number 18-122X

****

RE: Petition for Special Exception pursuant to BCZR Section 1A01.2.C.6 to allow a Church or other building for religious worship on property zoned RC-2.

BEFORE HEARING EXAMINERS:

JASON S. GARBER, CHAIRPERSON

DEBORAH C. DOPKIN

MAUREEN MURPHY

Hearing date: October 11, 2018

Reported By:

Sue Harrison

Court Reporter

APPEARANCES:

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TABLE OF CONTENTS

	PAGE:
JOSEPH J. CALOGGERI	
Direct Examination by Mr. Schmidt	13
Cross-Examination by Mr. Holzer	87
Redirect Examination	153
Direct Examination by Ms. Dopkin	158
MARCIA BARTON	
Direct Examination by Mr. Schmidt	161
MARY CLARK	
Direct Examination by Mr. Holzer	171
Cross-Examination by Mr. Schmidt	191
Redirect Examination by Mr. Holzer	217
Recross-Examination by Mr. Schmidt	232
Direct Examination by Ms. Dopkin	243
Cross-Examination by Mr. Schmidt	246
Direct Examination by Ms. Murphy	247
Cross-Examination by Mr. Schmidt	250

P R O C E E D I N G S

MR. GARBER: All right. We are live, and Mr. Schmidt, your case is still up. I should say for the record this is Day 4 of the Nepali American Cultural Center, case number 18-122-X. Mr. Schmidt it is still your case, as you have now rested, I assume. I know that we may have some preliminary matter; I don't know that it can be resolved right now.

MR. SCHMIDT: Yes.

MR. GARBER: It does?

MR. SCHMIDT: Well, it can be.

MR. GARBER: Okay.

MR. SCHMIDT: For the record, good morning. Lawrence E. Schmidt here on behalf of the Nepali Cultural Center of Baltimore, the petitioner in this case, and Timothy Kotroco as well.

MR. HOLZER: J. Carroll Holzer, 508 Fairmount Avenue, Towson, Maryland, on behalf of all the people that I represented on Days 1, 2, and 3.

MR. BISER: And my name is Douglas Biser. I'm from Mudd, Harrison, & Burch, 401 Washington Avenue. I

represent DeWitt Clark. I have filed the objection and motion to quash the subpoena, and I would request that the board take that as a preliminary matter.
Mr. Schmidt and I have talked about it, and we think we have a resolution. And if I might state for the record, Mr. Schmidt has indicated that he's not going to attempt to enforce that subpoena and will withdraw it, but he may request additional subpoenas or matters at a later time; but for now, I think we've got it resolved, if I've stated that correctly.

MR. SCHMIDT: That's correct, I mean without prejudice for us to reissue it. I'm not sure. I know today's hearing, and I've spoken to Mr. Holzer, I'm going to recall one witness today, and whether Mr. Clark testifies and I can get the information via cross-examination may render moot the subpoena. But we have future days scheduled and I can talk to Mr. Biser between now and then about the information that may be voluntarily disclosed or not. But in any event, it's an issue that we can resolve for another day through another subpoena.

MR. GARBER: Let the subpoena be withdrawn without prejudice. Thank you for resolving it.

MR. BISER: Thank you.

MR. GARBER: And I'm assuming there concludes your business here.

MR. BISER: That concludes my role here, yes, it does. Thank you very much.

MR. SCHMIDT: Mr. Biser, you're welcome to stay around.

MR. BISER: Yeah, he's welcoming me to stay, but respectfully I will be leaving. Thank you.

MR. GARBER: Thank you. Yes. And thank you both for talking about it ahead of time.

MR. SCHMIDT: Sure.

MR. GARBER: So I understand, Mr. Schmidt, you are recalling --

MR. SCHMIDT: And before I do --

MR. GARBER: I'm sorry. Go ahead.

MR. SCHMIDT: I had spoken to Mr. Holzer last week or early this week about just what I planned on doing today so he was aware. I did want to offer as

sort of a first matter, and Mr. Holzer has seen this, but I'll give him a another copy and give a copy to the Board. I think we're up to Petitioner's Exhibit No. 25. And if I can approach, Mr. Murphy, I've marked the top one, and there are three copies. You will recall at the last hearing a testimony was offered on behalf of the Petitioner from Rob Powell, who is a sanitarian, and he was the witness who testified about the proposed septic system and well groundwater management issues. I think he indicated during his testimony that percolation tests were planned for the property. They have been done since we have been here, and this is simply a letter from Baltimore County, specifically from Mia Lowry, who's the supervisor of the soil evaluation program in the groundwater management division of environmental protection, which just discusses the results of those percolation tests. And so that's the County document. I wanted to offer that.

MR. GARBER: And the witness that you are recalling -- it's not Mr. Powell.

MR. SCHMIDT: It's not Mr. Powell. This is to

settlement, since he --

MR. GARBER: Understood.

MR. SCHMIDT: -- said during his testimony that the percolation tests were scheduled.

MR. HOLZER: Initially I had no problem with just submitting this; however, when I read the last paragraph, it says, "Attached is a copy of the sole evaluation data for the above lots." I think that should be attached to this too.

MR. SCHMIDT: I'm happy to produce that.

MR. GARBER: I would agree that makes the most sense.

MR. SCHMIDT: I'll tell you, I don't know if I have that with me right now, or at least not all of the copies made.

MR. GARBER: Lunchtime, you think you could get it here?

MR. SCHMIDT: Yeah. I'll call my office during a break if we take a break and see if I can get it and bring it over. And worst case scenario, I'll bring it for the next hearing date.

MR. HOLZER: I'd like to have it before the next hearing date.

MR. SCHMIDT: I'll get it to you as soon as I can.

MR. GARBER: Right. So we're not going to admit it into evidence as of yet. It's identified as Petitioner's Exhibit 25. I understand you're going to try to get it to Mr. Holzer today.

MR. SCHMIDT: Yes. And when we take a break, I'll call my office and see if we can run that down.

MR. GARBER: Okay. And I should have asked this before we started up again. Does anybody have a hard stop time today in particular?

MR. HOLZER: We don't. I think what's going to happen is there's going to be one witness presented again, I'll cross. After that I have about four or five witnesses. There will be some witnesses that we didn't anticipate we had to bring today, so I don't know what time we'll end.

MR. GARBER: I don't have a set time. Well, preferably 3:45, but I can go to probably 4:00.

MR. HOLZER: That might be perfect.

MR. SCHMIDT: Yeah. I have one witness. I do have a lady from the community who, as Mr. Holzer knows, sometimes show up at these hearings and say they would like to testify. So I might ask her.

MR. HOLZER: I never have any objection to anybody testifying --

MR. SCHMIDT: Yeah.

MR. HOLZER: -- in that respect, and I'm sure the same courtesy --

MR. SCHMIDT: We typically -- well, I know we both have had that situation where an individual shows up that we don't know is even coming.

MR. HOLZER: And I would assume he'll extend me the same courtesy.

MR. GARBER: Sure. And with that in mind, I guess the witness you're going recall -- who is it?

MR. SCHMIDT: Mr. Caloggeri from The Traffic Group.

MR. GARBER: Okay. And we're not going to cover all grounds.

MR. SCHMIDT: We are --

MR. GARBER: I'm assuming you're supplementing to what has been previously testified?

MR. SCHMIDT: Yes. And just as a highlight of coming attractions, Mr. Garber -- or "zigzag of coming attractions" I think is the exact phrase, you recall that Mr. Caloggeri testified that he was dealing with the State Highway Administration on an ongoing basis as sort of the final design or the final location of the access point, and that I would submit to you and tell you that's been resolved, and he's going to testify about that. There were also some questions that were asked of Ms. Murphy during the last hearing that he has had an opportunity to review, and he's going to address those as well.

MR. GARBER: Fair enough. As long as we're not covering ground that we've already covered.

MR. HOLZER: Well, he's made a lot of statements last time that may not turn out to be correct, so I intend to cross-examine those now.

MR. GARBER: That's, I mean, is more about the

direct, as in covering new ground.

MR. HOLZER: Yeah. I'm not going to go over --

MR. GARBER: Obviously, your ability is a bit wider in cross-examination to go into things.

MR. HOLZER: Yeah.

MR. GARBER: All right. With that in mind, let's get started.

MR. HOLZER: Could I just say preliminarily, before he testifies, that we have some pictures to show him on cross-examination, but we also have a video to show him. And if the Board is aware of that, we want to be able to have him look at the video and respond.

MR. GARBER: I will say I do not see video equipment. Oh, is that it over there behind --

MR. HOLZER: Yeah.

MR. GARBER: Okay. Very well.

MR. HOLZER: Okay. Thank you.

MR. GARBER: We'll see where this takes us.

MR. SCHMIDT: Mr. Calogerri?

MR. HOLZER: Oh, it's a minute video, so it's not going to --

MR. GARBER: Okay. No problem.

MR. SCHMIDT: Are you going to swear the witness, or does remain under oath?

MR. GARBER: We'll swear the witness.

JOSEPH CALOGGERI,

called for examination, having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

MS. DOPKIN: State your name and address for the record once again, please.

THE WITNESS: Joseph Caloggeri.

DIRECT EXAMINATION BY MR. SCHMIDT

Q. Mr. Calogerri, you've previously testified in this case, have you not?

A. I have.

Q. And you are a traffic engineer with The Traffic Group; is that correct?

A. Yes.

Q. And just to move this along, you had previously testified, I believe, at some length about the access to and from the subject property from Harford Road,

correct?

A. Correct.

Q. And I believe you testified that you had been in consultation with the State Highway Administration regarding that access, any changes to the present configuration, or any alterations that might be required; is that correct?

A. That is correct.

Q. Have you -- as a result of their ongoing conversations with State Highway Administration, have you reached a resolution as to State Highway's desire as to the configuration and location of the access point?

A. Yes, we have.

Q. Okay. I'm going to show you --

MR. SCHMIDT: And I'll put it on the board. I'll give Mr. Holzer a copy, and I'll also give the Board members a copy. I've preliminarily marked this as Petitioner's Exhibit No. 27.

MR. GARBER: We should be on 26.

MR. SCHMIDT: I thought 20- -- oops. I'm sorry.

MR. GARBER: If you want to leave it --

I mean, does it make sense?

MR. SCHMIDT: That's fine. I've got something else that I've premarked, but I'll just change the numbers. No problem.

MR. GARBER: All right. This is Exhibit 26.

MR. SCHMIDT: Ms. Murphy, I've marked one of them, but then there are two others so each Board member may have one, and obviously we have one on the board.

BY MR. SCHMIDT:

Q. Mr. Calogerri, I don't want to you to repeat your testimony. I know Mr. Garber and members of the panel have heard from you. But if you want to approach the board and tell us what the sort of final configuration the proposed access point is going to look like at this point and why. Just giving us a little --

A. Sure.

Q. -- explanation of that exhibit?

A. Okay. And I'm sorry. Did you send the letter?

Q. Yeah, and I'll give that to you. Do you want that as well?

A. I have it here. I just wanted to make sure it

was submitted before I just --

Q. Yeah, I thought you could discuss the plan --

A. Sure.

Q. -- and then discuss the letter.

A. Okay. So basically the State Highway -- we've been out with the State Highway Administration. You know, we've had communication, back and forth, about the access. So they came back with certain parameters that they wanted us to hit to move the access. So again, we're working with all of the parameters to try to make the access per the State Highway Administration.

So the first concern was to align the access across from Bonapart. So we provided an access to move the access further to the north to meet, well, what I'm just going to call condition one. The next four conditions are based on sight distance and stopping sight distance. So on the plan -- so on the plan there, we have different numbers, we have some different pictures.

So I'll start with the exiting vehicle at its new location. So the State Highway Administration

requested, when exiting, looking to the left, they would like 390 feet, looking south, based on the speed of 35 miles per hour. So we aligned the outbound access so that we have 390 feet of sight distance, looking to the south, based on 35-mile-per-hour northbound speeds.

Q. Mr. Calogerri, when you say "the outbound access," there's the driveway or the access point is actually split, correct?

A. Correct. There's a -- there will be some kind of a median; so exiting traffic will be on the right, inbound traffic would be on the left, similar to what's here today, but it will be a lot smaller and more concise.

Criteria number two -- and again, they're not in any criteria order. It's just how I'm discussing them -- minimum exiting driveway, they would like intersection sight distance 500 feet looking to the north. So again, at this location where we've placed it has 500 feet sight distance looking to the north for a southbound vehicle, and they want that based on a speed of 45 miles per hour, so we accomplished that.

Third, minimum intersection sight distance for the southbound left turn, turning in, looking at oncoming traffic. So again -- so that's the reason for the split in the median. They wanted 285 feet based on 35 miles per hour to be able for the vehicle turning southbound, left in, to be able to see a car approaching. Good?

And then lastly -- lastly, stopping sight distance for the left-turning vehicle, they want the southbound traffic to be able to see at least 360 feet of stopping sight distance based on speeds of 45 miles per hour, to the car turning left.

So based on that criteria, those five criteria, we designed this access, we submitted it to the State Highway Administration. They have reviewed, and I believe their words are: "Grants conceptual approval of the proposed access as depicted on the concept plan."

Q. And they will have to issue an access permit at the end --

A. Right.

Q. -- of the day at some point in time, correct?

A. Right. And the next sentence says, "An access permit will be required to construct the located entrance and all access-related improvements" --

MR. GARBER: If I can jump in, if you're going to read from the letter, I think Mr. Holzer needs to see a copy of that.

THE WITNESS: Sure.

MR. SCHMIDT: And I'm going to submit a copy of that as well. Mr. Calogerri, I've marked as Exhibit Number 27 --

THE WITNESS: And I have one more thing, too, I forgot to mention.

MR. SCHMIDT: Okay.

THE WITNESS: Sorry about that.

BY MR. SCHMIDT:

Q. Okay. Before you do, Exhibit Number 27 I'm showing you is a letter to you dated October 9th, signed by Wendy Wolcott, who's the metropolitan district engineer of District 4 of the State Highway Administration. And is that the letter that you were referring to?

A. Yes, it is.

Q. And does that letter indicate State Highway's approval of the plan, which is Exhibit No. 26 --

MR. SCHMIDT: Correct? 26?

MS. MURPHY: Yes, 26. How would you like it identified?

Q. -- on the board.

MR. SCHMIDT: The letter we'll call -- I'm sorry. The plan we can call the final access design that Mr. Calogerri has testified, and obviously the letter is from State Highway.

BY MR. SCHMIDT:

Q. Mr. Calogerri, so basically this plan, does it not satisfy State Highway insofar as a vehicle exiting the site and looking left and right, and then a vehicle entering the site from both an approaching traffic standpoint and the traffic coming behind that vehicle?

A. Yes, it does.

Q. Okay. And you said you had something else that you wanted to indicate?

A. Yes, I did. So again, to fit all of these

criteria, one of the means we had to utilize -- there's a lot of -- there's a lot of existing pavement at the existing access, so the State Highway Administration has requested us to realign this portion just south --

Q. When you say "this portion" --

A. Just south of the existing access to just south of the end of the property line for Nepali, to move the -- to shift the road slightly to --

For this map it's to the south; for 147 East and West, it's to the east.

-- slightly shift the road about 3 or 4 feet, which shifts the northbound through lane over; it's going to shift the southbound through lane over. It provides the -- this was a difficult maneuver because of the fence and the curve of the road from the property across the street.

MR. GARBER: You say "this." What is --

THE WITNESS: I'm sorry. The sight distance looking to turn left into the site was initially obstructed by the fence on the north side.

MR. GARBER: Which is why they're having you

pull back the road into the property.

THE WITNESS: Correct. So pull back the road slightly into the property, to shift the left turner over a little bit more to give more clearance, to visually be able to see into the site.

BY MR. SCHMIDT:

Q. Mr. Caloggeri, the access point for people leaving the site will then be directly across from Bonapart Avenue; is that correct?

A. That is correct.

Q. There was concern, I think, expressed about headlights of exiting traffic possibly shining into the house across the street, on the property across the street. Would that occur with the shift of that access point?

A. I think, again, this is conceptual in nature, and I don't know if this will be angled anymore when it's finalized. But we did not do any kind of analysis regarding headlights.

Q. Okay. Insofar as your own personal opinion, do you concur with State Highway Administration as to this

design being appropriate for the proposed use?

A. I do.

Q. Do you believe that this would present a safe and appropriate means of access and egress to and from the property?

A. Yes.

MR. GARBER: Do you move to admit Exhibits 26 and 27?

MR. SCHMIDT: Yes, sir.

MR. HOLZER: Is the letter 27?

MR. GARBER: The letter is 27. Any objection?

MR. HOLZER: No.

(Petitioner's Exhibit Numbers 26 and 27 were admitted into evidence.)

MR. GARBER: We've admitted both of them.

BY MR. SCHMIDT:

Q. Mr. Calogerri, anything else about the access that you have not indicated? I just wanted to give you an opportunity.

A. I'd like to discuss the State Highway requirements and the speed, to verify what they have.

The reasons -- I mean, I don't know the reasons why they gave me that information, but we have verified that information.

Q. Right.

MR. GARBER: What information was verified?

THE WITNESS: Speeds.

Q. Yes, and I'm going to get to that.

A. Okay. But this is correct. This is based on our field meeting and the comments presented by the State Highway Administration variables.

Q. Right. And obviously the existing entrance will be modified as shown on that plan?

A. Correct.

Q. So the existing entrance or the existing means of access will no longer be there?

A. Correct.

Q. In other words, this isn't in addition to what's there; it's instead of what's there?

A. Correct. We even offered to maintain the existing inbound as a right-turn lane in, and the State Highway Administration denied that right turn in and

preferred all movements at one access.

MR. GARBER: Does SHA have any right-of-way in terms of the landscaping and whatnot with the amended plan here? On the property at issue, not on other properties.

THE WITNESS: Right. This is all the Nepali Temple right-of-way --

(Court reporter requested clarification.)

THE WITNESS: I'm sorry. All of the frontage property is the Nepali Temple property.

MR. GARBER: Right, there's no requirement as to any landscaping changes there to maintain the sight distances that they have approved?

THE WITNESS: They have asked to, as best as possible, to keep this clear. When I say "this," in the northbound direction on the east side, if there's any shrubbery on the hill, if we could keep that clear, that would be helpful. And again, as previously testified to, along the opposite side of the road.

MR. GARBER: Is that actually marked on

Petitioner's Exhibit 26, the area where they indicate the landscaping shall be kept clear as best as possible?

THE WITNESS: It is not.

MR. GARBER: Are you familiar with, I guess, the area in which they would like the landscaping to be kept in that manner?

THE WITNESS: In my opinion, it would be from around point F or point E on the plan to point C or B even.

MR. GARBER: So in your opinion as an expert, you believe that an area between F and C on the left side of Petitioner's Exhibit 26 should be -- landscaping should be maintained at a certain height or cleared to maintain the site distances?

THE WITNESS: I think it needs to be cleared. I didn't -- we did not measure to see if there was any impeding landscape piece that needed to be removed specifically. But I would agree that, if this area was generally cleared, it could only help the situation.

BY MR. SCHMIDT:

Q. Do they have an existing right-of-way along

there now?

A. It's difficult to see, but it almost looks like it's right close to the edge line of the road; but again, it's based on our plans matching with the others, so ...

MS. DOPKIN: Mr. Calogerri?

THE WITNESS: Yes.

MS. DOPKIN: The area you're talking about clearing would be that which we see in your Photo Number 5 on your plat?

THE WITNESS: No. It would be more Area 1 at their approach.

MS. DOPKIN: On the left side of the photograph?

THE WITNESS: Yes.

MS. DOPKIN: Okay. Thank you.

MR. GARBER: And how far back from the roadway would the landscaping have to be cleared?

THE WITNESS: Well, there's a hill.

MR. GARBER: Right.

THE WITNESS: So it's the road and then the hill, so just the ground would be cleared, cut back.

MR. GARBER: Just the ground?

THE WITNESS: Yes.

MR. GARBER: And no trees?

THE WITNESS: No trees, no.

BY MR. SCHMIDT:

Q. So you wouldn't have to clear any trees, it would just be the ground cover?

A. Right.

Q. Right next to the road?

A. Ground cover, brush, yes.

Q. Ground cover and the brush next to the road?

A. Right.

Q. Okay. Yeah, because the property goes up a pretty substantial grade as it gets into the interior of the property, does it not, Mr. Calogerri?

A. It does, and if you -- I mean, I'm just using this as a straight line. You can visually see up until just north of Point E without that clearing. So it would be somewhere between just north of E to in between E and F, that you just need to trim down the hedges or the weeds or the brush.

Q. That are immediately next to the paving?

A. Yes.

MR. GARBER: But in terms of a standard, though --

THE WITNESS: We're using our sight distance as based on coming through the road, but the State Highway Administration said, you know, it would help if you could just keep this clear.

MR. GARBER: Right. And that's what I'm trying to wrap my head around.

THE WITNESS: Yes.

MR. GARBER: What does that mean? That is, it has to be at a certain height? If you say it just has to be at ground level, that it's just cleared and just grasses?

THE WITNESS: Again, I know it's --

MR. GARBER: Or is there, like, it could go to 2 feet high, and that's when someone has to take care of it? That's what I'm trying to assess.

THE WITNESS: I don't know if we have -- I don't have that information. And we can, as part of the

access permit, discuss that and build that into the access permit. Again, this plan conceptually approved, an access permit is still required to be submitted and to meet all of the requirements.

MR. GARBER: Are you saying that the access permit can address it or they will address that issue?

THE WITNESS: We'll make sure it is addressed.

MR. SCHMIDT: I'm sure they will.

THE WITNESS: The same with on the opposite side of the road.

MR. SCHMIDT: To make sure the sight distance is clear, that's a paramount concern of the State Highway Administration during the issuance of an access permit; is it not, Mr. Calogerri?

THE WITNESS: It is.

MR. GARBER: Right. I just want to make sure that if this goes forward, then there is some standard by which the Nepali American Cultural Center folks, whoever is going to maintain the property, knows what they have do or whatnot.

THE WITNESS: And it could even be the State

Highway Administration since the State Highway Administration is going to maintain their property on the other side of road. They may be able to do our side of the road as well.

BY MR. SCHMIDT:

Q. Mr. Caloggeri, the State Highway, I mean, I would assume -- correct me if I'm wrong -- the State Highway Administration, in granting the access permit, wouldn't it be expected in this case that they would acquire a right-of-way as part of their acquisition of the -- I'm sorry -- part of the access permit, and thereafter, if the State Highway Administration has a right-of-way there, they would maintain it like they maintain any right-of-way that they have anywhere on any state road; isn't that correct?

A. They can, or they could give the Nepali Temple --

Q. Or they could tell Nepali to do it as a condition of the access permit?

A. Correct.

Q. One way or the other, it will be maintained?

A. Correct.

Q. And again, you're not talking about cutting down a lot of the large trees there. You're talking about the brush and weeds and the understory which is right next to the road?

A. Correct.

Q. Is that what they've told you?

A. Yes.

Q. So the mature vegetation which buffers the site is going to remain?

A. Right. And again, based on just visually looking here, you know, it cuts right over on the road.

MR. GARBER: No, I understand.

THE WITNESS: So it may not even be, you know, a mountain; there may be more of a molehill. It's just a requirement just to keep it back so it's not overgrowing onto the shoulder, onto the paved road, to make sure it's cut.

MR. GARBER: Right. The purpose of my question is, because we now have a change as to the access point and the elements that were reported to SHA, obviously

the sight distance becomes -- obviously the sight distance and all of this stuff becomes very important. And then if you look down to the left of the property, with the road being pulled back, it creates the question of, okay, are they requiring some type of clearance -- a visual clearance, a site clearance -- with the existing property? Are they changing anything in that regard?

And that's why, again, the purpose of my questions is to figure out that part of it. And if it's going to be addressed as part of the access permit if this goes forward, then so be it.

MR. SCHMIDT: And I think you've indicated it will be addressed.

THE WITNESS: Right.

BY MR. SCHMIDT:

Q. Mr. Calogerri, in addition to the access and having that plan reviewed and approved by State Highway and their letter which we've submitted into the evidence, since the last hearing, has your office done any additional investigation or studies in terms of the issues related to the proposed use of the properties as

a temple?

A. Yes, we have.

Q. I think it might be easiest, and I'll give you the exhibits as you discussed them. Mr. Calogerri, what actually have you done? And I understand that some of this was as part of the request of the State Highway Administration as well.

A. Just to ensure that we're meeting everything, we conducted a speed study and a volume study, and then we -- so speed, volume, capacity, and then we also further investigated accidents, or crashes.

Q. How did you do that? What did you do?

A. First, for the speed and volume study, we placed tubes along the road, both north and south of the access, in areas where we believe it would be proper to obtain speeds.

Q. And where is that? If you can show us maybe on the plan.

A. The pictures I don't believe are in there, but I do have pictures that I can pull out of my bag, if need be. And generally, for southbound traffic, we have

speed in this general area.

Q. "This general area" being? Describe it.

A. North of the site, north of Bonapart Avenue, I believe south of the driveway.

Q. South of what driveway?

A. South of the first driveway to the north.

Q. The neighbor's driveway?

A. The neighbor's driveway.

Q. Okay.

A. And coming in the northbound direction, probably in the area around D and E on this map, coming around the turn -- the speeds coming around the turns.

MR. SCHMIDT: Okay. Now, I believe you prepared a report or some charts and a summary of this, which I'm going to mark as Petitioner's Exhibit Number 28.

(Petitioner's Exhibit Number 28 was marked for purposes of identification.)

And I'll give a copy to you, Mr. Calogerri, and to the Board. And Ms. Murphy, there's three copies. Mr. Calogerri, do you have copy?

THE WITNESS: I do.

BY MR. SCHMIDT:

Q. Why don't you just tell us what this is and what it indicates in terms of the speed?

A. So what I provided, and I sent an email to the State Highway Administration on Tuesday, October 9th, sharing the results of the speed study and confirming the information that they had requested with respect to the minimum requirements for design of our access.

Q. Now, the speed study was done or the tubes were out there from when to when?

A. So the tubes were out there from September 26th; I believe in the northbound direction, it was until October 2nd, and the southbound direction, I believe it went to October 3rd. We had a failure is why we don't have the exact data for both directions.

Q. What do you mean by that?

A. Something must have happened to the tube and the equipment where, at northbound, it stopped collecting data on 10/2 around 1:00.

Q. Okay.

A. So it just stopped collecting data. But coming

southbound, the data was collected until 9/3 at approximately 9:00 in the morning when all of the equipment was picked up. So there was data that was not obtained for whatever reason.

Q. So you had full data from September 26th to October 2nd?

A. Correct.

Q. And then additional data on the one until the next day, the 3rd?

A. Correct.

Q. What did the data show? Tell us what you found out.

A. So there's numerous ways to present it, so I'll try and do the best I can. So in the northbound -- in the northbound direction -- I'm on page 7, if you're following along.

MR. GARBER: Are you talking about the page number on the top right corner of the --

THE WITNESS: The top right corner. There's going to be two page 7s, but this is page 7 of a title called Maryland 147 Northbound, South of Bonapart

Avenue, Baltimore County, Maryland; and the title is on the left-hand side.

BY MR. SCHMIDT:

Q. So this is for vehicles going northbound?

A. Vehicles going northbound, coming out of the turn or around the curve, coming out of the turn.

Q. Okay.

A. So there's four different measurements for percentile speed. Now, percentile speed is based on how many cars are traveling at the speed or below from a percent. So what the State Highway Administration typically uses as a guide is the 85th percentile speed. That means 85 percent and less -- 85 percent of the people driving this road are traveling less than 31 miles per hour, coming around the turn at that point.

Q. Now, there was testimony last time, or cross-examination about the speed limit being 50 miles an hour at that point.

A. Yes, and I apologize. And I hate being corrected, but I stand corrected. The speed limit is 50 miles per hour in the northbound direction; it is

45 miles per hour in the southbound direction. I confirmed with State Highway that when I was with the State Highway Administration in the early '90s, it was -- the speed limits were always the same in both directions, and they said that is no longer the case.

So State Highway Administration did say that speed limit in the northbound direction is 50 miles per hour. The sign is north of Long Green Pike and south of Shannon Drive. The speed limit in the southbound direction is 45 miles per hour. I do show it on our plan that's been already submitted, and it's located just south of the roundabout.

Q. But then there are recommended lesser speeds at the curve, correct?

A. Correct. We've testified to that.

Q. To what's recommended, even though the limit is posted --

A. Correct.

Q. -- elsewhere?

A. And that the recommended speeds are 30 in both directions.

So going back to page 7, the 85th percentile speed was determined to be 31 miles per hour; the 95th percentile speed is 34 miles per hour. So that means 95 percent of the data of all of the vehicles that we've collected for speed, which was -- we've collected 16,390 vehicles over that time, that 95 percent of the cars at that point were traveling 35 miles per hour or below.

Q. 34 miles per hour.

A. 34 miles per hour or below. And in page 1, not page 1, but the first page of this.

Q. The email?

A. The email, we were requested to make sure it worked -- make sure the sight distance worked for 35 miles per hour, which confirmed that that was a good guideline.

Q. Okay.

A. So we can go from there, we can go to the very last page in this document, and this is southbound. This is extra day that we were able to capture or extra half day or so which we measured 16,965 cars during this time.

MR. GARBER: I'm sorry. How many?

THE WITNESS: 16,965 cars during this time. The 85th percentile speed was 38 miles per hour; the 95th percentile speed was 39 miles per hour. And again, that means 95 percent of the cars at this point were traveling 39 miles per hour or less. The State Highway Administration recommended for us to conduct our study -- or to prepare the design based on speeds of 45 miles per hour, so it was clearly below in that guideline. We confirmed that guideline.

BY MR. SCHMIDT:

Q. Your email, the cover email that's on the top, Mr. Calogerri -- and I don't want to have you repeat testimony that you offered last time, but you talked about -- well, again, that would be sort of the four different criteria that you had discussed before. Am I correct?

A. That is correct.

Q. In other words, State Highway was requesting this information based on, or for a vehicle exiting, looking left and right, and then vehicles going

southbound either turning in or vehicles having to stop or slow down for a vehicle turning in?

A. That is correct.

Q. And that's the data that they requested?

A. Correct.

Q. Does this confirm, Mr. Caloggeri, the opinion you previously gave to the Board, that notwithstanding what the posted speed limit might be here, that the traffic follows much closer the recommended speeds --

A. Yes.

Q. -- within coming out of those curves, both north and south?

MR. GARBER: Wait for his question.

THE WITNESS: Okay. Sorry.

Yes, it does.

MR SCHMIDT: I would offer that as the next exhibit. I think that's Exhibit 28.

MR. GARBER: Mr. Holzer?

MR. HOLZER: I'm sorry. I'm just trying to figure out where -- oh, yeah, I had it marked. It's okay.

MR. GARBER: So admitted.

(Petitioner's Exhibit Number 28 was admitted into evidence.)

BY MR. SCHMIDT:

Q. So that's as to speed, Mr. Calogerri, correct?

A. Correct.

Q. I think you also indicated that, per the request of State Highway, too, they requested information in terms of capacity. And Ms. Murphy also, I think, asked some questions about that at the last hearing, correct?

A. Yeah, it was more here. The State Highway Administration was not concerned fully with capacity. They were satisfied, based on their request to me and based on the data that was provided to them. So this was more using the data that we collected.

Q. Through the same study?

A. Through the same speed study. We used those traffic volumes to provide information on capacity.

Q. And I think the question that was put to you, Mr. Calogerri, was how could the Board make a determination of whether the proposal would cause

congestion in the roads, streets, or alleys without traffic counts being done. Have you conducted traffic counts?

A. Yes, we have.

Q. And Exhibit Number 29 -- is that the summary report that you've prepared in terms of traffic counts and potential congestion issues?

A. Yes, it is.

Q. Okay. The Board can read it, but if you could maybe go through it and tell them what the summary and conclusions are?

A. Sure. So if we go to pages 3 and 4, this is the --

MR. GARBER: Wait a minute, sir. When you say pages 3 and 4 --

THE WITNESS: Oh, I'm sorry.

MR. GARBER: -- are you talking about pages 3 and 4 of the exhibit, and those are the same -- there are markings on them, but those are basically the same? Are they the same documents or the same template you used for Exhibit 28, and then you adapted it for the study --

THE WITNESS: Yes, it is.
MR. GARBER: -- traffic study?
THE WITNESS: Yes, it is.
MR. GARBER: And they're just marked page 1 and 2 on the top of the two pages you're referring to?
THE WITNESS: That is correct.
MR. GARBER: Sorry, Mr. Schmidt.
MR SCHMIDT: That's fine. I appreciate the clarification, Mr. Garber.
THE WITNESS: We utilized the data from the machine count that was placed north of the site access. We had the tubes extended across the road, so we captured both northbound and southbound traffic at this location. And these are hourly counts, started at the beginning of the hour to the end of an hour. And again, we captured one, two, three -- two, three, four -- six full days of data plus the majority of a seventh day, and we utilized this data to prepare capacity analyses.
And what I instructed my engineers to do was to review what they would consider the worst-case condition to determine the volume-to-capacity in these locations.

Now I'm on Exhibit 1, which was the first page of the document presented to you.

BY MR. SCHMIDT:

Q. Page Number 1, and it's labeled at the bottom right-hand corner of Exhibit 1: Results of Highway Segment Capacity Analysis.

A. Correct.

So for the weekday morning peak hour -- and I'm looking at the very top -- on the 27th of September, between 7:00 and 8:00 a.m., was the highest volumes.

Q. It was the highest single hour during the entire six days?

A. During the morning, peak hours.

Q. During the morning, okay.

A. And actually it is the highest of all four days of all the peak hours.

MR. GARBER: I'm sorry. Just so I understand, is this looking northbound, southbound, or how does that --

THE WITNESS: Northbound and southbound.

MR. GARBER: And southbound.

THE WITNESS: I'm sorry. I know it's ...

MR. GARBER: So the combined volume between 7:00 and 8:00 a.m. on September 27, 2018, would be -- is that the 468 number?

THE WITNESS: In the northbound -- I'm sorry. The southbound direction, all traffic is flowing. The heaviest amount of traffic is flowing southbound. On Thursday, the 27th, we have 468 vehicles traveling southbound at that point.

MR. GARBER: So 468 are going south?

THE WITNESS: Correct.

MR. GARBER: Okay.

THE WITNESS: And the roadway itself, based on national statistics, can carry a capacity of 1,700 vehicles per hour.

BY MR. SCHMIDT:

Q. How is that based, Mr. Calogerri?

A. It's just based on the national statistics, and it's produced by the highway capacity -- through the Highway Capacity Manual.

Q. Is that based on the character of the road?

A. Oh, yes.

Q. The size of the road? Tell us what that's based on.

A. So below is the input data and the analysis. So we have a -- we utilized a lane width of 9 feet with zero shoulders; a Class 2 highway, which is described in this, in the document itself; a rolling type of terrain using an 88 percent peak hour factor.

MR. GARBER: What does that mean?

THE WITNESS: Meaning that -- that for the peak 15 minutes, there's a higher amount of volume, more than likely, traveling in that 15 minutes than the rest of the hour -- so instead of the 468 evenly distributed between four peaks.

MR. GARBER: They're concentrated over a 15-minute period?

THE WITNESS: 88 -- the percentage, yes.

MR. GARBER: Right.

THE WITNESS: So there's an additional 12 percent, which is your -- up top, your volume with a peak hour adjustment of 532.

BY MR. SCHMIDT:

Q. And that's sort of taking into account a worst-case scenario that, even during the peak hour of all those six days, you're adding another 12 percent traffic --

A. Right.

Q. -- to that hour because it might be concentrated within one 15 segment?

A. That is correct.

MR. GARBER: Just to clarify for my manual. Thank you, Mr. Schmidt. That was good.

MR. SCHMIDT: I thought so.

MR. GARBER: Just to add to that, you're adding 12 percent for a worst-case scenario, and that's how you come up with the 532 number?

THE WITNESS: Correct.

MR. GARBER: Okay. So the 468 is the actual?

THE WITNESS: Correct.

MR. GARBER: And then 532 is the worst-case scenario?

THE WITNESS: Adjusted, correct.

MR. GARBER: And we heard about capacity.

Did you have a question about capacity, Ms. Dopkin?

MS. DOPKIN: No. He explained my question.

I would ask you to keep your voice up.

THE WITNESS: Oh, I'm sorry.

MR. GARBER: And the -- capacity ratio is obviously -- well, I shouldn't say "obviously." Is that the 468 to the 1700, or was it the 532?

THE WITNESS: I believe it was the 532, if you want me to grab my calculator, but I think that's the proper number.

BY MR. SCHMIDT:

Q. So the road, again, Mr. Calogerri, just so we can all make sense and understand this: So in the worst peak hour during the workweek, Monday to Friday, which is Wednesday from 7:00 a.m. to 8:00 a.m. in the morning, and further indicating that you've increased that volume by 12 percent because it may have higher traffic during those 15-minute segments, the Harford Road at that location is operating at 31 percent of its capacity?

A. That is correct.
Q. At the present time?
A. Correct.
MR. GARBER: Would this capacity also, I should ask -- is that the capacity during the course of that hour?
WITNESS: Yes.
MR. GARBER: So according to whatever other source of information you had, the 1700 number reflects the amount of traffic the road could have maintained during that same time period?
THE WITNESS: That is correct.
BY MR. SCHMIDT:
Q. And actually the capacity is the same all the time, is it not? 1700 trips?
A. That is correct.
Q. And that's based on, I think you've indicated --
MR. GARBER: Good point.
Q. -- for example, the data and the characteristics which are listed below --
A. Correct.

Q. -- the type of road and how wide it is and what the grade is and how many lanes there are and all those kinds of things in which you determine what the capacity is?

A. That's correct. And we used the speed of 45 miles an hour. The lower speed, the lower the capacity; so instead of using the higher 50-mile-an-hour, which would increase the capacity, we kept it at the lower 45 miles per hour to try to present to you a conservative -- what we would believe would be a conservative-type analysis.

MR. GARBER: So even if you were to take a step back to the recommended 35, it would still come in well under capacity -- the volume, that is?

THE WITNESS: Correct. And capacity is more related to volume towards capacity, not necessarily speed.

MR. GARBER: Well, you said you based it on the 45. I assume you took it back to 35, and we have lesser capacity when there's lesser speeds, it would still fit within those guidelines --

THE WITNESS: Correct.

MR. GARBER: -- or within those parameters?

THE WITNESS: Correct.

BY MR. SCHMIDT:

Q. Not to beat a dead horse on that, but I think the rest of those columns are somewhat self-explanatory. So your weekday p.m. peak hour was on October 1st from 5:00 to 6:00, and doing the same analysis with again the 15-minute segments and the 1700 vehicles capacity in the p.m. during the weekday, the road is currently operating at 26 percent of capacity?

A. Correct.

Q. And in the weekend, the Saturday peak again and the Sunday peak is even less -- it's 16 percent and 21 percent respectively of capacity?

A. That is correct.

Q. And that's the same analysis and the same capacity standards, etc., Mr. Calogerri?

A. That is correct. That is for the roadway segment.

Q. Okay. Now, you're familiar and I know you

testified in the prior case about the expected number of trips here based on what your client has advised and also the ASHCO standards for churches and so on and so forth. With the addition of the church anticipating traffic, will the road be over capacity?

A. No, it would not.

Q. Will there be any congestion caused by the proposed use in the roads, streets, or alleys in this vicinity?

A. No, there will not.

MR. GARBER: If I could jump in real quick again just to clarify. I'm sorry to slow this down.

MR. SCHMIDT: No, you're okay.

MR. GARBER: But I want to make sure I understand it. The 468 number -- do I understand that's the southbound traffic?

THE WITNESS: In this case, yes, 468 is the southbound traffic.

MR. SCHMIDT: And that was the worst case; that was the worst movement.

MR. GARBER: Right.

MR. SCHMIDT: During the weekday.

MR. GARBER: Okay. So my question relates to the recommended 35 means nothing then because that's not at issue with this --

THE WITNESS: Correct.

MR. GARBER -- in this Exhibit 29?

THE WITNESS: Correct.

MR. GARBER: Okay. I just wanted to clarify.

BY MR. SCHMIDT:

Q. Mr. Calogerri, anything else insofar as that exhibit? I know all of the supporting data is attached, but is there anything else that you wanted to draw the Board's attention to, other than essentially the conclusions, which you've described?

A. No.

MR. SCHMIDT: I would offer that, then, as Exhibit No. 29.

THE WITNESS: There is another exhibit.

MR. SCHMIDT: Okay.

MR. GARBER: Let's deal with Exhibit 29 first.

THE WITNESS: No, no, in with -- there's another

exhibit I want to discuss in this document.

MR. GARBER: Within the exhibit.

MR. SCHMIDT: Oh, okay.

THE WITNESS: Within the document.

BY MR. SCHMIDT:

Q. I'm sorry. Mr. Calogerri, please do. I didn't mean to cut you off.

A. So the next page is what we call Exhibit 2. So we took this --

MR. GARBER: Wait a minute. Page 2 of Exhibit 29 you have entitled Exhibit 2?

THE WITNESS: Yes.

MR. GARBER: Thank you.

MR. SCHMIDT: And that's labeled -- I'm finally getting it, Mr. Garber, to make sure we've identified these. It's labeled Results of Intersection Capacity Analysis.

THE WITNESS: That is correct.

BY MR. SCHMIDT:

Q. And what is that, Mr. Calogerri?

A. So now we looked at the intersection itself.

Q. When you say "the intersection," what intersection?

A. The intersection of Bonapart Avenue plus the site access.

Q. Okay. As realigned here?

A. Correct. So what we did, just to try to provide some more capacity and analysis data for this intersection, we utilized the Maryland State Highway Administration's critical lane volume methodology to determine the capacity at the intersection of Maryland 147 at Bonapart Avenue and the site access.

MR. GARBER: Proposed site access.

THE WITNESS: Proposed site access.

MR. GARBER: And that's SHA critical lane methodology?

A. Critical lane volume --

MR. GARBER: Volume.

THE WITNESS: -- methodology. And at the top of the page, it's listed "CLV Methodology."

BY MR. SCHMIDT:

Q. What is the CLV, if you can describe that for

us?

A. It's just basically a calculation to determine the capacity of an intersection, and it helps the SHA and for us to determine if additional lanes are needed, turning lanes, so on and so forth, and it measures the amount of volume in the existing lanes to provide a critical lane volume, plus some grades. So the way to try to describe the critical volume, if we're looking at -- you review each leg of the intersection.

So fictitiously, if I have a thousand cars in a single lane traveling northbound and if I have 400 southbound left-turners and if they're both on a single lane, the critical volume would be 1,400. And the overall intersection -- the way the State Highway looks at the intersection -- anything above 1,450 is just below capacity, and they would consider that a failure. 1,600 is a failure, and anything above 1,600 is failure. That's just based on their methods, their calculations.

Q. So that's purely a mathematical calculation?

A. Yes.

Q. How many cars are going in one direction, and coming the other way are turning in front of them essentially?

A. Correct. And the same with the side streets.

Q. In terms of in this case, how many would be coming out of the access versus how many would be coming out of Bonapart Avenue?

A. That is correct.

MR. GARBER: And your example was not literal. That is, the numbers are not the SHA numbers; they were just examples that you were giving?

THE WITNESS: Those were just examples. But I have the actual numbers that I'm presenting -- there's not a page number, but it's the third page from the rear of Exhibit 20- --

MR. SCHMIDT: -9?

THE WITNESS: -- -9.

MR. SCHMIDT: And that's labeled Critical Lane Volume (CLV) Methodology for MSHA, which is Maryland State Highway Administration.

THE WITNESS: That is correct.

MR. GARBER: I think I have it as page 16 on the exhibit.

MR. SCHMIDT: Okay.

THE WITNESS: So we reviewed the evening peak hour and the Saturday peak hour. I believe our, you know, I believe a fair number of an average-day peak-hour left turns coming into and out of the site, we have a projected five right turns in. During the weekday p.m., we've projected five left turns in; coming outbound, we had five left turns out; outbound, five right turns out. And then we've projected the same amount along Bonapart Avenue.

That yielded a critical lane volume for the entire intersection of 407. Level of service A goes up to a critical lane volume of 1,000. Therefore their -- I mean and failure is at 1,450, so there is plenty of available capacity at this location during the evening peak hour to accommodate more turning maneuvers and more through volume.

MR. GARBER: Let's slow this down.

THE WITNESS: Okay.

MR. GARBER: Just speaking for myself --

Sure.

MR. GARBER: -- I'm assuming my colleagues here fully understand it. So you have five right turns. You estimated or projected five right turns in and five left turns in during the evening peak hour and Saturday peak hour?

THE WITNESS: During evening peak hour only.

MR. GARBER: During the evening peak hour only. What about the Saturday peak hours?

THE WITNESS: So for Saturday, assuming a -- we've heard a lot about festivals and, you know, maybe some special events, so for peak hour -- and again, what we did is we looked at the highest peak hour, which was on a Saturday, 12:00 to 1:00.

MR. GARBER: Wait. When you say "the highest peak hour" --

THE WITNESS: On a Saturday.

MR. GARBER: -- are you referring to the property at issue, that that's the estimated projection or estimate or projection?

THE WITNESS: The peak hour of the road.

MR. GARBER: Would be 12:00 to 1:00 for use of -- is the proposed use, which would include festival and event?

THE WITNESS: Let me start over to make sure we understand each other --

MR. GARBER: Right.

THE WITNESS: -- because I think we're not.

MR. GARBER: I agree with you.

THE WITNESS: Okay. So what I looked at was a Saturday peak. The peak on Exhibit 1 was Saturday between 12:00 and 1:00.

BY MR. SCHMIDT:

Q. That's the actual volume on the road?

A. Correct.

Q. That's when Harford Road's most busy on Saturday?

A. Correct.

Q. Okay.

A. So utilizing that --

MR. GARBER: That number?

THE WITNESS: Yeah. I added 50 left turns in, 50 right turns in, 50 left turns out, and 50 right turns out -- those are my numbers. Those are not numbers presented to me; I made those assumptions. But the point is to show you that, with a hundred trips coming in and a hundred trips coming out along Harford Road on a weekend, we still have a CLV of 400; so there's plenty of available capacity.

Again, level of service A go up to 1,000, and failure is at 1,450, and it's not a 1:1 ratio. And again, it's volume, the capacity is based on the direction of the traffic, and if it's critical or not.

BY MR. SCHMIDT:

Q. So what you did, Mr. Calogerri, is you took the highest volume of actual traffic or the hour of the highest volume of traffic on Harford Road on a weekend, which was Saturday between -- I think you said between 12:00 and 1:00?

A. We did it on a Saturday. Sunday may be a little bit higher, but again, there's plenty of available capacity.

Q. Okay. And then you assumed 50 vehicles coming in, turning right; 50 coming in, turning left; 50 going out, turning right; and 50 going out, turning left?

A. That is correct.

Q. And that's vehicles; that's not people. Right?

A. That's correct. That's vehicles.

Q. So depending on how many people are in a vehicle in terms of number of persons, but that's just a -- just a vehicle?

A. Correct.

Q. And just during that hour?

A. Correct.

Q. So if it was spread out over the day -- well, that would be the worst hour that you've identified in terms of that hour, on Saturday from 12:00 to 1:00, correct?

A. Correct.

Q. Okay.

MR. GARBER: So this is just straight line addition.

THE WITNESS: Yes.

MR. GARBER: So if you took the 240 and you added for the sake of argument, even if somehow, some way, 400 people showed up during the course of that peak hour --

MR. SCHMIDT: Well, 400 cars.

MR. GARBER: Yeah, sorry.

THE WITNESS: Yes.

MR. GARBER: 400 vehicles show up --

MR. SCHMIDT: It would be 1,600 people if they all had 4 people in them.

MR. GARBER: -- during -- you would still be well within the level of service for an A.

THE WITNESS: Yes. So we took it one more step further to the more complicated calculations.

MR. GARBER: We're not at the complicated part yet?

THE WITNESS: No. So utilizing the same numbers from the critical lane volume methodology that we just described, the vehicles turning in and out during the weekend -- during the weekday evening and the weekend, and we're back to Exhibit 2 on the bottom portion.

MR. GARBER: Page 2?

THE WITNESS: Page 2, Exhibit 2 of Exhibit 29. These are measurements of delay. So the measurements of delay are calculated in two different locations. They're calculated for the whole intersection, but we're presenting the level of delay per vehicle --

BY MR. SCHMIDT:

Q. So this is just -- I'm sorry, Mr. Calogerri, but this is another methodology, looking at the same thing?

A. Correct. This is the Highway Capacity Manual Unsignalized Intersection Methodology for a Stop Sign.

Q. Okay. And State Highway uses the critical lane, the CLV?

A. They use both.

Q. Okay, they use both. So the CLV turned out to be the level of service A, and A as it's shown on the top of page 2, Exhibit 2.

But this is a separate or a different methodology that State Highway also uses, which is called the Unsignalized Intersection Methodology?

A. That is correct.

MR. GARBER: If I can, when is the action of measuring different things -- when does SHA prefer to use one over the other, in what situations?

THE WITNESS: They use both.

MR. GARBER: They use both.

THE WITNESS: The majority of the time.

MR. GARBER: So they're just basically approaching it from two methodologies to figure out, more or less, confirmation of --

THE WITNESS: Well, one is a measure of capacity, the simple calculation: how many cars are on the road and where they're turning and going.

The unsignalized looks into the operations and how long it may take a vehicle to enter a roadway, and it's an overall measurement of the average delay per vehicle per second.

MR. GARBER: You said "to enter the roadway." Do I understand, then, that that is the traffic coming out of Bonapart or the traffic coming out of the proposed site?

THE WITNESS: That is correct.

MR. GARBER: Now I understand why there is a need for both.

THE WITNESS: Correct. During the weekday evening peak hour, when the volumes are heavier on the road and we have only ten vehicles coming out, we have projected a delay at 14 seconds per vehicle. And that was, you know, like a school grade; it's level of service B. A being best, B, C, D, E, and F starts to get into more congestion, more delays.

Now turning left in, there was only a delay of 8.1 seconds.

MR. GARBER: You're saying westbound.

THE WITNESS: I think my engineer --

MR. GARBER: It's supposed to be southbound.

THE WITNESS: Correct.

MR. GARBER: Right. So southbound --

THE WITNESS: He's looking at it based on the --

MR. GARBER: No, I understand the orientation of the -- right. I understand. There's been confusion throughout this case about that.

THE WITNESS: Correct.

MR. GARBER: But that's actually southbound Maryland 147, left turn, Harford Road, left turn.

THE WITNESS: Correct.

MR. GARBER: And there's only an 8 second, 8.1 second delay for the southbound traffic, but a 14-second delay for the northbound turning?

THE WITNESS: Correct.

BY MR. SCHMIDT:

Q. And both of those are turning left. Somebody coming out, turning left; and somebody turning, coming out -- turning in and turning left?

A. Turning -- the first one is coming out, all left- and right-turn movement.

Q. Oh, okay.

A. And the second one is the left turn, turning left in.

Q. Oh, okay.

A. So then we go to Saturday again with the projections.

Q. Same number of vehicles?

A. No. Well, same number of vehicles as before, so

now we have 50 --

Q. 50.

A. -- 50 lefts in, 50 right turns in; 100 cars coming out of the site, 50 left and 50 right. And as you can see, as the volumes are decreased during the Saturday peak hour, even with more turns coming in, the delay, you know, drops for the cars leaving the site. So it's at 13.3 in the range. The delay for the left turn is now 8.3 seconds.

So again, we would consider this, you know, a very good intersection that works from a capacity and operational operation.

MR. GARBER: I believe Mr. Schmidt just answered this question, but just to confirm: Where it says northbound site access approach, you are referring to left-hand turns out of the site?

THE WITNESS: And right-hand turns out of the site.

MR. GARBER: And right-hand turns out of the site.

THE WITNESS: We only have a single lane

according to our drawing, so it's both -- it's both maneuvers.

MR. GARBER: So it wouldn't be different delays maybe, whether they're making a left or right?

THE WITNESS: Well, this is the total approach delay.

MR. GARBER: Delay? When you say "approach delay," what do you mean?

THE WITNESS: The approach of the movement of the -- for ease of just discussing, the north is upwards on the map. So at the site access people are traveling northbound --

MR. GARBER: Right.

THE WITNESS: So the northbound approach has a delay of 14 and 13.3 seconds -- the approach delay for all vehicles coming in.

BY MR. SCHMIDT:

Q. Because it's a single lane?

A. Correct.

Q. So the people who are coming out of the site are in one line?

A. Right.

Q. And this is the delay that they would experience based on cars turning -- 50 turning left, 50 turning right?

A. Correct.

Q. So whatever that mixture is. And Mr. Caloggeri, I think you testified before you would expect most traffic to turn right?

A. Well, we have 50/50 just to try to --

Q. But you did 50/50 as a...

A. We try to be conservative. Again, based on how the calculations are performed, it could be for a CLV basis, if we had 50 left turns coming out of the site, it would pretty much be the same. It's just the volume on the road, of 147, during these times is not substantial enough to create significant changes to this analysis.

MR. GARBER: And on your page 2, where it says LOS/delay, the LOS is the level of service; northbound site access approaches are B; and the westbound Harford Road left turns are A's?

THE WITNESS: Right.

MR. GARBER: Outbound -- sorry. Harford Road left turns are A's?

THE WITNESS: Correct.

BY MR. SCHMIDT:

Q. Mr. Calogerri, anything else in terms of Exhibit 29? And obviously all of the pages that are attached are the data which are supporting those conclusions that you've testified about?

A. That is correct.

Q. Okay. Anything else?

A. Not on that exhibit.

MR. SCHMIDT: And I would offer, if I have it, Exhibit 29.

MR. HOLZER: No objection.

MR. GARBER: It wasn't previously admitted and now is.

MR. SCHMIDT: And now is.

(Protestant's Exhibit Number 29 was admitted into evidence.)

BY MR. SCHMIDT:

Q. Okay. I think, Mr. Calogerri, you did one other analysis as well; is that correct?

A. That is correct.

Q. And what was that all about?

A. Crashes. At the -- one of our last hearings, an exhibit was presented to us from the opposition, which stated the number of crashes, and then questions were asked of me for -- you know, to describe the exhibit or discuss the exhibit.

Q. And as I recall that was -- well, it speaks for itself. But it was a stretch of Harford Road and didn't have a detail as to where along that stretch of Harford Road the accidents that were summarized actually occurred, correct?

A. That is correct.

Q. I've marked as Exhibit Number 30 your summary, and if you could just tell us what you're showing here.

A. So Exhibit 30 Exhibit 3, Results of Highway Crash Summary. We obtained crashes, and the source we're using is Data.gov, and I presented the source below on Exhibit 3. So we obtained between

Hutschenreuter Road and Vista View Court a section of 1.1 miles. It should be Mount Vista Road.

MR. GARBER: Mount Vista?

THE WITNESS: Mount Vista and Glen Arm. Hold on. I'm sorry.

MR. GARBER: I'm going to say that this is of little good to know the crash between Hutschenreuter Road and Mount Vista Road or Vista View Court if that's what's applicable, without knowing where at least one of those roads come in at. Is there a map that we can actually see what that means for purposes of this case?

THE WITNESS: I can approximate on this plan.

MR. GARBER: Well, we have other exhibits that you can use.

MR. SCHMIDT: I'll tell you what. Let's -- I think what the exhibit -- let me get the exhibit number, but I think probably -- it's probably Exhibit 1 or 2. Let me get the exhibit list, Ms. Murphy. The aerial photo is Exhibit Number 2 --

MR. HOLZER: I'm not --

MR. SCHMIDT: -- and I think that's fairly

broad-ranging.

MR. GARBER: Mr. Holzer?

MR. HOLZER: I'm just trying to -- did someone say Hutschenreuter and Vista View was the wrong --

MR. GARBER: We're trying to assess whether it's supposed to be Mount Vista or Vista View. But it doesn't make any difference at the moment unless we know where the other road --

MR. HOLZER: Exactly. I just didn't want --

THE WITNESS: I said Vista View Court, and I apologize. I thought it went Mount Vista Road and maybe pulled some information, so if I could --

MR. SCHMIDT: For the record, I'm going to put Petitioner's Exhibit Number 2 on the board, tack that up.

MS. MURPHY: And Exhibit 3 does have -- I don't know how to say the first road.

MR. GARBER: Anyone? Hutschenreuter?

(Attendees responded "Hutschenreuter.")

MR. GARBER: Hutschenreutuer it is. So we can come to consensus. Thank you all.

MR. HOLZER: The question is where do the statistics come from, not whether we settle where Hutschenreuter is.

MR. GARBER: Well, first we need to know where this is or what this is referring to, and then we can get to the statistical part.

BY MR. SCHMIDT:

Q. Mr. Calogerri, I've put on the board Exhibit Number 2, and again, I think we'll call this north and south. I know it's been referred to different ways. Can you show to the north of the property or the northeast of the property where Vista View Court intersects Harford Road?

A. So the property on Exhibit 2 --

Q. 2.

A. -- is designated in purple. So about 800 feet to the north of the property line would be the intersection of the roundabout with Mount Vista Road and Glen Arm Road, and then about another thousand feet to the north is Vista View Court.

Q. So can you actually point to the intersection of

Vista View and Harford Road?

A. (Witness complied.)

Q. Okay. So that's the north side of where the accident data is from.

How about to the south?

A. South of the property about another 800 feet, 500 feet.

MR. GARBER: And I will note that, thank you to Ms. Murphy and Ms. Dopkin, on Exhibit 3 it does show both where Hutschenreuter Road and goes as far as Vista View Court.

MR. SCHMIDT: And they're both shown on Exhibit 2.

MR. GARBER: And they're both shown on Exhibit 2, and it is depicted on Exhibit 3.

Mr. Holzer, do you understand that?

MR. HOLZER: I understand it's now from Hutschenreuter Road to Vista View, which is passed around.

MR. SCHMIDT: Yes.

THE WITNESS: Correct.

MR. SCHMIDT: And the roads are also, Mr. Garber, they're labeled on Exhibit 2 as well.

MR. GARBER: Yes.

MR. SCHMIDT: The actual name of the road is printed on there.

MR. HOLZER: And is the 1.1 miles correct?

THE WITNESS: Yes.

BY MR. SCHMIDT:

Q. So that's a stretch of Harford Road that's a little over a mile?

A. Yes.

Q. All right. So now that we know where the accidents occurred in terms of the entire stretch, Mr. Calogerri, let me direction your attention back to Exhibit Number 30, and tell us, if you can explain, what the data is that's being shown there?

A. So the next four pages -- or the last four pages, what we -- going to Data.gov and pulling the actual physical accident data, we pulled years 2015, 2016, 2017, and the first quarter of 2018.

MR. GARBER: I assume that the second quarter is

not available --

THE WITNESS: Correct.

MR. GARBER: -- for 2018.

THE WITNESS: Correct, when we printed this, probably back in September, I would imagine.

So when we review accident data or try to obtain accident data, we go by obviously state, county route -- which is Route 147 -- and then we designate mile points.

MR. GARBER: One second.

THE WITNESS: So the mile log number, starting at -- I'm sorry. I missed when you guys were pronouncing the name correctly -- Hutschenreuter Road?

MR. GARBER: Hutschenreuter.

THE WITNESS: -- from H Road at -- was designated at log mile 7.5, and pulling data for, I guess, all four years to data point 8.62.

MR. GARBER: And that's how you came up with the 1.1 miles?

THE WITNESS: Yes.

BY MR. SCHMIDT:

Q. Now, these charts show the events in white, a light blue, and then a navy blue?

A. Correct.

Q. Is there some significance as to the shading?

A. There is. So the ones in the dark blue are in the area of Bonapart or occurred within the area of Bonapart Avenue or north and south around where the turns would be located.

Q. And that actually referenced road name shows Bonapart Avenue; is that correct?

A. That is correct. That is correct.

So then what we did on Exhibit 3 is we --

MR. GARBER: Exhibit 30, which is labeled.

THE WITNESS: Exhibit 30 Exhibit 3.

So on Exhibit 30 Exhibit 3, we listed the number of crashes in the area of Bonapart Avenue within 1,000 feet, so about 500 feet in each direction.

BY MR. SCHMIDT:

Q. So for example, of the twelve crashes, and let's just take 2015, Mr. Calogerri, the twelve reported accidents that occurred in that stretch, in that

1.1 mile stretch of highway that occurred in 2015, there were two of them at the proximity of this particular property? And when I say that, I mean Bonapart and the access drive?

A. That is correct.

Q. And other ones -- the other ten occurred obviously within that stretch of roadway, but not right here -- not in front of the access permit?

A. That is correct.

Q. Do you know just in terms of as a percentage or the numbers, do you have a sense of what the volumes of the roads? I mean, you have twelve crashes in 2015. How many cars were going up and down Harford Road in 2015?

A. Well, if we backtrack to Exhibit 29, Exhibit 29 on -- and, again, we'll use my high-rounded numbers. If you want to use low-rounded numbers, we can do that as well. For example, on Friday we have 5800 vehicles, so if we would project 5800 vehicles per day, per 365 days year, I think we're probably in the range of 2 million, I believe, that trips are -- about 2 million vehicles

that are traveling around this site in which we had two accidents in 2015, two in 2016, four in 2017, and two in the first quarter of 2018.

Q. As a traffic engineer, how would you characterize that? Is it an accident-prone intersection?

A. I would not consider this an accident-prone intersection. I would more review this as vehicles are traveling too fast for conditions. You know, we've shown in our previous, you know, exhibits that the majority of the people are traveling at near or close to the recommended speeds. In the southbound direction, though, they're traveling a little bit higher than the recommended speed of 30 miles per hour. They're more in the 38, 39 range. And these could be vehicles, outliers missing the turn, head-on collisions. But again, I would prevail that to higher speeds, in my opinion. But I don't have all the data to back that up.

MR. GARBER: The movement code associated with the four pages at issue in Exhibit 30 --

THE WITNESS: Yes.

MR. GARBER: So it refers to slowing or stopping, moving at constant speed, etc.

THE WITNESS: Correct.

MR. GARBER: Do you know how that data -- how that information is gathered?

THE WITNESS: So all of the these are entered in by a local authority. It could be the county police, it could be the state police. This is all the data that's obtained through Data.gov. My understanding is that the opposition obtained their data from -- I don't have it with me -- I do have it with me. I believe it was obtained from Baltimore County.

BY MR. SCHMIDT:

Q. This is the summary position that the opposition presented, correct?

A. Correct.

MR. SCHMIDT: Which I think is Exhibit --

MS. MURPHY: 10?

MR. SCHMIDT: Exhibit 10, yeah, which actually Ms. Murphy labeled in the exhibit list as Traffic Crashes, Baltimore County Police.

THE WITNESS: Correct. So this data was obtained from the local police. Again, this was obtained from Data.gov. There could be some overlap, there could be -- unfortunately, there's not a real good national database to capture every accident that may or may not have occurred here.

MR. SCHMIDT: And, of course, these are reported accidents as well.

THE WITNESS: Correct.

BY MR. SCHMIDT:

Q. Mr. Calogerri, the report also shows, just for example, it shows the time of the accident, correct?

A. Correct.

Q. So like, just on the first page, for example, in the 2015 crashes, the two of them that occurred here, one occurred at :26 minutes. It appears to be after midnight on Sunday morning or Saturday night, correct?

A. Yes, correct.

Q. Then the other one occurred at 11:37 on Friday night?

A. That is correct.

Q. And there's no indication on here of whether there was impaired driving or drunk driving or any of those kinds of issues that may have contributed to the accidents or may not have contributed to the accidents?

A. Correct. And those may be in the more full-scale detailed police reports there are multiple pages with notes. I believe they were going to charge per page or per accident if we were to obtain them through the county.

Q. Okay.

A. And what's important in these exhibits is, if we look at the crashes on from 2015 and 2017, the numerous ones at the intersection or close to the intersection of Glen Arm -- I'm sorry -- Harford Road at Glen Arm Road and Mount Vista Road -- and that's part of the reason why they installed a roundabout, due to that location.

So if there are accidents that will occur at the roundabout, they should be of lesser volumes, probably more property damage only than personal injury. So I know that's one of the reasons why the State Highway Administration made that change, just to help out with

the numerous accidents that were occurring at that location.

Q. And when you say "that change," installing the traffic circle?

A. Correct.

Q. Roundabout?

A. Correct.

Q. Anything else on that exhibit, Mr. Calogerri? Any other point?

A. No.

MR SCHMIDT: I would offer that as Petitioner's Exhibit No. 30, Mr. Garber.

MR. HOLZER: No objection.

MR. GARBER: So admitted.

(Petitioner's Exhibit Number 30 was admitted into evidence.)

MR. SCHMIDT: That's all the questions I have of Mr. Calogerri.

MR. GARBER: Mr. Holzer, would you like a couple of minutes?

MR. HOLZER: I certainly would since I've just

seen all these documents for the first time. Thank you.

MR. GARBER: What would you need?

MR. HOLZER: 10 or 15 minutes.

MR. GARBER: So why don't we make it 11:00. Will that --

MR. HOLZER: That will be fine.

MR. GARBER: Okay.

MR. HOLZER: Oh, can we set up the video?

MR. GARBER: Actually, I would prefer that you do that now as well.

(Whereupon, a discussion was held off the record.)

(Whereupon, there was a brief recess, 10:49 a.m. - 11:10 a.m.)

MR. GARBER: Please be seated.

All right. Was that sufficient time to get situated with the video that's to come? Madam Court Reporter, are you fine?

THE COURT REPORTER: Yes, sir.

MR. GARBER: Everything's good? We're all set up? Okay.

Mr. Holzer, you have floor for cross-examination.

MR. HOLZER: Thank you.

CROSS-EXAMINATION BY MR. HOLZER

Q. Mr. Calogerri, why didn't you do this analysis in your original direct testimony during the earlier testimony that was provided in your direct?

A. I didn't believe it was necessary to do so earlier due to the -- its being outside of the development area.

Q. I understood that until you were questioned by Board Member Murphy, in which she asked you some significant 502.1 criteria which you couldn't address; is that correct?

A. I believe I addressed it. Maybe not to -- I addressed it, but not to someone's liking.

Q. Well, I don't even think it was to her liking. I think it wasn't there. So now this testimony this morning has been as a result of your taking, since the last hearing date, which was --

MR. CLARK: The 11th.

MR. HOLZER: No, today's the 11th.

MS. MURPHY: September 12th.

BY MR. HOLZER:

Q. -- September 12th. So you've had basically one month to prepare this testimony; is that correct?

A. Yes.

Q. And you've given me 15 minutes to review it and be ready to cross-examine you; is that correct?

A. Yes.

MR. HOLZER: Okay. So I'm going to ask the Board for some consideration as a result of me being handed all these documents as they were presented during the course.

MR. GARBER: I will say yes, of course, there is some leeway granted.

MR. HOLZER: Thank you.

MR. GARBER: But, I mean, in the normal -- in any type of any other hearing, sometimes this does occur with regularity here; that is we get extra reports or during the course of the hearing we have to adapt on the fly.

MR. HOLZER: Understood.
MR. GARBER: But yes, there is a lot of information contained in these exhibits.
MR. HOLZER: I've been doing this far too long.
MR. SCHMIDT: And I don't even know who Mr. Holzer's witnesses are going to be, so we all --
MR. HOLZER: I know. You know, that's part of the fun of this hearing.
MR. SCHMIDT: Trial by ambush, we call it.
MR. GARBER: Okay. We can --
MR. HOLZER: So now that I've had my speech, let me ask my question.
MR. GARBER: Well, let's pause for one second. I believe that we have something else here.
MR SCHMIDT: Yeah. Mr. Holzer --
MR. HOLZER: Right.
MR. SCHMIDT: -- I just had the attachment to the Deprom letter with the --
MR. GARBER: This is 25. This is the attachments.
MR. SCHMIDT: -- The attachment we were

referring to.

Do you want me to make that another exhibit or A and B? Or how do you want to do it, Ms. Murphy?

MR. HOLZER: Why don't just leave it the same and just attach it --

MR. GARBER: Attach it?

MR. HOLZER: -- to what's already marked?

MR. GARBER: That's fine.

MR. HOLZER: That's acceptable to me.

MS. MURPHY: That's a good suggestion.

MR. GARBER: It's not in evidence yet until this comes in anyway, so that's fine.

MR. HOLZER: Correct.

MR. SCHMIDT: Just for the record, I asked my office to call Ms. Lowery, who signed the letter, and asked her to email the attachments. And my paralegal said she got this email from Ms. Lowery, and this is the attachment to the letter -- four copies of it.

MR. GARBER: Thank you, Mr. Schmidt.

MR. HOLZER: And I have no objection.

MR. SCHMIDT: I gave Mr. Holzer a copy of it.

MR. GARBER: Exhibit 25 will be admitted.

And I paused it in the event you need it for the course of this examination. So you may continue.

(Protestant's Exhibit Number 25 was admitted into evidence.)

MR. HOLZER: I can't use it because it's not related to this witness, and they didn't present any other witnesses except for September 12th, and today's October 11th.

MR. GARBER: Okay. So on with your cross-examination. I'm sorry.

BY MR. HOLZER:

Q. Now, is it fair to say that, in none of your analysis to date, was any growth factor considered? In other words, based upon your testimony, everything that's been presented in these exhibits this morning, all relate to current traffic counts or past traffic counts, etc.; is that right?

A. Current traffic counts plus pursued [sic] growth from the site.

Q. Presumed --

A. Presumed growth.
Q. From the south?
A. Site.
Q. Oh, from the site.
A. From the site.
Q. How did you arrive at the growth from the site?
A. Based on my understanding of the operations.
Q. Which are in terms of traffic?
A. Correct, which was what I previously testified to.
Q. Okay.
A. So I assumed 20 trips, which I believed would be on a higher side during the evening peak hour between 5:00 and 6:00, and assumed that would be coming from 50 percent north and 50 percent south.
Q. So 20 trips daily, Monday through Sunday?
A. I assumed, for purposes of this analysis, between the evening peak hour, which we determined was 5:00 to 6:00 p.m. on October 1st. I assumed 20 trips, 10 inbound and 10 outbound.
Q. Okay. And was that for every day, Monday

through Sunday?

A. It can be.

Q. When you say "it can be" --

A. I mean, well --

Q. -- is that what your --

MR. GARBER: One at a time, please.

Mr. Holzer --

BY MR. HOLZER:

Q. Is that what your client told you insofar as the amount of traffic?

A. I'm going to go back to my previous letter. I'm not sure which exhibit. It's the letter prepared by me January 10, 2018.

MR. GARBER: I'm sorry?

THE WITNESS: I'm going to refer to the previous letter, January 10, 2018. I don't see the exhibit number. Do we have the exhibit number?

MS. MURPHY: No.

BY MR. HOLZER:

Q. Did we already talk about that last time?

A. I thought we did, yeah.

Q. Yes, and I remember that that's what you said in terms of that letter.

A. If you're going to refer to it, I just want to make sure they have it. That's all.

Q. Well, my question is does that letter reflect what you were told about the amount of traffic, the amount of the visitors that would be on the site?

A. Based on our understanding of this temple, there will be less than 20 people coming to the temple on weekdays and less than 100 people coming on weekends.

MR. GARBER: If I can, Protestant's Exhibit 8 you're referring to, a letter dated January 10, 2018?

THE WITNESS: Yes.

MR. SCHMIDT: That's correct.

MS. MURPHY: That was the Protestant's exhibit.

MR. GARBER: Yes.

MR SCHMIDT: It was. I think it came in through Mr. Holzer's cross-examination.

THE WITNESS: That's why I'm familiar with it.

MS. MURPHY: That's why I couldn't find it.

BY MR. HOLZER:

Q. And was there anything in that document that accounted for festivals, etc., get-togethers, fundraisers, or whatever?

A. No.

Q. Have you done anything since that time to determine more accurately the amount of traffic that will flow into this site if it's approved?

A. No.

Q. So then I can fairly say that as a result the amount of extra traffic that would be generated by perhaps five or seven events per year, which could include fundraisers, which could include religious festivals -- none of that was counted in your calculation?

A. Correct. And I believe we talked about this numerous times, that the majority of the time, we don't anticipate -- we don't review those types of extraordinary conditions.

Q. Yes, you're right. You absolutely did say that. And I said to you, "Well, you don't count, like Christmas services for Christians" --

A. Correct.

Q. -- "and you don't count Jewish high holidays. You don't count that in your traffic analysis," correct?

A. Yes.

Q. Okay. So we're on the same page there?

A. Correct.

Q. I'm going to have to work backwards because --

A. Sure.

Q. -- you've provided so much material.

In looking at Petitioner's 30, first of all, you used the Data.gov. Now, does that have traffic analysis from all over the country?

A. It has data from all over the country.

Q. Right.

A. That's my understanding.

Q. Right. And you are familiar that we introduced the Baltimore County Police Crash Unit report; is that correct?

A. That is correct.

Q. And they differ.

A. Correct.

Q. These differ?

A. Correct.

Q. Which was the more favorable to the Protestants? The Baltimore County Police Crash Unit report or the report that you got from Data.gov?

A. What I can tell you is the data that was produced by the Protestant is very limited, where it does not give details of the exact location. This crash --

Q. But it does exceed -- it does exceed the numbers that you found here; is that correct?

A. I don't know where the accidents occurred, whereas my data gets down to the exact mile point of the location.

Q. I understand. But you didn't answer my question. My question simply was does the Baltimore County police report show more accidents in what they describe as their area versus what Data.gov shows?

MR. GARBER: Out of fairness, would it make sense to show him that exhibit so he can compare the two?

MR SCHMIDT: I think he's got it.

MR. HOLZER: He's got it.

MR. GARBER: Do you have it in front of you?

MR. HOLZER: He's in better shape than I am. I don't have them.

THE WITNESS: Yes.

In 2016 -- yes. In 2016 we show 4, you show 11.

BY MR. HOLZER:

Q. Okay.

A. In 2017 you show 23, we show 13. And 2018 year-to-date you show 7. 2018, quarter one, we show 8.

Q. Okay.

MR. GARBER: And if I can, just by way of reference, that is Protestant's Exhibit 10 for the record.

MR. HOLZER: Protestant's 10 for the record.

BY MR. HOLZER:

Q. Now that we've -- I'm sorry. I didn't ask you a question yet.

A. I was -- well, you were asking me about accidents, and --

Q. I was just asking you for the numbers.

A. -- you were asking me about --

MR. GARBER: Please one at a time.

Q. I just asked you for the numbers, and you've given the numbers.

MR. GARBER: Mr. Calogerri, there's no question pending at the moment.

THE WITNESS: Sorry.

BY MR. HOLZER:

Q. Now, let me go into your Exhibit 30. And I appreciate the fact that you highlighted the Bonapart Avenue accidents in the darker blue, and if you look at 2015, there were only two single-vehicle accidents, correct?

A. Correct.

Q. And that was right at the Bonapart Avenue, which we've been talking about all day, right?

A. One was designated as at the intersection of Bonapart, and one was 250 feet north of Bonapart.

Q. And it was on a -- one was on a Sunday, and one was on a Friday?

A. Yes.

Q. Okay. Two -- 2016 again, we have just two accidents in this limited area of analysis. And those occurred -- one was on a wet highway or wet road, and one was on a dry road, and they were both -- well, the first one was a sideswipe. Two vehicles sideswiped each other; is that right?

A. Yes.

Q. Moving to 2017, according to your calculations and your figures, there are four accidents at that intersection or at that area?

A. Yes.

MR. GARBER: Hold on one second, please.

MR. SCHMIDT: Please turn off the phone.

MR. GARBER: I need to remind everybody please turn off the phones. This is a court. Thank you.

MR. HOLZER: Thank you.

BY MR. HOLZER:

Q. So in 2017, when your clients started using the Bonapart property, we go from two to four in that 2017 era; is that right?

A. I don't know when they started using the property.

Q. You don't know that?

A. I do not know that.

Q. Okay. Let's look at the five accidents. The first accident --

A. Four accidents.

Q. I'm sorry. The four accidents that are in dark blue: Head-on collision on a dry day apparently. Does your analysis show what, if anything, occurred in that head-on accident?

A. No, except that it was a head-on accident that occurred on Saturday at 1838, which is 10:30 in the evening.

Q. Right.

MR. GARBER: 6:30.

Q. 12 from 18, as an old military person.

A. Excuse me. 6:30 on a Saturday evening, 40 feet south of the intersection.

Q. So that's closer to where the entrance of the property was located at the time?

A. Again, it depends on where the person takes the measurement, but I would assume yes.

Q. Yeah. The second -- what you have here is the third accident was a rear-ender on dry conditions, right?

A. Correct.

Q. Fourth, Number 4, another head-on in dry conditions, correct?

A. Correct.

Q. Does it say where that was in terms of the Bonapart Avenue intersection?

A. It does. 0.1 mile south at 9:00 a.m. on Monday, the 25th.

Q. So on a Monday morning at 9:00 in the morning, there was a head-on accident. Would that be right where the access to your client's property is?

A. No. It's 500 feet south.

MR. GARBER: What is 500 feet south?

THE WITNESS: The accident, according to this document, or according to how it was coded, it's 0.1 mile south, which 0.1 mile is 528 feet.

MR. GARBER: I was just clarifying your use of the word "that."

MR. HOLZER: Yeah.

THE WITNESS: The what word?

MR. GARBER: Your use of the word "that" -- what you were referring.

THE WITNESS: So 528 feet south is actually.

BY MR. HOLZER:

Q. Would you point it out on your exhibit marked 26?

A. It would approximately be in 26, in the G to H area.

Q. Right on the curve, coming from the south to the north, before you would get completely around it, to your property?

A. Right.

Q. That you're referring. Okay.

There was only one accident, a single vehicle on a snowy day apparently; is that right?

A. Yes.

Q. It does appear that there are more head-on

accidents during 2017 than any other year and also closer to the entrance that we've been discussing of your client, correct?

A. There was one head-on in 2016, two head-ons in 2017, and one head-on in 2018.

Q. Okay. And in 2018 where was that head-on?

A. 250 feet south of Bonapart Avenue.

Q. Which put that where? Half of where you pointed before?

A. Correct. That would be around -- let's call it Point D, in the general area of Point D of Exhibit 26.

Q. Exhibit 26, yeah.

A. Exhibit 26.

Q. Yeah.

MR. GARBER: I do know that it's not coded as a "head-on." It's coded as "opposite direction both LT."

BY MR. HOLZER:

Q. What does that mean?

A. My guess would be without detail would be two vehicles may both be turning left. Again, I'm taking a guess where -- I mean, it almost -- it's hard to --

because this isn't 200 -- maybe a vehicle turning left here, but a vehicle turning left here. It could be a vehicle turning left here and vehicle turning left here.

But again, it's coded as 250 feet away from the intersection, which brings us down here.

Q. Right.

A. So it's very limited information to determine.

Q. The statistics for the Data at dot gov -- how current is that? I mean, does it cover yesterday, or does it only cover the beginning of the month, or do you know?

A. I'm not a hundred percent sure.

MR. GARBER: I think it was established on Direct that it's at least by quarter and that the second quarter was not available at the time of printing.

THE WITNESS: I said that previously, but I don't know if it's -- how recent. It could be today.

MR. HOLZER: Right.

THE WITNESS: I don't know if today it's up to date.

MR. HOLZER: Right.

MR. GARBER: Just to clarify what had been said before.

MR. HOLZER: Right. Thank you.

THE WITNESS: Sorry.

MR. HOLZER: I'm working backwards.

MR. GARBER: That's quite all right.

BY MR. HOLZER:

Q. Let's look at Petitioner's 29, which is your capacity.

A. Yes.

Q. I understand the analysis that you've gone through on direct and with the Board. When you look at the bottom of Exhibit 1 and put data in the analysis, is that -- are those just standard things, like the shoulder width, the highway class, the terrain, etc.? Are those universal figures that you've just pulled out of a manual and plugged into this analysis?

A. Based on the characteristics of this road, yes.

Q. Now, this road -- this characteristic is rolling. When you look at 500 feet or 600 feet south of Bonapart Road and 600 feet north of it, would you call

that, what is shown on your Exhibit 26, would you call that "normal" or "standard" road?

A. I mean, I believe it is a normal standard road.

Q. You don't think that, understand the circumstances of Harford Road as a whole, that this sharp right turn and sharp left turn is not unusual for Harford Road or unusual in another way? It's certainly not a rolling road. It has a distinct characteristic, does it not?

MR. SCHMIDT: Just objection to the extent that he said "Harford Road," which is Maryland Route 147, which goes miles and miles, so I don't know what the comparison is.

MR. GARBER: Also on Exhibit 26, Mr. Holzer was referring to the first, that if you're heading northbound, that would be on the left side of Exhibit 26, and then the "second bend," as he put it, would be on the right side of it. And that's what I understood him referencing Harford Road for, not obviously stretches north or south of those points.

MR. HOLZER: Exactly.

BY MR. HOLZER:

Q. In other words, I mean, we don't have to be a lawyer to understand that this is an unusual curvature of the road, and to classify that as "rolling," may not be descriptive of what that area is on Petitioner's 26.

A. I'm not sure what you're using as the definition of "rolling."

Q. I'm not sure because it's your use of it.

A. Okay.

Q. You used "rolling."

A. Correct.

Q. Does that mean vertical? Does that mean back and forth? Sideways? What does "rolling" mean, and how can you -- how can you do an analysis of this site as a general rolling road?

A. Generally speaking, I would not consider this more of a two-lane highway type of road, where it's straight for numerous miles, can travel at high speeds, where you're not expecting to have access points and driveways and things of that nature.

This type of road does have some rolling

terrain, vertical differences, horizontal changes, access points, low shoulders -- which really doesn't affect the rolling portion it. But it is -- I believe people are expecting to see this type of road, especially to the south. There are -- I know there's a 35-mile-per-hour section south of this, you know, significantly, with some significant turns and curves.

MR. GARBER: Well, Mr. Calogerri, we were just -- we were just narrowing the focus of the Harford Road to the stretch that's on Petitioner's Exhibit 26.

THE WITNESS: Okay.

MR. GARBER: So if it goes to 35 at some other point beyond what's depicted in Exhibit 26, that didn't factor into Exhibit -- well, what has been Exhibit 29, but Exhibit 1 on 29, correct?

THE WITNESS: But what I'm saying is the road is characterized, basically north and south, as a rolling road. You don't -- a lot of times you don't take a snippet of a 10-mile stretch of road and say, you know -- we could have 10-mile stretch of road and say, okay, this 500 feet acts as an interstate highway that

you can travel 60 miles an hour. You're ana lysing the entire section. So we designated the -- we designated Harford Road as a "rolling road."

MR. GARBER: So that's not a subjective term; that's something that you took from some source?

THE WITNESS: From the Highway Capacity Manual.

MR. GARBER: And to the best of your ability, you've matched what you believe the road was to a definition?

THE WITNESS: Correct, and I don't have those definitions handy.

BY MR. HOLZER:

Q. Yeah. No, the chairman has articulated it better than I have. In other words, what you've done is you've taken a generality in terms of a quote, "rolling road," and you've made certain assumptions based on that analysis; and yet this case is focused on whether this entrance and this section of the road shown on Petitioner's 26 has a negative impact on the health, safety, and welfare of the community. So all of your calculations in these figures of capacity and so forth

may not be correct when it comes to just this section of the road.

MR SCHMIDT: Just objection as to the speech. I mean, it's argument. It's not a -- there's not a question yet.

MR. HOLZER: I let you ask leading questions so we could get through this, so at least let me ask one or two leading questions.

MR. GARBER: Well, you're on cross-examination, so you actually have more of an ability.

MR. HOLZER: I understand.

MR. GARBER: Madam Court Reporter, could you please repeat back that question?

THE COURT REPORTER: Yes.

MR. GARBER: Thank you.

MR. HOLZER: Instead of doing that, Your Honor, let me -- I'll just ask another question.

MR. GARBER: You don't need to do that, then, Madam Court Reporter. Mr. Holzer has indicated he will move on.

MR. HOLZER: Yeah, you don't have to find it.

MR. GARBER: Thank you, Madam Court Reporter.

So Mr. Holzer, you're going to move on from that particular question.

MR. HOLZER: Yes.

BY MR. HOLZER:

Q. So would you agree with me, as a reasonable person and an expert, that this is a unique section of the road in this area -- the right and left turn, sharp, with proposed or suggested lower speed limit, and with the situation of where the entrance to the subject property is located? Isn't that unique?

A. Unique how?

Q. Unique in that you have two sharp right turns and a sharp left turn; unique that it's hilly, extremely hilly; unique that you have a single-family house that enters near where the Bonapart Road is. And that provides you, as a traffic engineer, a very difficult analysis from which you've produced Petitioner's 26, because the State Highway asked you to. It's real simple.

A. I mean, but again, unique as to --

Q. The road.

A. There's other sections similar to this along Harford Road itself; there's other places that have similarities. So again, I'm not sure what you're driving at with the term "unique." This is -- this is not an atypical section. These are -- you know, it's a area where it's signed, it's in area where these signs are used across the state of Maryland to designate turns in the road. And it's an area where, like you said, we designed it in accordance with the State Highway Administration recommendations, who are in control of this road, and we've designed it to those standards.

Q. Okay. In terms of your capacity analysis, have you ever been on the site when your client is having an event there which exceeds what they told you about the 20 trips per day?

A. No.

Q. So you've never seen a festival going on, you've never seen a religious get-together going on, you've never seen a fundraiser on the property going on?

A. No.

Q. So all of your analysis and testimony today is based on documentation of the State Highway Administration, etc., but including your traffic counts when you went out and put down the tubes?

A. Repeat one more time because you used the word "et cetera." I don't know what you mean by "et cetera."

Q. Everything that you are testifying to in these exhibits, in these documents, relate to general public documents as to capacity, as to turning movements, as to those aspects that you've talked about except for your information relative to your tubes that were placed to get the traffic counts. That's something that you've done over and above obtaining documentation from State Highway Administration?

A. The only items we've obtained from the State Highway Administration were the parameters to design the access. So we did the data collection, the trip generation, the trip distribution with these documents, and capacity analyses, the crash history, the speed study.

Q. That was all done by you in terms of your

obtaining the documentation, or was it documentation in regard to the average daily trips? Was it the critical end? You used state documentation and/or Baltimore County, as well, documentation, did you not, to create your opinion?

A. No.

Q. Okay. So all of your opinion is based on your putting down the two tubes which gathered information?

A. Which opinion?

Q. Your opinion that everything was okay for you to approve the --

A. I didn't approve anything.

Q. I didn't say you did.

MR. GARBER: Hold on. Let's do this one a time. Mr. Holzer, you're referring to Petitioner's Exhibit 26, correct?

MR. HOLZER: Yes.

MR. GARBER: Okay. So your opinion as to Exhibit 26, that this is satisfactory for purposes of -- let me ask this -- I don't want to put words in anyone's mouth.

What is your -- with respect to Petitioner's 26, what is it that you are trying to illustrate or give an opinion about?

THE WITNESS: Well, I mean, my opinion is the State Highway Administration approved this concept plan.

MR. GARBER: Right.

THE WITNESS: So it's the State Highway's decision to determine if this is an acceptable access. They gave us the parameters to design the access; we designed the access to those parameters; we provided it to them; they provided the approval letter, which was -- Exhibit 27?

MR. GARBER: Well, here's what it is: The point of it is there's nothing that the SHA did that you disagree with that says, "No, this makes it unsafe," correct?

THE WITNESS: Correct. And then I -- then I used my data to confirm their parameters.

MR. HOLZER: I'm fine. He hasn't answered the question, and I'll ask it later in another way.

MR. GARBER: Okay.

BY MR. HOLZER:

Q. Insofar as the capacity analysis that you did, was that based solely on the tubes that your company put down to count the amount of traffic going up and down 147?

A. Yes.

Q. You used nothing else from which to then analyze that amount of traffic compared to what's acceptable, or did you?

A. Repeat, please. You're saying "to acceptable." Acceptable to what?

Q. You did say that the calculations, the traffic counts, were consistent with something that was okay or acceptable based upon --

A. There's plenty of -- I said there was plenty of capacity based on the conditions today.

Q. How do you know that?

A. In the worst case we're at 31 percent capacity. That's how I know that.

Q. Because you utilized State Highway or transportation analyses of what would be acceptable for

Harford Road, correct?

A. I used the Highway Capacity Manual to determine --

Q. Yes. Who puts that out? Who puts that out?

A. It's a national guideline. It's a national; it's not the State Highway Administration.

Q. Okay. So in order for you to fit these figures of 532 volume on the Wednesday a.m. peak hour, you came up with by using your tubes to count the cars, and then you compared that with what the federal -- or the national analysis says is acceptable?

A. Correct.

Q. Yeah, okay. So would it change your analysis if, for instance, you hadn't used the "rolling road" definition, but you had used some other definition --

A. No.

Q. -- such as "extremely left and right turns"?

MR. GARBER: One at a time, please.

THE WITNESS: He paused for 8 long seconds.

MR. GARBER: I understand.

THE WITNESS: No.

BY MR. HOLZER:

Q. You wouldn't change your mind?

A. No. There is still plenty of capacity available on this roadway.

Q. Why did all of a sudden the State Highway -- and you touched on this in your direct -- why did all of a sudden the State Highway Administration decide, because of the number of accidents on this road, that they needed to put a roundabout in?

A. That's the State Highway's call, not my call.

Q. But you're a traffic expert. You sure can tell me what you think.

A. Okay. So my opinion is that you had an intersection that was not what perfectly aligned.

MR. GARBER: Hold on. Now we need to discuss what intersection you're referring to.

THE WITNESS: I'm sorry. The intersection of 147 at Glen Arm and Mount Vista Road.

BY MR. HOLZER:

Q. Right.

A. It's my understanding that the State Highway

Administration conducted studies in 2009. I do not have that information, so I can only give you my insights as to what I believe, and it does not have any bearing since the State Highway Administration did not share all the details. However, I would imagine that -- we have produced, based on our accidents, a lot of accidents at that location. I do not know the accident history at the intersection of 147, Glen Arm, and Mount Vista.

But again, if they did a three-year study, it would have been from 2006 to 2009. Looking at traffic volumes, the skew of the intersection, it may have warranted a traffic signal, but they decided, based on the accidents, to install a roundabout.

Q. Okay. And based on the accidents, would they have analyzed the accidents further south on Harford Road?

A. I don't know that.

Q. Isn't it true that the State Highway Administration would not let anybody get that information?

A. I don't know.

MR. GARBER: Which information?
MR. HOLZER: The information that he just said he couldn't get.
MR. GARBER: The accident?
MR. HOLZER: Yes.
MR. GARBER: South of where the roundabout is.
MR. HOLZER: No. The reason why they put a roundabout in versus --
MR. GARBER: Their decision-making as to why they did the roundabout at the Glen Arm-Mount Vista-Harford Road location.
MR. HOLZER: Correct.
You don't have to say anything.
THE WITNESS: Okay.
MR. HOLZER: It's already been addressed on that point. I'm trying to get through these documents as quickly as I can.
BY MR. HOLZER:
Q. The speeds -- I appreciate your being candid about the speed on 147 in the northbound direction. I kept asking you last time "isn't it 50 miles," and you

said no, you felt it was what? 45?

A. Again, 45 based on the old --

Q. Right.

A. -- I guess the old parameter, that it's supposed to be the same in both directions.

Q. Right. Now, in the year 2016, Baltimore County put out a highway location reference for all intersections, and I was just having fun, reading through this the other day. And on page 153 the speed limit on the northbound is 50 miles per hour, which is exactly what you've now acknowledged, right?

A. (Witness indicates.)

Q. So somebody coming northbound on Harford Road could hit this first turn on the left-hand side of Exhibit 1, could hit that going 50 miles per hour, right?

A. Good luck to them.

Q. I'm sorry?

A. Good luck to them.

Q. Okay. You think good luck to them, but they could do it, couldn't they?

A. The data shows they're not doing it.

Q. Okay. That's your final answer?

MR. SCHMIDT: Well, that's the only question you asked, so he --

MR. HOLZER: No.

MR. SCHMIDT: -- he might have another --

MR. HOLZER: We haven't started our case, you understand.

THE WITNESS: Right. I'm going off of -- again, I think we talked about Exhibit 28.

MR. GARBER: Exhibit 28. That's right.

THE WITNESS: Page 7, the first page 7, titled Maryland 147 Northbound, South of Bonapart Avenue --

MR. GARBER: The one designated as page 7. It's actually page 8 of Exhibit 29.

THE WITNESS: Yes.

MR. GARBER: Maryland 147 Northbound, South of Bonapart Avenue.

I mean, is the ultimate question: Can anyone take that turn going 50 or above?

MR. HOLZER: No.

MR. GARBER: The data would reflect that, at least within the time frame recorded, whether someone did or did not, right?

MR. HOLZER: Yeah. The time frame that they recorded it, which was, I think, five or six days at a certain time frame, indicate that they average 34 miles -- or 31 miles an hour up there. But that doesn't say for the rest of the year, for the other 51 weeks. People driving that road going north could see 50 miles an hour and take that turn.

THE WITNESS: So based on the data we collected for 16,390 vehicles over a one-week time period.

MR. HOLZER: Right.

THE WITNESS: And let me say this as an aside. When the State Highway Administration or other people conduct these types of speed studies, they look at a hundred cars. We looked at 16,390 vehicles in the northbound direction in which we had one car traveling on a daily basis between 46 and 50 miles per hour.

BY MR. HOLZER:

Q. Where did that car come from, and who was it?

A. Mario Andretti.

(Attendees laugh.)

MR. GARBER: All right. Let's --

BY MR. HOLZER:

Q. You just made my point.

A. Okay. And again, when the State Highway Administration designs its roads, they're designing it for the normal driver. There are people who can drive aggressively, yes, but today, consistently, there's 16,389 people out of 16,390 who are traveling it at 46 miles per hour or less --

Q. What about --

A. -- which is a very good percentage.

Q. I'm sorry. What about your clients? They have people from different jurisdictions, different states, maybe even different countries. Do you think that that's fair to them, to suggest that oh, because all the locals know not to drive 50 miles an hour up that road, that they're supposed to know that?

A. These are --

MR. SCHMIDT: Objection. That's not relevant to

the case. Who knows where the people of the 16,000 cars, whether they are from here or not.

Mr. Caloggeri doesn't --

MR. GARBER: I will say this --

MR. SCHMIDT: It says "speculative."

MR. GARBER: -- I would agree. The question is, as I recall was "Is it fair to them?"

MR. HOLZER: Yes.

MR. GARBER: The road is signed as it's signed, and the fairness of it is not really part of this case. But if you're asking could someone not pay attention to the signs, pay attention to the signs, not realize or recognize the conditions of the roadway, of course, anything is possible.

MR. HOLZER: That's true. I accept that answer.

THE WITNESS: Can I further answer, please?

MR. GARBER: The question is --

MR. HOLZER: I'll ask him another question.

MR. GARBER: That's fine.

BY MR. HOLZER:

Q. The speed limit going south --

MR. GARBER: If Mr. Schmidt wants to ask you a question about that, Mr. Schmidt will. Mr. Holzer has another question now.

THE WITNESS: Okay.

BY MR. HOLZER

Q. The speed limit is 45 miles an hour, right?

A. Correct.

Q. Going south. So that's what it also -- the state, Baltimore County presentation says that, and this was available before the last hearing.

Now, let me go back to -- is it fair to say that a lot of assumptions go into your ultimate conclusion about whether this road is safe or not safe or safe under certain conditions?

A. Professional engineering judgments.

Q. So is that another way of saying assumptions?

A. Professional engineering judgment based on the -- based on national guidelines.

Q. Okay. Exhibit 28 -- you said that it was from Thursday, September 26th to Thursday, October 2nd or maybe the 3rd, right?

A. Correct.

Q. Do you know whether your client had any festivals during that time frame?

A. I do not.

Q. Well, you were out there, so if they would have had a festival, you would have seen it, would you not? Because you were on site?

A. The way these are conducted, we have our technicians place the tubes out on the road at the very beginning and then pick them up at the very end.

Q. So you weren't out there at any time between these two dates of the 26th and the 2nd?

A. I drove through maybe once or twice. My technician drove there more than once to check the conditions, that the tubes were still on the ground.

Q. And then the tube had a problem on October 3rd?

A. I believe. Again, I don't know the exact problem, but something happened on October 2nd that stopped that count short.

Q. And the only thing that I wanted to ask you is the 95th percentile speed, that can also be a legitimate

percentile that you would consider, right?

A. Typically the State Highway Administration considers the --

Q. 85.

A. -- 85th percentile speeds.

Q. Right.

A. And that goes into that they're assuming that 15 percent of the people may be driving at higher speeds, so they look at the 85th percentile.

I brought into the 95 percentile because 95 percent of the people are driving below the recommended speeds of the State Highway Administration requested for the design.

Q. So even the State Highway Administration knows that they posted this speed limit for 50 miles going north and 45 going south, and yet they realize that there is a percentage of 15 percent of people that are going to exceed that?

MR SCHMIDT: Objection. It's not -- the 15 percent is exceeding the 34 and the 31 percent [sic], not the speed limit.

MR. GARBER: I understood Mr. Holzer's question is the State Highway Administration looks at the 85th percentile, whatever the speed limit is on whatever road.

MR. HOLZER: Right.

MR. GARBER: And then calculates the 95th percent because -- not because there are people, in fact, doing it, but there is an estimated number built into the percentages.

MR. SCHMIDT: No. But what I'm saying, Mr. Garber -- and I just want to make sure I understand Mr. Holzer's question -- the 85th is based on the speed that he measured, not the speed limit. As I understood Mr. Holzer's question, he was saying that 15 percent are going faster than the speed limit. It's 15 percent are going --

MR. GARBER: I see.

MR. SCHMIDT: -- faster than the limit or the actual speed that Mr. Calogerri -- maybe the witness can clarify.

MR. GARBER: Yes, and that's what I was going to

suggest.

Mr. Calogerri, can you please shed light as to what it means by the 85th percentile speed. Is it measured by the speed limit or by the actual speeds recorded?

THE WITNESS: The actual speeds recorded.

MR. SCHMIDT: So in the one case it's 15 percent are going faster than 31, and 15 percent are going faster than 34 miles per hour.

THE WITNESS: 15 percent were going faster than 31, and 5 percent were going faster than 34.

MR. SCHMIDT: That's northbound.

THE WITNESS: That's correct.

BY MR. HOLZER:

Q. How can you say that? Because 15 --

A. The data says it.

Q. -- 15 percent are -- oh, you're saying that 15 percent exceed 31?

A. Yes.

MR. SCHMIDT: And 5 percent exceed 34.

Q. And so 5 percent --

MR. GARBER: I think we're on the same page now.

MR. HOLZER: Yeah.

MR. SCHMIDT: It's not the speed limit; it's the speed; it's the recorded.

MR. HOLZER: I knew it was not the speed limit.

MR. GARBER: Thank you for that clarification.

MR. HOLZER: Yeah, I knew it was not the speed limit, but I was trying to calculate how many people could be going the speed limit, which was 50 miles per hour.

BY MR. HOLZER:

Q. So in those percentages, some people could be going 50 miles per hour around those turns and they're not violating any law and they're simply not the majority of people, correct?

A. Yeah.

Q. Yeah. Okay. I have a bunch of questions, but I don't need them now.

Now, as far as -- let's go back to 126 and 127.

MR. GARBER: Well, Petitioner's 26 -- Exhibits 26 and 27.

Q. 26 and 27. You -- this document -- this letter from MDT is nothing more than a letter that says what you've proposed on Exhibit 26 is we will consider it in granting an access permit; is that right?

A. (As read): The SHA grants as depicted on the concept plans.

Q. I see that in the second paragraph, but it then says: An access permit will be required to construct this relocated entrance and all access-related improvements taking place within MDOT State Highway Administration right-of-way on Maryland 147. That means they are going to analyze this again before making a final approvement and issuing an access permit, correct?

A. No.

Q. No?

A. You said "analyze." They are going to -- if the concept plan is approved and we're going to design it accordingly and submit it to the State Highway Administration for them to review the construction documents, and then when they're comfortable with the design, the final design, that's when we apply for our

access permit.

Q. Okay. So in other words, all this says is conceptually what you've drawn up there looks okay to us, but we have a lot of things to go through, and you have a lot to show before we actually issue the access permit, right?

A. We have to show the construction documents.

Q. What about -- it says: All must be followed when preparing the above plan submitted, including but not limited to -- and then it lists four different documents. Doesn't that mean that you're going to have to comply with State Highway standards, policies, and specs?

A. To get an access permit, yes.

Q. Yeah. Okay. So this is not a done deal within that respect until the access permit is issued, correct?

A. What is not a done deal?

Q. The fact that you're going to have this entranceway moved, the fact that the sight distances are confirmed, the fact that the vegetation has to be taken down, and the fact that there has to be a modification

of 147 in terms of changing or moving the width and the location of the road?

A. The facts are the State Highway Administration has conceptually approved this drawing, and then we need to prepare the construction documents for them to approve for us to construct this access.

Q. Okay. Well, in -- I'm just trying to find my notes where you testified at the very beginning there was the new access plan, which is marked on the board as 26, with the location of a new entrance across from Bonapart. And you said that there were four considerations that were involved in the sight distance. You have 390 feet looking south at 35 miles per hour, right?

A. Yes.

Q. And you had 500 feet looking north at 45 miles per hour?

A. Yes.

Q. And so if you're using 35 miles per hour and 45 miles per hour instead of 50 miles per hour and 45 miles per hour, how is that consistent with the State

Highway Administration requirements? It's fudged.

A. No, it's based on prevailing speeds, and we produced the speeds to document that.

Q. Oh, so you're saying that they grant you a waiver --

A. No.

Q. -- or an exemption because they are using prevailing speeds and not the actual speed limit?

A. No. We do not -- we do not need a waiver or any kind of specific permit. We need an access permit, and it was designed towards the 85th percentile speeds.

Q. I know what you designed.

A. Excuse me. It was not designed -- it was designed to the speeds recommended by the State Highway Administration for this specific access for this specific stretch of road.

Q. For this specific access and this specific road, they said you don't have to use the standard of the 50 mile an hour and the 45, you can go 35 and 45?

MR. SCHMIDT: Just objection. It's assuming that that's the standard. Other than that, that's what

the question --

MR. GARBER: I think that it is an -- question. The real question is what is the standard? That is, should you be applying the speed limit, or should you be applying the prevailing speed limits as Mr. Caloggeri said --

MR. HOLZER: I didn't want to ask that question.

MR. GARBER: -- and the source for that.

MR. HOLZER: I didn't want to ask that question because in the future that may be a relevant issue for someplace else.

MR. GARBER: Maybe so, but that is basically what you're --

MR. HOLZER: That's what I'm saying.

MR. GARBER: Okay. Is there a question then pending?

MR. HOLZER: No.

MR. GARBER: Okay.

MR. SCHMIDT: There will be a question on redirect, then.

MR. HOLZER: Well, that's okay if you want to

ask it. Let me see if I have anything else.

BY MR. HOLZER:

Q. As I understand my notes, which were hastily done while I was trying to listen to you, you said that existing pavement has to be shifted 3 or 4 feet. Did I listen to you?

A. That's fair.

Q. Would you show me again?

A. Sure.

Q. I was trying to write down some thrilling cross-examination questions, so I didn't get a chance for you to show me that?

A. So Exhibit 26 --

MR. GARBER: Exhibit 26.

A. I'm pointing in the area of the existing access, today's access. There's -- we'll call it "excessive pavement" between the right shoulder and the existing monumental median. The State Highway would like us to utilize that area as part of the new roadway and shifting the roadway towards what I'm going to call the "east side" --

Q. Okay.

A. -- as we depicted on our plan.

Q. So you don't have to pave new road? You just use the concrete that's there?

A. No. That's all part of the access permit with the construction documents that we will be providing to make sure all of this is going to be shifted properly, probably going to be called what's a "milling overlay," where the existing pavement markings will have to be removed by what's called "milling the road," where they take the top coat of the road. That's where lay people, you'll see when you're driving on the road and you hit all these little bumps in the road. That will be repaved once it's -- it will be reconstructed, repaved with new strivec.

Q. And who's doing that? Who's paying for that?

A. It should be the developer, as part of the access permit process.

Q. Now, what's happening, if you know, with this old access and old entrance and the circle there? Is that going to be eliminated, or is it going to be left

there? Or what's happening?

A. I do not know. My assumption is that the access will be curb and guttered, so it will be eliminated through by curb, but I don't know if there's going to be landscaping or anything else that's going to be placed there. I don't think we've hit that level yet.

Q. My question is would your clients be able to use the existing road and get out onto Harford Road?

A. No.

Q. Why do you say no?

A. It will be closed. It will physically closed.

Q. How? With what?

A. Curb and gutter.

Q. Fence or --

A. Curb and gutter.

MR. GARBER: Hold on. Hold on. Hold on.

THE WITNESS: Sorry.

MR. GARBER: What was your answer?

THE WITNESS: Curb and gutter.

MR. GARBER: Curb and gutter?

THE WITNESS: And gutter. Well, that's what

they call it. When you build an access, typically the State Highway Administration requires you to build the curb and the gutter for storm water management purposes, build the curb to help designate the road. So curb and gutter would physically close that access off.

BY MR. HOLZER:

Q. Okay. Is there a curb and gutter anywhere else in this exhibit --

MR. GARBER: 26.

Q. 26?

MR. GARBER: Which picture, sir?

THE WITNESS: I'm pointing at Picture 3. Picture 3, as you're -- 3 is --

BY MR. HOLZER:

Q. Where is that?

A. -- located --

Q. Way up here? Talk about what's curb -- is there any curb and gutter along this area?

A. To my knowledge, no.

MR. GARBER: Could you specify which area?

MR. HOLZER: I would say from -- I don't know.

There's nothing here -- from 285 to 360.

THE WITNESS: It's all part of the access permit documents. The SHA is either going to or not going to require curb and gutter or any other access improvements or access design, access construction. And if it's not curb and gutter, then the next would be to remove, physically remove that portion of the road and replace it with landscaping or what have you.

BY MR. HOLZER:

Q. And then according to this exhibit also, the same exhibit, the dark blue lines would be a change in the existing roadway to create the new intersection?

A. That would be correct.

Q. And will all of that be part of what is submitted to the State Highway Administration?

MR. GARBER: All of what?

Q. All of the new location of the entrance way and a closing, if you will, of the old entranceway?

A. I'm almost positive it's either going to be all SHA and Baltimore County review or partial, but I believe SHA would review the entirety of it. But this

is also part of the site plan itself, so the county would be reviewing it as well.

Q. So Baltimore County would be reviewing the site plan, showing this new entranceway?

A. Yes.

Q. And State Highway -- they would have to review it.

A. They would review it as well. That's what I said. The SHA -- I just don't know how far back jurisdiction would allow SHA to go.

Q. Right.

A. So the county would pick up wherever they can't.

Q. Never mind. I was going to ask you about the pill, but I don't need to do that.

Based upon your conversations with the State Highway Administration, then, and your obtaining the -- proposing this new location, does that mean that the State Highway Administration believes the existing driveway is unsafe for a commercial entrance?

A. Do they believe that? I don't know that.

Q. Unsafe for a commercial entrance?

A. I do not know that.

Q. Well, if they're not letting you use it, couldn't you believe that they felt that that was improper or unsafe?

A. It could be that they may want it more safe. It doesn't mean the access is unsafe.

Q. Because you had testified that that access was safe.

A. I did.

Q. But now you've proposed that it's more safe? Is that what this new entrance is?

A. We have increased the sight lines, but it doesn't mean the first access is unsafe.

Q. Okay. But the first access wouldn't have gotten an access permit, would it?

A. In accordance with SHA, no. That's why they asked me to redesign it.

Q. Right. Once this plan is approved, if it's approved, would this access permit be for a -- would it be classified as a commercial access?

A. I don't know the specific classification. I

don't even know if they call it a specific classification. All I know is --

Q. I thought we went over that before. I'm sorry.

MR. GARBER: One at the time, please.

A. Yeah, I'm not a hundred percent sure how the SHA would designate this type of access. We're constructing the access per conditions outlined to us, but again, I'm not sure how --

Q. Well, I'd like to ask, when you get an access permit, does it say on the access permit whether it's residential or whether it's commercial?

A. I usually don't do that, so I don't know.

Q. What you mean you usually don't do that?

A. It's somebody else. It's usually the civil engineer who prepares those documents to obtain the access permit. I'm not trying to be coy. I just don't know what's on the permit.

Q. Okay.

A. I mean, I could tell you it's not --

Q. So it still could be a commercial access permit? You're not saying it can't be?

A. Correct.

Q. Okay. Gotcha.

MR. HOLZER: I'm trying to eliminate a lot of questions.

MR. GARBER: It's quite all right. It's quite all right.

BY MR. HOLZER:

Q. Is this a standard traffic count apparatus that you used on Harford Road?

A. Absolutely, yes.

Q. They've been used before or they have a history of being used?

A. Absolutely.

Q. And did you ever find out why the one, two -- what caused the trouble?

MR. GARBER: Is that no, sir?

THE WITNESS: That is a no. I do not know. I have no idea.

BY MR. HOLZER:

Q. You don't take them up or you don't place them or you don't take them up?

A. Correct.

Q. Someone else in your firm does that?

A. Correct. And sometimes it's when they pull the data, the data's missing. There could have been something happened with the tube. It could be the machine. I don't know, but the data stopped collecting at that point.

Q. Okay. Now, there is going to be a festival coming up this month, and I was wondering are you planning to send -- to set up any traffic counters to monitor the traffic during this multi-day event?

A. I have not been requested to do so.

Q. Other than appearing today, would you be requested to be at this multi-event that's being proposed or that's coming up shortly in October to observe the traffic situation?

A. I have not been asked at this event nor the others.

Q. Okay.

MR. HOLZER: All right. I think I have no further questions.

MR. CLARK: Did you want to do the video?
MR. HOLZER: Oh, I'm sorry. Yes. I apologize.
MR. GARBER: I want to ask, just for the record here, what is the video that's about to be shown?
MR. HOLZER: It's a one-minute video taken by Mr. Clark, who will then verify in his testimony what it was, so we're just using it to ask a question of the witness.
MR. GARBER: Are you intending to put that into evidence?
MR. HOLZER: Yeah.
MR. GARBER: So we'll mark it for now. We're going to need a CD obviously with the video. Oh, you have. Look at that.
MR. HOLZER: Seven of them.
MR. GARBER: This will be Protestant's Exhibit 13.
MR. HOLZER: Mr. Clark, can you charge up the battery?
MR. CLARK: Yes.
MR. SCHMIDT: If I can, I'm going to stand over

here where I can see.

MR. GARBER: No, no, no. That's totally fine.

Madam Court Reporter, is this setup working for you?

MR. HOLZER: There's nothing on it, Mr. Chairman, so there's nothing for her to take.

MR. GARBER: Mr. Calogerri, could you please watch the video then, which is Exhibit 13?

MR. CLARK: Can everybody up there see it?

MR. GARBER: Yes.

(Video recording played; not reported.)

MR. CLARK: --

Mr. GARBER: What he said was he thinks that's the end of the clip.

Okay.

MR. CLARK: It's just where I edited it out.

MR. HOLZER: And I have a question.

MR. CLARK: Just, I leave this up?

MR. HOLZER: No. Oh, yeah, you can leave it there fore now.

MR. GARBER: Leave it there for now. That's

fine.

BY MR. HOLZER:

Q. Does that change your opinion, Mr. Calogerri, in regard to any of your testimony?

A. No.

Q. Okay. Thanks.

MR. HOLZER: No further questions.

MR. CLARK: Can I take it down?

MR. HOLZER: Yes.

MR. GARBER: Well, before you take it down, if you're going to be using it later today, maybe it's best to leave it in place.

MR. HOLZER: No, we won't use it today.

MR. CLARK: I'll wait until we adjourn.

MR. GARBER: That's fine.

(Whereupon, Mr. Clark exited the proceeding.)

MR. GARBER: Mr. Schmidt, I'm assuming you may have a question or two?

MR. SCHMIDT: Not many, but I'll leave it up to you.

MR. GARBER: No, I'm leaving it up to you.

MR. SCHMIDT: We can finish.

RE-DIRECT EXAMINATION BY MR. SCHMIDT

Q. Mr. Caloggeri, what did you see in the video?

A. Well, I saw one vehicle leaving the site, going to the right side of the road, stopping, and making a safe maneuver out. I saw a vehicle who -- which cannot be identified as a local, a resident, someone going to the temple, turning in, getting confused, coming around where there was enough room for that vehicle to go around the existing median, coming to a full stop, and accessing Maryland 147 safely.

And that goes to show me that, you know, people can today turn in and out of that existing driveway safely. There's plenty of sight distance for that person to do based on their video they presented.

Q. Mr. Holzer asked you about accident crash data and suggested that the number of crashes increased at this location after the Petitioner acquired the site. If you can take a look at your Exhibit No. 30, which is the crash data, what were the dates of the four

accidents that occurred in 2017?

A. The first accident was January 28th.

Q. Right.

A. The second, March 2nd; the third, September 25th; and the fourth, December 13th.

Q. So if the Petitioner had acquired the site let's say on April 27th of 2017, two of the accidents would have acquired before their -- happened before their acquisition and two would have were acquired -- or occurred after, correct?

A. Correct.

Q. Let me also ask, if I can just, just about the speed going northbound because I just want to make sure the record is clear.

The exhibit that you presented and the testimony that you presented is that the 85th percentile of traffic going northbound was 31 miles an hour, correct?

A. Correct.

Q. So that means 85 percent of the traffic is going 31 miles an hour or less at that location, going northbound?

A. That is correct.

Q. And in terms of 95 percent, 95 percent of the vehicles are going 34 miles an hour or less at that location, correct?

A. That is correct.

Q. So 5 percent are going greater than 34 miles an hour, correct?

A. That is correct.

Q. And I think you also indicated -- I just want to make sure -- that there was one vehicle that was going 46 miles an hour or faster that was recorded of the 16,000-and-some-odd vehicles, correct?

A. Correct. One vehicle between 46 and 50.

Q. So of the 16,000 vehicles that you recorded, there was one car going faster than 46 miles an hour?

A. Correct.

Q. And you indicated you drove out there that week; is that right?

A. I did.

Q. Were you the car?

(All laughed.)

A. I was not.

Q. You had also indicated you don't know why and the State Highway Administration has not disclosed why they constructed the roundabout at the intersection of Mount Vista, Glen Arm, and Harford Road, correct?

A. Correct.

Q. But you surmised, as a traffic engineer, that it was -- it could possibly be due to the accident -- number of accidents at that location, correct?

A. Correct.

Q. Or it could be due to the fact that the intersection was not aligned -- when I say it was not a cross intersection, but the alignment was separate or the cross streets were different?

MR. GARBER: The angles were different.

BY MR. SCHMIDT:

Q. Were different, correct?

A. The angles were skewed.

Q. In your opinion, was it a capacity-related issue?

MR. HOLZER: Objection. How can he do all that

dialogue and then ask you what your opinion is.

MR. GARBER: I will say this: When you were asking the questions, I was wondering how he could give any answers to it.

MR. HOLZER: Right.

MR. GARBER: I would have the same opinion here, but you asked those questions. You opened the door for them to be answered by him. I would say that this question is on par with that, but I'm not going to give you too much leeway into it.

MR. SCHMIDT: That's the only question I asked him: If he thinks they put that in there because it was a capacity problem.

THE WITNESS: I would venture to guess that it was more accidents and operations than capacity.

MR. SCHMIDT: I don't have any other questions, Mr. Caloggeri.

MR. HOLZER: No questions.

MR. GARBER: Mr. Caloggeri, thank you very much for the second time.

MS. DOPKIN: I have a question. I'm sorry.

MR. GARBER: I stand corrected.

DIRECT EXAMINATION BY MS. DOPKIN

Q. I would ask you about your Exhibit 26.

A. Yes.

Q. Photographs Number 3 and 5?

A. Yes.

Q. And they show the -- what you have referred to as the recommended speed limit of 30 miles an hour?

A. The advisory speed, yes.

Q. Now, is that an enforceable speed limit?

A. No, it isn't.

Q. Does it effectively reduce the posted limit? Meaning, what's the significance?

A. Well, the speed limits are regulatory, and they are usually between a point A and a point B, and there are numerous potential conditions in between point A and point B where you're not saying, in this case, hey, the speed limit is 45, but now it's 30, and now, once you go through these two turns, it's back up to 45, and then there's a hill, so now it's 40 again, and now it's 50.

So what they do is they put these warning signs,

and all these signs are national -- nationally designed, and they're -- you know, you see these signs here, and you see them in Boston and California. So you have the warning sign and the advisory speed to tell you at this point we're advising you to slow down to this speed because that's the safe speed.

Q. And if I'm going over that speed, would I get a ticket?

A. No, you would not.

Q. Thank you. And then I have one other question. Mr. Holzer asked you a lot about the rolling designation you've characterized Harford Road as. Are there other designations in the highway manual?

A. Yes.

Q. What are they, for example?

A. I would really have to look. I mean, there's rolling terrain, there's mountainous terrain, so if we were designing something in Western Maryland, that would be probably a different design. My guess would be Route 50, if you're approaching -- if you're going across the Eastern Shore to the bridge, where you have

regular flat terrain for long stretches of miles, that would be another one. So something -- those different types of characteristics.

And again, they really don't try to get into the well, this small portion of road is rolling. We were looking -- our company looked at this as generally speaking Harford Road is of a rolling-type road.

MS. DOPKIN: Thank you. That was all.

MR. GARBER: Any questions based on those?

MR. SCHMIDT: No.

MR. HOLZER: No.

MR. GARBER: Okay. Mr. Caloggeri, this time you are excused.

THE WITNESS: Thank you.

MR. GARBER: Thank you very much again for your testimony.

Mr. Schmidt, you have another witness.

MR. SCHMIDT: Yes, it's a lady from the neighborhood who asked me to testify.

Do you want to testify now? Or it's up to the Court.

MR. GARBER: I would prefer to go forward.
THE WITNESS: Yes.
MR. GARBER: And apparently so would the witness.
MR. SCHMIDT: That's fine.

MARCIA BARTON,

called for examination, having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

MS. DOPKIN: State your name and address for the record and spell your last name.
THE WITNESS: Marcia Barton. Address is 11909 Woodberry Place, 21087, Kingsville.
MR. GARBER: 21807.
THE WITNESS: 087.
MR. GARBER: And how is Woodberry spelled?
THE WITNESS: W-O-O-D-B-E-R-R-Y.
MR. GARBER: Thank you.

DIRECT EXAMINATION BY MR. SCHMIDT

Q. Ms. Barton, where is Woodberry Place in relationship to this property?

A. Oh, I would say between 8 and 10 miles away.

MR. GARBER: If I can, is that to the north, south, east, west?

THE WITNESS: It would be to the east of where we're talking about.

BY MR. SCHMIDT:

Q. Ma'am, I really haven't spoken to you prior to you showing up here today, so with Mr. Holzer's permission, I'm just going to -- are you a member of any civic association or community group, or are you here on your own?

A. I'm here on my own. I did attend a Greater Kingsville Association meeting in September based on a bulletin I received through the Kingsville -- I think it's called The Bull, the newsletter that discussed the challenges that were being faced over the temple.

Q. Okay.

A. I found some of those challenges to not -- not be quite fair to what the temple people are trying to accomplish. So I went to the Kingsville Association -- or the Kingsville Civic Committee to hear what they had

to say. What I discovered there was a lot of misinformation that was taken as fact by members of that civic association.

For an example, one of the ladies of the Board there stated that there was going to be 20,000 people attending the festivals. I asked her outright, "Where did you get that figure?" And she can couldn't quite answer me. I also asked them had they done independent research before taking the recommendation of another community group whose name I cannot remember right now who recommended against the temple being able to have its worship and its festivals, and they did not have a clear answer for me on that.

I grew up in Kingsville, and I know the roads, I know the people, I know the community. And it seemed to me some of the objections were not only because they were misinformed but seemed to not take into account existing things that are already accepted by our community.

And I'd like to say, as an example, Saint Stephen's church on Bradshaw Road. Bradshaw is

just a two-lane road two lane, about the same, let's say, capacity as Harford Road. When they have their carnivals, the place is packed, there's lots of noise, there's Ferris wheels, there's all kinds of things going on for several days during that season. But in addition to that, because there's a school there, any given day from 3:00 p.m. on or in the mornings, both sides of Bradshaw Road are backed up with parents either dropping off or picking up their children.

And so considering what the objections were to the temple traffic and the temple noise, I thought it sounded like there would be a lot less than Saint Stephen's currently has and the people in the community right next to Saint Stephen's have to put up with.

Q. And Saint Stephen's is a Christian church?

A. Yes, Catholic church. It's very close to me. That's why I used that example, because I use Bradshaw Road a lot. But I have also observed there are lots of, like -- especially at this time of year -- harvest festivals and carnivals and things still going on. And

yes, there's a little bit more traffic during those times than normal, but nothing that I think would -- I don't believe the temple's attendees would exceed anything that you've already experienced during holidays or festivities.

The other objection that I heard was the amount of noise. And again, since they're not having hard rock bands; they're not, to my knowledge, having Ferris wheels and tilt-a-whirls that it's --

And the property sets so far back, there is a large -- I looked at the Google map, so I saw what the terrain looked like. There are large shrubs lining the road that do -- would mitigate some of that noise to houses across the street on Harford Road.

So I find some of these objections to be, well, less Christian-minded than I would expect from this community. This is a place of worship. That's what this country was built on -- was freedom of worship, and I fully support the Nepali Temple and its community, and I hope it is successful in being able to carry out its business.

Q. This occurred when you said the information that information that you obtained at a meeting of the Kingsville Improvement Association or --

A. It's the Greater Kingsville Civic Association, GKCA.

Q. If you know, do you know what date that was?

A. That was -- I have it on my cell phone. I want to say it was around the 19th.

Q. Okay. Was there a vote taken at that meeting?

A. No.

Q. Whether to support the request or not to support the request?

A. Not that I know of there was no vote, and I was there for the whole meeting.

Q. You were there for the entire meeting?

A. Yes.

Q. Was there anybody there from the Nepali Community Center to present their view or to explain what they were proposing?

A. Yes. When the lady on the Board said that there were going to be 20,000 people and I asked her where she

got that number, I then asked one of the gentlemen that are sitting behind you, I said, "Could you please clarify that for the audience?" and he did so.

Q. What did he say?

A. He said that they expected around 300 people for the festivals, not 20,000. He also clarified some other facts as the conversation went on. There were a number of the members there. I don't know how many. I would say at least six or seven.

Q. Okay. Thank you, ma'am. Anything else that you wanted to say?

A. No.

MR. GARBER: Mr. Holzer?

MR. HOLZER: No questions.

THE WITNESS: Thank you.

(Attendees applaud.)

MR. GARBER: Thank you very much, ma'am.

You guys, please hold your applause.

All right, Mr. Schmidt?

MR. SCHMIDT: That would be the Petitioner's case, subject to rebuttal.

MR. GARBER: Do you rest?

MR. SCHMIDT: Yes.

MR. GARBER: Mr. Holzer, your case will begin, but I would anticipate that you would rather do lunch.

And Madam Court Reporter, if you need a break, now would be a good time as well.

Mr. Holzer, what do you think you're going to be looking to do this afternoon?

MR. HOLZER: Getting as many witnesses on as I can.

MR. SCHMIDT: Off the record.

(Whereupon, a discussion was held off the record.)

(Whereupon, there was a recess for lunch, 12:41 p.m. - 1:53 p.m.)

MR. GARBER: Please be seated. We are back for the afternoon session in the Nepali matter, Case 18-122, and I believe we're at Mr. Holzer.

MR. HOLZER: Yes. I have five people lined up as witnesses today, and I hope that's going to take us to your cutoff time frame. If it doesn't, I don't have

anybody else ready to go today.

MR. GARBER: Do you know any jokes?

MR. HOLZER: I could do a dance.

MR. GARBER: As it was just brought to my attention, I forgot, you did reserve on your opening, and I don't know if you want to do that now.

MR. HOLZER: No, I don't think so.

MR. GARBER: And that's fine.

MS. DOPKIN: We just wanted to bring it to your attention.

MR. HOLZER: That's great because, honestly, I didn't remember reserving on it. Can I do it at the end?

MR. GARBER: Sure. We'll try something new. All right. If you're ready to go?

MR. HOLZER: Yes.

MR. GARBER: Okay.

MR. HOLZER: Yes. As I said, I have four or five ready-to-go witnesses. None of them are experts, per se; they're not going to have to qualify. So they're neighbors, witnesses etc., so I hope that takes

to the end whatever you're --

MR. GARBER: Right. And I seem to recall there may be some community people. And I don't know if anyone here is testifying on behalf of the community association or for the civic association. There was, of course, the letter introducing them --

MR. HOLZER: The Kingsville letter.

MR. GARBER: -- previously.

MR. HOLZER: Yes.

MR. GARBER: So at least there was one. That's okay.

MR. HOLZER: Right.

MR. GARBER: Mr. Schmidt, do you agree with that?

MR. SCHMIDT: Yes. About the letter being introduced?

MR. GARBER: Yes.

MR. SCHMIDT: Yes, I recall.

MR. GARBER: That matter's already taken care of, okay. All right. With that in mind --

MR. HOLZER: Okay. I would call Mary Clark.

MARY CLARK,

called for examination, having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

MS. DOPKIN: All right. Would you please state your full name and address for the record, and spell your last name, please.

THE WITNESS: My name is Mary Clark, C-L-A-R-K, and my address is 12150 Harford Road, Glen Arm, Maryland.

MS. DOPKIN: You can sit down.

THE WITNESS: Thank you.

DIRECT EXAMINATION BY MR. HOLZER

Q. Ms. Clark, I don't know whether this is the best document to use, but it's up there. It's Petitioner's Exhibit No. 2. Is there any way you could identify it on this document where exactly your home is just so that they can see it?

MR. GARBER: If we're going to be doing that, Ms. Clark, you're going to have to vocalize as best as you can what you're pointing to or otherwise mark on an

exhibit what you're pointing so that it is recorded in the record.

THE WITNESS: Yes, sir, I will.

MR. GARBER: Okay.

THE WITNESS: I'm identifying my home on this exhibit right here, directly across from the Bonapart property, and we could put a mark here to clarify that for the record.

MR. GARBER: Mr. Schmidt?

MR. SCHMIDT: If she wants to put her initials there, that's okay with me.

MR. HOLZER: I've got red pen.

MR. GARBER: So you've marked on Petitioner's Exhibit 2 where your house is located --

THE WITNESS: Yes.

MR. GARBER: -- relative to the property.

THE WITNESS: With a red MC. Is that okay?

MR. HOLZER: Yes.

THE WITNESS: Mr. Schmidt, is that okay?

MR. HOLZER: Is that okay?

MR. SCHMIDT: (Indicates.)

MR. GARBER: Yes.

MR. HOLZER. Thank you.

BY MR. HOLZER:

Q. Ms. Clark, about how long have you lived there?

A. We've lived in the home for 33 years.

MR. GARBER: You said "we."

THE WITNESS: I'm sorry. My husband, Dewey, and I have lived in our home for 33 years.

BY MR. HOLZER:

Q. And have you raised your family there in those 33 years?

A. Yes. We raised a daughter there, and it's also where my mother-in-law died, so it is our home in the truest sense of the word.

Q. Have you attended all of the hearings or most of the hearings that we've had before the Board?

A. Yes, I have.

Q. And did you attend the ALJ, or Administrative Law Judge hearing?

A. Yes, I have.

Q. You're familiar with what is being requested

then?

A. That is correct.

Q. What concerns, if any, do you have that you can express to the Board?

A. I have some concerns I would like to express to the Board if I may.

MR. GARBER: Yes.

THE WITNESS: My concerns related to the NACCB Inc's, use of the property at 12231 Harford Road are twofold. First, I have a concern about my right to solitude and quiet enjoyment of my property in a rural RC 2 zone; and second is a concern about personal safety and the increased traffic on Harford Road. These concerns are not mine alone. More than 150 neighbors living in the Long Green-Haystack Valley community also share these concerns. This is one of the last rural valleys in Baltimore County.

MR. GARBER: One second. I believe there is a correction from Mr. Holzer.

MR. HOLZER: Yeah. I was letting her introduce herself at this point.

MR. GARBER: I thought you were trying to interject something.

MR. HOLZER: No, no.

MR. GARBER: I apologize.

BY MR. HOLZER:

Q. I'll ask the next question, though, since I think you've covered your overall concern in terms of -- well, not being specific. Why don't you elaborate on your first concern, which you said was your right to solitude and quiet enjoyment. Could you explain what you mean by that and what events have occurred that have affected your ability?

A. Well, like many of my Glen Arm neighbors, I grew up in a location far different from the Long Green-Haystack Valley. I was raised in a high-density congested noisy area of Baltimore City. My backyard was surrounded by a chain-link fence, and we only had a tiny patch of grass. And the noise from the neighbors, yelling and screaming, was frequent and upsetting both outside the house and inside through the thin walls connecting the houses.

This is a major reason why my husband and I moved to Glen Arm -- to enjoy the quiet solitude of this rural area and to transform our property into a native wildlife habitat.

Q. Could I interrupt and ask you: How many acres do you have consisted of that you've marked on the --

A. It is slightly larger than a 2-acre parcel.

Q. Okay. And do you know how far your home is in terms of feet or yards from Harford Road?

A. Probably our home is less than a hundred feet from Harford Road, give or take.

Q. Okay. I'm sorry to interrupt you. I just wanted to place where -- what you're talking about in terms of --

A. Certainly.

Q. Go ahead. You can carry on.

A. The NACCB's disregard for the neighbors' solitude and quiet enjoyment of their property is especially troublesome since both Mr. Ghimere and Mr. Kharke both have claimed the importance for solitude. For example, in his January 17, 2018, ALJ

testimony, Mr. Ghimire described the importance of solitude at the Bonapart property as an important feature for their group. He stated that when they saw this property sitting on top of this hill with 30 acres, not having anybody in near proximity, "We thought this was the perfect location."

So I asked myself, Where is the due diligence? Did he not look at the land plat or drive around the neighborhood to see that there are many neighbors in proximity to the Bonapart property?

And another example of this disregard, in his early 2018 letter to Fork United Methodist Church, Mr. Kharke, who lives, according to his statement, 5 miles from the Bonapart property, described the rural Kingsville community in which he lives. He cited the tranquil nature of that area, and he described it as a nature resort, away from noise and crowds. He stated that tranquility was very important to him in his home.

But let me assure you, quiet solitude is vitally important to those neighbors who do, in fact, live in close proximity to the Bonapart property.

Q. Are there any examples of problems that have occurred along that line that you can recite to the Board?

A. I do have several. For many months now, residents in this Long Green-Haystack Valley have been unable to enjoy the quiet solitude that we highly value. Large multi-day events conducted by the NACCB on the Bonapart property have produced very loud, amplified sound and music. The level of sound and music is such that, even with our windows closed, the noise is highly disturbing.

For example, at the recent fundraiser held by NACCB from July 28th to August 3rd, the amplified sound of drumming was so loud that we had to abandon our home and stay with friends out of town for several days. I don't understand how the NACCB members can say they are being good neighbors yet they have continued to hold large multi-day events with amplified sound and music. As we know, this prohibition on amplified sound and music was explicitly stated in ALJ Beverungen's 2018 ruling.

And I'm going to relate a particularly painful experience which occurred this past spring. My 90-year-old father was dying in a local hospice center. I would come home each day after visiting with him, expecting a peaceful place at my home to relax and reflect. Far from being able to relax in quiet solitude, the extremely loud noises from almost nightly volleyball tournaments shattered the peacefulness of my home.

One would think that people playing volleyball is not a terribly noisy event. Quite the contrary. The constant percussive screaming and yelling -- and I'm going to repeat that for emphasis because it's very disturbing to me: Constant percussive screaming and yelling coming from the NACCB's volleyball court was destroying my peace and solitude. As I've illustrated, our home is just across the street from the volleyball court, and the noise is horrific.

On the afternoon that my father died, we came home to mourn his passing. I could not even grieve for my father in peace, as the screaming and yelling from

the volleyball court lasted until dark. I will always carry that painful memory with me -- that I could not grieve for my father in peace in my own home on the day he died.

And another example, on many Sunday mornings as early as 8:15 a.m., I have been awakened by that same percussive screaming and yelling from volleyball tournaments. It sounds as though they are playing volleyball not far outside our bedroom window, and other neighbors can also hear the screaming of volleyball players. I did not choose to live next door to a recreation field, a ball field, or a playground.

Why should my neighbors and I have to give up the quiet enjoyment of our property when we live in an RC 2-zoned area of the county. Unlike the previous witness, we don't live 8 to 10 miles away; we live right across the street. Unlike the previous witness who lives near Saint Stephen's church in an RC 5 zone, we live in an RC 2 zone. And unlike Saint Stephen's, which was founded in 1850 as a church and in 1930 a school, the NACCB began its activities in 2017.

Q. Let me interrupt for a second and ask you a question. You said you've lived there about 33 years; is that correct?

A. Yes.

Q. During those 33 years up until 2017, how was the property across the street from you utilized?

A. As a single-family residence.

Q. And in your 33 years of living there, did noise emanate from that property in the same way that it's emanating that you've just referred to?

A. It did not.

MR. SCHMIDT: Objection. That's not the legal criteria.

MR. HOLZER: Of course it is. It's 502.1. It is the legal criteria: The impact on adjacent property owners.

MR. GARBER: I'll allow it.

MR. HOLZER: Thank you.

THE WITNESS: It did not.

BY MR. HOLZER:

Q. Okay. Do you have a second concern now that

you've addressed the noise concern?

A. Yes.

Q. What is that?

A. My second concern relates to the increased traffic on Harford Road. As we've heard, this is a narrow two-lane road with blind curves and no shoulder. The Bonapart property is located right in the middle of one of the most treacherous sections of road in Baltimore County. We, my husband and I, have heard, witnessed, and assisted with many traffic accidents that have occurred on these curves, as have our neighbors. The loss of life, the number of serious injuries, and the property damage have been substantial over those decades.

I personally was in one of those accidents -- involved in one of those accidents years ago when a vehicle crossed the center line at the blind curve just south of the Bonapart property. I could not steer out of the way of the oncoming vehicle because there is no shoulder; there is only a guardrail. Fortunately, my daughter and I were not injured in the crash nor was the

driver of the other vehicle, but the memory of that impact still haunts me. Just this Sunday morning at rush hour, a vehicle crashed right into the hillside before the blind curve, heading north. Maybe the driver could have been trying to avoid hitting a deer. I don't know, but with the increased commuter traffic on Harford Road near the Bonapart property, the traffic situation is getting worse every day.

Millions of dollars, as we've heard discussed earlier, were spent on a roundabout to help address some of the traffic issues in this area. But continuing to allow large multi-day events at the Bonapart property with an excess of 200 vehicles and 300 people is absolutely beyond belief. Not only does this increased traffic burden endanger the area residents, it imperils the attendees at these events as well as our first responders.

Q. Do you have an example of a fundraiser that you would like to address?

A. I do.

Q. Okay.

A. At the recent July 28th-August 3rd fundraiser on the Bonapart property, I personally saw numerous vehicles leaving the property while failing to stop before pulling out onto Harford Road. Some of their attendees missed the entrance going northbound and actually backed up on Harford Road, just barely missed avoiding a collision with vehicles heading northbound. Other attendees had to pull out nearly to the center line before making a turn due to the limited sight distance. This road is extremely dangerous in this area and ill-suited to an increase in traffic, particularly by those attempting to enter and leave the Bonapart property located so near this blind curve.

At a previous hearing one of the NACCB witnesses and local resident Ida Twining testified that, even after decades, she even often misses her turn on this section of the road.

This rural two-lane road serves a range of vehicles -- commuter traffic, tractor-trailers, bicycles, farm equipment -- so not all of the accidents are caused by dangerous driving and high speed. We have

a serious deer problem, as do many other areas in Baltimore County, so that's a source of accidents. There is also slow farm equipment traveling up and down Harford Road serving the farms, and occasional livestock escapes their fences and wanders onto the road. And then there are the traffic accidents and incidents that never get reported, such as vehicles that run off the road and into a ditch, and then reenter the road.

I guess what I would also like to point out, which is very disturbing, are the changing quote/unquote "facts" reported by the NACCB members during the course of these hearings. For example, at the ALJ hearing Mr. Ghimire testified that there would be three major festivals each year. Then at the Board of Appeals Day 1 hearing, you heard him state that there could be five major festivals per year. The number of people the attending these festivals also has changed over the course of these hearings.

In a July 2017 Facebook post, Mr. Ghimire wrote that over 1,000 attendees from across the state line came to be part of this grand festival over two days.

That's 500 people per day. "We had volleyball" -- his quote continues on Facebook: "We had volleyball teams from New York, Pennsylvania, Columbia, and Baltimore and event participants from New Jersey, Virginia, and many other states.

But then at the last hearing, we heard Mr. Powell, their sanitarian, testify that NACCB members told him a maximum of 200 people per day would attend a festival, and that's on which he based his calculations for his work on the septic system and well.

Q. Could you --

A. As far as outdoor --

MR. GARBER: One second.

Q. I was just going to say --

A. I'm sorry.

Q. Could you testify as to what you understand in regard to what takes place inside the building and what takes place outside the building?

A. Yes.

Q. Okay.

A. As far as the outdoor activities, again, I'm

referring back the ALJ testimony. Mr. Ghimire testified that once the building is completed, all the activity will take place inside the building. He stated that at festivals the microphone will be stationed inside the building. Then at the last hearing Mr. Powell stated in his water usage summaries that festivals will be held outside in front of the mansion.

So I ask what are the local residents to believe regarding festivals -- how many, how often; weddings -- how many, how many attendees waiting outside for the married couple and their family to leave; how many attendees at festivals. What about the amplification of sound and music? Is it any wonder that the local community is extremely concerned about this use, this land use, of an RC 2-zoned rural property? And no one has yet to address the potential for their membership growth and potential for increased use of the property over time.

Q. What do you mean about the increased use of the property?

A. We don't know. There might be more members,

more activities, more weddings.

Q. What about acreage? Right now they're only using around 2 to 3 acres of the 30. What are you concerned about in that respect?

A. That there might be expanded facilities to house more members and more festivals and other particular ceremonies that would be held on the property.

Q. All right. I'm sorry I interrupted you again. Could you continue?

A. Yes. So despite what NACCB witnesses have testified in regards to the conditions in Section 502.1, I believe that there is ample and clear evidence that allowing this special exception will affect and already has affected these following criteria: A, it has been detrimental to the health, safety, and general welfare of the locality; B, it has created congestion on this rural two-lane state highway; C, it has created a potential hazard from fire, panic, or other danger; G [sic], it has been inconsistent with the purposes of the property's zoning classifications; H, it has been inconsistent with impermeable surface and vegetative

provisions; and I, it has been detrimental to the environment and natural resources of the site and vicinity.

Q. Well, you've already testified so far insofar as A and B. Do you have any testimony related to the other aspects that you just quoted?

A. I do. For example, hazard from fire or panic might result from excess crowds and difficulty of emergency vehicles to access the property or parts of the property. Holding many large noisy multi-day events in an RC 2-zoned area is inconsistent for the purpose of this zoning classification. Runoff from the property's impermeable surface has already caused erosion issues for the neighbors. And finally continued use of this 100-plus-year-old single-family property as a commercial/institutional venue will adversely affect the surrounding natural environment.

I also want to state that, even after the disturbances that NACCB, Inc., created in August of 2017 -- and they were alerted to neighbor concerns about the nuisance they created -- not one person from NACCB

came around to apologize to adjacent neighbors or offer to remedy the situation, as would any good neighbor who made a mistake. And the large events and the traffic and the noise have only grown worse during the past year.

Q. What final comments do you have to address to the Board?

A. I would ask the Board the following question, if I may. First, why should the Long Green-Haystack Valley community, particularly those living within a mile and a half of the Bonapart property, be subjected to the adverse impacts of this commercial/institutional venue; second, how many times per year will I have to abandon my home due to loud amplified music and sound from large outdoor festivals and other gatherings? What about the rights -- my rights as a landowner in this locality, who chose to live in this area and who preserved it as a quiet rural community? Why should we give up the right to solitude and quiet enjoyment in our own homes?

An analysis, for example, of the Petitioner's attendees from the ALG hearing and from the previous

Board of Appeals hearings shows not one NACCB member lives closer than 5 miles from the property, and that was is stated by Mr. Kharke and his host on Facebook. And even their own quote/unquote "local witnesses" from a previous hearing, Ida Twining and Daniel Monogue, live outside a one and a half-mile radius.

In my humble opinion, this use does not meet the standard for a special exception. There is a wealth of empirical evidence to support that conclusion. Thank you for your time.

MR. HOLZER: Your witness.

CROSS-EXAMINATION BY MR. SCHMIDT

Q. Ms. Clark, I've noticed your testimony was generally you reading a statement that I assume you or someone prepared?

A. I prepared that statement, sir.

Q. Did anyone else assist you with the preparation of that statement?

A. I had a few people review it, but there were almost no changes; for example, I shared it with Mr. Holzer.

Q. Anyone else?

A. I had a couple of people proofread it just for some typos.

Q. Your husband?

A. He actually did not see my final statement.

Q. Okay. Let me start with the traffic first. I think you described someone who has lived there 33 years. I assume the traffic has grown over the years?

A. It has.

Q. You were here for Mr. Caloggeri's testimony, were you not?

A. Yes, sir.

Q. I believe he testified that there were over 2 million trips on Harford Road in that area per year, based on his traffic counts, if you would extrapolate them?

A. I heard that testimony.

Q. Would that surprise you, or is that consistent with your observations as a resident?

A. That would not.

Q. That's a commuter route for in the morning and evening. What direction are most people going? Where are most people going, if you know?

A. In the morning they head south, and in the evening they head north.

Q. So they're going from Harford County or the northern areas of Baltimore County, towards Baltimore City, and then going home in the evening; is that --

A. Toward the city. Where they end up, they might be in Towson or many other locales.

Q. And you also described that there are tractor-trailers that use that road?

A. Some.

Q. Is there any prohibition on vehicle weight on Harford Road that you know of?

A. I do not know.

Q. But you have seen 18-wheel tractor-trailers go up and down the road; is that right?

A. Not only have I seen them go up and down the road, I have seen them cross the double yellow line because the curves are so sharp that they cannot

sometimes accommodate themselves in their own lane.

Q. Okay. But there's no limitation on -- in other words, a lot of smaller roads have limitations on truck traffic on them, that they prohibit a weight limit. That's apparently not the case here; is that right?

A. I'm not a traffic expert. I do not know.

Q. Well, you know, you've lived out here for 33 years. How often do you see tractor-trailers go up and down that road? Once a year? Once a day? Once a month, would you say?

A. I don't know. A couple -- maybe once a week or less.

Q. And there's no signs out there that you're aware of that are prohibiting or limiting truck traffic; is that right?

A. I don't know of any.

Q. On the day -- you described an event at the property from -- I think you said July 28th of this year, I believe, to August 3rd; is that correct?

A. Yes.

Q. Tell me a little bit about that event. How many

people were on the property? Do you know?

A. I was not on the property, so I really don't know.

Q. You don't know. Do you have any idea of was it the same level of noise or volume of traffic each day, or was one day busier than the other, if you know?

A. It could have been toward the latter part of that event that there was increased noise and traffic. That's when we had to abandon our home, because the noise kept getting louder and louder. So at the end of the event, with our windows closed, the loud, amplified drumming was unbearable. We had to leave.

Q. Was somebody playing the drums?

A. Yes, sir.

Q. Okay. Somebody was playing the drums. I guess it was all six days of the festival somebody was playing drums on the property?

A. It sounded like it. And the noise kept getting louder and louder.

Q. So on August 3rd the noise was so loud you had to leave your home?

A. We left on August 2nd. I couldn't stand it.

Q. Were there any traffic accidents over that period of time?

A. I don't know.

Q. Well, you live, ma'am, across the street.

MR. HOLZER: Objection. She already testified that she left her home, so how could she have an answer to that question?

MR. SCHMIDT: Well, she left her home, Mr. Holzer, for the last part of the event.

BY MR. SCHMIDT:

Q. My question would be: During the first portion of the event, were there any traffic accidents near the access that you're aware of?

A. I don't know.

Q. Okay. You don't know whether there were or weren't?

A. I don't know if there were.

Q. Did you see any?

A. I did not witness any accident scene specifically. I did witness a number of near misses

that could have been horrific accidents.

Q. Up at the access point?

A. Yes, sir.

Q. What were you doing up there?

A. We were having a cookout at one of our neighbor's properties.

Q. Is that the property that's right across the street from the access point?

A. It is.

Q. Did you have to cancel that because of the noise coming from the Nepali property, or were you able to have a cookout?

A. No. We held it.

Q. How many people were at the cookout?

A. Half a dozen or more.

Q. Were you-all making any noise?

A. We were speaking.

Q. Nothing else?

A. No.

Q. Let me ask you: How does the 2.1 million -- 2.1, not million. Excuse me -- 2.1 million

automobiles and tractor-trailers going up and down Harford Road impact the solitude of your property, or does it?

THE WITNESS: I have a question for you, Mr. Schmidt.

MR. SCHMIDT: You can't ask me questions, ma'am. You have to answer mine.

MR. GARBER: Mr. Schmidt is correct.

THE WITNESS: Okay. I beg your pardon.

MR. GARBER: You're here to answer his questions at the moment.

BY MR. SCHMIDT:

Q. You've acknowledged that there's over 2 million cars on a commuter route with tractor-trailers and farm vehicles going up and down that commuter route on an annual basis, and that's increased over the years. Has that impacted the tranquility and solitude in terms of the use of your property?

A. Very seldomly. It's like this. I grew up --

Q. Ma'am, I'm not asking --

MR. HOLZER: Objection. Let her finish.

Q. I'm not asking you --

MR. GARBER: Hold on, hold on, hold on.

Q. I'm not asking you to --

MR. GARBER: Hold on, hold on, hold on. Everybody hold on.

Ma'am?

THE WITNESS: I would like to respond to Mr. Schmidt's question, please.

MR. GARBER: Please give your answer.

THE WITNESS: Thank you.

To me -- I know this might not make a lot of sense to other people -- but what we hear from the traffic where our house is located is a gentle swish on the road. And to me, growing up in the city, this was a challenge for me initially to live in a rural area, and I came to love it. And that gentle swish -- it's like if you go to the beach and you hear the ocean at night as you're falling asleep, it's a noise, but it's a relaxing, calming, comforting noise, so the gentle swish of the traffic is what I hear. And yes, there is an occasional emergency vehicle or something, but to me the

noise from the traffic is fairly minimal, and that's what we hear. That's what I hear.

BY MR. SCHMIDT:

Q. Have you ever been to Ocean City, Maryland?

A. I have.

Q. Have you vacationed there before?

A. As a child.

Q. Are you comparing the noise that the ocean makes to the traffic noise that goes up and down close to the highway in Ocean City, Maryland? Is it the same thing as that? Is that what you're telling us?

A. I am comparing what I feel and how I perceive a calming noise of the gentle waves at the ocean to the swishing of traffic on Harford Road. And I mentioned earlier that that might not make a lot of sense to some people, but that's what I -- how I perceive it.

Q. Okay. So you perceive the noise from tractor-trailers, farm equipment, and over 2 million vehicles going up and down Harford Road to be akin or similar to, I think you said, a swish similar to the noise of water and relaxing?

MR. HOLZER: Objection.
THE WITNESS: I --
MR. HOLZER: She's already testified to that three times now.
MR. GARBER: I believe it is repetitive, but it's also cross-examination.
MR. SCHMIDT: Thank you.
MR. GARBER: So we'll --
THE WITNESS: But what I hear -- excuse me. I'm sorry.
MR. GARBER: Go ahead.
THE WITNESS: What I believe I stated was the normal noise of the cars on the road is what I hear as a gentle calming swish, from our property. And yes, there's the occasional ambulance or fire equipment with a siren or a police car or the occasional tractor-trailer, but for the vast majority of what I hear on the road, it is that calming gentle swish of the traffic.
BY MR. SCHMIDT:
Q. Do you -- would you expect that any of the folks

who are going to come to worship at the subject property would arrive by tractor-trailer?

A. I do not know what type of vehicle they would be driving.

Q. Okay. Well, assuming that they came in an automobile, wouldn't that further contribute to the calming swish of traffic by having some more cars producing the calming swish of traffic noise at this location?

A. That is not my concern. It's the increased traffic that may impact the accident rate on Harford Road if there are -- as one of the NACCB members said, there were 500 people at two-day -- per day at a two-day festival. And so my concern is not that noise. My concern is the volume and the turning and the stopping and people coming.

You heard the testimony I just gave, the quote that "people are coming from out of state." And people encountering that particular intersection, that access point, from out of state is -- we've seen the behavior, and it is not an easy place to navigate around those

blind curves. So it is the --

Q. Well, let me -- oh, I'm sorry.

A. So it is the volume of traffic of those events.

Q. So the noise from the traffic is good and calming, but it's increased traffic volume which concerns you? Is that what I'm hearing?

A. My primary concern is the increased traffic volume for this single-family residence in an RC 2 zone.

Q. Has there been any accidents as a result of the Napali's use of the property that you're aware of?

A. I do not know. I would like to testify was that I saw dangerous behavior in the egress and ingress of that property that almost resulted in accidents.

Q. And that's when you were up at the barbeque?

A. Correct.

Q. Okay. Any other occasion that you've been up there, watching traffic go in and out of the site, or just that one occasion?

A. There are some times when I'm driving up and down Harford Road in my daily activities that I have observed behavior for ingress and egress of the site

that was not particularly safe.

Q. Like what?

A. People entering the wrong side of the island, people stopping and backing up.

Q. Do you know who those people are? Do you know if they're --

A. They're entering the property through the gates. I don't know who they are.

Q. You don't know whether they're members of the congregation or not?

A. They're entering the property through the gates. I don't know who they are.

Q. You had mentioned also about your concerns about environmental degradation or impacts, but is Nepali proposing any new construction activities on the property? Is the house going to be enlarged? Torn down? Replaced? The building that's on the property?

A. That I don't know, but what I do have --

Q. You don't know?

A. -- to introduce is a photo of cars parked on the grass. And to me --

Q. Ma'am, if you could just be responsive to my question, please.

MR. HOLZER: I think she is being responsive, Mr. Schmidt.

Q. And that is if you're aware of improvements to the property there?

A. I said I do not know.

Q. You don't know. Okay. That's a fair answer. I was just asking you that question. Thank you.

How far is your house from Harford Road?

A. I said it's about a hundred feet maybe.

Q. Okay. About a hundred feet from Harford. How far is your house from the building that's on the Nepali property?

A. That I don't know, but I do remember -- I believe it was Mr. Motsco testifying that our house -- he measured it -- was about 300 or so feet from the tennis court -- volleyball court.

Q. How many volleyball courts are there, if you know?

A. Perhaps one.

Q. Do they play volleyball anywhere else, to your knowledge, on the property?

A. I don't know.

Q. You've described these volleyball tournaments. If you know, was there use of any other portion of the property for the volleyball other than the volleyball court, or was there just one game going on?

A. It was an extended period of volleyball playing, such as a tournament. I do not know if there were other games on other parts of the property. And I did include in the statement from one of the members about the multiple places, multiple states from which the volleyball teams came, so to me that seems like a tournament.

Q. But you don't know if they had multiple games going on or just one?

A. What I heard was loud percussive screeching and screaming and yelling which was constant. If it was one game or more games, I heard horrific noise, and that was extremely upsetting to me in my -- to disturb my quiet enjoyment and solitude on my property.

I played volleyball for a number of years, and I played it inside a gymnasium, and I never in my life heard such screaming and screeching and yelling from a volleyball court.

MR. GARBER: Ms. Clark, it will go a lot quicker if you just answer his question. I understand what your answer was there. His question was asking you about whether you knew if there was a tournament -- if I recall correctly -- whether there was a tournament or not.

If the answer is you don't know if there was a tournament but you have other, you know, other reasons to believe that the game was an extended game or whatever the case may be, that's something different.

THE WITNESS: I don't know how -- I'm not going to define "tournament." It just was a lot of volleyball playing and extremely loud noises, I have testified, and over an extended period of time, night after night after night.

BY MR. SCHMIDT:

Q. When you say "night," is the volleyball court a

lighted court, if you know?

A. They usually stop when it gets dark. So I do not know about lights, but I know that around dark the noise would stop.

Q. So you don't know if the court's lighted or not?

A. I do not. I -- excuse me.

Q. You mentioned the accident that happened with your young daughter. How long ago was that? Do you know when that was? What year?

A. It was about 20 years ago.

Q. Are you familiar with the Christian Redeemer and the Beachmont property that's not far away?

A. I have driven by it.

Q. Your familiarity is -- after living there for 33 years, your familiarity is that you have driven by it. Have you ever been on it?

A. Yes.

Q. How many times?

A. A handful.

Q. Would you say that's in the same neighborhood as this property? Same general neighborhood?

A. It's in the vicinity, but I know the zoning is different.

Q. Zoning aside, geographically, would you call it in the same neighborhood?

MR. HOLZER: Objection. She just answered the questions.

MR. SCHMIDT: No, that's the problem.

MR. GARBER: Mr. Schmidt.

MR. SCHMIDT: She doesn't answer the questions.

MR. GARBER: Mr. Schmidt.

I think he's actually correct. I don't think that she actually answered the question that was asked; she answered about the zoning and if she -- in her mind that means it's a different neighborhood or the same neighborhood or factors into that calculation, it's a different matter.

MR. HOLZER: Fine. Well, then let her explain what she means by that.

MR. GARBER: Ma'am, do you consider the Christian Redeemer Beachmont property to be the same neighborhood in which you live?

THE WITNESS: No.
MR. GARBER: And why is that?
THE WITNESS: It's a different zone.
MR. GARBER: Different zone as in --
THE WITNESS: Zoning.
MR. GARBER: -- the zoning classification?
THE WITNESS: Yes. Correct.
BY MR. SCHMIDT:
Q. So the neighborhood, in your opinion, is defined by the zoning classification of the property?
A. That's one of the criteria.
Q. What are the other criteria?
A. The existing farms, the working farms in the area; the historic value of the valley in terms of the people who settled it in the 1800s.
Q. How does that -- I'm not trying to be difficult, ma'am. I'm just trying to get an understanding of how you determine what I would call the neighborhood that's impacted by the proposed Nepali use. And do I understand that your determination of the neighborhood is based on who settled the property back in the 1800s?

MR. HOLZER: Objection. She testified --

Q. Is that your criteria?

MR. HOLZER: Objection. I'm sorry to be keep asking -- objection, but he's misplacing her words for her. The answer is very simple: She said the neighborhood --

MR. GARBER: Mr. Holzer --

MR. HOLZER: -- could be defined by the zoning.

MR. GARBER: Mr. Holzer, that was part of the answer; there was other criteria. Two of the things that have been mentioned were farms and she did mention who settled the property in the 1800s, and I believe Mr. Schmidt is following up on that. Her list may not be complete. Maybe there is more to be asked about, which obviously you would have that on redirect.

Mr. Schmidt.

BY MR. SCHMIDT:

Q. What I'm trying to understand, Ms. Clark -- I'm not trying to trick -- but I'm just trying to find out what you would consider the neighborhood to be in which the Nepali property is located. And as I understand it,

your answer is that the Beachmont and Christian Redeemer property, which I think we can agree -- how far is Christian Redeemer from you? And Beachmont, how far is that property? As the crow flies, how far is it from you?

A. I really don't have an accurate answer. It's probably about a 10-minute drive.

Q. Okay. Well, let me -- let's take a look at Petitioner's Exhibit No. 2 because you put your initials on here. This is your property here, correct?

A. That is correct.

Q. And the entrance to the Nepali property is right here, correct? There's Bonapart Avenue? It's opposite of Bonapart Avenue; is that right?

A. That is correct.

Q. How long does it take you -- you've driven these roads for 33 years or better, correct?

A. Yes.

Q. How long does it take you to get from your property up to the access at Bonapart if you drive it? How long does it take you to make that drive?

A. It depends on how fast I'm driving.

Q. Well, let's say on an average day, when you drive these roads, how long does it take you to get from here to there?

A. A couple of minutes.

Q. And do you know where the Beachmont property is?

A. Yes.

Q. Can you show us, if you see it? Or do you recognize it on this map?

A. The Beachmont property is over on this side, and the Redeemer property is over on that side.

MR. GARBER: So the Beachmont property is to the right of the Redeemer property?

THE WITNESS: Yes, sir.

MR. SCHMIDT: As shown on Exhibit No. 2.

BY MR. SCHMIDT:

Q. And that takes you 10 minutes to drive up there?

A. 10 or 15, give or take.

Q. And you don't know how far away that is as the crow flies from your property?

A. I have not measured it.

Q. Have you ever been impacted by any of the activities that are occurring on either of those properties?

A. No.

Q. You've never been impacted by any of the traffic that's produced on those properties?

A. No.

Q. They have a school over there, right?

A. I believe they do.

Q. They have a camp over there, don't they?

A. The Beachmont has a camp.

Q. They have a corn maze that brings a lot of people, particularly this time of year, that you can actually see in the photograph, right?

A. Correct.

Q. You've never heard any noise from that? Never been bothered by anything over there?

A. No, because one of the things that I've seen from the aerial shots is that a lot of that property lies in a bowl, as opposed to the pinnacle on which the Bonapart mansion sits. And I believe that perhaps the

fact that the Beachmont camp and also the Redeemer school, being in that low-lying topographical area, mitigates the noise, so we do not hear anything from either the school or the camp.

Q. And another distinction between the Nepali property and that property is that's a Christian-based religious use, is it not?

MR. HOLZER: Objection.

THE WITNESS: That's one of some differences.

MR. HOLZER: Objection. It's pretty obvious what that question is.

MR. GARBER: Technically it's argumentative, but it's also a fair question without argument.

THE WITNESS: I will state for the record --

MR. SCHMIDT: I didn't ask any questions, ma'am.

MR. GARBER: There is no question pending.

THE WITNESS: I beg your pardon.

MR. GARBER: That's okay.

BY MR. SCHMIDT:

Q. How long has the Nepali Community Center owned the property?

A. I believe sometime in early 2017, according to what I've heard here at the hearings.

Q. How many festivals have they had or events have they had since that time that you're aware of?

A. I can't be sure, but probably more than half a dozen or so.

Q. Can you tell us when they were?

A. I don't have that off the top of my head. I'm sorry.

Q. Can you tell us how long they lasted?

A. I think some lasted two days, which is what Mr. Ghimire testified to, for an event in the summer of '17; and then we had the more recent July 28th to August 3rd event. I don't keep track of how long each of the events are. I don't mark that on my calendar.

MR. SCHMIDT: Just a moment. Thank you, ma'am. I don't have any other questions.

MR. GARBER: Mr. Holzer, do you have any redirect for Ms. Clark?

MR. HOLZER: Yes.

MR. GARBER: Okay.

REDIRECT EXAMINATION BY MR. HOLZER

Q. Do you know whether or not Beachmont is incorporated as a rec center and not a church?

A. The Beachmont property, I believe, is incorporated as a recreation center.

Q. Do you know whether or not -- well, so you know it's incorporated as a rec center?

A. I believe so.

Q. When you were being asked about communities, in terms of your analysis of what a community is, you said the zoning is something --

MR. GARBER: Mr. Holzer, I think it was actually "neighborhood."

MR. HOLZER: Oh, neighborhood? I'm sorry.

MR. GARBER: Just so we don't confuse the term.

BY MR. HOLZER:

Q. When you talked about neighborhood, you talked about a different -- that zoning was one of the bases that you used to determine whether it was in or out of the neighborhood, correct?

A. Yes.

Q. In terms of your analysis of your neighborhood, can you explain why the neighborhood that you live in is not the same as the one further up?

A. In my view, there's the zoning difference between RC 2 and RC 5.

Q. Right.

A. And I'm obviously not a land use expert.

Q. Right.

A. From my understanding, that makes it different. And I also would state that a very long time ago, we were approached by a member of the Beachmont camp when they were looking for their expansion and going through their process. We refused to sign that letter because we did not support that expansion. And more recently we have opposed and filed paperwork with Baltimore County regarding the corn maze and the rules of the zoning matter that they are not in compliance with anymore. So we have actually opposed the expansion of activities regarding that Beachmont Christian camp.

Q. In terms -- well, needless to say, you're not a zoning expert, are you?

A. No, sir.

Q. Are you even familiar with land use issues in Baltimore County?

A. No, sir.

Q. So you're basically a lay person who is being asked technically to define what a "community" or a "neighborhood" is, correct?

A. I'm a lay person. That's correct.

Q. Did you do your best to try to separate the difference between Beachmont and your neighborhood or your home?

A. Yes.

Q. In addition to the zoning, is there anything else that distinguishes the Beachmont area neighborhood from your neighborhood?

A. In addition to the zoning?

Q. Yeah.

A. I think the topography is different, and as I said earlier, that seems to play a factor in the fact that whatever noise is being generated by -- for example, the camp is not something we hear.

Q. Now, insofar as volleyball and the shouts that you defined, how long does this in a normal week -- how long does playing a volleyball -- is it just, like, one night a week, or is every Saturday or Sunday? Just tell us what that means.

A. At certain times of the year, it was every night. It was every night, starting at about, say, 5:30, 6:00 until whenever it got dark, and that's, you know -- as the summer progresses, that gets longer and longer. And many Sundays, Sunday after Sunday, 8:15 in the morning, 8:30 in the morning they were playing volleyball. The same loud percussive screeching and screaming and yelling.

Q. Okay. And how many months or days or whatever did this go on? I mean, did it start in 2017, or did it just start in 2018? Do you know?

A. I know that it was there in 2018. I'd have to -- I can't really recall about 2017. But it was many, many days; many, many evenings; many, many Sundays.

Q. Did Mr. Kharke state anything in a statement

about the tournaments? Do you have any documentation from him -- what he called it?

A. Only that they had volleyball teams from New York, Pennsylvania, Columbia, and, of course, Baltimore and even participants from New Jersey, Virginia, and from many other states.

Q. Okay. So did he use the word "tournament"?

A. Not in this particular post.

Q. Okay. Do you recall any other statement where he indicated they were tournaments?

A. There might have been, but I cannot recall offhand.

Q. Now, you just testified on direct that the administrative law judge prohibited outside amplification; is that right?

A. That was what we received in the mail -- was ALJ Beverungen's decision after that hearing, and there were particular criteria for the special exception, and that was one of the criteria.

Q. Okay. Now, since that time, since the administrative law judge's decision, where you saw that

as one of the conditions, has there been outside amplification since that time?

MR. SCHMIDT: Objection. And Mr. Garber, my objection is based on several things. First of all, this is not a zoning violation appeal or appeal of any zoning violation case. Secondly, as the witness has testified, she's not an expert in zoning, and whether Judge Beverungen's decision is binding in view of the appeal or whether it's not binding or how the Bureau of Code Enforcement may view that in view of the appeal of Judge Beverungen's decision, which is obviously going to be superceded by whatever decision this Board makes or also enter into it. I don't believe she's qualified to answer that question, so I object for those bases.

MR. HOLZER: And he's wrong, and the reason that he's wrong is that he did not take an appeal of the conditions. They didn't take an appeal of ALJ at all. We did. Therefore, the conditions -- he didn't cross-appeal; therefore those conditions are still in existence and the Board is bound by those conditions.

You certainly can add more, but as far as the

conditions that were imposed, I've got case law that will end up in a memorandum to you. But I'm saying for right now, I think she's entitled to say what I ask her.

MR. GARBER: Mr. Schmidt?

MR. SCHMIDT: I think this Board is going to make its determination and its findings of fact, not based on the testimony before ALG Beverungen, but the testimony here before you. And obviously you're going to impose, assuming you grant the relief, whatever condition or conditions or no conditions. This is obviously a de novo hearing, and the underlying basis of this is the grant of the underlying special exception, and this Board is going to decide that issue obviously is a threshold issue, and then make a determination.

So with all due respect, Mr. Holzer, you're wrong.

MR. HOLZER: No, he is wrong.

MR. GARBER: It's okay.

MR. HOLZER: And I'm going to --

MR. GARBER: It's okay.

MR. HOLZER: We've got the law on our side; I've

got case law on our side.

MR. GARBER: We'll hear more about that.

As to this question, I do think it's relevant to the special exception factors. And we have already discussed noise, and I believe that this is just following up on those issues. I do not take it as a matter of did it violate Judge Beverungen's ALJ order regarding the conditions itself. I think it's just a matter of framing it for the purposes of, you know, the noise levels that she had heard since that occurred.

MR. SCHMIDT: Okay.

MR. HOLZER: Yes.

MR. SCHMIDT: Well, then I would also object because it's beyond the scope of cross-examination.

MR. GARBER: I believe she has testified several times over the course of direct and on cross about the large percussive noises coming from the property, and I believe that this is following up on that, so proceed.

MR. HOLZER: Thank you.

BY MR. HOLZER:

Q. The question was --

MR. SCHMIDT: Mr. Garber, I'm not going to tell you you're wrong.

MR. GARBER: No problem.

MR. HOLZER: I have no trouble telling him he's wrong (indicated Mr. Schmidt.)

MR. GARBER: Okay.

BY MR. HOLZER:

Q. The question was since the ALJ's decision, have there been amplification of sounds such as music or speaking coming from the site?

A. Yes. As I testified, during the most recent July 28th to August 3rd event, the noise -- the amplified sound of music and noise was so loud that we had to abandon our home.

MR. GARBER: If I can jump in here, when you say "amplified," what are you referring to? Are you saying from electronic equipment?

THE WITNESS: Yes, sir.

MR. GARBER: Okay.

BY MR. HOLZER:

Q. Now, you were asked a bunch of questions by

Mr. Schmidt in which he sort of implied that, well, you didn't really know or you had to say, "I don't know what's going on in the subject property." Do you recall some of those questions?

A. Yes.

Q. Have you ever trespassed since the Petitioner acquired the property? Have you ever trespassed onto his property to do anything in terms of finding out where the volleyball court is, finding out the status of the home, whatever? Have you ever done that?

A. I have not.

Q. So that explains why you don't know exactly where the volleyball court is from the standpoint of its physical location or how many there are; is that right?

A. Only to the extent that there have been the exhibits that their expert witnesses have shown, so that's what I'm trying to recall -- are those exhibits that have been presented to the Board.

Q. Okay. Now in the cross-examination, you started to --

MR. GARBER: Have you shown Mr. Schmidt that?

MR. HOLZER: No, I haven't. I just want to have her to see it first.

BY MR. HOLZER:

Q. You started to pull out a photograph in response to one of the questions that he asked you; is that right? And this is the one that you did?

A. It is.

Q. Do you have another?

THE WITNESS: Did you take the folder?

MR. HOLZER: No, I didn't take the folder.

(Photograph is handed to Mr. Schmidt.)

BY MR. HOLZER:

Q. Now, can you identify this picture? You did not take it, did you?

A. I did not.

Q. This was taken by someone else --

A. Yes.

Q. -- that will testify later?

A. There -- there was a drone pilot that was taking drone footage of the event because we were advised to collect evidence, and the drone pilot had specific

coordinates that ensured that his vehicle did not cross the line between the neighbor property and the Petitioner's property.

Q. Now, this picture --

MR. GARBER: We need to mark that because it hasn't been marked.

MS. MURPHY: This is Protestant's 4, right, that was marked for ID only? Is that the same photo?

MR. HOLZER: No, it's a different photo.

MR. GARBER: And Mr. Schmidt, you do have a copy of it in front of you?

MR. SCHMIDT: Am I looking at the one you're showing her?

MR. HOLZER: Yeah.

MR. SCHMIDT: It's the same thing?

MR. HOLZER: It's all the same thing.

MR. SCHMIDT: Okay.

MR. GARBER: So this is Protestant's 14?

(Protestant's Exhibit Number 14 was marked for identification purposes.)

MR. HOLZER: Yes, this is a new one.

MS. MURPHY: Okay. This is ID only.

MR. HOLZER: Okay. I know a lot of them are only ID because I have a witness that will come who later has to identify where they were taken.

MR. SCHMIDT: So I'm sorry. So this is Protestant's Exhibit Number 14?

MS. MURPHY: 14.

BY MR. HOLZER:

Q. Now, why did you pull this picture out in response to one of Mr. Schmidt's questions?

A. I was referring to the 502 --

Q. Yes?

A. -- criteria. And the specific criteria that was concerning to me was the Criteria I, the "be detrimental to the environment and natural resources of the site and vicinity."

MR. SCHMIDT: Now, I'm going to object, and I'm going to move to strike. And I'm going to move to strike not only that answer, but also the other answers that she gave previously in direct as to 502.1. I asked this witness a series of questions, and Mr. Holzer

objected.

And the witness said, "I'm not a zoning expert."

So since she's not a zoning expert, she can testify as a fact witness. But I don't believe she can render the opinions that she just rendered regarding a specific provision of Section 502.1 that she just rendered.

And that she also rendered during direct examination, where she actually went down 502.1 and opined as to whether that section was met or not met, particularly when she then said on cross-examination, "I'm not a zoning expert, so I can't answer your questions, Mr. Schmidt."

MR. GARBER: I will say that we are not receiving the evidence as coming from a zoning expert. It's understood that all Ms. Clark is doing is reading the regulation and doing the best that she can to try to figure out does this mean that this is being -- that one particular part is being violated or not from her perspective, and it's only being received as a lay opinion; that is it.

So with that in mind, you may proceed.

MR. HOLZER: Thank you.

BY MR. HOLZER:

Q. And you can -- the reason that you wanted to show Protestant's Exhibit 14 is what?

A. I was concerned that having so many cars parked on the grass would be damaging to the environment. Cars leak fluids. And so I spend a lot of my time volunteering in the wilderness and working as a volunteer with the Baltimore County, Maryland Master Gardener Program, and this is something that is important to me.

Q. Okay. So it was for -- never mind.

MR. GARBER: Did you say you were a master gardener?

THE WITNESS: Yes, sir.

MR. HOLZER: Let me make sure --

MR. GARBER: While you're doing that, I'm going to jump in really quick.

Do you know when this picture was taken, or can you ballpark it?

THE WITNESS: Probably around July 28th or so, 2018.

MR. SCHMIDT: Has this been admitted?

MR. HOLZER: No, it's for identification. It will be admitted later with another witness.

MR. GARBER: So you said July --

THE WITNESS: 28th.

MR. GARBER: Thank you.

THE WITNESS: 29th, somewhere in that vicinity, if that's helpful.

MR. GARBER: Understood.

MR. HOLZER: I have no further questions.

RECROSS-EXAMINATION BY MR. SCHMIDT:

Q. Ma'am, you indicate that this photograph, Protestant's 14, was taken sometime around the end of July of this year, correct?

A. Yes.

Q. Is your house visible on this photograph?

A. My property is visible.

Q. Okay. And can you tell us where it is?

THE WITNESS: How should I best do that for the

transcriptionist?

MR. GARBER: That's a good question. Can you take your copy there? Mr. Holzer, do you have your trusty red pen available?

MR. HOLZER: Yes, sir, I do.

MS. DOPKIN: We have a pen.

MR. GARBER: We can offer this up if that works better. If you believe that your property is on Protestant's 14 --

And Mr. Schmidt, you're okay with her marking that off of Protestant's Exhibit 14?

MR. SCHMIDT: It's okay with me.

MR. GARBER: Do you want to hand her the actual one?

MS. MURPHY: Sure. This is the actual one.

MR. HOLZER: Yeah, because this one's mine.

MR. GARBER: And once she marks it, obviously hand it to Mr. Schmidt so he's --

MR. HOLZER: This is probably easier to use my pen because it's sharper.

MR. GARBER: That's fine.

THE WITNESS: (Witness complied.)

MR. HOLZER: Can you encircle that area?

Is that what you want, to encircle the area?

MR. GARBER: I think just at least indicate where her property is as depicted on Exhibit 14 as best as possible, recognizing they're probably estimates. But show Mr. Schmidt what has been marked on that exhibit, please.

BY MR. SCHMIDT:

Q. Ma'am, your property is where this red X is?

A. In that general vicinity, I believe.

MR. HOLZER: Mr. Schmidt, that's why I asked would you prefer her to outline where she thinks the property is --

MR. SCHMIDT: If that's where she thinks her property is, that's fine. She's lived there for 33 years.

MR. HOLZER: And you've said that 33,000 times already. Thank you.

MR. SCHMIDT: I just want to make sure it's in the record.

MR. GARBER: Mission accomplished.
MR. HOLZER: Okay. She's marked; he's looked at it.
MR. GARBER: And so 14 is only for ID at the moment.
MR. HOLZER: Yes.
MR. GARBER: It is not admitted at the moment.
BY MR. SCHMIDT:
Q. I think you said that your house is about a hundred feet from Harford Road?
MR. HOLZER: Objection. This has already been testified.
MR. SCHMIDT: I'll withdraw the question.
(Cross-talk)
MR. GARBER: Hold on, hold on.
MR. SCHMIDT: I'll withdraw the question.
MR. HOLZER: Good.
MR. SCHMIDT: I'll withdraw the question.
MR. GARBER: Thank you.
BY MR. SCHMIDT:
Q. Ms. Clark, as I understand it, you said that you

personally have filed a complaint against the activities or regarding the activities up at Redeemer and Beachmont, with Baltimore County?

A. No, that's not what I said.

Q. Oh, I'm sorry. What did you say?

A. I said that there is -- there was a complaint filed with Baltimore County by a group of the -- some local residents --

Q. Right.

A. -- in regard to violation of the zoning regulations that were set up for the corn maze which is related to Beachmont.

Q. Is that the same group of neighbors who are opposing the Nepali property? Are they opponents of the Nepali property as well, if you know?

A. Yes, they are.

Q. And when was that complaint filed?

A. Probably a couple of months ago.

Q. How long has the corn maze been there?

A. I'm not sure, but this is the first indication that we've had that they have violated the zoning

guidelines that were set forth.

Q. Okay. Well, hasn't the corn maze been there for a number of years?

A. Yes, but this is the first notification that we have received that they have violated the zoning regulations that I believe Mr. Kotroko will recall those.

THE WITNESS: Those were your regulations that have been violated. I'm sorry. I didn't mean to talk to you.

MR. SCHMIDT: That's okay.

BY MR. SCHMIDT:

Q. What notification did you get? In other words, did the county send a notification out to the neighbors and say, "Hey, we think there might be a violation on the Beachmont property because of the corn maze. If you-all want to make a complaint about it, please do so." Is that what happened? Is that what I'm understanding?

You said you got notification --

A. No.

Q. -- some type of notification that there was activity on the Beachmont property that was not in accordance with the zoning restrictions that were imposed in Mr. Kotroko's case; is that --

A. No. One of our members did some research and found out that their filings with the county were not --

Q. Okay.

A. -- in accord with the zoning regulations that Mr. Kotroko had laid out.

Q. Who did that? Who was that, if you know?

A. I can't remember which one of our people went to the county and did that research.

Q. So you don't know who did that, and your testimony about a notification is there was no notification, per se?

A. Well, I received a notification based on the person's research with the county.

Q. Okay. Also, I thought I heard you say on direct that the volleyball activity had been described by Nepali as a tournament?

A. No, I described it as a tournament.

Q. Oh, okay. So the folks at Nepali never said they were having a tournament there? You --

A. I don't know --

Q. -- that's what your description --

A. -- what they've said in their various posts.

Q. But you've never seen it described by them as a tournament?

MR. GARBER: One at a time. Let Mr. Schmidt finish his question.

BY MR. SCHMIDT:

Q. You've never seen in anything that they have published or issued, anything saying "We're having a volleyball tournament on the property"?

A. I would have to go back and look at various documents. I don't know for sure.

Q. Well, ma'am, I'm assuming you took great care in preparing your remarks here today. If there had been such use of that word by Nepali in saying that they were conducting a volleyball tournament on the property, you certainly would have brought that to the attention of this Board. So are you saying you don't know whether

they ever described it as a tournament? You don't know that?

MR. GARBER: Mr. Holzer?

MR. HOLZER: I'm going to object.

MR. GARBER: Go ahead.

MR. HOLZER: We have direct, we have response, I have redirect, now we're doing it again. And he's beating on her on something that is inappropriate to this hearing. I object to this whole line of questions. I object to his cross-examination in addition to what is normally prescribed.

MR. GARBER: I will say that you did bring it up on redirect; that is the frequency of volleyball and what was going on and when it was going on.

MR. HOLZER: Right, I did do that.

MR. GARBER: So with that in mind, Mr. Schmidt, you may proceed.

BY MR. SCHMIDT:

Q. My question, ma'am -- let me just try to get through this. I had understood you to say on your direct examination, when Mr. Holzer was asking you

questions, that Nepali had held out, the representatives of the Petitioner had made public statements, either through social media or whatever, that they were having volleyball tournaments on the property. I understood you to say that.

A. What I said --

Q. Then during your redirect -- let me finish.

A. I'm sorry.

Q. Then during your redirect, you said, "No, it doesn't say anything in Dr. Ghimire's remarks about tournaments. That was my description."

So I followed that up by saying, "To the best of your knowledge, has anyone at Nepali ever said that they are having volleyball tournaments on the property?"

A. Well, they have not stated that in my documentation specifically. The description that I have in front of me from a Facebook post from Mr. Ghimire, the description to me of teams from New York, Pennsylvania, Columbia, Baltimore, etc., many states -- to me, as a former volleyball player, that's not a game; to me that's a tournament.

Q. Okay.

A. And there may have been, and I would have to go back and look to see if the word "tournament" was used in any of their discussion. To me the point is not whether it's a tournament or a game or a match or a scrimmage or whatever. It's the loud percussive constant day-after-day-after-day noise that is disturbing my peace and quiet solitude and enjoyment of my property. What we call it is not important.

Q. So let me ask you this, ma'am: If I bought the Bonapart property and decided to play volleyball every day with a group of my friends, wouldn't the impact be the same, whether it was a church or whether it was a private residence? Isn't -- what does volleyball have to do with the church, with people going there to practice religion?

A. I can't comment on what it has to do with church.

Q. Okay.

A. I just know that the constant percussive screaming and yelling disturbs my peace and quiet

solitude. When this property, Mr. Schmidt, was a single-family residence, they played tennis up there. And on occasion, on a Sunday afternoon, you would hear a tennis ball bounce. Quite frankly, they weren't very good because the ball didn't bounce for very long before they had to restart the game. Just recollection, I'm sorry.

MR. GARBER: It's quite all right. That's quite all right.

THE WITNESS: But that was not disturbing. It was screaming and screeching and yelling at 8:15 on a Sunday morning.

MR. SCHMIDT: Okay. I don't have any other questions. Thank you.

MR. HOLZER: I have no further questions.

MR. GARBER: Ms. Dopkin?

DIRECT EXAMINATION BY MS. DOPKIN

Q. I have one question, and it's really not particular to you. Are you part of an association? You said you got notice about the corn maze being in violation. Was that through an organization?

A. No, ma'am. It was through the research that one of my --

Q. So it was just one of your neighbors?

A. That is correct.

Q. All right. So here is my next question. We've heard testimony, and you've been here through the hearing. We've heard a lot about the traffic condition of Harford Road. You've lived there a long time. We already heard that the state raised the speed limit from 45 to 50 for northbound traffic at some point in the past several years?

Has anyone in the community or you that you're aware of ever contacted the county or the state about lowering the speed limit? It's a dangerous curve. We've heard it from Mr. Holzer numerous times and from you just this past few minutes. Has anyone in the community made any effort to have the state take any traffic-calming safety speed-reduction measures? because that's a condition that appears to be an existing one, not a new one?

A. I do know that they have -- the State Highway

has continued to improve the surface of the road.

Q. That wasn't my question. My question was have you or are you aware of any members of the community going to any government agency to reduce the speed or implement any traffic-calming measures along this part of the road?

A. All I can say is that I was an active participant in meeting with the State Highway Administration representatives when they were planning the traffic circle and seeking community input. Other than that I have no knowledge.

Q. And was any of that community input directed to reducing the speed limit or putting in other safety measures?

A. I think they did address community concerns and had reflectors and rumble strips in the area to try to reduce the speeds.

Q. But not in this particular --

A. Well, in that very vicinity of the Bonapart property.

Q. The testimony we heard did not indicate that

there were rumble strips along that part of the road?

A. That was in the past. The road has been repaved, and I don't believe they're there anymore, or maybe they're -- I just -- that was in the past.

Q. So they're not there now?

A. I don't believe they are.

Q. Thank you. That was my questions.

MR. SCHMIDT. I just have a question, in view of Ms. Dopkin's question.

MS. MURPHY: -- in view of hers. Go ahead.

CROSS-EXAMINATION BY MR. SCHMIDT

Q. Do I understand that at one time there were rumble strips or other improvements to the road designed to reduce the speed on Harford Road? Is that what I heard you say?

A. In a specific area around the curves.

Q. Around the curves or the curves that are north of the access or south or both or if you remember, ma'am?

A. I believe both.

Q. Do you know when that was?

A. I don't recall.

Q. Do you know how long they've -- they are not there now, correct?

A. I don't believe they're there now.

Q. Well, you drive the road every day. You would know if you drive over a rumble strip. Is there a rumble strip on Harford Road in that area now? I assume you drive the road every day?

A. I don't believe there is.

Q. Okay. You don't believe there is?

A. That's my best answer.

Q. Do you have any idea of when that was removed?

MR. GARBER: I think she's already answered.

THE WITNESS: I do not know.

MR. SCHMIDT: You don't know. You don't know. Okay.

DIRECT EXAMINATION BY MS. MURPHY

Q. A question about the amplification that you heard. You said there was outside amplification?

A. Yes, because it was clear that there was -- the level of the amplification was such that it was very

loud, and had it been inside a building, we would have not heard what we heard.

Q. Okay. So are you saying that you heard music connected to an amplification machine outside --

A. Yes.

Q. -- that would project sound?

A. Yes.

Q. Okay. So what specifically did you hear?

A. Drumming and people's voices over an amplification system.

Q. So somebody using a microphone and talking?

A. That is correct.

Q. Do you know what they were saying? Do you have any idea? Could you make out the words?

A. I could not make out the words. It might not have been -- it might have been a language other than English.

Q. Was this one time, or did this occur more than once?

A. More than once.

Q. When did you hear this? Do you remember the

dates that you heard this?

A. Well, most recently it was July 28th -- in conjunction with that July 28th through early August festival.

Q. Was that the fundraiser, or was that a festival?

A. It's been advertised as different things. Fundraiser was probably used by the -- by the Petitioners.

Q. Any other music besides drumming?

A. There might have vocal music, people singing over a microphone.

Q. Are you sure about that, or are you guessing?

A. I said there might have been. I do specifically remember the drumming and the people speaking over a microphone.

Q. And how many hours did that occur on that -- during that festival period?

A. It was quite a few hours during the day.

Q. So that was the only time you remember they used the amplification, did you say? Or did you say there was another time?

A. I know specifically that one, and I believe that there were some other incidents. We happened to be away when there was a large, very loud festival held in 2017, but I had heard --

Q. Wait a minute. You weren't there? You weren't home?

A. No, but I read the complaints that were filed with the Baltimore County zoning.

Q. Okay. Well, I want to know about your personal observations. So the one you remember was this?

A. That's the one I remember most recently.

Q. Okay. And you can't remember any, then, that you personally observed in 2017?

A. There might have been some, but I can't put a finger on a date. I know that this has just been a lot, I'm sorry I can't be more specific.

Q. No, I just wanted to clarify what you -- thank you.

MR. GARBER: Any follow-up for anyone?

CROSS-EXAMINATION BY MR. SCHMIDT

Q. Just in terms of the drumming, do you know what

a bass drum is?

A. I do.

Q. Was it a bass drum? Was it a snare drum? Was it a drum set? Do you know?

A. I don't know what the instrument was that was used, but it was a low-pitched, loud, rapid drumming.

Q. Like somebody with sticks or somebody with a mallet or could you tell?

A. I couldn't tell. I don't know what instrument was used.

Q. Okay. And you don't --

A. Which type of drum instrument was used.

Q. And you believe the amplification to be outside because it was loud as opposed to inside where the windows might have been open or something like that?

A. It had to be outside, given the volume that we heard.

MR. SCHMIDT: Thank you. I don't have any other questions.

MR. GARBER: All right. Are we good?

MR. HOLZER: I have no questions.

MR. GARBER: Thank you, Ms. Clark, for your time.

In terms of time, do you have --

MS. MURPHY: 20 seconds.

MR. GARBER: Do you have a quick witness?

MR. HOLZER: No. You could say that was a quick witness.

MR. GARBER: Oh, we have a different understanding of what the word "quick" means, I suppose.

MR. HOLZER: Like I say, I have the folks here, but I know they're all going to be of significant length.

MR. GARBER: Right. If you can't be done within 40 minutes, I don't want to have someone start and then -- that seems to makes the most sense to me.

Mr. Schmidt, how do you feel about that?

MR. SCHMIDT: I'm at your pleasure, Mr. Garber. Whatever you want to do.

MR. HOLZER: I can say that the next hearing date we would have these folks and some additional folks and some visual demonstrations, including sound.

MR. GARBER: Okay.

MS DOPKIN: Visual demonstrations.

MR. GARBER: What about any --

MR. HOLZER: Well, we're going to show you what went on. If you need to understand that, I'm going show you what went on through video, sound, documentation, and aerial view.

MR. GARBER: Do you intend to have any experts the next time around?

MR. HOLZER: I don't believes, unless maybe there's one.

MR. GARBER: That is from the next day, not as to your case --

MR. HOLZER: Oh, there is going to be --

MR. GARBER: But will you have any for the next day?

MR. HOLZER: There will be a slew of experts.

MR. GARBER: Right, but on the next day --

MR. HOLZER: There's going to be another motion filed by me that is going to take the Board some time.

MR. GARBER: Looking forward to it, but are you

going to have any experts the next time? For the next day do you intend to have any experts?

MR. HOLZER: No.

MR. SCHMIDT: Mr. Holzer, I'm only asking because obviously I would have my expert witness here. If you would tell me just the area.

MR. HOLZER: I said no.

MR. SCHMIDT: But you don't have any experts for next week?

MR. HOLZER: Not for next week.

MR. SCHMIDT: Fine. I'm not going to bring Mr. Caloggeri back to sit here, that's all.

MR. GARBER: Understood.

MR. HOLZER: Don't bring him back.

MR GARBER: So with that in mind, is there any other matters to discuss today?

MR. HOLZER: No.

MR. GARBER: So the next time we're going to be meeting at 9:00 here --

MR. SCHMIDT: Mr. Garber, I just want to ask one thing.

MR. GARBER: Yes.

MR. SCHMIDT: I know we have, I believe, three more days scheduled.

MR. GARBER: Yes, three more days.

MR. SCHMIDT: Maybe I'll talk to Mr. Holzer about it just to see whether --

MR. HOLZER: We're going to take all three.

MR. SCHMIDT: We can go off the record. Let's go off the record.

(Whereupon, a discussion was held off the record.)

MR. GARBER: Hold on. We're going off the record. This will conclude Day Four of the Nepali case, and we will reconvene on Day Five, which is October 23rd. Thank you all.

(The proceedings were adjourned at 3:23 p.m.)

CERTIFICATE OF NOTARY PUBLIC/REPORTER

State of Maryland

County of Howard, to wit:

I, Sue Harrison, a Notary Public in and for the State of Maryland, County of Howard, do hereby certify that the within-named witness personally appeared before me and, after having been duly sworn by me, was examined by Counsel.

I further certify that I am not an employee of Counsel nor related to Counsel or the parties in any way and have no interest in the outcome of this proceeding.

I further certify this transcript of testimony was prepared accurately by me to the best of my ability, knowledge, and belief.

As witness my hand and Notarial Seal this 29th day of October, 2018.

Sue Harrison

Sue Harrison, Notary Public

My commission expires 03/25/2020.

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-9 59:16,17

0

0.1 104:12,20,21

087 161:15

1

1 4:19 27:11 40:9, 10 45:4 46:1,4,5 62:11 75:17 108:13 111:15 124:15 185:14

1,000 60:15 63:9 81:16 185:20

1,400 58:13

1,450 58:15 60:16 63:10

1,600 58:17 65:9

1,700 47:14

1.1 75:2 79:6 80:19 82:1

10 84:18,19 88:3 94:20 95:13,16 96:12 100:14,16 162:1 180:16 213:17,18

10-mile 111:19, 20

10-minute 212:7

10/2 36:19

100 70:3 96:10

100-plus-year-old 189:15

10:30 103:13

10:49 88:14

11 100:7

11909 161:13

11:00 88:4

11:10 88:14

11:37 85:19

11th 89:21 90:1 93:9

12 48:20 49:4,14 50:19 103:17

12150 171:9

12231 174:9

126 134:19

127 134:19

12:00 61:15 62:2, 12 63:18 64:15

12:41 168:15

12th 90:2,4 93:8

13 100:10 150:17 151:8

13.3 70:8 71:15

13th 154:5

14 68:6 71:15 228:18,19 229:6, 7 231:5 232:15 233:9,11 234:5 235:4

14-second 69:5

147 21:9 37:21 57:11 69:2 72:15 80:8 109:11 119:5 121:18 122:8 123:20 125:13,17 135:11 137:1 153:12

15 48:11,12 49:8 88:3 90:7 131:8, 17,20 132:14,15 133:7,8,10,15,17, 18 213:18

15-minute 48:16 50:20 53:9

150 174:14

153 124:9

16 53:14 60:1

16,000 128:1 155:14

16,000-and-some-odd 155:12

16,389 127:10

16,390 40:5 126:12,17 127:10

16,965 40:20 41:2

17 176:21 216:13

1700 50:9 51:9,15 53:9

18 103:17

18-122 168:17

18-122-X 4:5

18-wheel 193:17

1800s 210:15,21 211:12

1838 103:13

1850 180:20

1930 180:20

19th 166:8

1:00 36:19 61:15 62:2,12 63:18 64:15

1:1 63:10

1:53 168:15

1st 53:7 94:19

2

2 4:19 29:18 45:5 48:6 56:8,10,11 65:21 66:1,2,17 72:18 75:17,19 76:14 77:9,14,15 78:13,15 79:2 82:20,21 171:16 172:14 174:12 180:19 188:3 192:15 198:13 200:18 203:8 212:9 213:15 218:5

2-acre 176:7

2-zoned 180:15 187:15 189:11

2.1 197:20,21

20 94:12,16,19 96:9 115:16 208:10 252:4

20,000 163:5 166:21 167:6

20- 14:20 59:15

200 107:1 183:13 186:8

2006 122:10

2009 122:1,10

2015 79:19 81:20 82:1,12,14 83:2 85:15 86:12 101:13

2016 79:20 83:2 100:7 102:2 106:4 124:6

2017 79:20 83:2 86:12 100:10 102:9,19,20 106:1,5 154:1,7 180:21 181:5 185:19 189:20 216:1 220:15,18 250:3,13

2018 47:3 79:20 80:3 83:3 95:13, 16 96:12 100:10, 11 106:5,6 176:21 177:12 178:20 220:16,17 232:2

21 53:15

21087 161:13

21807 161:14

23 100:10

23rd 255:15

240 65:1

25 7:3 9:7 91:19 93:1,4

250 101:19 106:7 107:4

25th 104:13 154:5

26 14:19 15:5 20:3,4,5 23:7,13 26:1,12 53:11 85:16 105:10,11 106:11,12,13 109:1,14,17 110:5 111:10,13 112:19 114:19 117:15,19 118:1 134:20,21 135:1, 3 137:10 140:13, 14 143:9,10 158:3

26th 36:11 37:5 129:20 130:12

27 14:18 19:10,16 23:8,10,11,13 47:3 118:12 134:21 135:1

27th 46:9 47:8 154:7

28 35:15,16 42:17 43:2 44:21 125:10,11 129:19

285 18:4 144:1

28th 154:2 178:13 194:18 216:13 225:12 232:1,7 249:2,3

28th-august 184:1

29 44:5 55:6,17, 20 56:11 66:2 73:7,14,19 82:15 108:8 111:14,15

125:15

29th 232:9

2nd 36:13 37:6 129:20 130:12,18 154:4 196:1

3

3 4:19 21:11 44:12,15,17 74:18,21 76:16 78:9,15 81:12,14, 15 140:5 143:12, 13 158:5 188:3

30 39:20 74:16,18 79:15 81:13,14, 15 83:14,20 87:12,15 98:10 101:10 153:20 158:8,18 177:4 188:3

300 167:5 183:13 205:17

31 38:15 40:2 50:21 119:18 126:7 131:20 133:8,11,18 154:17,20

33 173:5,8,11 181:2,5,8 192:8 194:8 208:15 212:17 234:17

33,000 234:18

34 40:3,8,9 126:6 131:20 133:9,11, 20 155:3,6

35 17:3 18:5 40:7, 14 52:13,19 55:3 111:12 137:13,19 138:19

35-mile-per-hour 17:5 111:6

360 18:10 144:1

365 82:19

38 41:3 83:15

39 41:4,6 83:15

390 17:2,4 137:13

3:00 164:7

3:23 255:16

3:45 9:21

3rd 36:14 37:9 129:21 130:16 178:13 184:1 194:19 195:20 216:14 225:12

4

4 4:4 19:19 21:11 44:12,15,18 65:10 100:7 104:7 140:5 228:7

40 103:18 158:20 252:14

400 58:12 63:7 65:3,5,8

401 4:21

407 60:14

45 17:21 18:11 39:1,10 41:9 52:6,9,19 124:1,2 129:6 131:16 137:16,20,21 138:19 158:18,19 244:10

46 126:19 127:11 155:11,13,15

468 47:4,8,10 48:13 49:17 50:9 54:15,17

4:00 9:21

5

5 27:10 133:11, 20,21 155:6 158:5 177:14 180:18 191:2 218:5

50 38:17,21 39:7 63:1,2 64:1,2,3 70:1,2,3,4 72:3, 13 94:15 123:21 124:10,15 125:20 126:9,19 127:18 131:15 134:9,13 137:20 138:19 155:13 158:20 159:20 244:10

50-mile-an-hour 52:8

50/50 72:9,10

500 17:17,19 78:7 81:17 104:17,18 108:20 111:21 137:16 186:1 202:13

502 229:11

502.1 89:13 181:14 188:11 229:20 230:6,9

508 4:17

51 126:8

528 104:21 105:7

532 48:21 49:15, 19 50:9,10 120:8

5800 82:18,19

5:00 53:8 94:14, 19

5:30 220:8

6

60 112:1

600 108:20,21

6:00 53:8 94:14, 19 220:8

6:30 103:16,18

7

7 37:15,20 40:1 100:11 125:12,14

7.5 80:16

7:00 46:10 47:2 50:17

7s 37:20

8

8 69:4 96:11 100:11 120:19 125:15 162:1 180:16

8.1 68:11 69:4

8.3 70:9

8.62 80:17

800 77:16 78:6

85 38:13 131:4 154:19

85th 38:12 40:1 41:3 131:5,9 132:3,12 133:3 138:11 154:16

88 48:8,17

8:00 46:10 47:3 50:17

8:15 180:6 220:10 243:11

8:30 220:11

9

9 48:5

9/3 37:1

90-year-old 179:3

90s 39:3

95 40:4,6 41:5 131:10,11 155:2

95th 40:2 41:4 130:21 132:7

9:00 37:2 104:12, 14 254:19

9th 19:17 36:5

A

A's 72:21 73:3

a.m. 46:10 47:3 50:17 88:14 104:12 120:8 180:6

abandon 178:14 190:13 195:9 225:14

ability 12:3 112:7 113:10 175:12

absolutely 97:19 148:10,13 183:14

accept 128:15

acceptable 92:9 118:8 119:8,10, 11,14,21 120:11

accepted 163:18

access 11:10 13:20 14:5,12 15:14 16:8,9,11, 12,13,14 17:3,7 18:14,17,18 19:1 20:9 21:3,6 22:7, 14 23:4,17 24:15 25:1 30:1,2,3,5, 13 31:8,11,19 32:20 33:10,16 34:15 36:8 45:11 57:4,11,12,13 59:6 70:15 71:11 72:20 82:4,8 104:16 110:19 111:2 116:17 118:8,9,10 135:4, 8,13 136:1,5,14, 16 137:6,9 138:10,15,17 140:15,16 141:5,

18,20 142:2 143:1,5 144:2,4,5 146:6,7,13,14,15, 19,20 147:6,7,9, 10,16,20 189:9 196:14 197:2,8 202:19 212:20 246:18

access-related 19:3 135:9

accessing 153:12

accident 78:4 79:19 80:6,7 85:5,12 86:8 103:6,11,12 104:4,15,19 105:18 122:7 123:4 153:17 154:2 156:8 196:20 202:11 208:7

accident-prone 83:5,7

accidents 34:11 74:13 79:13 81:21 83:2 85:8 86:4,17 87:1 99:12,17 100:21 101:12,13 102:3, 10 103:5,7,8 106:1 121:8 122:6,13,14,15 154:1,7 156:9 157:15 182:10, 15,16 184:20 185:2,6 196:2,13 197:1 203:9,13

accommodate 60:18 194:1

accomplish 162:20

accomplished 17:21 235:1

accord 238:8

accordance 115:10 146:16 238:3

account 49:2 163:17

accounted 97:2

accurate 212:6

accurately 97:6

acknowledged 124:11 198:13

acquire 31:10

acquired 153:19 154:6,8,9 226:7

acquisition 31:10 154:9

acreage 188:2

acres 176:5 177:4 188:3

action 67:1

active 245:7

activities 180:21 186:21 188:1 203:20 204:15 214:2 218:18 236:1,2

activity 187:2 238:2,19

acts 111:21

actual 49:17 59:13 62:14 63:15 79:4,19 132:19 133:4,6 138:8 233:13,15

adapt 90:20

adapted 44:21

add 49:13 222:21

added 63:1 65:2

adding 49:4,13

addition 24:17 33:16 54:4 64:20 164:5 219:13,16 240:10

additional 5:8 33:20 37:8 48:19 58:4 252:20

address 11:14 13:9 30:6 89:13 161:10,12 171:6, 9 183:10,19 187:16 190:6 245:15

addressed 30:7 33:10,13 89:15, 16 123:15 182:1

adjacent 181:15 190:1

adjourn 152:14

adjourned 255:16

Adjusted 49:21

adjustment 48:21

Administration 11:8 14:4,10 16:6,11,21 18:15 19:20 21:3 22:21 24:10,21 29:7 30:13 31:1,2,8,12 34:7 36:5 38:11 39:3,6 41:7 43:12 59:20 86:21 115:11 116:3,14, 16 118:5 120:6 121:7 122:1,4,19 126:15 127:7 131:2,12,14 132:2 135:11,19 137:3 138:1,15 143:2 144:15 145:16,18 156:3 245:9

Administration's 57:9

administrative 173:18 221:14,21

admit 9:5 23:7

admitted 23:14, 15 43:1,3 73:16, 20 87:14,16 93:1, 5 232:3,5 235:7

adverse 190:12

adversely 189:16

advertised 249:6

advised 54:2 227:20

advising 159:5

advisory 158:9 159:4

aerial 75:18 214:19 253:7

affect 111:3 188:13 189:16

affected 175:12 188:14

afternoon 168:8, 17 179:19 243:3

agency 245:4

aggressively 127:9

agree 8:11 26:18 62:9 114:6 128:6 170:13 212:2

ahead 6:13,18 176:16 201:11 240:5 246:10

akin 200:19

alerted 189:20

ALG 190:21 223:7

align 16:12

aligned 17:3 121:14 156:12

alignment 156:13

ALJ 173:18 176:21 178:20 185:12 187:1 221:17 222:17 224:7

ALJ's 225:8

alleys 44:1 54:8

allowing 188:13

alterations 14:6

ambulance 201:15

ambush 91:9

amended 25:3

American 4:4 30:18

amount 47:7 48:11 51:10 58:6 60:12 95:10 96:6, 7 97:6,10 119:4,8 165:6

ample 188:12

amplification 187:13 221:15 222:2 225:9 247:18,19,21 248:4,10 249:20 251:13

amplified 178:8, 13,18,19 190:14 195:11 225:13,16

ana 112:1

analyses 45:18 116:19 119:21

analysis 22:18 46:6 48:4 52:11 53:8,17 56:17 57:7 72:17 74:2 89:5 93:14 94:17 98:3,11 102:3 103:10 108:11, 13,17 110:14 112:17 114:18 115:13 116:1 119:2 120:11,13 190:20 217:10 218:1

analyze 119:7

135:12,16
analyzed 122:15
and/or 117:3
Andretti 127:1
angled 22:17
angles 156:15,18
annual 198:16
answers 157:4 229:19
anticipate 9:18 97:17 168:4
anticipating 54:4
anymore 22:17 218:17 246:3
anyone's 117:21
apologize 38:19 76:11 150:2 175:4 190:1
apparatus 148:8
apparently 103:9 105:19 161:3 194:5
appeal 222:5,9, 10,16,17
Appeals 185:14 191:1
appearing 149:13
appears 85:16 244:19
applaud 167:16
applause 167:18
applicable 75:9
apply 135:21
applying 139:4,5
approach 7:4 15:12 27:12 70:15 71:5,7,9, 14,15
approached 218:11
approaches 72:20
approaching 18:7 20:16 67:8 159:20
approval 18:16 20:3 118:11
approve 117:11, 12 137:6
approved 25:14 30:2 33:17 97:7 118:5 135:17 137:4 146:18,19
approvement 135:13
approximate 75:12
approximately 37:2 105:11
April 154:7
area 26:1,5,11,18 27:8,11 35:1,2,11 81:6,16 89:10 99:18 102:3,11 105:12 106:11 110:5 114:8 115:7,9 140:15, 19 143:18,20 175:16 176:3 177:16 180:15 183:11,15 184:10 189:11 190:17 192:15 199:15 210:14 215:2 219:14 234:2,3 245:16 246:16 247:7 254:6
areas 34:15 185:1 193:7
argument 65:2 113:4 215:13
argumentative 215:12
Arm 75:4 77:19 86:14 121:18 122:8 156:5 171:9 175:13 176:2
Arm-mount 123:10
arrive 94:6 202:2
articulated 112:13
ASHCO 54:3
asleep 199:18
aspects 116:10 189:6
assess 29:19 76:5
assist 191:17
assisted 182:10
association 162:10,13,20 163:3 166:3,4 170:5 243:19
assume 4:6 10:14 31:7 52:19 79:21 104:2 191:14 192:8 247:7
assumed 64:1 94:12,14,17,19
assuming 6:4 11:2 61:3,11 131:7 138:20 152:18 202:5 223:9 239:16
assumption 142:2
assumptions 63:4 112:16 129:12,16
assure 177:19
attach 92:5,6
attached 8:7,9 55:11 73:8
attachment 91:17,21 92:18
attachments 91:20 92:16
attempt 5:6
attempting 184:12
attend 162:12 173:18 186:8
attended 173:15
attendees 76:19 127:2 165:3 167:16 183:16 184:5,8 185:20 187:10,12 190:21
attending 163:6 185:17
attention 55:13 79:14 128:11,12 169:5,10 239:20
attractions 11:5, 6
atypical 115:6
audience 167:3
August 178:13 189:19 194:19 195:20 196:1 216:14 225:12 249:3
authority 84:7
automobile 202:6
automobiles 198:1
Avenue 4:18,21 22:9 35:3 38:1 57:3,11 59:7 60:12 81:7,10,16 101:12,16 104:11 106:7 125:13,18 212:13,14
average 67:15 117:2 126:6 213:2
average-day 60:6
avoid 183:5
avoiding 184:7
awakened 180:6
aware 6:21 12:11 194:13 196:14 203:10 205:5 216:4 244:13 245:3

B

back 16:7,8 22:1, 2 27:16,21 32:16 33:4 40:1 52:13, 19 65:21 79:14 80:5 83:18 95:11 110:12 113:13 129:11 134:19 145:9 158:19 165:10 168:16 187:1 210:21 239:14 242:3 254:12,14
backed 164:8 184:6
backing 204:4
backtrack 82:15
backwards 98:7 108:5
backyard 175:16
bag 34:20
ball 180:12 243:4, 5
ballpark 231:21
Baltimore 4:15 7:13 38:1 84:12, 21 98:17 99:4,16 117:3 124:6 129:9 144:20 145:3 174:17 175:16 182:9 185:2 186:3 193:7 218:15

219:3 221:5 231:10 236:3,7 241:19 250:8

bands 165:8

barbeque 203:14

barely 184:6

Barton 161:6,12, 20

based 16:16 17:2,5,20 18:4, 11,13 24:8 27:4 29:6 32:11 38:9 41:8,20 43:13,14 47:13,17,18,21 48:2 51:17 52:18 54:2 58:18 63:11 68:17 72:3,11 93:15 94:7 96:8 108:18 112:16 116:2 117:7 119:3,14,16 122:6,12,14 124:2 126:11 129:17,18 132:12 138:2 145:15 153:16 160:9 162:13 186:9 192:16 210:21 222:4 223:7 238:16

bases 217:18 222:14

basically 16:5 20:13 44:19 58:2 67:7 90:4 111:17 139:12 219:5

basis 11:8 72:13 126:19 198:16 223:11

bass 251:1,3

battery 150:19

beach 199:17

Beachmont 208:12 209:20 212:1,3 213:6,10, 12 214:11 215:1 217:2,4 218:11, 19 219:10,14 236:3,12 237:16 238:2

bearing 122:3

beat 53:5

beating 240:8

bedroom 180:9

beg 198:9 215:17

began 180:21

begin 168:3

beginning 45:15 107:10 130:10 137:8

behalf 4:14,18 7:6 170:4

behavior 202:20 203:12,21

belief 183:14

believed 94:12

believes 145:18 253:10

bend 109:17

Beverungen 223:7

Beverungen's 178:20 221:17 222:8,11 224:7

bicycles 184:20

binding 222:8,9

Biser 4:20 5:17 6:3,6,8,10

bit 12:3 22:4 63:20 83:13 165:1 194:21

blind 182:6,17 183:4 184:13 203:1

blue 81:2,5 101:12 103:9 144:11

board 5:3 7:3 12:11 14:15,17 15:7,8,13 20:7 35:19 42:7 43:20 44:9 76:14 77:8 89:12 90:11 108:12 137:9 163:4 166:20 173:16 174:4,6 178:3 185:14 190:7,8 191:1 222:12,20 223:5, 13 226:18 239:21 253:20

Board's 55:13

Bonapart 16:13 22:9 35:3 37:21 57:3,11 59:7 60:12 67:19 81:6, 7,10,16 82:3 101:11,16,19 102:20 104:11 106:7 108:21 114:16 125:13,18 137:11 172:6 177:2,10,14,21 178:8 182:7,18 183:7,12 184:2, 12 190:11 212:13,14,20 214:21 242:11 245:19

Boston 159:3

bothered 214:17

bottom 46:4 65:21 108:13

bought 242:10

bounce 243:4,5

bound 222:20

bowl 214:20

Bradshaw 163:21 164:8,18

break 8:19 9:9 168:5

bridge 159:21

bring 8:20 9:18 169:9 240:12 254:11,14

brings 107:5 214:12

broad-ranging 76:1

brought 131:10 169:4 239:20

brush 28:10,11, 21 32:4

buffers 32:9

build 30:1 143:1, 2,4

building 186:17, 18 187:2,3,5 204:17 205:13 248:1

built 132:8 165:18

Bull 162:15

bulletin 162:14

bumps 141:13

bunch 134:17 225:21

Burch 4:21

burden 183:15

Bureau 222:9

busier 195:6

business 6:5 165:21

busy 62:16

C

C-L-A-R-K 171:8

calculate 134:8

calculated 66:4, 5

calculates 132:6

calculation 58:2, 20 67:11 97:14 209:15

calculations 58:19 65:14 72:12 102:9 112:21 119:12 186:9

calculator 50:11

calendar 216:15

California 159:3

call 8:18 9:10 16:15 20:8,9 56:8 77:9 91:9 92:15 106:10 108:21 109:1 121:10 140:16,20 143:1 147:1 170:21 209:3 210:18 242:9

called 13:6 37:21 66:20 141:8,10 161:7 162:15 171:2 221:2

calming 199:19 200:13 201:14,18 202:7,8 203:5

Calogerri 12:19 13:13 15:10 17:6 19:9 20:10,13 23:17 27:6 28:15 30:14 33:16 34:4 35:18,20 41:13 43:5,20 47:17 50:14 53:18 55:10 56:6,20 63:14 66:8 73:6 74:1 77:8 79:14 81:20 85:11 87:8, 18 89:5 101:6 111:8 132:19 133:2 151:7 152:3

Caloggeri 10:18 11:7 13:5,11 22:7 31:6 42:6 72:6

128:3 139:5 153:4 157:17,19 160:12 254:12

Caloggeri's 192:11

camp 214:10,11 215:1,4 218:11, 19 219:21

cancel 197:10

candid 123:19

capacity 34:10 43:9,12,18 45:18 46:6 47:14,19,20 50:1,2,7,21 51:4, 5,14 52:3,7,8,14, 15,16,20 53:9,11, 15,18 54:5 56:16 57:7,10 58:3,16 60:17 63:8,11,21 66:10 67:11 70:11 108:9 112:6,21 115:13 116:9,19 119:2, 16,18 120:2 121:3 157:13,15 164:2

capacity-related 156:19

capture 40:19 85:5

captured 45:13, 16

car 18:6,12 126:18,21 155:15,20 201:16

care 29:18 170:19 239:16

carnivals 164:3, 21

Carroll 4:17

carry 47:14 165:20 176:16 180:2

cars 38:10 40:6, 20 41:2,5 58:10 59:1 65:5 67:11 70:3,7 72:3 82:13 120:9 126:17 128:2 198:14 201:13 202:7 204:20 231:6,7

case 4:3,5,6,16 8:20 13:14 31:9 39:5 54:1,17,19 59:5 68:20 75:11 112:17 119:18 125:7 128:1,10 133:7 158:17 167:21 168:3,17 194:5 207:14 222:6 223:1 224:1 238:4 253:13 255:13

Catholic 164:17

caused 54:7 148:15 184:21 189:13

CD 150:13

cell 166:7

center 4:5,15 30:18 166:18 179:3 182:17 184:8 215:20 217:3,5,7

ceremonies 188:7

cetera 116:6

chain-link 175:17

chairman 112:13 151:6

challenge 199:15

challenges 162:16,18

chance 140:11

change 15:3 32:20 86:21 87:3 120:13 121:2 144:11 152:3

changed 185:17

changing 33:7 137:1 185:10

character 47:21

characteristic 108:19 109:8

characteristics 51:19 108:18 160:3

characterize 83:5

characterized 111:17 159:12

charge 86:7 150:18

charts 35:14 81:1

check 130:14

child 200:7

children 164:9

choose 180:11

chose 190:17

Christian 164:16 208:11 209:20 212:1,3 218:19

Christian-based 215:6

Christian-minded 165:16

Christians 97:21

Christmas 97:21

church 54:4 163:21 164:16,17 177:12 180:18,20 217:3 242:13,15, 18

churches 54:3

circle 87:4 141:20 245:10

circumstances 109:5

cited 177:15

city 175:16 193:8, 9 199:14 200:4, 10

civic 162:10,21 163:3 166:4 170:5

civil 147:14

claimed 176:20

clarification 25:9 45:9 134:6

clarified 167:6

clarify 49:10 54:12 55:8 108:1 132:20 167:3 172:7 250:17

clarifying 105:1

Clark 5:1,14 89:21 150:1,6,18, 20 151:9,12,16, 18 152:8,14,16 170:21 171:1,8, 14,20 173:4 191:13 207:5 211:18 216:19 230:16 235:21 252:1

class 48:6 108:15

classification 146:21 147:2 189:12 210:6,10

classifications 188:20

classified 146:20

classify 110:4

clear 25:16,18 26:2 28:6 29:8 30:12 154:14 163:13 188:12 247:20

clearance 22:4 33:5,6

cleared 26:13, 15,19 27:17,21 29:14

clearing 27:9 28:18

client 54:2 95:9 106:3 115:14 130:2

client's 104:16

clients 102:19 127:14 142:7

clip 151:14

close 27:3 83:11 86:13 143:5 164:17 177:21 200:9

closed 142:11 178:10 195:11

closer 42:9 103:20 106:2 191:2

closing 144:18

CLV 57:19,21 59:19 63:7 66:13, 15 72:12

coat 141:11

code 83:19 222:10

coded 104:20 106:15,16 107:4

colleagues 61:3

collect 227:21

collected 37:1 40:5 43:15 126:11

collecting 36:18, 21 149:6

collection 116:17

collision 103:9 184:7

collisions 83:16

Columbia 186:3 221:4 241:19
columns 53:6
combined 47:2
comfortable 135:20
comforting 199:19
comment 242:17
comments 24:9 190:6
commercial 145:19,21 146:20 147:11,20
commercial/ institutional 189:16 190:12
Committee 162:21
communication 16:7
communities 217:9
community 10:3 112:20 162:10 163:10,15,19 164:14 165:17,19 166:18 170:3,4 174:15 177:15 187:14 190:10,18 215:20 217:10 219:6 244:12,17 245:3,10,12,15
commuter 183:6 184:19 193:1 198:14,15
company 119:3 160:6
compare 99:20
compared 119:8 120:10
comparing 200:8,12
comparison 109:13
complaint 236:1, 6,17 237:17
complaints 250:7
complete 211:14
completed 187:2
completely 105:14
compliance 218:17
complicated 65:14,15
complied 78:2 234:1
comply 136:12
concentrated 48:15 49:7
concept 18:17 118:5 135:6,17
conceptual 18:16 22:16
conceptually 30:2 136:3 137:4
concern 16:12 22:11 30:12 174:10,12 175:7, 9 181:21 182:1,4 202:10,14,15 203:7
concerned 43:12 187:14 188:4 231:6
concerns 174:3, 5,8,14,16 189:20 203:6 204:13 245:15
concise 17:13
conclude 255:13
concludes 6:4,6
conclusion 129:12 191:9
conclusions 44:11 55:14 73:9
concrete 141:4
concur 22:21
condition 16:15 31:19 45:20 223:10 244:7,19
conditions 16:16 83:9 97:18 104:4,8 119:16 128:13 129:14 130:15 147:7 158:16 188:11 222:1,17,18,19, 20 223:1,10 224:8
conduct 41:7 126:16
conducted 34:9 44:2 122:1 130:8 178:7
conducting 239:19
configuration 14:6,12 15:14
confirm 42:6 70:14 118:18
confirmation 67:9
confirmed 39:2 40:14 41:10 136:20
confirming 36:6
confuse 217:15
confused 153:9
confusion 68:19
congested 175:16
congestion 44:1,7 54:7 68:9 188:16
congregation 204:10
conjunction 249:3
connected 248:4
connecting 175:21
consensus 76:21
conservative 52:10 72:11
conservative-type 52:11
consideration 90:11
considerations 137:12
considered 93:14
considers 131:3
consisted 176:6
consistent 119:13 137:21 192:19
consistently 127:9
constant 84:2 179:12,14 206:18 242:7,20
construct 19:2 135:8 137:6
constructed 156:4
constructing 147:6
construction 135:19 136:7 137:5 141:6 144:5 204:15
consultation 14:4
contacted 244:13
contained 91:3
continue 93:3 188:9
continued 178:17 189:14 245:1
continues 186:2
continuing 183:11
contrary 179:11
contribute 202:6
contributed 86:3,4
control 115:11
conversation 167:7
conversations 14:10 145:15
cookout 197:5, 12,14
coordinates 228:1
copies 7:5 8:15 35:19 92:18
copy 7:2 8:7 14:16,17 19:6,8 35:18,20 92:21 228:10 233:3
corn 214:12 218:16 236:11,19 237:2,16 243:20
corner 37:18,19 46:5
correct 5:11 11:19 13:17 14:1, 2,7,8 17:8,9 18:21 20:4 22:2, 9,10 24:8,13,16, 19 31:7,15,20 32:1,6 37:7,10 39:14,15,18

41:17,18 42:3,5 43:5,6,10 45:6 46:7 47:11 49:9, 16,18,21 51:1,3, 12,16,21 52:5,15 53:1,3,12,16,19 55:5,7 56:18 57:6 59:4,8,21 62:15, 18 64:4,6,10,12, 16,17 66:10,21 67:21 68:3,15,21 69:3,7 71:19 72:5 73:4,10 74:2,3, 14,15 78:21 79:6 80:2,4 81:3,10,11 82:5,9 84:3,15,16 85:1,9,12,13,17, 18,21 86:5 87:5,7 89:14 90:5,8 92:13 94:9 96:14 97:15 98:1,3,6, 18,19,21 99:2,11 101:14,15 104:6, 8,9 106:3,10 110:11 111:15 112:10 113:1 117:16 118:16,17 120:1,12 123:12 129:7 130:1 133:13 134:15 135:13 136:16 144:13 148:1 149:1,3 154:10, 11,17,18 155:1,4, 5,7,8,12,13,16 156:5,6,9,10,17 174:2 181:3 194:19 198:8 203:15 209:11 210:7 212:10,11, 13,15,17 214:15 217:20 219:7,8 232:16 244:4 247:3 248:12

corrected 38:20 158:1

correction 174:19

correctly 5:10 80:13 207:9

count 45:11 97:20 98:2,3 119:4 120:9 130:19 148:8

counted 97:13

counters 149:10

countries 127:16

country 98:12,13 165:18

counts 44:2,3,6 45:14 93:17,18, 19 116:3,12 119:13 192:16

county 7:13,17 38:1 80:7 84:7, 12,21 86:9 98:17 99:4,17 117:4 124:6 129:9 144:20 145:1,3, 12 174:17 180:15 182:9 185:2 193:6,7 218:15 219:3 231:10 236:3,7 237:14 238:6,12,17 244:13 250:8

couple 87:19 187:11 192:2 194:11 213:5 236:18

court 25:8 75:1,8 76:10 77:12,20 78:11 88:17,19 102:16 113:12, 14,19 114:1 151:3 160:21 168:5 179:15,18 180:1 205:18 206:7 207:4,21 208:1 226:9,13

court's 208:5

courtesy 10:10, 15

courts 205:19

cover 10:20 28:7, 10,11 41:12 107:9,10

covered 11:17 175:7

covering 11:17 12:1

coy 147:16

crash 74:19 75:7 98:17 99:4,9 116:19 153:17,21 182:21

crashed 183:3

crashes 34:11 74:5,7,19 81:16, 19 82:12 84:21 85:15 86:12 153:18

create 72:16 117:4 144:12

created 188:16, 17 189:19,21

creates 33:4

criteria 17:14,15 18:13 21:1 41:16 89:13 181:13,15 188:14 210:11,12 211:2,10 221:18, 19 229:13,14

critical 57:9,14, 16 58:7,8,13 59:18 60:13,15 63:12 65:18 66:12 117:2

cross 9:16 156:13,14 193:20 224:16 228:1

cross-appeal 222:19

cross-examination 5:16 12:4,10 38:17 89:2,4 93:11 96:18 113:9 140:11 191:12 201:6 224:14 226:19 230:11 240:10 246:11 250:20

cross-examine 11:20 90:8

Cross-talk 235:14

crossed 182:17

crow 212:4 213:20

crowds 177:17 189:8

Cultural 4:4,15 30:18

curb 142:3,4,13, 15,19,20 143:3,4, 7,17,18 144:4,6

current 93:17,19 107:9

curvature 110:3

curve 21:15 38:6 39:14 105:13 182:17 183:4 184:13 244:14

curves 42:11 111:7 182:6,11 193:21 203:1 246:16,17

cut 27:21 32:18 56:7

cutoff 168:21

cuts 32:12

cutting 32:2

D

daily 94:16 117:2 126:19 203:20

damage 86:19 182:13

damaging 231:7

dance 169:3

danger 188:18

dangerous 184:10,21 203:12 244:14

Daniel 191:5

dark 81:5 103:8 144:11 180:1 208:2,3 220:8

darker 101:12

data 8:8 36:15, 19,21 37:1,3,5,8, 11 40:4 42:4 43:14,15 45:10, 17,18 48:4 51:19 55:11 57:7 73:8 78:4 79:16,19 80:6,7,16,17 83:18 84:4,8,10 85:1 98:13 99:6, 13 107:8 108:13 116:17 118:18 125:1 126:1,11 133:16 149:4,6 153:17,21

data's 149:4

Data.gov 74:20 79:18 99:5,18

Data.gov. 84:9 85:3 98:11

database 85:5

date 8:21 9:2 89:20 93:14 107:20 166:6 250:15 252:20

dated 19:17 96:12

dates 130:12 153:21 249:1

daughter 173:12 182:21 208:8

day 4:4 5:20 18:21 37:9 40:19, 20 45:17 64:13 82:19 94:21 101:17 103:9

105:19 115:16 124:9 164:6 179:4 180:3 183:8 185:14 186:1,8 194:9,17 195:5,6 202:13 213:2 242:12 247:5,8 249:18 253:12,16,18 254:2 255:13,14

day-after-day-after-day 242:7

days 4:19 5:17 45:17 46:12,15 49:4 82:19 126:5 164:5 178:15 185:21 195:16 216:11 220:14,19 255:3,4

de 223:11

dead 53:5

deal 55:20 136:15,17

dealing 11:7

decades 182:14 184:16

December 154:5

decide 121:7 223:13

decided 122:12 242:11

decision 118:8 221:17,21 222:8, 11,12 225:8

decision-making 123:9

decreased 70:5

deer 183:5 185:1

define 207:16 219:6

defined 210:9 211:8 220:2

definition 110:6 112:9 120:15

definitions 112:11

degradation 204:14

delay 66:3,4,6 67:15 68:6,10 69:5,6 70:7,8 71:6,7,8,15 72:2

delays 68:9 71:3

demonstrations 252:21 253:2

denied 24:21

depending 64:7

depends 104:1 213:1

depicted 18:17 78:15 111:13 135:5 141:2 234:5

Deprom 91:18

describe 35:2 57:21 58:8 74:8 99:18

description 239:4 241:11,16, 18

descriptive 110:5

design 11:9 20:9 23:1 36:8 41:8 116:16 118:9 131:13 135:17,21 144:5 159:19

designate 80:8 115:8 143:4 147:6

designated 77:16 80:16 101:18 112:2 125:14

designation 159:11

designations 159:13

designed 18:14 115:10,12 118:10 138:11,12,13,14 159:1 246:13

designing 127:7 159:18

designs 127:7

desire 14:11

destroying 179:16

detail 74:12 106:19

detailed 86:6

details 99:8 122:5

determination 43:21 210:20 223:6,14

determine 45:21 52:3 57:10 58:2,4 97:6 107:7 118:8 120:3 210:18 217:19

determined 40:2 94:18

detrimental 188:15 189:1 229:14

developer 141:17

development 89:10

Dewey 173:7

Dewitt 5:1

dialogue 157:1

died 173:13 179:19 180:4

differ 98:20 99:1

difference 76:7 218:4 219:10

differences 111:1 215:9

difficult 21:14 27:2 114:18 210:16

difficulty 189:8

diligence 177:7

direct 12:1 13:12 89:6,7 107:14 108:12 121:6 158:2 161:19 171:13 221:13 224:16 229:20 230:8 238:18 240:6,21 243:17 247:17

directed 245:12

direction 25:17 35:10 36:12,13 37:15 38:21 39:1, 7,10 47:6 59:1 63:12 79:14 81:17 83:12 106:16 123:20 126:18 193:2

directions 36:15 39:5,21 124:5

directly 22:8 172:6

disagree 118:15

disclosed 5:19 156:3

discovered 163:1

discuss 16:2,4 23:20 30:1 56:1 74:9 121:15 254:16

discussed 34:4 41:16 162:15 183:9 224:5

discusses 7:16

discussing 17:15 71:10 106:2

discussion 88:11 168:12 242:4 255:10

disregard 176:17 177:11

distance 16:16, 17 17:4,17,19 18:1,9,11 21:18 29:5 30:11 33:1,2 40:13 137:12 153:15 184:10

distances 25:14 26:14 136:19

distinct 109:8

distinction 215:5

distinguishes 219:14

distributed 48:13

distribution 116:18

district 19:18,19

disturb 206:20

disturbances 189:19

disturbing 178:11 179:14 185:10 242:8 243:10

disturbs 242:21

ditch 185:8

division 7:15

document 7:17 40:18 46:2 48:7 56:1,4 97:1 104:20 135:1 138:3 171:15,17

documentation 116:2,13 117:1,3, 4 221:1 241:16 253:6

documents

44:20 88:1 90:12 116:8,9,18 123:16 135:20 136:7,11 137:5 141:6 144:3 147:15 239:15

dollars 183:9

door 157:7 180:11

Dopkin 13:9 27:6,8,13,15 50:3,4 78:9 157:21 158:2 160:8 161:10 169:9 171:5,11 233:6 243:16,17 253:2

Dopkin's 246:9

dot 107:8

double 193:20

Douglas 4:20

dozen 197:15 216:6

draw 55:12

drawing 71:1 137:4

drawn 136:3

drive 39:9 82:4 127:8,18 177:8 212:7,20,21 213:3,17 247:5,6,8

driven 208:13,15 212:16

driver 127:8 183:1,4

driveway 17:7, 16 35:4,5,6,7,8 145:19 153:14

driveways 110:20

driving 38:14 86:2 115:5 126:9 131:8,11 141:12 184:21 202:4 203:19 213:1

drone 227:19,20, 21

dropping 164:8

drops 70:7

drove 130:13,14 155:17

drum 251:1,3,4, 12

drumming 178:14 195:12 248:9 249:9,14 250:21 251:6

drums 195:13, 15,17

drunk 86:2

dry 102:5 103:9 104:4,7

due 86:16 89:9 156:8,11 177:7 184:9 190:14 223:15

duly 13:6 161:7 171:2

dying 179:3

E

earlier 89:6,9 183:10 200:15 219:19

early 6:20 39:3 177:12 180:6 216:1 249:3

ease 71:10

easier 233:19

easiest 34:3

east 21:9,10 25:17 140:21 162:3,4

Eastern 159:21

easy 202:21

edge 27:3

edited 151:16

effectively 158:12

effort 244:17

egress 23:4 203:12,21

elaborate 175:8

electronic 225:17

elements 32:21

eliminate 148:3

eliminated 141:21 142:3

email 36:4 40:11, 12 41:12 92:16, 17

emanate 181:9

emanating 181:10

emergency 189:9 199:21

emphasis 179:13

empirical 191:9

encircle 234:2,3

encountering 202:19

end 9:19 18:19 21:7 45:15 117:3 130:10 151:14 169:13 170:1 193:9 195:10 223:2 232:15

endanger 183:15

enforce 5:7

enforceable 158:10

Enforcement 222:10

engineer 13:16 19:19 68:13 83:4 114:17 147:15 156:7

engineering 129:15,17

engineers 45:19

English 248:17

enjoy 176:2 178:6

enjoyment 174:11 175:10 176:18 180:14 190:19 206:21 242:8

enlarged 204:16

ensure 34:8

ensured 228:1

enter 67:14,17 184:12 222:13

entered 84:6

entering 20:16 204:3,7,11

enters 114:16

entire 46:11 60:14 79:13 112:2 166:15

entirety 144:21

entitled 56:11 223:3

entrance 19:3 24:11,14 103:20 106:2 112:18 114:10 135:9 137:10 141:20 144:17 145:19,21 146:11 184:5 212:12

entranceway 136:19 144:18 145:4

environment 189:2,17 229:15 231:7

environmental 7:15 204:14

equipment 12:14 36:18 37:3 184:20 185:3 200:18 201:15 225:17

era 102:21

erosion 189:13

escapes 185:5

essentially 55:13 59:3

established 107:13

estimate 61:21

estimated 61:5, 20 132:8

estimates 234:6

evaluation 7:14 8:8

evening 60:4,18 61:6,8,9 65:20 68:4 94:13,18 103:14,18 193:2, 5,8

evenings 220:19

evenly 48:13

event 5:19 62:4 93:2 115:15 149:11,17 179:11 186:4 194:17,21 195:8,11 196:10, 13 216:12,14 225:12 227:20

events 61:13 81:1 97:11 175:11 178:7,18 183:12,16 189:10 190:3 203:3 216:3,15

Everything's 88:20

evidence 9:6 23:14 33:19 43:3 73:20 87:16 92:11 93:5 150:10 188:12 191:9 227:21 230:15

exact 11:6 36:15 99:8,13 130:17

examination 13:6,12 93:3 153:3 158:2 161:7,19 171:2, 13 217:1 230:9 240:21 243:17 247:17

examples 59:11, 12 178:1

exceed 99:10 131:18 133:18,20 165:3

exceeding 131:20

exceeds 115:15

exception 188:13 191:8 221:18 223:12 224:4

excess 183:13 189:8

excessive 140:16

excuse 103:18 138:13 197:21 201:9 208:6

excused 160:13

exemption 138:7

exhibit 7:3 9:7 14:18 15:5,17 19:9,16 20:3 23:13 26:1,12 35:15,16 42:17 43:2 44:5,18,21 46:1,5 55:6,11, 17,18,20 56:1,2, 8,11 59:15 60:2 62:11 65:21 66:2, 17 73:7,12,14,19 74:6,8,9,16,18,21 75:16,17,18,19 76:14,16 77:9,14 78:9,13,15 79:2, 15 81:12,13,14, 15 82:15 83:20 84:17,19,20 87:8, 12,15 92:2 93:1,4 95:12,16,17 96:11,15 99:20 100:14 101:10 105:9 106:11,12, 13 108:13 109:1, 14,17 111:10,13, 14,15 117:15,19 118:12 124:15 125:10,11,15 129:19 135:3 140:13,14 143:8 144:10,11 150:17 151:8 153:20 154:15 158:3 171:16 172:1,6, 14 212:9 213:15 228:19 229:6 231:5 233:11 234:5,8

exhibits 23:7 34:4 75:13 83:10 86:11 91:3 93:16 116:8 134:20 226:16,17

existence 222:20

existing 21:2,3,6 24:11,14,20 26:21 33:6 58:6 140:5,15,17 141:9 142:8 144:12 145:18 153:11,14 163:18 210:13 244:19

exited 152:16

exiting 16:20 17:1,10,16 20:14 22:12 41:20

expanded 188:5

expansion 218:12,14,18

expect 72:7 165:16 201:21

expected 31:9 54:1 167:5

expecting 110:19 111:4 179:5

experience 72:2 179:2

experienced 165:4

expert 26:10 114:7 121:11 194:6 218:7,21 222:7 226:16 230:2,3,12,15 254:5

experts 169:19 253:8,17 254:1,2, 8

explain 79:15 166:18 175:10 209:17 218:2

explained 50:4

explains 226:12

explanation 15:17

explicitly 178:20

express 174:4,5

expressed 22:11

extend 10:14

extended 45:12 206:8 207:13,18

extent 109:10 226:15

extra 40:19 90:19 97:10

extraordinary 97:18

extrapolate 192:16

extremely 114:15 120:17 179:7 184:10 187:14 206:20 207:17

F

Facebook 185:19 186:2 191:3 241:17

faced 162:16

facilities 188:5

fact 101:11 132:8 136:18,19,20,21 156:11 163:2 177:20 215:1 219:19 223:6 230:4

factor 48:8 93:14 111:14 219:19

factors 209:15 224:4

facts 137:3 167:7 185:11

failing 184:3

failure 36:14 58:17,18 60:16 63:10

fair 11:16 60:6 93:13 127:17 128:7 129:11 140:7 162:19 205:8 215:13

fairly 75:21 97:9 200:1

Fairmount 4:17

fairness 99:19 128:10

falling 199:18

familiar 26:4 53:21 96:19 98:16 173:21 208:11 219:2

familiarity 208:14,15

family 173:10 187:11

farm 184:20 185:3 198:14 200:18

farms 185:4 210:13 211:11

fast 83:9 213:1

faster 132:15,18 133:8,9,10,11 155:11,15

father 179:3,19, 21 180:3

favorable 99:3

feature 177:3

federal 120:10

feel 200:12 252:16

feet 17:2,4,17,19 18:4,10 21:11 29:18 48:5 77:16, 19 78:6,7 81:17 101:19 103:18 104:17,18,21 105:7 106:7 107:4 108:20,21 111:21 137:13,16 140:5 176:9,10 205:11,12,17 235:10

felt 124:1 146:3

fence 21:15,20 142:14 175:17

fences 185:5

Ferris 164:4 165:8

festival 62:3 115:18 130:6 149:8 185:21 186:9 195:16 202:14 249:4,5, 17 250:3

festivals 61:12 97:2,13 130:3 163:6,12 164:21 167:6 185:14,16, 17 187:4,6,9,12 188:6 190:15 216:3

festivities 165:5

fictitiously 58:10

field 24:9 180:12

figure 33:9 42:20 67:8 163:7 230:18

figures 102:10 108:16 112:21 120:7

filed 5:1 218:15 236:1,7,17 250:7 253:20

filings 238:6

final 11:9 15:13 20:9 125:2 135:13,21 190:6 192:5

finalized 22:18

finally 56:14 189:14

find 96:20 113:21 137:7 148:14 165:15 211:19

finding 226:8,9

findings 223:6

fine 15:2 45:8 88:6,18 92:8,12 118:19 128:19 151:2 152:1,15 161:5 169:8 209:17 233:21 234:16 254:11

finger 250:15

finish 153:2 198:21 239:9 241:7

fire 188:18 189:7 201:15

firm 149:2

fit 20:21 52:20 120:7

flat 160:1

flies 212:4 213:20

floor 89:1

flow 97:7

flowing 47:6,7

fluids 231:8

fly 90:21

focus 111:9

focused 112:17

folder 227:9,10

folks 30:18 201:21 239:1 252:10,20

follow-up 250:19

footage 227:20

fore 151:20

forgot 19:12 169:5

Fork 177:12

Fortunately 182:20

forward 30:17 33:11 161:1 253:21

found 37:11 99:11 162:18 238:6

founded 180:20

fourth 104:7 154:5

frame 126:2,4,6 130:3 168:21

framing 224:9

frankly 243:4

freedom 165:18

frequency 240:13

frequent 175:19

Friday 50:16 82:18 85:19 101:21

friends 178:15 242:12

front 59:2 82:8 100:3 187:7 228:11 241:17

frontage 25:10

fudged 138:1

full 37:5 45:17 153:11 171:6

full-scale 86:6

fully 43:12 61:4 165:19

fun 91:8 124:8

fundraiser 115:20 178:12 183:18 184:1 249:5,7

fundraisers 97:3,12

future 5:17 139:10

G

game 206:7,19 207:13 241:21 242:5 243:6

games 206:10, 15,19

Garber 4:2,10,12 6:1,4,12,15,18 7:19 8:2,11,16 9:5,11,20 10:16, 20 11:2,5,16,21 12:3,6,13,16,18 13:1,4 14:19,21 15:5,11 19:4 21:17,21 23:7,11, 15 24:5 25:2,12, 21 26:4,10 27:16, 19 28:1,3 29:3,9, 12,17 30:5,16 32:13,19 37:17 41:1 42:13,18 43:1 44:14,17 45:2,4,7,9 46:17, 21 47:2,10,12 48:9,15,18 49:10, 13,17,19 50:1,7 51:4,8,18 52:12, 18 53:2 54:11,14, 21 55:2,6,8,20 56:2,10,13,15 57:12,14,17 59:9 60:1,20 61:1,3,9, 16,19 62:2,7,9,21 64:19 65:1,6,8, 11,15 66:1 67:1, 5,7,17 68:1,12, 14,16,18 69:1,4 70:13,19 71:3,7, 13 72:18 73:2,16 75:3,6,13 76:2,5, 18,20 77:4 78:8, 14 79:2,3,21 80:3,10,14,18 81:13 83:19 84:1, 4 87:12,14,19 88:2,4,7,9,15,20 90:14,17 91:2,10, 13,19 92:6,8,11, 19 93:1,10 95:6, 14 96:11,16 99:19 100:3,13 101:3,6 102:13, 15 103:16 104:18 105:1,5 106:15 107:13 108:1,6 109:14 111:8,12 112:4,7 113:9,12, 15,18 114:1 117:14,18 118:6, 13,21 120:18,20 121:15 123:1,4,6, 9 125:11,14,17 126:1 127:3 128:4,6,9,17,19 129:1 132:1,6,11, 17,21 134:1,6,20 139:2,8,12,15,18 140:14 142:16, 18,20 143:9,11, 20 144:16 147:4 148:5,16 150:3,9, 12,16 151:2,7,10, 13,21 152:10,15, 18 153:1 156:15 157:2,6,19 158:1 160:9,12,15 161:1,3,14,16,18 162:2 167:13,17 168:1,3,16 169:2, 4,8,14,17 170:2, 8,10,13,17,19 171:19 172:4,9, 13,16 173:1,6 174:7,18 175:1,4 181:17 186:13 198:8,10 199:2,4, 9 201:5,8,11 207:5 209:8,10, 19 210:2,4,6 211:7,9 213:12 215:12,16,18 216:18,21 217:12,15 222:3 223:4,18,20 224:2,15 225:1,3, 6,15,19 226:21 228:5,10,18 230:14 231:14,18 232:6,8,11 233:2, 7,13,17,21 234:4 235:1,4,7,15,19 239:8 240:3,5,12, 16 243:8,16 247:13 250:19 251:20 252:1,5,8, 13,17 253:1,3,8, 12,15,18,21 254:13,15,18,20 255:1,4,12

gardener 231:11,15
gates 204:7,11
gathered 84:5 117:8
gatherings 190:15
gave 24:2 42:7 92:21 118:9 202:17 229:20
general 35:1,2 106:11 110:15 116:8 188:15 208:21 234:11
generality 112:15
generally 26:19 34:21 110:16 160:6 191:14
generated 97:10 219:20
generation 116:18
gentle 199:13,16, 19 200:13 201:14,18
gentlemen 167:1
geographically 209:3
get-together 115:19
get-togethers 97:2
Ghimere 176:19
Ghimire 177:1 185:13,19 187:1 216:12 241:17
Ghimire's 241:10
give 7:2 14:16 15:19 22:4 23:18 31:16 34:3 35:18 99:8 118:2 122:2 157:3,9 176:11 180:13 190:18 199:9 213:18
giving 15:15 59:11
GKCA 166:5
Glen 75:4 77:19 86:14 121:18 122:8 123:10 156:5 171:9 175:13 176:2
good 4:13 18:7 40:14 49:11 51:18 70:11 75:7 85:4 88:20 92:10 124:17,19,20 127:13 168:6 178:17 190:2 203:4 233:2 235:17 243:5 251:20
Google 165:11
Gotcha 148:2
gov 107:8
government 245:4
grab 50:11
grade 28:14 52:2 68:7
grades 58:7
grand 185:21
grant 138:4 223:9,12
granted 90:15
granting 31:8 135:4
grants 18:16 135:5
grass 175:18 204:21 231:7
grasses 29:15
great 169:11 239:16
greater 155:6 162:12 166:4
Green 39:8
Green-haystack 174:15 175:15 178:5 190:9
grew 163:14 175:13 198:19
grieve 179:20 180:3
ground 11:17 12:1 27:21 28:1, 7,10,11 29:14 130:15
grounds 10:21
groundwater 7:9,15
group 10:19 13:17 162:10 163:10 177:3 236:7,13 242:12
growing 199:14
grown 190:4 192:8
growth 93:14,19 94:1,6 187:17
guardrail 182:20
guess 10:17 26:4 80:17 106:19,21 124:4 157:14 159:19 185:9 195:15
guessing 249:12
guide 38:12
guideline 40:15 41:10 120:5
guidelines 52:21 129:18 237:1
gutter 142:13,15, 19,20,21 143:3,5, 7,18 144:4,6
guttered 142:3
guys 80:12 167:18
gymnasium 207:2

H

habitat 176:4
half 40:20 106:8 190:11 197:15 216:5
half-mile 191:6
hand 233:13,18
handed 90:12 227:11
handful 208:19
handy 112:11
happen 9:15
happened 36:17 130:18 149:5 154:8 208:7 237:18 250:2
happening 141:19 142:1
happy 8:10
hard 9:12 106:21 165:7
Harford 13:21 50:20 62:16 63:6, 16 69:2 72:20 73:2 74:11,12 77:13 78:1 79:9 82:13 86:14 109:5,7,11,19 111:9 112:3 115:3 120:1 122:15 123:11 124:13 142:8 148:9 156:5 159:12 160:7 164:2 165:14 171:9 174:9,13 176:9,11 182:5 183:6 184:4,6 185:4 192:15 193:6,15 198:2 200:14,19 202:11 203:20 205:10,12 235:10 244:8 246:14 247:7
Harrison 4:21
harvest 164:20
hastily 140:3
hate 38:19
haunts 183:2
hazard 188:18 189:7
he'll 10:14
head 29:10 193:4,5 216:8
head-on 83:16 103:9,11,12 104:7,15 105:21 106:4,5,6,16
head-ons 106:4
heading 109:15 183:4 184:7
headlights 22:12,19
health 112:19 188:15
hear 162:21 180:10 199:12, 17,20 200:2 201:9,13,18 215:3 219:21 224:2 243:3 248:8,21
heard 15:12 50:1 61:12 165:6 182:5,9 183:9 185:15 186:6 192:18 202:17 206:17,19 207:3 214:16 216:2 224:10 238:18 244:6,7,9,15 245:21 246:15

247:19 248:2,3 249:1 250:4 251:17

hearing 5:13 7:6 8:21 9:2 11:13 33:19 43:10 89:20 90:18,20 91:8 129:10 173:19 184:14 185:12,15 186:6 187:5 190:21 191:5 203:6 221:17 223:11 240:9 244:7 252:19

hearings 10:4 74:5 173:15,16 185:12,18 191:1 216:2

heavier 68:4

heaviest 47:7

hedges 28:20

height 26:13 29:13

held 88:11 168:12 178:12 187:6 188:7 197:13 241:1 250:3 255:10

helpful 25:19 232:10

helps 58:3

hey 158:17 237:15

high 29:18 98:2 110:18 184:21

high-density 175:15

high-rounded 82:16

higher 48:11 50:19 52:7 63:20 83:13,17 94:13 131:8

highest 46:10, 11,15 61:14,16 63:15,16

highlight 11:4

highlighted 101:11

highly 178:6,10

highway 11:8 14:4,10 16:5,6, 11,21 18:15 19:19 20:11,14 21:3 22:21 23:20 24:10,21 29:6 30:12 31:1,6,8,12 33:17 34:6 36:5 38:11 39:2,3,6 41:6,19 43:8,11 46:5 47:19,20 48:6 57:8 58:14 59:20 66:10,12, 19 74:18 82:1 86:20 102:4 108:15 110:17 111:21 112:6 114:19 115:10 116:2,14,16 118:5 119:20 120:2,6 121:5,7, 21 122:4,18 124:7 126:15 127:6 131:2,12, 14 132:2 135:10, 18 136:12 137:3 138:1,14 140:18 143:2 144:15 145:6,16,18 156:3 159:13 188:17 200:10 244:21 245:8

Highway's 14:11 20:2 118:7 121:10

hill 25:18 27:18, 21 158:20 177:4

hillside 183:3

hilly 114:14,15

historic 210:14

history 116:19 122:7 148:11

hit 16:9 124:14,15 141:12 142:6

hitting 183:5

hold 75:4 102:13 117:14 121:15 142:16 167:18 178:17 199:2,4,5 235:15 255:12

Holding 189:10

holidays 98:2 165:4

Holzer 4:17 5:13 6:19 7:1 8:5 9:1, 8,14 10:1,3,6,9, 14 11:18 12:2,5, 8,15,17,20 14:16 19:5 23:10,12 42:18,19 73:15 75:20 76:2,3,9 77:1 78:16,17 79:6 87:13,19,21 88:3,6,8 89:1,3,4 90:1,3,10,16 91:1,4,7,11,15,16 92:4,7,9,13,20,21 93:6,12 95:7,8,19 96:21 100:2,4,8, 16,17 101:9 102:17,18 105:3, 8 106:17 107:18, 21 108:3,5,7 109:14,21 110:1 112:12 113:6,11, 16,19,21 114:2,4, 5 117:15,17 118:19 119:1 121:1,19 123:2,5, 7,12,15,18 125:5, 7,21 126:4,13,20 127:4 128:8,15, 18,20 129:2,5 132:5 133:14 134:2,5,7,11 139:7,9,14,17,21 140:2 143:6,14, 21 144:9 148:3,7, 19 149:20 150:2, 5,11,15,18 151:5, 17,19 152:2,7,9, 13 153:17 156:21 157:5,18 159:11 160:11 167:13,14 168:3,7,9,18,19 169:3,7,11,16,18 170:7,9,12,21 171:13 172:12, 18,20 173:2,3,9 174:19,20 175:3, 5 181:14,18,20 191:11,21 196:6, 10 198:21 201:1, 3 205:3 209:5,17 211:1,3,7,8,9 215:8,10 216:18, 20 217:1,12,14, 16 222:15 223:15,17,19,21 224:12,19,20 225:4,7,20 227:1, 3,10,12 228:9,14, 16,21 229:2,8,21 231:2,3,17 232:4, 12 233:3,5,16,19 234:2,12,18 235:2,6,11,17 240:3,4,6,15,21 243:15 244:15 251:21 252:6,10, 19 253:4,10,14, 17,19 254:3,4,7, 10,14,17 255:5,7

Holzer's 91:6 96:18 132:1,12, 14 162:8

home 171:17 172:5 173:5,8,13 176:8,10 177:18 178:14 179:4,5,9, 17,20 180:3 190:14 193:8 195:9,21 196:7,9 219:11 225:14 226:10 250:6

homes 190:19

honestly 169:11

Honor 113:16

hope 165:20 168:20 169:21

horizontal 111:1

horrific 179:18 197:1 206:19

horse 53:5

hospice 179:3

host 191:3

hour 17:3,21 18:5,12 38:15,18, 21 39:1,8,10 40:2,3,7,8,9,14 41:3,4,6,9 45:15 46:8,11 47:15 48:8,13,21 49:3,7 50:16 51:6 52:6,9 53:7 60:5,18 61:6,7,8,9,13,15, 17 62:1 63:15 64:11,14,15 65:4 68:4 70:6 83:14 94:13,18 112:1 120:8 124:10,15 126:7,10,19 127:11,18 129:6 133:9 134:10,13 137:13,17,19,20, 21 138:19 154:17,20 155:3, 7,11,15 158:8 183:3

hourly 45:14

hours 46:13,16 61:10 249:16,18

house 22:13 114:16 172:14 175:20 188:5 199:13 204:16 205:10,13,17 232:18 235:9

houses 165:14 175:21

humble 191:7

hundred 63:5,6 107:12 126:17 147:5 176:10

205:11,12 235:10

husband 173:7 176:1 182:9 192:4

Hutschenreuter 75:1,7 76:4,18,19 77:3 78:10,18 80:13,14

Hutschenreutuer 76:20

I

ID 228:8 229:1,3 235:4

Ida 184:15 191:5

idea 148:18 195:4 247:12 248:14

identification 35:17 228:20 232:4

identified 9:6 20:6 56:15 64:14 153:8

identify 171:16 227:13 229:4

identifying 172:5

ill-suited 184:11

illustrate 118:2

illustrated 179:16

imagine 80:5 122:5

immediately 29:1

impact 112:19 181:15 183:2 198:2 202:11 242:12

impacted 198:17 210:19 214:1,5

impacts 190:12 204:14

impaired 86:2

impeding 26:17

imperils 183:15

impermeable 188:21 189:13

implement 245:5

implied 226:1

importance 176:20 177:1

important 33:2 86:11 177:2,18, 20 231:12 242:9

impose 223:9

imposed 223:1 238:4

improper 146:4

improve 245:1

Improvement 166:3

improvements 19:3 135:10 144:4 205:5 246:13

inappropriate 240:8

inbound 17:11 24:20 94:20

Inc's 174:9

incidents 185:6 250:2

include 62:3 97:12 206:10

including 116:3 136:9 252:21

inconsistent 188:19,21 189:11

incorporated 217:3,5,7

increase 52:8 184:11

increased 50:18 146:12 153:18 174:13 182:4 183:6,14 187:17, 19 195:8 198:16 202:10 203:5,7

independent 163:8

indicating 50:18

indication 86:1 236:20

individual 10:12

information 5:15,18 24:2,3,5 29:21 36:7 41:20 43:8,18 51:9 76:12 84:5 91:3 107:7 116:11 117:8 122:2,20 123:1,2 166:1,2

ingress 203:12, 21

initially 8:5 21:19 199:15

initials 172:10 212:9

injured 182:21

injuries 182:12

injury 86:19

input 48:4 245:10,12

inside 175:20 186:17 187:3,4 207:2 248:1 251:14

insights 122:2

install 122:13

installed 86:16

installing 87:3

instance 120:14

instructed 45:19

instrument 251:5,9,12

intend 11:20 253:8 254:2

intending 150:9

interior 28:14

interject 175:2

interrupt 176:5, 12 181:1

interrupted 188:8

intersection 17:17 18:1 56:16, 21 57:1,2,3,8,10 58:3,9,14,15 60:14 66:5,11,20 70:11 77:18,21 83:6,8 86:13 101:18 102:11 103:19 104:11 107:5 121:14,16, 17 122:8,11 144:12 156:4,12, 13 202:19

intersections 124:8

intersects 77:13

interstate 111:21

introduce 174:20 204:20

introduced 98:16 170:16

introducing 170:6

investigated 34:11

investigation 33:20

involved 137:12 182:16

island 204:3

issuance 30:13

issue 5:20 18:18 25:4 30:6 55:4 61:20 83:20 136:5 139:10 156:20 223:13,14

issued 136:16 239:12

issues 7:9 33:21 44:7 86:3 183:11 189:13 219:2 224:6

issuing 135:13

items 116:15

J

January 95:13, 16 96:12 154:2 176:21

Jersey 186:4 221:5

Jewish 98:2

jokes 169:2

Joseph 13:5,11

judge 173:19 221:14 222:8,11 224:7

judge's 221:21

judgment 129:17

judgments 129:15

July 178:13 184:1 185:19 194:18 216:13 225:12 232:1,6, 16 249:2,3

jump 19:4 54:11 225:15 231:19

jurisdiction 145:10

jurisdictions 127:15

K

Kharke 176:20 177:13 191:3 220:21
kind 17:9 22:18 138:10
kinds 52:3 86:3 164:4
Kingsville 161:13 162:13, 14,20,21 163:14 166:3,4 170:7 177:15
knew 134:5,7 207:8
knowing 75:9
knowledge 143:19 165:8 206:2 241:13 245:11
Kotroco 4:16
Kotroko 237:6 238:9
Kotroko's 238:4

L

labeled 46:4 56:14,16 59:18 79:2 81:13 84:20
ladies 163:4
lady 10:3 160:18 166:20
laid 238:9
land 177:8 187:15 218:7 219:2
landowner 190:16
landscape 26:17
landscaping 25:3,13 26:2,5,12 27:17 142:5 144:8
lane 21:12,13 24:20 48:5 57:9, 14,16 58:7,11,13 59:18 60:13,15 65:18 66:12 70:21 71:18 164:1 194:1
lanes 52:2 58:4, 5,6
language 248:16
large 32:3 165:11,12 178:7, 18 183:12 189:10 190:3,14 224:17 250:3
larger 176:7
lasted 180:1 216:10,11
lastly 18:8
laugh 127:2
laughed 155:21
law 134:14 173:19 221:14,21 223:1,21 224:1
Lawrence 4:14
lawyer 110:3
lay 141:11 219:5, 8 230:20
leading 113:6,8
leak 231:8
leave 14:21 92:4 151:18,19,21 152:12,20 184:12 187:11 195:12,21
leaving 6:11 22:8 70:7 153:1,5 184:3
leeway 90:15 157:10
left 17:1,11 18:2, 6,12 20:15 21:19 22:3 26:11 27:13 33:3 41:21 60:7, 9,10 61:5 63:1,2 64:2,3 68:10 69:2,9,10,11,15, 16 70:4,8 71:4 72:3,13,21 73:3 106:20 107:1,2,3 109:6,16 114:8, 14 120:17 141:21 196:1,7,9
left- 69:13
left-hand 38:2 70:16 124:14
left-turners 58:12
left-turning 18:9
lefts 70:3
leg 58:9
legal 181:12,15
legitimate 130:21
length 13:20 252:12
lesser 39:13 52:19,20 86:18
letter 7:12 15:18 16:4 19:5,17,20 20:2,8,11 23:10, 11 33:18 91:18 92:15,18 95:11, 12,16 96:2,5,12 118:11 135:1,2 170:6,7,15 177:12 218:13
letting 146:2 174:20
level 29:14 60:14 63:9 65:12 66:6, 16 68:7 72:19 142:6 178:9 195:5 247:21
levels 224:10
lies 214:20
life 182:12 207:2
light 81:2 133:2
lighted 208:1,5
lights 208:3
liking 89:16,17
limit 38:17,20 39:7,9,16 42:8 114:9 124:10 128:21 129:6 131:15,21 132:3, 13,15,18 133:4 134:3,5,8,9 138:8 139:4 158:8,10, 12,18 194:4 244:9,14 245:13
limitation 194:2
limitations 194:3
limited 99:7 102:3 107:7 136:10 184:9
limiting 194:14
limits 39:4 139:5 158:14
lined 168:19
lines 144:11 146:12
lining 165:12
list 75:18 84:20 211:13
listed 51:20 57:19 81:15
listen 140:4,6
lists 136:10
literal 59:9
live 4:2 177:20 180:11,14,16,19 190:17 191:5 196:5 199:15 209:21 218:2
lived 173:4,5,8 181:2 192:7 194:7 234:16 244:8
lives 177:13,15 180:18 191:2
livestock 185:4
living 174:15 181:8 190:10 208:14
local 84:7 85:2 153:8 179:3 184:15 187:8,14 191:4 236:8
locales 193:10
locality 188:16 190:16
locals 127:18
located 19:2 39:11 81:8 103:21 114:11 143:16 172:14 182:7 184:13 199:13 211:21
location 11:9 14:12 16:21 17:18 45:14 50:21 60:17 86:16 87:2 99:8, 14 122:7 123:11 124:7 137:2,10 144:17 145:17 153:19 154:20 155:4 156:9 175:14 177:6 202:9 226:14
locations 45:21 66:4
log 80:11,16
long 11:16 39:8 67:14 91:4 120:19 160:1 173:4 174:15 175:14 178:5

190:9 208:8 212:16,19,21 213:3 215:20 216:10,14 218:10 220:2,3 236:19 243:5 244:8 247:2

longer 24:15 39:5 220:9,10

looked 56:21 61:14 62:10 126:17 160:6 165:11,12 235:2

LOS 72:19

LOS/DELAY 72:19

loss 182:12

lot 11:18 17:12 21:2 32:3 61:12 91:2 111:18 122:6 129:12 136:4,5 148:3 159:11 163:1 164:12,19 194:3 199:11 200:15 207:5,16 214:12, 19 229:2 231:8 244:7 250:15

lots 8:8 164:3,19

loud 178:8,14 179:7 190:14 195:11,20 206:17 207:17 220:12 225:13 242:6 248:1 250:3 251:6,14

louder 195:10,19

love 199:16

low 111:2

low-lying 215:2

low-pitched 251:6

low-rounded 82:17

lower 52:6,9 114:9

lowering 244:14

Lowery 92:15,17

Lowry 7:13

LT 106:16

luck 124:17,19, 20

lunch 168:4,15

Lunchtime 8:16

lysing 112:1

M

machine 45:11 149:6 248:4

Madam 88:17 113:12,19 114:1 151:3 168:5

made 8:15 11:18 63:4 86:21 112:16 127:5 190:3 241:2 244:17

mail 221:16

maintain 24:19 25:13 26:14 30:19 31:2,13,14

maintained 26:13 31:21 51:10

major 176:1 185:13,16

majority 45:17 67:6 83:11 97:16 134:15 201:17

make 15:1,21 16:10 30:7,11,16 32:17 40:12,13 43:20 50:15 54:14 56:15 62:5 76:7 88:4 92:2 96:4 99:19 132:11 141:7 154:13 155:10 199:11 200:15 212:21 223:6,14 231:17 234:20 237:17 248:14,15

makes 8:11 118:15 200:8 218:9 222:12 252:15

making 71:4 135:12 153:6 184:9 197:16

mallet 251:8

management 7:9,15 143:3

maneuver 21:14 153:7

maneuvers 60:18 71:2

manner 26:6

mansion 187:7 214:21

manual 47:20 49:10 66:10 108:17 112:6 120:2 159:13

map 21:9 35:11 71:11 75:10 165:11 213:9

March 154:4

Marcia 161:6,12

Mario 127:1

mark 35:15 150:12 171:21 172:7 216:15 228:5

marked 7:4 14:17 15:6 19:9 25:21 35:17 42:20 45:4 74:16 92:7 105:9 137:9 172:13 176:6 228:6,8,20 234:7 235:2

marking 233:10

markings 44:19 141:9

marks 233:17

married 187:11

Mary 170:21 171:1,8

Maryland 4:18 37:21 38:1 57:8, 11 59:19 69:2 109:11 115:8 125:13,17 135:11 153:12 159:18 171:10 200:4,10 231:10

master 231:10, 14

match 242:5

matched 112:8

matching 27:4

material 98:9

mathematical 58:20

matter 4:7 5:3 7:1 168:17 209:16 218:17 224:7,9

matter's 170:19

matters 5:8 254:16

mature 32:9

maximum 186:8

maze 214:12 218:16 236:11,19 237:2,16 243:20

MC 172:17

MDOT 135:10

MDT 135:2

Meaning 48:10 158:13

means 21:1 23:4 24:14 38:13 40:3 41:5 55:3 75:11 133:3 135:11 154:19 209:14,18 220:5 252:9

measure 26:16 67:10

measured 40:20 132:13 133:4 205:17 213:21

measurement 67:15 104:2

measurements 38:8 66:3

measures 58:5 244:18 245:5,14

measuring 67:2

media 241:3

median 17:10 18:4 140:18 153:11

meet 16:14 191:7

meet all 30:4

meeting 24:9 34:8 162:13 166:2,9,14,15 245:8 254:19

member 15:7 89:12 162:9 191:1 218:11

members 14:17 15:11 163:2 167:8 178:16 185:11 186:7 187:21 188:6 202:12 204:9 206:11 238:5 245:3

membership 187:17

memorandum 223:2

memory 180:2

183:1

mention 19:12 211:11

mentioned 200:14 204:13 208:7 211:11

met 230:10

Methodist 177:12

methodologies 67:8

methodology 57:9,15,18,19 59:19 65:18 66:9, 11,19,20

methods 58:18

metropolitan 19:18

Mia 7:13

microphone 187:4 248:11 249:11,15

middle 182:7

midnight 85:17

mile 79:10 80:9, 11,16 82:1 99:13 104:12,21 138:19 190:10

miles 17:3,21 18:5,11 38:15,17, 21 39:1,7,10 40:2,3,7,8,9,14 41:3,4,6,9 52:6,9 75:2 79:6 80:19 83:14 109:12 110:18 112:1 123:21 124:10,15 126:7,9,19 127:11,18 129:6 131:15 133:9 134:9,13 137:13, 16,19,20,21 154:17,20 155:3, 6,11,15 158:8 160:1 162:1 177:14 180:16 191:2

military 103:17

milling 141:8,10

million 82:20,21 192:15 197:20,21 198:13 200:18

Millions 183:9

mind 10:16 12:6 121:2 145:13 170:20 209:13 231:1,13 240:16 254:15

mine 174:14 198:7 233:16

minimal 200:1

minimum 17:16 18:1 36:8

minute 12:20 44:14 56:10 250:5

minutes 48:11, 12 85:16 87:20 88:3 90:7 213:5, 17 244:16 252:14

misinformation 163:2

misinformed 163:17

misplacing 211:4

missed 80:12 184:5,6

misses 184:16 196:21

missing 83:16 149:4

Mission 235:1

mistake 190:3

mitigate 165:13

mitigates 215:3

mixture 72:6

modification 136:21

modified 24:12

molehill 32:15

moment 76:7 101:7 198:11 216:16 235:5,7

Monday 50:16 94:16,21 104:12, 14

monitor 149:11

Monogue 191:5

month 90:5 107:10 149:9 194:10

months 178:4 220:14 236:18

monumental 140:18

moot 5:16

morning 4:13 37:2 46:8,13,14 50:17 85:17 89:19 93:16 104:14 183:2 193:1,4 220:11 243:12

mornings 164:7 180:5

mother-in-law 173:13

motion 5:2 253:19

Motsco 205:16

Mount 75:2,3,4,8 76:6,11 77:18 86:15 121:18 122:8 156:5

mountain 32:15

mountainous 159:17

mourn 179:20

mouth 117:21

move 13:19 16:9, 13 21:7 23:7 113:20 114:2 229:18

moved 136:19 176:2

movement 54:20 69:13 71:9 83:19

movements 25:1 116:9

moving 84:2 102:9 137:1

MSHA 59:19

Mudd 4:21

multi-day 149:11 178:7,18 183:12 189:10

multi-event 149:14

multiple 86:6 206:12,15

Murphy 7:4 11:13 15:6 20:5 35:19 43:9 75:18 76:16 78:9 84:18, 20 89:12 90:2 92:3,10 95:18 96:15,20 228:7 229:1,7 233:15 246:10 247:17 252:4

music 178:9,18, 20 187:13 190:14 225:9,13 248:3 249:9,10

N

NACCB 174:8 178:7,13,16 180:21 184:14 185:11 186:7 188:10 189:19,21 191:1 202:12

NACCB's 176:17 179:15

Napali's 203:10

narrow 182:6

narrowing 111:9

national 47:14, 18 85:5 120:5,11 129:18 159:1

nationally 159:1

native 176:3

natural 189:2,17 229:15

nature 22:16 110:20 177:16,17

navigate 202:21

navy 81:2

necessarily 52:16

needed 26:17 58:4 121:9

needless 218:20

negative 112:19

neighbor 189:20 190:2 228:2

neighbor's 35:7, 8 197:6

neighborhood 160:19 177:9 208:20,21 209:4, 14,15,21 210:9, 18,20 211:6,20 217:13,14,17,20 218:1,2 219:7,10, 14,15

neighbors 169:21 174:14 175:13,18 177:9, 20 178:17 180:10,13 182:11 189:14 190:1 236:13 237:14

244:3

neighbors' 176:17

Nepali 4:4,14 21:7 25:6,11 30:18 31:16,18 165:19 166:17 168:17 197:11 204:14 205:13 210:19 211:21 212:12 215:5,20 236:14,15 238:20 239:1,18 241:1, 13 255:13

newsletter 162:15

night 85:17,20 199:17 207:18, 19,21 220:4,7

nightly 179:7

noise 164:3,11 165:7,13 175:18 177:17 178:10 179:18 181:8 182:1 190:4 195:5,8,10,18,20 197:10,16 199:18,19 200:1, 8,9,13,17,21 201:13 202:8,14 203:4 206:19 208:4 214:16 215:3 219:20 224:5,10 225:12, 13 242:7

noises 179:7 207:17 224:17

noisy 175:16 179:11 189:10

normal 90:17 109:2,3 127:8 165:2 201:13 220:2

north 16:14 17:18,19 21:20 28:18,19 34:14 35:3,6 39:8 42:11 45:11 71:10 77:10,11,17,20 78:3 81:7 94:15 101:19 105:14 108:21 109:20 111:17 126:9 131:16 137:16 162:2 183:4 193:5 246:17

northbound 17:5 21:12 25:17 35:10 36:12,18 37:14,15,21 38:4, 5,21 39:7 45:13 46:18,20 47:5 58:11 69:6 70:15 71:12,14 72:19 109:16 123:20 124:10,13 125:13,17 126:18 133:12 154:13, 17,21 184:5,7 244:10

northeast 77:12

northern 193:7

note 78:8

notes 86:7 137:8 140:3

notice 243:20

noticed 191:13

notification 237:4,13,14,20 238:1,14,15,16

notwithstanding 42:7

novo 223:11

nuisance 189:21

number 4:5 17:14 19:10,16 27:10 35:15,16 37:18 43:2 44:5 46:4 47:4 49:15 50:12 51:9 54:1, 15 59:14 60:6 62:21 64:8 69:20, 21 73:19 74:7,16 75:16,19 76:14 77:9 79:15 80:11 81:15 87:15 93:4 95:17 104:7 121:8 132:8 153:18 156:9 158:5 167:1,7 182:12 185:16 196:21 207:1 228:19 229:6 237:3

numbers 15:4 16:18 23:13 59:10,13 63:3 65:17 82:11,16, 17 99:10 101:1,4, 5

numerous 37:13 86:12 87:1 97:16 110:18 158:16 184:2 244:15

O

oath 13:3

object 222:14 224:13 229:17 240:4,9,10

objected 230:1

objection 5:1 10:6 23:11 73:15 87:13 92:20 109:10 113:3 127:21 131:19 138:20 156:21 165:6 181:12 196:6 198:21 201:1 209:5 211:1,3,4 215:8, 10 222:3,4 235:11

objections 163:16 164:10 165:15

observations 192:20 250:10

observe 149:16

observed 164:19 203:21 250:13

obstructed 21:20

obtain 34:16 80:6 86:8 147:15

obtained 37:4 74:19,21 84:9,10, 12 85:2,3 116:15 166:2

obtaining 116:13 117:1 145:16

obvious 215:10

occasion 203:16,18 243:3

occasional 185:4 199:21 201:15,16

occur 22:14 86:17 90:18 248:18 249:16

occurred 74:14 79:13 81:6,21 82:1,6 85:6,15, 16,19 99:12 102:4 103:10,13 154:1,10 166:1 175:11 178:2 179:2 182:11 224:10

occurring 87:1 214:2

ocean 199:17 200:4,8,10,13

October 19:17 36:5,13,14 37:6 53:7 93:9 94:19 129:20 130:16,18 149:15 255:15

offer 6:21 7:18 42:16 55:16 73:13 87:11 190:1 233:7

offered 7:6 24:19 41:14

offhand 221:12

office 8:18 9:10 33:19 92:15

oncoming 18:3 182:19

one's 233:16

one-minute 150:5

one-week 126:12

ongoing 11:8 14:9

oops 14:20

open 251:15

opened 157:7

opening 169:5

operating 50:21 53:10

operation 70:12

operational 70:12

operations 67:13 94:7 157:15

opined 230:10

opinion 22:20 26:7,10 42:6 83:17 117:5,7,9, 10,18 118:3,4 121:13 152:3 156:19 157:1,6 191:7 210:9 230:21

opinions 230:5

opponents 236:14

opportunity 11:14 23:19

opposed 214:20 218:15,18 251:14

opposing 236:14
opposite 25:20 30:9 106:16 212:13
opposition 74:6 84:10,14
order 17:15 120:7 224:7
organization 243:21
orientation 68:18
original 89:6
outbound 17:3,6 60:10 73:2 94:20
outdoor 186:12, 21 190:15
outliers 83:15
outline 234:13
outlined 147:7
outright 163:6
overgrowing 32:16
overlap 85:3
overlay 141:8
owned 215:20
owners 181:16

P

p.m. 53:7,10 60:9 94:19 164:7 168:15 255:17
packed 164:3
pages 44:12,15, 17 45:5 73:7 79:17,18 83:20 86:7
painful 179:1 180:2
panel 15:12
panic 188:18 189:7
paperwork 218:15
par 157:9
paragraph 8:7 135:7
paralegal 92:16
parameter 124:4
parameters 16:8,10 53:2 116:16 118:9,10, 18
paramount 30:12
parcel 176:7
pardon 198:9 215:17
parents 164:8
parked 204:20 231:6
part 29:21 31:10, 11 33:9,10 34:6 65:15 77:6 86:15 91:7 128:10 140:19 141:5,17 144:2,14 145:1 185:21 195:7 196:10 211:9 230:19 243:19 245:5 246:1
partial 144:20
participant 245:8
participants 186:4 221:5
parts 189:9 206:10
passed 78:18
passing 179:20
past 93:17 179:2 190:4 244:11,16 246:2,4
patch 175:18
pause 91:13
paused 93:2 120:19
pave 141:3
paved 32:17
pavement 21:2 140:5,17 141:9
paving 29:1
pay 128:11,12
paying 141:16
peace 179:16,21 180:3 242:8,21
peaceful 179:5
peacefulness 179:8
peak 46:8,13,16 48:8,10,21 49:3 50:16 53:7,13,14 60:4,5,18 61:6,8, 9,10,13,14,17 62:1,11 65:3 68:4 70:6 94:13,18 120:8
peak-hour 60:7
peaks 48:14
pen 172:12 233:4,6,20
pending 101:7 139:16 215:16
Pennsylvania 186:3 221:4 241:19
people 4:18 22:7 38:14 64:5,7 65:3,9,10 71:11, 20 83:11 96:9,10 111:4 126:9,15 127:8,10,15 128:1 131:8,11, 17 132:7 134:8, 12,15 141:11 153:13 162:19 163:5,15 164:13 166:21 167:5 168:19 170:3 179:10 183:13 185:16 186:1,8 191:19 192:2 193:2,3 195:1 197:14 199:12 200:16 202:13, 16,18 204:3,4,5 210:15 214:13 238:11 242:15 249:10,14
people's 248:9
perceive 200:12, 16,17
percent 38:11,13 40:4,6 41:5 48:8, 20 49:4,14 50:19, 21 53:11,14,15 94:15 107:12 119:18 131:8,11, 17,20 132:7,14, 15 133:7,8,10,11, 17,18,20,21 147:5 154:19 155:2,6
percentage 48:17 82:10 127:13 131:17
percentages 132:9 134:12
percentile 38:9, 12 40:1,3 41:3,4 130:21 131:1,5,9, 10 132:3 133:3 138:11 154:16
percolation 7:10,17 8:4
percussive 179:12,14 180:7 206:17 220:12 224:17 242:6,20
perfect 10:1 177:6
perfectly 121:14
performed 72:12
period 48:16 51:11 126:12 196:3 206:8 207:18 249:17
permission 162:9
permit 18:18 19:2 30:1,2,3,6, 13 31:8,11,19 33:10 82:8 135:4, 8,13 136:1,6,14, 16 138:10 141:5, 18 144:2 146:15, 19 147:10,16,17, 20
person 103:17 104:1 114:7 153:16 189:21 219:5,8
person's 238:17
personal 22:20 86:19 174:12 250:9
personally 182:15 184:2 236:1 250:13
persons 64:8
perspective 230:20
petitioner 4:15 7:7 153:19 154:6 226:6 241:2
petitioner's 7:3 9:7 14:18 23:13 26:1,12 35:15,16 43:2 76:14 87:12, 15 98:10 108:8 110:5 111:10 112:19 114:19 117:15 118:1 134:20 167:20 171:15 172:13 190:20 212:9 228:3

Petitioners 249:8
phone 102:14 166:7
phones 102:16
photo 27:9 75:19 204:20 228:8,9
photograph 27:13 214:14 227:4,11 232:14, 18
Photographs 158:5
phrase 11:6
physical 79:19 226:14
physically 142:11 143:5 144:7
pick 130:10 145:12
picked 37:3
picking 164:9
picture 143:11, 12,13 227:13 228:4 229:9 231:20
pictures 12:9 16:19 34:19,20
piece 26:17
Pike 39:8
pill 145:14
pilot 227:19,21
pinnacle 214:20
place 130:9 135:10 148:20 152:12 161:13,20 164:3 165:17 176:13 179:5 186:17,18 187:3 202:21
places 115:3 206:12
plan 16:2,17 18:17 20:3,9,13 24:12 25:4 26:8 30:2 33:17 34:18 39:11 75:12 118:5 135:17 136:9 137:9 141:2 145:1,4 146:18
planned 6:20 7:11
planning 149:10 245:9
plans 27:4 135:6
plat 27:10 177:8
play 206:1 219:19 242:11
played 151:11 207:1,2 243:2
player 241:20
players 180:11
playground 180:12
playing 179:10 180:8 195:13,15, 16 206:8 207:17 220:3,11
pleasure 252:17
plenty 60:17 63:7,20 119:15 121:3 153:15
plugged 108:17
point 11:10 14:12 15:14,15 17:7 18:21 22:7,15 26:8 28:18 32:20 38:15,18 40:7 41:5 47:9 51:18 63:5 77:21 80:17 87:9 99:13 105:9 106:11 111:13 118:13 123:16 127:5 149:7 158:15,16,17 159:5 174:21 185:9 197:2,8 202:20 242:4 244:10
pointed 106:8
pointing 140:15 143:12 171:21 172:1
points 80:9 109:20 110:19 111:2
police 84:7,8,21 85:2 86:6 98:17 99:4,17 201:16
policies 136:12
portion 21:4,5 65:21 111:3 144:7 160:5 196:12 206:5
position 84:14
positive 144:19
possibly 22:12 156:8
post 185:19 221:8 241:17
posted 39:17 42:8 131:15 158:12
posts 239:5
potential 44:7 158:16 187:16,17 188:18
Powell 7:7,20,21 186:7 187:5
practice 242:16
prefer 67:2 88:9 161:1 234:13
preferably 9:21
preferred 25:1
prejudice 5:12 6:2
preliminarily 12:8 14:17
preliminary 4:7 5:3
premarked 15:3
preparation 191:17
prepare 41:8 45:18 90:5 137:5
prepared 35:13 44:6 95:12 191:15,16
prepares 147:15
preparing 136:9 239:17
prescribed 240:11
present 14:5 23:3 37:13 51:2 52:9 93:7 166:18
presentation 129:9
presented 9:15 24:9 46:2 63:4 74:6,20 84:15 90:12 93:16 153:16 154:15,16 226:18
presenting 59:13 66:6
preserved 190:17
Presumed 93:21 94:1
pretty 28:14 72:14 215:10
prevail 83:17
prevailing 138:2, 8 139:5
previous 83:10 95:11,15 180:15, 17 184:14 190:21 191:5
previously 11:3 13:13,19 25:19 42:7 73:16 94:9 107:16 170:8 229:20
primary 203:7
printed 79:5 80:4
printing 107:15
prior 54:1 162:7
private 242:14
problem 8:5 13:1 15:4 130:16,18 157:13 185:1 209:7 225:3
problems 178:1
proceed 224:18 231:1 240:17
proceeding 152:17
proceedings 255:16
process 141:18 218:13
produce 8:10
produced 47:19 99:7 114:18 122:6 138:3 178:8 214:6
producing 202:8
Professional 129:15,17
program 7:14 231:11
progresses 220:9
prohibit 194:4
prohibited 221:14
prohibiting 194:14
prohibition

178:19 193:14

project 82:19 248:6

projected 60:8, 9,11 61:5 68:6

projection 61:20,21

projections 69:19

pronouncing 80:13

proofread 192:2

proper 34:15 50:12

properly 141:7

properties 25:5 33:21 197:6 214:3,6

property 7:11 13:21 21:7,15 22:1,3,13 23:5 25:4,11 28:13,15 30:19 31:2 33:3,7 61:20 77:11,12, 14,17 78:6 82:3 86:19 102:20 103:2,21 104:16 105:15 114:11 115:20 161:21 165:10 172:7,16 174:9,11 176:3, 18 177:2,4,10,14, 21 178:8 180:14 181:6,9,15 182:7, 13,18 183:7,12 184:2,3,13 187:15,18,20 188:7 189:9,10, 15 190:11 191:2 194:18 195:1,2, 17 197:7,11 198:2,18 201:14 202:1 203:10,13 204:7,11,16,17 205:6,14 206:2,6, 10,21 208:12,21 209:20 210:10,21 211:12,21 212:2, 4,10,12,20 213:6, 10,11,12,13,20 214:19 215:6,21 217:4 224:17 226:3,7,8 228:2,3 232:19 233:8 234:5,10,14,16 236:14,15 237:16 238:2 239:13,19 241:4,14 242:9, 11 243:1 245:20

property's 188:20 189:12

proposal 43:21

proposed 7:8 15:14 18:17 23:1 33:21 54:8 57:12, 13 62:3 67:20 114:9 135:3 146:10 149:15 210:19

proposing 145:17 166:19 204:15

protection 7:16

Protestant 99:7

protestant's 73:19 93:4 96:11, 15 100:14,16 150:16 228:7,18, 19 229:6 231:5 232:15 233:9,11

Protestants 99:3

provide 43:18 57:6 58:6

provided 16:13 36:4 43:14 89:7 98:9 118:10,11

providing 141:6

provision 230:6

provisions 189:1

proximity 82:2

177:5,10,21

public 116:8 241:2

published 239:12

pull 22:1,2 34:20 149:3 184:8 227:4 229:9

pulled 33:4 76:12 79:19 108:16

pulling 79:18 80:16 184:4

purely 58:20

purple 77:16

purpose 32:19 33:8 189:11

purposes 35:17 75:11 94:17 117:19 143:3 188:19 224:9 228:20

pursued 93:19

put 14:15 43:19 76:13 77:8 106:8 108:13 109:17 116:4 117:20 119:3 121:9 123:7 124:7 150:9 157:12 158:21 164:14 172:7,10 212:9 250:14

puts 120:4

putting 117:8 245:13

Q

qualified 222:13

qualify 169:20

quarter 79:20,21 83:3 100:11 107:14,15

quash 5:2

question 32:19 33:4 42:13 43:19 50:2,4 55:2 70:14 77:1 91:12 96:5 99:16 100:19 101:6 113:5,13, 17 114:3 118:20 125:3,19 128:6, 17,18 129:2,3 132:1,12,14 139:1,2,3,7,9,15, 19 142:7 150:7 151:17 152:19 157:9,11,21 159:10 175:6 181:2 190:8 196:8,12 198:4 199:8 205:2,9 207:6,7 209:12 215:11,13,16 222:14 224:3,21 225:8 233:2 235:13,16,18 239:9 240:19 243:18 244:5 245:2 246:8,9 247:18

questioned 89:11

questions 11:12 33:9 43:10 74:7 87:17 113:6,8 134:17 140:11 148:4 149:21 152:7 157:3,7,16, 18 160:9 167:14 198:6,10 209:6,9 215:15 216:17 225:21 226:4 227:5 229:10,21 230:13 232:12 240:9 241:1 243:14,15 246:7 251:19,21

quick 54:11 231:19 252:5,6,9

quicker 207:5

quickly 123:17

quiet 174:11 175:10 176:2,18 177:19 178:6 179:6 180:14 190:18,19 206:20 242:8,21

quote 112:15 186:2 202:17

quote/unquote 185:10 191:4

quoted 189:6

R

radius 191:6

raised 173:10,12 175:15 244:9

range 70:8 82:20 83:15 184:18

rapid 251:6

rate 202:11

ratio 50:7 63:10

RC 174:12 180:15,18,19 187:15 189:11 203:8 218:5

RE-DIRECT 153:3

reached 14:11

read 8:6 19:5 44:9 135:5 250:7

reading 124:8 191:14 230:16

ready 90:8 169:1, 15

ready-to-go 169:19

real 54:11 85:4 114:20 139:3

realign 21:4

realigned 57:5

realize 128:12 131:16
rear 59:14
rear-ender 104:4
reason 18:3 37:4 86:15 123:7 176:1 222:15 231:4
reasonable 114:6
reasons 24:1 86:20 207:12
rebuttal 167:21
rec 217:3,7
recall 5:14 7:5 10:17 11:6 74:10 128:7 170:2,18 207:9 220:18 221:9,11 226:3, 17 237:6 247:1
recalling 6:16 7:20
received 162:14 221:16 230:20 237:5 238:16
receiving 230:15
recent 107:17 178:12 184:1 216:13 225:11
recently 218:14 249:2 250:11
recess 88:13 168:14
recite 178:2
recognize 128:13 213:9
recognizing 234:6
recollection 243:6
recommendation 163:9
recommendations 115:11
recommended 39:13,16,20 41:7 42:9 52:13 55:3 83:12,14 131:12 138:14 158:8 163:11
reconstructed 141:14
reconvene 255:14
record 4:4,13 5:5 13:10 76:13 88:12 92:14 100:15,16 150:3 154:14 161:11 168:11,13 171:6 172:2,8 215:14 234:21 255:8,9, 11,13
recorded 126:2, 5 133:5,6 134:4 155:11,14 172:1
recording 151:11
recreation 180:12 217:5
RECROSS-EXAMINATION 232:13
red 172:12,17 233:4 234:10
Redeemer 208:11 209:20 212:1,3 213:11, 13 215:1 236:2
redesign 146:17
redirect 139:20 211:15 216:19 217:1 240:7,13 241:7,9
reduce 158:12 245:4,17 246:14
reducing 245:13
reenter 185:8
refer 95:15 96:3
reference 100:14 124:7
referenced 81:9
referencing 109:19
referred 77:10 158:7 181:10
referring 19:21 45:5 61:19 70:15 77:5 92:1 96:12 105:6,17 109:15 117:15 121:16 187:1 225:16 229:11
refers 84:1
reflect 96:5 126:1 179:6
reflectors 245:16
reflects 51:9
refused 218:13
regard 33:7 117:2 152:4 186:17 236:10
regular 160:1
regularity 90:19
regulation 230:17
regulations 236:11 237:6,8 238:8
regulatory 158:14
reissue 5:12
relate 93:17 116:8 179:1
related 33:21 52:16 93:7 174:8 189:5 236:12
relates 55:2 182:4
relationship 161:21
relative 116:11 172:16
relax 179:5,6
relaxing 199:19 200:21
relevant 127:21 139:10 224:3
relief 223:9
religion 242:16
religious 97:12 115:19 215:7
relocated 135:9
remain 13:3 32:10
remarks 239:17 241:10
remedy 190:2
remember 96:1 163:10 169:12 205:15 238:11 246:18 248:21 249:14,19 250:10,11,12
remind 102:15
remove 144:6,7
removed 26:17 141:10 247:12
render 5:16 230:5
rendered 230:5, 7,8
repaved 141:14 246:3
repeat 15:10 41:13 113:13 116:5 119:10 179:13
repetitive 201:5
replace 144:7
Replaced 204:17
report 35:14 44:6 85:11 98:17 99:4, 5,17
reported 32:21 81:20 85:7 151:11 185:7,11
reporter 25:8 88:18,19 113:12, 14,19 114:1 151:3 168:5
reports 86:6 90:19
represent 5:1
representatives 241:1 245:9
represented 4:19
request 5:2,8 34:6 43:7,13 166:11,12
requested 17:1 21:4 25:8 36:7 40:12 42:4 43:8 131:13 149:12,14 173:21
requesting 41:19
require 144:4
required 14:7 19:2 30:3 135:8
requirement 25:12 32:16
requirements 23:21 30:4 36:8 138:1
requires 143:2
requiring 33:5
research 163:9

238:5,12,17 244:1

reserve 169:5

reserving 169:12

residence 181:7 203:8 242:14 243:2

resident 153:8 184:15 192:20

residential 147:11

residents 178:5 183:15 187:8 236:8

resolution 5:5 14:11

resolve 5:20

resolved 4:8 5:9 11:11

resolving 6:2

resort 177:17

resources 189:2 229:15

respect 10:9 36:7 118:1 136:16 188:4 223:15

respectfully 6:11

respond 12:12 199:7

responded 76:19

responders 183:17

response 227:4 229:10 240:6

responsive 205:1,3

rest 48:12 53:6 126:8 168:1

restart 243:6

rested 4:6

restrictions 238:3

result 14:9 89:19 90:11 97:9 189:8 203:9

resulted 203:13

results 7:16 36:6 46:5 56:16 74:18

review 11:14 45:20 58:9 80:6 83:8 90:7 97:17 135:19 144:20,21 145:6,8 191:19

reviewed 18:15 33:17 60:4

reviewing 145:2, 3

right-hand 46:5 70:17,19

right-of-way 25:2,7 26:21 31:10,13,14 135:11

right-turn 24:20 69:13

rights 190:16

road 13:21 21:8, 11,15 22:1,2 25:20 27:3,20 28:9,11 29:6 30:10 31:3,4,15 32:5,12,17 33:4 34:14 38:14 45:12 47:21 48:2 50:14,20 51:10 52:1 53:10 54:5 62:1,14 63:6,16 67:12 68:5 69:2 72:15,21 73:2 74:11,13 75:1,2,8 76:8,11,17 77:13, 18,19 78:1,10,18 79:4,9 80:13,15 81:9 82:13 86:14, 15 102:4,5 108:18,19,21 109:2,3,5,7,8,11, 19 110:4,15,17, 21 111:4,10,16, 18,19,20 112:3,8, 16,18 113:2 114:8,16 115:1,3, 9,12 120:1,14 121:8,18 122:16 123:11 124:13 126:9 127:18 128:9 129:13 130:9 132:4 137:2 138:16,17 141:3,10,11,12, 13 142:8 143:4 144:7 148:9 153:6 156:5 159:12 160:5,7 163:21 164:1,2,8, 19 165:13,14 171:9 174:9,13 176:9,11 182:5,6, 8 183:7 184:4,6, 10,17,18 185:4,5, 8 192:15 193:12, 15,18,20 194:9 198:2 199:14 200:14,19 201:13,18 202:12 203:20 205:10 235:10 244:8 245:1,6 246:1,2, 13,14 247:5,7,8

Road's 62:16

roads 44:1 54:8 75:10 79:1 82:12 127:7 163:14 194:3 212:17 213:3

roadway 27:16 47:13 53:19 67:14,17 82:7 121:4 128:13 140:19,20 144:12

Rob 7:7

rock 165:7

role 6:6

rolling 48:7 108:20 109:8 110:4,7,10,13,15, 21 111:3,17 112:3,15 120:14 159:11,17 160:5

rolling-type 160:7

room 153:10

roundabout 39:12 77:18 86:16,18 87:6 121:9 122:13 123:6,8,10 156:4 183:10

route 80:8 109:11 159:20 193:1 198:14,15

rules 218:16

ruling 178:21

rumble 245:16 246:1,13 247:6,7

run 9:10 185:7

Runoff 189:12

rural 174:11,16 176:3 177:14 184:18 187:15 188:17 190:18 199:15

rush 183:3

S

safe 23:3 129:13 146:5,8,10 153:7 159:6 204:1

safely 153:12,15

safety 112:20 174:12 188:15 244:18 245:13

Saint 163:21 164:13,14,16 180:18,19

sake 65:2

sanitarian 7:7 186:7

satisfactory 117:19

satisfied 43:13

satisfy 20:14

Saturday 53:13 60:5 61:6,10,11, 15,18 62:11,17 63:17,19 64:15 69:18 70:6 85:17 103:13,18 220:4

scenario 8:20 49:3,14,20

scene 196:20

scheduled 5:17 8:4 255:3

Schmidt 4:3,5,9, 11,13,14 5:4,6,11 6:8,14,15,17,19 7:21 8:3,10,13,18 9:3,9 10:2,8,11, 18 11:1,4 12:19 13:2,12 14:15,20 15:2,6,9 19:8,13, 15 20:4,8,12 22:6 23:9,16 26:20 28:5 30:8,11 31:5 33:12,15 35:13 36:1 38:3 41:11 42:16 43:4 45:7,8 46:3 47:16 49:1, 11,12 50:13 51:13 53:4 54:13, 19 55:1,9,16,19 56:3,5,14,19 57:20 59:16,18 60:3 62:13 63:13 65:5,9 66:7 69:8 70:13 71:17 73:5, 13,18,21 75:15, 21 76:13 77:7 78:12,20 79:1,4,8 80:21 81:18 84:13,17,19 85:7, 10 87:11,17 91:5, 9,15,17,21 92:14,

19,21 96:14,17 100:1 102:14 109:10 113:3 125:3,6 127:21 128:5 129:1,2 131:19 132:10,18 133:7,12,20 134:3 138:20 139:19 150:21 152:18,20 153:2, 3 156:16 157:11, 16 160:10,17,18 161:5,19 162:6 167:19,20 168:2, 11 170:13,15,18 172:9,10,19,21 181:12 191:12 196:9,11 198:5,6, 8,12 200:3 201:7, 20 205:4 207:20 209:7,8,9,10 210:8 211:13,16, 17 213:15,16 215:15,19 216:16 222:3 223:4,5 224:11,13 225:1, 5 226:1,21 227:11 228:10, 12,15,17 229:5, 17 230:13 232:3, 13 233:10,12,18 234:7,9,12,15,20 235:8,13,16,18, 20 237:11,12 239:8,10 240:16, 18 243:1,13 246:8,11 247:15 250:20 251:18 252:16,17 254:4, 8,11,20 255:2,5,8

Schmidt's 199:8 229:10

school 68:7 164:6 180:20 214:8 215:2,4

scope 224:14

screaming 175:19 179:12, 14,21 180:7,10 206:18 207:3 220:13 242:21 243:11

screeching 206:17 207:3 220:12 243:11

scrimmage 242:6

season 164:5

seated 88:15 168:16

seconds 68:6,11 70:9 71:15 120:19 252:4

section 75:1 111:6 112:2,18 113:1 114:7 115:6 184:17 188:11 230:6,10

sections 115:2 182:8

seeking 245:10

segment 46:6 49:8 53:20

segments 50:20 53:9

seldomly 198:19

self-explanatory 53:6

send 15:18 149:10 237:14

sense 8:12 15:1 50:15 82:11 99:20 173:14 199:12 200:15 252:15

sentence 19:1

separate 66:18 156:13 219:9

September 36:11 37:5 46:9 47:3 80:5 90:2,4 93:8 129:20 154:5 162:13

septic 7:8 186:10

series 229:21

serves 184:18

service 60:14 63:9 65:12 66:16 68:8 72:19

services 97:21

serving 185:4

session 168:17

set 9:20 88:8,20 149:10 236:11 237:1 251:4

sets 165:10

settle 77:2

settled 210:15,21 211:12

settlement 8:1

setup 151:3

seventh 45:17

SHA 25:2 32:21 57:14 58:3 59:10 67:2 118:14 135:5 144:3,20, 21 145:9,10 146:16 147:5

shading 81:4

Shannon 39:9

shape 100:4

share 122:4 174:16

shared 191:20

sharing 36:6

sharp 109:6 114:8,13,14 193:21

sharper 233:20

shattered 179:8

shed 133:2

shift 21:8,11,13 22:3,14

shifted 140:5 141:7

shifting 140:20

shifts 21:12

shining 22:12

Shore 159:21

short 130:19

shortly 149:15

shots 214:19

shoulder 32:17 108:15 140:17 182:6,20

shoulders 48:6 111:2

shouts 220:1

show 10:4 12:9, 11 14:14 34:17 37:11 39:10 63:5 65:8 77:11 78:9 81:1 99:17,20 100:7,10,11 103:10 136:5,7 140:8,12 153:13 158:7 213:8 231:5 234:7 253:4,5

showed 65:3

showing 19:17 74:17 145:4 162:8 228:13

shown 24:12 66:16 78:12,14 79:16 83:10 109:1 112:18 150:4 213:15 226:16,21

shows 10:12 81:9 85:11,12 99:18 125:1 191:1

shrubbery 25:18

shrubs 165:12

sic 93:19 131:20 188:19

side 21:20 25:17, 20 26:12 27:13 30:9 31:3 38:2 59:4 78:3 94:13 109:16,18 124:14 140:21 153:6 204:3 213:10,11 223:21 224:1

sides 164:7

sideswipe 102:6

sideswiped 102:6

Sideways 110:13

sight 16:16,17 17:4,17,19 18:1, 8,11 21:18 25:13 29:5 30:11 33:1 40:13 136:19 137:12 146:12 153:15 184:9

sign 39:8 66:11 159:4 218:13

signal 122:12

signed 19:17 92:15 115:7 128:9

significance 81:4 158:13

significant 72:16 89:13 111:7 252:11

significantly 111:7

signs 115:7 128:12 158:21 159:1,2 194:13

similar 17:11 115:2 200:20

similarities 115:4

simple 67:11

114:20 211:5

simply 7:12 99:16 134:14

singing 249:10

single 46:11 58:11,13 70:21 71:18 105:18

single-family 114:15 181:7 189:15 203:8 243:2

single-vehicle 101:13

sir 23:9 44:14 88:19 143:11 148:16 172:3 191:16 192:13 195:14 197:3 213:14 219:1,4 225:18 231:16 233:5

siren 201:16

sit 171:11 254:12

site 20:15,16 21:19 22:5,8 26:14 32:9 33:6 35:3 45:11 57:4, 11,12,13 60:7 67:20 70:4,7,15, 16,18,20 71:11, 20 72:13,20 83:1 93:20 94:3,4,5,6 96:7 97:7 110:14 115:14 130:7 145:1,3 153:5,19 154:6 189:2 203:17,21 225:10 229:15

sits 214:21

sitting 167:2 177:4

situated 88:17

situation 10:12 26:19 114:10 149:16 183:7 190:2

situations 67:3

size 48:2

skew 122:11

skewed 156:18

slew 253:17

slightly 21:8,11 22:3 176:7

slow 42:2 54:12 60:20 159:5 185:3

slowing 84:1

small 160:5

smaller 17:12 194:3

snare 251:3

snippet 111:19

snowy 105:19

social 241:3

soil 7:14

sole 8:7

solely 119:3

solitude 174:11 175:10 176:2,18, 21 177:2,19 178:6 179:7,16 190:19 198:2,17 206:21 242:8 243:1

someone's 89:16

someplace 139:11

sort 7:1 11:9 15:13 41:15 49:2 226:1

sound 178:9,13, 18,19 187:13 190:14 225:13 248:6 252:21 253:6

sounded 164:12 195:18

sounds 180:8 225:9

source 51:9 74:19,20 112:5 139:8 185:2

south 17:2,5 21:4,6,9 34:14 35:4,5,6 37:21 39:8,12 42:12 47:10 77:10 78:5, 6 81:7 94:2,15 103:19 104:12, 17,18,21 105:7, 13 106:7 108:20 109:20 111:5,6, 17 122:15 123:6 125:13,17 128:21 129:8 131:16 137:13 162:3 182:18 193:4 246:18

southbound 17:20 18:2,6,10 21:13 34:21 36:13 37:1 39:1,9 40:18 42:1 45:13 46:18,20,21 47:6, 7,9 54:16,18 58:12 68:14,16 69:1,5 83:12

speaking 61:1 110:16 160:7 197:17 225:10 249:14

speaks 74:10

special 61:13 188:13 191:8 221:18 223:12 224:4

specific 138:10, 15,16,17 146:21 147:1 175:8 227:21 229:13 230:6 246:16 250:16

specifically 7:13 26:18 196:21 241:16 248:8 249:13 250:1

specs 136:13

speculative 128:5

speech 91:11 113:3

speed 17:2,20 23:21 34:9,10,13 35:1 36:3,6,9 38:9,10,12,17,20 39:4,7,9 40:2,3,5 41:3,4 42:8 43:5, 17 52:5,6,17 83:14 84:2 114:9 116:19 123:20 124:9 126:16 128:21 129:6 130:21 131:15,21 132:3,12,13,15, 19 133:3,4 134:3, 4,5,7,9 138:8 139:4,5 154:13 158:8,9,10,14,18 159:4,5,6,7 184:21 244:9,14 245:4,13 246:14

speed-reduction 244:18

speeds 17:5 18:11 24:6 34:16 35:12 39:13,20 41:8 42:9 52:20 83:12,17 110:18 123:19 131:5,9, 12 133:4,6 138:2, 3,8,11,14 245:17

spell 161:11 171:6

spelled 161:16

spend 231:8

spent 183:10

split 17:8 18:4

spoken 5:13 6:19 162:7

spread 64:13

spring 179:2

stand 38:20 150:21 158:1 196:1

standard 29:3 30:17 108:14 109:2,3 138:18, 21 139:3 148:8 191:8

standards 53:18 54:3 115:12 136:12

standpoint 20:17 226:13

start 16:20 62:5 192:6 220:15,16 252:14

started 9:12 12:7 45:14 102:19 103:1 125:7 226:19 227:4

starting 80:11 220:7

starts 68:8

state 5:5 11:8 13:9 14:4,10,11 16:5,6,11,21 18:14 19:19 20:2, 11,14 21:3 22:21 23:20 24:10,20 29:6 30:12,21 31:1,6,7,12,15 33:17 34:6 36:5 38:11 39:2,3,6 41:6,19 43:8,11 57:8 58:14 59:20 66:12,19 80:7 84:8 86:20 114:19 115:8,10 116:2,13,15 117:3 118:5,7 119:20 120:6 121:5,7,10,21 122:4,18 126:15

127:6 129:9 131:2,12,14 132:2 135:10,18 136:12 137:3,21 138:14 140:18 143:2 144:15 145:6,15,18 156:3 161:10 171:5 185:15,20 188:17 189:18 202:18,20 215:14 218:10 220:21 244:9,13,17,21 245:8

stated 5:10 74:7 163:5 177:3,17 178:20 187:3,5 191:3 201:12 241:15

statement 177:13 191:14, 16,18 192:5 206:11 220:21 221:9

statements 11:18 241:2

states 127:15 186:5 206:12 221:6 241:20

stationed 187:4

statistical 77:6

statistics 47:14, 18 77:2 107:8

status 226:9

stay 6:8,10 178:15

steer 182:18

step 52:12 65:13

Stephen's 163:21 164:13, 14,16 180:18,19

sticks 251:7

stop 9:13 42:1 66:11 153:11 184:3 208:2,4

stopped 36:18, 21 130:19 149:6

stopping 16:16 18:8,11 84:2 153:6 202:15 204:4

storm 143:3

straight 28:17 64:19 110:18

street 21:16 22:13,14 165:14 179:17 180:17 181:6 196:5 197:8

streets 44:1 54:8 59:4 156:14

stretch 74:11,12 79:9,13 81:21 82:1,7 111:10,19, 20 138:16

stretches 109:20 160:1

strike 229:18,19

strip 247:6,7

strips 245:16 246:1,13

strivec 141:15

studies 33:20 122:1 126:16

study 34:9,13 36:6,9 41:8 43:16,17 44:21 45:2 116:20 122:9

stuff 33:2

subject 13:21 114:10 167:21 202:1 226:3

subjected 190:11

subjective 112:4

submit 11:10 19:8 135:18

submitted 16:1 18:14 30:3 33:18 39:11 136:9 144:15

submitting 8:6

subpoena 5:2,7, 16,21 6:1

subpoenas 5:8

substantial 28:14 72:16 182:13

successful 165:20

sudden 121:5,7

sufficient 88:16

suggest 127:17 133:1

suggested 114:9 153:18

suggestion 92:10

summaries 187:6

summarized 74:13

summary 35:14 44:5,10 74:16,19 84:14

summer 216:12 220:9

Sunday 53:14 63:19 85:17 94:16 95:1 101:20 180:5 183:2 220:4,10 243:3,12

Sundays 220:10, 20

superceded 222:12

supervisor 7:14

supplementing 11:2

support 165:19 166:11 191:9 218:14

supporting 55:11 73:8

suppose 252:9

supposed 68:14 76:6 124:4 127:19

surface 188:21 189:13 245:1

surmised 156:7

surprise 192:19

surrounded 175:17

surrounding 189:17

swear 13:2,4

swish 199:13,16, 19 200:20 201:14,18 202:7, 8

swishing 200:14

sworn 13:6 161:7 171:2

system 7:9 186:10 248:10

T

tack 76:14

takes 12:18 104:1 169:21 186:17,18 213:17

taking 49:2 89:19 106:20 135:10 163:9 227:19

talk 5:17 95:20 143:17 237:9 255:5

talked 5:4 41:14 97:15 116:10 125:10 217:17

talking 6:13 27:8 32:2,3 37:17 44:17 101:17 162:5 176:13 248:11

teams 186:2 206:13 221:3 241:18

technically 215:12 219:6

technician 130:14

technicians 130:9

telling 200:11 225:4

template 44:20

temple 25:7,11 31:17 34:1 96:8,9 153:9 162:16,19 163:11 164:11 165:19

temple's 165:3

ten 68:5 82:6

tennis 205:18 243:2,4

term 112:4 115:5 217:15

terms 25:3 29:3 33:20 36:3 43:9 44:6 59:5 64:8,15 73:6 79:13 82:10 94:8 96:2 104:10 112:15 115:13 116:21 137:1 155:2 175:7 176:9,14 198:17 210:14 217:10 218:1,20 226:8 250:21 252:3

terrain 48:7 108:15 111:1 159:17 160:1 165:12

terribly 179:11

testified 7:8 11:3,7 13:8,13,20 14:3 20:10 25:19 39:15 54:1 72:7 73:9 94:9 137:8 146:7 161:9 171:4 184:15 185:13 187:1 188:11 189:4 192:14 196:6 201:3 207:17 211:1 216:12 221:13 222:7 224:15 225:11 235:12

testifies 5:15 12:9

testify 10:5 11:11 160:19,20 186:7, 16 203:11 227:18 230:4

testifying 10:7 116:7 170:4 205:16

testimony 7:6,10 8:3 15:11 38:16 41:14 89:6,7,18 90:5 93:15 116:1 150:6 152:4 154:15 160:16 177:1 187:1 189:5 191:13 192:11,18 202:17 223:7,8 238:14 244:6 245:21

tests 7:10,17 8:4

thin 175:20

thing 19:11 66:9 130:20 200:10 228:15,16 254:21

things 12:4 52:3 67:2 108:14 110:20 136:4 163:18 164:4,21 211:10 214:18 222:4 249:6

thinks 151:13 157:12 234:13,15

thought 14:20 16:2 49:12 76:11 95:21 147:3 164:11 175:1 177:5 238:18

thousand 58:10 77:19

three-year 122:9

threshold 223:14

thrilling 140:10

Thursday 47:8 129:20

ticket 159:8

tilt-a-whirls 165:9

time 5:9 6:13 9:13,19,20 11:19 18:21 38:16 40:6, 21 41:2,14 51:2, 11,15 67:6 85:12 88:1,16 95:6,20 97:5,16 101:3 103:21 107:15 116:5 117:14 120:18 123:21 126:2,4,6,12 130:3,11 147:4 157:20 160:12 164:20 168:6,21 187:18 191:10 196:3 207:18 214:13 216:4 218:10 221:20 222:2 231:8 239:8 244:8 246:12 248:18 249:19,21 252:2, 3 253:9,20 254:1, 18

times 72:15 97:16 111:18 165:2 190:13 201:4 203:19 208:18 220:6 224:16 234:18 244:15

Timothy 4:16

tiny 175:17

title 37:20 38:1

titled 125:12

today 5:14 6:21 9:8,13,18 17:12 107:17,19 116:1 119:16 127:9 149:13 152:11,13 153:14 162:8 168:20 169:1 239:17 254:16

today's 5:13 90:1 93:8 140:16

told 32:7 95:9 96:6 115:15 186:8

top 7:4 37:18,19 41:12 45:5 46:9 48:20 57:18 66:17 141:11 177:4 216:8

topographical 215:2

topography 219:18

Torn 204:16

total 71:5

totally 151:2

touched 121:6

tournament 206:9,14 207:8,9, 12,16 221:7 238:20,21 239:2, 7,13,19 240:1 241:21 242:3,5

tournaments 179:8 180:8 206:4 221:1,10 241:4,11,14

town 178:15

Towson 4:18 193:10

track 216:14

tractor-trailer 201:17 202:2

tractor-trailers 184:19 193:12,17 194:8 198:1,14 200:18

traffic 10:18 13:16 17:10,11 18:3,10 20:16,17 22:12 34:21 42:9 43:18 44:2,6 45:2,13 47:6,7 49:5 50:19 51:10 54:5,16,18 63:12, 15,16 67:18,19 69:5 72:8 83:4 84:20 87:4 93:17, 19 94:8 95:10 96:6 97:6,10 98:3,11 114:17 116:3,12 119:4,8, 12 121:11 122:10,12 148:8 149:10,11,16 154:17,19 156:7 164:11 165:1 174:13 182:5,10 183:6,7,11,15 184:11,19 185:6 190:3 192:6,8,16 194:4,6,14 195:5, 8 196:2,13 199:13,20 200:1, 9,14 201:19 202:7,8,11 203:3, 4,5,7,17 214:5 244:7,10 245:10

traffic-calming 244:18 245:5

tranquil 177:16

tranquility 177:18 198:17

transcriptionist 233:1

transform 176:3

transportation 119:21

travel 110:18 112:1

traveling 38:10, 14 40:7 41:6 47:8 48:12 58:11 71:11 83:1,9,11, 13 126:18 127:10 185:3

treacherous 182:8

trees 28:3,4,6 32:3

trespassed 226:6,7

Trial 91:9

trick 211:19

trim 28:20

trip 116:17,18

trips 51:15 54:2 63:5,6 82:21 94:12,16,19 115:16 117:2 192:15

trouble 148:15 225:4

troublesome 176:19

truck 194:3,14

true 122:18 128:15

truest 173:14

trusty 233:4

truth 13:7,8 161:8,9 171:3,4

tube 36:17 130:16 149:5

tubes 34:14 36:9, 11 45:12 116:4, 11 117:8 119:3 120:9 130:9,15

Tuesday 36:5

turn 11:19 18:2

21:19 24:21 35:12 38:6,15 69:2,15 70:9 72:8 83:16 102:14,16 109:6 114:8,14 124:14 125:20 126:10 153:14 184:9,16

turned 66:15

turner 22:3

turning 18:2,5,12 42:1,2 58:5 59:2 60:18 64:2,3 65:19 67:12 68:10 69:6,9,10, 11,12,15 72:3 106:20 107:1,2,3 116:9 153:9 202:15

turns 35:12 60:7, 8,9,10,11 61:4,5, 6 63:1,2 70:3,6, 16,17,19 72:13, 21 73:3 81:8 111:7 114:13 115:8 120:17 134:13 158:19

twelve 81:19,20 82:12

Twining 184:15 191:5

two-day 202:13

two-lane 110:17 164:1 182:6 184:18 188:17

twofold 174:10

type 33:5 48:7 52:1 90:18 110:17,21 111:4 147:6 202:3 238:1 251:12

types 97:17 126:16 160:3

typically 10:11 38:12 131:2 143:1

typos 192:3

U

ultimate 125:19 129:12

unable 178:6

unbearable 195:12

underlying 223:11,12

understand 6:15 9:7 32:13 34:5 46:17 50:15 54:15 61:4 62:6 67:18 68:1,18,19 78:16,17 99:15 108:11 109:4 110:3 113:11 120:20 125:8 132:11 140:3 178:16 186:16 207:6 210:20 211:18,21 235:21 246:12 253:5

understanding 84:9 94:7 96:8 98:15 121:21 210:17 218:9 237:19 252:9

understood 8:2 89:11 91:1 109:19 132:1,13 230:16 232:11 240:20 241:4 254:13

understory 32:4

unique 114:7,11, 12,13,14,15,21 115:5

Unit 98:17 99:4

United 177:12

universal 108:16

unlike 180:15,17, 19

unsafe 118:15 145:19,21 146:4, 6,13

unsignalized 66:11,20 67:13

unusual 109:6,7 110:3

upsetting 175:19 206:20

upwards 71:10

usage 187:6

utilize 21:1 140:19

utilized 45:10,18 48:5 57:8 119:20 181:6

utilizing 62:20 65:17

V

vacationed 200:6

valley 174:15 175:15 178:5 190:9 210:14

valleys 174:17

variables 24:10

vast 201:17

vegetation 32:9 136:20

vegetative 188:21

vehicle 16:20 17:20 18:5,9 20:14,15,17 41:20 42:2 64:7,9 66:6 67:14,16 68:6 105:18 107:1,2,3 153:5, 7,10 155:10,13 182:17,19 183:1, 3 193:14 199:21 202:3 228:1

vehicles 38:4,5 40:4,6 41:21 42:1 47:8,15 53:9 64:1,5,6 65:8,19 68:5 69:20,21 71:16 82:18,19, 21 83:8,15 102:6 106:20 126:12,17 155:3,12,14 183:13 184:3,7, 19 185:7 189:9 198:15 200:19

venture 157:14

venue 189:16 190:12

verified 24:2,5

verify 23:21 150:6

versus 59:6 99:18 123:8

vertical 110:12 111:1

vicinity 54:9 189:3 209:1 229:16 232:9 234:11 245:19

video 12:10,12, 13,20 88:8,17 150:1,4,5,13 151:8,11 153:4, 16 253:6

view 75:1,8 76:4, 6,10 77:12,20 78:1,11,18 166:18 218:4 222:8,10 246:8, 10 253:7

violate 224:7

violated 230:19 236:21 237:5,9

violating 134:14

violation 222:5,6 236:10 237:15 243:21

Virginia 186:4

221:6

visible 232:18,19

visiting 179:4

visitors 96:7

Vista 75:1,2,3,4,8 76:4,6,10,11 77:12,18,20 78:1, 10,18 86:15 121:18 122:8 156:5

Vista- 123:10

visual 33:6 252:21 253:2

visually 22:5 28:17 32:11

vitally 177:19

vocal 249:10

vocalize 171:20

voice 50:5

voices 248:9

volleyball 179:8, 10,15,17 180:1,7, 9,10 186:1,2 205:18,19 206:1, 4,6,8,13 207:1,4, 16,21 220:1,3,12 221:3 226:9,13 238:19 239:13,19 240:13 241:4,14, 20 242:11,14

volume 34:9,10, 13 47:2 48:11,20 50:18 52:14,16 57:9,16,17 58:6, 7,8,13 59:19 60:13,15,19 62:14 63:11,15, 16 65:18 72:14 120:8 195:5 202:15 203:3,5,8 251:16

volume-to-capacity 45:21

volumes 43:18

46:10 68:4 70:5 82:11 86:18 122:11

voluntarily 5:19

volunteer 231:10

volunteering 231:9

vote 166:9,13

W

W-O-O-D-B-E-R-R-Y 161:17

wait 42:13 44:14 56:10 61:16 152:14 250:5

waiting 187:10

waiver 138:5,9

walls 175:20

wanders 185:5

wanted 7:18 15:21 16:9 18:4 20:20 23:18 55:8, 12 130:20 167:11 169:9 176:13 231:4 250:17

warning 158:21 159:4

warranted 122:12

Washington 4:21

watch 151:8

watching 203:17

water 143:3 187:6 200:21

waves 200:13

ways 37:13 77:11

wealth 191:8

weddings 187:10 188:1

Wednesday 50:17 120:8

weeds 28:21 32:4

week 6:20 155:17 194:11 220:2,4 254:9,10

weekday 46:8 53:7,10 55:1 60:9 65:20 68:3

weekdays 96:10

weekend 53:13 63:7,16 65:20

weekends 96:10

weeks 126:8

weight 193:14 194:4

welcoming 6:10

welfare 112:20 188:15

Wendy 19:18

west 21:10 162:3

westbound 68:12 72:20

Western 159:18

wet 102:4

whatnot 25:3 30:20

wheels 164:4 165:9

white 81:1

wide 52:1

wider 12:4

width 48:5 108:15 137:1

wilderness 231:9

wildlife 176:4

window 180:9

windows 178:10 195:11 251:15

withdraw 5:7 235:13,16,18

withdrawn 6:1

witnessed 182:10

witnesses 9:17 91:6 93:8 168:9, 20 169:19,21 184:14 188:10 191:4 226:16

Wolcott 19:18

wondering 149:9 157:3

Woodberry 161:13,16,20

word 105:2,4,5 116:5 173:14 221:7 239:18 242:3 252:9

words 18:16 24:17 41:19 93:15 110:2 112:14 117:20 136:2 194:3 211:4 237:13 248:14,15

work 98:7 186:10

worked 40:13

working 16:10 108:5 151:3 210:13 231:9

works 70:11 233:7

workweek 50:16

worse 183:8 190:4

worship 163:12 165:17,18 202:1

worst 8:20 50:15 54:19,20 64:14 119:18

worst-case 45:20 49:3,14,19

wrap 29:10

write 140:10

wrong 31:7 76:4 204:3 222:15,16 223:16,17 225:2, 5

wrote 185:19

Y

yards 176:9

year 82:20 97:11 106:1 124:6 126:8 164:20 185:14,16 190:5, 13 192:15 194:9, 19 208:9 214:13 220:6 232:16

year-to-date 100:11

years 79:19 80:17 173:5,8,11 181:2,5,8 182:16 192:8,9 194:8 198:16 207:1 208:10,15 212:17 234:17 237:3 244:11

yelling 175:19 179:12,15,21 180:7 206:18 207:3 220:13 242:21 243:11

yellow 193:20

yesterday 107:9

yielded 60:13

York 186:3 221:4 241:18

you-all 197:16 237:17

young 208:8

Z

zigzag 11:5

zone 174:12 180:18,19 203:8 210:3,4

zoning 188:20 189:12 209:1,3, 13 210:5,6,10 211:8 217:11,18 218:4,16,21 219:13,16 222:5, 6,7 230:2,3,12,15 236:10,21 237:5 238:3,8 250:8

IN THE MATTER OF:	*	BOARD OF APPEALS
Nepali American	*	OF
Cultural Center	*	BALTIMORE COUNTY
	*	Case Number 18-122X

****

RE: Petition for Special Exception pursuant to BCZR Section 1A01.2.C.6 to allow a Church or other building for religious worship on property zoned RC-2.

BEFORE HEARING EXAMINERS:

JASON S. GARBER, CHAIRPERSON

DEBORAH C. DOPKIN

MAUREEN MURPHY

Hearing date: September 12, 2018 (Day 3)

Reported by:

Patricia A. Cirasole

Court Reporter

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TABLE OF CONTENTS

JOSEPH J. CALOGGERO	PAGE
Direct Examination by Mr. Schmidt	8
Cross Examination by Mr. Holzer	34
Redirect Examination	172
Recross Examination	190
Redirect Examination	193
JAMES R. POWELL	
Direct Examination by Mr. Schmidt	207
Cross Examination on Qualifications By Mr. Holzer	211
Continued Direct Examination	212
Cross Examination	237
Redirect Examination	302

PROCEEDINGS

MR. GARBER: We are back here Day Three in the Nepali American Cultural Center case, 18-122-X. This is Day 3, Mr. Caloggero is still on the stand in the witness box. We are back in the Board of Appeals room today. I see that seating is supposed to be fine. There is no need to have people wait out in the hallway and rotate in. Obviously, much like I have said to begin each day, this is a courtroom, please make sure your phones are turned off or certainly silent. And please no comments or anything else, but the attorneys and the witness and the Board, of course, and Madam the Court Reporter, if you need anything as well.

And we are recording on Court Smart and court reporter today. Court Smart is on. I understand, Mr. Schmidt, the Court Reporter is here for your case. Now, Days 1 and 2 are universal. Day Three, you have a Court Reporter. Court Smart is on for the purposes of maybe jumping over to Mr. Holzer's case, so we have consistent day recorded.

MR. SCHMIDT: Yes, sir. For the record Lawrence E. Schmidt and Timothy Kotroco on behalf of the Nepali American Cultural Center of Baltimore. We have a Court Reporter today. We, I think, have gotten a transcript from the first day and I believe forwarded it to the Board. I don't believe the transcript from the second day is produced yet, but we'll get that to you as well as this one. And I think our next hearing date, Mr. Holzer and I can talk about arrangements for a Court Reporter then whether we need one.

MR. HOLZER: In October. That next hearing date is October 11th.

MR. GARBER: End of today, I am still waiting to find out what goes on during course of depositions in advance to see how necessary it is for my participation on that day, whether I can have someone cover for me. I anticipate I will have someone cover for me, but don't tell the other in attorneys in that case.

MR. HOLZER: Mr. Chairman, when I

introduced the Greater Kingsville Civic Association letter last time, it was not signed. I now have the signed copy. And I just talked to Mr. Schmidt, provided him a copy. Could I submit these to you now?

MR. GARBER: Sure. Are we doing this as a substitution or addition?

MR. HOLZER: Addition.

MR. GARBER: So, whatever Exhibit Number One was, the unsigned --

MR. HOLZER: Yes.

MR. GARBER: We are going to make this --

MR. HOLZER: A.

MR. GARBER: Exactly.

MR. HOLZER: Here's the original signed.

MS. MURPHY: I already have one. Thank you for handing, I think you handed it to us. This is what I have.

MR. GARBER: Yes, well, I'll introduce it. I will say I have not seen this.

Mr. Schmidt, you have no objection to this exhibit which is dated September 3, 2018. Dorothy

Foos, President of the Greater Kingsville Civic Association.

MR. SCHMIDT: Yes.

MR. HOLZER: I thought I did.

MR. SCHMIDT: Mr. Holzer did give me a copy, yes.

MR. GARBER: Also this is Exhibit 6.

(Petitioner's Exhibit Number 6 was marked.)

MR. GARBER: I believe you mentioned something about it last night, it was not handed forwarded. You did mention that.

MR. HOLZER: Yes, I did.

MR. GARBER: Just so you know you are not going crazy.

MR. HOLZER: Yes, sir. I am not sure of that all the time. Thank you, Members of the Board.

THE COURT: All right, so are we on cross examination now.

MR. SCHMIDT: I was still not finished with Mr. Caloggero. I had a little more with him.

MR. GARBER: I guess I was optimistic, okay.

CONTINUED DIRECT EXAMINATION

BY MR. SCHMIDT:

Q. Mr. Caloggero, not to be repetitive but so this some makes sense, I think the last portion of your testimony the last time we were here related to your examination of the sight distance issue when one would exit or enter the Nepali property, is that correct?

A. That is correct.

Q. And you had prepared four different exhibits which were labeled and were mounted on the board as 15-A, 15-B, 15-C, I'm sorry, 16-A and 16-B; 15-A&B and 16-A&B?

A. That's correct.

Q. 15-A&B, I think, depicted conditions with the existing entrance which goes out on to Harford Road from the property?

A. Correct.

Q. And then 16-A&B showed sight distances with a

potential alternative which would be the construction of a separate access point, is that correct?

A. That's correct plus some additional the measurements based on existing as well.

Q. Right. I'm just giving a broad brush of what this showed. I believe we indicated at the last hearing at least one of the photos on these exhibits, particularly 16-A&B, which goes those two exhibits have photographs on them was actually mislabeled and was not correct, is that right?

A. On 16-A, correct.

Q. Okay. I'm going to show you and I'll give to Mr. Holzer a couple of photographs. I understand these photographs you had taken some time ago depicting conditions at the site entrance, correct?

A. That is correct.

Q. Okay. And it was these photographs that were to be placed on your plan and were not; is that correct?

A. That is correct.

Q. So, I have given them collectively to

Mr. Holzer and the Board members. If you could just approach the plan and we can label those perhaps 17-ABC&D, Ms. Murphy, if that's okay, and please explain to the Board what those are showing and what is erroneous on 16-A, so the record is clear as to what you are in essence replacing?

A. So on Exhibit 16-A, the bottom right, we had a picture that was labeled winter photo without ground coverage in the Maryland State Highway Administration right of way, looking for proposed exit. It was brought to our attention that that was the existing exit. So what we did or what I did was I had photos taken, I believe the dates were, they are not labeled here, from July 16th and 17. So, I wanted to introduce these as ABC&D.

So, the first two photos were taken from the 16th at the existing access.

MR. GARBER: So, 17-A&B being July 16th?

THE WITNESS: Yes. 17 A and B.

MR. GARBER: July 16th at the existing access.

THE WITNESS: I believe that was the correct date. We were at a field meeting and during the field meeting I took these pictures. And then while driving home from a different meeting, I take this route occasionally home, I noticed there was some removal of the brush or weeds. And so I stopped and took a picture of the existing access. And then the last picture, which is 17-D, is a picture of what is labeled as, I guess, an alternative access, the one that's shown on the plans of the approximate area looking northbound. So this last picture should technically replace the one.

MR. GARBER: On 16-A.

THE WITNESS: On 16-A as, you know, a potential view or the view from leaving the site at the alternative access.

MR. SCHMIDT: Thank you, Mr. Caloggero. I would offer those as Exhibit 17 A through D with the witness' explanation.

MR. GARBER: Mr. Holzer.

MR. HOLZER: No objection.

MR. GARBER: Admitted.

(Petitioner's Exhibit Numbers 17-A through D were marked.)

Q. Mr. Caloggero, just a couple of other things and other exhibits. You have referred to the State Highway Administration right of way that adjoins Harford Road in this area, correct?

A. Correct.

Q. But insofar as the State Highway ownership of property, I'm going to show you an exhibit, let me get the colorized one for Ms. Murphy, I think it was taken off of the County GIS system, which we referred to. I'd mark that as Exhibit 18. That depicts the ownership of the property that's outlined in blue, is that correct?

A. Yes.

Q. Okay. And that's the property, is it not, Mr. Caloggero, that's immediately adjacent to the intersection of Harford Road and Bonapart on what would be the northeast side of that intersection, correct?

A. Correct.

Q. Okay, and that property is actually owned by the Maryland State Highway Administration, correct?

A. Yes.

MR. GARBER: So, in our exhibits we have color for some of us, Ms. Murphy does, she has the color copy, which parts are we talking about on this exhibit? I mean, I can identify it visually, but for the record can you please describe where it is on Exhibit 18?

THE WITNESS: Sure. The property in question is in the northeast quadrant of the intersection of Harford Road and Bonapart Avenue described as 1.77 acres and it's basically triangular.

MR. GARBER: I was going to say, it looks like a shark fin almost. I'll say that, a shark fin.

THE WITNESS: Upside down shark fin.

MR. GARBER: Right. Okay. You may proceed.

Q. You indicated the State Highway obviously could clear the brush and trees when you had your

sight distance testimony?

A. Yes.

MR. SCHMIDT: Exhibit 18.

MR. GARBER: Mr. Holzer.

MR. HOLZER: I just wanted to make sure. Could I see the color?

MR. SCHMIDT: Sorry, I didn't have enough copies of it. It's the triangular.

MR. HOLZER: The shark fin did it.

MS. MURPHY: No objection.

MR. GARBER: No objection.

(Petitioner's Exhibit Number 18 was marked.)

MR. SCHMIDT: Mr. Garber and members of the Board, I know you get the file in this case that comes up from the Administrative Law Judge and that generally the Board in evaluating the case considers that the record of the case and exhibits and information in that part is part of the record of this case is the way I understand it.

MR. GARBER: I mean it's de novo, right?

MR. SCHMIDT: It is.

MR. GARBER: I wouldn't necessarily make that assumption. It's in the case file. If you think it needs to be evidence in this case, you probably need to do something about that.

MR. SCHMIDT: Then I am going to.

MR. GARBER: You all agree with that?

MS. MURPHY: Yes.

MR. GARBER: Unanimous on that.

MR. SCHMIDT: Let me go off the record.

(An off the record discussion took place.)

MR. SCHMIDT: On the record again.

MR. GARBER: When you say off the record, understand maybe you want your Court Reporter to be on the record because maybe it's not necessary. We are also doing Court Smart. So keep in mind, when you say off the record, is it something directed to the Court Reporter or the entire case?

MR. SCHMIDT: For the entire case when I say that.

MR. GARBER: I just want to make sure

that's clear.

MR. SCHMIDT: Yes. Back on the record.

MR. GARBER: This is Exhibit 3 below.

MR. SCHMIDT: Yes. And it's actually I believe two similarly looking exhibits, Mr. Garber, with a series of photographs and sort of a key to the photograph. I believe they are in the Board's file.

MR. GARBER: Like I said, I saw Exhibit 3 that looks just like that; you say there are other photos with it?

MR. SCHMIDT: Yes, I believe so. I'll have Mr. Caloggero identify them. So, it's Exhibit 3 and 10, I believe.

MR. GARBER: There is an Exhibit 11 that resembles it.

MR. SCHMIDT: I am going to put these in as a separate exhibit here.

MR. GARBER: Three.

MR. HOLZER: 10 and 11.

MR. GARBER: Mr. Holzer, if need be, you needed to take a look at the file to help with that,

we can arrange that during the break.

MR. GARBER: In this document I have nine photographs.

MR. SCHMIDT: In the one being handed forward. I guess we'll get an explanation from Mr. Schmidt.

MR. SCHMIDT: Yes. Let me offer this, Mr. Holzer, and I'll give it to Ms. Murphy, give a copy to Mr. Caloggero. Ms. Murphy, I will give you another one when Mr. Caloggero finishes with this.

MR. GARBER: I am going to object to Mr. Caloggero testifying about these unless he was the one that introduced them blow. It may well have been another witness below that introduced these, not him. I don't know because I wasn't there. But I want to make sure when he's looking at these, he's in the proper position to be able to affirm all these pictures.

MR. GARBER: Leaving aside the front page, someone can authenticate the other pictures other than the one who took the photos.

MR. HOLZER: That's right, he was the one who testified or introduced them or not. That's the key.

MR. GARBER: Mr. Schmidt.

MR. SCHMIDT: I'll certainly ask Mr. Caloggero, I was also not there below.

MR. HOLZER: Right.

MR. SCHMIDT: Mr. Kotroco told me he believed Mr. Caloggero introduced these, but if not, I believe he has knowledge of the area and can testify about them and I'll establish that in my examination.

MR. GARBER: So, we are not worry about admissibility at the moment recognizing of course when it's revisited, you may have another argument.

MR. SCHMIDT: Mr. Caloggero, obviously, have testified you have been out to this site in this area on numerous occasions.

MR. GARBER: Objection, testified he's been out there twice.

MR. SCHMIDT: How many times have you driven up and down this road in the course of your

lifetime, Mr. Caloggero?

THE WITNESS: I have been south here numerous many times, visited the site numerous times.

MR. HOLZER: I'll ask you that when I get a chance.

MR. SCHMIDT: Mr. Caloggero, this exhibit which I am going to refer to I believe as Exhibit 19 although I haven't introduced it.

MR. GARBER: For identification purposes only it's Exhibit 19.

Q. If you could tell us, Mr. Caloggero, generally, the first page that appears to be labeled Baltimore County, my neighborhood, which is the county GIS, that indeed is where that is from.

A. Yes, that's my understanding.

Q. And what is that showing if I can ask you in relationship to the photos that follow?

A. This is showing just a plain base map of Harford Road and the surrounding Nepali property and there is labels on here which my understanding relates to the numbers on the first sheet relates to the

pictures and the direction that the pictures were taken.

MR. HOLZER: No, I am going to object to this because, obviously, he's just saying something he didn't do.

MR. GARBER: Once again, I am going to sustain the objection. I believe there should be a foundational question as to what the numbers, let me back up. The unannotated version he can testify to. He recognizes that as a county GIS printout. As to the labelling, that is a question for Mr. Holzer, I will sustain. Mr. Schmidt you can ask a question which perhaps resolves the issue.

Q. Mr. Caloggero, let me draw your attention, if I can, let me do it this way, to the second page of the exhibit. Can you identify based on your experience and knowledge of this road system what that photograph is depicting if you know.

A. Yes, I don't have a wonderful colored picture, but it looks like it's northbound Harford Road to south of Napali temple property. It looks as if the

house or temple can be seen from the roadway on the top of the hill.

Q. Okay. If I could ask you, Mr. Caloggero, can you turn to the first page of the exhibit, is there any relationship between the numeral one in the lower left hand corner in terms of its location on Harford Road, if you know, and the location from where this photograph was taken?

A. Yes, that would be the approximate location of the photograph.

Q. Does this photograph fairly and accurately, based on your knowledge of the roads conditions, depict what one would see as location number one as depicted in photograph number one?

A. Yes.

Q. Is that accurate to the best of your knowledge?

A. Yes.

Q. Do you know if you took these pictures?

A. I do not believe I took these pictures.

Q. Let me turn if I can to number two. What I

would like to ask you, Mr. Caloggero, again, is that, if you could testify if you are aware and if you know where on Harford Road would that photograph have been taken based on your knowledge and your site visits to the property and to the neighborhood?

A. Yes. This picture number two is in the area that is shown on the first page of picture number two. It is just south of the first right hand turn before the entrance.

Q. And there is a sign in picture number two, is there not?

A. Yes.

Q. And could you tell us the nature of the sign and what it's disclosing?

A. Yes, I have testified to the signs before. This is the reverse turn side with the revisory speed of 30 miles per hour and below that is the notification that there is a street that should be within the curve itself or the turn itself of Bonapart Avenue.

Q. What is a reverse turn sign or reverse turn

when you use that, what does that mean?

A. The reverse turn means 90-degree turn signs which the state highway recommends turns that are taken at 30 miles an hour. Again, that's what the 30 miles per hour speed plate is underneath that sign and it tells the drivers ahead to be expecting a turn to the right and a turn to the left.

Q. Let me go on to photograph number three, if we can go through the same exercise, can you tell us where that was taken, if you know, and remark on any features shown on the photograph, particularly the signage?

A. These are traffic of chevrons. These are just a little bit further north than taken in number two. C, the chevrons from picture two as you approach the curve and three shows the chevrons as well. Three is taken after 2 and 4 is after the first right hand turn before the access. This picture shows the guard rail and two chevrons which assist the driver in making the turn to the right.

Q. There is what appears to be a storm drain in

the road in the lower right of the photograph?

A. That's correct.

Q. When does the State Highway Administration use these chevrons as opposed to other signage? Is there any particular criteria from a traffic engineering standpoint?

A. They would particularly use these signs in conjunction with sharp turns, use these again to assist the driver in making the right hand turn.

Q. Okay.

A. Usually, a lot of times, I don't want to say all the time, they are accompanied by the warning sign and the chevrons.

Q. The warning sign in that case is the reverse turn sign?

A. Right.

Q. If I can, Mr. Caloggero, just to move this along, if you could go through the remaining photographs as well and just comment on their location and any remarkable features of the photograph or anything that relates particularly to the sight

distance?

A. Exhibit 4 is still traveling northbound where the driver would have completed the first turn and facing or approaches the access as well as Bonapart Avenue. Five is a little bit further and, again, it faces northbound, again, the access is to the right of Bonapart Avenue is to the left. At this point you can start to see the reverse turn heading to the north.

Q. Would that be where the chevrons are to the left of the photographs?

A. Correct. In this picture you can start to see the two chevrons located in this picture.

Q. Number six, although dark, it looks like it's taken from Harford Road looking up the driveway?

MR. GARBER: The property at issue that driveway?

THE WITNESS: Going into the property. Seven is a continuation of the driveway. Eight looks like a continuation of the driveway and nine is a continuation of the driveway facing the temple or looking at the temple.

MR. GARBER: Is that it for Exhibit 19 then?

MR. SCHMIDT: It is.

MR. GARBER: Mr. Holzer.

MR. HOLZER: I object on the basis you already heard. It wasn't his introduction. He's reading someone else documentation. Even if he is familiar with driving up and down the road, I don't think it's appropriate for him to introduce something below that he did not create or was not part of the his presentation.

MR. GARBER: Mr. Caloggero, if you look through Exhibit 19, you went through to it's 1 through 9, you did not put the numbers on the first page of Exhibit 19.

THE WITNESS: That's correct.

MR. GARBER: After viewing the photos you agree it's generally correct. If you would label it you would label it approximately the same location in the photo.

THE WITNESS: Now, photo 7 and 8 to be fair

I am not assure percent sure because I'm not visualizing any features that I recognize first off the bat, but the other ones that you recognize.

MR. GARBER: With that in mind, we'll admit the photos in Exhibit 19. As to the GIS printout, the first page, it is I think helpful to the Board to know where the photos came from, at least the ones on the approach, certainly, the ones into the site. We've already had other photos that came in that they actually look, if not the same, to be substantially similar. So, for that record I think we'll admit it understanding, of course, the limitations on the first page. It's only an estimate and his reasonable agreement with it based on the photographs.

MR. SCHMIDT: Thank you. And I'll give Ms. Murphy the 4th copy of that.

MR. SCHMIDT: Again these photographs show what they show. We are in an administrative hearing.

(Petitioner's Exhibit Number 19 was admitted.)

MR. GARBER: As I understand the purpose of

Exhibit 19 is also to show the road signs on the approach L. There's been much testimony and also the maps and other exhibits relating to it.

BY MR. SCHMIDT:

Q. Thank you. What I would ask Ms. Murphy to mark as Petitioner's Exhibit 20, Mr. Caloggero, is the same drill. And again, the purpose of these, Mr. Caloggero, not to belabor the point, because we have had other photographs submitted, but your testimony has talked about road signage and the different in road signage based on the nature and the character of the road. I would ask you to comment, if you will, on the nature of these photographs which are marked in Exhibit 20 as numbers 10 through 15.

A. You want me to go through them one by one again?

Q. Yes, sir, if you will. To be fair, you did not prepare this exhibit either.

A. No.

MR. GARBER: Mr. Holzer, you have a copy?

MR. HOLZER: Yes, sir, I do.

A. Number ten is a picture leaving the site approaching the existing access point towards Harford Road.

Number 11 looks like it was taken on the left side of the access of the median points of the access, taken from the left side looking northbound, where we can see the three chevrons and further up, further north on the road, there is another warning sign.

Picture 12 looks like it was taken in the same location of picture 11 and that was looking towards the left or towards the south showing two chevrons and another warning sign directing traffic towards the left.

Q. Is there anything, I also understand there is a difference between the chevrons and the arrows, but is there any distinction from a traffic engineering standpoint as to why the state highway would put chevrons as opposed to an arrow?

A. Chevrons help define the actual curve itself. I believe the other pictures, if saying to turn, to

really turn if you haven't yet. That's actually, it looks like the picture right at the corner itself. So there, as you can see on 13 and from my recollection from years and years ago from working with the State Highway Administration, I believe this is the proper way the turn is marked with the chevrons and then you can have the arrow signs.

So, 13 again is in the southbound direction just south of the site access on Bonapart Avenue. Showing two chevrons, the arrow sign to the left and the third chevron.

Picture 14 is, again, southbound Harford Road, but now we are located north of the site access on Bonapart. This shows the three chevrons directing traffic towards the right.

And 15 is just a little bit further south of that picture and it's just, again, north of Bonapart Avenue in the southbound direction, you can see one chevron, it actually shows a light post here. There's an arrow pointing towards the street light.

Q. Mr. Caloggero, in Exhibit 10 I think there was

a question about this at a prior hearing date which shows the driveway and the landscaped island that's in the middle of the driveway.

A. Yes.

Q. If this was retained as shown on Exhibits 15-A and 15-B, can you describe where people would enter the property and where people would leave the property in relationship to the landscape island?

A. On picture ten facing the access point, facing Harford Road, traffic would exit towards the right and would enter to the left, and as necessary paving markings could be installed to help drivers with this maneuver coming down the hill and we can also add additional signs.

MR. GARBER: That's use of the existing?

MR. SCHMIDT: Yes, that's shown on 15-A and 15-B in terms of sight distances. I would offer that as Exhibit 20.

MR. HOLZER: Same objection.

MR. GARBER: Same basis, it will be overruled understanding, of course, whatever

limitations there may be, you can ask in cross examination.

MR. HOLZER: I'm sure I'll be given plenty of latitude.

MR. GARBER: And the Board sees it for what it is. Thank you.

(Petitioner's Exhibit Number 20 was admitted.)

Q. These road conditions, I think you testified, Mr. Caloggero, just to make sure, these road conditions limit the speed in proximity of the entrance to the Nepali property, do they not?

A. They do, yes.

Q. I think you testified last time that you believe the safe speed in terms of these turns both north and south of the site would be 30 miles an hour?

A. Not only do I believe that, but there is the opinion of the Maryland State Highway Administration based on their signage and their warnings signs that they have posted. So, I'm just agreeing with what the State Highway Administration has posted and installed

on this part of the road.

Q. Harford Road is a state highway, correct?

A. Correct.

Q. And who has jurisdiction over a state highway, what agency?

A. The Maryland State Highway agency.

Q. What means of approval in terms of the access would be required here, if any?

A. We would have to work with District Four, whose in charge of Baltimore and Harford County and their Access Management Division, go through the access permits, approval process and the State Highway Administration at that level would approve any access and improvements necessary.

Q. Now, including whether it would be the alternatives shown on your Exhibits 15 or 16 with the existing means of access or the proposed changes you described last time?

A. That's correct.

MR. SCHMIDT: Okay. I have no other questions of Mr. Caloggero.

MR. GARBER: Mr. Holzer, when you are ready.

MR. HOLZER: Thank you.

CROSS EXAMINATION

BY MR. HOLZER:

Q. If I may come over and with Exhibits Numbers 19 and 20, the photographs you just described, do you have them in front of you?

A. Yes, these.

MR. SCHMIDT: Ms. Murphy, do you have all the copies you need?

MS. MURPHY: I just need 20.

THE WITNESS: Are they color? I didn't know what quality.

MR. GARBER: Same quality as the ones I have been reviewing.

MR. HOLZER: I'll get you a copy.

MR. GARBER: Like when movies were first being colorized, skin shouldn't be blue like that. That's how it's supposed to look.

Q. Let's take picture number one, okay, and that

was Number 19. Do you know where, exactly where this picture was taken?

A. Exactly to the point, no, I do not.

Q. If I were to tell you it was taken from Sharon Drive, would you -- Well, let me back up, before I put you on the spot, do you use Harford Road to get to your home?

A. Occasionally, yes.

Q. Where do you live?

A. Forest Hill, Harford County.

Q. So, occasionally, you would use Harford Road. How many times a week would you use Harford Road?

A. I used it this morning. Per week or?

Q. Per week.

A. Maybe once a week or a couple times a month.

Q. Driving south or driving north?

A. Yes.

Q. Which way?

A. Yes.

Q. Both ways?

A. Yes.

Q. Okay. So when you testified about the highway sign going north and south, you opined that you would be afraid to go the posted speed limit and you would slow down in your direct testimony the other day?

A. Could you repeat the question?

Q. The other day, second day, when you testified, you opined that even though the posted speed limit going south and going north, you would slow down more because you didn't think you could take it at this posted speed limit, take the turn?

A. That's correct.

Q. Okay. So that is based upon your subjective analysis of having utilized the road both once a week going north and south, right? I mean you are experienced, so you feel safe in reducing your speed below the posted speed limit?

A. It's also based on my review of the site in this part of the case.

Q. Sure. Now when, have you ever seen in your trip once a week for how many weeks, how many years?

A. I have been up there 20 years.

Q. Twenty years. Okay. Have you ever seen anybody, while you are using the road, take that turn too fast?

A. Define too fast.

Q. The posted speed limit.

A. I would not have any recollection of how fast someone drives on that road making those turns.

Q. Okay. Suppose, well, let me ask you this. Since your testimony was subjective in terms that you would slow down and not go the posted speed limit, what about someone from New York trying to get to the site for the first time, would they rely on the posted speed limit or would they slam on their brakes because they didn't know what was coming?

A. Well, as a driver of the road, they are supposed to follow all necessary warning signs and there are warning signs located north and south of the site telling them what to watch out for. So as a driver, this is what you are supposed to do.

Q. That's what you are supposed to do, but as a traffic expert you know people speed all the time on

the beltway, on the back roads, in Towson, 30 miles an hour, isn't that true that public doesn't necessary always comply with the posted speed limit?

A. Always?

Q. No, I said does not always follow the posted speed limit.

A. Of course.

Q. Let's get back. So don't you agree then that your opinion really was a subjective one based on your personal experience?

A. It's also based on the Maryland State Highway's opinion on how the road should be driven.

Q. You think that they should reduce the speed limit and be posted less than what it is?

A. That's not my call.

Q. Since we are being subjective about your opinion, if you had the State Highway position, would you have a reduction of the posted speed limit?

A. You typically do not on these types of roads do not reduce speed limits for this short section of the road typically. What you would do is you is sign

it properly, that's why it's called advisory speed to tell the people the safe speed to take these turns.

Q. But again, it's advisory. Do people always take the State Highway advice as to the speed limit? You have already answered no, right?

A. Correct.

Q. Let's go back to photo Number One?

MR. GARBER: In Exhibit 19?

Q. Yes. Where I was diverted from. Do you know whether or not this picture was taken from Sharon Drive?

A. I do not.

Q. Okay. So if someone were to later testify that that photo was not taken from where you proposed, would you be upset?

A. I don't know what difference it makes. It's just a picture looking north bound in a general direction from along Harford Road.

Q. I appreciate your bringing that up. This is a photograph, you have testified it shows the mansion at the top of the hill, right?

A. Yes.

Q. There was a witness who testified before you that said you couldn't see the mansion from Harford Road.

MR. SCHMIDT: Objection, that's not what the witness said.

MR. HOLZER: We'll check the record.

MR. GARBER: I have recollection that there were spots where it could be glimpsed but generally that it could not be seen. Something along those lines, that's my recollection.

MR. HOLZER: Thank you.

Q. Let me go to photograph Number Two in that same exhibit where you talked about the reverse --

(Mr. Schmidt sneezed several times.)

MR. SCHMIDT: Excuse me.

MR. HOLZER: Bless you.

MR. SCHMIDT: I am allergic to your question, excuse me.

MR. GARBER: Everyone ready?

MR. SCHMIDT: Yes, I'm okay now.

Q. Number two, this says a reverse turn sign is cautionary, it's not a requirement. If a police officer was sitting there, they wouldn't be cited if they went faster than that, right?

A. That's correct.

Q. Okay. So someone who is used to this road may well be going 35 or 40 miles an hour going north, correct, and not violate the law?

A. Oh, not violate, correct.

Q. Have you ever gone over 40 miles an hour?

A. In my life, yes.

Q. In your life, yes. Thank you for answering that truthfully. The reality is most people --

A. I didn't say here though.

Q. I'm sorry?

A. I didn't say here. I can't testify to what I drove here. I am simply watching the road and obeying the signs.

Q. I understand because I went up there for the very first time and I was scared to death of this turn. Interestingly enough though, it alerts you as

to Bonapart Street coming in from the left, right, comes in from the left further up the road?

A. It does come in from the left. The picture is somewhat blurry, I can't tell if there is a slit there.

Q. No, but I think it shows you Bonapart doesn't come in from the right, it comes in from the left.

A. Correct. And a lot of times with these signs they will add a little black line showing where the streets are.

Q. I think there is a little black line if you look to the left of it.

A. My picture is blurry.

Q. Okay. So it does not warn you of the entrance to this site, does it?

A. No, that's correct.

Q. Yes, it just tells you Bonapart is coming in from the left. So, if I was driving up Harford Road for the first time, I know now I'm supposed to go down to the 30 and I know now that there is a road coming in from the left when I get further up around the

turn, right?

A. Correct.

Q. I don't know anything about the entrance way to this site?

A. Correct. That could also be part of the Maryland State Highway Administration recommendation in the area.

Q. I'm sure they are going to have some recommendations. Let's go to Number Three, merely, I didn't know for my life and I have been driving forever it seems, I didn't know they were called chevrons; I just thought they were arrow signs?

A. Okay.

Q. Okay. So an arrow sign tells us now the road is going to the right?

A. Right.

Q. Then we get to Number Four. This is the first photograph in this package that shows you all of a sudden there is an entrance coming in off the right, right?

A. Correct.

Q. And that's the entrance to the site? And then when you get up a little closer --

MR. GARBER: Is that a question?

MR. HOLZER: Yes, he answered.

MR. GARBER: I didn't hear the answer. Is that the entrance to the site?

THE WITNESS: That is the entrance to the site, yes.

Q. And then Five shows the entrance to the site. And then Six and so forth are really just what the property looks like, right?

A. Correct and --

Q. Okay. I don't want to miss anything here.

MR. GARBER: You were saying something, sir?

THE WITNESS: I was going to mention, you know, this used to be a single family home, and a lot of times the Maryland State Highway Administration won't mark on those types of signs a line signifying a street when it's a single family home. As you keep going northbound there's also other driveways coming

on to Harford Road that are not signified by any of these signs.

MR. GARBER: By use of the word "this project", you are referring to the house on the site at issue?

THE WITNESS: Correct.

MR. GARBER: I use that for distinction because Photographs Five through on sometimes have a single family house or structure and that's not what you are referring to.

THE WITNESS: Right.

Q. So, from the State Highway standpoint and traffic engineering standpoint, what was okay for a single family home in this particular area of Baltimore County was this entranceway satisfied that, any concerns that the State Highway Administration had, right?

A. I can't answer for the State Highway Administration.

Q. Well, from your standpoint, these people, the property has been used in a single family home for

years and years and years and years?

A. Correct.

Q. So now all of a sudden, what is your client's use of the property classified by the State Highway? Commercial, is it not?

A. I don't know how they are classifying this property.

Q. What do you he mean you don't know?

A. I don't know how the State Highway Administration is classifying this property. You asked me what the Maryland State Highway Administration would do. I am not Maryland State Highway Administration.

Q. So, if you don't know, then why are they putting your clients through this extensive analysis of what is safe, because for 40, 50, 60 years, it wasn't even worth or bothersome to the Highway Administration. Now they are talking about having to give you an access permit, am I right?

A. In my opinion when use of a property is changed and increase in use has changed, the Maryland

State Highway Administration has every right to request an access permit and review the site based on that increase.

Q. Exactly.

A. Right.

Q. So now, it's become a commercial, if you are not able to say it, maybe we'll get it somewhere else, now it's a commercial access and they treat that differently than a single family private owner?

A. I would not call this a commercial access but would call it more than residential. Typically, in ITE, we would identify this as it would be potentially a church, a religious institution but not a commercial access.

Q. They are not putting WalMart in the there but that's not the point. Commercial has a different classification or distinction from a single family home on the State Highway analysis?

A. Again, I wouldn't consider this commercial.

MR. GARBER: Let me jump in here. Just so I understood your testimony, there are different

classifications for State Highway Administration, residential use, commercial use and institutional use?

THE WITNESS: When you are developing trips and such, you base it on the use of the site and this instance, in my opinion, it would be a church or institutional type of use.

MR. GARBER: Do you know if SHA distinguishes between commercial and institutional use?

THE WITNESS: Yes, they have been asking questions about what is the use of this property.

MR. HOLZER: We'll get to that.

MR. GARBER: Okay.

Q. Now, let's look at Exhibit 20. Again, as you have acknowledged, this was not created by you?

A. Yes.

Q. Okay. And you didn't put these red numbers on it from 13 or from 10 to 15.

A. That's correct.

Q. You didn't do that?

A. I did not.

Q. So looking at Number Ten, picture Number Ten, currently, today, did potential use of this access shown here does not prohibit using the left exit point or entrance point from a car exiting on the left side of the circle and making a left turn and going south?

A. Correct, it is not physically prohibited.

Q. Right. And when you, where is the first one? You said under here where, I don't want to make you get up.

A. That's all right.

Q. The first one where you did the sight distance?

MR. GARBER: You want to use the binder clips to help use it to scroll.

MR. HOLZER: I'm going to let the experts handle it.

MR. GARBER: Let the tall people do it, relative to me.

MR. HOLZER: Let's put this one down here. It makes it much easier.

MR. GARBER: Mr. Holzer, make sure you turn

towards me.

MR. HOLZER: I will. I have never been accused of anybody not being able to hear me.

Q. Petitioner's Exhibits Number 15 was the first exhibit that you showed us the other day when we had the hearing. And you measured the sight distance from the right hand side of the circle to the location of 365 feet, right?

A. Correct.

Q. Okay. Now, if there is no prohibition now while the property is being used, okay, if you located this same car on the left side, which I just showed you on this picture Number Ten, you would have less than 365 feet of sight distance, right? Am I correct?

A. If I located the car to the left of the median.

Q. Yes.

A. So what you are saying would be correct.

Q. Right where the B is, if that B were turned into a vehicle and you measured that to the 365, what would we end up? Can we do it. Could you do it now?

A. I could, but that's not how you are supposed to drive the road.

Q. I understand that's not how you are supposed to drive the road, but that's how people exit, we have evidence from people we'll show. Measure from B to 365. What does that amount to in terms of the sight distance?

A. Actually, I don't know if I can physically measure because, and let me say why.

Q. Do you need a ruler?

A. No, but let me explain. Because A is a location where you come out. I understand if people are driving it incorrectly, then we need to do a better job to make sure they drive at the correct point.

I did not come out here to visually check the actual sight line to see if there is any other obstructions with this curb in the location of approximate stop to be able to see that far. So, just to be fair, I didn't go out there and make the measurements that you wanted me to do one of two of

these dimensions.

Q. I understand.

A. If you want me to do a straight line, I can do that.

Q. Yes, please do.

MR. SCHMIDT: Do you need to scale, Mr. Caloggero?

THE WITNESS: No.

MR. GARBER: You are using Exhibit 15?

MR. HOLZER: Fifteen. The very first one that they introduced.

MR. SCHMIDT: I think it's 15-A.

MR. HOLZER: Or A, yes.

THE WITNESS: I'm going to have to pause for a moment, if you don't mind.

Q. I'll see if I mind, if you give me the answer.

A. I'll say it's 70 feet short.

MR. GARBER: Seventy feet short?

A. Approximately. Again, the scale is not matching to --

MR. GARBER: The ruler you are using.

THE WITNESS: So maybe 300 feet approximately.

Q. Okay. So the record is if it were to, on Exhibit 15-A, if it were measured from the B location on the left side of the circle to the 365 marker, approximately 70 feet short of the 365 feet sight distance.

A. Correct.

Q. Also at the same time you have been to the site, I'm going to ask you more about that later.

A. Sure.

Q. But you have been to the site, exited the site, is that correct?

A. That's correct.

Q. The house directly across the street, have you been there in the evening?

A. I have not.

Q. Okay. So, there are some concerns about lights, but you haven't experienced that?

A. That is correct.

Q. Okay. And you do agree that as of today,

there are no prohibitions about how one exits, left or right?

A. The rules of the road say you are supposed to exit it to the right.

Q. Okay. I will show the Board pictures of where that is supposed to be, but not done.

A. That's existing non proposed.

Q. Right. Now, 11, I don't have any questions because you have already introduced that.

Number 12, if you look at that, this would be the physical location of, if we go back to 15-A and we go back to the car being located at B, basically, this is what that car would see, this picture Number 12, wouldn't it?

A. If a car were to be there, yes, approximately.

Q. And as a matter of fact, if a car were to be there, what does the State talk about in terms of how far out into a road or where that car has to be in order to look to the left? Do you understand the question?

A. Yes. We keep going back to a place where they

are not supposed to be turning from, so I'm not exactly sure what your point is.

Q. Did you take a picture of the right hand side of the circle where you have shown on 15-A to illustrate what the left turn would look like if you were coming out the right hand side and looked to the left? I haven't seen it.

A. I don't know if I have a picture of that or not. If I do, it's on my phone and I can always introduce it with a specific date on it.

Q. You haven't done it so far.

A. No, because I believe my aerial drawings signify what is actually out there with the existing egress.

Q. I understand. But you have also introduced these pictures and you are standing behind them even if though you didn't create them, and Number 12 really does show, if you are sitting on the left-hand side, what your sight distance is.

A. I am not showing that on Exhibit 12. I don't measure sight distance from an improper location. We

need to do a better job of telling them which side turns. Although the rules of the road state you are supposed to go the right.

Q. I understand that. You said that twice.

MR. SCHMIDT: Because you have asked him twice.

MR. HOLZER: Exactly. I thought it would be more.

MR. SCHMIDT: I am not shy.

Q. Now, look at Number 13. Number 13 is a successive picture to Number 12, is it not? Right?

A. Taken from a different location.

Q. Yes.

A. Yes.

Q. What location was that taken from?

MR. GARBER: When you say that, you are talking Exhibit 13?

MR. HOLZER: Yes.

A. It looks like it's taken from the driver's eye travelling the road.

Q. Yes, I agree with you. In other words, 12

shows a vehicle sitting there after one would pull out left or right and got to that point, 13 is what he would still see.

A. I still don't agree with what you said on 12, but 13 is what is in the road travelling towards the turn to the left heading south.

Q. Yes, yes. Even if you are pulled out, whether to the left or the right hand side of the circle, okay, even if you have done it correctly, according to you, then this is still what you would see when you looked at 12 and saw that vehicle sitting there?

MR. GARBER: Exhibit 13 is what you would see.

MR. HOLZER: Yes. That's what Number 12 sees when he gets to 13, right?

MR. GARBER: Thank you.

THE WITNESS: 12 is taken from a completely different angle, but 13 is taken, again, from my opinion, the driver's eye of the vehicle approaching that left hand turn.

Q. We hear you.

A. Okay.
Q. Going to Number 14, now, I am coming south --
A. Right.
Q. -- before the entrance to the facility, right?
A. Correct.
Q. And when I look at this picture, I see the entrance right after the third arrow and I'm coming down that direction and I'm looking so that I can him make a left turn into it, okay?
A. Okay.
Q. And I cannot see anything past the street sign, the stop sign and the bushes that are on the property across the street from the entrance, right? So, I can't see what's coming north?
A. That's correct.
Q. Okay. Is there any proposal to require that lady that owns the property to cut those trees down or take the fence down?
A. No, and if you recall, I testified to that earlier on Exhibit 16-B and I can run through that again to show exactly what you stated where depending

on the turn where someone would turn into the site, where the sight distance would be prohibited, if you are looking southbound and wanted to turn left into the site and we proffered the best location for a vehicle to turn left into the site without impacting the neighbor's driveway.

Q. So what you are saying is that this is improper site distance to make a left turn as it exists now.

A. I didn't say that.

MR. SCHMIDT: Objection. I withdraw.

Q. It's okay then?

A. Yes, sir. May I approach?

Q. We'll come back to that.

A. You are asking me a question, I want to point to the graphs I made.

Q. Go ahead, show me.

A. So today, vehicle one --

MR. HOLZER: I want the Board to see it.

MR. GARBER: What exhibit are you referring to?

THE WITNESS: Exhibit 16-C, I apologize for blocking everyone's view, but as you are coming southbound, as you state, and you come towards or past the what I'm going to call just a median or the monumental entrance, vehicle one is here just in the approximate area of the separation, that vehicle can see about 345 feet to a vehicle coming around the turn, which is plenty of time for that vehicle to turn left and it is not impacted at all by it the guard rail or the neighbor's fence.

So, the State Highway Administration asked, what happens if we move the access further to the north, and as you move the access, so potentially move the access further to the north, then where we have cars, orange car two and aqua blue car three --

Q. Right.

A. -- that is obstructed by this turn and the fence, you can only see 200 feet. That's why we have made a recommendation to maintain the existing access because it gives the safest location for a car to turn in based on the sight distance from the south.

MR. GARBER: So the existing access should be maintained because of the sight distance.

THE WITNESS: That's correct.

MR. GARBER: That's what you proposed.

THE WITNESS: That's what we proposed.

Q. So the exit would be moved to the new location and the exit would be left where it is?

A. Yes or no, again, all depends on the State Highway Administration but we have shown it can work from the existing access where it has worked for as many years as this house has been in place and then we showed a proposal if the State Highway would like to increase some sight distance that an exit could occur approximately 70 or 80 feet to the north where we can increase the sight distances to go to turn out, yes.

MR. GARBER: So if you were one would say given the artist's choice so to speak by the State Highway Administration to keep the existing or use the proposed alternative, is there one that you favor over the other?

THE WITNESS: A, they both work. B, this

exit does increase the sight distance.

MR. GARBER: You say this exit.

THE WITNESS: I'm sorry, the proposed exit would increase the sight distance looking left and right. But again, the first one is still safe, the second one is increased.

MR. GARBER: Your preference would be to split the entrance from the exit and have separate access points for both.

THE WITNESS: That increases the sight distance for outcome.

MR. GARBER: Is that correct?

THE WITNESS: Definitely.

MR. HOLZER: I have a question as to that, but not yet.

MR. GARBER: Sorry.

Q. Now, these are the pictures you introduced today?

A. Yes.

Q. And Number 15 is still a blind left turn. That's what you just finished testifying.

MR. SCHMIDT: Objection, that's not what he said.

A. Picture 15 is taken from a driver's view driving southbound on Harford Road north of Bonapart Avenue. I was testifying to potential access points and locations.

Q. Why are you putting these photographs in if they in effect are showing exactly opposite of what you are proposing?

A. This is what we are proposing. These are the photographs we are proposing. This picture like I signified before shows the chevron.

Q. Right?

A. It shows the access to Bonapart Avenue and it shows an overhead light.

Q. Right.

A. It doesn't show where you turn left into the site or the sight distance where you turn left into the site.

Q. In this picture 15, if your car is sitting down here by the telephone pole on the right hand

side, you've got better sight distance if you turn left?

A. Absolutely.

Q. That's what you said, right?

A. (Indicating.)

MR. GARBER: Did he answer?

THE WITNESS: Yes.

MR. GARBER: He was nodding his head.

Q. Let me make sure I don't have questions about the other documents. This Exhibit Number 18 with shark's fin, I love that one --

A. That's a new term.

Q. Why are we interested in that? What was your purpose in showing that? I wasn't sure what the purpose of showing it is. Is that where you are going to cut down trees or bushes or the State will?

A. May I approach again?

Q. Sure.

A. What we reviewed previously and what I have testified to previously is here, we have identified what I'm going to call the right of way.

MS. MURPHY: Which exhibit is that?

THE WITNESS: I'm sorry, 16-A, so, 16-A in that quadrant.

MR. GARBER: Looking at the same parcel on 16-A.

THE WITNESS: Correct. Typically, this orange line surrounding the property, which I guess is blue on the colored sheet of the colored exhibit --

MR. SCHMIDT: Eighteen.

THE WITNESS: Eighteen, that is what I am going to consider the road right of way, the right of way of the road zoned by the Maryland 145 and that's the area depicting that brush or weeds could be removed to not only increase the sight distance from our site but for all of Bonapart Avenue.

MR. GARBER: You are pointing to the green section of 16.

THE WITNESS: The green section between the road bed and the property line. This is showing that not only outside of what I'm considering the road right of way, beyond that, this parcel is also State

Highway Administration property.

MR. GARBER: Beyond?

THE WITNESS: Beyond the orange line in the shark fin. I love that term now, the shark fin. The shark fin is also State Highway Administration property. We have been identifying on the southbound side on the west side, that that area between the road and the property line is State Highway right of way and just found out this is also State Highway right of way in between.

Q. Perfect.

A. Did that help?

Q. A lot. Now, I ask you to go back to the sight distance example that you had which said you wanted to exit on the new exit, but you could still use the left side to enter.

A. Yes.

Q. Let's get back to that. Okay. Now, if one were to remove this green area that you've just described to the Board, would that not allow you to make a left turn better on the new exit and, let me,

you can answer all this together.

A. Okay.

Q. And if the State Highway Administration would permit you to make sure that they even encroached on to that property for purposes of creating sight distance, couldn't you actually move the entrance from where you are proposing it now on the existing site, couldn't you move and provide better sight distance to make both the exit and the entrance at that location?

MR. GARBER: At the proposed location, proposed exit location.

MR. HOLZER: Exactly.

A. So, there's two different things we need to review here for safety purposes. The vehicles approaching, the vehicle southbound approaching the stopped vehicle turning left in. So as cars are coming southbound from the roundabout down, we want to be able to give them sight distance as they are approaching the stopped vehicle turning left. But also, we also want to make sure these vehicles can see further enough ahead so they are not cutting somebody

off when they are turning left.

So, one has a sight distance of 345 feet --

MR. GARBER: To which point?

THE WITNESS: To the first vehicle coming around the turn, so the first visual sight distance --

MR. GARBER: Going northbound.

THE WITNESS: Southbound looking at the first northbound car coming up, but as you approach in the access between 1 and 2, vehicle two is showing about 190 feet --

MR. GARBER: To?

THE WITNESS: -- to a northbound vehicle due to the fence on the property.

MR. SCHMIDT: When you said the fence in the property, where?

THE WITNESS: Across the street to the neighbor's property on Bonapart Avenue, so we are in between. So could we locate, could we move an access between cars 1 and 2, whereas we see further down, I haven't looked at that in its entirety, but that would be the location somewhere between 1 and 2. One

provides very good inbound sight distance looking left, two does not, so we have to locate it somewhere in between. Now, I don't know how far in between but it should approach vehicle one in that view.

Q. What about at three?

A. At three, it's 190 feet. So, again, we are obstructed by the curb, the curb as well as the fence, neighbor's fence across the street, obstructing inbound sight distance.

Q. This is a very difficult site for even a traffic expert like yourself to be able to plot where to put an entrance and exit, is it not?

A. No, because A, existing works and B, we have moved one outbound exit to increase the sight distance.

Q. Okay.

A. And again, I want to be clear when you say sight distance, whether we have one car, 20 or 100 cars coming out of a location, if it's deemed safe per sight distance, then it's safe. Just because we are adding cars to that movement doesn't make it unsafe.

It's still the same sight distance, still the same maneuver, but now just adding more cars to it, that's all.

Q. And more drivers?

A. Correct, but it's still safe, still a safe access.

Q. That's your opinion?

A. That's my expert opinion.

Q. That's your expert opinion --

A. Yes.

Q. -- you think it's still safe?

A. Yes.

Q. And you even think that the existing entrance and exit is still safe?

A. I do, yes.

Q. All right. One of the questions apparently has been raised by your testimony that if someone is coming north, okay, coming around the turn --

A. North.

Q. -- coming around the turn?

MR. GARBER: Wait, wait, sounds like you

are talking about different directions. You are pounding south. He's pointing the opposite direction, north.

MR. HOLZER: I'm sorry.

MR. GARBER: It's almost counter intuitive but --

Q. Okay. If someone is coming north from this left hand corner of 16-B, okay, and it's going to turn into the entrance, is there a stopping distance for somebody following them? Is there any kind of distance required for a follower of the vehicle that's going to turn into the site?

A. May I look?

Q. Sure.

A. Typically, we use stopping sight distance but someone should be able to make that maneuver.

Q. I probably used the wrong term, but decision distance?

A. Decision sight distance.

Q. Yes.

A. Utilizing, I'm trying to answer your question,

I hope I'm going to try to answer it. If I'm not, please, as you do, ask me again. So stopping sight distance for someone traveling we'll say 40 miles per hour is 305 feet?

MR. GARBER: From what point to what point?

THE WITNESS: Well, from the point of decision where you are going to be required to stop, you need about 305 feet traveling 45 miles an hour to hit your brakes and stop.

MR. GARBER: So, if you were to see a car stopped and ready to turn into the site, that vehicle heading northbound but into the site, you would need 305 feet stopping sight distance as another vehicle traveling northbound approaching the site.

THE WITNESS: That's why I'm trying to understand the question so I can answer it properly. So that car is going to be turning the right into the site, I'm not sure.

Q. Let me make it easier. Suppose there were four cars, going the same way, going north, coming around the turn, all trying to make a right turn to

get into a site, to a religious ceremony, to a festival, to a funds raiser, whatever, there is a fifth car coming, what is the site distance or stopping distance for that person coming around this turn? Okay, you've got three or four cars coming out to make a right turn for an event.

A. You are saying if the cars are stopped in the middle of the road --

Q. If they are stopped in their lane of traffic northbound, what is the sight distance that one comes around this turn and then suddenly sees cars trying to get in?

A. So I give you three numbers, okay. At 30 miles an hour which is the advisory speed, it's 200 feet for a car to stop; at 35 miles per hour, it's 250 feet and at 40, it's 305 feet.

MR. GARBER: I'm sorry.

Q. Perfect?

A. If cars are stopped in the road which turning to the right. I see this as a what I would consider if, no matter what we do in the future, it's going to

be a free right turn, there's going to be no reason for a vehicle to stop, you know, quote, stop in the road as they traverse up the hill.

Q. Well, there may be a reason, pedestrian may be walking there, there may be somebody standing there taking tickets to get in, there may be somebody there that has broken down. I mean, there are a lot of different potential options. I just want to know having personally driven this road, if I came around this turn at appropriate speed, posted speed, and I saw vehicles trying to get into here for an event, okay, how much time would I have to stop? Is it relatively short sight distance time?

A. I think it's fine.

MR. GARBER: Just to make sure I got the numbers correct, you said 30 miles an hour you need 200 feet.

THE WITNESS: Stopping sight distance.

MR. GARBER: And at 35, 250.

THE WITNESS: Correct.

MR. GARBER: And at 40, 305.

THE WITNESS: And at 45, it's 360.

Q. What about 50 miles an hour? That's what is posted, I think.

A. It's posted 45. So, 45 is 360.

Q. And what about 50 miles per hour, which is five above the posted?

A. 425.

Q. How much?

A. 425 feet.

MR. GARBER: Which book are you referring to?

THE WITNESS: AASHTO, Policy of Geometric Designs of Highways and Streets, 2011, 68th edition. I think I introduced it last time.

MR. GARBER: Yes.

Q. If you moved the existing entrance 70 feet north, 70 feet up to where one of your alternatives was, up that way --

A. The entrance.

Q. Yes, the entrance, would that provide a better safety situation for the vehicles to stop?

A. It decreases the safety for the left turns in.

Q. But not for the ones going north, not for the ones that --

A. In my opinion it doesn't make the access safer, unless we can make other modifications to the north side of the road, which I am not the recommending. I don't want to touch anyone on the north, I don't want to touch anyone else's property besides State Highway Administration's.

Q. So you are not going on to an adjacent property owner to try to enter?

A. Correct. Correct. I just want to make sure it's clear, as we slide the access north, the inbound access north, it does increase this distance from a north bound vehicle turning around the curb to see that vehicle turning into the site.

Q. Right.

A. But the more we push it makes it more difficult for the left turner coming in, because they can't see that vehicle coming northbound 345 feet, that shrinks.

Q. Does Bonapart Avenue have the same problem with sight distance?

A. In my opinion, Bonapart Avenue is significantly worse than we are showing today. If we are going to get into Bonapart Avenue exiting this site, I wouldn't want to exit Bonapart Avenue. I would prefer to utilize anything on the opposite side or on the east side of the road. When you exit Bonapart Avenue, you've got to physically turn your head, you know, and I am sure everyone will testify here, about 180 degrees looking backwards and up the hill. And the pictures I introduced show all the brush obstructing their sight distance. They are going to have even worse conditions coming down the hill turning right into their site into that existing access site.

Q. Right. So the State Highway Administration and the County has allowed a dangerous entrance and exit for Bonapart Avenue for years, right?

A. I mean, I don't know what, but I think, I don't think, I think our access is safer than theirs.

I can't make that determination. I didn't look a hundred percent to see what decision making process the State or the County had on Bonapart Avenue.

Q. So your access you believe is safe, safer than we have now?

MR. GARBER: Which access are you referring to?

Q. The existing access, actually this proposed access is safer than the existing access?

A. When leaving the site, it increases the sight distance, yes.

Q. So, that's why the someone suggested that you come up with an alternative exit site, exit access?

A. Yes, I believe the State Highway Administration asked for alternative access.

Q. Right?

A. We did and I came up with that access.

Q. Right. Now, if one moves the entrance access, you have already given your opinion, to that same location, as alternative --

A. Correct.

Q. -- that they propose, the sight distance looking south from the exit is better.

A. Correct.

Q. The problem you have is the sight distance to enter it at that same location is worse from southbound traffic being able to see?

A. It's worse from, looking at Exhibit 16-B, worse from looking at vehicle three, which can only see about 190 feet to turn.

MR. GARBER: So if you use the proposed exit as also the entrance, it's worse because it's depicted as new car three on Exhibit 16-B and only 190 feet of sight distance.

THE WITNESS: Correct. And I believe as I testified to earlier, I want to be sure I get it right, I believe I testified to earlier that 200 feet to turn left.

MR. GARBER: It is what it is.

THE WITNESS: Okay.

MR. GARBER: But I want to be clear if you used the proposed exit as also the entrance, you don't

favor that because there is less sight distance for that vehicle going southbound.

THE WITNESS: Correct. Vehicle one has approximately 345 feet.

MR. GARBER: I got that.

THE WITNESS: So, it would be reduced by 155 feet. We are losing 155 feet of sight distance coming around the turn.

MR. GARBER: You were asked questions about Bonapart.

THE WITNESS: Yes.

MR. GARBER: How the existing conditions you feel that the existing access point on the property in issue is better than that on Bonapart, correct?

THE WITNESS: I believe so yes.

MR. GARBER: How does it change with the proposed, if it changes, maintaining the entrance but splitting the exit?

THE WITNESS: Well, sight distance on Bonapart is sight distance on Bonapart. It doesn't

change vehicles turning into and out of Bonapart based on what we do with our access, when you are pulling into Bonapart or pulling out of Bonapart, it's still the same, it's not changing the access or moving.

MR. GARBER: Their case is going to remain static.

THE WITNESS: Correct.

Q. While you are standing up there, do you disagree that Harford Road going north, the speed limit is 50 miles an hour?

A. I have it as 45 miles an hour based on --

Q. I guess I'll have to show you this.

A. I saw those pictures but I also have a picture southbound, I saw it again this morning.

Q. That's southbound where?

A. Southbound here north of the site is 45 miles an hour and the last I checked, I saw 45 miles per hour coming northbound, but it was a significant distance away.

Q. I'm going to show you the photograph, Harford Road shows 50 miles an hour speed limit.

MR. GARBER: Wait a minute, let Mr. Schmidt take a look.

MR. HOLZER: This is a Google exhibit.

MR. GARBER: Show Mr. Schmidt first.

MR. SCHMIDT: Mr. Holzer, just as you objected my photographs not taken by, unless this witness could identify where this road is, this could be in Parkville, Harford County, it could be anywhere.

MR. HOLZER: I'll have it identified.

MR. GARBER: Let's see where it takes us.

MR. HOLZER: I'll show you the photograph.

MR. GARBER: We need to mark for identification purposes.

MR. HOLZER: Mark for identification purposes whichever --

MS. MURPHY: Seven.

MR. HOLZER: Seven A, B and C.

(Protestant's Exhibits 7-A, B and C were marked for identification.)

Q. Well, I'll show you three pictures and Mr. DeWitt Clark, who will be testifying, I will mark

them for identification.

MR. GARBER: Mr. Caloggero, you may have a seat. If Mr. Caloggero recognizes it, so be it.

Q. This is a Harford Road photograph showing 50 miles an hour.

A. Can I ask --

Q. Well, we'll just take them one at a time?

A. I would like to. Okay. So this is a Google image of a street view?

MR. GARBER: Looking at 7-A.

THE WITNESS: Looking at 7-A, it's a Google image not a photograph taken by anybody. It's a Google image and I can't tell you the date or time that this photo was taken.

Q. Do you know where that is?

A. They don't enter times, so I can't tell.

MR. GARBER: The most important question is what Mr. Schmidt just said. Do you recognize the location depicted in 7-A?

Q. You travel this once a week. You certainly must remember what time the speed limit is.

A. I identified it as 45 miles an hour.

Q. Even though it says 50?

MR. GARBER: The photo shows what it shows, do you recognize that location?

THE WITNESS: No, I do not. It's a picture, again, I would like to know the date that this picture was taken.

MR. GARBER: It wouldn't make a difference if you didn't recognize the location.

THE WITNESS: True but if you are introducing testimony of 50 miles and pulling it from a Google map, Google map has identified the date when the picture was taken.

MR. GARBER: Mr. Caloggero, so what will happen here, if you can't identify that location, I assume Mr. Holzer will call a witness who will give testimony as to the location of it.

MR. HOLZER: Your Honor, 11424 Harford Road, Glen Arm, Maryland, Google, Inc., street view, 2013.

THE WITNESS: 2013.

Q. Yes. It is what it is.

A. 2013.

Q. Okay, take a look at this picture.

MR. GARBER: Is that 7-B.

MR. HOLZER: Seven-B.

A. That could be anywhere, but yes.

Q. Seven-C says 50 miles an hour down on that sign right there.

MR. GARBER: Do you recognize the location in 7-C, sir?

A. I am trying to.

Q. Take a look at the post office on the left-hand side.

A. Yeah, yeah, I don't know the numbers. Can I ask, is that the turn to the right?

Q. Yes.

A. But again, there is no date on these pictures, my field investigation showed 45 miles an hour and 45 miles an hour southbound.

MR. HOLZER: Okay.

MR. GARBER: They are received for

identification purposes at the moment.

MR. SCHMIDT: I would object. The witness has said he can't identify it. Identification only.

MR. HOLZER: It's the same problem I had earlier in this hearing when he was testifying about things he hadn't done.

MR. GARBER: He testified that he recognized the location, the critical difference between the two.

Q. Okay. All right. I would ask you this question just for purposes of letting you understand that my clients seem to think that it would be good to use the proposed exit for ingress and egress; would you object to that?

MR. SCHMIDT: Objection. Objection.

MR. GARBER: Why?

MR. HOLZER: I am trying to help settle the case.

MR. GARBER: Mr. Schmidt.

MR. SCHMIDT: He's asking the witness if he would object to what Mr. Holzer's clients think. Is

that what he's asking?

MR. GARBER: What I understand the question to be was can you have it be where the proposed exit can serve as the entrance and exit, would you have a problem that were to be used in that manner.

MR. SCHMIDT: He has asked and answered that 20 times where he said the existing exit/entrance was safe but he was asked by State Highway Administration to show another exit had point and that's safe too?

MR. GARBER: He's asking can you use the proposed exit and also the entrance. Close the existing one entirely, relocate the exit down to proposed exit. Is that what you are asking?

A. Again, I am going to pump this question. It's up to the State Highway Administration because I gave them all of this information.

Q. Right.

A. And my opinion again, 190 feet is not enough sight distance to turn left into the site.

Q. Would you object to the citizens supporting

your request for the proposed exit and also supporting the request that the existing entranceway be closed and the new proposed exit be used as ingress and egress, would you propose that with the State Highway Administration, if they went to them and said, oh, we'd love to have that, that solves that problem?

A. I don't know if it solves the southbound left turn problem unless the fence gets removed. I am not going to recommend to my clients to do something unsafe, but if, hypothetical if, if that fence was removed and I can visually see, and I am going to get up and point, if vehicle three on Exhibit 16-B can see through the fence to a northbound vehicle coming around the turn an appropriate distance the State Highway Administration believes is acceptable, then I would agree and recommend that as well. Again, I don't want to take people's property or the neighbor's fence. But it's an obstruction.

Q. I understand. But suppose we are as a community trying to get to a more reasonable and safe entrance and exit, would that be something, I mean, it

would be up to the lady who owns the fence and the trees and whatever to consider it, but if she were to consider it, would that be something that you could then support?

A. If the fence is removed, yes.

Q. The whole fence, part of the fence or what?

A. As long as I can visually see a certain distance that's safe and the State Highway Administration agrees that that left turn distance is safe, then yes.

Q. Do you know, is there any mechanism for the citizens to be able to provide input with the State Highway Administration if they felt it would be appropriate to raise that issue? In your experience with the State Highway Administration, would they respond to citizens' suggestions or would they not, to your knowledge?

A. I mean, would they respond? Yes, and it would depend on the type of situation we are talking about. If the State Highway is not going, in my opinion, if I put on my State Highway hat, I'm not going to approve

something the citizens would like if it makes it unsafe or not safe. If the change, if the citizens come in for this case, I have been involved in cases where someone says, if we cut down all the branches from the neighbor's property so we can see 300 feet, and you approach the neighbor and the neighbor agrees that has happened in the past, yes.

Q. You wouldn't be adverse to having citizen input to the State Highway Administration while you are proposing these various alternatives?

A. It's not my call, it's the State Highway's call. I thought you asked if I thought the State would accept. I think the State would accept, but I think something else has to be brought on the table.

Q. My real question is would you oppose the citizens going to the State Highway Administration to try to resolve this issue to be safer than what it is?

A. It's not my call. It's the State Highway's call. If the citizens want to approach the State Highway Administration, I can't stop them. I can't stop you guys from opposing, so I mean, I can't oppose

--

Q. In your experience would the State listen?

A. The State's first job is to make it safe.

Q. I understand that, sir. So is the community's desire to make it safe.

A. That's where we are and that's why again, unless physical existing conditions change south of Bonapart Avenue, I cannot recommend an inbound north of the existing inbound location.

MR. GARBER: You cannot propose the entrance being moved to the proposed exit for that reason?

THE WITNESS: Correct.

MR. GARBER: Because you believe it is less safe.

THE WITNESS: Correct.

MR. GARBER: Or even unsafe.

THE WITNESS: Yes, I believe it's less than.

MR. GARBER: Now, is there another way to go about doing that if the State Highway

Administration, for example, were to change, not saying this would occur, but if they were to change signage and change even if that means mandatory lesser speed limit.

THE WITNESS: Typically the State Highway Administration does not change speed limits. Drivers are going to drive what they tend to feel most comfortable. We have talked about that today. The State Highway Administration's typical position is they are not going to reduce the 45 or 50 miles an hour speed limit to 30 unless there is a reason for it. They don't want to make all the drivers of the area drive it. They are going to drive 50 anyway. It will make it unsafe.

MR. GARBER: The speed limit is also geared to the type of use of the road, correct?

THE WITNESS: Correct.

MR. GARBER: They have designated Harford, I don't know if you are aware what they have designated Harford Road as.

THE WITNESS: I don't have that.

Q. Thank you. Let's turn to another area now. What is the difference between AASHTO and FHA minimal requirements, if you could define that?

A. Well, AASHTO is the guide. It's the reasonable state national guidelines and the State probably has their own minimum guidelines as well.

Q. So there could be two different standards?

A. Yes, because the AASHTO is a guide, AASHTO is a guide. The State Highway can adopt standards or their own guidelines. We have to be careful with the guidelines versus regulations.

Q. Or minimum requirements?

A. Yes, lot of times there are many conditions in there. A lot of times it's based on the conditions of the road and so on and so forth.

Q. I'm sorry, I asked you this question before and you apparently don't believe, well let me ask you. How does the State Highway classify the entrance here as commercial or residential or whatever?

MR. SCHMIDT: Objection, asked and answered. We have been through this. He said it's

institutional.

MR. GARBER: I understood that his opinion was an institutional. Sir, you are basing that on the AASHTO guidelines or --

THE WITNESS: The use of the property.

MR. GARBER: I believe the question was what does the State consider --

MR. HOLZER: Exactly.

MR. GARBER: -- if you know?

THE WITNESS: I do not know what the State considers that.

Q. In your testimony, do you believe that your plan meets State Highway minimum requirements?

MR. SCHMIDT: Objection. For what? Minimum requirements for what?

MR. GARBER: Hold on a second.

MR. SCHMIDT: I just am trying to figure out if it meets the State Highway minimum requirements.

MR. HOLZER: Exactly.

MR. GARBER: Does the existing access --

MR. HOLZER: Yes.

MR. GARBER: -- meet the State Highway minimum requirements?

MR. HOLZER: Yes.

THE WITNESS: State Highway will determine that as part of the access permit process.

MR. GARBER: Does the proposed exit meet the State Highway minimum requirements.

THE WITNESS: Again, I'll let the State Highway Administration answer that as part of their access to the property.

Q. That's the question. So, all of your testimony and all of the plan is basically contingent upon what the State Highway Administration does when it determines an access permit, right?

A. Yes, and I believe we have, we have said that.

Q. Right.

A. And we are providing recommendations based on AASHTO standards which State Highway Administration using.

MR. GARBER: SHA uses AASHTO, you said.

THE WITNESS: Yes.

Q. AASHTO requirements may not be as restrictive as State Highway minimum requirements, correct?

A. It may or may not be. Again, we have to rely upon the State Highway Administration.

Q. Right, right.

A. And I'm providing testimony as to what I believe is safe and unsafe based on my expert opinion and AASHTO.

Q. But we really don't know until the State Highway Administration issues the access permit, if they do, we don't know where the entrance and the exit will be?

A. Correct.

Q. Okay. Is there a difference between, let me put it this way, is it or is not AASHTO more useful for projects using roads that are not State highway?

A. AASHTO is a national guide for state highway transportation. So, I mean, it's used nationwide by all the state highways.

Q. I understand that, but my question is, isn't

it more useful on using the AASHTO requirements for road that are not state highways?

A. For not state highways.

Q. That are not state highway?

A. Is that even in this case? We are a state highway.

Q. That's correct.

A. I guess I'm misunderstanding the question.

Q. All right. Would you use AASHTO requirements on an interstate?

A. Yes.

Q. Okay.

A. You used AASHTO on interstates and local roads. It varies all the way. They have all kind of different standards and all types of roads, all types of speeds.

Q. Whose requirements prevail between AASHTO and either the Federal government or the State government?

A. Depends on the agency who owns the road.

Q. State Highway Administration, if AASHTO says one thing and they say another, who prevails?

A. You are asking me to testify as to how SHA would review the access and I'm going let them do that as part of their process. I am giving them all my background information and all my detailed information on sight distance and expertise. They are the ones who have to make that decision.

Let me answer this way. Have they used AASHTO in the past to make decisions, absolutely yes, they have used AASHTO to make decisions.

Q. That's not my question. My question was given AASHTO and State Highway requirements, which one, if they conflict, which one would prevail?

A. That's the State Highway's call.

Q. That's all I needed you to say before.

A. I did say it.

Q. When you were first retained as a traffic engineer by your client, did you ever tell them there was an issue in regard to the access of the entrance? Did you ever tell them that there was going to be this involvement with State Highway permit?

A. Yes, yes, they would need an access permit for

the change of use with the State Highway Administration.

Q. Okay. Did you give them any advice as to how they could utilize the property pending the issuance of the State Highway?

A. No, I did not.

Q. Did you, in terms of your trip generation analysis, did you question them at all about the use of the property once it became useable again?

MR. SCHMIDT: Objection. I don't even, once the property became useable? I don't know what that means.

Q. All right, well, you know, let's do this. How many times have you actually been on the property and give me their dates, approximate dates, you don't have to tell me the hour and day, but approximate?

A. I know I was there in December, probably January before, I believe the hearing was in January, so I believe I was there in December, I believe I was there in January, I guarantee I was there in July, I drove past the site this morning.

Q. I just asked you when you were on the property to inspect?

A. On the property?

Q. The parking, the building?

A. I was with you at one time on the property. When I met with State Highway, I walked the property, I walked it with the team. Can we say five, maybe five times I was on the property.

Q. December, January, July of 2018?

A. I think 1/15 and February and July.

Q. December of 2017.

A. Yes, I was retained in --

Q. January of 2018?

A. Yes.

Q. And when else?

A. Probably in July.

Q. July, 2018?

A. And sometime in between February and July, so four or five times.

Q. Okay.

A. You are saying physically --

Q. On the property?

A. -- be on the gates.

Q. Exactly.

A. Yes.

Q. I know you are driving by?

A. Yes.

Q. Now, at those, one, two, three, four times, were you there when anybody else was there on the property other than the person you were meeting?

A. No.

Q. You were not there at when any of the potential festivals or gatherings or get-togethers?

A. I would not. They are all team meetings.

Q. Okay. So when you estimated or tried to provide information to the State Highway Administration about the use of the property, you basically took what the client had given you as to the use, is that correct?

A. That's correct.

Q. Okay. So, you had no independent analysis of how the property was going to be used?

A. That is correct.

Q. Okay.

A. Meaning I did not go out to another similar type facility.

Q. Right. In other words, you didn't look for other properties, you didn't do anything like that and I'll show you --

MR. GARBER: Mr. Holzer, just out of curiosity the as to where are we in your cross examination?

MR. HOLZER: About a third of the way through. We can take a quick break.

MR. GARBER: That's what I was going to say. Is there an appropriate time that we can take a break in your questioning here?

MR. HOLZER: Any time you would.

MR. GARBER: Would that be it.

MR. HOLZER: That's fine.

MR. GARBER: Why don't we take ten minutes break?

MR. HOLZER: Fine.

MR. GARBER: We can come back and resume questioning.

MR. HOLZER: Thank you.

(A recess was taken from 11:07 AM to 11:30 AM.)

MR. GARBER: So you are wrapping up your cross examination?

MR. HOLZER: For lunch.

MR. GARBER: Fair enough.

MS. MURPHY: Did you condense those questions?

MR. HOLZER: Oh yes. I have really narrowed it down. You want to quit around five?

MR. GARBER: Actually, I am ready to go to nine tonight, but I assume many other people in the room aren't. I'm sorry for the Court Reporter.

Q. All right, we are back on the record. Do you, from your testimony right before we took the break, it appears that the State Highway Administration is what it is and does what it does and you are not going to inject yourself into their activity related to this

request. But do you know what the State Highway Administration requirements are for this property? In other words, is there something set out that you can refer me to that says, on this property and this road in this area, this is what you have to do or we have to consider?

A. That's a lot there. First, I'm already injected into that process through my communication and sharing information, sight distance, proposed access location, different alternatives, answering their questions. And it's at this point in time where I'm waiting for them to get back to me to say, we agree, we disagree, this is what we think, let's meet to discuss, let's have a field meeting, anything of the sort to help them make a decision. But right now, in my opinion I believe they have most of the information needed to make a decision unless they request more.

Q. Do you have any idea how long their decision would take?

A. I believe we started our communication with

them early winter and they still don't have a determination yet. But we have been providing data back and forth. I'm really hoping to get something back from them in the next two weeks. I think two weeks is appropriate based on where we are.

MR. GARBER: Mr. Holzer asked you a question. Do you know what the SHA requirements are from this property. I don't believe I heard the answer.

THE WITNESS: I do not know what their specific requirements are for this property.

MR. SCHMIDT: Just to be clear, I think the witness said they are going to require an access permit, issue an access permit. I don't know if that's what you meant.

MR. GARBER: The way I understood the question is relative to AASHTO, that is, are there different requirements, if so, what would those requirements be, understanding there's been plenty about the access permit and all the other stuff.

MR. SCHMIDT: They are saying they get an

access permit.

THE WITNESS: If I could interject in here. They look at each individual property on its own merits. What they may require here may be different than what they require down the road due to the conditions of the specific location. So it's not a one size fits all. They have to review the entire case and so forth for this property.

Q. Well, is part of your responsibility to tell them how this property is to be used?

A. Yes.

Q. Okay. And the information, what information, well, strike that. Let me do something else first.

On January 10th, 2018, you wrote a letter to Mr. Kotroco in regard to this project, I guess. Can you take a look at that and see if that's a letter and your signature?

MR. GARBER: Can we have that for identification purposes?

MR. HOLZER: Sure, how many do you want?

MS. MURPHY: Four.

MR. GARBER: This is Number 8.

THE WITNESS: Yes, I wrote this letter and it is for this property.

Q. And this letter was dated January 10th. Was that before the Administrative Law Judge hearing?

A. Either are before or day of, yes. I believe it was the day before.

Q. Now, in regard to this letter, have you supplemented this letter to the State, did this letter go to the State Highway Administration?

A. Yes, it did.

Q. Okay. So, it went to the State Highway Administration as part of your responsibilities to tell them what was going to happen here?

A. Correct.

Q. Have you supplemented this letter with any other details about the issue of what is going to happen here, how it's going to be used?

A. Yes.

Q. Do you have those letters? What have you done, is it a letter or is it testimony?

A. An e-mail.

Q. Huh?

A. E-mail.

Q. Do you have the e-mail that I can see?

A. I have the e-mails, yes, they are all in my laptop.

Q. I'm specifically interested --

A. I can tell you what I sent to them.

Q. Okay. I'm specifically interested in whether or not you explained any more in those e-mails about how the property was going to be used?

A. So, I explained to them the details in this letter.

Q. Yes, I'm going to ask you that.

A. So, I explained in the details of this letter and then they asked how does this compare to the ITE, the Institution of Transportation Engineers Trip Generation Manual.

Q. Okay.

A. I told them it did not because this is a different type of use than a typical church use. We

have been through that before; if you need me to re-explain, I can.

Q. Okay.

A. But they still requested that I provide information and that's when I did just a trip generation based on the first floor square footage of the existing building I believe of 3500 square feet and told them that's what it would generate in the morning and evening peak the hours based on the national statistics of a church.

Q. Could you product that e-mail for me now, is that easy, and then you can make copies of it later?

A. I don't have a printer.

Q. If it's on the laptop, you can let me look at it for now and I can tell you whether we need to print it out or not. Mr. Schmidt, you want to jump in?

MR. SCHMIDT: I don't know the context of what Mr. Caloggero may have in his e-mails and I don't know what, certainly things the State Highway may not be privileged as to the client.

Mr. Holzer, I don't know how long you are

going, maybe we can look at it and try to print it at lunch time.

MR. GARBER: I was going to say if it's in the computer, automatically seems to me that's something that can be resolved in the lunch break.

MR. HOLZER: Then I can't ask the question I want to ask him without the answer being known.

MR. GARBER: How long will it take for you to pull up the e-mails?

THE WITNESS: Not long, quickly.

MR. HOLZER: See, that's why I would like to pull it up on his, whatever, and then we can look at it and then it can be printed off if it's relative to my questions. I don't want to waste time.

MR. SCHMIDT: He's not referring, I mean, this isn't a discovery hearing or a deposition of the witness and he's explained what he's done and how he did it. I just, I'll be honest with you, it's somewhat, I don't know, I think it's, I mean, if the witness had it in front of him and he was referring to it, certainly, Mr. Holzer could get to it. But he

doesn't and he's not and if Mr. Holzer wants to go through a fishing expedition and look through the man's e-mail and open his computer, I just think it's improper. He's not relying on it during his testimony. If it was there in front of him and he had a bunch of e-mails, then could see that would be proper.

MR. HOLZER: This is absolutely ridiculous. I am asking this witness --

MR. SCHMIDT: I agree.

MR. HOLZER: -- expert witness, questions in regard to what he did with the State Highway Administration. Do you understand that that's a relative and very important aspect since the State Highway hasn't even reacted yet. Okay? I want to know whether he provided them all the information that he is supposed to provide them.

THE WITNESS: Yes, I did.

MR. GARBER: Mr. Caloggero.

MR. HOLZER: One of those, as he's now said, is that he followed up with this January 10th

letter with an e-mail to the State and I think it's relevant as to what he provided to the State that goes along with forming his opinion, period.

MR. GARBER: If I were to play devil's advocate on that, I would say I understand the relevance part of the question. That's not a question. I understand the materiality. That's not in question. What Mr. Schmidt said though leads to the manner of production. It's not an exhibit, he's not relying on it for purposes of his testimony. How then to get to it from his e-mails becomes a real issue for this case because it can't compel production without the accompanying of a subpoena.

MR. HOLZER: I can do that for October, if that's what they want.

MR. GARBER: Mr. Schmidt, seems like an easy way to resolve the issue, but I'll leave it up to you.

MR. SCHMIDT: Let me --

MR. GARBER: And from what I hear, the resolution of that issue would be necessary for the

next line of questioning.

MR. HOLZER: Yes, well, related to this letter.

MR. GARBER: Let's do this --

MR. SCHMIDT: I'll tell you what, can I have just a second to talk to Mr. Kotroco?

MR. GARBER: Sure.

(Petitioner's counsel engaged in an off the record discussion.)

MR. SCHMIDT: Mr. Holzer, to get through this, I am going to give you this, ask the witness to identify it and see if that answers the question.

MR. HOLZER: No, not where I am going.

MR. SCHMIDT: I have a copy of the e-mail. I'm just going to proffer, if I can.

MR. GARBER: Mr. Holzer, Mr. Schmidt.

MR. SCHMIDT: I'll ask Mr. Caloggero if you want.

MR. HOLZER: Give it to me, I'll ask it.

MR. GARBER: Let's mark that for identification purposes. This is now Exhibit 9.

MR. HOLZER: It is not Protestant's 9. I am not introducing this document.

MR. SCHMIDT: I'll offer this as Petitioner's exhibit whatever my next exhibit is. I don't care.

MR. GARBER: We can't do that now and if you are not going to identify it, you can't use it now.

MR. HOLZER: It's irrelevant, what he's produced.

MS. MURPHY: If it doesn't help you --

MR. HOLZER: It's irrelevant. It's not the e-mail that I referred to.

MR. GARBER: Okay. So, we are not resolved on that issue as to what to do with the computer is what I am hearing, Mr. Holzer?

MR. HOLZER: We are resolving it. I'll defer asking this line of questioning until we come back from lunch.

MR. GARBER: Here's where we are. We have e-mails over here that potentially could be what he's

referring to. But right now we can't show it to him because you don't want to make it an exhibit in your case and we are not in Mr. Schmidt's case, well, we are not in his direct or redirect testimony for purposes of introducing that exhibit. We can't tell if that's the e-mail he was referring to.

MR. HOLZER: I can tell you it was not the e-mail he was referring to. It does not have the e-mail that he already admitted that he provided to the State.

MR. GARBER: That's not evidence. That has to come from him. He has to say yes or no to that question. That's the problem we are having now.

MR. HOLZER: Fine. Mark it for whatever you want.

MS. MURPHY: Whatever you want.

MR. GARBER: Protestant's 9.

(Protestant's Exhibit Number 9 was marked for identification.)

Q. Sir, is this the document that you referred me to that you sent to the State Highway Administration?

A. If this is, just trying to keep up with all the questions. This is the information I just stated about the State Highway asking for trip generation information based on ITE and I utilized the 3500 square feet and developed trips based on 3500 square feet, yes.

MR. GARBER: The answer is yes.

Q. Did you provide any other e-mails to them relative to the use of this property.

A. To the --

Q. Use of the subject property?

A. This plus the 10th, January 10th letter.

Q. So, those are the only two documents that have indicated the intended use of the subject property from you?

A. Correct.

Q. And presumably then, that is all the State Highway Administration understands about this use of the property?

A. Correct.

Q. Okay. Fine?

MR. GARBER: So are we moving that into evidence.

MR. HOLZER: Yes. Move them. Perfect.

MR. GARBER: Mr. Schmidt, do you have an objection?

MR. SCHMIDT: I don't have any objection. Ms. Murphy, I have some other copies, but not with the floor plan.

MS. MURPHY: We can make a copy of perhaps this one.

MR. SCHMIDT: It has two pages of correspondence and an attachment.

MS. MURPHY: Yes.

MR. GARBER: And the floor plan is already in to evidence anyway.

MR. SCHMIDT: It's already in. If you'd like copies of the two pages of e-mails, I have more of them.

MR. GARBER: The actual exhibit will have the floor plan. The ones that you have to give to the Board at this time do not have the floor plans, but

the floor plans are already into evidence.

MR. SCHMIDT: Right.

MR. GARBER: We can all move on now.

MR. HOLZER: Like I said.

MR. GARBER: Protestant's Exhibit 9 is admitted.

MR. HOLZER: What about Protestant's Exhibit 8, is it admitted?

MS. MURPHY: The letter?

MR. HOLZER: The January letter.

MR. SCHMIDT: I have no objection to it.

MR. GARBER: Thank you, Mr. Holzer.

(Protestant's Exhibit Numbers 8 and 9 were admitted into evidence)

Q. Let's take a quick look at paragraph three in front of you. What you indicated to the State Highway Administration through both of these exhibits, 8 and 9, is that there will be less than 20 people coming to the temple on weekdays, less than a hundred coming on weekends. The temple does not have a leader, worshipper, so will arrive at different times during

the weekdays, et cetera. That's all the State Highway knows about the proposed use of this site?

MR. SCHMIDT: Objection. I mean, that's all they know from this document they may or may not know.

MR. HOLZER: Objection overruled.

MR. GARBER: Thank you for that, but they are not here anyway. So for purposes of what State Highway knows is different than what he communicated.

MR. HOLZER: Right what State Highway knows is whatever he communicated to them.

MR. SCHMIDT: How do you know that?

MR. GARBER: I would sustain the objection on what I just said. What he communicated to them is one thing, what they know and we don't know what if anything else they did, their state of knowledge, do not know sitting here today. We do not know. We do know what he communicated to them though.

MR. HOLZER: We do know what he communicated to them. All that he communicated to them was this letter, January 10th.

MR. GARBER: Right. And so, the question is are you aware of any other information they may have other than what you gave to them?

MR. HOLZER: Not what they may have. They have no more information than what he provided.

MR. SCHMIDT: Objection, how do you know that? They might have gotten information from your client, Mr. Holzer. I don't know whether they did or not.

MR. GARBER: The objection is sustained on that basis.

MR. HOLZER: Next question.

MR. GARBER: Move on.

Q. If you had to tell the Board today how they are using the proposed property, would you limit your answer to what is in this Exhibit Number 8, the third paragraph.

MR. SCHMIDT: Objection. I mean, we have had testimony from the Petitioner as to what the proposed use is. What, Mr. Caloggero is certainly not the best evidence. What is the purpose of this

question?

MR. HOLZER: The purpose of the question is --

MR. GARBER: Hold on. Hold on. What is your question again?

MR. HOLZER: The question is, is all that you have provided them was what is in paragraph three as to the, now that he has been involved in this case since before January, does he stand by that description of the use of the property to the State Highway Administration?

MR. GARBER: Do you understand the question, sir?

THE WITNESS: I do.

Q. He understands the question?

A. Can I answer the question?

Q. Yes.

A. Okay, so, typically, when we send information to the Maryland State Highway Administration on trip generation, it's based on typical days, based on your average day during the week, based on your average day

during the weekend. When we look at other, and I testified this the last time I was here, you know, looking at special events and other things, that's not going to be in this letter as to there's an event on Saturday which may generate more people. The State Highway Administration looks at typically the average day per year, 365 days a year, 52 Saturdays, 52 Sundays, so on and so forth. They are not looking at the highest most intense use of the property to determine the trips, to determine the road improvements and access. They are looking at the average typical day per year, which is what we gave them. It's going to be the regular use of the property in which they use this to determine information. And then again with the, you are just referring to this letter at this time?

Q. Yes.

MR. GARBER: Exhibit 8.

A. So, based on the regular use of this facility, correct.

MR. GARBER: In other words, if you are

communicating to the SHA today about the use of the property you communicate the exact same information as reflected in Exhibit 8.

THE WITNESS: Absolutely.

Q. You would not tell them they have 8 or 10 festivals per year in which more than 20 people would show up, that maybe a couple hundred people would show up, multiple uses of the property, you wouldn't tell them that, right?

MR. SCHMIDT: Objection, it's assuming all kind of facts not in evidence. It's a misrepresentation of what the witness has said.

MR. HOLZER: Look, this case hasn't even started yet because the Protestants haven't had --

MR. GARBER: Day three.

MR. HOLZER: Protestants haven't had a chance to put on evidence that they have gathered. So, to presume that once you have heard these three days, that's it, the Protestants can just blindly complain.

MR. GARBER: I assure you that's not the

way we approach that.

MR. HOLZER: I understand, but that's the efforts to limit questioning of the applicants's witnesses because there is relevance and I will be able to establish there's relevance contrary to what is being said.

MR. GARBER: Okay.

MR. HOLZER: That's what I am trying to lay the foundation for.

MR. GARBER: Start again, Mr. Schmidt, when you say the facts being assumed are not in evidence, I need you to be more detailed. Start your question again.

MR. SCHMIDT: When he says 8 to 10 festivals, it is not what the people said, when he said it's being used for other purposes.

MR. GARBER: Luckily, we have Court Reporter and Court Smart today. So we can resolve that one way or the other once we get the transcripts. If Mr. Holzer wants to ask the him questions about 8 or 10 festivals, if that's not what the record said

previously, so be it.

MR. HOLZER: It said it below before the Administrative Law Officer. And you know, I'm just asking him again, is that his understanding. I am entitled to ask him what his understanding is.

MR. GARBER: So the materiality of what he has to say may very well hinge on what the actual testimony was earlier. If it's incongruous to what was being asked earlier. That goes to the weight of the evidence received.

Mr. Holzer, ask your question.

Q. Do you know how many festivals there are, how many gatherings in which more than 20 people show up, which the purpose of those people coming there, do you have any knowledge of any of that?

A. I do not know specifically, no, I do not.

Q. So as a result, you couldn't say that you conveyed that information to anyone else at the State Highway Administration?

A. I did not convey that information to the State Highway Administration because they typically do not

review that type of material with trip generation and trip distribution of a site. So when, for instance, when we look at a, for instance, a WalMart or a shopping center, they don't ask us to look at black Friday, they don't ask us to look at the conditions of Christmas or major shopping events; they want to know if the typical day-to-day traffic can be accommodated. Same with the single family home. The single family home is going to generate on average 10 trips per day. But if you have a birthday party and 20 adults arrive and leave, that's going to exceed the ten trips per day. You don't study what may happen on a special occasion. The State Highway Administration wants to know on a typical day what happens so we can adjust for it. I provide that information.

Q. You already when you testified about the Ravens stadium, I understood that.

A. Yes.

Q. Your answer is repetitive to that question asked the day before.

MR. SCHMIDT: That's because the questions

are repetitive.

MR. GARBER: We can move on at this point, Mr. Holzer.

Q. When you did your traffic analysis, did you do, did you look to determine whether the accident rate or any accidents had occurred on Harford Road?

A. I did not.

Q. Huh?

A. I did not.

Q. And why didn't you, do you know?

A. It wasn't requested by either Baltimore County or the State Highway Administration.

Q. Okay. So it wasn't requested. Could it be requested in the future?

A. If the State Highway Administration or the, I believe it would be the State at this point, if they requested it, but again, the State has all that information, so we would be asking the State to provide such information.

Q. All right. I'll show you what has been produced. Are you familiar with the Table One traffic

crashes?

MR. GARBER: Hold on. This is Protestants Exhibit 10 for identification purposes.

(Protestant's Exhibit Number 10 was marked for identification.)

MR. GARBER: Sorry. Are you familiar with Table One?

Q. Yes, which is the first page of this document and selected Harford Road between Hartley Mill Road and Glen Arm Road as the area in which it encompasses?

A. This is the first time I am seeing this.

Q. I know.

MR. GARBER: First time you are seeing Exhibit 10 or the first time you have seen the table on Exhibit 10?

THE WITNESS: First time I have seen Table One on Exhibit 10.

Q. As you said, you don't care about traffic accidents?

A. I didn't say I didn't care.

Q. Well, you didn't bother to check.

A. Please don't put words in my mouth.

Q. But you didn't check?

A. I typically do what the agency requires because maybe they know.

Q. The fact that Baltimore County or the State Highway Administration may know something, you didn't feel it relevant to know when you formed your opinion as to how dangerous this area is?

A. Well, again, I have reviewed the area and based on the conditions that I'm set to review, I have determined that the access points are safe for people entering and exiting this property.

Q. Okay. But for whatever reason in the year 2016, 11 total accidents were reported by Baltimore County Police, 23 in 2017, 7 in 2018, for a total of 41; do you have any reason to doubt that?

A. I could not, well, since there is typically accident reports much more detailed than the number of accidents, these don't give any type of description as to the location, as to the extent of the accident, whether they were driver error, whether they were

excessive speeds, whether they were on wet pavements, snowy conditions, whether they were drinking and driving. There are numerous reports that would accompany the 41 the accidents which you are not providing and I do not have.

Q. Well, if I were representing these people who have to come in there every week, have to come in there when they have special events and so forth and I'm the traffic expert, I sure as heck would like to tell all these citizens, look, there have been 41 accidents here, a lot of them what is shown here between Hartley Mill Road and Mount Vista Road, that's smack in the middle of where these people are going to be required to go on the weekends, on Saturdays, Sundays, during the week to a festival. Don't you think that's relevant as a traffic expert?

A. May I answer?

Q. Sure, go ahead.

A. Again, the information you provided is extremely general?

MR. GARBER: Talking about Exhibit 10.

THE WITNESS: I am going to make a point. So, all 41 of these accidents could potentially be at the intersection of Harford Road and Glen Arm Road in which the State Highway Administration the just constructed a traffic control by putting in a roundabout. That was just recently constructed and maybe they did that based on this accident history. The instance they did a study on this corridor most recently and determined that a roundabout was necessary just north of this site, I would hope they would have pulled more detailed information. Maybe that's why they didn't ask me for it because they already had it.

Q. They may not have asked you, but why didn't you tell your clients?

A. I determined the access is safe based on the use of this property.

Q. And you are absolutely right about this document, Exhibit Number 10. It only says there were hit and run accident s, personal injury accidents, property damage accidents. So, yes, you are right, I

would sure want to go and get the police report and find out not only where it occurred but how bad it was, whether there are any deaths, whether there were any personal injuries. You are right.

A. Was there a question?

MR. GARBER: Mr. Caloggero.

THE WITNESS: I'm sorry.

Q. The question is you didn't bother to inform your clients as to the potential problems and why they needed to be determined.

MR. SCHMIDT: Objection. I mean, I'm just tired of these questions where Mr. Holzer testifies and asks a question, puts a question mark at the end of his testimony.

MR. HOLZER: We are going to get our case going.

MR. SCHMIDT: As to what he told his client, come on.

MR. GARBER: What is your question to this witness?

MR. HOLZER: Let me go back to my script.

MR. SCHMIDT: Change your script, Mr. Holzer.

MR. HOLZER: Mr. Schmidt, I don't criticize you, so let's stop doing that.

MR. GARBER: Let's do this. Take a step back here, take a deep breath, we have been here before, not literally in this case, but proceedings enough, especially the two of you.

MR. SCHMIDT: It's all part of the fun.

MR. GARBER: I know. So, the for the purposes of the record, if nothing else.

MR. HOLZER: I promise to be good.

MR. GARBER: Thank you.

MR. SCHMIDT: I do too.

MR. GARBER: Thank you.

THE WITNESS: I don't. I'm kidding. I'm sorry.

Q. All right. I'm trying to get away from the State Highway Administration for a moment. You testified that you didn't compare any other Hindu Buddhist temples in terms of understanding the use so

that you could apply the use of those facilities to this site, is that correct?

A. I took direct testimony or direct information from my clients as to their operation.

Q. Right, okay. So you didn't confirm any of what you believe they told you about how they are going to operate in the future?

A. I believe I just answered that. What they told me is how I came up with this decision.

Q. Yes. Right. Do you know how our design speed is determined? How are design speeds determined?

A. I thought you were say our.

Q. How are, A R E, how are design speeds determined?

A. In general?

Q. Yes.

A. In general, design speeds are determined based on the proposed use of the road or future use of the road determined by the government agency or which ever agencies is ever constructing, designing or building a road.

Q. And the design speeds set on the subject site on Harford Road were set for purposes of residential use such as this property being used for a home and the relative use along the area of Joppa Road, Harford Road?

A. I can't answer that.

Q. You don't know?

A. I wouldn't know that. I wouldn't know how the design speeds were determined for Harford Road.

Q. My question is really more precise than that. The question is we know the design speeds were set for Harford Road when this property was used as a Residential One Owner property. But in your opinion does it change when you introduce, I don't care to call it a commercial or institutional use or whatever, but a use that is not similar to a private residence, such as the proposed use?

A. If you are stating the design speeds of Harford Road, it's not going to change.

Q. Okay.

A. The design speed is based on the road and the

intent of the road not one property on the road. They are two different animals.

Q. Would it be different if south to this site you had commercial shopping centers, for instance, would the design speed change if you had a Wal-Mart?

A. Again, that's all based on the State Highway Administration criteria. The design change is already designed. It's designed and constructed. So, the design is speed has already been predetermined.

Q. The change of the use of the properties along the way would not affect the design speed for that road, even if things changed?

A. Unless they are going to change the entire road itself, if they are going to upgrade the road for certain things, again, it's the State Highway Administration.

Q. I'll give you an example, I go across Joppa Road all the time.

A. Yes.

Q. In 1800, Joppa Road was a cow path. Then it was the paved, it didn't have four shopping centers on

either side of the road. Obviously, at some time the design speed of Joppa Road where it's changed from farm land to commercial caused a change in the speed limit, right?

A. Speed limit and design speed are entirely different objects. They are completely different animals. One is not based on the other.

Q. Okay, what about speed limits?

A. That's politically driven. They are not based on, the design speeds are determined and they are regulatory. Design speeds are regulatory. I'm sorry, excuse me, speed limits are regulatory. Design speeds are the design aspects on how to construct the road.

Q. I understand that.

A. So this road has been constructed for many, many, many years, so the design speed is not going to change unless the design in its entirety changes.

Q. That's Joppa Road going from a single lane, one lane road to what it is now?

A. We are on Harford Road.

MR. GARBER: He's using the example.

THE WITNESS: I'm go trying to stick to here. The design speed is not going to change because of development. The design speed is already established as the roads are designed.

MR. GARBER: He's making the illustration, you were there in the 1800's apparently.

MR. HOLZER: I have been accused of that, Mr. Chairman.

MR. GARBER: It was the one way road at some point, now it's not a one way road. The design had changed. And so likening, that how he's using that as illustration.

THE WITNESS: May I try to answer that with the way I believe your question is.

MR. HOLZER: Yes.

A. If this road were to ever change to a three lane or four lane highway, then the State Highway Administration would determine the proper design speed for such an increase.

Q. Right.

A. Design speed is not changing because this

property is here is going to be a different use. The design speed is the overall length of the road from predetermined point A south to point B north. So just because we are adding property which is going to add an increase of trips does not increase the design speed in the road.

Q. So, it will increase the number of trips of that are previously there?

A. Yes. Right.

Q. And that type of use as well.

A. Correct.

Q. I mean, it is a different use than it was used use before?

A. That's correct.

MR. GARBER: I know he's halting, but wait for his question to finish.

THE WITNESS: Certainly.

Q. Did you do any studies, horizontal or vertical measurements, site survey or drawings to confirm the sight distance you have come up with?

A. Items, yes, all the items I have been

testifying to.

Q. What's that?

A. Yes, all the exhibits we have prepared and have been testifying to.

Q. Okay. That's it. I mean, there are no other studies other than what was needed to accomplish these exhibits?

A. That plus the information contained in the January 10th letter, which was more --

Q. Right.

A. -- visual and foot measured --

Q. Okay.

A. -- versus more design related aspects.

Q. Did you do any drawings or survey about the hill at the bend; in other words any elevations?

A. Again, just what was already prepared and presented.

Q. And those were, you were required to come up with elevations in order to prepare that?

A. That's the Plaintiff profile.

Q. Right, the bottom.

A. Those were all presented here and to the State Highway Administration.

MR. HOLZER: I'm trying to cut the questions down.

MR. GARBER: That's okay.

Q. Were you here on day one of the hearing when Mr. Comery testified?

A. Yes.

Q. Did you hear him try to compare Harford Road at this site with Saint Joseph's Catholic Church on Belair Road?

A. I don't recall.

Q. But you were here?

A. I was physically present, yes.

Q. Yes. Okay. Do you believe that this site is comparable to Saint Joe's Catholic Church on Belair Road?

A. I'm not familiar with.

Q. So, you go up and down Harford Road but you don't go up and down Belair Road?

A. You are asking me about a specific property

use. I don't know. I can tell you about Saint Ignatius in Forest Hill.

Q. Let me just ask you, so that's your church?

A. That's the church I drive by everyday.

Q. Belair Road, have you ever driven down Belair Road from the area of Saint Joe's Catholic Church?

A. Is that inside or outside the beltway. I have driven numerous times up and down the Belair Road. I don't know the church. I apologize.

Q. Based on your personal observation, do you think Belair Road at that location, and I can show you a map that I have here, is comparable, equivalent to, compares well to this area of Harford Road?

MR. SCHMIDT: Objection. Clearly beyond the special exception test as to whether that's in the neighborhood.

MR. GARBER: If he doesn't know where it is --

MR. SCHMIDT: I don't know how he can answer it.

MR. GARBER: Special exception, pump the

brakes on that for a moment. If he doesn't know where it is, it would be difficult for him to say how it compares.

MR. HOLZER: I will show him.

MR. GARBER: I figured you would.

MR. HOLZER: You know Belair Road.

MR. SCHMIDT: I do, but I don't drive up and down.

MR. HOLZER: Do you want to mark this first?

MR. GARBER: Protestants Exhibit 11. Just so you are aware, you still have 8 and 10 as ID only.

MR. HOLZER: Well, I can still wait to call.

MR. GARBER: Just so you know those are still open.

MR. HOLZER: Appreciate that.

(Protestant's Exhibit Number 11 was marked for identification.)

Q. This is marked as Protestant's Exhibit 11. It's a larger blowup of Belair Road running from

Timahoe Court up to Plumer Avenue. This is the church area that was referred to up to Necker Avenue in this section. Now, do you think that this picture depicts from a traffic engineering standpoint and a traffic expert who's providing testimony as to the relative nature, does this depict accurately or compare accurately with what you have just shown up on Petitioner's Exhibit 16-B?

MR. SCHMIDT: Objection. I can't imagine what the relevance of this could possibly be. I don't believe that this would be considered within the locale from a special exceptions standpoint, which is what we are ultimately here on, I don't believe this property is within the locale to be impacted and if he is going to show him a picture of a church or road system outside of the locale, I just can't, I don't know what the relevance, I don't have any idea what the relevance could possibly be.

MR. HOLZER: Maybe I should have objected to Mr. Comery's testimony because that's exactly what he testified to. He testified to this information.

He compared it.

MR. GARBER: Can you compare what is depicted on Protestant's Exhibit 11 as Mr. Holzer said, Saint Joseph's Catholic Church on Belair Road, to the proposed use of the subject site?

THE WITNESS: The proposed use? I'm just trying to figure out where I am in terms of Belair Road.

MR. GARBER: Can you compare? That's the first question.

THE WITNESS: What am I comparing?

Q. You are comparing the traffic and the road access to this particular church which he referred to on day one in his testimony to this Petitioner's Exhibit showing your proposed site and the road system. Can you compare those two.

MR. SCHMIDT: I just note a continuing objection to this entire line of question. I don't know what the relevance could possibly be.

MR. GARBER: I don't even think we are even at your objection yet. He has to be able to compare

it in the first instance to then be able to come up with the answer to the second question which goes to the special exception issue you are raising. Let's see if he can compare it.

MR. SCHMIDT: But even if can compare it, my objection is whether he can compare it or not, with all due respect, what does a comparison of traffic on Belair Road not in this locale, how does him comparing this traffic, assuming he can do it at this location with the subject property, assist you all as the finders of fact in determining whether the special exception should be granted?

MR. GARBER: I also await that answer too. I don't know that either. All I know is right now we are trying to figure out can he compare it and if he can, what does it mean?

MR. SCHMIDT: Are we opening the door for Mr. Holzer to show us pictures of every church in Baltimore County and ask Mr. Caloggero to please compare Timonium United Methodist Church, which is where I worship, or whether Mr. Kotroco goes to church

or the synagogues where the Board members may go to church. I mean, what is the relevance of any of this?

MR. GARBER: Mr. Holzer, do you wish to respond?

MR. HOLZER: Of course. Of course. His witness, Mr. Comery, testified to this Court that there was a church on Belair Road that was this church that I am showing that was okay, was permitted and, therefore, this proposed site that he was encouraging you to approve was permissible. That's what it was.

MR. SCHMIDT: No, that's --

MR. HOLZER: I am just trying to show, let the Board understand what he was comparing is not apples and apples, it was apples and oranges. This is an orange, that was an apple. That's all I need him to say.

MR. GARBER: Let's take it one step at a time. Mr. Caloggero, can you make a comparison between these two sites?

THE WITNESS: I think we talked about this before, if this where we are going, if this is Saint

Joe's, I am assuming the Catholic Church, this use is not a Catholic Church use --

MR. GARBER: The one at issue is not a Catholic Church use in this case.

THE WITNESS: Right. And this looks in my opinion --

MR. GARBER: Protestants Exhibit 11?

THE WITNESS: Saint Joe's, I can't tell if Saint Joe's is operating a school. I can tell you it looks like on this map it has a traffic signal, three points of ingress and egress, outbound has three lanes outbound and signalized intersection. Parking, parking is substantial. It looks like it has a cemetery, you know, in the rear of the site. This just looks like a huge Catholic Church with lots of parishioners. To me it looks like a school as well.

Q. From a traffic road, from a road standpoint, is this consistent with the proposal that your client has on Harford Road?

MR. SCHMIDT: Again, I just note a continuing line of objection.

MR. GARBER: That's fine.

MR. SCHMIDT: Thank you.

A. I'm still not sure how you want me to compare. What are you asking me to compare specifically?

Q. You are a traffic expert?

A. From a traffic perspective, Belair Road has four lanes. There's not any additional turn lanes along Belair Road for entering and exiting traffic. It looks like there is a traffic signal; I don't know the operations of the traffic signal. There is a, it looks like inbound only and then it looks like another form of an access south of the site. Again, with over like 200 plus parking spaces.

Q. Tell me about the road. Belair Road is, you said, four lanes?

A. Yes.

Q. Is it straight?

A. Yes.

Q. Is it level?

A. I don't know in this area.

Q. You don't know from looking at this photo

whether or not --

A. I do not.

Q. Are there any hills that are comparable?

A. There are no --

MR. GARBER: Let him finish his question.

Q. Are there any hills on this area of Belair Road that are consistent with the hills shown on 16-B?

A. From this map I cannot tell because there are no contours.

MR. HOLZER: Thanks a lot.

MR. GARBER: So are we moving 11?

MR. HOLZER: I am moving.

MR. SCHMIDT: I object. I still don't know what the relevance is. I just don't know what the possible relevance is.

(There was a pause in the proceedings.)

MR. GARBER: It will be admitted. I understand you object.

MR. SCHMIDT: Thank you. As long as it's noted for the record.

(Protestant's Exhibit Number 11

was admitted into evidence.)

MR. HOLZER: Mr. Chairman, it's 12:30. If you would want to take a break for lunch now, I will go through the rest of my questions and see if I can cut them down. They may be repetitive.

MR. GARBER: I'm always in favor of that. Mr. Schmidt, how do you feel about that?

MR. SCHMIDT: That's fine. I'll leave it to the discretion of the Board. I am fine.

MR. GARBER: Mr. Caloggero, do you have any conflicts.

THE WITNESS: No calls.

MR. GARBER: Mr. Schmidt, would you be ready to go with any other witnesses you have here today?

MR. SCHMIDT: My one witness is here. I would anticipate that is the Petitioner's case.

MR. GARBER: Mr. Holzer, are you ready to commence the start of your case today if necessary?

MR. HOLZER: Yes, I'm going to try to put a few witnesses on that, hopefully, will be short or

will be witnesses that I anticipate calling for cross examination.

MR. GARBER: Okay.

MR. HOLZER: Yes.

MR. SCHMIDT: When did you want us back?

MR. GARBER: I'm going to say 45 minutes. Let's try to keep it to that. We'll make it 1:15, which technically gives you 48 minutes, I believe. So, 1:15 we'll be back here, and again, we are going to get through as much of this as possible today as we can.

MR. SCHMIDT: Thank you.

MR. HOLZER: Thank you.

(A recess for the noon hour was taken at 12:26 PM until 1:13 PM.)

MS. MURPHY: On the record.

MR. GARBER: Mr. Holzer.

MR. HOLZER: Ready. All right. I can say to the Board lunch was very well spent because I have excised quite a few questions.

Q. Sir, have you done any traffic counts of

vehicles entering and leaving the property at any of the festivals or the events, fund raisers, things like that?

A. No, I have not.

Q. Okay. And I believe you have already testified that you have not observed how vehicles enter and leave at any of these high volume events?

A. That is correct.

Q. Okay. Did you bother to take any or look at the traffic counts for Harford Road in the area of the property?

A. No, I did not.

Q. Did you bother to look at any traffic counts that were created by the State in terms of the circle that's north of the property?

A. No, I did not.

Q. Okay. See, I finished that. Not quite. Almost. Sorry, one more thing. Is the State Highway minimum standard for 50 miles per hour, is it 425 feet?

A. Is what?

Q. Is the minimum standard?

A. Minimum standard what?

Q. Stopping distance?

A. For?

Q. For 50 miles per hour, 425 feet?

A. May I check my manual?

Q. Sure, absolutely.

MR. GARBER: Are you asking him about the earlier testimony?

MR. HOLZER: Yes.

THE WITNESS: Stopping site distance for 50 miles per hour, 425 feet.

Q. Thank you. Then I'm going to show you some State Highway --

MR. GARBER: This is Protestant's 12 for ID.

Q. I show you, are you familiar with -- this is entitled Access Management Division Plan Submission List. Is this what you are talking about the process that you have to go through with the State Highway Administration to get the access permit?

A. I am not familiar with this document, Access Division Plan Submission Check List.

Q. Yes.

A. So, I am not familiar with this document. Typically, the civil engineers as part of the site plan submission or as part of an access permit submission file the actual application and they may be more familiar with this documentation.

Q. But this really deals with issues related to traffic, does it not?

A. It's a check list.

Q. Yeah, right. So what you are saying is that this is not something you would take and go down to State Highway and have this filled out or acknowledged in some way?

A. I do not.

Q. Okay.

A. I have not.

Q. Okay. And Protestant's Exhibit 12, if you have never had to deal with this before, then you don't know how long it would take to work its way

through this project?

A. I don't even know if this is our check list or if it's a State Highway check list.

Q. State Highway check list?

A. I don't know if we would fill it out or they would fill it out because I looked on page two --

Q. Right.

A. -- traffic impact study required, not required, submitted, that's something I would check out not required all the time and they would say whether it would be required or not.

Q. Trying to get away without?

A. Yes.

Q. I understand.

A. I would think this would be on them. That's my guess.

Q. You don't know, you gave an estimate about two weeks before you got the answer on the order, at least the State got back to you on the access permit. So, there could be more involved than just coming back to you for more information if this has to be filled out.

A. Yes. This looks like it came from Prince George's County.

Q. Well, the State's using it?

A. I mean, I'm saying the job number up top is Prince George's County, we are in another district. I don't know if it's something Baltimore and Harford County uses for their submissions or they have their own separate submission.

Q. Well, it's marked as Protestant's 12 and you said you don't have to deal with this, so therefore, I will put it aside.

MS. MURPHY: So, ID only?

MR. HOLZER: No, I want it marked for exhibit, he recognizes it.

MR. SCHMIDT: I don't think he does.

MS. MURPHY: He said he wasn't familiar with the document. I'm not sure.

MR. HOLZER: We'll, leave it for ID.

MR. GARBER: Pretty much how I understood it too.

MR. HOLZER: Yes.

Q. The measurements that you put on your Exhibits 15 and 16, the group of them, from the proposed driveway, would you agree or disagree that the distance to the south is 355 feet? You might want to get up and take a look at what your --

A. This one, exhibit?

Q. Whichever exhibit answers the question?

MR. GARBER: He asked about the proposed drive.

MR. HOLZER: No, no, distance measured to the south, I'm sorry, you are right. I apologize.

MR. GARBER: That's good.

Q. From the proposed driveway.

A. From the proposed driveway.

Q. I think we are using the wrong words. First, I'm asking from the existing driveway.

A. Existing driveway.

Q. Yes.

A. A?

Q. Yes?

A. Here we have it marked 365 feet.

Q. Okay.

A. And in the letter that I submitted January 10th, I believe I added that 355 and that was a field measurement that I took with the wheel with my car parked, walking it off and sight lining it.

Q. So when I say 355, that's what you measured?

A. That's what I measured and this is the actual planned drawing with the car and using the survey.

Q. Okay. Now, at 30 miles an hour speed limit with advisory --

A. Yes.

Q. -- would it be 200 feet?

A. Would what be 200 feet?

Q. The proposed driveway or existing driveway to sight distance?

A. Sight distance required for 30 miles an hour is 335 feet.

Q. 331 feet?

A. 335.

Q. Okay, so you agree with that figure?

A. For 30 miles per hour, yes.

Q. Then at 45 miles an hour southbound on 147, would this be 496 feet?

MR. GARBER: Just for the record 147 being? Harford Road.

MR. HOLZER: Yes.

MR. GARBER: So the record is clear, that's what the reference is.

MR. SCHMIDT: Mr. Holzer, are you asking what the stopping distance is? Is that what the question was?

MR. HOLZER: Yes.

MR. SCHMIDT: I think he's answered this a couple of times.

THE WITNESS: We went through this whole testimony.

Q. Was it 496 feet? Intersection distance is the stopping distance 360 feet.

A. Stopping?

MR. GARBER: Not stopping sight distance, stopping distance.

Q. Stopping sight distance, 360.

A. For 45 miles per hour is 360 feet, yes.

Q. Right. What about in 50 miles per hour stopping sight distance?

MR. GARBER: 425. We just had that question five minutes ago.

MR. SCHMIDT: We keep asking the same question. I'm sorry, Mr. Holzer, but I think he's answered these questions.

MR. GARBER: Go on.

Q. Then do you agree with this statement? Neither the intersection sight distance nor the stopping sight distance value is met for the 45 miles per hour southbound of 147 and 50 miles per hour northbound for that speed for the speed limit, would you agree with that statement?

MR. SCHMIDT: I'm going to object. I don't know what the statement is. I guess if he can understand that.

MR. GARBER: Number one, I think he can answer the question. I don't know what the objection is. Whether he can answer the question as in

literally or not, it's up to him. But there is no objection unless you have another ground, reason for that.

MR. SCHMIDT: I guess he's asking him a question about some statement. I think it would be fair to lay some foundation where the statement came from, who said it or whatever it is.

MR. GARBER: It's cross examination. He is an expert witness. He can certainly give an opinion about the statement, whether it's somebody from the field or my seven-year old kid.

MR. HOLZER: That's about my level.

THE WITNESS: Can I ask you to break it up? I believe you are asking for two different items in that question.

Q. I am. On 50 miles per hour northbound on 147 SSD, what is that?

A. Stopping sight distance.

Q. Stopping sight distance is 425 feet. ISD, what is that?

A. Intersection sight distance.

Q. Is 551 feet. Do you agree with that or not?

A. Are we talking for this sight access?

Q. Yes.

A. I don't believe those speeds are correct. I don't believe 50 miles per hour northbound is the correct speed northbound, I still believe it's 45. The pictures shown to me --

Q. Let's not belabor the point. If it was 50 miles per hour, if it was, okay, would it be 425 and 551?

A. Not at this location because you can't make that turn at 50 miles per hour.

MR. GARBER: Saying that turn, which turn?

THE WITNESS: Northbound right hand turn where the State Highway says it should be 30 miles per hour, you cannot take that at 50 miles per hour.

Q. That's subjective.

A. State Highway recommends 30 miles per hour based on proper speeds and proper studies.

Q. I'd like to get this through. If it was 50 miles an hour and if somebody chose to go 50 miles an

hour in violation of what you are saying, common sense, whatever, if it was 551 feet, would that not meet the minimum State Highway requirements?

MR. SCHMIDT: Objection and I'd like to be heard if I can, Mr. Garber.

MR. GARBER: Of course.

MR. SMITH: We can ask the witness what about if somebody is drunk on their phone, blind or whatever else their handicap may be, and tries to go up this road. We can go on and on with all kinds of scenarios. But as the witness has testified, neither he as a traffic engineer nor State Highway as a regulatory agency, engineers and bases it's conclusions on people acting illegally and scenarios which are highly unlikely to occur. So, to ask these questions with these scenarios about people doing these things, when this witness says he thinks it's physically not possible, is akin to asking him can we cut the access through the trees and have it right next to the turn and what happens if somebody is driving 90 miles per hour and we can go on and on. To

me this provides no probative evidence which would assist the Board in making a decision in this case. I think the question is so speculative even for an expert witness it has no value. I object to the line of questioning.

MR. GARBER: We have testimony that the road can be 45 at that location, it can be 50 at that location. Even if it's 45, somehow, it's not something that's uncommon and people may have attempted that and that may explain the signage in that area as to why they recommend or advise the speed limit should be 30. So the hypothetical being that someone's driving 50 miles an hour going northbound, the intersection stop distance at 551, the query is is that applicable here?

MR. HOLZER: Does that meet the minimum State Highway standard?

MR. GARBER: Certainly, he can answer that question. Overruled.

A. So does, to repeat the question, what I am hearing --

Q. Well, the Chairman just gave it.

A. No, I want to be sure to get the question right.

Q. My question is --

A. I am going to ask the question, may I ask to answer the question so I understand it?

MR. GARBER: We'll hit the reset button, have him restate it and see where it takes us.

Q. Thank you. My question is going northbound on Maryland 147 Harford Road the SSD is 425 minimum State Highway standard and the ISD, the minimum State Highway standard is 551. Do you agree with that first of all?

MR. GARBER: Let's stop there, we have already had the answer on the stopping site distance of 425 at 50 miles an hour. So the question, if we limit it the intersection stop distance of 551, does he agree with that as the minimum standard.

MR. HOLZER: Correct.

A. For ISD, I have it at 555.

MR. GARBER: So 555.

Q. Okay. So if that were the hypothetical, okay, then is it your position that this intersection does not meet MDOT State Highway sight distance standards.

A. So you are saying if someone happens to make that turn at 50 miles an hour, that is this intersection still --

Q. Is the standard of the State minimum requirement met?

A. At 50 miles per hour, I would say no because stopping sight distance is 425.

Q. Thank you.

MR. GARBER: Could you explain the difference between intersection stopping distance and the stopping sight distance?

THE WITNESS: Absolutely.

MR. GARBER: How does that factor into where we are in the case at the moment?

THE WITNESS: Intersection sight distance is what an exiting vehicle would need to see to make a turn out into travel into the roadway to cross the roadway.

MR. GARBER: Intersection sight distance. So, Mr. Holzer's question, the vehicle going 50 miles per hour, you would need 555 feet of sight distance from the intersection.

THE WITNESS: Correct.

MR. GARBER: Okay and the intersection stopping doesn't apply in this case.

THE WITNESS: Stopping sight, I'm sorry?

MR. GARBER: The intersection stopping sight distance.

THE WITNESS: Intersection stopping, but I disagree on the --

MR. GARBER: That's what I'm trying to get to, where is the disagreement?

THE WITNESS: A, the speed limit is not 50 of miles per hour.

MR. GARBER: Assuming the vehicle is travelling 50 miles an hour.

THE WITNESS: Assuming the vehicle is breaking the law in traveling at excessive speeds in an area that's deemed 30 miles per hour, can that

vehicle maintain the safe turn around that road without braking, of course, because you want it to be maintaining 50, and does that car have enough time to pull out say to turn left to head south before that car can stop? Now, that technically, we talked about this the last time, the stopping sight distance of 425 feet is poor reception, reaction time, wet condition, bald tires. So if the perfect storm happened and someone in a race car makes that turn at 50 miles per hour at the exact same time someone is turning left at the sight, could they impact? Potentially.

Q. That's not the question. The question is does it violate State Highway minimum standards? And it does. You said, yes.

A. You said hypothetically. A lot of it, I mean --

MR. GARBER: Go ahead.

THE WITNESS: If I may, I testified to the speed, the conditions, the actual conditions and what's trying to be asked of me is pretend somebody

can travel 50 miles per hour in an area where the State recommends 30, what can happen? Of course, I have to answer to those conditions. I don't think that's the case in this condition. So, you are asking me to answer something I am not comfortable answering.

MR. GARBER: If that's your answer, that's your answer.

THE WITNESS: I've been trying to --

MR. GARBER: You expressed the fact you are not comfortable answering --

THE WITNESS: I'm sorry, I thought I had.

MR. GARBER: -- Because you feel the vehicle cannot handle the turn at that speed.

THE WITNESS: Yes and I thought I made myself clear by saying the advisory of State Highway are 30 miles per hour. They call it a ball bank and once you take that turn, the measurement goes to a measure that exceeds the safe driving to take a turn. So that's why they put the advisory speeds of 30.

MR. GARBER: Is that --

MR. HOLZER: He answered my question first

when he said, yes, it does not meet the minimum standard.

THE WITNESS: For 50 miles per hour which again I do not believe you can obtain.

MR. GARBER: You follow from that.

THE WITNESS: I have been stating that.

MR. GARBER: Mr. Holzer, ask your question.

MR. HOLZER: The speed limit there is 50 miles an hour. We have proved it, but we'll prove it again. So regardless of that, that's why the question is an appropriate question and his answer is it doesn't meet the State minimum standard?

MR. SCHMIDT: Objection just to Mr. Holzer testifying.

MR. GARBER: Okay. We can move on from this point.

MR. HOLZER: Good, because I think we are cross examined out.

MR. GARBER: See, look at that, worked out well.

MR. SCHMIDT: Is that it?

MR. HOLZER: That's it.

MR. GARBER: Mr. Schmidt.

REDIRECT EXAMINATION

BY MR. SCHMIDT:

Q. Mr. Caloggero, there were questions Mr. Holzer asked you about turning either going north or southbound but turning into Nepali property at the driveway. And I think you described that as a free turn I think was the word I wrote down.

A. Right turn.

Q. The right turn is a free turn. I think he was asking you about that. Can you explain what a free turn is? What do you mean by that?

A. Basically, what I mean what is a free turn is when you make the turn, there is no obstruction to continue forward.

Q. So, people who would be turning into the property you would expect would just continue to drive back into the property?

A. Continue their maneuver off the record.

Q. There's no parking lot --

A. Correct.

Q. -- or gate or any reason for anybody to turn right off of Harford Road and stop in terms of getting, once they are on the driveway?

A. That's correct.

Q. The parking lot as a matter of fact is a fairly substantial distance away into the interior of the property, is it not?

A. That's correct.

Q. You also answered some questions about the design speed and I think the speed limit. Could you just explain to the Board what is the difference between a design speed and a speed limit on a road?

A. The design speed of a road is that of which the road is designed; that's why it's the design speed. So for instance, if we had a road that needed to be designed and the State Highway determined that the design speed is 50, they would go to the guidelines and apply all the 50 miles an hour design speed standards to the road.

Q. When you say design speed standards, does that

mean the grade of the road, pitch of the road, type of building material, all those kinds of things?

A. All that and the safety features on the side of the road.

Q. Compare if you will of that between a speed limit; what is the speed limit?

A. In most cases speed limit is ten miles per hour below the design speed. They typically design for ten miles an hour above. However, a lot of these instances, you know, a lot of these roads have been here for a significant amount of time and the State Highway makes determinations based on their own sights or politically determined based on certain instances.

Q. Okay. You testified back during direct last week that you did examine the capacity of the road system as an issue, the capacity of Harford Road, did you not?

A. From the Baltimore County basic services map.

Q. Right, and you determined that traffic counts were not needed because there were no signalized intersections that would be impacted from a capacity

standpoint, is that correct?

A. That's correct.

Q. In terms of the number of vehicles on this section of Harford Road, is there any concern that you have or analysis that you have done that this road is over-congested or overwhelmed by traffic?

A. No, sir.

Q. I guess just to conclude, so, you have looked at the existing point of intersection or access between Harford Road and the existing what I would call two lane driveway that has an inbound lane and outbound lane and concluded that under the proposal, vehicles can safely enter and exit the property based on sight distance considerations and other safety considerations?

A. Yes.

Q. And you have also at the request of the State Highway Administration submitted and prepared as shown on the documentation on the board, 15-A and B and 16-A and B an alternative to that where an outbound lane is located further to the south, I believe, is that

correct?

A. North.

Q. I'm sorry, north, correct?

A. That's right.

Q. And that's an exit lane only as shown it's on your plan?

A. Correct.

Q. You have testified, I believe, that based on that that would provide an additional measure of sight distance if it were construction and installed and make conditions even better from a traffic engineering standpoint, correct?

A. Yes, that is correct.

Q. And you submitted all those drawings to the State Highway Administration?

A. Yes, I have.

Q. You have talked to the State Highway Administration?

A. Yes, I have.

Q. You advised them of your findings, answered their questions and provided the information that they

requested of you?

A. Yes, I have.

Q. Have they indicated to you at this point in time they require additional information?

MR. GARBER: Mr. Schmidt, I think this has all been covered and well understood that a conversation is ongoing, there is no final decision that is left open, he's submitted everything that they have to date. There doesn't seem to be any issue as to those things to lead to any recross of the same questions we have already the answers to.

MR. SCHMIDT: Then I have no further questions.

MR. HOLZER: I think the Board has questions.

MS. MURPHY: You indicated you didn't do any traffic counts, correct?

THE WITNESS: Correct.

MS. MURPHY: Doesn't this Board need to know the traffic counts in order to weigh the special exception factors in terms of congestion on the road,

regardless what is SHA is requiring and the County is requiring, don't we need to know that?

THE WITNESS: I don't think so. But again, maybe again, when I look at this type of situation and looking at either the proposed day-to-day operations as was told by me or looking at the State Highway Administration trips that they are proposing, we look at a lot of peak hours, the trips are going to be in my opinion more de minimus during the morning and evening peak hours, whereas, we are looking at the safety features of the road versus the volume on the road.

MS. MURPHY: Regardless of what the SHA requires in terms of access and social events, this Court has a different duty in terms of weighing factors in special exceptions cases. Don't we need to know what the traffic counts and the volume of traffic even in special events and limited events, that's what's being proposed here.

THE WITNESS: I don't know if you are telling me you need that.

MS. MURPHY: I am asking you as an expert witness testifying for the Petitioner. You have testified in other cases, you have testified in other cases did you put in evidence of traffic counts and traffic sites.

THE WITNESS: In cases where it may be required.

MS. MURPHY: Required by who? I mean, I don't care about the State Highway. I'm inquiring for this Board and we what need to have to weigh?

THE WITNESS: I don't have the information you are requesting.

MS. MURPHY: How about with the accidents, you didn't do any accident studies?

THE WITNESS: No.

MS. MURPHY: Okay. Also don't we need that information to weigh whether or not there is a danger on the road under the special exceptions factor and the conditions of the road?

THE WITNESS: With my testimony I am presenting to you that it's a safe access.

MS. MURPHY: Well, not the access. I don't care about entering and exiting. This is a different question. This has to do with accidents on that road in front of that. So, congestion on that road and there is another factor which is danger on the road, panic, fire or other dangers. Let's say an accident is a danger, does that weigh on your opinion? Does that weigh in terms of something you need to know to give us an opinion?

THE WITNESS: Typically, volume, typically, when you are looking at the safety aspects of a road, a lot of times volume doesn't come into consideration because the road is either safe or not safe for the conditions that they are supposed to be traveled. So as you are driving say northbound or southbound approaching these turns and the State Highway Administration is advising you to drive this road at 30 miles per hour, a two lane road without passing zone and if you are following the signs and following the speed limits, you are going to navigate this road properly as I have done numerous times, I can't

testify to all the residents there, they more than likely have done that numerous times as well, it doesn't make the road unsafe as long as you are traveling it to the conditions that are out there.

MS. MURPHY: But an accident by definition is somebody who hasn't done that. So, isn't it important for us to know at this locale how many accidents have occurred at the entrance on this stretch of road. Maybe not the ones on Harford Road at the other end, but isn't that something we need to know.

THE WITNESS: Again, I'm going with the design or the actual physical aspects of the road itself. If the conditions are safe --

MS. MURPHY: In a perfect world.

THE WITNESS: In a perfect world if people were to drive it --

MS. MURPHY: But accidents by definition are not --

THE WITNESS: They are called crashes.

MS. MURPHY: Whatever you want to call it,

collisions, crashes, your testimony is your opinion is that doesn't factor into your opinion doesn't change the nature of what you testified to; if you found out there were a hundred accidents right in front of entrance, that wouldn't matter?

THE WITNESS: You are asking me that specifically if there were a hundred accidents at this intersection or 50, whatever the number, there is an extreme high number of incidents right at this location, then, yes, I would have to take that under consideration. That information was not presented under cross, that was something completely different presented under cross.

MS. MURPHY: I realize that. I'm asking a different question.

THE WITNESS: I'm looking at it from the prospective of the road itself.

MS. MURPHY: How many accidents would it take to change your than opinion? Would 20 make a difference, 30 make a difference?

MR. GARBER: Per year, 20, 30 per year?

MS. MURPHY: Exactly, annually.

THE WITNESS: Truly, I am not trying to avoid your question, it's a larger calculation of vehicle miles traveled over a year and new risk calculations, the number of accidents specifically at an intersection.

MS. MURPHY: I realize that. But I'm saying in front of this access point.

THE WITNESS: I can't give you that number because it's a bigger number than three accidents. I have to look at the vehicle miles traveled along this section of the road, the number of vehicles, the number of accidents and make a calculation and then the State compares it to other similar locations that have these types of conditions to determine if this would be a high crash location in which improvements may or may not be needed.

MS. MURPHY: I'm not talking about improvements to the road.

THE WITNESS: The crashes that warrant improvements?

MS. MURPHY: I'm just talking about your opinion in terms of the special exceptions factors, which is the only issue in this case which we have to weigh. In deciding this case, there's nine factors. Regardless of the access point, it's your opinion as I understand it there are no specific number of accidents that would sway you one way or the other? Is that I am what I am hearing?

THE WITNESS: My opinion is the road is safe for the conditions the State Highway Administration --

MS. MURPHY: I know you said that. That's not what my question was.

THE WITNESS: I don't know the number of accidents.

MS. MURPHY: That's what I am asking. If you don't, then you don't. I was curious as to whether you had enough.

MR. GARBER: You indicated that nothing was presented to you on cross. You were presented with Protestant's Exhibit 10 just for ID only, that you

were reported there were 41 accidents between Hartley Mill and Glen Arm Road between January 1st, 2016 and April 1st, 2018. Do you need to see the table again?

THE WITNESS: I have it.

MR. GARBER: Let's assume all 41 accidents occurred in the strip from the, the first bend Is heading northbound to exit the site after the State Highway property. Let's assume that all 41 occurred. And I have no information that's what's going on. Assuming that to be the case, would that change anything in terms of your opinions?

THE WITNESS: I'd have to take a detailed look as to what the contributing factors are for said crashes.

MR. GARBER: You would need to know the details of each accident to make an assessment as to whether or not there is a particular danger in that stretch of roadway.

THE WITNESS: Yes.

MR. GARBER: Would your answer be the same if it was half of that, if it was 20 accidents?

THE WITNESS: Again, yes, the answer is the same. It's very important to understand the characteristics of each accident.

MR. GARBER: If it was half of the 20, down to ten, it would be the same?

THE WITNESS: Again, yes.

MR. GARBER: We can keep dividing in half until we are down to one or some fraction, it would be the same.

THE WITNESS: What most engineers do, they look for patterns. What are the patterns of the accident that are occurring in this area? When I did my routine survey assessment, what did I see? I see in both directions the State Highway Administration has put up the reverse turn signs of 30 miles per hour speed limits, advisory speed in both directions, there's chevron arrow signs in both directions around both sides of the road. There's the turn arrow to help people come around the turn. There is, there was no delineators in the road, the delineators as in the reflectors that help people guide around the turn. I

believe some of those have been the taken out with snow plows or other means. There are also the rumble strips that are in the middle of the road so that as people are navigating the road, if they travel off on to the center line, it's another warning saying, hey, too fast to the right, get back in your lane. There is also a street light above or at the intersection of the access in Napoleon. I think they are trying to highlight that area with lights to try to help people navigate the road.

So, the State highway has in my opinion has been reviewing this area and providing numerous measures. But again, if people are traveling at too fast for the conditions, because the speed limit is 45 miles an hour coming southbound, and I have seen it northbound as well, I know we are disagreeing on that, they don't mix and match the 45 miles an hour speed to 50 miles an hour, they'll keep the whole road at 45 miles an hour, they will modify it. The State Highway is taking all these measures of correctness to either highlight the safety of the area or make sure

it's more safe. But again, if people are traveling it too fast for the conditions, that's hard to correct.

MR. GARBER: To be fair, you don't know when any of these, I am not going to call them traffic control measures, but the signage, rumble strips, you don't know when they were installed.

THE WITNESS: I do not.

MR. GARBER: Ms. Dopkin.

MS. DOPKIN: You mentioned the absence of passing zones and I was wondering based on the topography on the east side of Harford Road and the State Highway Administration, is there the potential to install or that the SHA would require a deceleration lane for entering the property?

THE WITNESS: There's always the possibility.

MS. DOPKIN: Is it physically possible?

THE WITNESS: I don't think one is warranted based on the peak hour turns.

MS. DOPKIN: That's not the question.

THE WITNESS: I'm sorry.

MS. DOPKIN: Is it physically doable? Are the contours such that you could do it?

THE WITNESS: I think the contours would present a challenge.

MS. DOPKIN: A challenge?

THE WITNESS: Significant challenge. The grades are significant on the west. On the east side of the road.

MS. DOPKIN: East side of the road near the entrance. Then coming south where the shark fin is, could there be a bypass lane because the State owns the right of way? Again, are the contours --

THE WITNESS: The State owns the right of way to the north of Bonapart, but they do not to the south. So on the south side, if I may approach --

MS. DOPKIN: But the proposed entrance is north of Bonapart.

THE WITNESS: To provide a pass lane, you have to bring it back in accordingly. This house on the southwest corner, their property is right adjacent to the roadway. A lot of that property would have to

be obtained for any left turn or bypass lanes.

MS. DOPKIN: Thank you.

MR. GARBER: Mr. Holzer, in light of those questions, do you have follow up?

RECROSS EXAMINATION

BY MR. HOLZER:

Q. I have a question based on Mr. Schmidt's questioning in terms of the traffic count. It seems to me that your testimony related to the road and the traffic is not taking into consideration that the State Highway Administration required the circle on north of the subject site, and if the State Highway wanted to amend Harford Road by creating a circle as opposed to a regular intersection, that there must be some traffic issue that caused them to do that.

Now, do you agree with me that there is traffic, a traffic count could possibly be the reason that they ask for a circle or created a circle north of the subject site?

A. They take all factors into consideration when looking at alternative intersection measures. Once

you get to that control measure, in my opinion you would look at a four way stop, a roundabout or a traffic signal.

Q. Okay.

A. And based on whatever State Highway used in their determination, decide that a roundabout was the best solution for that intersection.

Q. That implies to me, although again, I am just a lawyer, not a traffic engineer or expert like you, but that implies to me the fact that there was a significant amount of traffic going north and south on Harford Road which necessitated some remedial action on the part of the cross street, which I can't remember the name of the street that goes across.

A. Glen Arm or Mount Vista.

Q. Yes, where the circle is. So there has to be a reason why the State Highway Administration required that intersection to be changed from a normal intersection to the circular and could not that be the fact that the traffic count has increased on Harford Road substantially?

MR. SCHMIDT: Objection. Just because it's narrative testimony and then putting a question mark again at the end of it. I mean, it's just an improper question, Mr. Garber.

MR. GARBER: Well Mr. Holzer has his own style. The question is fine, that is, in your experience there would be some type of increase in traffic count to necessitate SHA'S decision to necessitate a change, design change in the layout.

THE WITNESS: There could be numerous factors involved. There could have been accidents at that location. They may use that to try to slow down all the speeds to travel southbound, so you are not coming from straight southbound to make a 30 miles per hour turn. It could be the cross street travel increased significantly which causes delays to people trying to cross or make a left turn at the intersection. That could create an issue. So, it doesn't necessarily mean that traffic was increased on Harford Road.

MR. GARBER: So, it could be related to

increase of traffic on Harford Road, but it could be due to other factors or it could be a combination of a whole bunch of factors.

THE WITNESS: Absolutely.

MR. GARBER: So that --

MR. HOLZER: I am happy.

MR. GARBER: Are you done with your questions?

MR. HOLZER: Yes, I only had the one.

MR. SCHMIDT: I have questions in view of the Board's question.

REDIRECT EXAMINATION

BY MR. SCHMIDT:

Q. Mr. Caloggero, we are on the discussion as to why State Highway may have installed the roundabout at the intersection of Harford, Mount Vista and Glen Arm Roads. Could it be that the intersection there was not in alignment in terms of the fact that the intersection was not a 90 degree for each traffic movement?

A. Yes, that could be another factor.

Q. Couldn't that be a driving factor if the roads didn't match, when I say match, lead up to a certain way so they were aligned?

A. Sure.

Q. Mr. Caloggero, I'm going to show you an aerial photograph taken off of the county GIS system.

MR. GARBER: To identify for the record --

MR. SCHMIDT: I am not identifying it.

MR. GARBER: This was Petitioner's Exhibit 21.

MR. SCHMIDT: Yes.

MR. GARBER: There you go.

MR. SCHMIDT: I ask it be marked Exhibit 21 at this point. This is a slightly a little bit of a different scale and doesn't show everything that that one shows.

MR. GARBER: Does it show everything as the earlier one?

MR. SCHMIDT: Maybe that's the easier way to do it. Thank you. Yes, this is actually better.

MR. HOLZER: So are we canning 21?

MR. SMITH: We are canning 21.

MR. HOLZER: Feeding it to the shark, so to speak.

Q. I'm going to show you, I believe, I don't know how many of these you may have, Ms. Murphy, but it's marked Petitioner's Exhibit Number 2, if you want to give one so each Board member has a copy.

Mr. Holster, Petitioner's Exhibit Number 2.

MR. GARBER: Are you asking about the Glen Arm/Mount Vista intersection?

MS. MURPHY: Go ahead, you can ask questions.

MR. SCHMIDT: I'll hold it up so everybody can see it, Board members and Mr. Caloggero.

Q. Mr. Caloggero, I'll refer you to what has been previously accepted into evidence in this case as Petitioner's Exhibit Number 2. Let me ask you, sir, does this show the intersection at the time this picture was taken of Mount Vista, Glen Arm and Harford Roads?

A. Yes, it does.

Q. And was this photograph taken before the roundabout was installed?

A. Yes.

Q. Can you describe the intersection, is it across, 90-degree cross intersection?

A. It's a four legged intersection where Glen Arm Road is coming in at approximately 90-degree angle, Mount Vista looks about 30 or 60 degrees.

Q. Now having seen this, Mr. Caloggero, as a traffic engineer, would the fact that this intersection is configured in this manner be significant justification in your mind to install a roundabout at this location in order to make that intersection more navigable and safe for all the traffic on all the roads?

MR. HOLZER: Objection. Objection. He just finished testifying there can be numerous reasons why he had not done the analysis, he had not done the investigation, and repeatedly, I have been excused of asking the same thing, but repeatedly he said the answer to that, it's an objectionable question to ask

him for his opinion at this stage after those answers.

MR. GARBER: Also, he's already testified that the change in the traffic circle could be due to traffic counts, could be due to any number of factors. You have already asked him, including the fact that the roads align in a perfect or basic cross or T section --

MR. HOLZER: Right.

MR. GARBER: -- or at 90-degree angles on all corners, which that intersection clearly is not 90 degree angles on all corners and that may be the reason why the traffic circle is there. Any further explanation gets into the SHA decision making that we are not here for.

MR. HOLZER: And I am deliberately asking, Mr. Garber, not to comment on why SHA did this. I asked him as a traffic engineer, he's a qualified engineer. I assume he has an opinion he can express an opinion about the design or condition of intersections. And what I asked him is in his opinion, not to get into the mind of the SHA, would

the configuration of this intersection before it was improved in and of itself be a factor that was significant enough that could result in the installation of the roundabout in his opinion.

MR. GARBER: In isolation, the fact that it does not line up with the 90 degree corners --

MR. SCHMIDT: That fact in and of itself drives the need for a roundabout.

MR. HOLZER: Objection.

MS. MURPHY: I am pretty sure he agrees with you.

MR. GARBER: I understood that by implication because he said the SHA may take that as implication or factor and, therefore, he was agreeing with that. Mr. Holzer, you had something to say?

MR. HOLZER: Yes, I object to his testifying at that because he's already said he doesn't understand what they did. He didn't explore it.

MR. GARBER: His question is different.

MR. SCHMIDT: My question is not asking him

to get into the minds of SHA.

MR. GARBER: I will say this, I am not sure where it would be important to hear what his personal opinion is as to whether or not it is, when he's already said or agreed with you it could have been a factor, legitimate factor for them to consider.

MR. SCHMIDT: I think it's important, I think it's relevant that this expert witness testify if it's his opinion, since there has been an inference or speculation as to what the reasons were from SHA and I am sure we can produce evidence maybe as to why these improvements were made, but I think it's a fair question, appropriate question to ask Mr. Caloggero if in his opinion the configuration of this intersection is in and of itself a sufficient basis to install a roundabout.

MR. GARBER: I think we understood that from his testimony.

MR. HOLZER: I'll withdraw my the objection.

MR. GARBER: We can move on.

MR. HOLZER: Let him say that.

MR. GARBER: Mr. Holzer and Mr. Schmidt, we understood that from his earlier testimony as to that being a potential factor as to why the SHA did what it did. We don't need to know what his personal opinion was as if he was to be like the Grand Puba of SHA as to whether or not he's going to determine what you want to put it.

MR. SCHMIDT: Thank you.

Q. Mr. Caloggero, let me move on to something else. You have been out to this site four or five times?

A. Yes.

Q. You drive this road you said approximately once a week, correct?

A. Correct.

Q. Based on your experience with this road, where is the nearest traffic intersection, I'm sorry, traffic red light?

A. There is one to the north at, north, north of the traffic signal.

Q. North of the traffic signal.

A. North of the roundabout, north of the roundabout, is it Fork?

MR. GARBER: Fork Road?

A. Fork and Sunshine, I believe.

MR. GARBER: The next intersection, I believe, is Fork Road.

A. I'd have to look at my map, but I think the one to the south is at North Wind.

Q. How far away, if you know?

A. Significantly south, where the signals in my opinion are not influential to the operation.

Q. The choke points or operation of the signal which would stop traffic eventually leading to congestion or back up, do these traffic signals impact at this point traffic?

A. No.

Q. Have you ever noticed any undue levels of congestion where the vehicles are not moving or stopped which would the affect the flow of traffic in this area?

A. No, it would not.

Q. What time of the day have you driven here?

A. It depends, throughout the day at numerous times. Sometimes you are in platoons of traffic, platoons of may five or 10 cars catch up to each other traverse through the area at a reasonable speed, but that does not create a flow of traffic congestion.

Q. Has there been any evidence, anecdotal or otherwise, that you have reviewed or seen that suggest as there is any type of capacity or congestion issue on this stretch of Harford Road? When I say on this stretch of Harford Road, the section of Harford Road which is shown on Petitioner's Exhibit 15-A?

MR. HOLZER: Objection. It's an improper question because he's already testified he didn't do any analysis of traffic counts.

MR. SCHMIDT: That's my point --

MR. GARBER: I don't think he's talking from that prospective.

MR. SCHMIDT: -- he doesn't need to do traffic counts if he's been up and down the road

hundreds of times.

MR. GARBER: Hold on. Hold on. I agree with what Mr. Schmidt is saying here. Anecdotally, does he feel that the roads are congested since he's someone who travels it on occasion with some frequency but still on occasion, as opposed to doing strict traffic counts in connection with his being a traffic engineer.

MR. HOLZER: Then, Your Honor, the way for the Board to address this testimony, is that if he is using his own personal knowledge of riding up and down, he's in no different situation --

MR. GARBER: It's not expert testimony.

MR. HOLZER: It's not expert testimony.

MR. GARBER: I agree with you. It would be anecdotal. Same thing as anybody on your side that would be getting up to say the same thing. It has nothing to do with being an expert in that regard.

MR. HOLZER: I just wanted the evidence not coming in not as expert testimony.

MR. GARBER: It's not perceived as expert

testimony, it would be received as factual.

MR. HOLZER: Yes, thank you.

MR. SCHMIDT: Mr. Garber, do I understand your ruling that the only way an expert can render an opinion is if he does a traffic count? He's not allowed to render an opinion based on his own personal observations of the circumstances here.

MR. GARBER: Absolutely is, that's a lay opinion in this case.

MR. SCHMIDT: It's a lay opinion?

MR. GARBER: That would be a lay opinion. It is no different than anyone on this side of the aisle, they can come up and say the exact same thing. It adds nothing by way as if coming from an expert witness because it doesn't require any type of studies or anything on his part, his expertise to have his observations conveyed in the testimony.

MR. SCHMIDT: Yes, sir, I understand your ruling.

Q. Mr. Caloggero, as an expert witness, why didn't you do traffic counts here?

A. Because Baltimore County is outside of the, it's outside the transportation zone.

Q. Outside the area?

A. Yes.

MS. MURPHY: What difference does that make?

THE WITNESS: Because the capacity is okay. If it's outside of the area of influence according to the Baltimore County Basic Services Manual. It's in an acceptable traffic shed which means there is available capacity of the roadway.

MS. MURPHY: That's for the purposes of basic services.

THE WITNESS: It's compatible.

MS. MURPHY: That's a different issue. Basic services is a different issue.

THE WITNESS: But it's based on capacity. We can agree to disagree but it's based on capacity.

MR. SCHMIDT: I don't have any further questions of the witness.

MR. HOLZER: No further questions.

MR. GARBER: All right. Mr. Caloggero, congratulations.

THE WITNESS: I am having so much fun.

MR. GARBER: After a week, you are finally done.

THE WITNESS: Thank you.

MR. GARBER: Next up, Mr. Schmidt.

MR. SCHMIDT: Yes, I would call Rob Powell.

MR. GARBER: Do you need a minute or two or are you fine to proceed.

MR. SCHMIDT: I am fine to proceed.

MR. GARBER: Very well. Do we have the witness. Here we go.

MR. SCHMIDT: While he's doing that, can we get the site plan, put it on the board?

JAMES ROBERT POWELL,

a witness of lawful age, being produced on behalf of the Petitioner, having been first duly sworn in accordance with law, was examined and testified as follows:

MS. DOPKIN: Please the state your name and

address for the record, spelling your last name.

THE WITNESS: James Robert Powell, P O W E L L.

MS. DOPKIN: And your address?

THE WITNESS: 421 Rockway Road, Baltimore, Maryland, 21228.

MR. GARBER: Is that home or work address?

THE WITNESS: Both.

MR. GARBER: What company are you with?

THE WITNESS: I am self employed consultant.

MR. GARBER: Okay. I wanted to ask, I don't want to ask your title if you are self employed.

THE WITNESS: Me, myself and I.

DIRECT EXAMINATION

BY MR. SCHMIDT:

Q. Mr. Powell, you indicate you are self employed at the present time, is that correct?

A. Correct.

Q. Previous to your self employment, where did you work?

A. Baltimore County Department of Environment.

Q. How long did you work for the Baltimore County Department of Environment?

A. Thirty-seven years four months and change.

Q. I assume you retired from the County?

A. Yes.

Q. When did you retire from the County?

A. November, 2014.

Q. How many years did you say you worked there?

A. Thirty-seven.

Q. During your 37 years of employment with the County, can you tell us what you did in the Department of Environment? I think you probably predated becoming Department of Environment?

A. Yes, we were the Health Department back in those days. I was up supervisor of the soil evaluation section. I conducted soil tests, supervised employees conducting soil tests for new construction or repair of failing septic systems, reviewed septic plans, et cetera.

Q. Did you do that kind of work in your entire

career in Baltimore County?

A. Yes.

Q. At the end of the day you were the supervisor, the head man in that department within the Environmental Protection?

A. It's a section within a section, being section chief, I guess would be a better term.

Q. How many septic systems proposed or existing would you say you have evaluated over the years?

A. Thousands.

Q. Have you ever been during your course of the employment at Baltimore County, did you ever testify before the Board of Appeals or what was then the Zoning Commissioner Administrative Law Judge about septic issues?

A. I did.

Q. Do you have any type or is there any type of state registration or designation for people who work in septic fields septic systems?

A. There's a Board administered by the Department of Environment called a Licensed Environmental Health

Specialist. It's a licensure that requires renewal every two years along with 20 hours of continuing education credits.

Q. Do you hold that certification presently?

A. I do.

Q. How long have you been an Environmental Specialist, Licensed Environmental Specialist?

A. At least 33 years, 33-35.

Q. I would offer Mr. Powell as a Licensed Environmental Specialist. Obviously, he's going to give testimony of the potential septic system for the use on this property.

MR. GARBER: Just to the slow that down, what is he being offered as expert in?

MR. SCHMIDT: A Licensed Environmental Specialist, I believe it's called, Mr. Powell?

THE WITNESS: Licensed Environmental Health Specialist.

MR. SCHMIDT: Environmental Health Specialist. He's going to render an opinion about the feasibility of a septic system to serve the proposed

use on this property.

MR. GARBER: Okay. I am just, quick question here for me. You said you were the Section Chief because you described as section within a section, so which section.

THE WITNESS: Field supervisor. That would be the official term would have been Sanitarian III in the old days.

MR. GARBER: But you are a Field Supervisor and what was the section?

THE WITNESS: The Soil Evaluation Section.

MR. GARBER: Soil Evaluation Section. That was the level you reached at the time of retirement?

THE WITNESS: Yes.

MR. GARBER: I wanted to make sure I had the right designations. Mr. Holzer, any questions for Mr. Powell?

CROSS EXAMINATION ON QUALIFICATIONS

BY MR. HOLZER:

Q. I had one, but I am not sure I should ask it now. I was going to ask, when I heard 37 years, I was

going to ask you, were you here when I was the County Attorney in 1978, but when I did the calculations --

A. I was.

Q. You were? Okay. Okay. You were in at that time the Health Department and I was the County Attorney?

A. Correct.

Q. And you were doing the same sort of thing?

A. Yes.

Q. Okay. And then subsequently through multiple changes of that Department of the Environment, all that stuff, you still stayed doing the same thing?

A. Correct.

MR. HOLZER: I have had the pleasure of having Mr. Powell as a witness that I had to cross examine years ago throughout those 37 years and I look forward to this, but he's certainly acceptable.

MR. GARBER: Admitted as proffered.

DIRECT EXAMINATION (CONTINUED)

BY MR. SCHMIDT:

Q. Mr. Powell, you have been to this property?

A. I have.

Q. How many times, do you know?

A. Twice.

Q. Okay. Are you familiar with the condition of the property, the soils of the property and the other sort of geographic or topographic features considered as relates to the feasibility of the septic system here?

A. When I conducted the inspection, we walked over the property, evaluated where one of the existing septic systems were, found the well location, the existing well location, and a general recognizance of the topography as well as other conditions.

Q. How about the soils or the soil conditions, is that a factor that you would ultimately consider?

A. We did not conduct any soil evaluation test. We used the USDA Soil Survey Manual to evaluate the soil series. The soils are mapped as a matter series as deep well drained, imposes little or no limitations regarding on site waste soil, waste disposal as a general evaluation.

Q. Okay. Let me ask you, Mr. Powell, just a little bit about the process in this case, the applicant getting approval of a septic system for the property for the use. What would they generally do and I assume that hasn't changed since you left and retired. What steps will they go through in order to get a septic system review and approval?

A. The initial step in a non residential situation would be a water usage report which I was contracted by the Congregation to provide, which I did. I spoke at length with a Board member. We visited the site twice and came up with a letter of usage based on the information provided to me using design guidelines for flows from the Maryland Department of Environment.

Q. Okay. And I am going to show you what is labeled, Ms. Murphy, I am going to have to give you a couple more copies of this, which I will get to you, but I am going to show you a document. You have a scope of it?

A. I do.

Q. Very well. So, I can give you three and I have one as well of a document in fact called a Water Usage Summary. Is this the document you are referring to and prepared?

A. Yes.

MR. SCHMIDT: And I am going to ask it be marked Petitioner's Exhibit 22, I believe it is.

MR. GARBER: Well, we had 21, but you withdrew 21.

MS. MURPHY: You were going to use the aerial but used Number Two.

MR. SCHMIDT: Yes, so it's 21.

MR. GARBER: The aerial was not received in evidence is not for identification. That's why this is 21.

MR. SCHMIDT: That's fine, that's fine.

MR. HOLZER: Could I interject, is there a resume that normally one presents a resume; in this case is there a resume of Mr. Powell?

MR. SCHMIDT: Mr. Powell's credentials are such I didn't think it was needed. He's only been

employed at Baltimore County, so there's not a history of a lot of employment. It's over 30 years.

MR. HOLZER: All right. I just asked the question. I didn't need a long explanation.

MR. SCHMIDT: I am giving you an explanation, long or short.

(Petitioner's Exhibit Number 21 was admitted into evidence.)

MR. GARBER: So we are back to Petitioner's Exhibit 21. Sorry for the interruption.

Q. Mr. Powell, the document I have offered or asked you to identify, is that the Water Usage Summary you prepared?

A. It is.

Q. I don't want you to read it to the Board, I am going too submit it, but generally tell us what that is, how it was prepared, whether it's been submitted and reviewed and accepted or not.

A. First we meet with the property owners and/or developers to establish a pattern of usage, especially in a situation where it's not something standard like

a residence. A residence, MDE, assigns, Maryland Department of Environment, assigns 150 gallons flow per bedroom per day. With a non residential application, each site is different and usage is different and each usage is different so it's inherent before you prepare the report to evaluate what the intended usage is and get to the details, how many people are visiting the site? On what occasions is food being served? Is food being prepared onsite or offsite? Will there be portable facilities for outside functions, are they going to use inside facilities? All that factors into an anticipated sewage flow which is factored into the preparation of the Water Usage Summary.

Q. Did you consider all those factors here?

A. I did.

Q. Kind of breaking it down, did you look at what I would say would be the typical usage say during the week?

A. I broke it down into the actual usage for a weekday, whether it be meetings and/or office staff in

the building versus and also looked at gatherings for high holidays and festivals.

Q. And I think that's noted in your report, is it not?

A. Along with weddings and what wouldn't be proposed and would not be in the building. I looked at, I asked the question specific to the site. I asked for all halls or churches, is there going to be a hall where food is served? The answer to that was no. Is the hall going to be rented out to either outsiders or to be used by members? The answer to that again was no. They told me the hall is specifically for religious purposes. There would not even be seating in the hall. The only time the hall would be used for anything else other than prayer would be for a wedding and the wedding would be, those in attendance would be the priest, the couple and immediate family only. All other functions outside of the wedding, like a reception, would be held in an offsite venue.

Q. How many bathrooms are there in the building,

if you know?

A. One and a half on the first floor and two and a half on the second.

Q. Is there any proposed change to that in terms of number of facilities?

A. To my knowledge, no.

Q. Is there a commercial kitchen in the facility?

A. There is not.

Q. There is a previous residential kitchen, but is the there a difference between a commercial kitchen and residential kitchen?

A. Commercial kitchen is when you have fryers and ovens, Code requires a hood with fire suppression and although I don't know the exact cost, I have been told those figures are well into the five figures. In addition, all the surfaces have to be stainless steel. The appliances must be stainless steel and cleaned. None of the appliances in there are stainless steel. It's residential appliances for a residential kitchen.

Q. Now, you prepared this water use summary report submitted to Baltimore County?

A. Yes.

MR. SCHMIDT: I would offer as the witness has described it as Exhibit 21.

MR. GARBER: Mr. Holzer.

MR. HOLZER: I don't know whether I can approve it or object to it at this point. If he is submitting it, he's submitting it.

MR. GARBER: So admitted.

(Petitioner's Exhibit Number 21 was admitted into evidence.)

Q. And Mr. Powell has that been to the best of your knowledge reviewed by Baltimore County?

A. We met with Mr. Kotroco, myself, Craig Rogers, him members of the groundwater management section of the Baltimore County Department of Environment. We presented our proposal, I explained the proposal and I received word back from Mr. Rogers two weeks later that the proposal was accepted. There was no approval to it, it's accepted because the sewage disposal reserve area will be based on the anticipated flows, peak flows that were outlined in my outside in my

correspondence.

MR. GARBER: So the plan was approved? S.

THE WITNESS: Yes.

MR. GARBER: So, that was communicated by phone or writing?

THE WITNESS: By phone by Mr. Rogers.

Q. You mentioned peak flows. What do you mean when you say that?

A. MDE regulations require that the design of septic system be based on peak sewage flow. The maximum daily flow for any given day of the year and there are guidelines regarding gallons per seat or gallons per person, depending on the type much venue being proposed. But the actual flows are about 60 percent of that. For example, a four bedroom house under MDE designed guidelines has a peek design flow of 600 gallons per day. It's based on two persons per bedroom, 75 gallons per person per day. I would venture to say that nobody has used that much water for a four bedroom house.

Q. Based on that, what is the next step to go

through in order to obtain approval for a septic system.

A. We would have to file for a soil percolation test application, showing the plan depicting the area and number of tests to be conducted. The tests would be conducted by the personnel from the Department of Environment and the decision rendered by the Department of Environment at that time.

Q. They would then, what, approve the location and design of the proposed septic facilities, is that how it works?

A. They would approve it or needed additional tests to move to an additional area, they would do that. There is ample room on the site for additional tests if some reason the test results were not satisfactory.

Q. Okay, I don't know whether you want to use the plan, Mr. Powell, but I understand the perk tests have not yet been conducted, is that correct?

A. To my knowledge as of about three or four days ago.

Q. Okay. Based on your knowledge of the site though and based on your knowledge of the soils, I assume or have you experience with other property in the vicinity of Baltimore County during your 37 years where you have approved septic systems in this area?

A. Each site is different. Each property is site specific. When I was employed by the County, I probably went above and beyond because people would come to me and ask me, what do you think of this, should I buy, what do you think the chances are to pass a soil test. And I would render an opinion based on geology, soils, what I know of the hydrology of the area, topography, all those enter into it and based on what I have seen on site and the mapping of the soils for this property, I feel confident that there will be a true septic area on this property to meet the intended usage.

Q. If the septic system is approved here based on the conclusions you just expressed, will there be any in your view from the operation of that system and a septic system, would there be any impact on other

properties, other septic systems on other properties, other adjacent wells or anything like that?

A. The septic system, given the topography and steep slopes that abut the western part of the cleared area and the eastern part would tell me there couldn't be a septic area within probably two or 300 feet --

MR. GARBER: I'm sorry, cannot be?

THE WITNESS: Cannot be. Those slopes are in excess of 25 percent. MDE regulations prohibit system or septic areas on 25 percent slopes, and furthermore, they required minimum setback of 25 feet from the slopes of the subject area.

Q. And do we have room on this property for a septic system in view of those slopes?

A. Yes.

Q. Plenty of room?

A. Yes.

Q. Okay.

MR. GARBER: You said 150 feet from the property line?

THE WITNESS: About 300.

MR. GARBER: 300 feet. Sorry.

MR. SCHMIDT: I don't have any other questions, Mr. Powell.

MR. GARBER: Just a general, I don't believe you answered the question as to whether or not it will impact adjacent properties, whether septic, well or other.

THE WITNESS: Oh, well, yes. This is an unconfined act which means the wells receive recharge from the rainfall and the surface infiltration within one or two acres area of the well site.

MR. GARBER: I am sorry.

THE WITNESS: Within one or two acres of the well site. It's not a coastal plane well where they are receiving the water from miles off site. The recharge area for this well is basically on its own property.

Q. And that applies to the other properties as well, depending on how the other property are, their wells are like in a confined area.

A. It's also unconfined aquifer, yes.

MS. DOPKIN: Was it also your testimony that the septic system would not affect adjacent property or would?

THE WITNESS: Correct, yes, they would if the system would not.

MR. GARBER: You can say that though we don't have a design or plan at the moment as to where it will be within the set location.

THE WITNESS: Like I said before, they can't be on steep slopes and the steep slopes surround, if I may -- Well, this plan doesn't show the topography, but their steep slope was here.

MR. GARBER: You are showing to the west steep slope.

THE WITNESS: To the west and below the three bedroom tenant house down towards the stream, that's all steep slopes.

MR. GARBER: What about toward the south?

THE WITNESS: The system would not be placed in that location. One, the existing system we believe is there that we are not going to be using.

And it gets in the lower topographic setting, which I am not comfortable placing the septic area.

MR. SCHMIDT: Where do you think it will be, Mr. Rogers?

THE WITNESS: Probably right in here.

MR. GARBER: Why don't you show us and also describe it for the record.

MR. SCHMIDT: If you can describe it on the features on that plan, either distances or in relation to dwellings or buildings.

THE WITNESS: It will be probably several hundred feet below the existing building used for worship just to obtain gravity fall at the lower level, basement level, for no other reasons than that.

MR. GARBER: Several hundred feet to the south of it?

THE WITNESS: Yes, sir.

MR. GARBER: Therefore, I assume then that the one that you think will be put in that location, that will be north of the existing one.

THE WITNESS: Yes, sir.

MR. GARBER: Because you said the existing one was even to the south.

THE WITNESS: The existing one I have been told is down by the barn. I advised the clients that rather than trying to attempt to use a system that is quite old that the County had no records on or property that's been vacant, I was told, four or five years, there is no way to assess its functionality. It would be best just to abandon it and do a whole new system so you know what you have going in rather than guess work.

MR. GARBER: Are there any other features of the property that define the location as to where the septic field could be?

THE WITNESS: There is an existing drilled well in a pit that used to serve the facility somewhere just above the existing, called the existing shed, the old pool house. It's in the pit. It's a drill well in a pit. It's not grouted by the nature of its construction. I recommended the well be abandoned. They were planning on abandoning it anyway

and drill a new well somewhere in the vicinity off to the corner of the building right here.

MR. GARBER: But my question was are there any other environmental features of the property that could confine where the septic field came down?

THE WITNESS: Other than the slopes and the actual regulations say 100 feet off of bodies of water not in the swales, but professional judgment dictates you don't go down to the barn, you stay high.

MR. GARBER: So, it would not be near any streams? What did you say?

THE WITNESS: Streams.

MR. GARBER: Not be near any streams and not be near any slopes.

THE WITNESS: Correct.

MR. GARBER: And just to follow up to something. You were moving kind of quick there. The next step, assuming this goes forward, the next step in terms of well and septic, you would have to go to soil perk test?

THE WITNESS: Yes, sir.

MR. GARBER: So you find the soil perk area and then that test is submitted to the Department of Environment for a decision?

THE WITNESS: Generally, the decision is made on the spot. And what happens then is the client would then hire a well driller to meet with the County on the property to identify a spot where the well could be drilled, the driller files for a permit with the County to drill a well, and then he goes out and drills, and files a completion report when done.

MR. GARBER: What about septic?

THE WITNESS: Septic would not be designed prior to the building permit. At that point in time a design that would be shown on the plan where the building permit would be approved and the clients would then hire a licensed septic contractor to install the system.

MS. DOPKIN: Is there also a requirement for a septic user area?

THE WITNESS: There is the State regulations for new construct or subdivision or land

require a septic reserve area of 10,000 square feet. That's based on the assumption that that's the number for one installation and two repairs.

For a larger non residential property, Baltimore County Department of Environment either code or regulations or policy, I'm not sure which, requires sufficient area for one installation and two repairs, hence, the requirement for water report, water usage summary. So, you can't determine how much area you really need until you find out how much waste you are going to be treating, then ascertain the soil conditions after the perk test and the valuation will be made, is there enough area for one installation and two repairs. If not, they have to go back out and dig it out to establish that area.

MR. GARBER: Sitting here today, there is no way to determine whether or not a septic reserve area, one would be required or feasible.

THE WITNESS: Oh, it's required. It's a non issue.

MR. GARBER: So, I'm trying to get the

terminology. You are talking about installation and repairs, I assume you are referring to the reserve.

THE WITNESS: The reserve.

MR. GARBER: So, as to the location, you can't opine about that sitting here today.

THE WITNESS: Correct.

MS. MURPHY: Is there a location for the septic reserve?

THE WITNESS: Correct. Yes. That would be the septic reserve area to serve both the three bedroom dwelling and the religious center.

MS. MURPHY: Would one septic system serve the sanctuary and the dwelling?

THE WITNESS: In this case, yes.

BY MR. SCHMIDT:

Q. Why is that, Mr. Powell?

A. The existing three bedroom dwelling was served by a metal septic tank that collapsed. I didn't bother to look for the field component. The field component would be located on slopes greater than 25 percent. Just the fact that it had a metal septic

tank tells me that the field system, if it still exists, is probably in very poor condition. Here again, why try and repair something that is old and again, we had no records, we, I'm talking like I'm still working for Baltimore County. The County had no records on, so it was recommended that a whole new system be installed to serve all the functions on the property.

Q. Mr. Powell, I mean, is the area that is available for septic, is that large enough to accommodate the underlying system, the reserve areas, repair areas? I mean, we have, this is a fairly large site, is it not?

A. It is, but I did rough measurements. I would estimate about 70,000 square feet maybe more available to be tested for waste disposal. If for some reason wherever the tests are conducted and there is a problem, they could move around the site. They have flexibility to move.

MR. GARBER: If I can, 70,000 square feet, is that all within the cleared area within the

property site?

THE WITNESS: Yes, basically. Once you get out of the cleared area, there is steeper slopes.

MS. MURPHY: How much area do you need for the septic reserve?

THE WITNESS: Depending on the usage proposed, they may decide to increase it a little or they may decide to keep it at 10,000 and see how the soil tests do. The soil tester deep bores 10,000 square feet may be acceptable for one installation and two future repairs. If there is heavier surface clay layer or some bedrock conditions that limit how deep you can go on the system, then the area would have to be spread out to a larger area.

MS. MURPHY: The 10,000 was for new subdivisions, residential area.

THE WITNESS: Yes.

MS. MURPHY: You are saying this large non residential property, that's the way you are classifying it.

THE WITNESS: Correct.

MR. GARBER: How much do you need for large residential or non residential.

THE WITNESS: It would be the same amount, one for one installation and two future repairs. Here again, it could be ten, 11,000 square feet it may be more depending on the results of the soil tests that's yet to be determined.

MR. GARBER: Going back to the 70,000 square feet available for testing, there is a minimum of 10,000 square feet needed for the system, two questions with that. One, does the 70,000 square feet include the prior septic area?

THE WITNESS: No.

MR. GARBER: So, that's already been being excluded from that rough estimate.

THE WITNESS: (Indicating nodding head up and down.)

MR. SCHMIDT: You have to answer the question.

THE WITNESS: I'm sorry. It takes some getting used to.

MR. GARBER: Thank you, Mr. Schmidt.

THE WITNESS: No, it does not include the original septic system. The sewer line from the mansion, from the building to the system will be intercepted, but that will be intercepted, but that will be removed.

MR. GARBER: The field itself is outside the calculation.

THE WITNESS: Outside that area.

MR. GARBER: And then the minimum 10,000, is that based on the use of the property that's been reported to you, that's how the property will be used?

THE WITNESS: My water usage summary's based on what the clients told me and I have, I had prepared the report and submitted it to the consultant prior to sending out, is this correct, is this accurate? And I was told, yes, and based on that, we submitted this to the County. The area that's required would be based on total flows in this report.

MR. SCHMIDT: Which includes festivals.

THE WITNESS: Which includes the festivals,

yes.

MR. GARBER: The property as maximum use as reported to you has already been accounted for within your summary?

THE WITNESS: Yes.

MR. GARBER: Mr. Holzer, sorry about that. But it helped clarify things for all of us.

MR. HOLZER: You have certainly taken all of my thunder.

CROSS EXAMINATION

BY MR. HOLZER:

Q. If I may, I mean, this is a little confusing. What is this plat that's marked as Petitioner's Exhibit Number 1? This is what you used to opine --

A. No.

Q. -- on your testimony?

A. No, I had a different plan that had topography, general county topography based on area photographs.

Q. And did that assist you in terms of being able.

A. Yes.

Q. Could we see that?

MR. SCHMIDT: Sure, if you have got it, Mr. Powell.

THE WITNESS: Yes. Somewhere.

MR. GARBER: Is that already an exhibit?

THE WITNESS: No.

MR. GARBER: There is an exhibit with topographical lines on it.

MR. SCHMIDT: I pulled one to explain the property, but --

MR. GARBER: If it's already an exhibit, we can reference it and use that.

THE WITNESS: This is October 20th, 2017, date on the plan.

Q. I asked him if the document that he has in his hand has more detail than the Exhibit Number 1 and he said he didn't think so, other than the topography?

MR. SCHMIDT: Mr. Garber, I'm looking at my exhibit list that I have been keeping and I don't see it, but --

MS. DOPKIN: It's on the traffic exhibit.
MR. SCHMIDT: What was it?
MS. DOPKIN: Only topography we have is a partial which is on Mr. Caloggero's.
MR. SCHMIDT: We can use this one.
THE WITNESS: You can look at this.
MR. GARBER: I thought I saw topographical lines on it.
MS. DOPKIN: It's not completed.
MR. GARBER: Sorry for the distraction, Mr. Holzer.
MR. SCHMIDT: I'm happy to mark this because it does show the topography, Mr. Holzer, if you can refer to it. I'm marking it as Petitioner's Exhibit Number 22, I think it would be helpful.
Just for the record, this is the plan dated October 20th, 2017. It's prepared by Little Associates, which is Mr. Motsco's company, and shows I think much of what's on Petitioner's Exhibit 1 except there are topographical lines.
MR. MURPHY: Mr. Holzer, Exhibit 22, do you

have an issue with that?

MR. GARBER: Mr. Holzer. Any issue with Exhibit 22 then?

MR. HOLZER: No.

MR. GARBER: You are fine.

MR. HOLZER: Since I called for it, I don't think I have an objection to it.

MR. GARBER: Thank you.

(Petitioner's Exhibit Number 22 was admitted into evidence.)

BY MR. HOLZER:

Q. All right. Where do we start? For those folks that are, have not been permitted to go on to the property, the neighbors and so forth that have not gone on to the property and you described a lot of different things that are existing and proposed, if there is no objection, I would like for you, now that we have the topography, would you stand up here and tell me where the existing well is and mark it on this Exhibit Number 1 and then where the existing septic area is and just your initials would be fine. I don't

want you to destroy what is on here. But can you do that for me?

A. I have not actually seen the existing septic system. I was told it was down by the barn and that was based on a contractor that had looked at the property. So I can't the attest to that.

Q. Well, let me just say, where is the existing well? And if you could just put your initials where the existing well is and I'll refer to it.

A. It will be approximate.

Q. I understand. I understand. I am not picking at you.

A. (Witness is drawing on the Exhibit 1.) Well pit, is that 12.

Q. Yes, we are together on that. That's all, well never mind, it just says we are old. And for the record, he has marked on Exhibit Number 1 that was up here a square marked well pit with his initials and today's date?

MR. GARBER: Do you need a pointer? Pen works.

Q. Now, you have indicated there is an existing septic system for the toilet facilities, I guess, on the existing building. I know it's not your testimony but what were you advised just so we got a general idea of where the septic drained to?

A. There were clean outs in the sewer line. There were clean out in the line running down from the building towards the direction of the barn.

Q. Okay.

A. Spaced every 150 feet or thereabouts and I was told that the system was in the vicinity, the field component, whatever it was, is in the vicinity of the barn.

Q. Okay, could you just do the same thing or you --

A. I cannot say, it's hearsay on my part.

Q. I don't want to put you in an uncomfortable position?

MR. SCHMIDT: But the barn is shown, Mr. Holzer.

MR. HOLZER: Yes. That's in the general

area of the existing septic.

THE WITNESS: (Indicating nodding head up and down.)

Q. Do you know whether or not that was for a single family home or commercial operation or can you describe what it is that you have been told it was?

A. The original usage was for a residence.

Q. Yes, yes.

A. So, logic dictates the original system was for that use alone.

Q. What would that have been back in the day?

A. Who knows?

Q. You don't know?

A. There are no records on Baltimore County data base that indicates the design of the system much less soil tests results, there is nothing.

Q. Is that because this has historically been a single family residence for years and years even before that kind of stuff was required?

A. I have no knowledge one way or the other.

Q. Okay. When did you first become acquainted

with this site?

A. When I met their consultant, Mr. Rogers, and a member of the Board of the Congregation on this site, June of this year.

Q. June of 2018?

A. June or May of 2018.

Q. And you said you have visited this site personally how many times?

A. Twice.

Q. What were the dates? If you don't know the exact day, approximate time?

A. First time, like I said, May or June, second time was July, probably mid July is my best guess.

Q. July, 2018?

A. Yes.

Q. Was there any activity on this site when you visited or was it just you and the representatives from the applicant?

A. First time I visited the site with Mr. Shara, who is a Board member, it was myself, Chris, Craig Rogers, their consultant, and they had a number of

members of the Congregation working on renovating the damage to the building.

Q. To the main house?

A. Main building, yes?

Q. And then the next time you met there --

A. I was by myself.

Q. You were by yourself?

A. Yes.

Q. You had no opportunity to see any activity from the standpoint of festivals or anything like that in regard to how the property was used when they were having the festival?

A. No, I was not at the festival.

Q. Or any festival?

A. Or any festival on that property.

Q. So we have got where the old well was, we have got where we think the existing septic is. Can you tell me, again, I heard the testimony but I couldn't follow it on this document, where is the new well being proposed?

A. I do not know if I have a location shown or

not. Let's see on this document, no, I do not. I was told that the well location was supposed to be somewhere off of the side of the drive, but I have no, I do not have an exact location on the plan.

Q. Instead of doing it on this new Exhibit 22, can you do it where you put the well, can you tell us, like you had to do it down here, but this is the other existing well.

A. I can't be sure.

Q. Would it be in this general area of the existing well?

A. It would be somewhere off of the drive.

Q. This drive here?

A. That drive, yes.

Q. You are referring to the circular drive.

A. Somewhere, here but I don't know the exact location.

Q. I am not asking for exact location. I have had a, and you said this well, was it almost like a hand dug well? Was it drilled?

A. No.

Q. Was it drilled?

A. It was a drilled well in a pit which means the well was not constructed to current standards by today's standards. New wells today must be drilled and grouted. This well by the construction that I saw, it obviously was not grouted. There was a jet pump in the building indicating they were pooling the water from a shallow, shallow level. It's very possible the well was not sufficiently deep to provide enough sewerage capacity to meet construction standards. I recommended drilling a new well. They had already intended to do that already.

Q. Basically, the well supplied the house over the years and that's all it needed for the residents?

A. It supplied the entire property.

Q. Okay. It supplied the barn, did it go all the way down to the barn?

A. Unlikely.

Q. Did it go to the existing shed, when you say it supplied the entire property?

A. There was a tenant house on the property right

off of the main building, the three bedroom dwelling --

Q. Right?

A. And there were remains of a pool house showing evidence of a bathroom. Given the well's location, it's logical to surmise those wells served three structures. The barn, I would suspect not.

Q. Generally, the existing well which was, let's say, well, let me ask you another way, having just done this on a piece of property I am aware of, we had a hand dug well which served the house and then under the new circumstances, we ended up with a 400-foot deep well; would that be the kind of well that this new well that you are proposing on there site be?

A. The depth of the well is determined largely by what the licensed well driller observes during the drilling process. When they are drilling, well they are using compressed air to blow the rock shavings out of the hole. Any groundwater they hit is coming out of the hole with it. They will look at the depth at which they hit the water and do a rough calculation on

how many gallons a minute the well appears to yield. Based on that they will probably will drill deeper to obtain storage capacity in the bore hole and another day do the yield test. If it passes the yield test, they will approve the well.

Q. Is there any water capacity that's needed for what is being proposed on this the use of this entire property?

A. Once they drill the well, do a completion report, a study will have to be made and it will be evaluated by the Department of Environment to determine is there sufficient capacity. It's combination of storage in the well casing and yield. There is a minimum yield of one gallon per minute recovery. There is also a minimum storage capacity for a two hour period that has to be met.

Q. Okay. Now, will the water that is being produced by this new well, based on what you just testified, will that serve just the house or how will it serve, let's say there is a festival and 200 people come to that and want to drink water from the well, is

that being accounted for or is it not?

A. There will be no food served on site except catered. They bring it on site, they serve, take it out, no food washing, food prep. There is no kitchen use of water for festival. There will be no use of bathrooms; they will use outside portable facilities for the festivals. So the water usage would be whatever they bring to drink, each individual family.

Q. You mean the individual people coming to this to a festival or event would have to bring their own water and wouldn't be calculated in terms of well production?

A. No, they would be bringing their own food or food will be provided along with drinks or snacks.

Q. Okay. We'll get into that. Okay. So this well would produce water for the existing main house, correct?

A. Correct.

Q. And for the two story dwelling right here?

A. Correct.

Q. Where there possibly may be somebody living

there on the property and that would be it from what I understand your notes, the existing shed and pool will be disregarded or be covered over?

A. I don't know what the disposition of the other out buildings will be, but they will not be utilized.

Q. Well, if they are not utilized, they will either be torn down or sitting there empty, right?

A. They won't be utilized, that's all I can tell you.

Q. Is that what was told you?

A. That is what I was told, it will not be utilized.

Q. You are basing everything in regard to your testimony on what you were told by the property owner?

A. If they were to utilize the shed, which is actually the old pool house, they would have to file for a permit to totally rehabilitate the structure, at what point in time the Department of Environment would receive the permit and review the proposal and make a decision regarding the adequacy of the outside facilities.

Q. Right now they have testified they are going to get rid of the pool and maybe the shed next to the pool. But suppose they decide to keep the pool, would they need, you know, to fill a pool, you need water, so would that be also supplied by this same well?

A. Normally not, the reason being the well water from that geologic formation would be rather acidic and corrosive. If they filled the pool, they would burn up the well in the process and the chemicals treating the water would be enough that generally all pools are filled from public water supplies, hydrants by the tank trucks you see running down the road.

Q. All right. We have sort of exhausted where the water is going to go or come from. Then the only other point is you have described the new septic area and septic reserve area. Is that saying the same thing?

A. Sewage disposal reserve area covers it.

Q. Somewhere that's going to be inside of the existing forest, wherever that forest may occur, is that right?

A. It will be in the cleared area, probably several hundred feet below the main building, the exact location I do not know.

Q. Okay. But several hundred feet would be down somewhere in here and I'm describing to the left of the existing building and probably north of the two story dwelling?

A. No, sir.

Q. Well, then show me.

A. It would be in the main area directly below the main building right in here. That would be the prime location if I were to design the layout for the system.

Q. So, for the record, what he has described is it would be to the left or the rear, I guess, of the existing home building and it would be a circular area above the 670 foot plus or minus line that is shown running to the about of the existing building.

MR. GARBER: When you say to the left, that's the west.

THE WITNESS: It's --

MR. HOLZER: It's actually to the southwest.

MR. GARBER: To the southwest.

MR. HOLZER: I could have him mark with a pencil where it is but if that's enough description, that's fine.

MR. GARBER: Just clarifying what you meant by left.

Q. And you are saying that Petitioner's Exhibit Number 22, which contains all of the elevation drawing, why is that relevant, why did you have that in your possession in terms of your testimony or your analysis of this site?

A. That's the information I was provided by the surveyor and it gave a good description and view of the property as far as the existing buildings and topography.

Q. But you didn't have Exhibit Number 1?

A. No, I did not.

Q. So that's all that were given?

A. Correct.

Q. Okay. I was wondering why you utilized that one. I was ad libbing those questions. Now, I have to go back to what my notes were. If you bear with me, I don't want to repeat.

You testified that the soils on the property were deep and well drained?

A. Correct.

Q. What does that mean?

A. That is based on the description provided by the USDA Natural Resource Conservation Service and it's a description of the manner series of soils. That's the main soils in that cleared area is a manor series.

Q. M A N O R?

A. Correct.

Q. Like Manor Road?

A. Correct.

Q. Now, did you review anything from the soil conservation part of Baltimore County to further educate yourself as to the soil?

A. No, sir, I pulled it off the web site for USDA

and RCS actually.

Q. Would soil conservation have any information that could be valuable to understand what the soils are on this property?

A. I used that information just to verify what I suspected as far as the soil conditions on the property and I am very well acquainted with manor soils having had 37 years of work in Baltimore County.

Q. I am sure you are. Describe manor soils in terms of its ability to retain water or not retain water or provide sufficient water in the well? I mean is manor soils go all the way down to three or 400 feet?

A. Manor soils are soils that are derived in place from weathered rock, in this case schist. Schist, S C H I S T, in case I slurred my pronunciation.

Q. We didn't misunderstand.

A. These soils are weathered in place. They are not eluvial, they are found on high topographical grassy settings on ridge lines, side slope shoulders.

They are not eluvial or colluvial. Colluvial means you are in a foot slope. We have a subsidence of soil being washed off of other areas and being deposited. That is not the case. These soils are generally soil surface clays running from two feet thick to four, five sometimes as much as six. The bedrock runs depends on each site. Like I say, each site is very specific.

Q. On this site, this is a unique site, isn't it, in terms of its height, in terms of it sitting very high in the general area of Harford Road?

A. I would not find it unique. I would just observe that it is on a ridge line, situated on a knoll and ridge line heading towards the south or south/southwest.

Q. Okay. Would manor soil be different if it was in the valley?

A. Then it wouldn't be manor soil. Each soil description is based on how it's formed. Is it formed by water deposition in which case it's a drainage swale or flood plane in which case it's colluvial.

Different characteristics. Different concerns. The soils that are on the ridge lines are generally weathered in place, in this area from natural parent bedrock.

Q. You have taught me this before in our past discussions, so I appreciate that. But when that driller starts, he's going to go through manor soil and through bedrock, is he not?

A. He's going to drill into bedrock, yes.

Q. The question is how deep he has to go in that bedrock in order to get the right quantity of water as to provide the service that this property and the people using it need, is that right?

A. He will make that decision on site while he's drilling. And there are a number of factors that come into that decision as to whether he proceeds or not.

Q. In other words, he may end up having to move the well, potential well new site to some place other than what they originally thought, correct?

A. If the site which is approved by the County and the driller is yields a well that is either

suspect or they suspect may not be satisfactory in yield, they will move to another site. Many times when the County meets the well driller on site, they will identify a well area, so if the driller is drilling and he hits what looks to be a low yielding well, he can move into another spot in the preapproved area, give the County a location of fact without stopping drilling operations, call the County and have them out a day later and have them approve another well while the rig sits on site not being used.

Q. Ultimately, it's up to the County to approve not only the site location but also the capacity of the well.

A. Site location comes first.

Q. I understand.

A. Then a completion report. Once they receive the completion report, then the County will evaluate the capacity of the well to serve the intended use.

Q. And that calculation by the County will be based upon what they have been told by you as the potential use?

A. Correct.

Q. Right. Now, you made it a point to say that this application that you marked that has been marked Petitioner's 21 is a non residential application, is that right?

A. When the water usage summary is required, it's generally always for a non residential application.

Q. Correct, correct. So, basically, that means that the way the Environmental Department or you would look at a well if they proposed to just use this house for a single family purpose or whether they proposed to use this property in this house for, I don't know whether I want to say commercial, but it's certainly none residential which means it's different from what was there before, right?

A. Can you rephrase that? There were several questions there I didn't --

Q. I'm sorry, I do that all the time. When the County, because you called this a non residential application, it means that in your mind there is a difference between the usage that existed on the

property, which was purely residential, to a usage that on the property that exceeds or is different from the single family use, right?

A. It's called non residential because that's the way the Baltimore County Department of Environment views the proposal. If it's not residential, it's something else, and then they require additional information to assure the adequacy of the facilities.

Q. Right. Right. So within the Department of Environment, DEPS, whatever you want to call it now, and it changes all the time, they want to make a distinction between the single family use and something that's not a single family use?

A. Baltimore County Department of Environment wants to insure the adequacy of the water supplied. If it were a residential use, the minimum requirement would be one gallon per minute irregardless whether it's one bedroom or ten. That's in-state regulation. When it comes to non residential use, that's when they want additional information to assure adequacy.

Q. So, we can almost be assured that the well

production from the new well will have to exceed one gallon per whatever?

A. I would not be willing to make that statement.

Q. Why not?

A. It depends on how much storage capacity is in the well. It depends on the size of the storage tank inside the building.

Q. How much storage is proposed here? You don't know that, do you?

A. Well hasn't been drilled. Until the well is drilled, it's all a moot point.

Q. So all of these different functions come after the well is actually built and then we'll know what kind of storage tank you will need, you will know how much water is contained in the well itself and then you can figure out whether it's acceptable or not.

A. That would be correct, yes.

Q. That's where DEPS or Department of Environment would come in and say yes or no?

A. Based on the completion report and the yield. Not just the yield but the amount of storage capacity

in the well that they will observe static water level in the well bore hole before initiating the yield test, that being the well driller.

Q. Right. So I think you have certainly answered that question.

Did you, have you in your report, I haven't gotten to your report yet, but the letter of usage, did you define the usage for each building?

A. I did.

Q. You did. So then I'll hold that question until I get to see your report.

Is it okay or permissible or okay is the best way to say, is it okay for the applicant to, at of today, as of yesterday, as of tomorrow, use the toilet facilities in the existing house?

MR. SCHMIDT: I'm going to object to the question. When he says it's okay, you mean from a regulatory standpoint, is it functioning?

MR. GARBER: Can you use it today is what I understood. If you and I were to go there today, could we use it?

MR. SCHMIDT: Can we use it? I thought he meant by a regulatory, does the toilet facility function?

THE WITNESS: To my knowledge, yes.

Q. So did you try it?

A. Didn't have the need to. Should I have --

Q. I didn't get that personal. I'll withdraw that question from the record. Okay.

Is it okay to use the existing well, drinking the water from the existing well, if you can even get it through the pipes?

A. I don't know. That's an unknown.

Q. You didn't try. And I'm not criticizing. You just didn't have reason to determine whether or not the well was functioning?

A. Because we are not, the plan is not to use the well, to abandon it, that really didn't enter into the discussion.

Q. Well, I just wondered, since you were in the Health Department, whether there was any concern that using the existing well with the water that it

produces could be dangerous to the health, safety and welfare to anybody using that property?

A. That determination has not been made.

MR. GARBER: You don't know if the water was treated previously?

THE WITNESS: There appeared to be no treatment devices on the water supply. I think there was a water conditioner in the well pit.

MR. GARBER: Do you know if that was functioning?

THE WITNESS: I don't know.

Q. In your opinion as a health person, is it safe to use water in an abandoned septic system? Is it safe to flush the toilet or use it in an abandoned septic system?

A. The definition of abandoned, according to the County Plumbing Code, is disconnecting from the system to the house or structure it serves. This system has not been disconnected. It's not considered abandoned.

Q. How do you know it's not been disconnected?

A. I didn't crawl down the sewer pipes, if that's

what you are asking.

Q. That's really what I am asking. It's easy to say certain things but harder to pinpoint the fact that you did or didn't check. That's what I am asking?

A. The clean out pipes in the sewer line leading from the main building down to the vicinity of the barns where we suspect the existing field system is located, those pipes were still there and still appear to be functioning. I did not conduct an inspection of the functionality of the system. Here again it's a moot point. It's going to be abandoned, back filled and new system installed.

MR. GARBER: The existing septic is going to be backfilled.

MR. SCHMIDT: I think he testified both the well and existing septic system that's existing are not going to be used, they are going to be discontinued and backfilled. That's why they are going to do a whole new well and septic system.

MR. GARBER: I didn't hear the backfilled

part before. I understood it was not going to be used. I just didn't know what was going to happen next as to the septic system as opposed the well was clear, the septic system, I didn't know.

MS. DOPKIN: Mr. Powell, does the County require that back filling?

THE WITNESS: For septic system and well, yes.

MS. DOPKIN: Thank you.

THE WITNESS: Septic system will be pumped out by a licensed scavenger or subject based hauler and collapsed and filled with cleaner. The well abandonment requires a licensed well driller to remove the cap. Under regulation they can fill the bore hole with rock dust to about 20 feet and the remainder of the backfill of the well casing itself is with cement grout. The pit is immaterial. The concern is the actual well bore hole that intersects the ground water. They want to make sure that it's an abandoned well but not backfilled providing the opportunity for contamination and the backfilling process eliminates

that concern, with respect to the septic system being backfilled.

MR. GARBER: Is there a period of time where that area cannot be used for any purpose, can't be used as part of the new septic field? Is it just to be abandoned and left alone for a period of time.

THE WITNESS: It would be abandoned and backfilled, depending on if they back filled with soil. Obviously, it will settle, but other than that, there's no restriction.

MR. GARBER: Is there a setback for septic field? How far a back from the existing house is it supposed to go?

THE WITNESS: Minimum requirement is 20 feet for septic area or septic component and a hundred feet from the well.

MS. DOPKIN: How far does the septic have to be from each other? Is that the hundred feet?

THE WITNESS: There is no requirement on the same property. It comes to best professional judgment. Obviously, if you are putting in a new

system you don't want to be immediately next to or adjacent to an existing system that's been backfilled. Other than that, I know of no requirement on the same property either in County or State codes

MR. GARBER: I this think Ms. Dopkin's question is the new septic field has to be at least a hundred feet from the new well.

THE WITNESS: Correct.

MS. DOPKIN: And do you know if it will be more than a hundred feet based on the rough areas?

THE WITNESS: It will be.

MS. DOPKIN: Based on where I believe the well is going to be drilled from what I have been told, it will probably be several hundred feet away if not more.

MS. DOPKIN: Do you know how far it will be from any well on any adjoining property?

THE WITNESS: Given that location according to this drawing, probably 400, 355 feet to be sure, probably closer to 400.

BY MR. HOLZER:

Q. Just the question. As a result of your answers dealing with the septic system and so forth and the water, did you advise your clients not to use the old system, either the old well or the old septic reserve area?

A. I have no recommendation one way or the other.

Q. Did you see when you were there the first time, the first site visit, did you see porta pottys on the property? Do you recall?

A. Not that I recall but I wasn't specifically looking for them.

Q. Well, porta pottys are the --

A. I understand what they look like, but I didn't look around all sides of the building to look for the john.

Q. Got you. And you were there to deal with the question of the well and the septic reserve system, right?

A. For the proposed development, yes.

Q. Exactly. So, okay. I have a picture here marked as Four for Identification for Protestants.

And your location of the septic reserve area, the proposed septic reserve area is in this area behind the --

MR. GARBER: One second, Mr. Holzer. People, please keep your voices down. I'm sorry for the interruption.

MR. HOLZER: Not a problem.

Q. Your testimony was that above the 6, 70-foot behind the building somewhere before the existing woods would be this area of the possible septic reserve area, is that right?

A. Approximately.

Q. I want to show you a picture of the one of the events that has occurred on the site. I see, you can look at it if you like, Exhibit 4 ID, you see cars parked on the grass in an area behind here's the existing facility. With the septic reserve area, would it be appropriate to be able to park vehicles on the grass and would that have any impact on the septic reserve area?

A. That's not the septic reserve area.

Q. I understand that isn't. I understand. That's why I explained to you there is the back of the building, there is the tree line, this is where the cars were parked on that particular day. My question is, assuming you find the proper location for septic reserve area, is it advisable or not advisable to allow parking on the grass on top of it?

A. That depends on the physical construction characteristics of the system components and the type of system.

Q. Well, 'splain.

A. 'Splain. If it's a standard deep in-ground system like a deep trench, we don't install dry walls. Baltimore County does not install dry wells or seepage pits any longer. It's deep trench systems.

Q. When you say deep trench, I have just gone through this on a piece of property, can you tell me what that means?

A. Deep trench is slot excavation in the ground two feet wide by a depth to be determined by the results of the soil tests. Perforated pipe is placed,

stone is placed in the trench up to within two feet of the ground surface, perforated pipe is placed on top of that stone, two inches of stone are placed on top of the pipe, geotextile fabric is placed on top of that and then the remaining 14 to 18 some inches is backfilled with clean earth. That replaced the seepage pits.

If there were to be parking over top of a system, you could engineer system components so that would not be an issue but it has to be known in advance. If the system design were a shallow pressure dosing system, shallow being defined as two feet deep, maybe 36 inches or sand mound, no parking would be allowed on top of the system because the soil has a tendency to compact the surface soil clay structure in the first one or two feet that would effect the functioning of the system.

MR. GARBER: If can stop there real quick. The answer is getting longer, getting more confused.

So, parking design can factor in a deep trench system, described as you did, two inches of

rock followed by perforated pipe, followed by more rock followed by geotextile fabric followed by soil on top.

THE WITNESS: Correct.

MR. GARBER: If it's not a deep trench system, you used another term to describe this.

THE WITNESS: Shallow pressured dosed or an above ground system.

MR. GARBER: I think we can figure out what a above ground system and I am sure we are not parking on top of the above ground.

THE WITNESS: Right.

MR. GARBER: So the shallow --

THE WITNESS: Pressure dosed.

MR. GARBER: How is that constructed?

THE WITNESS: Pressure dosed piping designed by consultant, which is what I do in my consulting work now. Piping sizes depending on the design range from an inch and a quarter to the inch and a half lateral Schedule 40 piping.

MR. GARBER: Is that PVC?

THE WITNESS: PVC, holes are drilled at specific intervals on the site. It's not standard pre-made three hole large perforated pipe that one normally sees during septic system installation. It's an engineered system, elevations are shot and pump requirements are ascertained. It's completely pressure dosed system that's a situation where you would not be allowed to park on it.

MR. GARBER: Do you have any idea which system would be used?

THE WITNESS: I doubt very seriously. I would say that 99 percent probability that these pre-engineered systems would not be necessary here. The soil, I expect to be deep and porous.

MR. GARBER: You expect a deep trench system?

THE WITNESS: Yes.

MR. GARBER: I'm sorry, Mr. Holzer.

MR. HOLZER: I would have the same question.

Q. Knowing that in an overflow parking situation,

because only 38 parking spaces are being provided for this site right here, right there, okay, 38, and if you have a hundred cars, they have to park somewhere, so why wouldn't you, as the expert, recommend that they go to the better facility or the one that you could park cars on top of?

MR. SCHMIDT: That's what he said. 99 percent sure it would be a deep trench system.

Q. The deep trench system, is that what you are saying, the one with gravel pipe gravel, that's what you would recommend?

A. Here again, the septic area we referred to, both you and I referred to, is 200 feet behind the dwelling. All this parking is in the front.

Q. I understand that. I said that to you before. I understand that. But there will be, above this area there will be grass planted, okay. And if it's grass, then you can have cars parked whether they are parked by the tennis court which is here or whether they are parked there, the point of the matter is the protection of the system would need to be the deeper

and better of the three that you have talked about?

A. When they file for building permit, the client will be required to provide where the overflow parking will be and the standard Baltimore County Department of Environment comments would be keep the parking out of the subject area if at all possible. If they can't, the system can be engineered and designed to accommodate that.

Q. Now, as the expert that's been retained to do this, I'm asking you directly, now that you have seen this photograph, now that you understand that vehicles are going to be parked somewhere on the grass, would you use that information to advise the County what should be required here?

MR. SCHMIDT: Do you understand the question?

THE WITNESS: I don't understand this question at all.

MR. GARBER: Please rephrase.

Q. You are the expert for the developer, right?

A. Correct.

Q. You have been retained to analyze all this, right?

A. I have been retained to perform the water Usage Summary Report which I have done and I offer advice and consult regarding the waste disposal system.

Q. Do you have any obligation ethically to advise Baltimore County that there may be mark parking on top of the septic area if it's grass?

A. That would violate client privilege, number one. If it were an issue, I would advise the client to do it. Nobody in their right mind is going to drive down the behind the building to park a couple hundred feet from the building and then walk up to use the facility. Let's honest here.

Q. I am being honest. That's an improper answer, because the question is do you or do you not have an ethical responsibility, former County employee, to advise the County Department of the Environment or whomever reviews this that you know that there is potential for car parking on top of the septic reserve

area?

MR. SCHMIDT: Objection. That's just an improper question asking this witness if he has ethical responsibility. What does that have to do with the special exception criteria?

MR. GARBER: I have to agree with Mr. Schmidt. I'll hear you out.

MR. HOLZER: I don't want to say anything other than to say it's okay to come in and preach, but if you are not going to require -- well, I'll tell you the answer, this Board can provide the requirement that that be analyzed by the County as a condition for approving this plan. That's the simple answer.

MR. GARBER: Well, I'm going to follow up on one point that you created. You would expect the Department of Environment would say keep the parking out of the septic area if at all possible.

THE WITNESS: If the parking being proposed was near the septic area, the Department of Environment would say, what are you planning to do for overflow or additional parking. At that time they

would require a fenced off area around the system so nobody could park on it, which has been done before by myself in other capacity in lives gone by, or they would say, if you are going to park over it, we want to see the engineered proposal to make sure the system can accommodate that.

MR. GARBER: Okay, so here I am trying to get to the phrase if at all possible, if there are other areas for parking, then you can possibly apparently avoid having to park on the septic area.

THE WITNESS: Correct.

MR. GARBER: Leaving aside the logistics that you just said, you are not going to park hundreds of feet away from the building facility, leaving that part aside, if it's anticipated any overflow parking to could go in that field, the County would require the engineered proposal to show the system would withstand that type of weight.

THE WITNESS: Correct.

MR. GARBER: Who does that engineered proposal?

THE WITNESS: Either the County or they would require the property owner to hire a consultant or engineer to engineer that proposal.

MR. GARBER: You could be that person.

THE WITNESS: I could be in a person.

MS. DOPKIN: Would civil engineers to that?

THE WITNESS: Normally not. I am not going to go into detail before the Board but there are ways to do it.

MR. HOLZER: Mr. Chairman, the actual reality is if no one tells the County that there may be parking on top of the septic reserve area or on the grass, if no one notifies them of that, then how are they even going to consider that anybody would be parking on the grass. That's something that occurs in this County daily. So, the only way that I can say, if the witness doesn't have the responsibility to tell them is that the Board has to indicate something in its decision, if you are going to approve this, that alerts the County because, frankly, I have been there, done that, seen this and I understand that if the

Board is concerned about that, and I suggest maybe you should be, then I think it's an obligation of the Board to make sure that it gets to the County reviewers, whoever they are. And the only way I see that can be done is if it's a condition if you are inclined to approve it.

THE WITNESS: Is there any obligation on the part of the Petitioner to notify the County of the potential of parking in the area that will contain the septic field once fully identified?

THE WITNESS: I would say yes.

MR. GARBER: Is that recorded on the document somewhere that is part of the permit application or how is that done?

THE WITNESS: That would be part of the site plan that would show the parking area and overflow parking or ancillary additional parking during higher usage events that what you normally would expect to experience during a weekday.

MR. GARBER: Is there a specific space in this project to avoid having parking in the potential

septic areas that you have identified for overflow parking?

THE WITNESS: I don't know that I am qualified to answer this. There is at least two or 300 feet behind the back of the building where the septic system will not be.

MR. SCHMIDT: Mr. Powell, in fact, on the photograph Mr. Holzer showed you, none of the cars were on the grass where the septic field is proposed?

MR. HOLZER: Objection. Objection.

MR. SCHMIDT: Following up on your question. I apologize.

MS. MURPHY: Aren't we still on your cross?

MR. HOLZER: Yes.

MR. SCHMIDT: I apologize.

MR. HOLZER: Is the Board finished your questions?

MR. GARBER: My question to you is how much longer do you think you will be with this witness or when do you think you will be wrapping up?

MR. HOLZER: I'll try and wrap up.

MR. GARBER: Just so we know how far we are going today.

MR. HOLZER: Half hour, 45 minutes.

MR. GARBER: Mr. Schmidt, he has half hour, 45 minutes more to go with this witness.

MR. SCHMIDT: Yes, sir.

MR. GARBER: I am assuming you will have redirect or something perhaps.

MR. SCHMIDT: Very little at this point.

MR. GARBER: Okay. So we are looking at somewhere between 45 minutes, maybe a little more. With that, so why don't we take a break at this time.

MR. HOLZER: Thank you.

MR. GARBER: We'll come back at 4:00 o'clock and we'll finish up with this witness. Thank you.

(A recess was taken from 3:52 PM to 4:03 PM.)

MR. GARBER: All right, everybody. We are going to get started to keep moving. I believe we were getting up close to wrapping up cross

examination.

MR. HOLZER: Yes.

Q. Mr. Powell, I'm looking at your Water Usage Summary and I just want to verify some things with you, so if you can take that out, Petitioner's Exhibit 21. Did your clients come to you before they acquired or purchased this property or after they had already purchased it?

A. I was contacted by Mr. Craig Rogers, who is a consultant for the clients. He asked me would I do the Water Summary Report. And the answer is that I was contacted I believe after they purchased.

Q. So you have already testified that the analysis or the language or the facts that you put in your Water Usage Summary basically came from your discussions with the applicants, is that right?

A. I prepared the initial report based on our discussions. I sent the narrative to Mr. Rogers and Mr. Shara whom I met on the property, and a Board member of Congregation and asked if this information was correct and I was told yes.

Q. I want to get through this quickly for everybody's benefit. In looking at the first page you described the facility, which I have no questions about, other than to say it's known as Bella Vista. Do you have any background on why this sight, whether it has any historical value or not?

A. I have no knowledge.

MR. SCHMIDT: Just objection. I am not calling him as, he's an environmentalist in terms of --

MR. HOLZER: I am asking questions of what he wrote, that's all. It's right there.

MR. GARBER: Okay.

Q. Under the words, the mansion, you have been told by the Congregation that you said or by the representatives that they have 800 to 900 members, correct? That's correct?

A. Which page are we talking about?

Q. Page one under the mansion.

MR. GARBER: Page two of the exhibit.

MR. HOLZER: Yes.

Q. On that same paragraph at the end, you said based on what you have been told, members of the Congregation coming to pray or worship will normally be there anywhere from 10 to 30 minutes. Is that correct? Do you recall them telling you that?

A. Yes, that's correct.

Q. Okay. You are also claiming in here it is anticipated that during the weekdays approximately 10 to 15 people will visit the site for worship, meditation and prayer. That's correct, that's what they told you?

A. Correct.

Q. During the weekend the number of those worshipping would increase to approximately 30 members, that's correct?

A. That's correct.

Q. That's what they told you. Now, going to the next paragraph under the mansion, it says, members may use the prayer room for a wedding ceremony and blessing by the priest, which may take up two hours but the celebration afterwards would take place at

another venue offsite. That's what they told you the use of the property would be?

A. Correct.

Q. And you included that, obviously, in this report. Now, they also said insofar as the tenant dwelling, did you actually go in there and determine there were three bedrooms?

A. Yes.

Q. And it is currently vacant?

A. Oh, yes.

Q. And because of how it looks inside, you could tell it's vacant?

A. It's been vandalized quite badly.

Q. Okay. And this, they are telling you that this building, tenant building, will be used for housing the priest and his wife, right?

A. Correct.

Q. It will not be rented out to any others, correct?

A. Correct.

Q. Yes. When it comes to other out buildings, it

says, no use is currently planned for this. And that's the barn. Do you know whether or not the barn is on some sort of historical or preservation?

A. I have no knowledge of that.

Q. You didn't, in your direction, your purpose, you are not concerned about historical stuff at all, were you?

A. That is not part of the contract with the clients.

Q. Right, okay.

A. That's not my area of expertise.

Q. Okay. They also said there is a swimming pool and a pool house, they are in poor condition and they are not to be used, is that correct?

A. That is correct.

Q. Okay. They told you when you talked about the outside grounds, which I think is important here, it says, there will be three or four outside festivals during any year, festivals to be held outside. Do you mean outside of the building, the main building?

A. Outside of the main building, yes.

Q. Generally in front of the mansion, correct?
A. Correct.
Q. That's what you were advised?
A. Correct.
Q. Okay. You were also advised that there will be no food preparation, warming or cleaning of dishes in the kitchen inside the mansion, is that right?
A. Yes.
Q. Okay. What if they propose to prepare food in the kitchen, would that go against what you were told by them as a condition?
MR. SCHMIDT: Objection.
MR. SCHMIDT: Mr. Holzer, what if this is wrong, then it would be wrong.
Q. I don't like that question. My question is are these limitations conditions or binding on your client in terms of the use of the kitchen?
A. They are not binding but use of the kitchen for serving or warming food would require review and approval by the Health Department who would then have to certify the facility as a food service facility

which then requires extensive renovation to the existing kitchen.

Q. Okay. Have they started renovating the kitchen, by the way?

A. The kitchen doesn't need renovating in my opinion. I was commenting to the young lady here that my wife would love that kitchen. That's why I don't dare bring her on the property, I'd be in deep trouble.

Q. I heard you say that, that's why I asked you the question.

MR. GARBER: You know are on the record twice here, right?

Q. No. So, really, my question to you is if you are presenting to this Board the fact under your summary that that's what you were told and then for them to come back and utilize the kitchen after the Board's made its decision one way or another, would that be fair to the Board from the standpoint of should they attach a condition to the approval that says you can't use the kitchen?

A. Well, I'm not going to tell the Board what they should do, number one.

Q. Good, okay.

A. Okay. Number two, if they were to change their mind and decide they are going to serve food there, that would instigate a review by the Department of Environment and Health Department in Baltimore County which would require additional review regarding flows, projected flows, et cetera, which could effect many things. But they have not done that.

Q. How would the County know, if no one, no neighbor is permitted on the property, they are using the kitchen and nobody reports it to the, nobody reports it to the County; how would this County know?

MR. SCHMIDT: Objection. I mean, these questions are so speculative, Mr. Garber. And Mr. Powell, how about if they put a MacDonald's restaurant behind the building but they don't allow the neighbors to come on the property, wouldn't that change things? That's the nature of these things. We are making a proposal without changing the building.

MR. GARBER: I would say to Mr. Holzer, yes, there's a possibility, put whatever conditions you want on the property, people may violate those conditions, it may never been known. It happens every day in every situation.

MR. HOLZER: Exactly.

MR. GARBER: So your point is should it be a condition or not. I don't know that this witness is going to be able to say in light of your questions whether or not it should be based on the fact that somebody could violate it or not violate it or whether or not it takes a binding representation or any of that other stuff. Those are matters probably toward the end of the case unless you want witnesses to present those points.

MR. HOLZER: I have examples when we present our case where the County has ignored the request. That's all I'll say.

MR. GARBER: You have said that in the past.

MR. HOLZER: Yes.

MR. GARBER: I am looking to forward to hearing your evidence.

MR. HOLZER: I am not sure you are.

MR. GARBER: So the objection is sustained.

BY MR. HOLZER:

Q. I'll go back. To the best of your knowledge, the client, your client has agreed not to have food preparation in the kitchen?

A. Correct.

Q. Otherwise, you would not have put it in your report?

A. Correct. I asked that question specifically.

Q. Okay. Good. You were given certain festivals, outside festivals. You list them here, Holi, H O L I, you have indicated that they suggested that the attendance would be between a hundred and 200 people, right?

A. That's what I was told.

Q. Summer festival is number two, a hundred and 200 people, correct?

A. Correct.

Q. Number three, D A S H I N I, biggest event in the year, mid October, ten day festival, last three days will increase the usage of the mansion by as many as 50 members, is that correct?

A. As many as 50 members coming for prayer or worship in the mansion.

Q. Yes, and last day brings approximately 200 people; you were told 200 people?

A. I was.

Q. The fourth one was Diwali, D I W A L I, I'm not going to ask you a question because that's fairly clear. As to what you were told under 2-B is, again, the mansion, all of the outdoor festivals will not entail usage of either the kitchen or food preparation or clean up, nor will the bathroom facilities, one and a half for the first floor, be used while attending the festival. That's what they told you to put in the report?

A. No, that's what they told my and I put it in the report.

Q. And you included in the report. They didn't

tell you to put it in the report?

A. I asked very specific questions, day by day operations, so I included all that in the report.

Q. Then you concluded what the highest usage is under small 1, 2 and 3?

A. Correct. That's the worst case scenario.

Q. That's the worst case scenario. Now, under six, little six, you added the qualifier, in consideration of the unforeseen possibility of additional meetings and/or staffing arising in the future, the Congregation is proposing or requesting that the design flow of the sewage flow system will be 700 GPD. That's what you were told.

A. That's correct, that was at my suggestion.

Q. That was at your suggestion. And what would be the design flow that would be below 700 GPD? Was there one?

MR. SCHMIDT: 699.

MR. GARBER: Let's keep to the questions and answers best as possible. So, your question is?

Q. The question was very straightforward from his

report. In consideration of the unforeseen possibility of additional meetings or staffing arising in the future, they are proposing the design flow be 700 GPW. So that implies to me as the reader there must have been some lesser design flow in the event that everything as you set forth in the prior page was not overstepped or not increased. You don't understand that question. I'll ask it --

A. My mother as a teacher would qualify it as a run on sentence. Can I say this?

MR. GARBER: Everyone, one at a time. I hear three people talking at once. You asked a question of the witness, you understand the question?

THE WITNESS: All right, let me try to answer it. You tell me if that's not correct. Subsection 5 under 2 says, MDE regulations and I quote, the regulation stipulates a minimal flow from non residential usage of 400 per day. That's the Code.

Q. Yes.

A. Everything below that is really a moot point.

If you exceed that then you have to design for the peak flow that exceeds that.

Q. Right.

A. So the minimum base design flow would be 400 gallons per day. I advised the Congregation if unforeseen circumstances start to happen where you have more meetings on the second floor, I'm talking about meetings, not social functions or parties, it would be advisable to increase the flow now so the system can accommodate it without having to worry about overtaxing the system five or 10 years down the line.

Q. That was really simple to answer, wasn't it?

A. I don't know we'll find out.

Q. So like I asked you, what you are saying is that the normal non residential growth requirement is 400, but you've upped it to 700 based upon things that are not foreseen or additional meetings or staffing. So, would that include growth of the Congregation from what was presented to you to a potential higher number?

A. Growth of the Congregation did not come into that decision, but growth of the Congregation, it would accommodate that considering the minimal usage that the facility will receive.

Q. Well, then what was it if it wasn't the growth of the Congregation, what was it that under your urging they moved it up to 700, what circumstances, what specifics?

A. Hiring additional staff, hiring maybe having additional meetings for the Congregation.

Q. Anything else?

A. To my knowledge, no. And there was nothing else other than what I have just stated that went into that consideration.

Q. Okay. We have already talked about the location of the septic system, so I'm not going to get into that or the age of it or what they desire. It a commitment of your client that you are representing to the County that the swimming pool will be abandoned?

MR. SCHMIDT: If you know, Mr. Powell.

A. I know they have told me that swimming pool

will not be used. That's all I have been told.

Q. That doesn't mean, it might not be used but is it going to be destroyed, leveled or filled in?

A. I have not received such information.

Q. Okay. We talked about the depth of the well and you don't know. When you met with the County and DEPS or Department of the Environment, Mr. Rogers okayed this report by phone?

A. I e-mailed the preliminary report to Mr. Shara and Mr. Rogers and Mr. Rogers I believe e-mailed me and/or called me and told me it was fine. I believe it was an e-mail.

Q. Okay. Okay. Did the County Department of the Environment Protection and Sustainability approve this?

A. I was told by Mr. Rogers it was approved by a telephone call two weeks after it was submitted.

Q. Do we have any documentation of that, and in DEPS who would have been approving it?

A. It would have been the supervisor of the well program and/or the manager of the groundwater. Not

the well program, the septic program. My bad.

Q. So, you really don't know whether it's true or not unless you believe Mr. Rogers, correct?

A. I've dealt with Mr. Rogers professionally for over 20 years. I have never known the man to lie to me, he's straightforward. I trust people who tell me the straight lines and don't BS me.

Q. That's great, I appreciate that.

A. I took his word for it. I believe I had a follow up conversation with the supervisor of the soil evaluation program on the job site. Her name is Mia Lowery, by the way. I verified with her that yes, it was approved.

Q. Mia Lowery?

A. Mia Lowery, L O W E R Y.

Q. She's with the department?

A. She has my old job, Environmental Department, soil evaluation inspection, supervisor.

Q. When you talked to her and confirmed it, did she indicate to you that there was documentation of the approval?

A. I did not ask, she did not say.

Q. Okay. So --

A. I would point out that Groundwater Management Section will not approve a soil percolation application on a non residential property until a water flow analysis has been submitted and approved. That is the checkpoint.

Q. Okay. So what you are saying is if I summoned Ms. Mia Lowery, your old position, if I summons her to come to this hearing, she will confirm that the County on such and such a date has approved the Water Usage Summary you have submitted?

A. Yes.

MR. HOLZER: Thank you. That's what we'll do. No further questions.

MR. GARBER: Mr. Schmidt.

REDIRECT EXAMINATION

BY MR. SCHMIDT:

Q. Mr. Powell, just a couple. I think you mentioned that the minimum distance between a well and a septic system, septic reserve area or sewage

disposal reserve area, I'll try using the right technology, on the property is 100 feet, is that correct?

A. Yes.

Q. Is that a State requirement or County requirements?

A. Both.

Q. Is there a similar requirement as it relates to the distance between a sewage reserve area or sewage disposal reserve area and an adjacent property or property line?

A. Ten feet.

Q. Okay. How about a well on another property line or another sewage disposal area on another property line, is there any such requirement?

A. Sewage disposal area on another property there's no requirement.

Q. So you can have two of them right next to each other on two properties potentially?

A. The well, minimum 100 feet, if it's directly, depending on the situation, if it's directly uphill

from an adjacent well, a greater distance might be required. But we are 300 feet, 355 feet from the nearest potential septic area on the site property line. That will not be an issue.

Q. You are not near an adjacent sewage disposal reserve areas, i.e., septic systems or wells on any of the adjacent properties?

A. That would be correct.

Q. Turning back to your report, your report had a number of comments about the festivals that occur, and I would point out there is a festival at this time which is why some of the ladies here are dressed as they are. But in any event, the numbers that you gave in terms of the 100, 200 people that might be there, is that for the entire festival or is that at any one time?

A. That is for any given, the peak day of the festival, as I was told from the summer festival is what we are talking about?

Q. Right, for example, 100, 200.

A. That would be the day of the festival?

Q. That would be the full day.

A. Right.

Q. There might be a hundred people, 200 people spread out over 10 hours, 12 hours, whatever, as opposed to at one time?

A. Yeah.

Q. Your report indicates that for those events, there would be porta-johnnies or porta-potties brought in, correct?

A. That's what I was told, yes.

Q. Turns to the last page of your report, I just want to make sure I understand it. This is the section you talked about in answering Mr. Holzer with the Roman numerals under subsection two, Roman numeral IV, this is on the last page, your maximum total flow generated by the facility as you computed it would be 360 gallons per day. Am I reading that correctly?

A. That's correct.

Q. And that's broken down between the wedding being there, the staff being there, and then there being a meeting there and that would generate

360 gallons per day?

A. Yes.

Q. Then under Roman numeral V, because this is a non residential, the COMAR, C O M A R, requires that the minimum being 400 gallons per day. So even though the projection was 360 per day based on the numbers of people, you actually had the minimum baseline under the COMAR requirement is 400 gallons per day, is that correct?

A. That's correct.

Q. Under you Roman numeral VI, as I read it, you essentially, basically, from the projected nearly doubled that to engineer it to be 700 gallons per day. Is that correct?

A. That is also correct.

Q. Okay. You haven't actually, I think you indicated, I'm not going to ask you about your personal habits, you didn't attempt to use either the toilet facilities or the spigots or sinks or anything in the dwelling?

A. No, I did not.

Q. Okay. You don't know if they are working or not?

A. I have no idea.

MR. SCHMIDT: Okay. I have no other questions of Mr. Powell.

MR. GARBER: Just to clarify a point here, if you look at the Roman numerals again under B-1 through 6, as I understand it, you have 300 gallons per day assigned for a wedding which would estimate a hundred people attending that wedding, correct, three gallons per person?

THE WITNESS: Yes, sir.

MR. GARBER: Okay. So, I'm just trying to figure out, if they are not going to be use the facilities, that's the understanding reflected within the Roman numerals, then we can go into that calculation, is that correct, the 300 down?

MR. SCHMIDT: Mr. Garber, I think they wouldn't be using the facilities for the festivals is what he's saying.

MR. GARBER: Well, I understand for the

wedding too, is that being accurate?

THE WITNESS: They may be using the facilities for wedding, and it was explained to me that only the family and immediate couple are there in the hall for the actual ceremony. There may be as much as a hundred people on the property.

MS. MURPHY: I'm sorry, one second. I can't hear because you keep talking. It's a mumbling sound. So can you repeat what you are saying?

THE WITNESS: You mean can I remember what I said.

MS. MURPHY: You are also being taped, everything you are saying right now can be recorded. So go ahead.

THE WITNESS: As it was explained to me, the wedding is only attended by the priest, the couple and immediate family. I was told there may be as much as a hundred people on the property, but not necessarily in the hall, I assumed to congratulate the couple when the ceremony is completed. If for no other reason, it's a two to three hour ceremony, long

time standing. But the worse case scenario they would have the opportunity to use the facility. That's why I included it. All of this I had put in there is worse case scenario, keeping in mind the State requires the system flows be calculated use peak flows, not the average normal flow, is probably 60 percent of that.

MR. GARBER: Okay. So I am just trying to get to how you came to the numbers. Going to the staff, 30 gallons per day is based on three staff members?

THE WITNESS: Two staff members, 15 gallons per person per day. MDE guidelines recommend, so I just went with that.

MR. GARBER: Trying to figure out why the staff would be at 15 gallons a day, meeting of the Board of Trustees, 10 people, that's three gallons per day.

THE WITNESS: Well, staff will be there during normal business hours I'm assuming from like 9:00 to 5:00 or 8:00 to 4:00, where a meeting, if it's

anymore than two hours meeting, it's too long.

MR. GARBER: It's because staff would be there longer during the course of the day as opposed to a meeting, wedding or whatever else brings people to the facility.

THE WITNESS: Correct.

MR. GARBER: Then 700 which was trying to accommodate an increase in meetings and an increase in staff, does it also accommodate an increase in maybe the number of attendees for a wedding.

THE WITNESS: It's a really nebulous figure, that's why I added extra to be on the safe side. I don't know if anybody goes to a wedding where somebody is at the church door counting, 100, you can't come in anymore.

MR. GARBER: I am curious how you came to 700 as that number as opposed to, for the sake of argument, 500.

THE WITNESS: Nothing magical. I just decided that that would probably be error on the side of caution.

MR. GARBER: With that in mind, Mr. Holzer, do you have any further questions?

MR. HOLZER: No.

MR. GARBER: Mr. Schmidt?

MR. SCHMIDT: No, we do not.

MR. GARBER: Board members?

MS. MURPHY: We have to analyze special exceptions. Do you have an opinion as to whether or not the new well and much septic will have any effect on the aqua streams.

THE WITNESS: No.

MR. GARBER: Any follow up?

MR. HOLZER: No.

MR. GARBER: I thank you, sir, for your time. Mr. Schmidt?

MR. SCHMIDT: I have no other witnesses for today. I did have two documents just because I wanted to put into evidence as they are related to the public domain and something earlier which was said. I'll give a copy to Mr. Holzer, I think he may have asked about these. But I have a copy of the shark fin

shaped property, just a copy of the deed by which the State Highway Administration acquired it in 2015. I have a copy of the deed, if I can enter that as the next exhibit. That's obviously from the Land Records of Baltimore County.

MR. GABER: 23.

MR. SCHMIDT: I also similarly have a copy of the printout from the State --

MR. GARBER: Sorry, Mr. Schmidt, you are saying.

MR. SCHMIDT: I have a copy of the printout from the State Department of Assessments and Taxation as it relates to the property and reflects the transfer as well. I'll mark them consecutively.

MR. GARBER: 23 and 24. By way of housekeeping to make sure this has been done. 21 and 22, Mr. Holzer, you didn't have objection to those?

MR. HOLZER: No.

MR. GARBER: 23 and 24 you have no objection.

MR. HOLZER: No.

MR. GARBER: 21 through 24 are admitted.

(Petitioner's Exhibit Numbers 21 through 24 were admitted into evidence.)

MR. SCHMIDT: I believe all exhibits One through 24 are admitted on my side. Mr. Holzer has some for identification only, but just to make sure that those are properly admitted. I believe that to be the case.

MR. GARBER: Mr. Holzer, that's your recollection too.

MR. HOLZER: Whatever he had said.

MR. GARBER: With that in mind.

MR. SCHMIDT: I don't have any other witnesses at this time. It may very well be the Petitioner's case. I do want to just reflect on what has occurred here today in case there is anybody I would bring. That's what I anticipated. I didn't bring any other witness. I did for example potentially have Mr. Rogers on call because I knew Mr. Powell was going to refer to his testimony, for

example. I don't know that I will bring him in. He may be rebuttal, if need be.

MR. GARBER: That leaves us in a bit of a pickle. If that's the end of your case today, we can start with Mr. Holzer's case today and maybe get one or two brief witnesses in. Are you done?

MR. SCHMIDT: If you want to do that, that's fine with me.

MR. GARBER: Mr. Holzer, do you think you can squeeze here today?

MR. HOLZER: I can present one witness who's related to the Kingsville Community Association position, would take about five minutes.

MR. GARBER: For purposes of the letter from earlier and whatnot?

MR. HOLZER: Yes.

MR. GARBER: Mr. Schmidt?

MR. BERNSTEIN: That's fine.

MR. GARBER: Well, then do I hear that you are closing your case out?

MR. SCHMIDT: Subject to --

MR. GARBER: Not including rebuttal.
MR. SCHMIDT: Yes.
MR. GARBER: So your direct case is done resting on your direct?
MR. SCHMIDT: Yes.
MR. GARBER: You want to be heard before you call a witness?
MR. HOLZER: I want to be sure it wouldn't be something carried over to the next day, the October date. But if he's finished --
MR. GARBER: That would be my concern here too.
MR. SCHMIDT: If you have a witness you want to bring in, that's fine.
MR. HOLZER: That's not the question. I have a witness I can put on. My question is I want to make sure that you are not reopening your case in October at the next hearing date.
MR. GARBER: On direct.
MR. HOLZER: On direct, right.
MR. GARBER: If you have reservation about

it, now would be the time to voice that.

MR. SCHMIDT: Well, I do have a reservation about it because I was trying to accommodate the Board and use all the time. Then I would ask we recess for the day, given the hour, and I'll close my case either at the beginning of the next hearing or not.

MR. GARBER: Mr. Holzer.

MR. HOLZER: That's acceptable to me.

MR. GARBER: That's where we are at. If there is any problem on the 11th, you will get notification of that. I anticipate knowing the answer to that is myself shortly. Otherwise, I'll see everyone on October 11th.

MR. HOLZER: Yes.

MR. SCHMIDT: Thank you.

MR. GARBER: Thank you.

(The proceedings were adjourned at 4:37 PM.)

CERTIFICATE OF NOTARY PUBLIC/REPORTER

STATE OF MARYLAND

HOWARD COUNTY, to wit:

I, Patricia A. Cirasole, a Notary Public in and for the State of Maryland, do hereby certify that the within-named witness personally appeared before me and, after having been duly sworn by me, was examined by counsel.

I further certify that I am not an employee of counsel nor related to counsel or the parties in any way and have no interest in the outcome of the proceeding.

I further certify that the reading and signing were specifically waived by counsel and the witness.

As witness my hand and Notarial Seal this 3 day of October, 2018.

Patricia A. Cirasole, Notary Public

My Commission expires June 14, 2021.

1

1 4:18 26:13 68:9, 19,21 237:14 238:17 239:19 240:20 241:13,17 254:18 296:5

1.77 13:14

1/15 100:10

10 16:13,19 28:14 30:21 48:18 123:5 124:14,21 126:9 128:3,4,14, 15,17 130:21 131:19 143:12 184:21 202:5 287:4,8 298:11 305:4 309:17

10,000 231:1 234:8,9,15 235:10 236:10

100 69:18 229:7 303:2,20 304:14, 20 310:14

10th 106:14 107:4 111:21 116:12 119:21 140:9 159:3

11 16:14,19 29:4, 11 54:8 129:14 143:11,18,20 145:3 148:7 150:11,21

11,000 235:5

11424 84:18

11:07 103:4

11:30 103:5

11th 5:13 316:10, 13

12 29:10 54:10,14 55:17,20 56:11, 21 57:4,11,14,17 154:15 155:19 157:9 241:14 305:4

12:26 152:15

12:30 151:2

13 30:3,8 48:18 56:10,17 57:2,5, 12,15,18

14 30:12 58:2 273:5

145 65:12

147 160:1,3 161:13 162:16 166:10

15 28:14 30:16 33:16 48:18 50:4 52:9 62:20 63:3, 20 158:2 287:9 309:12,16

15-A 8:14 31:5,16 52:12 53:4 54:11 55:4 175:19 202:13

15-A&B 8:14,17

15-B 8:14 31:6,17

15-C 8:14

150 217:2 224:19 242:10

155 80:7

16 33:16 65:17 158:2

16-A 8:14 9:11 10:5,7 11:13,14 65:2,5 175:19

16-A&B 8:15,21 9:8

16-B 8:14 58:20 71:8 79:7,12 88:12 144:8 150:7

16-C 60:1

16th 10:14,17,18, 20

17 10:14,19 11:18

17-A 12:2

17-A&B 10:18

17-ABC&D 10:3

17-D 11:8

18 12:13 13:10 14:3,12 64:10 273:5

18-122-X 4:3

180 77:11

1800 136:20

1800's 138:6

19 19:7,10 26:1, 13,15 27:5,19 28:1 34:7 35:1 39:8

190 68:10 69:6 79:9,13 87:19

1978 212:2

1:13 152:15

1:15 152:7,9

1st 185:2,3

2

2 4:18 23:17 68:9, 19,21 195:6,8,17 296:5 297:16

2-B 295:12

20 28:6,14 31:18 32:7 34:7,12 36:21 48:14 69:18 87:7 118:18 123:6 125:13 126:10 182:19,21 185:21 186:4 210:2 267:15 268:15 301:5

200 60:18 73:15 74:17 79:16 149:13 159:12,13 249:20 276:13 294:16,20 295:7, 8 304:14,20 305:3

2011 75:13

2013 84:20,21 85:2

2014 208:8

2015 312:2

2016 129:14 185:2

2017 100:11 129:15 238:14 239:17

2018 6:21 100:9, 13,17 106:14 129:15 185:3 244:5,6,14

20th 238:14 239:17

21 194:10,13,21 195:1 215:8,9,12, 15 216:7,10 220:3,9 260:4 285:6 312:16 313:1,2

21228 207:6

22 215:7 239:15, 21 240:3,9 246:5 254:10 312:17

23 129:15 312:6, 15,19

24 312:15,19 313:1,3,6

25 224:9,10,11 232:21

250 73:16 74:19

3

3 4:4 6:21 16:3,8, 12 296:5

30 22:17 23:4,5 32:16 38:1 42:20 73:14 74:16 92:11 159:9,16, 21 163:15,18 165:12 168:21 170:2,16,19 180:18 182:20,21 186:15 192:14 196:8 216:2 287:4,14 309:10

300 53:1 90:5 224:6,21 225:1 283:5 304:2 307:8,17

305 72:4,8,13 73:16 74:21

33 210:8

33-35 210:8

331 159:18

335 159:17,19

345 60:7 68:2 76:20 80:4

35 41:7 73:15 74:19

3500 109:7 116:4, 5

355 158:4 159:3,6 269:19 304:2

36 273:13

360 75:1,4 160:17,21 161:1 305:17 306:1,6

365 50:8,14,20 51:6 53:5,6 122:7 158:21

37 208:11 211:21 212:16 223:4 256:8

38 276:1,2

3:52 284:17

4

4 23:17 25:2 271:15

40 41:7,10 46:16 72:3 73:16 74:21 274:20

400 256:13 269:19,20 297:18 298:4,17 306:5,8

400-foot 248:12

41 129:16 130:4, 10 131:2 185:1,5, 8

421 207:5

425 75:7,9 153:20 154:5,12 161:4 162:19 163:9 166:10,16 167:10 169:7

45 72:8 75:1,4 81:11,16,17 84:1 85:18,19 92:10 152:6 160:1 161:1,12 163:6 165:7,8 187:15, 17,19 284:3,5,11

48 152:8

496 160:2,16

4:00 284:14 309:21

4:03 284:18

4:37 316:19

4th 27:16

5

5 297:16

50 46:16 75:2,5 81:10,21 83:5 84:2,11 85:7 92:10,13 153:19 154:5,12 161:2, 13 162:16 163:5, 9,12,16,20,21 165:7,13 166:16 167:5,9 168:2,15, 18 169:3,10 170:1 171:3,9 173:18,19 182:8 187:18 295:4,5

500 310:18

52 122:7

551 163:1,10 164:2 165:14 166:12,17

555 166:20,21 168:3

5:00 309:21

6

6 7:7,8 271:8 307:8

60 46:16 196:8 221:15 309:7

600 221:17

670 253:17

68th 75:13

699 296:18

7

7 26:21 129:15

7-A 82:18 83:10, 11,19

7-B 85:4

7-C 85:10

70 52:17 53:6 61:14 75:16,17

70,000 233:15,20 235:8,11

70-foot 271:8

700 296:13,16 297:4 298:17 299:7 306:13 310:7,17

75 221:18

8

8 26:21 107:1 118:8,13,17 120:16 122:18 123:3,5 124:14, 20 143:12

80 61:14

800 286:16

8:00 309:21

9

9 26:14 113:21 114:1 115:17,18 118:5,14,18

90 164:21 193:19 197:10 198:6

90-degree 23:2 196:5,7 197:9

900 286:16

99 275:12 276:8

9:00 309:21

A

AASHTO 75:12 93:2,4,8 94:4 95:19,21 96:2,9, 16,18 97:1,9,13, 17,20 98:8,9,11 105:17

abandon 228:9 264:17

abandoned 228:21 265:13, 14,16,19 266:12 267:19 268:6,7 299:19

abandoning 228:21

abandonment 267:13

ABC&D 10:15

ability 256:10

absence 188:9

absolutely 64:3 98:8 111:8 123:4 131:18 154:7 167:15 193:4 204:8

abut 224:4

accept 90:13

acceptable 88:15 205:10 212:17 234:10 262:16 316:8

accepted 195:16 216:18 220:18,19

access 9:2 10:17,21 11:7,9, 16 23:18 25:4,6 29:2,5,6 30:9,13 31:9 33:7,11,12, 13,17 46:19 47:2, 8,10,14 49:2 60:12,13,14,19 61:1,10 62:9 63:5,14 68:9,18 70:6 76:4,13,14 77:16,21 78:4,6, 8,9,13,15,17,18 80:13 81:2,4 94:21 95:6,11,15 96:11 98:2,18,21 104:10 105:13, 14,20 106:1 122:11 129:11 131:16 145:13 149:12 154:18,21 155:1,6 156:19 163:2 164:19 175:9 178:14 179:21 180:1 183:8 184:5 187:8

accident 127:5 129:18,20 131:7, 20 179:14 180:6 181:5 185:16 186:3,12

accidents 127:6 128:19 129:14,19 130:4,11 131:2, 20,21 179:13 180:3 181:8,18 182:4,7,18 183:5, 10,13 184:7,15 185:1,5,21 192:11

accommodate 233:11 277:8 280:6 298:10 299:3 310:8,9 316:3

accommodated 126:7

accompanied 24:12

accompany 130:4

accompanying 112:13

accomplish 140:6

accordance 206:19

accounted 237:3 250:1

accurate 21:16 236:17 308:1

accurately 21:11 144:6,7

accused 50:3 138:7

acidic 252:7

acknowledged 48:15 155:14

acquainted 243:21 256:7

acquired 285:7 312:2

acres 13:14 225:11,13

act 225:9
acting 164:14
action 191:12
activity 103:21 244:16 245:9
actual 29:20 51:17 117:19 125:7 155:7 159:7 169:20 181:13 217:20 221:14 229:7 267:18 281:10 308:5
ad 255:2
add 31:13 42:9 139:4
added 159:3 296:8 310:12
adding 69:21 70:2 139:4
addition 6:6,7 219:16
additional 9:3 31:14 149:7 176:9 177:4 222:12,13,14 261:7,20 279:21 282:17 292:8 296:10 297:2 298:18 299:9,10
address 203:10 207:1,4,7
adds 204:14
adequacy 251:20 261:8,15, 20
adjacent 12:18 76:10 189:20 224:2 225:6 226:2 269:2 303:10 304:1,5,7
adjoining 269:17
adjoins 12:6
adjourned 316:18
adjust 126:14
administered 209:20
Administration 10:9 12:6 13:3 24:3 30:5 32:18, 21 33:13 43:6 44:18 45:16,19 46:10,12,13,18 47:1 48:1 60:11 61:9,18 66:1,5 67:3 77:17 78:15 87:9,16 88:5,15 89:9,13,15 90:9, 16,20 92:1,6 95:10,14,19 96:5, 11 97:20 99:2 101:16 103:19 104:2 107:10,13 111:13 115:21 116:18 118:17 121:11,19 122:6 125:19,21 126:13 127:12,15 129:6 131:4 133:19 136:7,16 138:18 141:2 154:21 175:18 176:15,18 178:7 180:17 184:11 186:14 188:12 190:11 191:17 312:2
Administration's 76:9 92:9
administrative 14:16 27:18 107:5 125:3 209:14
admissibility 18:13
admit 27:4,11
admitted 12:1 27:20 32:8 115:9 118:6,8,14 150:17 151:1 212:18 216:8 220:8,10 240:10 313:1,3,6,8
adopt 93:9
adults 126:10
advance 5:16 273:11
adverse 90:8
advice 39:4 99:3 278:5
advisable 272:6 298:9
advise 165:11 270:3 277:13 278:7,11,19
advised 176:20 228:4 242:4 290:3,5 298:5
advising 180:17
advisory 39:1,3 73:14 159:10 170:15,19 186:16
advocate 112:5
aerial 55:12 194:5 215:11,13
affect 136:11 201:20 226:2
affirm 17:17
afraid 36:3
age 206:17 299:17
agencies 134:20
agency 33:5,6 97:19 129:3 134:19 164:13
agree 15:7 26:18 38:8 53:21 56:21 57:4 88:16 104:13 111:10 158:3 159:20 161:10,15 163:1 166:12,18 190:16 203:2,15 205:18 279:6
agreed 199:5 294:7
agreeing 32:20 198:14
agreement 27:14
agrees 89:9 90:6 198:10
ahead 23:6 59:17 67:21 130:18 169:18 195:11 308:14
air 248:18
aisle 204:13
akin 164:18
alerts 41:21 281:20
align 197:6
aligned 194:3
alignment 193:18
allergic 40:18
allowed 77:18 204:6 273:14 275:8
alternative 9:1 11:9,16 61:19 78:13,15,20 175:20 190:21
alternatives 33:16 75:17 90:10 104:10
amend 190:13
American 4:3 5:3
amount 51:6 174:11 191:11 235:3 262:21
ample 222:14
analysis 36:13 46:15 47:18 99:8 101:20 127:4 175:5 196:18 202:16 254:13 285:14 302:6
analyze 278:1 311:7
analyzed 279:12
ancillary 282:17
and/or 216:19 217:21 296:10 300:11,21
anecdotal 202:8 203:16
Anecdotally 203:3
angle 57:18 196:7
angles 197:9,11
animals 136:2 137:7
annually 183:1
answering 41:12 104:10 170:5,10 305:13
answers 113:12 158:7 177:11 197:1 270:2 296:20
anticipate 5:18 151:17 152:1 316:11
anticipated 217:12 220:20 280:15 287:8 313:18
anymore 310:1, 15
apologize 60:1 142:9 158:11 283:12,15
apparently 70:16 93:17 138:6 280:10
Appeals 4:5

209:13

appeared 265:6

appears 19:12 23:21 103:19 249:1

apple 147:15

apples 147:14

appliances 219:17,18,19

applicable 165:15

applicant 214:3 244:18 263:13

applicants 285:16

applicants's 124:3

application 155:7 217:4 222:4 260:3,4,7, 20 282:14 302:5

applies 225:18

apply 134:1 168:7 173:19

approach 10:2 23:15 27:8 28:2 59:13 64:17 68:8 69:4 90:6,19 124:1 189:15

approaches 25:4

approaching 29:2 57:19 67:15, 19 72:14 180:16

approval 33:7,12 214:3,7 220:18 222:1 290:20 291:20 301:21

approve 33:13 89:21 147:10 220:6 222:9,12 249:5 259:9,11 281:19 282:6 300:14 302:4

approved 221:2 223:5,18 230:15 258:20 300:16 301:13 302:6,11

approving 279:13 300:19

approximate 11:10 21:9 51:19 60:6 99:15,16 241:10 244:11

approximately 26:19 52:19 53:2, 6 54:15 61:14 80:4 196:7 200:14 271:12 287:8,14 295:7

April 185:3

aqua 60:15 311:10

aquifer 225:21

area 11:10 12:7 18:10,17 22:6 43:7 45:14 60:6 65:13 66:7,19 92:13 93:1 104:5 128:10 129:8,9 135:4 142:6,13 144:2 149:20 150:6 153:10 165:11 168:21 170:1 186:12 187:9,12,21 201:21 202:6 205:3,8 220:20 222:4,13 223:5, 13,16 224:5,6,12 225:11,16,20 227:2 230:1,19 231:1,7,9,13,15, 18 232:10 233:9, 21 234:3,4,13,14, 16 235:12 236:9, 18 237:18 240:21 243:1 246:10 252:15,16,18 253:1,10,16 255:12 257:11 258:3 259:4,7 268:4,15 270:5 271:1,2,10,11,16, 17,20,21 272:6 276:12,16 277:6 278:9 279:1,17, 19 280:1,10 281:12 282:9,16 289:11 302:21 303:1,9,10,14,16 304:3

areas 224:10 233:11,12 257:3 269:10 280:9 283:1 304:6

argument 18:14 310:18

arising 296:10 297:2

Arm 84:19 128:10 131:3 185:2 191:15 193:16 195:19 196:6

Arm/mount 195:10

arrange 17:1

arrangements 5:10

arrive 118:21 126:10

arrow 29:19 30:7, 10,20 43:12,14 58:7 186:17,18

arrows 29:16

artist's 61:17

ascertain 231:11

ascertained 275:6

asks 132:13

aspect 111:14

aspects 137:13 140:13 180:11 181:13

assess 228:8

assessment 185:16 186:13

Assessments 312:12

assigned 307:9

assigns 217:1,2

assist 23:19 24:9 146:10 165:2 237:20

Associates 239:18

Association 6:1 7:2 314:12

assume 84:16 103:15 185:5,8 197:18 208:5 214:5 223:3 227:18 232:2

assumed 124:11 308:19

assuming 123:10 146:9 148:1 168:17,19 185:10 229:18 272:5 284:7 309:20

assumption 15:3 231:2

assure 27:1 123:21 261:8,20

assured 261:21

attach 291:20

attachment 117:12

attempt 228:5 306:18

attempted 165:10

attendance 218:17 294:16

attended 308:16

attendees 310:10

attending 295:16 307:10

attention 10:11 20:14

attest 241:6

Attorney 212:2,6

attorneys 4:12 5:20

authenticate 17:20

automatically 110:4

Avenue 13:13 22:20 25:5,7 30:9,18 63:5,14 65:15 68:17 77:1, 3,5,6,9,19 78:3 91:8 144:1,2

average 121:21 122:6,12 126:9 309:6

avoid 183:3 280:10 282:21

await 146:13

aware 22:2 92:19 120:2 143:12 248:10

B

B-1 307:7

back 4:2,5 16:2 20:9 35:5 38:1,8 39:7 54:11,12,21 59:14 66:13,18 103:1,17 104:12 105:3,4 114:19 132:21 133:6 152:5,9 156:19, 20 172:19 174:14 187:6 189:19 201:15 208:15 216:9 220:17 231:14 235:8 243:11 255:3

266:12 267:6 268:8,12 272:2 283:5 284:14 291:17 294:6 304:9

backfill 267:16

backfilled 266:15,19,21 267:20 268:2,8 269:2 273:6

backfilling 267:21

background 98:4 286:5

backwards 77:11

bad 132:2 301:1

badly 288:13

bald 169:8

ball 170:16

Baltimore 5:3 19:13 33:10 45:15 127:11 129:5,14 146:19 157:6 174:18 205:1,9 207:5 208:1,2 209:1,12 216:1 219:21 220:12,15 223:4 231:5 233:5 243:14 255:19 256:8 261:5,14 272:14 277:4 278:8 292:7 312:5

bank 170:16

barn 228:4 229:9 241:4 242:8,13, 19 247:16,17 248:7 289:2

barns 266:8

base 19:18 48:4 243:15 298:4

based 9:4 20:16 21:12 22:4 27:14 28:11 32:19 36:12,17 38:9,11 47:2 60:21 81:1, 11 93:14 95:18 96:8 105:5 109:6, 9 116:4,5 121:20, 21 122:19 129:10 131:7,16 134:17 135:21 136:6 137:7,9 142:10 163:19 174:12,13 175:13 176:8 188:10,19 190:7 191:5 200:17 204:6 205:17,18 214:13 220:20 221:10,17,21 223:1,2,11,13,18 231:2 236:11,14, 17,19 237:18 241:5 249:2,18 255:9 257:19 259:20 262:20 267:11 269:10,12 285:17 287:2 293:10 298:17 306:6 309:10

baseline 306:7

basement 227:14

bases 164:13

basic 174:18 197:6 205:9,13, 16

basically 13:14 54:12 95:13 101:17 172:14 225:16 234:2 247:13 260:8 285:15 306:12

basing 94:3 251:13

basis 26:5 31:20 120:11 199:15

bat 27:3

bathroom 248:5 295:15

bathrooms 218:21 250:6

bear 255:3

bed 65:19

bedrock 234:12 257:6 258:4,8,9, 11

bedroom 217:3 221:15,18,20 226:16 232:11,17 248:1 261:18

bedrooms 288:7

begin 4:9

beginning 316:6

behalf 5:2 206:17

belabor 28:8 163:8

Belair 141:11,16, 20 142:5,8,11 143:6,21 145:4,7 146:8 147:7 149:6,8,14 150:6

believed 18:9

believes 88:15

Bella 286:4

beltway 38:1 142:7

bend 140:15 185:6

benefit 286:2

BERNSTEIN 314:18

bigger 183:10

biggest 295:1

binder 49:13

binding 290:16, 18 293:12

birthday 126:10

bit 23:14 25:5 30:16 194:14 214:2 314:3

black 42:9,11 126:4

Bless 40:17

blessing 287:20

blind 62:20 164:8

blindly 123:19

blocking 60:2

blow 17:13 248:18

blowup 143:21

blue 12:14 34:19 60:15 65:8

blurry 42:4,13

board 4:5,12 5:6 7:17 8:13 10:1,4 14:15,17 27:6 32:5 54:5 59:19 66:20 117:21 120:14 147:1,13 151:9 152:19 165:2 173:12 175:19 177:14,19 179:10 195:7,14 203:10 206:15 209:13,20 214:11 216:15 244:3,20 279:11 281:8,18 282:1,3 283:16 285:19 291:15,19 292:1 309:17 311:6 316:3

Board's 16:7 193:11 291:18

bodies 229:7

Bonapart 12:19 13:13 22:19 25:4, 7 30:9,14,18 42:1,6,17 63:4,14 65:15 68:17 77:1, 3,5,6,9,19 78:3 80:10,14,21 81:1, 3 91:8 189:14,17

book 75:10

bore 249:3 263:2 267:14,18

bores 234:9

bother 128:21 132:8 153:9,13 232:19

bothersome 46:17

bottom 10:7 140:21

bound 39:17 76:15

box 4:5

brakes 37:13 72:9 143:1

braking 169:2

branches 90:4

break 17:1 102:12,15,20 103:18 110:5 151:3 162:13 284:12

breaking 168:20 217:17

breath 133:6

bring 189:19 250:3,8,10 291:8 313:18,19 314:1 315:14

bringing 39:19 250:13

brings 295:7 310:4

broad 9:5

broke 217:20

broken 74:7 305:19

brought 10:11 90:14 305:8

brush 9:5 11:6 13:21 65:13 77:13

BS 301:7
Buddhist 133:21
building 100:4 109:7 134:20 174:2 218:1,6,21 227:12 229:2 230:13,15 236:4 242:3,8 245:2,4 247:7 248:1 253:2,6,11,16,18 262:7 263:8 266:7 270:14 271:9 272:3 277:2 278:13,14 280:14 283:5 288:15 289:20,21 292:18,21
buildings 227:10 251:5 254:16 288:21
built 262:13
bunch 111:6 193:3
burn 252:9
bushes 58:12 64:16
business 309:20
button 166:7
buy 223:10
bypass 189:11 190:1

C

calculated 250:11 309:5
calculation 183:3,13 236:8 248:21 259:19 307:17
calculations 183:5 212:2
call 38:15 47:10, 11 60:4 64:21 84:16 90:11,12, 18,19 98:13 135:15 143:14 170:16 175:11 181:21 188:4 206:8 259:8 261:10 300:17 313:20 315:7
called 39:1 43:11 181:20 209:21 210:16 215:2 228:17 240:6 260:19 261:4 300:11
calling 152:1 286:9
calls 151:12
Caloggero 4:4 7:21 8:5 11:17 12:4,18 16:12 17:9,10,12 18:6, 9,15 19:1,6,11 20:14 21:3 22:1 24:17 26:12 28:6, 8 30:21 32:10 33:21 52:7 83:2,3 84:14 109:18 111:19 113:17 120:20 132:6 146:19 147:18 151:10 172:5 193:14 194:5 195:14,15 196:9 199:13 200:10 204:20 206:1
Caloggero's 239:4
canning 194:21 195:1
cap 267:14
capacity 174:15, 16,21 202:10 205:7,11,17,18 247:10 249:3,6, 12,15 259:12,18 262:5,21 280:3
car 49:4 50:12,15 54:12,13,15,16, 18 60:15,20 63:20 68:8 69:18 72:10,17 73:3,15 79:12 159:5,8 169:3,5,9 278:21
care 114:5 128:18,20 135:14 179:9 180:2
career 209:1
careful 93:10
carried 315:9
cars 60:15 67:16 68:19 69:19,21 70:2 72:20 73:5, 7,11,19 202:5 271:15 272:4 276:3,6,18 283:8
case 4:3,18,21 5:20 14:15,17,18, 20 15:3,4,18,19 24:14 36:18 81:5 86:18 90:3 97:5 106:8 112:12 115:3 121:8 123:13 132:15 133:7 148:4 151:17,19 165:2 167:17 168:7 170:4 184:3,4 185:10 195:16 204:9 214:2 215:19 232:14 256:15,16 257:4, 20,21 293:14,17 296:6,7 309:1,4 313:9,16,17 314:4,5,20 315:3, 17 316:5
cases 90:3 174:7 178:16 179:3,4,6
casing 249:13 267:16
catch 202:5
catered 250:3
Catholic 141:10, 16 142:6 145:4 148:1,2,4,15
caused 137:3 190:15
caution 310:21
cautionary 41:2
celebration 287:21
cement 267:16
cemetery 148:14
center 4:3 5:3 126:4 187:5 232:11
centers 136:4,21
ceremony 73:1 287:19 308:5,20, 21
certification 210:4
certify 290:21
cetera 119:1 208:20 292:9
Chairman 5:21 138:8 151:2 166:1 281:10
challenge 189:4, 5,6
chance 19:5 123:17
chances 223:10
change 80:17 81:1 90:2 91:7 92:1,2,3,6 99:1 133:1 135:14,19 136:5,7,10,13 137:3,17 138:2, 16 182:2,19 185:10 192:9 197:3 208:4 219:4 292:4,20
changed 46:21 136:12 137:2 138:11 191:18 214:5
changing 81:4 138:21 292:21
character 28:11
characteristics 186:3 258:1 272:9
charge 33:10
check 40:7 51:16 128:21 129:2 154:6 155:2,11 156:2,3,4,9 266:4
checked 81:17
checkpoint 302:7
chemicals 252:9
chevron 30:11, 19 63:12 186:17
chevrons 23:13, 15,16,19 24:4,13 25:9,12 29:7,13, 16,19,20 30:6,10, 14 43:12
chief 209:7 211:4
choice 61:17
choke 201:13
chose 163:21
Chris 244:20
Christmas 126:6
church 47:13 48:5 108:21 109:10 141:10,16 142:3,4,6,9 144:1,15 145:4, 13 146:18,20,21 147:2,7 148:1,2, 4,15 310:14
churches 218:8
circle 49:5 50:7 53:5 55:4 57:8 153:14 190:11, 13,18 191:16 197:3,12
circular 191:19 246:15 253:16

circumstances 204:7 248:12 298:6 299:7
cited 41:3
citizen 90:8
citizens 87:21 89:12 90:1,2,16, 19 130:10
citizens' 89:16
Civic 6:1 7:1
civil 155:5 281:6
claiming 287:7
clarify 237:7 307:6
clarifying 254:7
Clark 82:21
classification 47:17
classifications 48:1
classified 46:4
classify 93:18
classifying 46:6, 10 234:20
clay 234:11 273:15
clays 257:5
clean 242:6,7 266:6 273:6 295:15
cleaned 219:17
cleaner 267:12
cleaning 290:6
clear 10:5 13:21 16:1 69:17 76:13 79:20 105:12 160:6 170:15 267:4 295:12
cleared 224:4 233:21 234:3 253:1 255:12
client 98:17 101:17 109:20 120:8 132:18 148:18 230:5 277:2 278:10,11 290:17 294:7 299:18
client's 46:3
clients 46:15 86:12,21 88:9 131:15 132:9 134:4 228:4 230:15 236:14 270:3 285:6,10 289:9
clips 49:14
close 87:12 284:21 316:5
closed 88:2
closer 44:2 269:20
closing 314:20
coastal 225:14
code 219:13 231:5 265:17 297:19
codes 269:4
collapsed 232:18 267:12
collectively 9:21
collisions 182:1
colluvial 257:1, 21
color 13:6,7 14:6 34:13
colored 20:19 65:8
colorized 12:11 34:19
COMAR 306:4,8
combination 193:2 249:13
Comery 141:7 147:6
Comery's 144:20
comfortable 92:8 170:5,10 227:2
commence 151:19
comment 24:19 28:12 197:16
commenting 291:6
comments 4:11 277:5 304:10
commercial 46:5 47:6,8,10, 13,16,19 48:2,8 93:19 135:15 136:4 137:3 219:7,10,12 243:5 260:13
Commissioner 209:14
commitment 299:18
common 164:1
communicate 123:2
communicated 119:9,11,14,18, 20 221:4
communicating 123:1
communication 104:8,21
community 88:20 314:12
community's 91:4
compact 273:15
company 207:9 239:18
comparable 141:16 142:12 150:3
compare 108:16 133:20 141:9 144:6 145:2,9,16, 21 146:4,5,6,15, 20 149:3,4 174:5
compared 145:1
compares 142:13 143:3 183:14
comparing 145:11,12 146:8 147:13
comparison 146:7 147:18
compatible 205:14
compel 112:12
complain 123:20
completed 25:3 239:9 308:20
completely 57:17 137:6 182:12 275:6
completion 230:10 249:9 259:16,17 262:20
comply 38:3
component 232:19,20 242:12 268:15
components 272:9 273:9
compressed 248:18
computed 305:16
computer 110:4 111:3 114:15
concern 175:4 264:20 267:17 268:1 315:11
concerned 282:1 289:6
concerns 45:16 53:18 258:1
conclude 175:8
concluded 175:12 296:4
conclusions 164:14 223:19
condense 103:10
condition 169:8 170:4 197:19 213:4 233:2 279:12 282:5 289:13 290:11 291:20 293:8
conditioner 265:8
conditions 8:17 9:15 21:12 32:9, 11 77:14 80:12 91:7 93:13,14 106:6 126:5 129:10 130:2 169:20 170:3 176:11 179:19 180:14 181:4,14 183:15 184:10 187:14 188:2 213:13,14 231:12 234:12 256:6 290:16 293:2,4
conduct 213:16 266:10
conducted 208:17 213:9 222:5,6,19 233:17
conducting 208:18
confident 223:15

configuration 198:1 199:14
configured 196:11
confine 229:5
confined 225:20
confirm 134:5 139:19 302:10
confirmed 301:19
conflict 98:12
conflicts 151:11
confused 273:19
confusing 237:12
congested 203:4
congestion 177:21 180:4 201:15,19 202:7, 10
congratulate 308:19
congratulations 206:2
Congregation 214:10 244:3 245:1 285:20 286:15 287:3 296:11 298:5,19 299:1,2,6,10
conjunction 24:8
connection 203:7
consecutively 312:14
conservation 255:10,19 256:2
consideration 180:12 182:11 190:10,20 296:9 297:1 299:14
considerations 175:14,15
considered 144:11 213:6 265:19
considers 14:17 94:11
consistent 4:21 148:18 150:7
construct 137:13 230:21
constructed 131:5,6 136:8 137:15 247:3 274:15
constructing 134:20
construction 9:1 176:10 208:19 228:20 247:5,10 272:8
consult 278:5
consultant 207:11 236:15 244:2,21 274:17 281:2 285:10
consulting 274:18
contacted 285:9, 12
contained 140:8 262:15
contamination 267:21
context 109:17
contingent 95:13
continuation 25:18,19,20
continue 172:16, 18,20
CONTINUED 8:3 212:19
continuing 145:17 148:21 210:2
contours 150:9 189:2,3,12
contract 289:8
contracted 214:10
contractor 230:16 241:5
contrary 124:5
contributing 185:13
control 131:5 188:5 191:1
conversation 177:7 301:10
convey 125:20
conveyed 125:18 204:17
copies 14:8 34:11 109:12 117:7,17 214:18
copy 6:3,4 7:6 13:7 17:9 27:16 28:20 34:17 113:14 117:9 195:7 311:20,21 312:1,3,7,11
corner 21:6 30:2 71:8 189:20 229:2
corners 197:10, 11 198:6
correct 8:10,11, 16,20 9:2,3,10, 11,15,16,19,20 11:2 12:7,8,15,21 13:1,3 24:2 25:11 26:16,18 33:2,3, 19 36:11 39:6 41:5,8,9 42:8,16 43:2,5,21 44:12 45:6 46:2 48:19 49:6 50:9,14,18 51:14 53:8,13,14, 20 58:5,15 61:3 62:12 65:6 70:5 74:16,20 76:12 78:21 79:3,14 80:3,15 81:7 91:13,16 92:16, 17 96:3,14 97:7 101:18,19 102:1 107:15 116:16,20 122:20 134:2 139:11,14 153:8 163:4,6 166:19 168:5 173:1,5,9 175:1,2 176:1,3, 7,12,13 177:17, 18 188:2 200:15, 16 207:18,19 212:7,13 222:19 226:4 229:15 232:6,9 234:21 236:16 250:17, 18,20 254:21 255:7,15,17 258:19 260:1,8 262:17 269:8 274:4 277:21 280:11,19 285:21 286:17 287:5,6, 10,12,15,16 288:3,17,19,20 289:14,15 290:1, 2,4 294:9,12,20, 21 295:4 296:6, 14 297:15 301:3 303:3 304:8 305:9,18 306:9, 10,14,15 307:10, 17 310:6
correctly 57:9 305:17
correctness 187:20
correspondenc e 117:12 221:1
corridor 131:8
corrosive 252:8
cost 219:14
counsel 113:8
count 190:8,17 191:20 192:8 204:5
counter 71:5
counting 310:14
counts 152:21 153:10,13 174:19 177:17,20 178:17 179:4 197:4 202:16,21 203:7 204:21
county 12:12 19:13 20:10 33:10 35:10 45:15 77:18 78:3 82:8 127:11 129:5,15 146:19 157:2,5,7 174:18 178:1 194:6 205:1,9 208:1,2, 5,7,12 209:1,12 212:1,5 216:1 219:21 220:12,15 223:4,7 228:6 230:6,9 231:5 233:5 236:18 237:18 243:14 255:19 256:8 258:20 259:3,7,8, 11,17,19 260:19 261:5,14 265:17 267:5 269:4 272:14 277:4,13 278:8,18,19 279:12 280:16 281:1,11,16,20 282:3,8 292:8,11, 14 293:17 299:19 300:6,13 302:10 303:5 312:5
couple 9:13 12:4 35:15 123:7 160:13 214:18 218:17 278:13 302:19 308:4,16, 20
court 4:13,15,16, 17,19 5:4,10 7:18

15:14,16,17 103:16 124:17,18 144:1 147:6 178:15 276:19

courtroom 4:9

cover 5:18,19

coverage 10:9

covered 177:6 251:3

covers 252:18

cow 136:20

Craig 220:13 244:20 285:9

crash 183:16

crashes 128:1 181:20 182:1 183:20 185:14

crawl 265:21

crazy 7:15

create 26:10 55:17 192:18 202:7

created 48:15 153:14 190:18 279:15

creating 67:5 190:13

credentials 215:20

credits 210:3

criteria 24:5 136:7 279:5

critical 86:8

criticize 133:4

criticizing 264:13

cross 7:18 32:1 34:4 102:9 103:7 152:1 162:8 167:20 171:18 182:12,13 184:20 191:13 192:15,17 196:5 197:6 211:18 212:15 237:10 283:13 284:21

Cultural 4:3 5:3

curb 51:18 69:7 76:15

curiosity 102:9

curious 184:17 310:16

current 247:3

curve 22:19 23:16 29:20

cut 58:17 64:16 90:4 141:3 151:5 164:19

cutting 67:21

D

daily 221:11 281:16

damage 131:21 245:2

danger 179:17 180:5,7 185:17

dangerous 77:18 129:8 265:1

dangers 180:6

dare 291:8

dark 25:13

data 105:2 243:14

date 5:9,13 11:2 31:1 55:10 83:13 84:6,12 85:17 177:9 238:15 241:19 302:11 315:10,18

dated 6:21 107:4 239:16

dates 10:13 99:15 244:10

day 4:2,4,9,18,21 5:5,7,17 36:4,6 50:5 99:16 107:6, 7 121:21 122:7, 12 123:15 126:9, 12,14,20 141:6 145:14 202:2,3 209:3 217:3 221:11,17,18 243:11 244:11 249:4 259:9 272:4 293:5 295:2,7 296:2 297:18 298:5 304:17,21 305:1, 17 306:1,5,6,8,13 307:9 309:10,13, 16,18 310:3 315:9 316:5

day-to-day 126:7 178:5

days 4:18 121:20 122:7 123:19 208:16 211:8 222:20 295:3

de 14:21 178:9

deal 155:20 157:10 270:16

dealing 270:2

deals 155:9

dealt 301:4

death 41:20

deaths 132:3

deceleration 188:14

December 99:17,19 100:9, 11

decide 191:6 234:7,8 252:3 292:5

decided 310:20

deciding 184:4

decision 71:17, 19 72:7 78:2 98:6 104:15,17,19 134:9 165:2 177:7 192:8 197:13 222:7 230:3,4 251:20 258:14,16 281:19 291:18 299:2

decisions 98:8,9

decreases 76:1

deed 312:1,3

deemed 69:19 168:21

deep 133:6 213:19 234:9,12 247:9 248:13 255:6 258:10 272:12,13,15,16, 19 273:12,20 274:5 275:14,15 276:8,9 291:8

deeper 249:2 276:21

defer 114:18

define 29:20 37:4 93:3 228:13 263:8

defined 273:12

definition 181:5, 18 265:16

degree 193:19 197:11 198:6

degrees 77:11 196:8

delays 192:16

deliberately 197:15

delineators 186:20

department 208:1,3,12,14,15 209:4,20 212:5, 11 214:15 217:2 220:15 222:6,8 230:2 231:5 249:11 251:18 260:9 261:5,9,14 262:18 264:20 277:4 278:19 279:16,19 290:20 292:6,7 300:7,13 301:16,17 312:12

depend 89:19

depending 58:21 221:13 225:19 234:6 235:6 268:8 274:18 303:21

depends 61:8 97:19 202:3 257:7 262:5,6 272:8

depict 21:13 144:6

depicted 8:17 21:14 79:12 83:19 145:3

depicting 9:15 20:18 65:13 222:4

depicts 12:13 144:3

deposited 257:3

deposition 110:16 257:20

depositions 5:16

DEPS 261:10 262:18 300:7,19

depth 248:15,20 272:20 300:5

derived 256:14

describe 13:9 31:6 196:4 227:7, 8 243:6 256:9 274:6

describing 253:5
description 121:10 129:19 254:5,15 255:9, 11 257:19
design 134:10, 11,13,17 135:1,9, 11,18,21 136:5,7, 9,11 137:2,5,10, 11,12,13,16,17 138:2,3,10,18,21 139:2,5 140:13 173:11,13,14,15, 18,19,21 174:8 181:13 192:9 197:19 214:14 221:9,16 222:10 226:7 230:14 243:15 253:12 273:11,20 274:19 296:12,16 297:3, 5 298:1,4
designated 92:18,20
designation 209:18
designations 211:16
designed 136:8 138:4 173:15,17 221:16 230:12 274:17 277:7
designing 134:20
Designs 75:13
desire 91:5 299:17
destroy 241:1
destroyed 300:3
detail 238:17 281:8
detailed 98:4 124:12 129:18 131:11 185:12
details 107:17 108:12,15 185:16 217:7
determination 78:1 105:2 191:6 265:3
determinations 174:12
determine 95:5 122:10,14 127:5 138:18 183:15 200:7 231:9,17 249:12 264:14 288:6
determined 129:11 131:9,16 132:10 134:11, 14,17,19 135:9 137:10 173:17 174:13,19 235:7 248:15 272:20
determines 95:15
determining 146:11
developed 116:5
developer 277:20
developers 216:20
developing 48:3
development 138:3 270:19
devices 265:7
devil's 112:4
Dewitt 82:21
dictates 229:8 243:9
difference 29:16 39:16 84:8 86:8 93:2 96:15 167:13 173:12 182:20 205:5 219:10 260:21
differently 47:9
difficult 69:10 76:19 143:2
dig 231:14
dimensions 52:1
direct 8:3 36:4 115:4 134:3 174:14 207:15 212:19 315:3,4, 19,20
directed 15:17
directing 29:13 30:14
direction 20:1 30:8,18 39:18 58:8 71:2 242:8 289:5
directions 71:1 186:14,16,17
directly 53:15 253:10 277:10 303:20,21
disagree 81:9 104:13 158:3 168:12 205:18
disagreeing 187:16
disagreement 168:14
disclosing 22:14
disconnected 265:19,20
disconnecting 265:17
discontinued 266:19
discovery 110:16
discretion 151:9
discuss 104:14
discussion 15:11 113:9 193:14 264:18
discussions 258:6 285:16,18
dishes 290:6
disposal 213:20 220:19 233:16 252:18 278:5 303:1,10,14,16 304:5
disposition 251:4
disregarded 251:3
distance 8:8 14:1 25:1 49:12 50:6,14 51:7 53:7 55:19,21 59:2,8 60:21 61:2,13 62:1,4,11 63:18 64:1 65:14 66:14 67:6,8,18 68:2,5 69:1,9,15,18,20 70:1 71:9,11,15, 18,19 72:3,13 73:3,4,10 74:13, 18 76:14 77:2,13 78:11 79:1,4,13 80:1,7,20,21 81:19 87:20 88:14 89:8,9 98:5 104:9 139:20 154:3,11 158:4, 10 159:15,16 160:9,16,17,19, 20,21 161:3,11, 12 162:18,19,21 165:14 166:15,17 167:3,10,13,14, 18 168:1,3,10 169:6 173:7 175:14 176:10 302:20 303:9 304:1
distances 8:21 31:17 61:15 227:9
distinction 29:17 45:7 47:17 261:12
distinguishes 48:8
distraction 239:10
distribution 126:2
district 33:9 157:5
diverted 39:9
dividing 186:7
Division 33:11 154:18 155:2
Diwali 295:10
doable 189:1
document 17:2 114:2 115:20 119:4 128:8 131:19 155:1,4 157:17 214:19 215:2,3 216:11 238:16 245:19 246:1 282:13
documentation 26:7 155:8 175:19 300:18 301:20
documents 64:10 116:13 311:17
domain 311:19
door 146:17 310:14
Dopkin 188:8,9, 17,20 189:1,5,9, 16 190:2 206:21 207:4 226:1 230:18 239:1,3,9 267:5,9 268:17 269:9,12,16 281:6
Dopkin's 269:5

Dorothy 6:21
dosed 274:7,14, 16 275:7
dosing 273:12
doubled 306:13
doubt 129:16 275:11
drain 23:21
drainage 257:20
drained 213:19 242:5 255:6
draw 20:14
drawing 159:8 241:13 254:11 269:19
drawings 55:12 139:19 140:14 176:14
dressed 304:12
drill 28:7 228:19 229:1 230:9 249:2,9 258:9
drilled 228:15 230:8 246:20 247:1,2,4 262:10, 11 269:13 275:1
driller 230:6,8 248:16 258:7,21 259:3,4 263:3 267:13
drilling 247:11 248:17 258:15 259:5,8
drills 230:10
drink 249:21 250:8
drinking 130:2 264:10
drinks 250:14
drive 35:5 39:11 51:2,4,14 92:7,13 142:4 143:7 158:9 172:18 180:17 181:17 200:14 246:3,12, 13,14,15 278:13
driven 18:21 38:12 74:9 137:9 142:5,8 202:2
driver 23:19 24:9 25:3 37:15,19 129:21
driver's 56:19 57:19 63:3
drivers 23:6 31:12 70:4 92:6, 12
drives 37:7 198:8
driveway 25:14, 16,18,19,20 31:2, 3 59:6 158:3,13, 14,16,17 159:14 172:8 173:4 175:11
driveways 44:21
driving 11:4 26:8 35:16 42:18 43:10 51:13 63:4 101:5 130:3 164:21 165:13 170:18 180:15 194:1
drove 41:17 99:21
drunk 164:8
dry 272:13,14
due 68:13 106:5 146:7 193:2 197:3,4
dug 246:20 248:11
duly 206:18
dust 267:15
duty 178:15
dwelling 232:11, 13,17 248:1 250:19 253:7 276:14 288:6 306:20
dwellings 227:10

E

e-mail 108:1,3,4 109:11 111:3 112:1 113:14 114:13 115:6,8,9 300:12
e-mailed 300:9, 10
e-mails 108:5,10 109:18 110:9 111:6 112:11 114:21 116:8 117:17
earlier 58:20 79:15,16 86:5 125:8,9 154:9 194:18 200:3 311:19 314:15
early 105:1
earth 273:6
easier 49:20 72:19 194:19
east 77:8 188:11 189:7,9
eastern 224:5
easy 109:12 112:17 266:2
edition 75:13
educate 255:20
education 210:3
effect 63:8 273:16 292:9 311:9
efforts 124:3
egress 55:14 86:13 88:4 148:11
Eighteen 65:9,10
elevation 254:10
elevations 140:15,19 275:5
eliminates 267:21
else's 76:8
eluvial 256:20 257:1
employed 207:10,13,17 216:1 223:7
employee 278:18
employees 208:18
employment 207:20 208:11 209:12 216:2
empty 251:7
encompasses 128:10
encouraging 147:9
encroached 67:4
end 5:14 50:21 132:13 181:10 192:3 209:3 258:17 287:1 293:14 314:4
ended 248:12
engaged 113:8
engineer 98:17 164:12 191:9 196:10 197:17,18 203:8 273:9 281:3 306:13
engineered 275:5 277:7 280:5,17,20
engineering 24:5 29:17 45:13 144:4 176:11
engineers 108:17 155:5 164:13 186:10 281:6
entail 295:14
enter 8:9 31:6,11 66:16 76:11 79:5 83:16 153:7 175:13 223:13 264:17 312:3
entering 129:12 149:8 153:1 180:2 188:14
entire 15:18,19 106:7 136:13 145:18 208:21 247:15,20 249:7 304:15
entirety 68:20 137:17
entitled 125:5 154:18
entrance 8:18 9:15 22:9 32:12 42:14 43:3,19 44:1,6,7,9 49:4 58:4,7,13 60:5 62:8 67:6,9 69:12 70:13 71:9 75:16, 19,20 77:18 78:18 79:11,21 80:18 87:4,12 88:21 91:11 93:18 96:12 98:18 181:8 182:5 189:10,16
entranceway 45:15 88:2
Environment 208:1,3,13,14 209:21 212:11 214:15 217:2 220:15 222:7,8 230:3 231:5

249:11 251:18 261:5,10,14 262:18 277:5 278:19 279:16,20 292:7 300:7,14

environmental 209:5,21 210:6,7, 10,15,17,19 229:4 260:9 301:17

environmentalist 286:9

equivalent 142:12

erroneous 10:5

error 129:21 310:20

essence 10:6

essentially 306:12

establish 18:11 124:5 216:20 231:15

established 138:4

estimate 27:13 156:17 233:15 235:15 307:9

estimated 101:14

ethical 278:18 279:4

ethically 278:7

evaluate 213:17 217:6 259:17

evaluated 209:9 213:10 249:11

evaluating 14:17

evaluation 208:17 211:11,12 213:16,21 301:11,18

evening 53:16 109:9 178:10

event 73:6 74:11 122:4 250:10 295:1 297:5 304:13

events 122:3 126:6 130:8 153:2,7 178:14, 18 271:14 282:18 305:7

eventually 201:14

everybody's 286:2

everyday 142:4

everyone's 60:2

evidence 15:4 51:5 115:11 117:2,15 118:1, 14 120:21 123:11,17 124:11 125:10 151:1 165:1 179:4 195:16 199:11 202:8 203:19 215:14 216:8 220:10 240:10 248:5 294:2 311:18 313:4

exact 123:2 169:10 204:13 219:14 244:11 246:4,16,18 253:3

examination 7:19 8:3,8 18:11 32:2 34:4 102:10 103:7 152:2 162:8 172:3 190:5 193:12 207:15 211:18 212:19 237:10 285:1 302:17

examine 174:15 212:16

examined 171:18 206:19

examples 293:16

excavation 272:19

exceed 126:11 262:1 298:1

exceeds 170:18 261:2 298:2

exception 142:15,21 146:3, 12 177:21 279:5

exceptions 144:12 178:16 179:18 184:2 311:8

excess 224:9

excessive 130:1 168:20

excised 152:20

excluded 235:15

excuse 40:16,19 137:12

excused 196:19

exercise 23:9

exhausted 252:13

exhibit 6:8,21 7:7,8 10:7 11:18 12:2,10,13 13:8, 10 14:3,12 16:3, 8,12,14,17 19:6, 7,10 20:16 21:4 25:2 26:1,13,15 27:5,19 28:1,6, 14,18 30:21 31:18 32:7 39:8 40:14 48:14 50:5 52:9 53:4 55:20 56:17 57:12 58:20 59:20 60:1 64:10 65:1,8 79:7,12 82:3 88:12 112:9 113:21 114:4 115:2,5,18 117:19 118:5,8, 13 120:16 122:18 123:3 128:3,4,14, 15,17 130:21 131:19 143:11, 18,20 144:8 145:3,15 148:7 150:21 155:19 157:14 158:6,7 184:21 194:10,13 195:6,8,17 202:13 215:7 216:7,10 220:3,9 237:14 238:6,8, 12,17,20 239:1, 15,19,21 240:3,9, 20 241:13,17 246:5 254:9,18 271:15 285:6 286:20 312:4 313:2

exhibits 8:12 9:7,8 12:5 13:5 14:18 16:5 28:3 31:5 33:16 34:6 50:4 82:18 118:17 140:3,7 158:2 313:5

existed 260:21

existing 8:18 9:4 10:11,17,20 11:7 29:2 31:15 33:17 54:7 55:13 60:19 61:1,10,18 67:7 69:13 70:13 75:16 77:15 78:8, 9 80:12,13 87:7, 13 88:2 91:7,9 94:21 109:7 158:16,17 159:14 175:9,10 209:8 213:10,12 226:20 227:12,20 228:1, 3,15,17 232:17 240:16,19,20 241:3,7,9 242:1,3 243:1 245:17 246:8,11 247:19 248:8 250:16 251:2 252:20 253:6,16,18 254:16 263:15 264:9,10,21 266:8,14,17 268:12 269:2 271:9,17 291:2

exists 59:9 233:2

exit 8:9 10:10,12 31:10 49:3 51:4 54:4 61:6,7,13 62:1,2,3,8 66:15, 21 67:9,11 69:12, 14 70:14 77:6,8, 19 78:13 79:2,11, 21 80:19 86:13 87:3,4,9,12,13,14 88:1,3,21 91:11 95:7 96:12 175:13 176:5 185:7

exit/entrance 87:7

exited 53:12

exiting 49:4 77:5 129:12 149:8 167:19 180:2

exits 54:1

expect 172:18 275:14,15 279:15 282:19

expecting 23:6

expedition 111:2

experience 20:17 38:10 89:14 91:2 192:7 200:17 223:3 282:19

experienced 36:15 53:19

expert 37:21 69:11 70:8,9 96:8 111:11 130:9,16 144:5 149:5 162:9 165:4

179:1 191:9 199:8 203:13,14, 18,20,21 204:4, 14,20 210:14 276:4 277:9,20

expertise 98:5 204:16 289:11

experts 49:15

explain 10:4 51:11 165:10 167:12 172:12 173:12 238:10

explained 108:10,12,15 110:17 220:16 272:2 308:3,15

explanation 11:19 17:5 197:13 216:4,6

explore 198:18

express 197:18

expressed 170:9 223:19

extensive 46:15 291:1

extent 129:20

extra 310:12

extreme 182:9

extremely 130:20

eye 56:19 57:19

F

fabric 273:4 274:2

faces 25:6

facilities 134:1 217:10,12 219:5 222:10 242:2 250:6 251:21 261:8 263:15 295:15 306:19 307:15,19 308:3

facility 58:4 102:4 122:19 219:7 228:16 264:2 271:17 276:5 278:15 280:14 286:3 290:21 299:4 305:16 309:2 310:5

facing 25:4,20 31:9

fact 54:16 129:5 146:11 170:9 173:6 191:10,20 193:18 196:10 197:5 198:5,7 215:2 232:21 259:7 266:3 283:7 291:15 293:10

factor 167:16 179:18 180:5 182:2 193:21 194:1 198:2,14 199:6 200:4 213:15 273:20

factored 217:13

factors 177:21 178:16 184:2,4 185:13 190:20 192:11 193:2,3 197:4 217:12,15 258:15

facts 123:11 124:11 285:14

factual 204:1

failing 208:19

fair 26:21 28:17 51:20 103:9 162:6 188:3 199:12 291:19

fairly 21:11 173:7 233:12 295:11

fall 227:13

familiar 26:8 127:21 128:6 141:18 154:17 155:1,4,8 157:16 213:4

family 44:17,20 45:9,14,21 47:9, 17 126:8 218:18 243:5,18 250:8 260:11 261:3,12, 13 308:4,17

farm 137:3

fast 37:3,4,6 187:6,14 188:2

faster 41:4

favor 61:19 80:1 151:6

feasibility 210:21 213:7

feasible 231:18

features 23:11 24:20 27:2 174:3 178:11 213:6 227:9 228:12 229:4

February 100:10,18

Federal 97:18

Feeding 195:2

feel 36:15 80:13 92:7 129:7 151:7 170:12 203:4 223:15

feet 50:8,14 52:17,18 53:1,6 60:7,18 61:14 68:2,10 69:6 72:4,8,13 73:15, 16 74:17 75:9,16, 17 76:20 79:9,13, 16 80:4,7 87:19 90:5 109:7 116:5, 6 153:20 154:5, 12 158:4,21 159:12,13,17,18 160:2,16,17 161:1 162:19 163:1 164:2 168:3 169:7 224:6,11,19 225:1 227:12,15 229:7 231:1 233:15,20 234:10 235:5,9,10,11 242:10 253:2,4 256:13 257:5 267:15 268:15, 16,18 269:7,10, 14,19 272:20 273:1,12,16 276:13 278:14 280:14 283:5 303:2,12,20 304:2

felt 89:13

fence 58:18 60:10,18 68:13, 14 69:7,8 88:8, 10,13,18 89:1,5,6

fenced 280:1

festival 73:2 130:15 245:12, 13,14,15 249:20 250:5,10 294:19 295:2,17 304:11, 15,18,21

festivals 101:12 123:6 124:15,21 125:12 153:2 218:2 236:20,21 245:10 250:7 289:18,19 294:14 295:13 304:10 307:19

FHA 93:2

field 11:2,3 85:18 104:14 159:4 162:11 211:6,9 228:14 229:5 232:19 233:1 236:7 242:11 266:8 268:5,12 269:6 280:16 282:10 283:9

fields 209:19

Fifteen 52:10

figure 94:17 145:7 146:15 159:20 262:16 274:9 307:14 309:15 310:12

figured 143:5

figures 219:15

file 14:15 15:3 16:7,21 155:7 222:3 251:16 277:2

files 230:8,10

fill 156:5,6 252:4 267:14

filled 155:14 156:21 252:8,11 266:12 267:12 268:8 300:3

filling 267:6

fin 13:16,17 14:9 64:11 66:4,5 189:10 311:21

final 177:7

finally 206:4

find 5:15 132:2 230:1 231:10 257:12 272:5 298:14

finders 146:11

findings 176:20

fine 4:7 74:14 102:18,21 115:14 116:21 149:1 151:8,9 192:6 206:10,11 215:16 240:5,21 254:6 300:11 314:8,18 315:14

finish 139:16 150:5 284:15

finished 7:20

62:21 153:17 196:17 283:16 315:10

finishes 17:10

fire 180:6 219:13

fishing 111:2

fits 106:7

flexibility 233:19

flood 257:21

floor 109:6 117:8, 14,20,21 118:1 219:2 295:16 298:7

flow 201:20 202:7 217:2,13 221:10,11,16 296:12,16 297:3, 5,17 298:2,4,9 302:6 305:15 309:6

flows 214:14 220:20,21 221:7, 14 236:19 292:9 309:5,6

flush 265:14

folks 240:13

follow 19:17 37:16 38:5 171:5 190:4 229:16 245:19 279:14 301:10 311:12

follower 71:11

food 217:9 218:9 250:2,4,13,14 290:6,9,19,21 292:5 294:7 295:14

Foos 7:1

foot 140:11 253:17 257:2

footage 109:6

foreseen 298:18

forest 35:10 142:2 252:20

forever 43:11

Fork 201:3,4,5,7

form 149:12

formation 252:7

formed 129:7 257:19

forming 112:3

forward 17:5 172:16 212:17 229:18 294:1

forwarded 5:6 7:12

found 66:9 182:3 213:11 256:20

foundation 124:9 162:6

foundational 20:8

fourth 295:10

fraction 186:8

frankly 281:20

free 74:1 172:8, 11,12,14

frequency 203:5

Friday 126:5

front 17:19 34:8 110:20 111:5 118:16 180:4 182:4 183:8 276:14 290:1

fryers 219:12

full 305:1

fully 282:10

fun 133:9 206:3

function 264:3

functionality 228:8 266:11

functioning 263:18 264:15 265:10 266:10 273:17

functions 217:11 218:18 233:7 262:12 298:8

fund 153:2

funds 73:2

future 73:21 127:14 134:7,18 234:11 235:4 296:11 297:3

G

GABER 312:6

gallon 249:14 261:17 262:2

gallons 217:2 221:12,13,17,18 249:1 298:5 305:17 306:1,5,8, 13 307:8,11 309:10,12,16,17

Garber 4:2 5:14 6:5,8,11,13,18 7:7,10,14 8:1 10:18,20 11:13, 20 12:1 13:5,15, 18 14:4,11,14,21 15:2,7,9,13,21 16:3,5,8,14,18,20 17:2,11,19 18:4, 12,18 19:9 20:6 25:15 26:1,4,12, 17 27:4,21 28:20 31:15,20 32:5 34:1,15,18 39:8 40:8,20 44:3,5,14 45:3,7 47:20 48:7,13 49:13,17, 21 52:9,18,21 56:16 57:12,16 59:20 61:1,4,16 62:2,7,12,16 64:6,8 65:4,16 66:2 67:10 68:3, 6,11 70:21 71:5 72:5,10 73:17 74:15,19,21 75:10,15 78:6 79:10,18,20 80:5, 9,12,17 81:5 82:1,4,10,12 83:2,10,17 84:3, 8,14 85:4,9,21 86:7,16,19 87:2, 11 91:10,14,17, 20 92:15,18 94:2, 6,9,16,21 95:2,7, 21 102:8,13,17, 19 103:1,6,9,14 105:6,16 106:18 107:1 110:3,8 111:19 112:4,16, 20 113:4,7,16,20 114:6,14,20 115:11,17 116:7 117:1,4,14,19 118:3,5,12 119:7, 13 120:1,10,13 121:4,12 122:18, 21 123:15,21 124:7,10,17 125:6 127:2 128:2,6,13 130:21 132:6,19 133:5,10,13,15 137:21 138:5,9 139:15 141:5 142:17,21 143:5, 11,15 145:2,9,20 146:13 147:3,17 148:3,7 149:1 150:5,11,17 151:6,10,13,18 152:3,6,17 154:8, 15 157:19 158:8, 12 160:3,6,19 161:4,9,19 162:8 163:13 164:5,6 165:6,18 166:7, 14,21 167:12,16 168:1,6,9,13,17 169:18 170:6,9, 12,20 171:5,7,15, 19 172:2 177:5 182:21 184:19 185:5,15,20 186:4,7 188:3,8 190:3 192:4,5,21 193:5,7 194:7,9, 12,17 195:9 197:2,9,16 198:5, 12,20 199:2,17, 21 200:2 201:4,6 202:18 203:2,13, 15,21 204:3,8,11 206:1,4,7,9,12 207:7,9,12 210:13 211:2,9, 12,15 212:18 215:8,13 216:9 220:4,8 221:2,4 224:7,19 225:1,4, 12 226:6,13,18 227:6,15,18 228:1,12 229:3, 10,13,16 230:1, 11 231:16,21 232:4 233:20 235:1,8,14 236:1, 7,10 237:2,6 238:6,8,12,19 239:7,10 240:2,5, 8 241:20 253:19 254:3,7 263:19 265:4,9 266:14, 21 268:3,11 269:5 271:4 273:18 274:5,9, 13,15,21 275:9, 15,18 277:19 279:6,14 280:7, 12,20 281:4 282:12,20 283:18 284:1,4,7,10,14, 19 286:13,20 291:12 292:16 293:1,7,19 294:1, 4 296:19 297:11 302:16 307:6,13, 18,21 309:8,15 310:2,7,16 311:1, 4,6,12,14 312:9, 15,19 313:1,10, 13 314:3,9,14,17, 19 315:1,3,6,11, 19,21 316:7,9,16

gate 173:2
gates 101:2
gathered 123:17
gatherings 101:12 125:13 218:1
gave 87:16 120:3 122:12 156:17 166:1 254:15 304:13
geared 92:15
general 39:17 130:20 134:15,17 213:12,21 225:4 237:18 242:4,21 246:10 257:11
generally 14:17 19:12 26:18 40:9 214:4 216:16 230:4 248:8 252:10 257:4 258:2 260:7 290:1
generate 109:8 122:5 126:9 305:21
generated 305:16
generation 99:7 108:18 109:6 116:3 121:20 126:1
geographic 213:6
geologic 252:7
geology 223:12
Geometric 75:12
George's 157:2, 5
geotextile 273:4 274:2
get-togethers 101:12
GIS 12:12 19:14 20:10 27:5 194:6
give 7:5 9:12 17:8,9 27:15 46:19 52:16 67:18 73:13 84:16 99:3,15 113:11,19 117:20 129:19 136:17 162:9 180:9 183:9 195:7 210:11 214:17 215:1 259:7 311:20
giving 9:5 98:3 216:5
Glen 84:19 128:10 131:3 185:2 191:15 193:16 195:9,19 196:6
glimpsed 40:9
good 69:1 86:12 133:12 158:12 171:17 254:15 292:3 294:13
Google 82:3 83:8,11,13 84:12, 19
government 97:18 134:19
GPD 296:13,16
GPW 297:4
grade 174:1
grades 189:7
Grand 200:6
granted 146:12
graphs 59:16
grass 271:16,19 272:7 276:17 277:12 278:9 281:13,15 283:9
grassy 256:21
gravel 276:10
gravity 227:13
great 301:8
greater 6:1 7:1 232:20 304:1
green 65:16,18 66:19
ground 10:8 162:2 267:18 272:19 273:2 274:8,10,11
grounds 289:17
groundwater 220:14 248:19 300:21 302:3
group 158:2
grout 267:17
grouted 228:19 247:5,6
growth 298:16, 19 299:1,2,5
guarantee 99:20
guard 23:18 60:9
guess 8:1 11:9 17:5 65:7 81:12 97:8 106:15 156:16 161:17 162:4 175:8 209:7 228:11 242:2 244:13 253:15
guide 93:4,8,9 96:18 186:21
guidelines 93:5, 6,10,11 94:4 173:19 214:14 221:12,16 309:13
guys 90:21

H

habits 306:18
half 185:21 186:4,7 219:2,3 274:20 284:3,4 295:16
hall 218:9,10,12, 14 308:5,19
halls 218:8
hallway 4:8
halting 139:15
hand 21:6 22:8 23:17 24:9 50:7 55:3,6 57:8,20 63:21 71:8 163:14 238:17 246:20 248:11
handed 6:16 7:11 17:4
handicap 164:9
handing 6:16
handle 49:16 170:13
happen 84:15 107:14,18 126:12 170:2 267:2 298:6
happened 90:7 169:9
happy 193:6 239:12
hard 188:2
harder 266:3
Harford 8:18 12:7,19 13:13 19:19 20:20 21:6 22:3 25:14 29:2 30:12 31:10 33:2, 10 35:6,10,11,12 39:18 40:3 42:18 45:1 63:4 81:9,20 82:8 83:4 84:18 92:18,20 127:6 128:9 131:3 135:2,4,9,12,19 137:20 141:9,19 142:13 148:19 153:10 157:6 160:4 166:10 173:3 174:16 175:4,10 181:9 188:11 190:13 191:12,20 192:20 193:1,16 195:19 202:11,12 257:11
Hartley 128:9 130:12 185:1
hat 89:21
hauler 267:11
head 64:8 77:10 169:4 209:4 235:16 243:2
heading 25:8 57:6 72:12 185:7 257:14
health 208:15 209:21 210:17,19 212:5 264:20 265:1,12 290:20 292:7
hear 44:5 50:3 57:21 112:20 141:9 199:3 266:21 279:7 297:12 308:8 314:19
heard 26:6 105:8 123:18 164:5 211:21 245:18 291:10 315:6
hearing 5:9,12 9:7 27:18 31:1 50:6 86:5 99:18 107:5 110:16 114:16 141:6 165:21 184:8 294:2 302:10 315:18 316:6
hearsay 242:16
heavier 234:11
heck 130:9
height 257:10

held 218:19 289:19

helped 237:7

helpful 27:6 239:15

hey 187:5

high 153:7 182:9 183:16 218:2 229:9 256:20 257:11

higher 282:18 298:20

highest 122:9 296:4

highlight 187:9, 21

highly 164:15

highway 10:9 12:6,9 13:3,20 23:3 24:3 29:18 30:5 32:18,21 33:2,4,6,12 36:1 38:17 39:4 43:6 44:18 45:12,16, 18 46:4,9,11,13, 17 47:1,18 48:1 60:11 61:9,12,18 66:1,5,8,9 67:3 76:9 77:17 78:14 87:8,16 88:4,15 89:8,13,15,20,21 90:9,16,20 91:21 92:5,9 93:9,18 94:13,18 95:2,5, 8,10,14,19 96:3, 5,11,17,18 97:4, 6,20 98:11,20 99:1,5 100:6 101:15 103:19 104:1 107:10,12 109:19 111:12,15 115:21 116:3,18 118:16 119:1,9, 10 121:11,19 122:6 125:19,21 126:13 127:12,15 129:6 131:4 133:19 136:6,15 138:17 141:2 153:18 154:14,20 155:14 156:3,4 163:15,18 164:3, 12 165:17 166:11,12 167:3 169:14 170:15 173:17 174:12 175:18 176:15,17 178:6 179:9 180:16 184:10 185:8 186:14 187:11,20 188:12 190:11,12 191:5, 17 193:15 312:2

Highway's 38:12 90:11,18 98:13

highways 75:13 96:20 97:2,3

hill 21:2 31:13 35:10 39:21 74:3 77:12,15 140:15 142:2

hills 150:3,6,7

Hindu 133:20

hinge 125:7

hire 230:6,16 281:2

hiring 299:9

historical 286:6 289:3,6

historically 243:17

history 131:7 216:1

hit 72:9 131:20 166:7 248:19,21

hits 259:5

hold 94:16 121:4 128:2 195:13 203:2 210:4 263:10

hole 248:19,20 249:3 263:2 267:14,18 275:3

holes 275:1

Holi 294:15

holidays 218:2

Holster 195:8

Holzer 5:9,12,21 6:7,10,12,14 7:4, 5,13,16 9:13 10:1 11:20,21 14:4,5,9 16:19,20 17:8 18:1,7 19:4 20:3, 11 26:4,5 28:20, 21 31:19 32:3 34:1,3,5,17 40:7, 12,17 44:4 48:12 49:15,19,21 50:2 52:10,13 56:7,18 57:14 59:19 62:14 67:12 71:4 82:3,5,9,11,14,17 84:16,18 85:5,20 86:4,17 94:8,20 95:1,4 102:8,11, 16,18,21 103:3,8, 12 105:6 106:20 109:21 110:6,11, 21 111:1,8,11,20 112:14 113:2,10, 13,16,19 114:1,9, 12,16,17 115:7, 14 117:3 118:4,7, 10,12 119:6,10, 19 120:4,8,12 121:2,6 123:13, 16 124:2,8,20 125:2,11 127:3 132:12,15,21 133:2,3,12 138:7, 15 141:3 143:4,6, 9,13,17 144:19 145:3 146:18 147:3,5,12 150:10,12 151:2, 18,20 152:4,13, 17,18 154:10 157:13,18,21 158:10 160:5,8, 11 161:7 162:12 165:16 166:19 170:21 171:7,8, 13,17 172:1,5 177:14 190:3,6 192:5 193:6,9 194:21 195:2 196:16 197:8,15 198:9,15,16 199:19 200:1,2 202:14 203:9,14, 19 204:2 205:21 211:16,19 212:14 215:17 216:3 220:4,5 237:6,8, 11 239:11,13,21 240:2,4,6,11 242:20,21 254:1, 4 269:21 271:4,7 275:18,19 279:8 281:10 283:8,10, 14,16,21 284:3, 13 285:2 286:11, 21 290:13 293:1, 6,16,21 294:3,5 302:14 305:13 311:1,3,13,20 312:17,18,21 313:6,10,12 314:9,11,16 315:8,15,20 316:7,8,14

Holzer's 4:20 86:21 168:2 314:5

home 11:4,5 35:7 44:17,20 45:14, 21 47:18 126:8,9 135:3 207:7 243:5 253:16

honest 110:18 278:15,16

Honor 84:18 203:9

hood 219:13

hope 72:1 131:10

hoping 105:3

horizontal 139:18

hour 22:17 23:4,5 32:16 38:2 41:7, 10 72:4,8 73:14, 15 74:16 75:2,5 81:10,11,17,18, 21 83:5 84:1 85:7,18,19 92:11 99:16 152:14 153:19 154:5,12 159:9,16,21 160:1 161:1,2,13 162:16 163:5,9, 12,16,18,21 164:1,21 165:13 166:16 167:5,9 168:3,16,18,21 169:10 170:1,16 171:3,9 173:19 174:8,9 180:18 186:15 187:15, 17,18,19 188:19 192:15 249:16 284:3,4 308:21 316:5

hours 109:9 178:8,10 210:2 287:20 305:4 309:20 310:1

house 21:1 45:4, 9 53:15 61:11 189:19 221:15,20 226:16 228:18 245:3 247:13,21 248:4,11 249:19 250:16 251:16 260:10,12 263:15 265:18 268:12 289:13

housekeeping 312:16

housing 288:16

huge 148:15

hundred 78:2 118:19 123:7 182:4,7 227:12, 15 253:2,4 268:16,18 269:7, 10,14 276:3 278:14 294:16,19 305:3 307:10 308:6,18

hundreds 203:1 280:13
hydrants 252:11
hydrology 223:12
hypothetical 88:10 165:12 167:1
hypothetically 169:16

I

i.e. 304:6
ID 143:12 154:16 157:12,18 184:21 271:15
idea 104:19 144:17 242:5 275:9 307:3
identification 19:9 82:13,14,19 83:1 86:1,3 106:19 113:21 115:19 128:3,5 143:19 215:14 270:21 313:7
identified 64:20 82:9 84:1,12 282:10 283:1
identify 13:8 16:12 20:16 47:12 82:7 84:15 86:3 113:12 114:7 194:7 216:12 230:7 259:4
identifying 66:6 194:8
Ignatius 142:2
III 211:7
illegally 164:14
illustrate 55:5
illustration 138:5,12
image 83:9,12,13
imagine 144:9
immaterial 267:17
immediately 12:18 269:1
impact 156:8 169:11 201:15 223:21 225:6 271:19
impacted 60:9 144:14 174:21
impacting 59:5
implication 198:13,14
implies 191:8,10 297:4
important 83:17 111:14 181:7 186:2 199:3,7 289:17
imposes 213:19
improper 55:21 59:8 111:4 192:3 202:14 278:16 279:3
improved 198:2
improvements 33:14 122:11 183:16,19,21 199:12
in-ground 272:12
in-state 261:18
inbound 69:1,9 76:13 91:8,9 149:11 175:11
inch 274:19
inches 273:3,5, 13,21
incidents 182:9
inclined 282:6
include 235:12 236:2 298:19
included 288:4 295:21 296:3 309:3
includes 236:20, 21
including 33:15 197:5 315:1
incongruous 125:8
incorrectly 51:13
increase 46:21 47:3 61:13,15 62:1,4 65:14 69:14 76:14 138:19 139:5,7 192:7 193:1 234:7 287:14 295:3 298:9 310:8,9
increased 62:6 191:20 192:16,19 297:7
increases 62:10 78:10
independent 101:20
indicating 64:5 235:16 243:2 247:7
individual 106:3 250:8,9
inference 199:9
infiltration 225:10
influence 205:8
influential 201:12
inform 132:8
information 14:19 87:17 98:4 101:15 104:9,17 106:12 109:5 111:16 116:2,4 120:2,5,7 121:18 122:15 123:2 125:18,20 126:15 127:18,19 130:19 131:11 134:3 140:8 144:21 156:21 176:21 177:4 179:11,17 182:11 185:9 214:13 254:14 256:2,5 261:8,20 277:13 285:20 300:4
ingress 86:13 88:3 148:11
inherent 217:5
initial 214:8 285:17
initials 240:21 241:8,18
initiating 263:2
inject 103:21
injected 104:8
injuries 132:4
injury 131:20
input 89:12 90:9
inquiring 179:9
inside 142:7 217:11 252:19 262:7 288:11 290:7
inspect 100:2
inspection 213:9 266:10 301:18
install 188:13 196:12 199:15 230:17 272:13,14
installation 198:4 231:3,7,13 232:1 234:10 235:4 275:4
installed 31:12 32:21 176:10 188:6 193:15 196:2 233:7 266:13
instance 48:5 126:2,3 131:8 136:4 146:1 173:16
instances 174:10,13
instigate 292:6
institution 47:13 108:17
institutional 48:2,6,8 94:1,3 135:15
insure 261:15
intended 116:14 217:7 223:17 247:12 259:18
intense 122:9
intent 136:1
intercepted 236:5
interested 64:13 108:7,9
Interestingly 41:21
interior 173:7
interject 106:2 215:17
interruption 216:10 271:6
intersection 12:19,20 13:13 131:3 148:12 160:16 161:11 162:21 165:14 166:17 167:2,6, 13,18 168:1,4,6,

9,11 175:9 182:8 183:6 187:7 190:14,21 191:7, 18,19 192:18 193:16,17,19 195:10,18 196:4, 5,6,11,14 197:10 198:1 199:14 200:18 201:6

intersections 174:21 197:20

intersects 267:18

interstate 97:10

interstates 97:13

intervals 275:2

introduce 6:18 10:15 26:9 55:10 135:14

introduced 6:1 17:13,14 18:2,9 19:8 52:11 54:9 55:15 62:17 75:14 77:12

introducing 84:11 114:2 115:5

introduction 26:6

intuitive 71:5

investigation 85:18 196:19

involved 90:3 121:8 156:20 192:11

involvement 98:20

irregardless 261:17

irrelevant 114:9, 12

ISD 162:19 166:11,20

island 31:2,8

isolation 198:5

issuance 99:4

issue 8:8 20:13 25:15 45:5 80:14 89:14 90:17 98:18 105:14 107:17 112:12, 17,21 114:15 146:3 148:3 174:16 177:9 184:3 190:15 192:18 202:10 205:15,16 231:20 240:1,2 273:10 278:11 304:4

issues 96:11 155:9 209:15

ITE 47:12 108:16 116:4

items 139:21 162:14

IV 305:15

J

James 206:16 207:2

January 99:18, 20 100:9,13 106:14 107:4 111:21 116:12 118:10 119:21 121:9 140:9 159:3 185:2

jet 247:6

job 51:14 56:1 91:3 157:4 301:11,17

Joe's 141:16 142:6 148:1,8,9

john 270:15

Joppa 135:4 136:17,20 137:2, 18

Joseph's 141:10 145:4

Judge 14:16 107:5 209:14

judgment 229:8 268:21

July 10:14,18,20 99:20 100:9,10, 16,17,18 244:13, 14

jump 47:20 109:16

jumping 4:20

June 244:4,5,6, 12

jurisdiction 33:4

justification 196:12

K

keeping 238:20 309:4

key 16:6 18:3

kid 162:11

kidding 133:16

kind 71:10 97:14 123:11 208:21 217:17 229:17 243:19 248:13 262:14

kinds 164:10 174:2

Kingsville 6:1 7:1 314:12

kitchen 219:7,9, 10,11,12,19 250:4 290:7,10, 17,18 291:2,4,5, 7,17,21 292:13 294:8 295:14

knew 313:20

knoll 257:14

knowing 275:21 316:11

knowledge 18:10 20:17 21:12,17 22:4 89:17 119:16 125:15 203:11 219:6 220:12 222:20 223:1,2 243:20 264:4 286:7 289:4 294:6 299:12

Kotroco 5:2 18:8 106:15 113:6 146:21 220:13

L

label 10:2 26:18, 19

labeled 8:13 10:8,13 11:9 19:12 214:17

labelling 20:11

labels 19:20

ladies 304:12

lady 58:17 89:1 291:6

land 137:3 230:21 312:4

landscape 31:8

landscaped 31:2

lane 73:9 137:18, 19 138:17 175:11,12,20 176:5 180:18 187:6 188:14 189:11,18

lanes 148:11 149:7,15 190:1

language 285:14

laptop 108:6 109:14

large 233:10,12 234:18 235:1 275:3

largely 248:15

larger 143:21 183:3 231:4 234:14

lateral 274:20

latitude 32:4

law 14:16 41:8 107:5 125:3 168:20 206:19 209:14

lawful 206:17

Lawrence 5:2

lawyer 191:9

lay 124:8 162:6 204:8,10,11

layer 234:12

layout 192:9 253:12

lead 177:10 194:2

leader 118:20

leading 201:14 266:6

leads 112:8

leave 31:7 112:17 126:11 151:8 153:7 157:18

leaves 314:3

leaving 11:15 17:19 29:1 78:10 153:1 280:12,14

left 21:6 23:7 25:7,10 29:5,6, 12,14 30:10 31:11 42:1,2,3,7, 12,18,21 49:3,4,5

50:12,15 53:5 54:1,19 55:5,7 57:2,6,8,20 58:9 59:3,5,8 60:9 61:7 62:4,20 63:17,18 64:2 66:15,21 67:16, 19 68:1 69:2 71:8 76:1,19 79:17 87:20 88:7 89:9 169:4,11 177:8 190:1 192:17 214:5 253:5,15, 19 254:8 268:6

left-hand 55:18 85:13

legged 196:6

legitimate 199:6

length 139:2 214:11

lesser 92:3 297:5

letter 6:2 106:14, 16 107:2,4,8,9, 16,21 108:13,15 112:1 113:3 116:12 118:9,10 119:21 122:4,16 140:9 159:2 214:12 263:7 314:14

letters 107:20

letting 86:11

level 33:13 149:19 162:12 211:13 227:14 247:8 263:1

leveled 300:3

levels 201:18

libbing 255:2

licensed 209:21 210:7,9,15,17 230:16 248:16 267:11,13

licensure 210:1

lie 301:5

life 41:11,12 43:10

lifetime 19:1

light 30:19,20 63:15 187:7 190:3 200:19 293:9

lights 53:19 187:9

likening 138:11

limit 32:11 36:3, 7,10,16 37:5,10, 13 38:3,6,14,18 39:4 81:10,21 83:21 92:4,11,15 120:15 124:3 137:4,5 159:9 161:14 165:12 166:17 168:15 171:8 173:11,13 174:6,7 187:14 234:12

limitations 27:12 32:1 213:19 290:16

limited 178:18

limits 38:20 92:6 137:8,12 180:20 186:16

lines 40:11 238:9 239:8,20 256:21 258:2 301:7

lining 159:5

list 154:19 155:2, 11 156:2,3,4 238:20 294:14

listen 91:2

literally 133:7 162:1

live 35:9

lives 280:3

living 250:21

local 97:13

locale 144:12,14, 16 146:8 181:7

locate 68:18 69:2

located 25:12 30:13 37:17 50:11,15 54:12 175:21 232:20 266:9

location 21:6,7, 9,13 24:19 26:19 29:11 50:7 51:12, 18 53:4 54:11 55:21 56:12,15 59:4 60:20 61:6 67:9,10,11 68:21 69:19 78:20 79:5 83:19 84:4,9,15, 17 85:9 86:8 91:9 104:10 106:6 129:20 142:11 146:9 163:11 165:7,8 182:10 183:16 192:12 196:13 213:11,12 222:9 226:8,20 227:19 228:13 232:4,7 245:21 246:2,4,17,18 248:5 253:3,12 259:7,12,14 269:18 271:1 272:5 299:16

locations 63:6 183:14

logic 243:9

logical 248:6

logistics 280:12

long 89:7 104:19 109:21 110:8,10 150:19 155:21 181:3 208:2 210:6 216:4,6 308:21 310:1

longer 272:15 273:19 283:19 310:3

looked 55:6 57:11 68:20 156:6 175:8 218:1,6 241:5

losing 80:7

lot 24:11 42:8 44:17 66:13 74:7 93:13,14 104:7 130:11 150:10 169:16 172:21 173:6 174:9,10 178:8 180:12 189:21 216:2 240:15

lots 148:15

love 64:11 66:4 88:6 291:7

low 259:5

lower 21:5 24:1 227:1,13

Lowery 301:12, 14,15 302:9

Luckily 124:17

lunch 103:8 110:2,5 114:19 151:3 152:19

M

Macdonald's 292:17

Madam 4:13

made 59:16 60:19 170:14 199:12 230:5 231:13 249:10 260:2 265:3 291:18

magical 310:19

main 245:3,4 248:1 250:16 253:2,10,11 255:12 266:7 289:20,21

maintain 60:19 169:1

maintained 61:2

maintaining 80:18 169:3

major 126:6

make 4:10 6:11 14:5 15:2,21 17:16 32:10 49:8, 21 51:14,20 58:9 59:8 64:9 66:21 67:4,9,20 69:21 71:16 72:19,21 73:6 74:15 76:4, 5,12 78:1 84:8 91:3,5 92:12,14 98:6,8,9 104:15, 17 109:12 115:2 117:9 131:1 147:18 152:7 163:11 167:4,19 172:15 176:11 181:3 182:19,20 183:13 185:16 187:21 192:14,17 196:13 205:6 211:15 251:19 258:14 261:11 262:3 267:19 280:5 282:3 305:12 312:16 313:7 315:17

makes 8:6 39:16 49:20 76:18 90:1 169:9 174:12

making 23:19 24:9 37:7 49:5 78:2 138:5 165:2 197:13 292:21

man 209:4 301:5

man's 111:3

management 33:11 154:18 220:14 302:3

manager 300:21

mandatory 92:3

maneuver 31:13 70:2 71:16 172:20
manner 87:5 112:9 196:11 255:11
manor 255:12,16 256:7,9,12,14 257:16,18 258:7
mansion 39:20 40:3 236:4 286:14,19 287:18 290:1,7 295:3,6, 13
manual 108:18 154:6 205:9 213:17
map 19:18 84:12 142:12 148:10 150:8 174:18 201:8
mapped 213:18
mapping 223:14
maps 28:3
mark 12:13 28:6 44:19 82:12,14, 21 113:20 115:14 132:13 143:9 192:2 239:12 240:19 254:4 278:8 312:14
marked 7:9 12:3 14:13 28:13 30:6 82:19 115:19 128:5 143:19,20 157:9,13 158:21 194:13 195:6 215:7 237:13 241:17,18 260:3 270:21
marker 53:5
marking 239:14
markings 31:12
Maryland 10:9 13:3 32:18 33:6 38:11 43:6 44:18 46:11,12,21 65:12 84:19 121:19 166:10 207:6 214:14 217:1
match 187:17 194:2
matching 52:20
material 126:1 174:2
materiality 112:7 125:6
matter 54:16 73:21 173:6 182:5 213:18 276:20
matters 293:13
maximum 221:11 237:2 305:15
MDE 217:1 221:9, 16 224:9 297:16 309:13
MDOT 167:3
Meaning 102:3
means 23:2 33:7, 17 92:3 99:12 187:2 205:10 225:9 247:2 257:1 260:8,14, 20 272:18
meant 105:15 254:7 264:2
measure 51:5,9 55:21 170:18 176:9 191:1
measured 50:6, 20 53:4 140:11 158:10 159:6,7
measurement 159:4 170:17
measurements 9:4 51:21 139:19 158:1 233:14
measures 187:13,20 188:5 190:21
mechanism 89:11
median 29:5 50:16 60:4
meditation 287:10
meet 95:2,7 104:13 164:3 165:16 167:3 171:1,12 216:19 223:16 230:6 247:10
meeting 11:2,3,4 101:9 104:14 305:21 309:16,21 310:1,4
meetings 101:13 217:21 296:10 297:2 298:7,8,18 299:10 310:8
meets 94:13,18 259:3
member 195:7 214:11 244:3,20 285:20
members 7:17 10:1 14:14 147:1 195:14 218:11 220:14 245:1 286:16 287:2,15, 18 295:4,5 309:11,12 311:6
mention 7:12 44:16
mentioned 7:10 188:9 221:7 302:20
merits 106:4
met 100:6 161:12 167:8 220:13 244:2 245:5 249:16 285:19 300:6
metal 232:18,21
Methodist 146:20
Mia 301:11,14,15 302:9
mid 244:13 295:2
middle 31:3 73:8 130:13 187:3
miles 22:17 23:4, 5 32:16 38:1 41:7,10 72:3,8 73:14,15 74:16 75:2,5 81:10,11, 16,17,21 83:5 84:1,11 85:7,18, 19 92:10 153:19 154:5,12 159:9, 16,21 160:1 161:1,2,12,13 162:16 163:5,9, 12,15,16,18,21 164:21 165:13 166:16 167:5,9 168:2,16,18,21 169:10 170:1,16 171:3,9 173:19 174:7,9 180:18 183:4,11 186:15 187:15,17,18,19 192:14 225:15
Mill 128:9 130:12 185:2
mind 15:16 27:4 52:15,16 196:12 197:21 241:16 260:20 278:12 292:5 309:4 311:1 313:13
minds 199:1
minimal 93:2 297:17 299:3
minimum 93:6, 12 94:13,15,18 95:3,8 96:3 153:19 154:1,2 164:3 165:16 166:10,11,18 167:7 169:14 171:1,12 224:11 235:9 236:10 249:14,15 261:16 268:14 298:4 302:20 303:20 306:5,7
minimus 178:9
minus 253:17
minute 82:1 206:9 249:1,14 261:17
minutes 102:19 152:6,8 161:5 284:3,5,11 287:4 314:13
mislabeled 9:9
misrepresentation 123:12
misunderstand 256:18
misunderstanding 97:8
mix 187:17
modifications 76:5
modify 187:19
moment 18:13 52:15 86:1 133:19 143:1 167:17 226:7
month 35:15
months 208:4
monumental 60:5
moot 262:11 266:12 297:21
morning 35:13 81:14 99:21 109:9 178:9

mother 297:9
Motsco's 239:18
mound 273:13
Mount 130:12 191:15 193:16 195:19 196:8
mounted 8:13
mouth 129:1
move 24:17 60:12,13 67:6,8 68:18 117:3 118:3 120:13 127:2 171:15 199:21 200:10 222:13 233:18,19 258:17 259:2,6
moved 61:6 69:14 75:16 91:11 299:7
movement 69:21 193:20
moves 78:18
movies 34:18
moving 81:4 117:1 150:11,12 201:19 229:17 284:20
multiple 123:8 212:10
mumbling 308:8
Murphy 6:15 10:3 12:11 13:6 14:10 15:8 17:8,9 27:16 28:5 34:10, 12 65:1 82:16 103:10 106:21 114:11 115:16 117:7,9,13 118:9 152:16 157:12,16 177:16,19 178:13 179:1,8,13,16 180:1 181:5,15, 18,21 182:14,18 183:1,7,18 184:1, 12,16 195:5,11 198:10 205:5,12, 15 214:17 215:10 232:7,12 234:4, 15,18 239:21 283:13 308:7,12 311:7

N

Napali 20:21
Napoleon 187:8
narrative 192:2 285:18
narrowed 103:13
national 93:5 96:18 109:10
nationwide 96:19
natural 255:10 258:3
nature 22:13 28:11,13 144:6 182:3 228:19 292:20
navigable 196:14
navigate 180:20 187:10
navigating 187:4
nearest 200:18 304:3
nebulous 310:11
necessarily 15:2 192:19 308:19
necessitate 192:8,9
necessitated 191:12
Necker 144:2
needed 16:21 98:14 104:17 132:10 140:6 173:16 174:20 183:17 215:21 222:12 235:10 247:14 249:6
neighbor 90:6 292:12
neighbor's 59:6 60:10 68:17 69:8 88:17 90:5
neighborhood 19:13 22:5 142:16
neighbors 240:14 292:19
Nepali 4:3 5:3 8:9 19:19 32:12 172:7
night 7:11
nodding 64:8 235:16 243:2
noon 152:14
normal 191:18 298:16 309:6,20
north 23:14 25:8 29:8 30:13,17 32:16 35:16 36:2, 8,14 37:17 39:17 41:7 58:14 60:13, 14 61:14 63:4 70:18,19 71:3,7 72:20 75:17 76:2, 6,8,13,14,15 81:9,16 91:8 131:10 139:3 153:15 172:6 176:2,3 189:14, 17 190:12,18 191:11 200:20 201:1,2,9 227:20 253:6
northbound 11:11 20:20 25:2, 6 29:6 44:21 68:6,8,12 72:12, 14 73:10 76:20 81:18 88:13 161:14 162:16 163:5,6,14 165:13 166:9 180:15 185:7 187:16
northeast 12:20 13:12
note 145:17 148:20
noted 150:20 218:3
notes 251:2 255:3
noticed 11:5 201:18
notification 22:18 316:11
notifies 281:13
notify 282:8
November 208:8
novo 14:21
number 6:8 7:8 14:12 21:13,14, 21 22:6,7,10 23:8,14 25:13 27:19 29:1,4 32:7 34:21 35:1 39:7 40:13 41:1 43:9, 17 49:1 50:4,13 54:10,13 55:17 56:10,11 57:14 58:2 62:20 64:10 107:1 115:18 120:16 128:4 129:18 131:19 139:7 143:18 150:21 157:4 161:19 175:3 182:8,9 183:5,9, 10,12,13 184:6, 14 195:6,8,17 197:4 215:11 216:7 219:5 220:9 222:5 231:2 237:14 238:17 239:15 240:9,20 241:17 244:21 254:10,18 258:15 278:10 287:13 292:2,4 294:19 295:1 298:21 304:10 310:10,17
numbers 12:2 19:21 20:8 26:14 28:14 34:6 48:17 73:13 74:16 85:14 118:13 304:13 306:6 309:9 313:2
numeral 21:5 305:14 306:3,11
numerals 305:14 307:7,16
numerous 18:17 19:3 130:3 142:8 180:21 181:2 187:12 192:10 196:17 202:3

O

obeying 41:17
object 17:11 20:3 26:5 86:2,14,21 87:21 150:13,18 161:16 165:4 198:16 220:6 263:16
objected 82:6 144:19
objection 6:20 11:21 14:10,11 18:18 20:7 31:19 40:5 59:11 63:1 86:15 93:20 94:14 99:10 117:5,6 118:11 119:3,6,13 120:6, 10,18 123:10 132:11 142:14 144:9 145:18,21 146:6 148:21 161:20 162:2 164:4 171:13

192:1 196:16 198:9 199:20 202:14 240:7,17 279:2 283:10 286:8 290:12 292:15 294:4 312:17,20

objectionable 196:21

objects 137:6

obligation 278:7 282:2,7

observation 142:10

observations 204:7,17

observe 257:13 263:1

observed 153:6

observes 248:16

obstructed 60:17 69:7

obstructing 69:8 77:13

obstruction 88:18 172:15

obstructions 51:18

obtain 171:4 222:1 227:13 249:3

obtained 190:1

occasion 126:13 203:5,6

occasionally 11:5 35:8,11

occasions 18:17 217:8

occur 61:13 92:2 164:15 252:20 304:10

occurred 127:6 132:2 181:8 185:6,8 271:14 313:17

occurring 186:12

occurs 281:15

October 5:12,13 112:14 238:14 239:17 295:2 315:9,18 316:13

offer 11:18 17:7 31:17 114:3 210:9 220:2 278:4

offered 210:14 216:11

office 85:12 217:21

officer 41:3 125:3

official 211:7

offsite 217:10 218:20 288:1

okayed 300:8

ongoing 177:7

onsite 217:9

open 111:3 143:16 177:8

opening 146:17

operate 134:7

operating 148:9

operation 134:4 201:12,13 223:20 243:5

operations 149:10 178:5 259:8 296:3

opine 232:5 237:14

opined 36:2,7

opinion 32:18 38:9,12,17 46:20 48:5 57:19 70:7, 8,9 76:4 77:3 78:19 87:19 89:20 94:2 96:8 104:16 112:3 129:7 135:13 148:6 162:9 178:9 180:7,9 182:1,2,19 184:2, 5,9 187:11 191:1 197:1,18,19,21 198:4 199:4,9,14 200:5 201:12 204:5,6,9,10,11 210:20 223:11 265:12 291:6 311:8

opinions 185:11

opportunity 245:9 267:20 309:2

oppose 90:15,21

opposed 24:4 29:19 190:14 203:6 267:3 305:5 310:3,17

opposing 90:21

opposite 63:8 71:2 77:7

optimistic 8:1

options 74:8

orange 60:15 65:7 66:3 147:15

oranges 147:14

order 54:19 140:19 156:18 177:20 196:13 214:6 222:1 258:11

original 6:14 236:3 243:7,9

originally 258:19

outbound 69:14 148:11,12 175:12,20

outcome 62:11

outdoor 295:13

outlined 12:14 220:21

outs 242:6

outsiders 218:11

ovens 219:13

over-congested 175:6

overflow 275:21 277:3 279:21 280:15 282:17 283:1

overhead 63:15

overruled 31:21 119:6 165:19

overstepped 297:7

overtaxing 298:11

overwhelmed 175:6

owned 13:2

owner 47:9 76:11 135:13 251:14 281:2

owners 216:19

ownership 12:9, 14

owns 58:17 89:1 97:19 189:11,13

P

package 43:18

pages 117:11,17

panic 180:6

paragraph 118:15 120:17 121:7 287:1,18

parcel 65:4,21

parent 258:3

parishioners 148:16

park 271:18 275:8 276:3,6 278:13 280:2,4, 10,13

parked 159:5 271:16 272:4 276:18,20 277:12

parking 100:4 148:12,13 149:13 172:21 173:6 272:7 273:8,13, 20 274:10 275:21 276:1,14 277:3,5 278:8,21 279:16, 18,21 280:9,15 281:12,15 282:9, 16,17,21 283:2

Parkville 82:8

part 14:19 26:10 33:1 36:18 43:5 89:6 95:6,10 98:3 106:9 107:13 112:6 133:9 155:5,6 191:13 204:16 224:4,5 242:16 255:19 267:1 268:5 280:15 282:8,13, 15 289:8

partial 239:4

participation 5:17

parties 298:8

parts 13:7

party 126:10

pass 189:18 223:11

passes 249:4

passing 180:18 188:10

past 58:11 60:3 90:7 98:8 99:21 258:5 293:20
path 136:20
pattern 216:20
patterns 186:11
pause 52:14 150:16
paved 136:21
pavements 130:1
paving 31:11
peak 109:9 178:8,10 188:19 220:21 221:7,10 298:2 304:17 309:5
pedestrian 74:4
peek 221:16
Pen 241:20
pencil 254:5
pending 99:4
people 4:7 31:6,7 37:21 39:2,3 41:13 45:20 49:17 51:4,5,12 103:15 118:18 122:5 123:6,7 124:15 125:13,14 129:11 130:6,13 164:14,16 165:9 172:17 181:16 186:19,21 187:4, 9,13 188:1 192:16 209:18 217:8 223:8 249:20 250:9 258:13 271:5 287:9 293:3 294:17,20 295:8 297:12 301:6 304:14 305:3 306:7 307:10 308:6,18 309:17 310:4
people's 88:17
perceived 203:21
percent 27:1 78:2 221:15 224:9,10 232:21 275:12 276:8 309:7
percolation 222:3 302:4
perfect 66:11 73:18 117:3 169:8 181:15,16 197:6
perforated 272:21 273:2 274:1 275:3
perform 278:3
period 112:3 249:16 268:3,6
perk 222:18 229:20 230:1 231:12
permissible 147:10 263:12
permit 46:19 47:2 67:4 95:6,15 96:11 98:20,21 105:14,20 106:1 154:21 155:6 156:19 230:8,13, 15 251:17,19 277:2 282:13
permits 33:12
permitted 147:8 240:13 292:12
person 73:4 101:9 221:13,18 265:12 281:4,5 307:11 309:13
personal 38:10 131:20 132:4 142:10 199:3 200:5 203:11 204:6 264:7 306:18
personally 74:9 244:8
personnel 222:6
persons 221:17
perspective 149:6
Petitioner 120:19 179:2 206:18 282:8
petitioner's 7:8 12:2 14:12 27:19 28:6 32:7 50:4 113:8 114:4 144:8 145:14 151:17 194:9 195:6,8,17 202:13 215:7 216:7,9 220:9 237:13 239:14,19 240:9 254:9 260:4 285:5 313:2,16
phone 55:9 164:8 221:5,6 300:8
phones 4:10
photo 10:8 26:20,21 39:7,14 83:14 84:3 149:21
photograph 16:7 20:18 21:8, 10,11,14 22:3 23:8,11 24:1,20 39:20 40:13 43:18 81:20 82:11 83:4,12 194:6 196:1 277:11 283:8
photographs 9:9,13,14,17 16:6 17:3 24:19 25:10 27:14,17 28:9,13 34:7 45:8 63:7,11 82:6 237:19
photos 9:7 10:12,16 16:10 17:21 19:17 26:17 27:5,7,9
phrase 280:8
physical 54:11 91:7 181:13 272:8
physically 49:6 51:8 77:9 100:21 141:14 164:18 188:17 189:1
picking 241:11
pickle 314:4
picture 10:8 11:7,8,11 20:19 22:6,7,10 23:15, 18 25:11,12 29:1, 10,11 30:2,12,17 31:9 34:21 35:2 39:10,17 42:3,13 49:1 50:13 54:13 55:3,8 56:11 58:6 63:3,11,20 81:13 84:6,7,13 85:3 144:3,15 195:19 270:20 271:13
pictures 11:3 17:18,20 20:1 21:19,20 29:21 54:5 55:16 62:17 77:12 81:13 82:20 85:17 146:18 163:7
piece 248:10 272:17
pinpoint 266:3
pipe 272:21 273:2,4 274:1 275:3 276:10
pipes 264:11 265:21 266:6,9
piping 274:16, 18,20
pit 228:16,18,19 241:14,18 247:2 265:8 267:17
pitch 174:1
pits 272:15 273:7
place 15:11 54:21 61:11 256:15,19 258:3, 18 287:21
placing 227:2
plain 19:18
Plaintiff 140:20
plan 9:18 10:2 94:13 95:13 117:8,14,20 154:18 155:2,6 176:6 206:15 221:2 222:4,18 226:7,11 227:9 230:14 237:17 238:15 239:16 246:4 264:16 279:13 282:16
plane 225:14 257:21
planned 159:8 289:1
planning 228:21 279:20
plans 11:10 117:21 118:1 208:20
planted 276:17
plat 237:13
plate 23:5
platoons 202:4,5
play 112:4
pleasure 212:14
plenty 32:3 60:8 105:19 224:16
plot 69:11
plows 187:2
Plumbing

265:17
Plumer 144:1
PM 152:15 284:17,18 316:19
point 9:2 25:7 28:8 29:2 31:9 35:3 47:16 49:3,4 51:15 55:2 57:2 59:15 68:3 72:5,6 80:13 87:9 88:12 104:11 127:2,16 131:1 138:10 139:3 163:8 171:16 175:9 177:3 183:8 184:5 194:14 201:16 202:17 220:6 230:13 251:18 252:15 260:2 262:11 266:12 276:20 279:15 284:9 293:7 297:21 302:3 304:11 307:6
pointer 241:20
pointing 30:20 65:16 71:2
points 29:5 62:9 63:5 129:11 148:11 201:13 293:15
pole 63:21
police 41:2 129:15 132:1
policy 75:12 231:6
politically 137:9 174:13
pool 228:18 248:4 251:2,16 252:2,3,4,8 289:12,13 299:19,21
pooling 247:7
pools 252:11
poor 169:7 233:2 289:13
porous 275:14
porta 270:8,12
porta-johnnies 305:8
porta-potties 305:8
portable 217:10 250:6
portion 8:6
position 17:17 38:17 92:9 167:2 242:18 302:9 314:13
possession 254:12
possibility 188:16 293:2 296:9 297:2
possibly 144:10, 18 145:19 190:17 250:21 280:9
post 30:19 85:12
posted 32:20,21 36:3,7,10,16 37:5,10,12 38:3, 5,14,18 74:10 75:3,4,6
potential 9:1 11:15 49:2 63:5 74:8 101:12 132:9 188:12 200:4 210:11 258:18 259:21 278:21 282:9,21 298:20 304:3
potentially 47:12 60:13 114:21 131:2 169:12 303:19 313:20
pottys 270:8,12
pounding 71:2
Powell 206:8,16 207:2,17 210:9, 16 211:17 212:15,21 214:1 215:19 216:11 220:11 222:18 225:3 232:16 233:9 238:4 267:5 283:7 285:3 292:17 299:20 302:19 307:5 313:21
Powell's 215:20
pray 287:3
prayer 218:15 287:10,19 295:5
pre-engineered 275:13
pre-made 275:3
preach 279:9
preapproved 259:6
precise 135:10
predated 208:13
predetermined 136:9 139:3
prefer 77:7
preference 62:7
preliminary 300:9
prep 250:4
preparation 217:13 290:6 294:8 295:14
prepare 28:18 140:19 217:6 290:9
prepared 8:12 140:3,16 175:18 215:4 216:13,17 217:9 219:20 236:15 239:17
285:17
present 141:14 189:4 207:18 293:15,17 314:11
presentation 26:11
presented 140:17 141:1 182:11,13 184:20 220:16 298:20
presenting 179:21 291:15
presently 210:4
presents 215:18
preservation 289:3
President 7:1
pressure 273:11 274:14,16 275:7
pressured 274:7
presume 123:18
pretend 169:21
pretty 157:19 198:10
prevail 97:17 98:12
prevails 97:21
previous 207:20 219:9
previously 64:19,20 125:1 139:8 195:16 265:5
priest 218:17 287:20 288:16 308:16
prime 253:12
Prince 157:1,5
print 109:15 110:1
printed 110:13
printer 109:13
printout 20:10 27:5 312:8,11
prior 31:1 230:13 235:12 236:16 297:6
private 47:9 135:16
privilege 278:10
privileged 109:20
probability 275:12
probative 165:1
problem 77:1 79:4 86:4 87:5 88:6,8 115:13 233:18 271:7 316:10
problems 132:9
proceed 13:19 206:10,11
proceedings 4:1 133:7 150:16 316:18
proceeds 258:16
process 33:12 78:2 95:6 98:3 104:8 154:19 214:2 248:17 252:9 267:21
produce 199:11 250:16
produced 5:7 114:10 127:21 206:17 249:18
produces 265:1
product 109:11
production 112:9,12 250:12 262:1

professional 229:8 268:20
professionally 301:4
proffer 113:15
proffered 59:4 212:18
profile 140:20
program 300:21 301:1,11
prohibit 49:3 224:9
prohibited 49:6 59:2
prohibition 50:10
prohibitions 54:1
project 45:4 106:15 156:1 282:21
projected 292:9 306:12
projection 306:6
projects 96:17
promise 133:12
pronunciation 256:17
proper 17:17 30:5 111:7 138:18 163:19 272:5
properly 39:1 72:16 180:21 313:8
properties 102:6 136:10 224:1 225:6,18 303:19 304:7
property 8:9,19 12:10,14,17 13:2, 11 19:19 20:21 22:5 25:15,17 31:7 32:12 44:11 45:21 46:4,7,10, 20 48:11 50:11 58:13,17 65:7,19 66:1,6,8 67:5 68:13,15,17 76:8, 11 80:14 88:17 90:5 94:5 95:11 99:4,9,11,14 100:1,3,5,6,8 101:1,9,16,21 104:2,4 105:8,11 106:3,8,10 107:3 108:11 116:9,11, 14,19 120:15 121:10 122:9,14 123:2,8 129:12 131:17,21 135:3, 12,13 136:1 139:1,4 141:21 144:14 146:10 153:1,11,15 172:7,18,19 173:8 175:13 185:8 188:14 189:20,21 210:12 211:1 212:21 213:5,10 214:4 216:19 223:3,6, 15,16 224:13,20 225:17,19 226:3 228:7,13 229:4 230:7 231:4 233:8 234:1,19 236:11,12 237:2 238:11 240:14,15 241:6 245:11,15 247:15,20,21 248:10 249:8 251:1,14 254:16 255:6 256:4,7 258:12 260:12 261:1,2 265:2 268:20 269:4,17 270:9 272:17 281:2 285:7,19 288:2 291:8 292:12,19 293:3 302:5 303:2,10, 11,13,15,16 304:3 308:6,18 312:1,13
proposal 58:16 61:12 148:18 175:12 220:16,18 251:19 261:6 280:5,17,21 281:3 292:21
propose 79:1 88:4 91:10 290:9
proposed 10:10 33:17 39:14 54:7 61:4,5,19 62:3 67:10,11 78:8 79:10,21 80:18 86:13 87:3,12,14 88:1,3 91:11 95:7 104:9 119:2 120:15,20 134:18 135:17 145:5,6, 15 147:9 158:3,8, 13,14 159:14 178:5,19 189:16 209:8 210:21 218:6 219:4 221:14 222:10 234:7 240:16 245:20 249:7 260:10,11 262:8 270:19 271:2 279:18 283:9
proposing 63:9, 10,11 67:7 90:10 178:7 248:14 296:11 297:3
prospective 182:17 202:19
protection 209:5 276:21 300:14
protestant's 82:18 114:1 115:17,18 118:5, 7,13 128:4 143:18,20 145:3 150:21 154:15 155:19 157:9 184:21
Protestants 123:14,16,19 128:2 143:11 148:7 270:21
prove 171:9
proved 171:9
provide 67:8 75:20 89:12 101:15 109:4 111:17 116:8 126:15 127:19 176:9 189:18 214:10 247:9 256:11 258:12 277:3 279:11
provided 6:4 111:16 112:2 115:9 120:5 121:7 130:19 176:21 214:13 250:14 254:14 255:9 276:1
providing 95:18 96:7 105:2 130:5 144:5 187:12 267:20
proximity 32:11
Puba 200:6
public 38:2 252:11 311:18
pull 57:1 110:9, 12 169:4
pulled 57:7 131:11 238:10 255:21
pulling 81:2,3 84:11
pump 87:15 142:21 247:7 275:5
pumped 267:10
purchased 285:7,8,12
purely 261:1
purpose 27:21 28:7 64:14,15 120:21 121:2 125:14 260:11 268:4 289:5
purposes 4:20 19:9 67:5,14 82:13,15 86:1,11 106:19 112:10 113:21 115:5 119:8 124:16 128:3 133:11 135:2 205:12 218:13 314:14
push 76:18
put 16:16 26:14 29:18 35:6 48:17 49:19 69:12 89:21 96:16 123:17 129:1 151:20 157:11 158:1 170:19 179:4 186:15 200:8 206:15 227:19 241:8 242:17 246:6 285:14 292:17 293:2 294:10 295:17,19 296:1 309:3 311:18 315:16
puts 132:13
putting 46:15 47:15 63:7 131:5 192:2 268:21
PVC 274:21 275:1

Q

quadrant 13:12 65:3
QUALIFICATIONS 211:18
qualified 197:17 283:4
qualifier 296:8
qualify 297:9
quality 34:14,15
quantity 258:11

quarter 274:19

query 165:14

question 13:12 20:8,11,12 31:1 36:5 40:19 44:3 54:20 59:15 62:14 71:21 72:16 83:17 86:11 87:2,15 90:15 93:16 94:6 95:12 96:21 97:8 98:10 99:8 105:7, 17 110:6 112:6,7, 8 113:12 115:13 120:1,12 121:1,2, 5,6,13,15,16 124:12 125:11 126:19 132:5,8, 13,19 135:10,11 138:14 139:16 145:10,18 146:2 150:5 158:7 160:10 161:5,7, 20,21 162:5,15 165:3,19,20 166:2,4,5,6,9,16 168:2 169:13 170:21 171:7,11 180:3 182:15 183:3 184:13 188:20 190:7 192:2,4,6 193:11 196:21 198:20,21 199:13 202:15 211:3 216:4 218:7 225:5 229:3 235:19 258:10 263:5,10, 17 264:8 269:6 270:1,17 272:4 275:20 277:16,18 278:17 279:3 283:12,18 290:15 291:11,14 294:12 295:11 296:20,21 297:8,13 315:15, 16

questioning 102:15 103:2 113:1 114:18 124:3 165:5 190:8

questions 33:21 48:11 54:8 64:9 70:16 80:9 103:11 104:11 110:14 111:11 116:2 124:20 126:21 132:12 141:4 151:4 152:20 161:8 164:16 172:5 173:10 176:21 177:11,13,15 190:4 193:8,10 195:12 205:20,21 211:16 225:3 235:11 255:2 260:17 283:17 286:3,11 292:16 293:9 296:2,19 302:15 307:5 311:2

quick 102:12 118:15 211:2 229:17 273:18

quickly 110:10 286:1

quit 103:13

quote 74:2 297:17

R

race 169:9

rail 23:18 60:10

rainfall 225:10

raise 89:14

raised 70:17

raiser 73:2

raisers 153:2

raising 146:3

range 274:19

rate 127:6

Ravens 126:17

RCS 256:1

re-explain 109:2

reached 211:13

reacted 111:15

reaction 169:7

read 216:15 306:11

reader 297:4

reading 26:7 305:17

ready 34:2 40:20 72:11 103:14 151:14,18 152:18

real 90:15 112:11 273:18

reality 41:13 281:11

realize 182:14 183:7

rear 148:14 253:15

reason 74:1,4 91:12 92:11 129:13,16 162:2 173:2 190:17 191:17 197:12 222:15 233:16 252:6 264:14 308:21

reasonable 27:13 88:20 93:5 202:6

reasons 196:17 199:10 227:14

rebuttal 314:2 315:1

recall 58:19 141:12 270:9,10 287:5

receive 225:9 251:19 259:16 299:4

received 85:21 125:10 204:1 215:13 220:17 300:4

receiving 225:15

recently 131:6,9

reception 169:7 218:19

recess 103:4 152:14 284:17 316:4

recharge 225:9, 16

recognizance 213:12

recognize 27:2,3 83:18 84:4,9 85:9

recognized 86:8

recognizes 20:10 83:3 157:14

recognizing 18:13

recollection 30:3 37:6 40:8,11 313:11

recommend 88:9,16 91:8 165:11 276:4,11 309:13

recommendation 43:6 60:19 270:6

recommendations 43:9 95:18

recommended 228:20 233:6 247:11

recommending 76:7

recommends 23:3 163:18 170:2

record 5:1 10:5 13:9 14:18,19 15:10,11,12,13, 15,17 16:2 27:11 40:7 53:3 103:17 113:9 124:21 133:11 150:20 152:16 160:3,6 172:20 194:7 207:1 227:7 239:16 241:17 253:14 264:8 291:12

recorded 4:21 282:12 308:13

recording 4:15

records 228:6 233:4,6 243:14 312:4

recovery 249:15

recross 177:10 190:5

red 48:17 200:19

redirect 115:4 172:3 193:12 284:8 302:17

reduce 38:13,20 92:10

reduced 80:6

reducing 36:15

reduction 38:18

refer 19:7 104:4 195:15 239:14 241:9 313:21

reference 160:7 238:13

referred 12:5,12 114:13 115:20 144:2 145:13 276:12,13

referring 45:4,10 59:20 75:10 78:6 110:15,20 115:1, 6,8 122:16 215:3 232:2 246:15

reflect 313:16
reflected 123:3 307:15
reflectors 186:21
reflects 312:13
regard 98:18 106:15 107:8 111:12 203:18 245:11 251:13
registration 209:18
regular 122:13, 19 190:14
regulation 261:18 267:14 297:17
regulations 93:11 221:9 224:9 229:7 230:21 231:6 297:16
regulatory 137:11,12 164:13 263:18 264:2
rehabilitate 251:17
related 8:7 103:21 113:2 140:13 155:9 190:9 192:21 311:18 314:12
relates 19:20,21 24:21 213:7 303:8 312:13
relating 28:3
relation 227:9
relationship 19:17 21:5 31:8
relative 49:18 105:17 110:13 111:14 116:9 135:4 144:5
relevance 112:6 124:4,5 144:10, 17,18 145:19 147:2 150:14,15
relevant 112:2 129:7 130:16 199:8 254:11
religious 47:13 73:1 218:13 232:11
relocate 87:13
rely 37:12 96:4
relying 111:4 112:10
remain 81:5
remainder 267:15
remaining 24:18 273:5
remains 248:4
remark 23:10
remarkable 24:20
remedial 191:12
remember 83:21 191:14 308:10
removal 11:6
remove 66:19 267:13
removed 65:14 88:8,11 89:5 236:6
render 204:4,6 210:20 223:11
rendered 222:7
renewal 210:1
renovating 245:1 291:3,5
renovation 291:1
rented 218:10 288:18
reopening 315:17
repair 208:19 233:3,12
repairs 231:3,7, 14 232:2 234:11 235:4
repeat 36:5 165:20 255:4 308:9
repeatedly 196:19,20
repetitive 8:5 126:19 127:1 151:5
rephrase 260:16 277:19
replace 11:12
replaced 273:6
replacing 10:6
report 132:1 214:9 217:6 218:3 219:21 230:10 231:8 236:15,19 249:10 259:16,17 262:20 263:6,7,11 278:4 285:11,17 288:5 294:11 295:18, 20,21 296:1,3 297:1 300:8,9 304:9 305:7,11
reported 129:14 185:1 236:12 237:3
reporter 4:13,16, 17,19 5:4,10 15:14,18 103:16 124:18
reports 129:18 130:3 292:13,14
representation 293:12
representatives 244:17 286:16
representing 130:6 299:18
request 47:2 88:1,2 104:1,18 175:17 293:18
requested 109:4 127:11,13,14,17 177:1
requesting 179:12 296:11
require 58:16 105:13 106:4,5 177:4 188:13 204:15 221:9 231:1 261:7 267:6 279:10 280:1,16 281:2 290:19 292:8
required 33:8 71:11 72:7 130:14 140:18 156:8,9,10,11 159:16 179:7,8 190:11 191:17 224:11 231:18,19 236:19 243:19 260:6 277:3,14 304:2
requirement 41:2 167:8 230:18 231:8 261:16 268:14,19 269:3 279:11 298:16 303:5,8, 15,17 306:8
requirements 93:3,12 94:13,15, 19 95:3,8 96:2,3 97:1,9,17 98:11 104:2 105:7,11, 18,19 164:3 275:6 303:6
requires 129:3 178:14 210:1 219:13 231:6 267:13 291:1 306:4 309:5
requiring 178:1, 2
resembles 16:15
reservation 315:21 316:2
reserve 220:20 231:1,17 232:2,3, 8,10 233:11 234:5 252:16,18 270:5,17 271:1,2, 11,17,20,21 272:6 278:21 281:12 302:21 303:1,9,10 304:6
reset 166:7
residence 135:16 217:1 243:7,18
residential 47:11 48:2 93:19 135:2,13 214:8 217:3 219:9,11, 19 231:4 234:16, 19 235:2 260:4,7, 14,19 261:1,4,6, 16,19 297:18 298:16 302:5 306:4
residents 181:1 247:14
resolution 112:21
resolve 90:17 112:17 124:18
resolved 110:5 114:14
resolves 20:13
resolving 114:17
Resource 255:10
respect 146:7 268:1
respond 89:16,

18 147:4
responsibilities 107:13
responsibility 106:9 278:18 279:4 281:17
rest 151:4
restate 166:8
restaurant 292:18
resting 315:4
restriction 268:10
restrictive 96:2
result 125:17 198:3 270:1
results 222:15 235:6 243:16 272:21
resume 103:1 215:18,19
retain 256:10
retained 31:5 98:16 100:12 277:9 278:1,3
retire 208:7
retired 208:5 214:6
retirement 211:13
reverse 22:16,21 23:2 24:14 25:8 40:14 41:1 186:15
review 36:17 47:2 67:14 98:2 106:7 126:1 129:10 214:7 251:19 255:18 290:19 292:6,8
reviewed 64:19 129:9 202:9 208:20 216:18 220:12
reviewers 282:4
reviewing 34:16 187:12
reviews 278:20
revisited 18:14
revisory 22:16
rid 252:2
ridge 256:21 257:13,14 258:2
ridiculous 111:8
riding 203:11
rig 259:10
risk 183:4
road 8:18 12:7,19 13:13 18:21 19:19 20:17,20 21:7 22:3 24:1 25:14 26:8 28:1, 10,11,12 29:3,8 30:13 31:10 32:9, 10 33:1,2 35:6, 11,12 36:13 37:2, 7,15 38:12,21 39:18 40:4 41:6, 17 42:2,18,20 43:14 45:1 51:2,4 54:3,18 56:2,20 57:5 63:4 65:11, 12,19,20 66:7 73:8,19 74:3,9 76:6 77:8 81:9,21 82:7 83:4 84:19 92:16,20 93:15 97:2,19 104:4 106:5 122:10 127:6 128:9,10 130:12 131:3 134:18,19,21 135:2,4,5,9,12, 19,21 136:1,12, 14,18,20 137:1,2, 13,15,18,19,20 138:9,10,16 139:2,6 141:9,11, 17,19,20 142:5,6, 8,11,13 143:6,21 144:15 145:4,8, 12,15 146:8 147:7 148:17,19 149:6,8,14 150:7 153:10 160:4 164:10 165:7 166:10 169:1 173:3,13,14,15, 16,20 174:1,4,15, 16 175:4,5,10 177:21 178:11,12 179:18,19 180:3, 4,5,11,13,17,18, 20 181:3,9,13 182:17 183:12,19 184:9 185:2 186:18,20 187:3, 4,10,18 188:11 189:8,9 190:9,13 191:12,21 192:20 193:1 196:7 200:14,17 201:4, 7 202:11,12,21 207:5 252:12 255:16 257:11
roads 21:12 38:1, 19 96:17 97:14, 15 138:4 174:10 193:17 194:1 195:20 196:15 197:6 203:4
roadway 21:1 167:20,21 185:18 189:21 205:11
Rob 206:8
Robert 206:16 207:2
rock 248:18 256:15 267:15 274:1,2
Rockway 207:5
Rogers 220:13, 17 221:6 227:4 244:2,21 285:9, 18 300:7,10,16 301:3,4 313:20
Roman 305:14 306:3,11 307:7, 16
room 4:6 103:16 222:14 224:13,16 287:19
rotate 4:8
rough 233:14 235:15 248:21 269:10
roundabout 67:17 131:6,9 191:2,6 193:15 196:2,13 198:4,8 199:16 201:2,3
route 11:5
routine 186:13
ruler 51:10 52:21
rules 54:3 56:2
ruling 204:4,19
rumble 187:2 188:5
run 58:20 131:20 297:10
running 143:21 242:7 252:12 253:18 257:5
runs 257:6

S

safe 32:15 36:15 39:2 46:16 62:5 69:19,20 70:5,11, 14 78:4 87:8,10 88:20 89:8,10 90:2 91:3,5,15 96:8 129:11 131:16 169:1 170:18 179:21 180:13 181:14 184:10 188:1 196:14 265:12,14 310:12
safely 175:13
safer 76:5 77:21 78:4,9 90:17
safest 60:20
safety 67:14 75:21 76:1 174:3 175:14 178:11 180:11 187:21 265:1
Saint 141:10,16 142:1,6 145:4 147:21 148:8,9
sake 310:17
sanctuary 232:13
sand 273:13
Sanitarian 211:7
satisfactory 222:16 259:1
satisfied 45:15
Saturday 122:5
Saturdays 122:7 130:14
scale 52:6,19 194:15
scared 41:20
scavenger 267:11
scenario 296:6,7 309:1,4
scenarios 164:11,14,16
Schedule 274:20
schist 256:15,16
Schmidt 4:17 5:1,2 6:3,20 7:3, 5,20 8:4 11:17 14:3,7,14 15:1,6, 10,12,19 16:2,4, 11,16 17:4,6,7 18:4,5,8,15,20 19:6 20:12 26:3 27:15,17 28:4 31:16 33:20

34:10 40:5,15,16, 18,21 52:6,12 56:5,9 59:11 63:1 65:9 68:14 82:1, 4,5 83:18 86:2, 15,19,20 87:6 93:20 94:14,17 99:10 105:12,21 109:16,17 110:15 111:10 112:8,16, 19 113:5,10,14, 16,17 114:3 117:4,6,11,16 118:2,11 119:3, 12 120:6,18 123:10 124:10,14 126:21 132:11,17 133:1,3,9,14 142:14,19 143:7 144:9 145:17 146:5,17 147:11 148:20 149:2 150:13,19 151:7, 8,13,16 152:5,12 157:15 160:8,12 161:6,16 162:4 164:4 171:13,21 172:2,4 177:5,12 192:1 193:10,13 194:8,11,13,19 195:13 198:7,21 199:7 200:2,9 202:17,20 203:3 204:3,10,18 205:19 206:7,8, 11,14 207:16 210:15,19 212:20 215:6,12,16,20 216:5 220:2 225:2 227:3,8 232:15 235:18 236:1,20 238:3, 10,19 239:2,5,12 242:19 263:16 264:1 266:16 276:7 277:15 279:2,7 283:7,11, 15 284:4,6,9 286:8 290:12,13 292:15 296:18 299:20 302:16,18 307:4,18 311:4,5, 15,16 312:7,9,11 313:5,14 314:7, 17,21 315:2,5,13 316:2,15

Schmidt's 115:3 190:7

school 148:9,16

scope 214:20

script 132:21 133:1

scroll 49:14

seat 83:3 221:12

seating 4:6 218:14

section 38:20 65:17,18 144:3 175:4 183:12 197:7 202:12 208:17 209:6 211:3,4,5,10,11, 12 220:14 302:4 305:13

seepage 272:14 273:7

sees 32:5 57:15 73:11 275:4

selected 128:9

send 121:18

sending 236:16

sense 8:6 164:2

sentence 297:10

separate 9:2 16:17 62:8 157:8

separation 60:6

September 6:21

septic 208:19,20 209:8,15,19 210:11,21 213:7, 11 214:3,7 221:10 222:1,10 223:5,16,18,21 224:1,3,6,10,14 225:6 226:2 227:2 228:14 229:5,19 230:11, 12,16,19 231:1, 17 232:8,10,12, 18,21 233:10 234:5 235:12 236:3 240:20 241:3 242:2,5 243:1 245:17 252:15,16 265:13,15 266:14,17,20 267:3,4,7,10 268:1,5,11,15,17 269:6 270:2,4,17 271:1,2,10,17,19, 21 272:5 275:4 276:12 278:9,21 279:17,19 280:10 281:12 282:10 283:1,6,9 299:16 301:1 302:21 304:3,6 311:9

series 16:6 213:18 255:11,13

serve 87:4 210:21 228:16 232:10,12 233:7 249:19,20 250:3 259:18 292:5

served 217:9 218:9 232:17 248:6,11 250:2

serves 265:18

service 255:10 258:12 290:21

services 174:18 205:9,13,16

serving 290:19

set 104:3 129:10 135:1,2,11 226:8 297:6

setback 224:11 268:11

setting 227:1

settings 256:21

settle 86:17 268:9

Seven-b 85:5

Seven-c 85:7

seven-year 162:11

Seventy 52:18

sewage 217:13 220:19 221:10 252:18 296:12 302:21 303:9,10, 14,16 304:5

sewer 236:3 242:6 265:21 266:6

sewerage 247:10

SHA 48:7 95:21 98:1 105:7 123:1 178:1,13 188:13 197:13,16,21 198:13 199:1,10 200:4,6

SHA'S 192:8

shallow 247:8 273:11,12 274:7, 13

shaped 312:1

Shara 244:19 285:19 300:9

sharing 104:9

shark 13:16,17 14:9 66:4,5 189:10 195:2 311:21

shark's 64:11

Sharon 35:4 39:10

sharp 24:8

shavings 248:18

shed 205:10 228:18 247:19 251:2,15 252:2

sheet 19:21 65:8

shopping 126:4, 6 136:4,21

short 38:20 52:17,18 53:6 74:13 151:21 216:6

shortly 316:12

shot 275:5

shoulders 256:21

show 9:12 12:10 27:17,18 28:1 51:5 54:5 55:18 58:21 59:17 63:17 77:12 81:12,20 82:4,11, 20 87:9 102:7 115:1 123:7 125:13 127:20 142:11 143:4 144:15 146:18 147:12 154:13,17 194:5,15,17 195:4,18 214:16, 19 226:11 227:6 239:13 253:9 271:13 280:17 282:16

showed 8:21 9:6 50:5,12 61:12 85:18 283:8

showing 10:4 19:16,18 29:12 30:10 42:9 55:20 63:8 64:14,15 65:19 68:9 77:4 83:4 145:15 147:8 222:4 226:13 248:4

shown 11:10 22:7 23:11 31:5, 16 33:16 49:3 55:4 61:9 130:11 144:7 150:7 163:7 175:18 176:5 202:13 230:14 242:19

245:21 253:17

shows 23:16,18 30:14,19 31:2 39:20 42:6 43:18 44:9 57:1 63:12, 14,15 81:21 84:3 194:16 239:18

shrinks 76:21

shy 56:9

side 12:20 22:16 29:5,6 49:4 50:7, 12 53:5 55:3,6,18 56:1 57:8 64:1 66:7,16 76:6 77:7,8 85:13 137:1 174:3 188:11 189:7,9, 15 203:16 204:12 246:3 256:21 310:13,20 313:6

sides 186:18 270:14

sight 8:8,21 14:1 24:21 31:17 49:11 50:6,14 51:6,17 53:6 55:19,21 59:2 60:21 61:2,13,15 62:1,4,10 63:18 64:1 65:14 66:13 67:5,8,18 68:2,5 69:1,9,14,18,20 70:1 71:15,19 72:2,13 73:10 74:13,18 77:2,13 78:10 79:1,4,13 80:1,7,20,21 87:20 98:5 104:9 139:20 159:5,15, 16 160:19,21 161:3,11,12 162:18,19,21 163:2 167:3,10, 14,18 168:1,3,8, 10 169:6,11 175:14 176:9 286:5

sights 174:12

sign 22:10,13,21 23:5 24:12,14,15 29:9,13 30:10 36:2 38:21 41:1 43:14 58:12 85:8

signage 23:12 24:4 28:10,11 32:19 92:3 165:10 188:5

signal 148:10 149:9,10 191:3 200:21 201:1,13

signalized 148:12 174:20

signals 201:11, 15

signature 106:17

signed 6:2,3,14

significant 81:18 174:11 189:6,7 191:11 196:12 198:3

significantly 77:4 192:16 201:11

signified 45:1 63:12

signify 55:13

signifying 44:19

signs 22:15 23:2 24:7 28:1 30:7 31:14 32:19 37:16,17 41:18 42:8 43:12 44:19 45:2 180:19 186:15,17

silent 4:11

similar 27:11 102:3 135:16 183:14 303:8

similarly 16:5 312:7

simple 279:13 298:13

simply 41:17

single 44:17,20 45:9,14,21 47:9, 17 126:8 137:18 243:5,18 260:11 261:3,12,13

sinks 306:19

sir 5:1 7:16 28:17, 21 44:15 59:13 85:10 91:4 94:3 115:20 121:13 152:21 175:7 195:17 204:18 227:17,21 229:21 253:8 255:21 284:6 307:12 311:14

site 9:15 11:15 18:16 19:3 22:4 27:8 29:1 30:9,13 32:16 36:17 37:12,18 42:15 43:4 44:1,6,8,9 45:4 47:2 48:4 53:10,12,13 59:1, 4,5,8 63:18,19 65:15 67:7 69:10 71:12 72:11,12, 14,18 73:1,3 76:16 77:6,15,16 78:10,13 81:16 87:20 99:21 119:2 126:2 131:10 134:2 135:1 136:3 139:19 141:10,15 145:5,15 147:9 148:14 149:12 154:11 155:5 166:15 185:7 190:12,19 200:11 206:15 213:20 214:12 217:4,8 218:7 222:14 223:1,6,14 225:11,14,15 233:13,18 234:1 244:1,3,7,16,19 248:14 250:2,3 254:13 255:21 257:7,9 258:14, 18,20 259:2,3,10, 12,14 270:8 271:14 275:2 276:2 282:16 287:9 301:11 304:3

sites 147:19 179:5

sits 259:10

sitting 41:3 55:18 57:1,11 63:20 119:17 231:16 232:5 251:7 257:10

situated 257:13

situation 75:21 89:19 178:4 203:12 214:9 216:21 275:7,21 293:5 303:21

size 106:7 262:6

sizes 274:18

skin 34:19

slam 37:13

slide 76:13

slightly 194:14

slit 42:4

slope 226:12,14 256:21 257:2

slopes 224:4,8, 10,12,14 226:10, 17 229:6,14 232:20 234:3

slot 272:19

slow 36:4,8 37:10 192:12 210:13

slurred 256:16

smack 130:13

small 296:5

Smart 4:15,16,19 15:16 124:18

SMITH 164:7 195:1

snacks 250:14

sneezed 40:15

snow 187:2

snowy 130:2

social 178:14 298:8

soil 208:16,17,18 211:11,12 213:14,16,17,18, 20 222:3 223:11 229:20 230:1 231:11 234:9 235:6 243:16 255:18,20 256:2, 6 257:2,4,16,18 258:7 268:9 272:21 273:14,15 274:2 275:14 301:10,18 302:4

soils 213:5,14,18 223:2,12,14 255:5,11,12 256:3,8,9,12,14, 19 257:4 258:2

solution 191:7

solves 88:6,7

someone's 165:13

sort 16:6 104:15 212:8 213:6 252:13 289:3

sound 308:9

sounds 70:21

south 19:2 20:21 22:8 29:12 30:9, 16 32:16 35:16 36:2,8,14 37:17 49:5 57:6 58:2 60:21 71:2 79:2 91:7 136:3 139:3 149:12 158:4,11 169:4 175:21

189:10,15 191:11 201:9,11 226:18 227:16 228:2 257:14

south/ southwest 257:15

southbound 30:8,12,18 59:3 60:3 63:4 66:6 67:15,17 68:7 79:6 80:2 81:14, 15,16 85:19 88:7 160:1 161:13 172:7 180:15 187:15 192:13,14

southwest 189:20 254:2,3

space 282:20

Spaced 242:10

spaces 149:13 276:1

speak 61:17 195:3

special 122:3 126:12 130:8 142:15,21 144:12 146:3,11 177:20 178:16,18 179:18 184:2 279:5 311:7

Specialist 210:1, 7,10,16,18,20

specific 55:10 105:11 106:6 141:21 184:6 218:7 223:7 257:8 275:2 282:20 296:2

specifically 108:7,9 125:16 149:4 182:7 183:5 218:13 270:10 294:12

specifics 299:8

speculation 199:10

speculative 165:3 292:16

speed 22:16 23:5 32:11,15 36:3,7, 10,15,16 37:5,10, 13,21 38:3,6,13, 18,20 39:1,2,4 73:14 74:10 81:9, 21 83:21 92:4,6, 11,15 134:10 135:21 136:5,9, 11 137:2,3,5,8, 12,16 138:2,3,18, 21 139:2,6 159:9 161:14 163:6 165:11 168:15 169:20 170:13 171:8 173:11,13, 14,16,18,20,21 174:5,6,7,8 180:20 186:16 187:14,17 202:6

speeds 97:16 130:1 134:11,13, 17 135:1,9,11,18 137:10,11,12 163:4,19 168:20 170:19 192:13

spelling 207:1

spent 152:19

spigots 306:19

splain 272:11,12

split 62:8

splitting 80:19

spoke 214:11

spot 35:6 230:5,7 259:6

spots 40:9

spread 234:14 305:4

square 109:6,7 116:5 231:1 233:15,20 234:10 235:5,9,10,11 241:18

squeeze 314:10

SSD 162:17 166:10

stadium 126:17

staff 217:21 299:9 305:20 309:10,12,16,19 310:2,9

staffing 296:10 297:2 298:18

stage 197:1

stainless 219:16,17,18

stand 4:4 121:9 240:18

standard 153:19 154:1,2 165:17 166:11,12,18 167:7 171:2,12 216:21 272:12 275:2 277:4

standards 93:7, 9 95:19 97:15 167:3 169:14 173:20,21 247:3, 4,11

standing 55:16 74:5 81:8 309:1

standpoint 24:6 29:18 45:12,13, 20 144:4,12 148:17 175:1 176:12 245:10 263:18 291:19

start 25:8,11 124:10,12 151:19 240:12 298:6 314:5

started 104:21 123:14 284:20 291:3

starts 258:7

state 10:9 12:5,9 13:3,20 23:3 24:3 29:18 30:4 32:18, 21 33:2,4,6,12 38:11,17 39:4 43:6 44:18 45:12, 16,18 46:4,9,11, 12 47:1,18 48:1 54:17 56:2 60:3, 11 61:8,12,17 64:16 65:21 66:5, 8,9 67:3 76:9 77:17 78:3,14 87:8,16 88:4,14 89:8,12,15,20,21 90:9,11,12,13,16, 18,19 91:2,21 92:5,9 93:5,9,18 94:7,10,13,18 95:2,5,8,9,14,19 96:3,5,10,17,18, 20 97:2,3,4,5,18, 20 98:11,13,20 99:1,5 100:6 101:15 103:19 104:1 107:9,10, 12 109:19 111:12,14 112:1, 2 115:10,21 116:3,17 118:16 119:1,8,10,16 121:10,19 122:5 125:18,20 126:13 127:12,15,16,17, 18 129:5 131:4 133:19 136:6,15 138:17 141:1 153:14,18 154:14,20 155:14 156:3,4,19 163:15,18 164:3, 12 165:17 166:10,11 167:3, 7 169:14 170:2, 15 171:12 173:17 174:11 175:17 176:15,17 178:6 179:9 180:16 183:14 184:10 185:7 186:14 187:11,19 188:12 189:11,13 190:11,12 191:5, 17 193:15 206:21 209:18 230:20 269:4 303:5 309:4 312:2,8,12

State's 91:3 157:3

stated 58:21 116:2 299:13

statement 161:10,15,17 162:5,6,10 262:3

static 81:6 263:1

stating 135:18 171:6

statistics 109:10

stay 229:9

stayed 212:12

steel 219:16,17, 18

steep 224:4 226:10,12,14,17

steeper 234:3

step 133:5 147:17 214:8 221:21 229:18

steps 214:6

stick 138:1

stipulates 297:17

stone 273:1,3

stop 51:19 58:12 72:7,9 73:15 74:2,12 75:21 90:20,21 133:4 165:14 166:14,17 169:5 173:3 191:2 201:14 273:18

stopped 11:6 67:16,19 72:11 73:7,9,19 201:20

stopping 71:9,15 72:2,13 73:4 74:18 154:3,11 160:9,17,18,19, 20,21 161:3,12 162:18,19 166:15 167:10,13,14 168:7,8,9,11 169:6 259:8

storage 249:3, 13,15 262:5,6,8, 14,21

storm 23:21 169:8

story 250:19 253:7

straight 52:3 149:17 192:14 301:7

straightforward 296:21 301:6

stream 226:16

streams 229:11, 12,13 311:10

street 22:18 30:20 42:1 44:20 53:15 58:11,13 68:16 69:8 83:9 84:19 187:7 191:13,14 192:15

streets 42:10 75:13

stretch 181:9 185:18 202:11,12

strict 203:6

strike 106:13

strip 185:6

strips 187:3 188:5

structure 45:9 251:17 265:18 273:15

structures 248:7

studies 139:18 140:6 163:19 179:14 204:15

study 126:12 131:8 156:8 249:10

stuff 105:20 212:12 243:19 289:6 293:13

style 192:6

subdivision 230:21

subdivisions 234:16

subject 116:11, 14 135:1 145:5 146:10 190:12,19 224:12 267:11 277:6 314:21

subjective 36:12 37:9 38:9,16 163:17

submission 154:18 155:2,6,7 157:8

submissions 157:7

submit 6:4 216:16

submitted 28:9 156:9 159:2 175:18 176:14 177:8 216:17 219:21 230:2 236:15,18 300:17 302:6,12

submitting 220:7

subpoena 112:13

subsection 297:16 305:14

subsequently 212:10

subsidence 257:2

substantial 148:13 173:7

substantially 27:10 191:21

substitution 6:6

successive 56:11

sudden 43:19 46:3

suddenly 73:11

sufficient 199:15 231:7 249:12 256:11

sufficiently 247:9

suggest 202:9 282:1

suggested 78:12 294:15

suggestion 296:14,15

suggestions 89:16

summary 215:3 216:12 217:14 219:20 231:9 237:4 260:6 278:4 285:4,11, 15 291:16 302:12

summary's 236:13

summer 294:19 304:18

summoned 302:8

summons 302:9

Sundays 122:8 130:15

Sunshine 201:5

supervised 208:18

supervisor 208:16 209:3 211:6,9 300:20 301:10,18

supplemented 107:9,16

supplied 247:13, 15,16,20 252:5 261:15

supplies 252:11

supply 265:7

support 89:4

supporting 87:21 88:1

suppose 37:8 72:19 88:19 252:3

supposed 4:6 34:20 37:16,19, 20 42:19 51:1,3 54:3,6 55:1 56:3 111:17 180:14 246:2 268:13

suppression 219:13

surface 225:10 234:11 257:5 273:2,15

surfaces 219:16

surmise 248:6

surround 226:11

surrounding 19:19 65:7

survey 139:19 140:14 159:8 186:13 213:17

surveyor 254:15

suspect 248:7 259:1 266:8

suspected 256:6

sustain 20:7,12 119:13

Sustainability 300:14

sustained 120:10 294:4

swale 257:21

swales 229:8

sway 184:7

swimming 289:12 299:19,21

sworn 206:18

synagogues 147:1

system 12:12 20:17 144:16 145:16 174:16 194:6 210:11,21 213:7 214:3,7 221:10 222:2 223:18,20,21 224:3,10,14 226:2,5,19,20 228:5,10 230:17 232:12 233:1,7, 11 234:13 235:10 236:3,4 241:4 242:2,11 243:9, 15 253:13 265:13,15,17,18 266:8,11,13,17, 20 267:3,4,7,10 268:1 269:1,2 270:2,4,17 272:9, 10,13 273:9,11, 12,14,17,21 274:6,8,10 275:4, 5,7,10,16 276:8, 9,21 277:7 278:6 280:1,5,17 283:6 296:12 298:10,11 299:16 302:21 309:5

systems 208:19 209:8,19 213:11 223:5 224:1 272:15 275:13 304:6

T

table 90:14 127:21 128:7,14, 16 185:3

takes 82:10 166:8 235:20 293:12

taking 74:6 187:20 190:10

talk 5:9 54:17 113:6

talked 6:3 28:10 40:14 92:8 147:20 169:5 176:17 277:1 289:16 299:15 300:5 301:19 305:13

talking 13:7 46:18 56:17 71:1 89:19 130:21 154:19 163:2 183:18 184:1 202:18 232:1 233:4 286:18 297:12 298:7 304:19 308:8

tall 49:17

tank 232:18 233:1 252:12 262:6,14

taped 308:12

taught 258:5

Taxation 312:12

teacher 297:9

team 100:7 101:13

technically 11:12 152:8 169:5

technology 303:2

telephone 63:21 300:17

telling 37:18 56:1 178:21 287:5 288:14

tells 23:6 42:17 43:14 233:1 281:11

temple 20:21 21:1 25:20,21 118:19,20

temples 133:21

ten 29:1 31:9 49:1 50:13 102:19 126:11 174:7,9 186:5 235:5 261:18 295:2 303:12

tenant 226:16 247:21 288:5,15

tend 92:7

tendency 273:15

tennis 276:19

term 64:12 66:4 71:17 209:7 211:7 274:6

terminology 232:1

terms 21:6 31:17 32:15 33:7 37:9 51:6 54:17 99:7 133:21 145:7 153:14 173:3 175:3 177:21 178:14,15 180:8 184:2 185:11 190:8 193:18 219:4 229:19 237:20 250:11 254:12 256:10 257:10 286:9 290:17 304:14

test 142:15 213:16 222:4,15 223:11 229:20 230:2 231:12 249:4 263:3

tested 233:16

tester 234:9

testified 18:2,16, 18 22:15 32:9,14 36:1,6 39:20 40:2 58:19 64:20 79:15,16 86:7 122:2 126:16 133:20 141:7 144:21 147:6 153:6 164:11 169:19 174:14 176:8 179:3 182:3 197:2 202:15 206:19 249:19 252:1 255:5 266:16 285:13

testifies 132:12

testify 18:10 20:9 22:2 39:13 41:16 77:10 98:1 181:1 199:8 209:12

testifying 17:12 62:21 63:5 82:21 86:5 140:1,4 171:14 179:2 196:17 198:17

testimony 8:7 14:1 28:2,9 36:4 37:9 47:21 70:17 84:11,17 94:12 95:13 96:7 103:18 107:21 111:5 112:10 115:4 120:19 125:8 132:14 134:3 144:5,20 145:14 154:9 160:15 165:6 179:20 182:1 190:9 192:2 199:18 200:3 203:10,13,14,20 204:1,17 210:11 226:1 237:16 242:3 245:18 251:14 254:12 271:8 313:21

testing 235:9

tests 208:17,18 222:5,13,15,18 233:17 234:9 235:6 243:16 272:21

thereabouts 242:10

thick 257:5

thing 97:21 119:15 153:18 196:20 203:16,17 204:13 212:8,12 242:14 252:17

things 12:4 67:13 86:6 109:19 122:3 136:12,15 153:2 164:17 174:2 177:10 237:7 240:16 266:3 285:4 292:10,20 298:17

thinks 164:17

Thirty-seven 208:4,10

thought 7:4 43:12 56:7 90:12 134:12 170:11,14 239:7 258:19 264:1

Thousands 209:10

thunder 237:9

tickets 74:6

Timahoe 144:1

time 6:2 7:17 8:7 9:14 24:12 32:14 33:18 37:12,21 41:20 42:19 53:9 60:8 74:12,13 75:14 83:7,13,21 100:5 102:14,16 104:11 110:2,14 117:21 122:2,16 128:11,13,14,16 136:18 137:1 147:18 156:10 169:3,6,7,10 174:11 177:4 195:18 202:2 207:18 211:13 212:5 218:14 222:8 230:13 244:11,12,13,19 245:5 251:18 260:18 261:11 268:3,6 270:8 279:21 284:12 297:11 304:11,16 305:5 309:1 311:15 313:15 316:1,4

times 18:20 19:3 24:11 35:12,15 40:15 42:8 44:18 83:16 87:7 93:13, 14 99:14 100:8, 19 101:7 118:21 142:8 160:13 180:12,21 181:2 200:12 202:4 203:1 213:2 244:8 259:2

Timonium 146:20

Timothy 5:2

tired 132:12

tires 169:8

title 207:13

today 4:6,16 5:4, 14 49:2 53:21 59:18 62:18 77:4 92:8 119:17 120:14 123:1 124:18 151:15,19 152:10 231:16 232:5 247:4 263:14,19,20 284:2 311:17 313:17 314:4,5, 10

today's 241:19 247:4
toilet 242:2 263:15 264:2 265:14 306:19
told 18:8 108:20 109:8 132:17 134:6,9 178:6 218:12 219:14 228:4,7 236:14, 17 241:4 242:11 243:6 246:2 251:10,11,14 259:20 269:14 285:21 286:15 287:2,11,17 288:1 289:16 290:10 291:16 294:18 295:8,12, 17,19 296:13 299:21 300:1,11, 16 304:18 305:10 308:17
tomorrow 263:14
tonight 103:15
top 21:2 39:21 157:4 272:7 273:2,3,4,8,14 274:3,11 276:6 278:8,21 281:12
topographic 213:6 227:1
topographical 238:9 239:7,20 256:20
topography 188:11 213:13 223:13 224:3 226:12 237:18 238:18 239:3,13 240:18 254:17
torn 251:7
total 129:14,15 236:19 305:15
totally 251:17
touch 76:7,8
Towson 38:1
traffic 23:13 24:5 29:13,17 30:15 31:10 37:21 45:13 69:11 73:9 79:6 98:16 126:7 127:4,21 128:18 130:9,16 131:5 144:4 145:12 146:7,9 148:10, 17 149:5,6,8,9,10 152:21 153:10,13 155:10 156:8 164:12 174:19 175:6 176:11 177:17,20 178:17 179:4,5 188:4 190:8,10,15,17 191:3,9,11,20 192:8,19 193:1, 19 196:10,15 197:3,4,12,17 200:18,19,21 201:1,14,15,16, 20 202:4,7,16,21 203:7 204:5,21 205:10 239:1
transcript 5:5,7
transcripts 124:19
transfer 312:14
transportation 96:19 108:17 205:2
travel 83:20 167:20 170:1 187:4 192:13,15
traveled 180:14 183:4,11
traveling 25:2 72:3,8,14 168:20 181:4 187:13 188:1
travelling 56:20 57:5 168:18
travels 203:5
traverse 74:3 202:6
treat 47:8
treated 265:5
treating 231:11 252:10
treatment 265:7
tree 272:3
trees 13:21 58:17 64:16 89:2 164:19
trench 272:13, 15,16,19 273:1, 21 274:5 275:15 276:8,9
triangular 13:14 14:8
trip 36:20 99:7 108:17 109:5 116:3 121:19 126:1,2
trips 48:3 116:5 122:10 126:9,11 139:5,7 178:7,8
trouble 291:9
trucks 252:12
true 38:2 84:10 223:16 301:2
trust 301:6
Trustees 309:17
truthfully 41:13
turn 21:4,21 22:8, 16,19,21 23:2,6, 7,17,20 24:9,15 25:3,8 29:21 30:1,6 36:10 37:2 41:1,21 43:1 49:5,21 55:5 57:6,20 58:9 59:1,3,5,8 60:8, 17,20 61:15 62:20 63:17,18 64:1 66:21 68:5 70:18,20 71:8,12 72:11,21 73:5,6, 11 74:1,10 77:9 79:9,17 80:8 85:15 87:20 88:8, 14 89:9 93:1 149:7 163:12,13, 14 164:20 167:5, 20 169:1,4,9 170:13,17,18 172:9,10,11,13, 14,15 173:2 186:15,18,19,21 190:1 192:15,17
turned 4:10 50:19
turner 76:19
turning 55:1 67:16,19 68:1 72:17 73:19 76:15,16 77:15 81:1 169:11 172:6,7,17 304:9
turns 23:3 24:8 32:15 37:7 39:2 56:2 76:1 180:16 188:19 305:11
Twenty 37:1
type 48:6 89:19 92:16 102:4 108:21 126:1 129:19 139:10 174:1 178:4 192:7 202:10 204:15 209:17 221:13 272:9 280:18
types 38:19 44:19 97:15 183:15
typical 92:9 108:21 121:20 122:12 126:7,14 217:18
typically 38:19, 21 47:11 65:6 71:15 92:5 121:18 122:6 125:21 129:3,17 155:5 174:8 180:10

U

ultimately 144:13 213:15 259:11
Unanimous 15:9
unannotated 20:9
uncomfortable 242:17
uncommon 165:9
unconfined 225:9,21
underlying 233:11
underneath 23:5
understand 4:17 9:13 14:20 15:14 27:21 29:15 41:19 51:3,12 52:2 54:19 55:15 56:4 72:16 86:11 87:2 88:19 91:4 96:21 111:13 112:5,7 121:12 124:2 137:14 147:13 150:18 156:14 161:18 166:6 184:6 186:2 198:18 204:3,18 222:18 241:11 251:2 256:3 259:15 270:13 272:1 276:15,16 277:11,15,17 281:21 297:8,13 305:12 307:8,21
understanding 19:15,20 27:12 31:21 105:19

125:4,5 133:21 307:15

understands 116:18 121:15

understood 47:21 94:2 105:16 126:17 157:19 177:6 198:12 199:17 200:3 263:20 267:1

undue 201:18

unforeseen 296:9 297:1 298:6

unique 257:9,12

United 146:20

universal 4:18

unknown 264:12

unsafe 69:21 88:10 90:2 91:17 92:14 96:8 181:3

unsigned 6:9

upgrade 136:14

uphill 303:21

upped 298:17

upset 39:15

Upside 13:17

urging 299:7

usage 214:9,13 215:3 216:12,20 217:4,5,7,14,18, 20 223:17 231:8 234:6 236:13 243:7 250:7 260:6,21 261:1 263:7,8 278:4 282:18 285:3,15 295:3,14 296:4 297:18 299:3 302:11

USDA 213:17 255:10,21

useable 99:9,11

user 230:19

utilize 77:7 99:4 251:15 291:17

utilized 36:13 116:4 251:5,6,8, 12 255:1

Utilizing 71:21

V

vacant 228:7 288:9,12

valley 257:17

valuable 256:3

valuation 231:12

vandalized 288:13

varies 97:14

vehicle 50:20 57:1,11,19 59:5, 18 60:5,6,7,8 67:15,16,19 68:4, 9,12 69:4 71:11 72:11,13 74:2 76:15,16,20 79:8 80:2,3 88:12,13 167:19 168:2,17, 19 169:1 170:13 183:4,11

vehicles 67:14, 20 74:11 75:21 81:1 153:1,6 175:3,13 183:12 201:19 271:18 277:11

venture 221:19

venue 218:20 221:13 288:1

verified 301:12

verify 256:5 285:4

version 20:9

versus 93:11 140:13 178:11 218:1

vertical 139:18

VI 306:11

vicinity 223:4 229:1 242:11,12 266:7

view 11:15 60:2 63:3 69:4 83:9 84:19 193:10 223:20 224:14 254:15

viewing 26:17

views 261:6

violate 41:8,9 169:14 278:10 293:3,11

violation 164:1

visit 270:8 287:9

visited 19:3 214:12 244:7,17, 19

visiting 217:8

visits 22:4

Vista 130:12 191:15 193:16 195:10,19 196:8 286:4

visual 68:5 140:11

visualizing 27:2

visually 13:8 51:16 88:11 89:7

voice 316:1

voices 271:5

volume 153:7 178:11,17 180:10,12

W

wait 4:7 70:21 82:1 139:15 143:13

waiting 5:15 104:12

Wal-mart 136:5

walk 278:14

walked 100:6,7 213:9

walking 74:5 159:5

walls 272:13

Walmart 47:15 126:3

wanted 10:14 14:5 51:21 59:3 66:14 190:13 203:19 207:12 211:15 311:17

warming 290:6, 19

warn 42:14

warning 24:12, 14 29:8,13 37:16, 17 187:5

warnings 32:19

warrant 183:20

warranted 188:19

washed 257:3

washing 250:4

waste 110:14 213:20 231:10 233:16 278:5

watch 37:18

watching 41:17

water 214:9 215:2 216:12 217:14 219:20 221:19 225:15 229:7 231:8 236:13 247:8 248:21 249:6,17, 21 250:5,7,11,16 252:4,6,10,11,14 256:10,11 257:20 258:11 260:6 261:15 262:15 263:1 264:10,21 265:4,7,8,13 267:19 270:3 278:3 285:3,11, 15 302:6,11

ways 35:20 281:8

weathered 256:15,19 258:3

web 255:21

wedding 218:16, 19 287:19 305:19 307:9,10 308:1,3, 16 310:4,10,13

weddings 218:5

weeds 11:6 65:13

week 35:12,13, 14,15 36:13,20 83:20 121:21 130:7,15 174:15 200:15 206:4 217:19

weekday 217:21 282:19

weekdays 118:19 119:1 287:8

weekend 122:1 287:13

weekends 118:20 130:14

weeks 36:20 105:4,5 156:18 220:17 300:17

weigh 177:20 179:10,17 180:7, 8 184:4

weighing 178:15
weight 125:9 280:18
welfare 265:2
well's 248:5
wells 224:2 225:9,20 247:4 248:6 272:14 304:6
west 66:7 189:7 226:13,15 253:20
western 224:4
wet 130:1 169:7
whatnot 314:15
wheel 159:4
whichever 82:15 158:7
whomever 278:20
wide 272:20
wife 288:16 291:7
Wind 201:9
winter 10:8 105:1
withdraw 59:11 199:19 264:7
withdrew 215:9
withstand 280:18
witness' 11:19
witnesses 124:4 151:14,21 152:1 293:14 311:16 313:15 314:6
wondered 264:19
wonderful 20:19
wondering 188:10 255:1
woods 271:10
word 45:3 172:9 220:17 301:9
words 56:21 102:5 104:3 122:21 129:1 140:15 158:15 258:17 286:14
work 33:9 61:9, 21 155:21 207:7, 21 208:2,21 209:18 228:11 256:8 274:18
worked 61:10 171:19 208:9
working 30:4 233:5 245:1 307:1
works 69:13 222:11 241:21
world 181:15,16
worry 18:12 298:10
worse 77:4,14 79:5,7,8,11 309:1,4
worship 146:21 227:13 287:3,9 295:6
worshipper 118:21
worshipping 287:14
worst 296:6,7
worth 46:17
wrap 283:21
wrapping 103:6 283:20 284:21
writing 221:5
wrong 71:17 158:15 290:14
wrote 106:14 107:2 172:9 286:12

Y

year 122:7,12 123:6 129:13 182:21 183:4 221:11 244:4 289:19 295:2
years 30:4 36:20, 21 37:1 46:1,16 61:11 77:19 137:16 208:4,9, 11 209:9 210:2,8 211:21 212:16 216:2 223:4 228:8 243:18 247:14 256:8 298:11 301:5
yesterday 263:14
yield 249:1,4,13, 14 259:2 262:20, 21 263:2
yielding 259:5
yields 258:21
York 37:11
young 291:6

Z

zone 180:19 205:2
zoned 65:12
zones 188:10
Zoning 209:14

IN THE MATTER OF:	*	BOARD OF APPEALS
Nepali American	*	OF
Cultural Center	*	BALTIMORE COUNTY
	*	Case Number 18-122X

****

RE: Petition for Special Exception pursuant to BCZR Section 1A01.2.C.6 to allow a Church or other building for religious worship on property zoned RC-2.

BEFORE HEARING EXAMINERS:

JASON S. GARBER, CHAIRPERSON

DEBORAH C. DOPKIN

MAUREEN MURPHY

Hearing date: September 12, 2018 (Day 3)

Reported by:

Patricia A. Cirasole

Court Reporter

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TABLE OF CONTENTS

JOSEPH J. CALOGGERO	PAGE
Direct Examination by Mr. Schmidt	8
Cross Examination by Mr. Holzer	34
Redirect Examination	172
Recross Examination	190
Redirect Examination	193
JAMES R. POWELL	
Direct Examination by Mr. Schmidt	207
Cross Examination on Qualifications By Mr. Holzer	211
Continued Direct Examination	212
Cross Examination	237
Redirect Examination	302

PROCEEDINGS

MR. GARBER: We are back here Day Three in the Nepali American Cultural Center case, 18-122-X. This is Day 3, Mr. Caloggero is still on the stand in the witness box. We are back in the Board of Appeals room today. I see that seating is supposed to be fine. There is no need to have people wait out in the hallway and rotate in. Obviously, much like I have said to begin each day, this is a courtroom, please make sure your phones are turned off or certainly silent. And please no comments or anything else, but the attorneys and the witness and the Board, of course, and Madam the Court Reporter, if you need anything as well.

And we are recording on Court Smart and court reporter today. Court Smart is on. I understand, Mr. Schmidt, the Court Reporter is here for your case. Now, Days 1 and 2 are universal. Day Three, you have a Court Reporter. Court Smart is on for the purposes of maybe jumping over to Mr. Holzer's case, so we have consistent day recorded.

MR. SCHMIDT: Yes, sir. For the record Lawrence E. Schmidt and Timothy Kotroco on behalf of the Nepali American Cultural Center of Baltimore. We have a Court Reporter today. We, I think, have gotten a transcript from the first day and I believe forwarded it to the Board. I don't believe the transcript from the second day is produced yet, but we'll get that to you as well as this one. And I think our next hearing date, Mr. Holzer and I can talk about arrangements for a Court Reporter then whether we need one.

MR. HOLZER: In October. That next hearing date is October 11th.

MR. GARBER: End of today, I am still waiting to find out what goes on during course of depositions in advance to see how necessary it is for my participation on that day, whether I can have someone cover for me. I anticipate I will have someone cover for me, but don't tell the other in attorneys in that case.

MR. HOLZER: Mr. Chairman, when I

introduced the Greater Kingsville Civic Association letter last time, it was not signed. I now have the signed copy. And I just talked to Mr. Schmidt, provided him a copy. Could I submit these to you now?

MR. GARBER: Sure. Are we doing this as a substitution or addition?

MR. HOLZER: Addition.

MR. GARBER: So, whatever Exhibit Number One was, the unsigned --

MR. HOLZER: Yes.

MR. GARBER: We are going to make this --

MR. HOLZER: A.

MR. GARBER: Exactly.

MR. HOLZER: Here's the original signed.

MS. MURPHY: I already have one. Thank you for handing, I think you handed it to us. This is what I have.

MR. GARBER: Yes, well, I'll introduce it. I will say I have not seen this.

Mr. Schmidt, you have no objection to this exhibit which is dated September 3, 2018. Dorothy

Foos, President of the Greater Kingsville Civic Association.

MR. SCHMIDT: Yes.

MR. HOLZER: I thought I did.

MR. SCHMIDT: Mr. Holzer did give me a copy, yes.

MR. GARBER: Also this is Exhibit 6.

(Petitioner's Exhibit Number 6 was marked.)

MR. GARBER: I believe you mentioned something about it last night, it was not handed forwarded. You did mention that.

MR. HOLZER: Yes, I did.

MR. GARBER: Just so you know you are not going crazy.

MR. HOLZER: Yes, sir. I am not sure of that all the time. Thank you, Members of the Board.

THE COURT: All right, so are we on cross examination now.

MR. SCHMIDT: I was still not finished with Mr. Caloggero. I had a little more with him.

MR. GARBER: I guess I was optimistic, okay.

CONTINUED DIRECT EXAMINATION

BY MR. SCHMIDT:

Q. Mr. Caloggero, not to be repetitive but so this some makes sense, I think the last portion of your testimony the last time we were here related to your examination of the sight distance issue when one would exit or enter the Nepali property, is that correct?

A. That is correct.

Q. And you had prepared four different exhibits which were labeled and were mounted on the board as 15-A, 15-B, 15-C, I'm sorry, 16-A and 16-B; 15-A&B and 16-A&B?

A. That's correct.

Q. 15-A&B, I think, depicted conditions with the existing entrance which goes out on to Harford Road from the property?

A. Correct.

Q. And then 16-A&B showed sight distances with a

potential alternative which would be the construction of a separate access point, is that correct?

A. That's correct plus some additional the measurements based on existing as well.

Q. Right. I'm just giving a broad brush of what this showed. I believe we indicated at the last hearing at least one of the photos on these exhibits, particularly 16-A&B, which goes those two exhibits have photographs on them was actually mislabeled and was not correct, is that right?

A. On 16-A, correct.

Q. Okay. I'm going to show you and I'll give to Mr. Holzer a couple of photographs. I understand these photographs you had taken some time ago depicting conditions at the site entrance, correct?

A. That is correct.

Q. Okay. And it was these photographs that were to be placed on your plan and were not; is that correct?

A. That is correct.

Q. So, I have given them collectively to

Mr. Holzer and the Board members. If you could just approach the plan and we can label those perhaps 17-ABC&D, Ms. Murphy, if that's okay, and please explain to the Board what those are showing and what is erroneous on 16-A, so the record is clear as to what you are in essence replacing?

A. So on Exhibit 16-A, the bottom right, we had a picture that was labeled winter photo without ground coverage in the Maryland State Highway Administration right of way, looking for proposed exit. It was brought to our attention that that was the existing exit. So what we did or what I did was I had photos taken, I believe the dates were, they are not labeled here, from July 16th and 17. So, I wanted to introduce these as ABC&D.

So, the first two photos were taken from the 16th at the existing access.

MR. GARBER: So, 17-A&B being July 16th?

THE WITNESS: Yes. 17 A and B.

MR. GARBER: July 16th at the existing access.

THE WITNESS: I believe that was the correct date. We were at a field meeting and during the field meeting I took these pictures. And then while driving home from a different meeting, I take this route occasionally home, I noticed there was some removal of the brush or weeds. And so I stopped and took a picture of the existing access. And then the last picture, which is 17-D, is a picture of what is labeled as, I guess, an alternative access, the one that's shown on the plans of the approximate area looking northbound. So this last picture should technically replace the one.

MR. GARBER: On 16-A.

THE WITNESS: On 16-A as, you know, a potential view or the view from leaving the site at the alternative access.

MR. SCHMIDT: Thank you, Mr. Caloggero. I would offer those as Exhibit 17 A through D with the witness' explanation.

MR. GARBER: Mr. Holzer.

MR. HOLZER: No objection.

MR. GARBER: Admitted.

(Petitioner's Exhibit Numbers 17-A through D were marked.)

Q. Mr. Caloggero, just a couple of other things and other exhibits. You have referred to the State Highway Administration right of way that adjoins Harford Road in this area, correct?

A. Correct.

Q. But insofar as the State Highway ownership of property, I'm going to show you an exhibit, let me get the colorized one for Ms. Murphy, I think it was taken off of the County GIS system, which we referred to. I'd mark that as Exhibit 18. That depicts the ownership of the property that's outlined in blue, is that correct?

A. Yes.

Q. Okay. And that's the property, is it not, Mr. Caloggero, that's immediately adjacent to the intersection of Harford Road and Bonapart on what would be the northeast side of that intersection, correct?

A. Correct.

Q. Okay, and that property is actually owned by the Maryland State Highway Administration, correct?

A. Yes.

MR. GARBER: So, in our exhibits we have color for some of us, Ms. Murphy does, she has the color copy, which parts are we talking about on this exhibit? I mean, I can identify it visually, but for the record can you please describe where it is on Exhibit 18?

THE WITNESS: Sure. The property in question is in the northeast quadrant of the intersection of Harford Road and Bonapart Avenue described as 1.77 acres and it's basically triangular.

MR. GARBER: I was going to say, it looks like a shark fin almost. I'll say that, a shark fin.

THE WITNESS: Upside down shark fin.

MR. GARBER: Right. Okay. You may proceed.

Q. You indicated the State Highway obviously could clear the brush and trees when you had your

sight distance testimony?

A. Yes.

MR. SCHMIDT: Exhibit 18.

MR. GARBER: Mr. Holzer.

MR. HOLZER: I just wanted to make sure. Could I see the color?

MR. SCHMIDT: Sorry, I didn't have enough copies of it. It's the triangular.

MR. HOLZER: The shark fin did it.

MS. MURPHY: No objection.

MR. GARBER: No objection.

(Petitioner's Exhibit Number 18 was marked.)

MR. SCHMIDT: Mr. Garber and members of the Board, I know you get the file in this case that comes up from the Administrative Law Judge and that generally the Board in evaluating the case considers that the record of the case and exhibits and information in that part is part of the record of this case is the way I understand it.

MR. GARBER: I mean it's de novo, right?

MR. SCHMIDT: It is.

MR. GARBER: I wouldn't necessarily make that assumption. It's in the case file. If you think it needs to be evidence in this case, you probably need to do something about that.

MR. SCHMIDT: Then I am going to.

MR. GARBER: You all agree with that?

MS. MURPHY: Yes.

MR. GARBER: Unanimous on that.

MR. SCHMIDT: Let me go off the record.

(An off the record discussion took place.)

MR. SCHMIDT: On the record again.

MR. GARBER: When you say off the record, understand maybe you want your Court Reporter to be on the record because maybe it's not necessary. We are also doing Court Smart. So keep in mind, when you say off the record, is it something directed to the Court Reporter or the entire case?

MR. SCHMIDT: For the entire case when I say that.

MR. GARBER: I just want to make sure

that's clear.

MR. SCHMIDT: Yes. Back on the record.

MR. GARBER: This is Exhibit 3 below.

MR. SCHMIDT: Yes. And it's actually I believe two similarly looking exhibits, Mr. Garber, with a series of photographs and sort of a key to the photograph. I believe they are in the Board's file.

MR. GARBER: Like I said, I saw Exhibit 3 that looks just like that; you say there are other photos with it?

MR. SCHMIDT: Yes, I believe so. I'll have Mr. Caloggero identify them. So, it's Exhibit 3 and 10, I believe.

MR. GARBER: There is an Exhibit 11 that resembles it.

MR. SCHMIDT: I am going to put these in as a separate exhibit here.

MR. GARBER: Three.

MR. HOLZER: 10 and 11.

MR. GARBER: Mr. Holzer, if need be, you needed to take a look at the file to help with that,

we can arrange that during the break.

MR. GARBER: In this document I have nine photographs.

MR. SCHMIDT: In the one being handed forward. I guess we'll get an explanation from Mr. Schmidt.

MR. SCHMIDT: Yes. Let me offer this, Mr. Holzer, and I'll give it to Ms. Murphy, give a copy to Mr. Caloggero. Ms. Murphy, I will give you another one when Mr. Caloggero finishes with this.

MR. GARBER: I am going to object to Mr. Caloggero testifying about these unless he was the one that introduced them blow. It may well have been another witness below that introduced these, not him. I don't know because I wasn't there. But I want to make sure when he's looking at these, he's in the proper position to be able to affirm all these pictures.

MR. GARBER: Leaving aside the front page, someone can authenticate the other pictures other than the one who took the photos.

MR. HOLZER: That's right, he was the one who testified or introduced them or not. That's the key.

MR. GARBER: Mr. Schmidt.

MR. SCHMIDT: I'll certainly ask Mr. Caloggero, I was also not there below.

MR. HOLZER: Right.

MR. SCHMIDT: Mr. Kotroco told me he believed Mr. Caloggero introduced these, but if not, I believe he has knowledge of the area and can testify about them and I'll establish that in my examination.

MR. GARBER: So, we are not worry about admissibility at the moment recognizing of course when it's revisited, you may have another argument.

MR. SCHMIDT: Mr. Caloggero, obviously, have testified you have been out to this site in this area on numerous occasions.

MR. GARBER: Objection, testified he's been out there twice.

MR. SCHMIDT: How many times have you driven up and down this road in the course of your

lifetime, Mr. Caloggero?

THE WITNESS: I have been south here numerous many times, visited the site numerous times.

MR. HOLZER: I'll ask you that when I get a chance.

MR. SCHMIDT: Mr. Caloggero, this exhibit which I am going to refer to I believe as Exhibit 19 although I haven't introduced it.

MR. GARBER: For identification purposes only it's Exhibit 19.

Q. If you could tell us, Mr. Caloggero, generally, the first page that appears to be labeled Baltimore County, my neighborhood, which is the county GIS, that indeed is where that is from.

A. Yes, that's my understanding.

Q. And what is that showing if I can ask you in relationship to the photos that follow?

A. This is showing just a plain base map of Harford Road and the surrounding Nepali property and there is labels on here which my understanding relates to the numbers on the first sheet relates to the

pictures and the direction that the pictures were taken.

MR. HOLZER: No, I am going to object to this because, obviously, he's just saying something he didn't do.

MR. GARBER: Once again, I am going to sustain the objection. I believe there should be a foundational question as to what the numbers, let me back up. The unannotated version he can testify to. He recognizes that as a county GIS printout. As to the labelling, that is a question for Mr. Holzer, I will sustain. Mr. Schmidt you can ask a question which perhaps resolves the issue.

Q. Mr. Caloggero, let me draw your attention, if I can, let me do it this way, to the second page of the exhibit. Can you identify based on your experience and knowledge of this road system what that photograph is depicting if you know.

A. Yes, I don't have a wonderful colored picture, but it looks like it's northbound Harford Road to south of Napali temple property. It looks as if the

house or temple can be seen from the roadway on the top of the hill.

Q. Okay. If I could ask you, Mr. Caloggero, can you turn to the first page of the exhibit, is there any relationship between the numeral one in the lower left hand corner in terms of its location on Harford Road, if you know, and the location from where this photograph was taken?

A. Yes, that would be the approximate location of the photograph.

Q. Does this photograph fairly and accurately, based on your knowledge of the roads conditions, depict what one would see as location number one as depicted in photograph number one?

A. Yes.

Q. Is that accurate to the best of your knowledge?

A. Yes.

Q. Do you know if you took these pictures?

A. I do not believe I took these pictures.

Q. Let me turn if I can to number two. What I

would like to ask you, Mr. Caloggero, again, is that, if you could testify if you are aware and if you know where on Harford Road would that photograph have been taken based on your knowledge and your site visits to the property and to the neighborhood?

A. Yes. This picture number two is in the area that is shown on the first page of picture number two. It is just south of the first right hand turn before the entrance.

Q. And there is a sign in picture number two, is there not?

A. Yes.

Q. And could you tell us the nature of the sign and what it's disclosing?

A. Yes, I have testified to the signs before. This is the reverse turn side with the revisory speed of 30 miles per hour and below that is the notification that there is a street that should be within the curve itself or the turn itself of Bonapart Avenue.

Q. What is a reverse turn sign or reverse turn

when you use that, what does that mean?

A. The reverse turn means 90-degree turn signs which the state highway recommends turns that are taken at 30 miles an hour. Again, that's what the 30 miles per hour speed plate is underneath that sign and it tells the drivers ahead to be expecting a turn to the right and a turn to the left.

Q. Let me go on to photograph number three, if we can go through the same exercise, can you tell us where that was taken, if you know, and remark on any features shown on the photograph, particularly the signage?

A. These are traffic of chevrons. These are just a little bit further north than taken in number two. C, the chevrons from picture two as you approach the curve and three shows the chevrons as well. Three is taken after 2 and 4 is after the first right hand turn before the access. This picture shows the guard rail and two chevrons which assist the driver in making the turn to the right.

Q. There is what appears to be a storm drain in

the road in the lower right of the photograph?

A. That's correct.

Q. When does the State Highway Administration use these chevrons as opposed to other signage? Is there any particular criteria from a traffic engineering standpoint?

A. They would particularly use these signs in conjunction with sharp turns, use these again to assist the driver in making the right hand turn.

Q. Okay.

A. Usually, a lot of times, I don't want to say all the time, they are accompanied by the warning sign and the chevrons.

Q. The warning sign in that case is the reverse turn sign?

A. Right.

Q. If I can, Mr. Caloggero, just to move this along, if you could go through the remaining photographs as well and just comment on their location and any remarkable features of the photograph or anything that relates particularly to the sight

distance?

A. Exhibit 4 is still traveling northbound where the driver would have completed the first turn and facing or approaches the access as well as Bonapart Avenue. Five is a little bit further and, again, it faces northbound, again, the access is to the right of Bonapart Avenue is to the left. At this point you can start to see the reverse turn heading to the north.

Q. Would that be where the chevrons are to the left of the photographs?

A. Correct. In this picture you can start to see the two chevrons located in this picture.

Q. Number six, although dark, it looks like it's taken from Harford Road looking up the driveway?

MR. GARBER: The property at issue that driveway?

THE WITNESS: Going into the property. Seven is a continuation of the driveway. Eight looks like a continuation of the driveway and nine is a continuation of the driveway facing the temple or looking at the temple.

MR. GARBER: Is that it for Exhibit 19 then?

MR. SCHMIDT: It is.

MR. GARBER: Mr. Holzer.

MR. HOLZER: I object on the basis you already heard. It wasn't his introduction. He's reading someone else documentation. Even if he is familiar with driving up and down the road, I don't think it's appropriate for him to introduce something below that he did not create or was not part of the his presentation.

MR. GARBER: Mr. Caloggero, if you look through Exhibit 19, you went through to it's 1 through 9, you did not put the numbers on the first page of Exhibit 19.

THE WITNESS: That's correct.

MR. GARBER: After viewing the photos you agree it's generally correct. If you would label it you would label it approximately the same location in the photo.

THE WITNESS: Now, photo 7 and 8 to be fair

I am not assure percent sure because I'm not visualizing any features that I recognize first off the bat, but the other ones that you recognize.

MR. GARBER: With that in mind, we'll admit the photos in Exhibit 19. As to the GIS printout, the first page, it is I think helpful to the Board to know where the photos came from, at least the ones on the approach, certainly, the ones into the site. We've already had other photos that came in that they actually look, if not the same, to be substantially similar. So, for that record I think we'll admit it understanding, of course, the limitations on the first page. It's only an estimate and his reasonable agreement with it based on the photographs.

MR. SCHMIDT: Thank you. And I'll give Ms. Murphy the 4th copy of that.

MR. SCHMIDT: Again these photographs show what they show. We are in an administrative hearing.

(Petitioner's Exhibit Number 19 was admitted.)

MR. GARBER: As I understand the purpose of

Exhibit 19 is also to show the road signs on the approach L. There's been much testimony and also the maps and other exhibits relating to it.

BY MR. SCHMIDT:

Q. Thank you. What I would ask Ms. Murphy to mark as Petitioner's Exhibit 20, Mr. Caloggero, is the same drill. And again, the purpose of these, Mr. Caloggero, not to belabor the point, because we have had other photographs submitted, but your testimony has talked about road signage and the different in road signage based on the nature and the character of the road. I would ask you to comment, if you will, on the nature of these photographs which are marked in Exhibit 20 as numbers 10 through 15.

A. You want me to go through them one by one again?

Q. Yes, sir, if you will. To be fair, you did not prepare this exhibit either.

A. No.

MR. GARBER: Mr. Holzer, you have a copy?

MR. HOLZER: Yes, sir, I do.

A. Number ten is a picture leaving the site approaching the existing access point towards Harford Road.

Number 11 looks like it was taken on the left side of the access of the median points of the access, taken from the left side looking northbound, where we can see the three chevrons and further up, further north on the road, there is another warning sign.

Picture 12 looks like it was taken in the same location of picture 11 and that was looking towards the left or towards the south showing two chevrons and another warning sign directing traffic towards the left.

Q. Is there anything, I also understand there is a difference between the chevrons and the arrows, but is there any distinction from a traffic engineering standpoint as to why the state highway would put chevrons as opposed to an arrow?

A. Chevrons help define the actual curve itself. I believe the other pictures, if saying to turn, to

really turn if you haven't yet. That's actually, it looks like the picture right at the corner itself. So there, as you can see on 13 and from my recollection from years and years ago from working with the State Highway Administration, I believe this is the proper way the turn is marked with the chevrons and then you can have the arrow signs.

So, 13 again is in the southbound direction just south of the site access on Bonapart Avenue. Showing two chevrons, the arrow sign to the left and the third chevron.

Picture 14 is, again, southbound Harford Road, but now we are located north of the site access on Bonapart. This shows the three chevrons directing traffic towards the right.

And 15 is just a little bit further south of that picture and it's just, again, north of Bonapart Avenue in the southbound direction, you can see one chevron, it actually shows a light post here. There's an arrow pointing towards the street light.

Q. Mr. Caloggero, in Exhibit 10 I think there was

a question about this at a prior hearing date which shows the driveway and the landscaped island that's in the middle of the driveway.

A. Yes.

Q. If this was retained as shown on Exhibits 15-A and 15-B, can you describe where people would enter the property and where people would leave the property in relationship to the landscape island?

A. On picture ten facing the access point, facing Harford Road, traffic would exit towards the right and would enter to the left, and as necessary paving markings could be installed to help drivers with this maneuver coming down the hill and we can also add additional signs.

MR. GARBER: That's use of the existing?

MR. SCHMIDT: Yes, that's shown on 15-A and 15-B in terms of sight distances. I would offer that as Exhibit 20.

MR. HOLZER: Same objection.

MR. GARBER: Same basis, it will be overruled understanding, of course, whatever

limitations there may be, you can ask in cross examination.

MR. HOLZER: I'm sure I'll be given plenty of latitude.

MR. GARBER: And the Board sees it for what it is. Thank you.

(Petitioner's Exhibit Number 20 was admitted.)

Q. These road conditions, I think you testified, Mr. Caloggero, just to make sure, these road conditions limit the speed in proximity of the entrance to the Nepali property, do they not?

A. They do, yes.

Q. I think you testified last time that you believe the safe speed in terms of these turns both north and south of the site would be 30 miles an hour?

A. Not only do I believe that, but there is the opinion of the Maryland State Highway Administration based on their signage and their warnings signs that they have posted. So, I'm just agreeing with what the State Highway Administration has posted and installed

on this part of the road.

Q. Harford Road is a state highway, correct?

A. Correct.

Q. And who has jurisdiction over a state highway, what agency?

A. The Maryland State Highway agency.

Q. What means of approval in terms of the access would be required here, if any?

A. We would have to work with District Four, whose in charge of Baltimore and Harford County and their Access Management Division, go through the access permits, approval process and the State Highway Administration at that level would approve any access and improvements necessary.

Q. Now, including whether it would be the alternatives shown on your Exhibits 15 or 16 with the existing means of access or the proposed changes you described last time?

A. That's correct.

MR. SCHMIDT: Okay. I have no other questions of Mr. Caloggero.

MR. GARBER: Mr. Holzer, when you are ready.

MR. HOLZER: Thank you.

CROSS EXAMINATION

BY MR. HOLZER:

Q. If I may come over and with Exhibits Numbers 19 and 20, the photographs you just described, do you have them in front of you?

A. Yes, these.

MR. SCHMIDT: Ms. Murphy, do you have all the copies you need?

MS. MURPHY: I just need 20.

THE WITNESS: Are they color? I didn't know what quality.

MR. GARBER: Same quality as the ones I have been reviewing.

MR. HOLZER: I'll get you a copy.

MR. GARBER: Like when movies were first being colorized, skin shouldn't be blue like that. That's how it's supposed to look.

Q. Let's take picture number one, okay, and that

was Number 19. Do you know where, exactly where this picture was taken?

A. Exactly to the point, no, I do not.

Q. If I were to tell you it was taken from Sharon Drive, would you -- Well, let me back up, before I put you on the spot, do you use Harford Road to get to your home?

A. Occasionally, yes.

Q. Where do you live?

A. Forest Hill, Harford County.

Q. So, occasionally, you would use Harford Road. How many times a week would you use Harford Road?

A. I used it this morning. Per week or?

Q. Per week.

A. Maybe once a week or a couple times a month.

Q. Driving south or driving north?

A. Yes.

Q. Which way?

A. Yes.

Q. Both ways?

A. Yes.

Q. Okay. So when you testified about the highway sign going north and south, you opined that you would be afraid to go the posted speed limit and you would slow down in your direct testimony the other day?

A. Could you repeat the question?

Q. The other day, second day, when you testified, you opined that even though the posted speed limit going south and going north, you would slow down more because you didn't think you could take it at this posted speed limit, take the turn?

A. That's correct.

Q. Okay. So that is based upon your subjective analysis of having utilized the road both once a week going north and south, right? I mean you are experienced, so you feel safe in reducing your speed below the posted speed limit?

A. It's also based on my review of the site in this part of the case.

Q. Sure. Now when, have you ever seen in your trip once a week for how many weeks, how many years?

A. I have been up there 20 years.

Q. Twenty years. Okay. Have you ever seen anybody, while you are using the road, take that turn too fast?

A. Define too fast.

Q. The posted speed limit.

A. I would not have any recollection of how fast someone drives on that road making those turns.

Q. Okay. Suppose, well, let me ask you this. Since your testimony was subjective in terms that you would slow down and not go the posted speed limit, what about someone from New York trying to get to the site for the first time, would they rely on the posted speed limit or would they slam on their brakes because they didn't know what was coming?

A. Well, as a driver of the road, they are supposed to follow all necessary warning signs and there are warning signs located north and south of the site telling them what to watch out for. So as a driver, this is what you are supposed to do.

Q. That's what you are supposed to do, but as a traffic expert you know people speed all the time on

the beltway, on the back roads, in Towson, 30 miles an hour, isn't that true that public doesn't necessary always comply with the posted speed limit?

A. Always?

Q. No, I said does not always follow the posted speed limit.

A. Of course.

Q. Let's get back. So don't you agree then that your opinion really was a subjective one based on your personal experience?

A. It's also based on the Maryland State Highway's opinion on how the road should be driven.

Q. You think that they should reduce the speed limit and be posted less than what it is?

A. That's not my call.

Q. Since we are being subjective about your opinion, if you had the State Highway position, would you have a reduction of the posted speed limit?

A. You typically do not on these types of roads do not reduce speed limits for this short section of the road typically. What you would do is you is sign

it properly, that's why it's called advisory speed to tell the people the safe speed to take these turns.

Q. But again, it's advisory. Do people always take the State Highway advice as to the speed limit? You have already answered no, right?

A. Correct.

Q. Let's go back to photo Number One?

MR. GARBER: In Exhibit 19?

Q. Yes. Where I was diverted from. Do you know whether or not this picture was taken from Sharon Drive?

A. I do not.

Q. Okay. So if someone were to later testify that that photo was not taken from where you proposed, would you be upset?

A. I don't know what difference it makes. It's just a picture looking north bound in a general direction from along Harford Road.

Q. I appreciate your bringing that up. This is a photograph, you have testified it shows the mansion at the top of the hill, right?

A. Yes.

Q. There was a witness who testified before you that said you couldn't see the mansion from Harford Road.

MR. SCHMIDT: Objection, that's not what the witness said.

MR. HOLZER: We'll check the record.

MR. GARBER: I have recollection that there were spots where it could be glimpsed but generally that it could not be seen. Something along those lines, that's my recollection.

MR. HOLZER: Thank you.

Q. Let me go to photograph Number Two in that same exhibit where you talked about the reverse --

(Mr. Schmidt sneezed several times.)

MR. SCHMIDT: Excuse me.

MR. HOLZER: Bless you.

MR. SCHMIDT: I am allergic to your question, excuse me.

MR. GARBER: Everyone ready?

MR. SCHMIDT: Yes, I'm okay now.

Q. Number two, this says a reverse turn sign is cautionary, it's not a requirement. If a police officer was sitting there, they wouldn't be cited if they went faster than that, right?

A. That's correct.

Q. Okay. So someone who is used to this road may well be going 35 or 40 miles an hour going north, correct, and not violate the law?

A. Oh, not violate, correct.

Q. Have you ever gone over 40 miles an hour?

A. In my life, yes.

Q. In your life, yes. Thank you for answering that truthfully. The reality is most people --

A. I didn't say here though.

Q. I'm sorry?

A. I didn't say here. I can't testify to what I drove here. I am simply watching the road and obeying the signs.

Q. I understand because I went up there for the very first time and I was scared to death of this turn. Interestingly enough though, it alerts you as

to Bonapart Street coming in from the left, right, comes in from the left further up the road?

A. It does come in from the left. The picture is somewhat blurry, I can't tell if there is a slit there.

Q. No, but I think it shows you Bonapart doesn't come in from the right, it comes in from the left.

A. Correct. And a lot of times with these signs they will add a little black line showing where the streets are.

Q. I think there is a little black line if you look to the left of it.

A. My picture is blurry.

Q. Okay. So it does not warn you of the entrance to this site, does it?

A. No, that's correct.

Q. Yes, it just tells you Bonapart is coming in from the left. So, if I was driving up Harford Road for the first time, I know now I'm supposed to go down to the 30 and I know now that there is a road coming in from the left when I get further up around the

turn, right?

A. Correct.

Q. I don't know anything about the entrance way to this site?

A. Correct. That could also be part of the Maryland State Highway Administration recommendation in the area.

Q. I'm sure they are going to have some recommendations. Let's go to Number Three, merely, I didn't know for my life and I have been driving forever it seems, I didn't know they were called chevrons; I just thought they were arrow signs?

A. Okay.

Q. Okay. So an arrow sign tells us now the road is going to the right?

A. Right.

Q. Then we get to Number Four. This is the first photograph in this package that shows you all of a sudden there is an entrance coming in off the right, right?

A. Correct.

Q. And that's the entrance to the site? And then when you get up a little closer --

MR. GARBER: Is that a question?

MR. HOLZER: Yes, he answered.

MR. GARBER: I didn't hear the answer. Is that the entrance to the site?

THE WITNESS: That is the entrance to the site, yes.

Q. And then Five shows the entrance to the site. And then Six and so forth are really just what the property looks like, right?

A. Correct and --

Q. Okay. I don't want to miss anything here.

MR. GARBER: You were saying something, sir?

THE WITNESS: I was going to mention, you know, this used to be a single family home, and a lot of times the Maryland State Highway Administration won't mark on those types of signs a line signifying a street when it's a single family home. As you keep going northbound there's also other driveways coming

on to Harford Road that are not signified by any of these signs.

MR. GARBER: By use of the word "this project", you are referring to the house on the site at issue?

THE WITNESS: Correct.

MR. GARBER: I use that for distinction because Photographs Five through on sometimes have a single family house or structure and that's not what you are referring to.

THE WITNESS: Right.

Q. So, from the State Highway standpoint and traffic engineering standpoint, what was okay for a single family home in this particular area of Baltimore County was this entranceway satisfied that, any concerns that the State Highway Administration had, right?

A. I can't answer for the State Highway Administration.

Q. Well, from your standpoint, these people, the property has been used in a single family home for

years and years and years and years?

A. Correct.

Q. So now all of a sudden, what is your client's use of the property classified by the State Highway? Commercial, is it not?

A. I don't know how they are classifying this property.

Q. What do you he mean you don't know?

A. I don't know how the State Highway Administration is classifying this property. You asked me what the Maryland State Highway Administration would do. I am not Maryland State Highway Administration.

Q. So, if you don't know, then why are they putting your clients through this extensive analysis of what is safe, because for 40, 50, 60 years, it wasn't even worth or bothersome to the Highway Administration. Now they are talking about having to give you an access permit, am I right?

A. In my opinion when use of a property is changed and increase in use has changed, the Maryland

State Highway Administration has every right to request an access permit and review the site based on that increase.

Q. Exactly.

A. Right.

Q. So now, it's become a commercial, if you are not able to say it, maybe we'll get it somewhere else, now it's a commercial access and they treat that differently than a single family private owner?

A. I would not call this a commercial access but would call it more than residential. Typically, in ITE, we would identify this as it would be potentially a church, a religious institution but not a commercial access.

Q. They are not putting WalMart in the there but that's not the point. Commercial has a different classification or distinction from a single family home on the State Highway analysis?

A. Again, I wouldn't consider this commercial.

MR. GARBER: Let me jump in here. Just so I understood your testimony, there are different

classifications for State Highway Administration, residential use, commercial use and institutional use?

THE WITNESS: When you are developing trips and such, you base it on the use of the site and this instance, in my opinion, it would be a church or institutional type of use.

MR. GARBER: Do you know if SHA distinguishes between commercial and institutional use?

THE WITNESS: Yes, they have been asking questions about what is the use of this property.

MR. HOLZER: We'll get to that.

MR. GARBER: Okay.

Q. Now, let's look at Exhibit 20. Again, as you have acknowledged, this was not created by you?

A. Yes.

Q. Okay. And you didn't put these red numbers on it from 13 or from 10 to 15.

A. That's correct.

Q. You didn't do that?

A. I did not.

Q. So looking at Number Ten, picture Number Ten, currently, today, did potential use of this access shown here does not prohibit using the left exit point or entrance point from a car exiting on the left side of the circle and making a left turn and going south?

A. Correct, it is not physically prohibited.

Q. Right. And when you, where is the first one? You said under here where, I don't want to make you get up.

A. That's all right.

Q. The first one where you did the sight distance?

MR. GARBER: You want to use the binder clips to help use it to scroll.

MR. HOLZER: I'm going to let the experts handle it.

MR. GARBER: Let the tall people do it, relative to me.

MR. HOLZER: Let's put this one down here. It makes it much easier.

MR. GARBER: Mr. Holzer, make sure you turn

towards me.

MR. HOLZER: I will. I have never been accused of anybody not being able to hear me.

Q. Petitioner's Exhibits Number 15 was the first exhibit that you showed us the other day when we had the hearing. And you measured the sight distance from the right hand side of the circle to the location of 365 feet, right?

A. Correct.

Q. Okay. Now, if there is no prohibition now while the property is being used, okay, if you located this same car on the left side, which I just showed you on this picture Number Ten, you would have less than 365 feet of sight distance, right? Am I correct?

A. If I located the car to the left of the median.

Q. Yes.

A. So what you are saying would be correct.

Q. Right where the B is, if that B were turned into a vehicle and you measured that to the 365, what would we end up? Can we do it. Could you do it now?

A. I could, but that's not how you are supposed to drive the road.

Q. I understand that's not how you are supposed to drive the road, but that's how people exit, we have evidence from people we'll show. Measure from B to 365. What does that amount to in terms of the sight distance?

A. Actually, I don't know if I can physically measure because, and let me say why.

Q. Do you need a ruler?

A. No, but let me explain. Because A is a location where you come out. I understand if people are driving it incorrectly, then we need to do a better job to make sure they drive at the correct point.

I did not come out here to visually check the actual sight line to see if there is any other obstructions with this curb in the location of approximate stop to be able to see that far. So, just to be fair, I didn't go out there and make the measurements that you wanted me to do one of two of

these dimensions.

Q. I understand.

A. If you want me to do a straight line, I can do that.

Q. Yes, please do.

MR. SCHMIDT: Do you need to scale, Mr. Caloggero?

THE WITNESS: No.

MR. GARBER: You are using Exhibit 15?

MR. HOLZER: Fifteen. The very first one that they introduced.

MR. SCHMIDT: I think it's 15-A.

MR. HOLZER: Or A, yes.

THE WITNESS: I'm going to have to pause for a moment, if you don't mind.

Q. I'll see if I mind, if you give me the answer.

A. I'll say it's 70 feet short.

MR. GARBER: Seventy feet short?

A. Approximately. Again, the scale is not matching to --

MR. GARBER: The ruler you are using.

THE WITNESS: So maybe 300 feet approximately.

Q. Okay. So the record is if it were to, on Exhibit 15-A, if it were measured from the B location on the left side of the circle to the 365 marker, approximately 70 feet short of the 365 feet sight distance.

A. Correct.

Q. Also at the same time you have been to the site, I'm going to ask you more about that later.

A. Sure.

Q. But you have been to the site, exited the site, is that correct?

A. That's correct.

Q. The house directly across the street, have you been there in the evening?

A. I have not.

Q. Okay. So, there are some concerns about lights, but you haven't experienced that?

A. That is correct.

Q. Okay. And you do agree that as of today,

there are no prohibitions about how one exits, left or right?

A. The rules of the road say you are supposed to exit it to the right.

Q. Okay. I will show the Board pictures of where that is supposed to be, but not done.

A. That's existing non proposed.

Q. Right. Now, 11, I don't have any questions because you have already introduced that.

Number 12, if you look at that, this would be the physical location of, if we go back to 15-A and we go back to the car being located at B, basically, this is what that car would see, this picture Number 12, wouldn't it?

A. If a car were to be there, yes, approximately.

Q. And as a matter of fact, if a car were to be there, what does the State talk about in terms of how far out into a road or where that car has to be in order to look to the left? Do you understand the question?

A. Yes. We keep going back to a place where they

are not supposed to be turning from, so I'm not exactly sure what your point is.

Q. Did you take a picture of the right hand side of the circle where you have shown on 15-A to illustrate what the left turn would look like if you were coming out the right hand side and looked to the left? I haven't seen it.

A. I don't know if I have a picture of that or not. If I do, it's on my phone and I can always introduce it with a specific date on it.

Q. You haven't done it so far.

A. No, because I believe my aerial drawings signify what is actually out there with the existing egress.

Q. I understand. But you have also introduced these pictures and you are standing behind them even if though you didn't create them, and Number 12 really does show, if you are sitting on the left-hand side, what your sight distance is.

A. I am not showing that on Exhibit 12. I don't measure sight distance from an improper location. We

need to do a better job of telling them which side turns. Although the rules of the road state you are supposed to go the right.

Q. I understand that. You said that twice.

MR. SCHMIDT: Because you have asked him twice.

MR. HOLZER: Exactly. I thought it would be more.

MR. SCHMIDT: I am not shy.

Q. Now, look at Number 13. Number 13 is a successive picture to Number 12, is it not? Right?

A. Taken from a different location.

Q. Yes.

A. Yes.

Q. What location was that taken from?

MR. GARBER: When you say that, you are talking Exhibit 13?

MR. HOLZER: Yes.

A. It looks like it's taken from the driver's eye travelling the road.

Q. Yes, I agree with you. In other words, 12

shows a vehicle sitting there after one would pull out left or right and got to that point, 13 is what he would still see.

A. I still don't agree with what you said on 12, but 13 is what is in the road travelling towards the turn to the left heading south.

Q. Yes, yes. Even if you are pulled out, whether to the left or the right hand side of the circle, okay, even if you have done it correctly, according to you, then this is still what you would see when you looked at 12 and saw that vehicle sitting there?

MR. GARBER: Exhibit 13 is what you would see.

MR. HOLZER: Yes. That's what Number 12 sees when he gets to 13, right?

MR. GARBER: Thank you.

THE WITNESS: 12 is taken from a completely different angle, but 13 is taken, again, from my opinion, the driver's eye of the vehicle approaching that left hand turn.

Q. We hear you.

A. Okay.
Q. Going to Number 14, now, I am coming south --
A. Right.
Q. -- before the entrance to the facility, right?
A. Correct.
Q. And when I look at this picture, I see the entrance right after the third arrow and I'm coming down that direction and I'm looking so that I can him make a left turn into it, okay?
A. Okay.
Q. And I cannot see anything past the street sign, the stop sign and the bushes that are on the property across the street from the entrance, right? So, I can't see what's coming north?
A. That's correct.
Q. Okay. Is there any proposal to require that lady that owns the property to cut those trees down or take the fence down?
A. No, and if you recall, I testified to that earlier on Exhibit 16-B and I can run through that again to show exactly what you stated where depending

on the turn where someone would turn into the site, where the sight distance would be prohibited, if you are looking southbound and wanted to turn left into the site and we proffered the best location for a vehicle to turn left into the site without impacting the neighbor's driveway.

Q. So what you are saying is that this is improper site distance to make a left turn as it exists now.

A. I didn't say that.

MR. SCHMIDT: Objection. I withdraw.

Q. It's okay then?

A. Yes, sir. May I approach?

Q. We'll come back to that.

A. You are asking me a question, I want to point to the graphs I made.

Q. Go ahead, show me.

A. So today, vehicle one --

MR. HOLZER: I want the Board to see it.

MR. GARBER: What exhibit are you referring to?

THE WITNESS: Exhibit 16-C, I apologize for blocking everyone's view, but as you are coming southbound, as you state, and you come towards or past the what I'm going to call just a median or the monumental entrance, vehicle one is here just in the approximate area of the separation, that vehicle can see about 345 feet to a vehicle coming around the turn, which is plenty of time for that vehicle to turn left and it is not impacted at all by it the guard rail or the neighbor's fence.

So, the State Highway Administration asked, what happens if we move the access further to the north, and as you move the access, so potentially move the access further to the north, then where we have cars, orange car two and aqua blue car three --

Q. Right.

A. -- that is obstructed by this turn and the fence, you can only see 200 feet. That's why we have made a recommendation to maintain the existing access because it gives the safest location for a car to turn in based on the sight distance from the south.

MR. GARBER: So the existing access should be maintained because of the sight distance.

THE WITNESS: That's correct.

MR. GARBER: That's what you proposed.

THE WITNESS: That's what we proposed.

Q. So the exit would be moved to the new location and the exit would be left where it is?

A. Yes or no, again, all depends on the State Highway Administration but we have shown it can work from the existing access where it has worked for as many years as this house has been in place and then we showed a proposal if the State Highway would like to increase some sight distance that an exit could occur approximately 70 or 80 feet to the north where we can increase the sight distances to go to turn out, yes.

MR. GARBER: So if you were one would say given the artist's choice so to speak by the State Highway Administration to keep the existing or use the proposed alternative, is there one that you favor over the other?

THE WITNESS: A, they both work. B, this

exit does increase the sight distance.

MR. GARBER: You say this exit.

THE WITNESS: I'm sorry, the proposed exit would increase the sight distance looking left and right. But again, the first one is still safe, the second one is increased.

MR. GARBER: Your preference would be to split the entrance from the exit and have separate access points for both.

THE WITNESS: That increases the sight distance for outcome.

MR. GARBER: Is that correct?

THE WITNESS: Definitely.

MR. HOLZER: I have a question as to that, but not yet.

MR. GARBER: Sorry.

Q. Now, these are the pictures you introduced today?

A. Yes.

Q. And Number 15 is still a blind left turn. That's what you just finished testifying.

MR. SCHMIDT: Objection, that's not what he said.

A. Picture 15 is taken from a driver's view driving southbound on Harford Road north of Bonapart Avenue. I was testifying to potential access points and locations.

Q. Why are you putting these photographs in if they in effect are showing exactly opposite of what you are proposing?

A. This is what we are proposing. These are the photographs we are proposing. This picture like I signified before shows the chevron.

Q. Right?

A. It shows the access to Bonapart Avenue and it shows an overhead light.

Q. Right.

A. It doesn't show where you turn left into the site or the sight distance where you turn left into the site.

Q. In this picture 15, if your car is sitting down here by the telephone pole on the right hand

side, you've got better sight distance if you turn left?

A. Absolutely.

Q. That's what you said, right?

A. (Indicating.)

MR. GARBER: Did he answer?

THE WITNESS: Yes.

MR. GARBER: He was nodding his head.

Q. Let me make sure I don't have questions about the other documents. This Exhibit Number 18 with shark's fin, I love that one --

A. That's a new term.

Q. Why are we interested in that? What was your purpose in showing that? I wasn't sure what the purpose of showing it is. Is that where you are going to cut down trees or bushes or the State will?

A. May I approach again?

Q. Sure.

A. What we reviewed previously and what I have testified to previously is here, we have identified what I'm going to call the right of way.

MS. MURPHY: Which exhibit is that?

THE WITNESS: I'm sorry, 16-A, so, 16-A in that quadrant.

MR. GARBER: Looking at the same parcel on 16-A.

THE WITNESS: Correct. Typically, this orange line surrounding the property, which I guess is blue on the colored sheet of the colored exhibit --

MR. SCHMIDT: Eighteen.

THE WITNESS: Eighteen, that is what I am going to consider the road right of way, the right of way of the road zoned by the Maryland 145 and that's the area depicting that brush or weeds could be removed to not only increase the sight distance from our site but for all of Bonapart Avenue.

MR. GARBER: You are pointing to the green section of 16.

THE WITNESS: The green section between the road bed and the property line. This is showing that not only outside of what I'm considering the road right of way, beyond that, this parcel is also State

Highway Administration property.

MR. GARBER: Beyond?

THE WITNESS: Beyond the orange line in the shark fin. I love that term now, the shark fin. The shark fin is also State Highway Administration property. We have been identifying on the southbound side on the west side, that that area between the road and the property line is State Highway right of way and just found out this is also State Highway right of way in between.

Q. Perfect.

A. Did that help?

Q. A lot. Now, I ask you to go back to the sight distance example that you had which said you wanted to exit on the new exit, but you could still use the left side to enter.

A. Yes.

Q. Let's get back to that. Okay. Now, if one were to remove this green area that you've just described to the Board, would that not allow you to make a left turn better on the new exit and, let me,

you can answer all this together.

A. Okay.

Q. And if the State Highway Administration would permit you to make sure that they even encroached on to that property for purposes of creating sight distance, couldn't you actually move the entrance from where you are proposing it now on the existing site, couldn't you move and provide better sight distance to make both the exit and the entrance at that location?

MR. GARBER: At the proposed location, proposed exit location.

MR. HOLZER: Exactly.

A. So, there's two different things we need to review here for safety purposes. The vehicles approaching, the vehicle southbound approaching the stopped vehicle turning left in. So as cars are coming southbound from the roundabout down, we want to be able to give them sight distance as they are approaching the stopped vehicle turning left. But also, we also want to make sure these vehicles can see further enough ahead so they are not cutting somebody

off when they are turning left.

So, one has a sight distance of 345 feet --

MR. GARBER: To which point?

THE WITNESS: To the first vehicle coming around the turn, so the first visual sight distance --

MR. GARBER: Going northbound.

THE WITNESS: Southbound looking at the first northbound car coming up, but as you approach in the access between 1 and 2, vehicle two is showing about 190 feet --

MR. GARBER: To?

THE WITNESS: -- to a northbound vehicle due to the fence on the property.

MR. SCHMIDT: When you said the fence in the property, where?

THE WITNESS: Across the street to the neighbor's property on Bonapart Avenue, so we are in between. So could we locate, could we move an access between cars 1 and 2, whereas we see further down, I haven't looked at that in its entirety, but that would be the location somewhere between 1 and 2. One

provides very good inbound sight distance looking left, two does not, so we have to locate it somewhere in between. Now, I don't know how far in between but it should approach vehicle one in that view.

Q. What about at three?

A. At three, it's 190 feet. So, again, we are obstructed by the curb, the curb as well as the fence, neighbor's fence across the street, obstructing inbound sight distance.

Q. This is a very difficult site for even a traffic expert like yourself to be able to plot where to put an entrance and exit, is it not?

A. No, because A, existing works and B, we have moved one outbound exit to increase the sight distance.

Q. Okay.

A. And again, I want to be clear when you say sight distance, whether we have one car, 20 or 100 cars coming out of a location, if it's deemed safe per sight distance, then it's safe. Just because we are adding cars to that movement doesn't make it unsafe.

It's still the same sight distance, still the same maneuver, but now just adding more cars to it, that's all.

Q. And more drivers?

A. Correct, but it's still safe, still a safe access.

Q. That's your opinion?

A. That's my expert opinion.

Q. That's your expert opinion --

A. Yes.

Q. -- you think it's still safe?

A. Yes.

Q. And you even think that the existing entrance and exit is still safe?

A. I do, yes.

Q. All right. One of the questions apparently has been raised by your testimony that if someone is coming north, okay, coming around the turn --

A. North.

Q. -- coming around the turn?

MR. GARBER: Wait, wait, sounds like you

are talking about different directions. You are pounding south. He's pointing the opposite direction, north.

MR. HOLZER: I'm sorry.

MR. GARBER: It's almost counter intuitive but --

Q. Okay. If someone is coming north from this left hand corner of 16-B, okay, and it's going to turn into the entrance, is there a stopping distance for somebody following them? Is there any kind of distance required for a follower of the vehicle that's going to turn into the site?

A. May I look?

Q. Sure.

A. Typically, we use stopping sight distance but someone should be able to make that maneuver.

Q. I probably used the wrong term, but decision distance?

A. Decision sight distance.

Q. Yes.

A. Utilizing, I'm trying to answer your question,

I hope I'm going to try to answer it. If I'm not, please, as you do, ask me again. So stopping sight distance for someone traveling we'll say 40 miles per hour is 305 feet?

MR. GARBER: From what point to what point?

THE WITNESS: Well, from the point of decision where you are going to be required to stop, you need about 305 feet traveling 45 miles an hour to hit your brakes and stop.

MR. GARBER: So, if you were to see a car stopped and ready to turn into the site, that vehicle heading northbound but into the site, you would need 305 feet stopping sight distance as another vehicle traveling northbound approaching the site.

THE WITNESS: That's why I'm trying to understand the question so I can answer it properly. So that car is going to be turning the right into the site, I'm not sure.

Q. Let me make it easier. Suppose there were four cars, going the same way, going north, coming around the turn, all trying to make a right turn to

get into a site, to a religious ceremony, to a festival, to a funds raiser, whatever, there is a fifth car coming, what is the site distance or stopping distance for that person coming around this turn? Okay, you've got three or four cars coming out to make a right turn for an event.

A. You are saying if the cars are stopped in the middle of the road --

Q. If they are stopped in their lane of traffic northbound, what is the sight distance that one comes around this turn and then suddenly sees cars trying to get in?

A. So I give you three numbers, okay. At 30 miles an hour which is the advisory speed, it's 200 feet for a car to stop; at 35 miles per hour, it's 250 feet and at 40, it's 305 feet.

MR. GARBER: I'm sorry.

Q. Perfect?

A. If cars are stopped in the road which turning to the right. I see this as a what I would consider if, no matter what we do in the future, it's going to

be a free right turn, there's going to be no reason for a vehicle to stop, you know, quote, stop in the road as they traverse up the hill.

Q. Well, there may be a reason, pedestrian may be walking there, there may be somebody standing there taking tickets to get in, there may be somebody there that has broken down. I mean, there are a lot of different potential options. I just want to know having personally driven this road, if I came around this turn at appropriate speed, posted speed, and I saw vehicles trying to get into here for an event, okay, how much time would I have to stop? Is it relatively short sight distance time?

A. I think it's fine.

MR. GARBER: Just to make sure I got the numbers correct, you said 30 miles an hour you need 200 feet.

THE WITNESS: Stopping sight distance.

MR. GARBER: And at 35, 250.

THE WITNESS: Correct.

MR. GARBER: And at 40, 305.

THE WITNESS: And at 45, it's 360.

Q. What about 50 miles an hour? That's what is posted, I think.

A. It's posted 45. So, 45 is 360.

Q. And what about 50 miles per hour, which is five above the posted?

A. 425.

Q. How much?

A. 425 feet.

MR. GARBER: Which book are you referring to?

THE WITNESS: AASHTO, Policy of Geometric Designs of Highways and Streets, 2011, 68th edition. I think I introduced it last time.

MR. GARBER: Yes.

Q. If you moved the existing entrance 70 feet north, 70 feet up to where one of your alternatives was, up that way --

A. The entrance.

Q. Yes, the entrance, would that provide a better safety situation for the vehicles to stop?

A. It decreases the safety for the left turns in.

Q. But not for the ones going north, not for the ones that --

A. In my opinion it doesn't make the access safer, unless we can make other modifications to the north side of the road, which I am not the recommending. I don't want to touch anyone on the north, I don't want to touch anyone else's property besides State Highway Administration's.

Q. So you are not going on to an adjacent property owner to try to enter?

A. Correct. Correct. I just want to make sure it's clear, as we slide the access north, the inbound access north, it does increase this distance from a north bound vehicle turning around the curb to see that vehicle turning into the site.

Q. Right.

A. But the more we push it makes it more difficult for the left turner coming in, because they can't see that vehicle coming northbound 345 feet, that shrinks.

Q. Does Bonapart Avenue have the same problem with sight distance?

A. In my opinion, Bonapart Avenue is significantly worse than we are showing today. If we are going to get into Bonapart Avenue exiting this site, I wouldn't want to exit Bonapart Avenue. I would prefer to utilize anything on the opposite side or on the east side of the road. When you exit Bonapart Avenue, you've got to physically turn your head, you know, and I am sure everyone will testify here, about 180 degrees looking backwards and up the hill. And the pictures I introduced show all the brush obstructing their sight distance. They are going to have even worse conditions coming down the hill turning right into their site into that existing access site.

Q. Right. So the State Highway Administration and the County has allowed a dangerous entrance and exit for Bonapart Avenue for years, right?

A. I mean, I don't know what, but I think, I don't think, I think our access is safer than theirs.

I can't make that determination. I didn't look a hundred percent to see what decision making process the State or the County had on Bonapart Avenue.

Q. So your access you believe is safe, safer than we have now?

MR. GARBER: Which access are you referring to?

Q. The existing access, actually this proposed access is safer than the existing access?

A. When leaving the site, it increases the sight distance, yes.

Q. So, that's why the someone suggested that you come up with an alternative exit site, exit access?

A. Yes, I believe the State Highway Administration asked for alternative access.

Q. Right?

A. We did and I came up with that access.

Q. Right. Now, if one moves the entrance access, you have already given your opinion, to that same location, as alternative --

A. Correct.

Q. -- that they propose, the sight distance looking south from the exit is better.

A. Correct.

Q. The problem you have is the sight distance to enter it at that same location is worse from southbound traffic being able to see?

A. It's worse from, looking at Exhibit 16-B, worse from looking at vehicle three, which can only see about 190 feet to turn.

MR. GARBER: So if you use the proposed exit as also the entrance, it's worse because it's depicted as new car three on Exhibit 16-B and only 190 feet of sight distance.

THE WITNESS: Correct. And I believe as I testified to earlier, I want to be sure I get it right, I believe I testified to earlier that 200 feet to turn left.

MR. GARBER: It is what it is.

THE WITNESS: Okay.

MR. GARBER: But I want to be clear if you used the proposed exit as also the entrance, you don't

favor that because there is less sight distance for that vehicle going southbound.

THE WITNESS: Correct. Vehicle one has approximately 345 feet.

MR. GARBER: I got that.

THE WITNESS: So, it would be reduced by 155 feet. We are losing 155 feet of sight distance coming around the turn.

MR. GARBER: You were asked questions about Bonapart.

THE WITNESS: Yes.

MR. GARBER: How the existing conditions you feel that the existing access point on the property in issue is better than that on Bonapart, correct?

THE WITNESS: I believe so yes.

MR. GARBER: How does it change with the proposed, if it changes, maintaining the entrance but splitting the exit?

THE WITNESS: Well, sight distance on Bonapart is sight distance on Bonapart. It doesn't

change vehicles turning into and out of Bonapart based on what we do with our access, when you are pulling into Bonapart or pulling out of Bonapart, it's still the same, it's not changing the access or moving.

MR. GARBER: Their case is going to remain static.

THE WITNESS: Correct.

Q. While you are standing up there, do you disagree that Harford Road going north, the speed limit is 50 miles an hour?

A. I have it as 45 miles an hour based on --

Q. I guess I'll have to show you this.

A. I saw those pictures but I also have a picture southbound, I saw it again this morning.

Q. That's southbound where?

A. Southbound here north of the site is 45 miles an hour and the last I checked, I saw 45 miles per hour coming northbound, but it was a significant distance away.

Q. I'm going to show you the photograph, Harford Road shows 50 miles an hour speed limit.

MR. GARBER: Wait a minute, let Mr. Schmidt take a look.

MR. HOLZER: This is a Google exhibit.

MR. GARBER: Show Mr. Schmidt first.

MR. SCHMIDT: Mr. Holzer, just as you objected my photographs not taken by, unless this witness could identify where this road is, this could be in Parkville, Harford County, it could be anywhere.

MR. HOLZER: I'll have it identified.

MR. GARBER: Let's see where it takes us.

MR. HOLZER: I'll show you the photograph.

MR. GARBER: We need to mark for identification purposes.

MR. HOLZER: Mark for identification purposes whichever --

MS. MURPHY: Seven.

MR. HOLZER: Seven A, B and C.

(Protestant's Exhibits 7-A, B and C were marked for identification.)

Q. Well, I'll show you three pictures and Mr. DeWitt Clark, who will be testifying, I will mark

them for identification.

MR. GARBER: Mr. Caloggero, you may have a seat. If Mr. Caloggero recognizes it, so be it.

Q. This is a Harford Road photograph showing 50 miles an hour.

A. Can I ask --

Q. Well, we'll just take them one at a time?

A. I would like to. Okay. So this is a Google image of a street view?

MR. GARBER: Looking at 7-A.

THE WITNESS: Looking at 7-A, it's a Google image not a photograph taken by anybody. It's a Google image and I can't tell you the date or time that this photo was taken.

Q. Do you know where that is?

A. They don't enter times, so I can't tell.

MR. GARBER: The most important question is what Mr. Schmidt just said. Do you recognize the location depicted in 7-A?

Q. You travel this once a week. You certainly must remember what time the speed limit is.

A. I identified it as 45 miles an hour.

Q. Even though it says 50?

MR. GARBER: The photo shows what it shows, do you recognize that location?

THE WITNESS: No, I do not. It's a picture, again, I would like to know the date that this picture was taken.

MR. GARBER: It wouldn't make a difference if you didn't recognize the location.

THE WITNESS: True but if you are introducing testimony of 50 miles and pulling it from a Google map, Google map has identified the date when the picture was taken.

MR. GARBER: Mr. Caloggero, so what will happen here, if you can't identify that location, I assume Mr. Holzer will call a witness who will give testimony as to the location of it.

MR. HOLZER: Your Honor, 11424 Harford Road, Glen Arm, Maryland, Google, Inc., street view, 2013.

THE WITNESS: 2013.

Q. Yes. It is what it is.

A. 2013.

Q. Okay, take a look at this picture.

MR. GARBER: Is that 7-B.

MR. HOLZER: Seven-B.

A. That could be anywhere, but yes.

Q. Seven-C says 50 miles an hour down on that sign right there.

MR. GARBER: Do you recognize the location in 7-C, sir?

A. I am trying to.

Q. Take a look at the post office on the left-hand side.

A. Yeah, yeah, I don't know the numbers. Can I ask, is that the turn to the right?

Q. Yes.

A. But again, there is no date on these pictures, my field investigation showed 45 miles an hour and 45 miles an hour southbound.

MR. HOLZER: Okay.

MR. GARBER: They are received for

identification purposes at the moment.

MR. SCHMIDT: I would object. The witness has said he can't identify it. Identification only.

MR. HOLZER: It's the same problem I had earlier in this hearing when he was testifying about things he hadn't done.

MR. GARBER: He testified that he recognized the location, the critical difference between the two.

Q. Okay. All right. I would ask you this question just for purposes of letting you understand that my clients seem to think that it would be good to use the proposed exit for ingress and egress; would you object to that?

MR. SCHMIDT: Objection. Objection.

MR. GARBER: Why?

MR. HOLZER: I am trying to help settle the case.

MR. GARBER: Mr. Schmidt.

MR. SCHMIDT: He's asking the witness if he would object to what Mr. Holzer's clients think. Is

that what he's asking?

MR. GARBER: What I understand the question to be was can you have it be where the proposed exit can serve as the entrance and exit, would you have a problem that were to be used in that manner.

MR. SCHMIDT: He has asked and answered that 20 times where he said the existing exit/entrance was safe but he was asked by State Highway Administration to show another exit had point and that's safe too?

MR. GARBER: He's asking can you use the proposed exit and also the entrance. Close the existing one entirely, relocate the exit down to proposed exit. Is that what you are asking?

A. Again, I am going to pump this question. It's up to the State Highway Administration because I gave them all of this information.

Q. Right.

A. And my opinion again, 190 feet is not enough sight distance to turn left into the site.

Q. Would you object to the citizens supporting

your request for the proposed exit and also supporting the request that the existing entranceway be closed and the new proposed exit be used as ingress and egress, would you propose that with the State Highway Administration, if they went to them and said, oh, we'd love to have that, that solves that problem?

A. I don't know if it solves the southbound left turn problem unless the fence gets removed. I am not going to recommend to my clients to do something unsafe, but if, hypothetical if, if that fence was removed and I can visually see, and I am going to get up and point, if vehicle three on Exhibit 16-B can see through the fence to a northbound vehicle coming around the turn an appropriate distance the State Highway Administration believes is acceptable, then I would agree and recommend that as well. Again, I don't want to take people's property or the neighbor's fence. But it's an obstruction.

Q. I understand. But suppose we are as a community trying to get to a more reasonable and safe entrance and exit, would that be something, I mean, it

would be up to the lady who owns the fence and the trees and whatever to consider it, but if she were to consider it, would that be something that you could then support?

A. If the fence is removed, yes.

Q. The whole fence, part of the fence or what?

A. As long as I can visually see a certain distance that's safe and the State Highway Administration agrees that that left turn distance is safe, then yes.

Q. Do you know, is there any mechanism for the citizens to be able to provide input with the State Highway Administration if they felt it would be appropriate to raise that issue? In your experience with the State Highway Administration, would they respond to citizens' suggestions or would they not, to your knowledge?

A. I mean, would they respond? Yes, and it would depend on the type of situation we are talking about. If the State Highway is not going, in my opinion, if I put on my State Highway hat, I'm not going to approve

something the citizens would like if it makes it unsafe or not safe. If the change, if the citizens come in for this case, I have been involved in cases where someone says, if we cut down all the branches from the neighbor's property so we can see 300 feet, and you approach the neighbor and the neighbor agrees that has happened in the past, yes.

Q. You wouldn't be adverse to having citizen input to the State Highway Administration while you are proposing these various alternatives?

A. It's not my call, it's the State Highway's call. I thought you asked if I thought the State would accept. I think the State would accept, but I think something else has to be brought on the table.

Q. My real question is would you oppose the citizens going to the State Highway Administration to try to resolve this issue to be safer than what it is?

A. It's not my call. It's the State Highway's call. If the citizens want to approach the State Highway Administration, I can't stop them. I can't stop you guys from opposing, so I mean, I can't oppose

--

Q. In your experience would the State listen?

A. The State's first job is to make it safe.

Q. I understand that, sir. So is the community's desire to make it safe.

A. That's where we are and that's why again, unless physical existing conditions change south of Bonapart Avenue, I cannot recommend an inbound north of the existing inbound location.

MR. GARBER: You cannot propose the entrance being moved to the proposed exit for that reason?

THE WITNESS: Correct.

MR. GARBER: Because you believe it is less safe.

THE WITNESS: Correct.

MR. GARBER: Or even unsafe.

THE WITNESS: Yes, I believe it's less than.

MR. GARBER: Now, is there another way to go about doing that if the State Highway

Administration, for example, were to change, not saying this would occur, but if they were to change signage and change even if that means mandatory lesser speed limit.

THE WITNESS: Typically the State Highway Administration does not change speed limits. Drivers are going to drive what they tend to feel most comfortable. We have talked about that today. The State Highway Administration's typical position is they are not going to reduce the 45 or 50 miles an hour speed limit to 30 unless there is a reason for it. They don't want to make all the drivers of the area drive it. They are going to drive 50 anyway. It will make it unsafe.

MR. GARBER: The speed limit is also geared to the type of use of the road, correct?

THE WITNESS: Correct.

MR. GARBER: They have designated Harford, I don't know if you are aware what they have designated Harford Road as.

THE WITNESS: I don't have that.

Q. Thank you. Let's turn to another area now. What is the difference between AASHTO and FHA minimal requirements, if you could define that?

A. Well, AASHTO is the guide. It's the reasonable state national guidelines and the State probably has their own minimum guidelines as well.

Q. So there could be two different standards?

A. Yes, because the AASHTO is a guide, AASHTO is a guide. The State Highway can adopt standards or their own guidelines. We have to be careful with the guidelines versus regulations.

Q. Or minimum requirements?

A. Yes, lot of times there are many conditions in there. A lot of times it's based on the conditions of the road and so on and so forth.

Q. I'm sorry, I asked you this question before and you apparently don't believe, well let me ask you. How does the State Highway classify the entrance here as commercial or residential or whatever?

MR. SCHMIDT: Objection, asked and answered. We have been through this. He said it's

institutional.

MR. GARBER: I understood that his opinion was an institutional. Sir, you are basing that on the AASHTO guidelines or --

THE WITNESS: The use of the property.

MR. GARBER: I believe the question was what does the State consider --

MR. HOLZER: Exactly.

MR. GARBER: -- if you know?

THE WITNESS: I do not know what the State considers that.

Q. In your testimony, do you believe that your plan meets State Highway minimum requirements?

MR. SCHMIDT: Objection. For what? Minimum requirements for what?

MR. GARBER: Hold on a second.

MR. SCHMIDT: I just am trying to figure out if it meets the State Highway minimum requirements.

MR. HOLZER: Exactly.

MR. GARBER: Does the existing access --

MR. HOLZER: Yes.

MR. GARBER: -- meet the State Highway minimum requirements?

MR. HOLZER: Yes.

THE WITNESS: State Highway will determine that as part of the access permit process.

MR. GARBER: Does the proposed exit meet the State Highway minimum requirements.

THE WITNESS: Again, I'll let the State Highway Administration answer that as part of their access to the property.

Q. That's the question. So, all of your testimony and all of the plan is basically contingent upon what the State Highway Administration does when it determines an access permit, right?

A. Yes, and I believe we have, we have said that.

Q. Right.

A. And we are providing recommendations based on AASHTO standards which State Highway Administration using.

MR. GARBER: SHA uses AASHTO, you said.

THE WITNESS: Yes.

Q. AASHTO requirements may not be as restrictive as State Highway minimum requirements, correct?

A. It may or may not be. Again, we have to rely upon the State Highway Administration.

Q. Right, right.

A. And I'm providing testimony as to what I believe is safe and unsafe based on my expert opinion and AASHTO.

Q. But we really don't know until the State Highway Administration issues the access permit, if they do, we don't know where the entrance and the exit will be?

A. Correct.

Q. Okay. Is there a difference between, let me put it this way, is it or is not AASHTO more useful for projects using roads that are not State highway?

A. AASHTO is a national guide for state highway transportation. So, I mean, it's used nationwide by all the state highways.

Q. I understand that, but my question is, isn't

it more useful on using the AASHTO requirements for road that are not state highways?

A. For not state highways.

Q. That are not state highway?

A. Is that even in this case? We are a state highway.

Q. That's correct.

A. I guess I'm misunderstanding the question.

Q. All right. Would you use AASHTO requirements on an interstate?

A. Yes.

Q. Okay.

A. You used AASHTO on interstates and local roads. It varies all the way. They have all kind of different standards and all types of roads, all types of speeds.

Q. Whose requirements prevail between AASHTO and either the Federal government or the State government?

A. Depends on the agency who owns the road.

Q. State Highway Administration, if AASHTO says one thing and they say another, who prevails?

A. You are asking me to testify as to how SHA would review the access and I'm going let them do that as part of their process. I am giving them all my background information and all my detailed information on sight distance and expertise. They are the ones who have to make that decision.

Let me answer this way. Have they used AASHTO in the past to make decisions, absolutely yes, they have used AASHTO to make decisions.

Q. That's not my question. My question was given AASHTO and State Highway requirements, which one, if they conflict, which one would prevail?

A. That's the State Highway's call.

Q. That's all I needed you to say before.

A. I did say it.

Q. When you were first retained as a traffic engineer by your client, did you ever tell them there was an issue in regard to the access of the entrance? Did you ever tell them that there was going to be this involvement with State Highway permit?

A. Yes, yes, they would need an access permit for

the change of use with the State Highway Administration.

Q. Okay. Did you give them any advice as to how they could utilize the property pending the issuance of the State Highway?

A. No, I did not.

Q. Did you, in terms of your trip generation analysis, did you question them at all about the use of the property once it became useable again?

MR. SCHMIDT: Objection. I don't even, once the property became useable? I don't know what that means.

Q. All right, well, you know, let's do this. How many times have you actually been on the property and give me their dates, approximate dates, you don't have to tell me the hour and day, but approximate?

A. I know I was there in December, probably January before, I believe the hearing was in January, so I believe I was there in December, I believe I was there in January, I guarantee I was there in July, I drove past the site this morning.

Q. I just asked you when you were on the property to inspect?

A. On the property?

Q. The parking, the building?

A. I was with you at one time on the property. When I met with State Highway, I walked the property, I walked it with the team. Can we say five, maybe five times I was on the property.

Q. December, January, July of 2018?

A. I think 1/15 and February and July.

Q. December of 2017.

A. Yes, I was retained in --

Q. January of 2018?

A. Yes.

Q. And when else?

A. Probably in July.

Q. July, 2018?

A. And sometime in between February and July, so four or five times.

Q. Okay.

A. You are saying physically --

Q. On the property?

A. -- be on the gates.

Q. Exactly.

A. Yes.

Q. I know you are driving by?

A. Yes.

Q. Now, at those, one, two, three, four times, were you there when anybody else was there on the property other than the person you were meeting?

A. No.

Q. You were not there at when any of the potential festivals or gatherings or get-togethers?

A. I would not. They are all team meetings.

Q. Okay. So when you estimated or tried to provide information to the State Highway Administration about the use of the property, you basically took what the client had given you as to the use, is that correct?

A. That's correct.

Q. Okay. So, you had no independent analysis of how the property was going to be used?

A. That is correct.

Q. Okay.

A. Meaning I did not go out to another similar type facility.

Q. Right. In other words, you didn't look for other properties, you didn't do anything like that and I'll show you --

MR. GARBER: Mr. Holzer, just out of curiosity the as to where are we in your cross examination?

MR. HOLZER: About a third of the way through. We can take a quick break.

MR. GARBER: That's what I was going to say. Is there an appropriate time that we can take a break in your questioning here?

MR. HOLZER: Any time you would.

MR. GARBER: Would that be it.

MR. HOLZER: That's fine.

MR. GARBER: Why don't we take ten minutes break?

MR. HOLZER: Fine.

MR. GARBER: We can come back and resume questioning.

MR. HOLZER: Thank you.

(A recess was taken from 11:07 AM to 11:30 AM.)

MR. GARBER: So you are wrapping up your cross examination?

MR. HOLZER: For lunch.

MR. GARBER: Fair enough.

MS. MURPHY: Did you condense those questions?

MR. HOLZER: Oh yes. I have really narrowed it down. You want to quit around five?

MR. GARBER: Actually, I am ready to go to nine tonight, but I assume many other people in the room aren't. I'm sorry for the Court Reporter.

Q. All right, we are back on the record. Do you, from your testimony right before we took the break, it appears that the State Highway Administration is what it is and does what it does and you are not going to inject yourself into their activity related to this

request. But do you know what the State Highway Administration requirements are for this property? In other words, is there something set out that you can refer me to that says, on this property and this road in this area, this is what you have to do or we have to consider?

A. That's a lot there. First, I'm already injected into that process through my communication and sharing information, sight distance, proposed access location, different alternatives, answering their questions. And it's at this point in time where I'm waiting for them to get back to me to say, we agree, we disagree, this is what we think, let's meet to discuss, let's have a field meeting, anything of the sort to help them make a decision. But right now, in my opinion I believe they have most of the information needed to make a decision unless they request more.

Q. Do you have any idea how long their decision would take?

A. I believe we started our communication with

them early winter and they still don't have a determination yet. But we have been providing data back and forth. I'm really hoping to get something back from them in the next two weeks. I think two weeks is appropriate based on where we are.

MR. GARBER: Mr. Holzer asked you a question. Do you know what the SHA requirements are from this property. I don't believe I heard the answer.

THE WITNESS: I do not know what their specific requirements are for this property.

MR. SCHMIDT: Just to be clear, I think the witness said they are going to require an access permit, issue an access permit. I don't know if that's what you meant.

MR. GARBER: The way I understood the question is relative to AASHTO, that is, are there different requirements, if so, what would those requirements be, understanding there's been plenty about the access permit and all the other stuff.

MR. SCHMIDT: They are saying they get an

access permit.

THE WITNESS: If I could interject in here. They look at each individual property on its own merits. What they may require here may be different than what they require down the road due to the conditions of the specific location. So it's not a one size fits all. They have to review the entire case and so forth for this property.

Q. Well, is part of your responsibility to tell them how this property is to be used?

A. Yes.

Q. Okay. And the information, what information, well, strike that. Let me do something else first.

On January 10th, 2018, you wrote a letter to Mr. Kotroco in regard to this project, I guess. Can you take a look at that and see if that's a letter and your signature?

MR. GARBER: Can we have that for identification purposes?

MR. HOLZER: Sure, how many do you want?

MS. MURPHY: Four.

MR. GARBER: This is Number 8.

THE WITNESS: Yes, I wrote this letter and it is for this property.

Q. And this letter was dated January 10th. Was that before the Administrative Law Judge hearing?

A. Either are before or day of, yes. I believe it was the day before.

Q. Now, in regard to this letter, have you supplemented this letter to the State, did this letter go to the State Highway Administration?

A. Yes, it did.

Q. Okay. So, it went to the State Highway Administration as part of your responsibilities to tell them what was going to happen here?

A. Correct.

Q. Have you supplemented this letter with any other details about the issue of what is going to happen here, how it's going to be used?

A. Yes.

Q. Do you have those letters? What have you done, is it a letter or is it testimony?

A. An e-mail.

Q. Huh?

A. E-mail.

Q. Do you have the e-mail that I can see?

A. I have the e-mails, yes, they are all in my laptop.

Q. I'm specifically interested --

A. I can tell you what I sent to them.

Q. Okay. I'm specifically interested in whether or not you explained any more in those e-mails about how the property was going to be used?

A. So, I explained to them the details in this letter.

Q. Yes, I'm going to ask you that.

A. So, I explained in the details of this letter and then they asked how does this compare to the ITE, the Institution of Transportation Engineers Trip Generation Manual.

Q. Okay.

A. I told them it did not because this is a different type of use than a typical church use. We

have been through that before; if you need me to re-explain, I can.

Q. Okay.

A. But they still requested that I provide information and that's when I did just a trip generation based on the first floor square footage of the existing building I believe of 3500 square feet and told them that's what it would generate in the morning and evening peak the hours based on the national statistics of a church.

Q. Could you product that e-mail for me now, is that easy, and then you can make copies of it later?

A. I don't have a printer.

Q. If it's on the laptop, you can let me look at it for now and I can tell you whether we need to print it out or not. Mr. Schmidt, you want to jump in?

MR. SCHMIDT: I don't know the context of what Mr. Caloggero may have in his e-mails and I don't know what, certainly things the State Highway may not be privileged as to the client.

Mr. Holzer, I don't know how long you are

going, maybe we can look at it and try to print it at lunch time.

MR. GARBER: I was going to say if it's in the computer, automatically seems to me that's something that can be resolved in the lunch break.

MR. HOLZER: Then I can't ask the question I want to ask him without the answer being known.

MR. GARBER: How long will it take for you to pull up the e-mails?

THE WITNESS: Not long, quickly.

MR. HOLZER: See, that's why I would like to pull it up on his, whatever, and then we can look at it and then it can be printed off if it's relative to my questions. I don't want to waste time.

MR. SCHMIDT: He's not referring, I mean, this isn't a discovery hearing or a deposition of the witness and he's explained what he's done and how he did it. I just, I'll be honest with you, it's somewhat, I don't know, I think it's, I mean, if the witness had it in front of him and he was referring to it, certainly, Mr. Holzer could get to it. But he

doesn't and he's not and if Mr. Holzer wants to go through a fishing expedition and look through the man's e-mail and open his computer, I just think it's improper. He's not relying on it during his testimony. If it was there in front of him and he had a bunch of e-mails, then could see that would be proper.

MR. HOLZER: This is absolutely ridiculous. I am asking this witness --

MR. SCHMIDT: I agree.

MR. HOLZER: -- expert witness, questions in regard to what he did with the State Highway Administration. Do you understand that that's a relative and very important aspect since the State Highway hasn't even reacted yet. Okay? I want to know whether he provided them all the information that he is supposed to provide them.

THE WITNESS: Yes, I did.

MR. GARBER: Mr. Caloggero.

MR. HOLZER: One of those, as he's now said, is that he followed up with this January 10th

letter with an e-mail to the State and I think it's relevant as to what he provided to the State that goes along with forming his opinion, period.

MR. GARBER: If I were to play devil's advocate on that, I would say I understand the relevance part of the question. That's not a question. I understand the materiality. That's not in question. What Mr. Schmidt said though leads to the manner of production. It's not an exhibit, he's not relying on it for purposes of his testimony. How then to get to it from his e-mails becomes a real issue for this case because it can't compel production without the accompanying of a subpoena.

MR. HOLZER: I can do that for October, if that's what they want.

MR. GARBER: Mr. Schmidt, seems like an easy way to resolve the issue, but I'll leave it up to you.

MR. SCHMIDT: Let me --

MR. GARBER: And from what I hear, the resolution of that issue would be necessary for the

next line of questioning.

MR. HOLZER: Yes, well, related to this letter.

MR. GARBER: Let's do this --

MR. SCHMIDT: I'll tell you what, can I have just a second to talk to Mr. Kotroco?

MR. GARBER: Sure.

(Petitioner's counsel engaged in an off the record discussion.)

MR. SCHMIDT: Mr. Holzer, to get through this, I am going to give you this, ask the witness to identify it and see if that answers the question.

MR. HOLZER: No, not where I am going.

MR. SCHMIDT: I have a copy of the e-mail. I'm just going to proffer, if I can.

MR. GARBER: Mr. Holzer, Mr. Schmidt.

MR. SCHMIDT: I'll ask Mr. Caloggero if you want.

MR. HOLZER: Give it to me, I'll ask it.

MR. GARBER: Let's mark that for identification purposes. This is now Exhibit 9.

MR. HOLZER: It is not Protestant's 9. I am not introducing this document.

MR. SCHMIDT: I'll offer this as Petitioner's exhibit whatever my next exhibit is. I don't care.

MR. GARBER: We can't do that now and if you are not going to identify it, you can't use it now.

MR. HOLZER: It's irrelevant, what he's produced.

MS. MURPHY: If it doesn't help you --

MR. HOLZER: It's irrelevant. It's not the e-mail that I referred to.

MR. GARBER: Okay. So, we are not resolved on that issue as to what to do with the computer is what I am hearing, Mr. Holzer?

MR. HOLZER: We are resolving it. I'll defer asking this line of questioning until we come back from lunch.

MR. GARBER: Here's where we are. We have e-mails over here that potentially could be what he's

referring to. But right now we can't show it to him because you don't want to make it an exhibit in your case and we are not in Mr. Schmidt's case, well, we are not in his direct or redirect testimony for purposes of introducing that exhibit. We can't tell if that's the e-mail he was referring to.

MR. HOLZER: I can tell you it was not the e-mail he was referring to. It does not have the e-mail that he already admitted that he provided to the State.

MR. GARBER: That's not evidence. That has to come from him. He has to say yes or no to that question. That's the problem we are having now.

MR. HOLZER: Fine. Mark it for whatever you want.

MS. MURPHY: Whatever you want.

MR. GARBER: Protestant's 9.

(Protestant's Exhibit Number 9 was marked for identification.)

Q. Sir, is this the document that you referred me to that you sent to the State Highway Administration?

A. If this is, just trying to keep up with all the questions. This is the information I just stated about the State Highway asking for trip generation information based on ITE and I utilized the 3500 square feet and developed trips based on 3500 square feet, yes.

MR. GARBER: The answer is yes.

Q. Did you provide any other e-mails to them relative to the use of this property.

A. To the --

Q. Use of the subject property?

A. This plus the 10th, January 10th letter.

Q. So, those are the only two documents that have indicated the intended use of the subject property from you?

A. Correct.

Q. And presumably then, that is all the State Highway Administration understands about this use of the property?

A. Correct.

Q. Okay. Fine?

MR. GARBER: So are we moving that into evidence.

MR. HOLZER: Yes. Move them. Perfect.

MR. GARBER: Mr. Schmidt, do you have an objection?

MR. SCHMIDT: I don't have any objection. Ms. Murphy, I have some other copies, but not with the floor plan.

MS. MURPHY: We can make a copy of perhaps this one.

MR. SCHMIDT: It has two pages of correspondence and an attachment.

MS. MURPHY: Yes.

MR. GARBER: And the floor plan is already in to evidence anyway.

MR. SCHMIDT: It's already in. If you'd like copies of the two pages of e-mails, I have more of them.

MR. GARBER: The actual exhibit will have the floor plan. The ones that you have to give to the Board at this time do not have the floor plans, but

the floor plans are already into evidence.

MR. SCHMIDT: Right.

MR. GARBER: We can all move on now.

MR. HOLZER: Like I said.

MR. GARBER: Protestant's Exhibit 9 is admitted.

MR. HOLZER: What about Protestant's Exhibit 8, is it admitted?

MS. MURPHY: The letter?

MR. HOLZER: The January letter.

MR. SCHMIDT: I have no objection to it.

MR. GARBER: Thank you, Mr. Holzer.

(Protestant's Exhibit Numbers 8 and 9 were admitted into evidence)

Q. Let's take a quick look at paragraph three in front of you. What you indicated to the State Highway Administration through both of these exhibits, 8 and 9, is that there will be less than 20 people coming to the temple on weekdays, less than a hundred coming on weekends. The temple does not have a leader, worshipper, so will arrive at different times during

the weekdays, et cetera. That's all the State Highway knows about the proposed use of this site?

MR. SCHMIDT: Objection. I mean, that's all they know from this document they may or may not know.

MR. HOLZER: Objection overruled.

MR. GARBER: Thank you for that, but they are not here anyway. So for purposes of what State Highway knows is different than what he communicated.

MR. HOLZER: Right what State Highway knows is whatever he communicated to them.

MR. SCHMIDT: How do you know that?

MR. GARBER: I would sustain the objection on what I just said. What he communicated to them is one thing, what they know and we don't know what if anything else they did, their state of knowledge, do not know sitting here today. We do not know. We do know what he communicated to them though.

MR. HOLZER: We do know what he communicated to them. All that he communicated to them was this letter, January 10th.

MR. GARBER: Right. And so, the question is are you aware of any other information they may have other than what you gave to them?

MR. HOLZER: Not what they may have. They have no more information than what he provided.

MR. SCHMIDT: Objection, how do you know that? They might have gotten information from your client, Mr. Holzer. I don't know whether they did or not.

MR. GARBER: The objection is sustained on that basis.

MR. HOLZER: Next question.

MR. GARBER: Move on.

Q. If you had to tell the Board today how they are using the proposed property, would you limit your answer to what is in this Exhibit Number 8, the third paragraph.

MR. SCHMIDT: Objection. I mean, we have had testimony from the Petitioner as to what the proposed use is. What, Mr. Caloggero is certainly not the best evidence. What is the purpose of this

question?

MR. HOLZER: The purpose of the question is --

MR. GARBER: Hold on. Hold on. What is your question again?

MR. HOLZER: The question is, is all that you have provided them was what is in paragraph three as to the, now that he has been involved in this case since before January, does he stand by that description of the use of the property to the State Highway Administration?

MR. GARBER: Do you understand the question, sir?

THE WITNESS: I do.

Q. He understands the question?

A. Can I answer the question?

Q. Yes.

A. Okay, so, typically, when we send information to the Maryland State Highway Administration on trip generation, it's based on typical days, based on your average day during the week, based on your average day

during the weekend. When we look at other, and I testified this the last time I was here, you know, looking at special events and other things, that's not going to be in this letter as to there's an event on Saturday which may generate more people. The State Highway Administration looks at typically the average day per year, 365 days a year, 52 Saturdays, 52 Sundays, so on and so forth. They are not looking at the highest most intense use of the property to determine the trips, to determine the road improvements and access. They are looking at the average typical day per year, which is what we gave them. It's going to be the regular use of the property in which they use this to determine information. And then again with the, you are just referring to this letter at this time?

Q. Yes.

MR. GARBER: Exhibit 8.

A. So, based on the regular use of this facility, correct.

MR. GARBER: In other words, if you are

communicating to the SHA today about the use of the property you communicate the exact same information as reflected in Exhibit 8.

THE WITNESS: Absolutely.

Q. You would not tell them they have 8 or 10 festivals per year in which more than 20 people would show up, that maybe a couple hundred people would show up, multiple uses of the property, you wouldn't tell them that, right?

MR. SCHMIDT: Objection, it's assuming all kind of facts not in evidence. It's a misrepresentation of what the witness has said.

MR. HOLZER: Look, this case hasn't even started yet because the Protestants haven't had --

MR. GARBER: Day three.

MR. HOLZER: Protestants haven't had a chance to put on evidence that they have gathered. So, to presume that once you have heard these three days, that's it, the Protestants can just blindly complain.

MR. GARBER: I assure you that's not the

way we approach that.

MR. HOLZER: I understand, but that's the efforts to limit questioning of the applicants's witnesses because there is relevance and I will be able to establish there's relevance contrary to what is being said.

MR. GARBER: Okay.

MR. HOLZER: That's what I am trying to lay the foundation for.

MR. GARBER: Start again, Mr. Schmidt, when you say the facts being assumed are not in evidence, I need you to be more detailed. Start your question again.

MR. SCHMIDT: When he says 8 to 10 festivals, it is not what the people said, when he said it's being used for other purposes.

MR. GARBER: Luckily, we have Court Reporter and Court Smart today. So we can resolve that one way or the other once we get the transcripts. If Mr. Holzer wants to ask the him questions about 8 or 10 festivals, if that's not what the record said

previously, so be it.

MR. HOLZER: It said it below before the Administrative Law Officer. And you know, I'm just asking him again, is that his understanding. I am entitled to ask him what his understanding is.

MR. GARBER: So the materiality of what he has to say may very well hinge on what the actual testimony was earlier. If it's incongruous to what was being asked earlier. That goes to the weight of the evidence received.

Mr. Holzer, ask your question.

Q. Do you know how many festivals there are, how many gatherings in which more than 20 people show up, which the purpose of those people coming there, do you have any knowledge of any of that?

A. I do not know specifically, no, I do not.

Q. So as a result, you couldn't say that you conveyed that information to anyone else at the State Highway Administration?

A. I did not convey that information to the State Highway Administration because they typically do not

review that type of material with trip generation and trip distribution of a site. So when, for instance, when we look at a, for instance, a WalMart or a shopping center, they don't ask us to look at black Friday, they don't ask us to look at the conditions of Christmas or major shopping events; they want to know if the typical day-to-day traffic can be accommodated. Same with the single family home. The single family home is going to generate on average 10 trips per day. But if you have a birthday party and 20 adults arrive and leave, that's going to exceed the ten trips per day. You don't study what may happen on a special occasion. The State Highway Administration wants to know on a typical day what happens so we can adjust for it. I provide that information.

Q. You already when you testified about the Ravens stadium, I understood that.

A. Yes.

Q. Your answer is repetitive to that question asked the day before.

MR. SCHMIDT: That's because the questions

are repetitive.

MR. GARBER: We can move on at this point, Mr. Holzer.

Q. When you did your traffic analysis, did you do, did you look to determine whether the accident rate or any accidents had occurred on Harford Road?

A. I did not.

Q. Huh?

A. I did not.

Q. And why didn't you, do you know?

A. It wasn't requested by either Baltimore County or the State Highway Administration.

Q. Okay. So it wasn't requested. Could it be requested in the future?

A. If the State Highway Administration or the, I believe it would be the State at this point, if they requested it, but again, the State has all that information, so we would be asking the State to provide such information.

Q. All right. I'll show you what has been produced. Are you familiar with the Table One traffic

crashes?

MR. GARBER: Hold on. This is Protestants Exhibit 10 for identification purposes.

(Protestant's Exhibit Number 10 was marked for identification.)

MR. GARBER: Sorry. Are you familiar with Table One?

Q. Yes, which is the first page of this document and selected Harford Road between Hartley Mill Road and Glen Arm Road as the area in which it encompasses?

A. This is the first time I am seeing this.

Q. I know.

MR. GARBER: First time you are seeing Exhibit 10 or the first time you have seen the table on Exhibit 10?

THE WITNESS: First time I have seen Table One on Exhibit 10.

Q. As you said, you don't care about traffic accidents?

A. I didn't say I didn't care.

Q. Well, you didn't bother to check.

A. Please don't put words in my mouth.

Q. But you didn't check?

A. I typically do what the agency requires because maybe they know.

Q. The fact that Baltimore County or the State Highway Administration may know something, you didn't feel it relevant to know when you formed your opinion as to how dangerous this area is?

A. Well, again, I have reviewed the area and based on the conditions that I'm set to review, I have determined that the access points are safe for people entering and exiting this property.

Q. Okay. But for whatever reason in the year 2016, 11 total accidents were reported by Baltimore County Police, 23 in 2017, 7 in 2018, for a total of 41; do you have any reason to doubt that?

A. I could not, well, since there is typically accident reports much more detailed than the number of accidents, these don't give any type of description as to the location, as to the extent of the accident, whether they were driver error, whether they were

excessive speeds, whether they were on wet pavements, snowy conditions, whether they were drinking and driving. There are numerous reports that would accompany the 41 the accidents which you are not providing and I do not have.

Q. Well, if I were representing these people who have to come in there every week, have to come in there when they have special events and so forth and I'm the traffic expert, I sure as heck would like to tell all these citizens, look, there have been 41 accidents here, a lot of them what is shown here between Hartley Mill Road and Mount Vista Road, that's smack in the middle of where these people are going to be required to go on the weekends, on Saturdays, Sundays, during the week to a festival. Don't you think that's relevant as a traffic expert?

A. May I answer?

Q. Sure, go ahead.

A. Again, the information you provided is extremely general?

MR. GARBER: Talking about Exhibit 10.

THE WITNESS: I am going to make a point. So, all 41 of these accidents could potentially be at the intersection of Harford Road and Glen Arm Road in which the State Highway Administration the just constructed a traffic control by putting in a roundabout. That was just recently constructed and maybe they did that based on this accident history. The instance they did a study on this corridor most recently and determined that a roundabout was necessary just north of this site, I would hope they would have pulled more detailed information. Maybe that's why they didn't ask me for it because they already had it.

Q. They may not have asked you, but why didn't you tell your clients?

A. I determined the access is safe based on the use of this property.

Q. And you are absolutely right about this document, Exhibit Number 10. It only says there were hit and run accident s, personal injury accidents, property damage accidents. So, yes, you are right, I

would sure want to go and get the police report and find out not only where it occurred but how bad it was, whether there are any deaths, whether there were any personal injuries. You are right.

A. Was there a question?

MR. GARBER: Mr. Caloggero.

THE WITNESS: I'm sorry.

Q. The question is you didn't bother to inform your clients as to the potential problems and why they needed to be determined.

MR. SCHMIDT: Objection. I mean, I'm just tired of these questions where Mr. Holzer testifies and asks a question, puts a question mark at the end of his testimony.

MR. HOLZER: We are going to get our case going.

MR. SCHMIDT: As to what he told his client, come on.

MR. GARBER: What is your question to this witness?

MR. HOLZER: Let me go back to my script.

MR. SCHMIDT: Change your script, Mr. Holzer.

MR. HOLZER: Mr. Schmidt, I don't criticize you, so let's stop doing that.

MR. GARBER: Let's do this. Take a step back here, take a deep breath, we have been here before, not literally in this case, but proceedings enough, especially the two of you.

MR. SCHMIDT: It's all part of the fun.

MR. GARBER: I know. So, the for the purposes of the record, if nothing else.

MR. HOLZER: I promise to be good.

MR. GARBER: Thank you.

MR. SCHMIDT: I do too.

MR. GARBER: Thank you.

THE WITNESS: I don't. I'm kidding. I'm sorry.

Q. All right. I'm trying to get away from the State Highway Administration for a moment. You testified that you didn't compare any other Hindu Buddhist temples in terms of understanding the use so

that you could apply the use of those facilities to this site, is that correct?

A. I took direct testimony or direct information from my clients as to their operation.

Q. Right, okay. So you didn't confirm any of what you believe they told you about how they are going to operate in the future?

A. I believe I just answered that. What they told me is how I came up with this decision.

Q. Yes. Right. Do you know how our design speed is determined? How are design speeds determined?

A. I thought you were say our.

Q. How are, A R E, how are design speeds determined?

A. In general?

Q. Yes.

A. In general, design speeds are determined based on the proposed use of the road or future use of the road determined by the government agency or which ever agencies is ever constructing, designing or building a road.

Q. And the design speeds set on the subject site on Harford Road were set for purposes of residential use such as this property being used for a home and the relative use along the area of Joppa Road, Harford Road?

A. I can't answer that.

Q. You don't know?

A. I wouldn't know that. I wouldn't know how the design speeds were determined for Harford Road.

Q. My question is really more precise than that. The question is we know the design speeds were set for Harford Road when this property was used as a Residential One Owner property. But in your opinion does it change when you introduce, I don't care to call it a commercial or institutional use or whatever, but a use that is not similar to a private residence, such as the proposed use?

A. If you are stating the design speeds of Harford Road, it's not going to change.

Q. Okay.

A. The design speed is based on the road and the

intent of the road not one property on the road. They are two different animals.

Q. Would it be different if south to this site you had commercial shopping centers, for instance, would the design speed change if you had a Wal-Mart?

A. Again, that's all based on the State Highway Administration criteria. The design change is already designed. It's designed and constructed. So, the design is speed has already been predetermined.

Q. The change of the use of the properties along the way would not affect the design speed for that road, even if things changed?

A. Unless they are going to change the entire road itself, if they are going to upgrade the road for certain things, again, it's the State Highway Administration.

Q. I'll give you an example, I go across Joppa Road all the time.

A. Yes.

Q. In 1800, Joppa Road was a cow path. Then it was the paved, it didn't have four shopping centers on

either side of the road. Obviously, at some time the design speed of Joppa Road where it's changed from farm land to commercial caused a change in the speed limit, right?

A. Speed limit and design speed are entirely different objects. They are completely different animals. One is not based on the other.

Q. Okay, what about speed limits?

A. That's politically driven. They are not based on, the design speeds are determined and they are regulatory. Design speeds are regulatory. I'm sorry, excuse me, speed limits are regulatory. Design speeds are the design aspects on how to construct the road.

Q. I understand that.

A. So this road has been constructed for many, many, many years, so the design speed is not going to change unless the design in its entirety changes.

Q. That's Joppa Road going from a single lane, one lane road to what it is now?

A. We are on Harford Road.

MR. GARBER: He's using the example.

THE WITNESS: I'm go trying to stick to here. The design speed is not going to change because of development. The design speed is already established as the roads are designed.

MR. GARBER: He's making the illustration, you were there in the 1800's apparently.

MR. HOLZER: I have been accused of that, Mr. Chairman.

MR. GARBER: It was the one way road at some point, now it's not a one way road. The design had changed. And so likening, that how he's using that as illustration.

THE WITNESS: May I try to answer that with the way I believe your question is.

MR. HOLZER: Yes.

A. If this road were to ever change to a three lane or four lane highway, then the State Highway Administration would determine the proper design speed for such an increase.

Q. Right.

A. Design speed is not changing because this

property is here is going to be a different use. The design speed is the overall length of the road from predetermined point A south to point B north. So just because we are adding property which is going to add an increase of trips does not increase the design speed in the road.

Q. So, it will increase the number of trips of that are previously there?

A. Yes. Right.

Q. And that type of use as well.

A. Correct.

Q. I mean, it is a different use than it was used use before?

A. That's correct.

MR. GARBER: I know he's halting, but wait for his question to finish.

THE WITNESS: Certainly.

Q. Did you do any studies, horizontal or vertical measurements, site survey or drawings to confirm the sight distance you have come up with?

A. Items, yes, all the items I have been

testifying to.

Q. What's that?

A. Yes, all the exhibits we have prepared and have been testifying to.

Q. Okay. That's it. I mean, there are no other studies other than what was needed to accomplish these exhibits?

A. That plus the information contained in the January 10th letter, which was more --

Q. Right.

A. -- visual and foot measured --

Q. Okay.

A. -- versus more design related aspects.

Q. Did you do any drawings or survey about the hill at the bend; in other words any elevations?

A. Again, just what was already prepared and presented.

Q. And those were, you were required to come up with elevations in order to prepare that?

A. That's the Plaintiff profile.

Q. Right, the bottom.

A. Those were all presented here and to the State Highway Administration.

MR. HOLZER: I'm trying to cut the questions down.

MR. GARBER: That's okay.

Q. Were you here on day one of the hearing when Mr. Comery testified?

A. Yes.

Q. Did you hear him try to compare Harford Road at this site with Saint Joseph's Catholic Church on Belair Road?

A. I don't recall.

Q. But you were here?

A. I was physically present, yes.

Q. Yes. Okay. Do you believe that this site is comparable to Saint Joe's Catholic Church on Belair Road?

A. I'm not familiar with.

Q. So, you go up and down Harford Road but you don't go up and down Belair Road?

A. You are asking me about a specific property

use. I don't know. I can tell you about Saint Ignatius in Forest Hill.

Q. Let me just ask you, so that's your church?

A. That's the church I drive by everyday.

Q. Belair Road, have you ever driven down Belair Road from the area of Saint Joe's Catholic Church?

A. Is that inside or outside the beltway. I have driven numerous times up and down the Belair Road. I don't know the church. I apologize.

Q. Based on your personal observation, do you think Belair Road at that location, and I can show you a map that I have here, is comparable, equivalent to, compares well to this area of Harford Road?

MR. SCHMIDT: Objection. Clearly beyond the special exception test as to whether that's in the neighborhood.

MR. GARBER: If he doesn't know where it is --

MR. SCHMIDT: I don't know how he can answer it.

MR. GARBER: Special exception, pump the

brakes on that for a moment. If he doesn't know where it is, it would be difficult for him to say how it compares.

MR. HOLZER: I will show him.

MR. GARBER: I figured you would.

MR. HOLZER: You know Belair Road.

MR. SCHMIDT: I do, but I don't drive up and down.

MR. HOLZER: Do you want to mark this first?

MR. GARBER: Protestants Exhibit 11. Just so you are aware, you still have 8 and 10 as ID only.

MR. HOLZER: Well, I can still wait to call.

MR. GARBER: Just so you know those are still open.

MR. HOLZER: Appreciate that.

(Protestant's Exhibit Number 11 was marked for identification.)

Q. This is marked as Protestant's Exhibit 11. It's a larger blowup of Belair Road running from

Timahoe Court up to Plumer Avenue. This is the church area that was referred to up to Necker Avenue in this section. Now, do you think that this picture depicts from a traffic engineering standpoint and a traffic expert who's providing testimony as to the relative nature, does this depict accurately or compare accurately with what you have just shown up on Petitioner's Exhibit 16-B?

MR. SCHMIDT: Objection. I can't imagine what the relevance of this could possibly be. I don't believe that this would be considered within the locale from a special exceptions standpoint, which is what we are ultimately here on, I don't believe this property is within the locale to be impacted and if he is going to show him a picture of a church or road system outside of the locale, I just can't, I don't know what the relevance, I don't have any idea what the relevance could possibly be.

MR. HOLZER: Maybe I should have objected to Mr. Comery's testimony because that's exactly what he testified to. He testified to this information.

He compared it.

MR. GARBER: Can you compare what is depicted on Protestant's Exhibit 11 as Mr. Holzer said, Saint Joseph's Catholic Church on Belair Road, to the proposed use of the subject site?

THE WITNESS: The proposed use? I'm just trying to figure out where I am in terms of Belair Road.

MR. GARBER: Can you compare? That's the first question.

THE WITNESS: What am I comparing?

Q. You are comparing the traffic and the road access to this particular church which he referred to on day one in his testimony to this Petitioner's Exhibit showing your proposed site and the road system. Can you compare those two.

MR. SCHMIDT: I just note a continuing objection to this entire line of question. I don't know what the relevance could possibly be.

MR. GARBER: I don't even think we are even at your objection yet. He has to be able to compare

it in the first instance to then be able to come up with the answer to the second question which goes to the special exception issue you are raising. Let's see if he can compare it.

MR. SCHMIDT: But even if can compare it, my objection is whether he can compare it or not, with all due respect, what does a comparison of traffic on Belair Road not in this locale, how does him comparing this traffic, assuming he can do it at this location with the subject property, assist you all as the finders of fact in determining whether the special exception should be granted?

MR. GARBER: I also await that answer too. I don't know that either. All I know is right now we are trying to figure out can he compare it and if he can, what does it mean?

MR. SCHMIDT: Are we opening the door for Mr. Holzer to show us pictures of every church in Baltimore County and ask Mr. Caloggero to please compare Timonium United Methodist Church, which is where I worship, or whether Mr. Kotroco goes to church

or the synagogues where the Board members may go to church. I mean, what is the relevance of any of this?

MR. GARBER: Mr. Holzer, do you wish to respond?

MR. HOLZER: Of course. Of course. His witness, Mr. Comery, testified to this Court that there was a church on Belair Road that was this church that I am showing that was okay, was permitted and, therefore, this proposed site that he was encouraging you to approve was permissible. That's what it was.

MR. SCHMIDT: No, that's --

MR. HOLZER: I am just trying to show, let the Board understand what he was comparing is not apples and apples, it was apples and oranges. This is an orange, that was an apple. That's all I need him to say.

MR. GARBER: Let's take it one step at a time. Mr. Caloggero, can you make a comparison between these two sites?

THE WITNESS: I think we talked about this before, if this where we are going, if this is Saint

Joe's, I am assuming the Catholic Church, this use is not a Catholic Church use --

MR. GARBER: The one at issue is not a Catholic Church use in this case.

THE WITNESS: Right. And this looks in my opinion --

MR. GARBER: Protestants Exhibit 11?

THE WITNESS: Saint Joe's, I can't tell if Saint Joe's is operating a school. I can tell you it looks like on this map it has a traffic signal, three points of ingress and egress, outbound has three lanes outbound and signalized intersection. Parking, parking is substantial. It looks like it has a cemetery, you know, in the rear of the site. This just looks like a huge Catholic Church with lots of parishioners. To me it looks like a school as well.

Q. From a traffic road, from a road standpoint, is this consistent with the proposal that your client has on Harford Road?

MR. SCHMIDT: Again, I just note a continuing line of objection.

MR. GARBER: That's fine.

MR. SCHMIDT: Thank you.

A. I'm still not sure how you want me to compare. What are you asking me to compare specifically?

Q. You are a traffic expert?

A. From a traffic perspective, Belair Road has four lanes. There's not any additional turn lanes along Belair Road for entering and exiting traffic. It looks like there is a traffic signal; I don't know the operations of the traffic signal. There is a, it looks like inbound only and then it looks like another form of an access south of the site. Again, with over like 200 plus parking spaces.

Q. Tell me about the road. Belair Road is, you said, four lanes?

A. Yes.

Q. Is it straight?

A. Yes.

Q. Is it level?

A. I don't know in this area.

Q. You don't know from looking at this photo

whether or not --

A. I do not.

Q. Are there any hills that are comparable?

A. There are no --

MR. GARBER: Let him finish his question.

Q. Are there any hills on this area of Belair Road that are consistent with the hills shown on 16-B?

A. From this map I cannot tell because there are no contours.

MR. HOLZER: Thanks a lot.

MR. GARBER: So are we moving 11?

MR. HOLZER: I am moving.

MR. SCHMIDT: I object. I still don't know what the relevance is. I just don't know what the possible relevance is.

(There was a pause in the proceedings.)

MR. GARBER: It will be admitted. I understand you object.

MR. SCHMIDT: Thank you. As long as it's noted for the record.

(Protestant's Exhibit Number 11

was admitted into evidence.)

MR. HOLZER: Mr. Chairman, it's 12:30. If you would want to take a break for lunch now, I will go through the rest of my questions and see if I can cut them down. They may be repetitive.

MR. GARBER: I'm always in favor of that. Mr. Schmidt, how do you feel about that?

MR. SCHMIDT: That's fine. I'll leave it to the discretion of the Board. I am fine.

MR. GARBER: Mr. Caloggero, do you have any conflicts.

THE WITNESS: No calls.

MR. GARBER: Mr. Schmidt, would you be ready to go with any other witnesses you have here today?

MR. SCHMIDT: My one witness is here. I would anticipate that is the Petitioner's case.

MR. GARBER: Mr. Holzer, are you ready to commence the start of your case today if necessary?

MR. HOLZER: Yes, I'm going to try to put a few witnesses on that, hopefully, will be short or

will be witnesses that I anticipate calling for cross examination.

MR. GARBER: Okay.

MR. HOLZER: Yes.

MR. SCHMIDT: When did you want us back?

MR. GARBER: I'm going to say 45 minutes. Let's try to keep it to that. We'll make it 1:15, which technically gives you 48 minutes, I believe. So, 1:15 we'll be back here, and again, we are going to get through as much of this as possible today as we can.

MR. SCHMIDT: Thank you.

MR. HOLZER: Thank you.

(A recess for the noon hour was taken at 12:26 PM until 1:13 PM.)

MS. MURPHY: On the record.

MR. GARBER: Mr. Holzer.

MR. HOLZER: Ready. All right. I can say to the Board lunch was very well spent because I have excised quite a few questions.

Q. Sir, have you done any traffic counts of

vehicles entering and leaving the property at any of the festivals or the events, fund raisers, things like that?

A. No, I have not.

Q. Okay. And I believe you have already testified that you have not observed how vehicles enter and leave at any of these high volume events?

A. That is correct.

Q. Okay. Did you bother to take any or look at the traffic counts for Harford Road in the area of the property?

A. No, I did not.

Q. Did you bother to look at any traffic counts that were created by the State in terms of the circle that's north of the property?

A. No, I did not.

Q. Okay. See, I finished that. Not quite. Almost. Sorry, one more thing. Is the State Highway minimum standard for 50 miles per hour, is it 425 feet?

A. Is what?

Q. Is the minimum standard?

A. Minimum standard what?

Q. Stopping distance?

A. For?

Q. For 50 miles per hour, 425 feet?

A. May I check my manual?

Q. Sure, absolutely.

MR. GARBER: Are you asking him about the earlier testimony?

MR. HOLZER: Yes.

THE WITNESS: Stopping site distance for 50 miles per hour, 425 feet.

Q. Thank you. Then I'm going to show you some State Highway --

MR. GARBER: This is Protestant's 12 for ID.

Q. I show you, are you familiar with -- this is entitled Access Management Division Plan Submission List. Is this what you are talking about the process that you have to go through with the State Highway Administration to get the access permit?

A. I am not familiar with this document, Access Division Plan Submission Check List.

Q. Yes.

A. So, I am not familiar with this document. Typically, the civil engineers as part of the site plan submission or as part of an access permit submission file the actual application and they may be more familiar with this documentation.

Q. But this really deals with issues related to traffic, does it not?

A. It's a check list.

Q. Yeah, right. So what you are saying is that this is not something you would take and go down to State Highway and have this filled out or acknowledged in some way?

A. I do not.

Q. Okay.

A. I have not.

Q. Okay. And Protestant's Exhibit 12, if you have never had to deal with this before, then you don't know how long it would take to work its way

through this project?

A. I don't even know if this is our check list or if it's a State Highway check list.

Q. State Highway check list?

A. I don't know if we would fill it out or they would fill it out because I looked on page two --

Q. Right.

A. -- traffic impact study required, not required, submitted, that's something I would check out not required all the time and they would say whether it would be required or not.

Q. Trying to get away without?

A. Yes.

Q. I understand.

A. I would think this would be on them. That's my guess.

Q. You don't know, you gave an estimate about two weeks before you got the answer on the order, at least the State got back to you on the access permit. So, there could be more involved than just coming back to you for more information if this has to be filled out.

A. Yes. This looks like it came from Prince George's County.

Q. Well, the State's using it?

A. I mean, I'm saying the job number up top is Prince George's County, we are in another district. I don't know if it's something Baltimore and Harford County uses for their submissions or they have their own separate submission.

Q. Well, it's marked as Protestant's 12 and you said you don't have to deal with this, so therefore, I will put it aside.

MS. MURPHY: So, ID only?

MR. HOLZER: No, I want it marked for exhibit, he recognizes it.

MR. SCHMIDT: I don't think he does.

MS. MURPHY: He said he wasn't familiar with the document. I'm not sure.

MR. HOLZER: We'll, leave it for ID.

MR. GARBER: Pretty much how I understood it too.

MR. HOLZER: Yes.

Q. The measurements that you put on your Exhibits 15 and 16, the group of them, from the proposed driveway, would you agree or disagree that the distance to the south is 355 feet? You might want to get up and take a look at what your --

A. This one, exhibit?

Q. Whichever exhibit answers the question?

MR. GARBER: He asked about the proposed drive.

MR. HOLZER: No, no, distance measured to the south, I'm sorry, you are right. I apologize.

MR. GARBER: That's good.

Q. From the proposed driveway.

A. From the proposed driveway.

Q. I think we are using the wrong words. First, I'm asking from the existing driveway.

A. Existing driveway.

Q. Yes.

A. A?

Q. Yes?

A. Here we have it marked 365 feet.

Q. Okay.

A. And in the letter that I submitted January 10th, I believe I added that 355 and that was a field measurement that I took with the wheel with my car parked, walking it off and sight lining it.

Q. So when I say 355, that's what you measured?

A. That's what I measured and this is the actual planned drawing with the car and using the survey.

Q. Okay. Now, at 30 miles an hour speed limit with advisory --

A. Yes.

Q. -- would it be 200 feet?

A. Would what be 200 feet?

Q. The proposed driveway or existing driveway to sight distance?

A. Sight distance required for 30 miles an hour is 335 feet.

Q. 331 feet?

A. 335.

Q. Okay, so you agree with that figure?

A. For 30 miles per hour, yes.

Q. Then at 45 miles an hour southbound on 147, would this be 496 feet?

MR. GARBER: Just for the record 147 being? Harford Road.

MR. HOLZER: Yes.

MR. GARBER: So the record is clear, that's what the reference is.

MR. SCHMIDT: Mr. Holzer, are you asking what the stopping distance is? Is that what the question was?

MR. HOLZER: Yes.

MR. SCHMIDT: I think he's answered this a couple of times.

THE WITNESS: We went through this whole testimony.

Q. Was it 496 feet? Intersection distance is the stopping distance 360 feet.

A. Stopping?

MR. GARBER: Not stopping sight distance, stopping distance.

Q. Stopping sight distance, 360.

A. For 45 miles per hour is 360 feet, yes.

Q. Right. What about in 50 miles per hour stopping sight distance?

MR. GARBER: 425. We just had that question five minutes ago.

MR. SCHMIDT: We keep asking the same question. I'm sorry, Mr. Holzer, but I think he's answered these questions.

MR. GARBER: Go on.

Q. Then do you agree with this statement? Neither the intersection sight distance nor the stopping sight distance value is met for the 45 miles per hour southbound of 147 and 50 miles per hour northbound for that speed for the speed limit, would you agree with that statement?

MR. SCHMIDT: I'm going to object. I don't know what the statement is. I guess if he can understand that.

MR. GARBER: Number one, I think he can answer the question. I don't know what the objection is. Whether he can answer the question as in

literally or not, it's up to him. But there is no objection unless you have another ground, reason for that.

MR. SCHMIDT: I guess he's asking him a question about some statement. I think it would be fair to lay some foundation where the statement came from, who said it or whatever it is.

MR. GARBER: It's cross examination. He is an expert witness. He can certainly give an opinion about the statement, whether it's somebody from the field or my seven-year old kid.

MR. HOLZER: That's about my level.

THE WITNESS: Can I ask you to break it up? I believe you are asking for two different items in that question.

Q. I am. On 50 miles per hour northbound on 147 SSD, what is that?

A. Stopping sight distance.

Q. Stopping sight distance is 425 feet. ISD, what is that?

A. Intersection sight distance.

Q. Is 551 feet. Do you agree with that or not?

A. Are we talking for this sight access?

Q. Yes.

A. I don't believe those speeds are correct. I don't believe 50 miles per hour northbound is the correct speed northbound, I still believe it's 45. The pictures shown to me --

Q. Let's not belabor the point. If it was 50 miles per hour, if it was, okay, would it be 425 and 551?

A. Not at this location because you can't make that turn at 50 miles per hour.

MR. GARBER: Saying that turn, which turn?

THE WITNESS: Northbound right hand turn where the State Highway says it should be 30 miles per hour, you cannot take that at 50 miles per hour.

Q. That's subjective.

A. State Highway recommends 30 miles per hour based on proper speeds and proper studies.

Q. I'd like to get this through. If it was 50 miles an hour and if somebody chose to go 50 miles an

hour in violation of what you are saying, common sense, whatever, if it was 551 feet, would that not meet the minimum State Highway requirements?

MR. SCHMIDT: Objection and I'd like to be heard if I can, Mr. Garber.

MR. GARBER: Of course.

MR. SMITH: We can ask the witness what about if somebody is drunk on their phone, blind or whatever else their handicap may be, and tries to go up this road. We can go on and on with all kinds of scenarios. But as the witness has testified, neither he as a traffic engineer nor State Highway as a regulatory agency, engineers and bases it's conclusions on people acting illegally and scenarios which are highly unlikely to occur. So, to ask these questions with these scenarios about people doing these things, when this witness says he thinks it's physically not possible, is akin to asking him can we cut the access through the trees and have it right next to the turn and what happens if somebody is driving 90 miles per hour and we can go on and on. To

me this provides no probative evidence which would assist the Board in making a decision in this case. I think the question is so speculative even for an expert witness it has no value. I object to the line of questioning.

MR. GARBER: We have testimony that the road can be 45 at that location, it can be 50 at that location. Even if it's 45, somehow, it's not something that's uncommon and people may have attempted that and that may explain the signage in that area as to why they recommend or advise the speed limit should be 30. So the hypothetical being that someone's driving 50 miles an hour going northbound, the intersection stop distance at 551, the query is is that applicable here?

MR. HOLZER: Does that meet the minimum State Highway standard?

MR. GARBER: Certainly, he can answer that question. Overruled.

A. So does, to repeat the question, what I am hearing --

Q. Well, the Chairman just gave it.

A. No, I want to be sure to get the question right.

Q. My question is --

A. I am going to ask the question, may I ask to answer the question so I understand it?

MR. GARBER: We'll hit the reset button, have him restate it and see where it takes us.

Q. Thank you. My question is going northbound on Maryland 147 Harford Road the SSD is 425 minimum State Highway standard and the ISD, the minimum State Highway standard is 551. Do you agree with that first of all?

MR. GARBER: Let's stop there, we have already had the answer on the stopping site distance of 425 at 50 miles an hour. So the question, if we limit it the intersection stop distance of 551, does he agree with that as the minimum standard.

MR. HOLZER: Correct.

A. For ISD, I have it at 555.

MR. GARBER: So 555.

Q. Okay. So if that were the hypothetical, okay, then is it your position that this intersection does not meet MDOT State Highway sight distance standards.

A. So you are saying if someone happens to make that turn at 50 miles an hour, that is this intersection still --

Q. Is the standard of the State minimum requirement met?

A. At 50 miles per hour, I would say no because stopping sight distance is 425.

Q. Thank you.

MR. GARBER: Could you explain the difference between intersection stopping distance and the stopping sight distance?

THE WITNESS: Absolutely.

MR. GARBER: How does that factor into where we are in the case at the moment?

THE WITNESS: Intersection sight distance is what an exiting vehicle would need to see to make a turn out into travel into the roadway to cross the roadway.

MR. GARBER: Intersection sight distance. So, Mr. Holzer's question, the vehicle going 50 miles per hour, you would need 555 feet of sight distance from the intersection.

THE WITNESS: Correct.

MR. GARBER: Okay and the intersection stopping doesn't apply in this case.

THE WITNESS: Stopping sight, I'm sorry?

MR. GARBER: The intersection stopping sight distance.

THE WITNESS: Intersection stopping, but I disagree on the --

MR. GARBER: That's what I'm trying to get to, where is the disagreement?

THE WITNESS: A, the speed limit is not 50 of miles per hour.

MR. GARBER: Assuming the vehicle is travelling 50 miles an hour.

THE WITNESS: Assuming the vehicle is breaking the law in traveling at excessive speeds in an area that's deemed 30 miles per hour, can that

vehicle maintain the safe turn around that road without braking, of course, because you want it to be maintaining 50, and does that car have enough time to pull out say to turn left to head south before that car can stop? Now, that technically, we talked about this the last time, the stopping sight distance of 425 feet is poor reception, reaction time, wet condition, bald tires. So if the perfect storm happened and someone in a race car makes that turn at 50 miles per hour at the exact same time someone is turning left at the sight, could they impact? Potentially.

Q. That's not the question. The question is does it violate State Highway minimum standards? And it does. You said, yes.

A. You said hypothetically. A lot of it, I mean --

MR. GARBER: Go ahead.

THE WITNESS: If I may, I testified to the speed, the conditions, the actual conditions and what's trying to be asked of me is pretend somebody

can travel 50 miles per hour in an area where the State recommends 30, what can happen? Of course, I have to answer to those conditions. I don't think that's the case in this condition. So, you are asking me to answer something I am not comfortable answering.

MR. GARBER: If that's your answer, that's your answer.

THE WITNESS: I've been trying to --

MR. GARBER: You expressed the fact you are not comfortable answering --

THE WITNESS: I'm sorry, I thought I had.

MR. GARBER: -- Because you feel the vehicle cannot handle the turn at that speed.

THE WITNESS: Yes and I thought I made myself clear by saying the advisory of State Highway are 30 miles per hour. They call it a ball bank and once you take that turn, the measurement goes to a measure that exceeds the safe driving to take a turn. So that's why they put the advisory speeds of 30.

MR. GARBER: Is that --

MR. HOLZER: He answered my question first

when he said, yes, it does not meet the minimum standard.

THE WITNESS: For 50 miles per hour which again I do not believe you can obtain.

MR. GARBER: You follow from that.

THE WITNESS: I have been stating that.

MR. GARBER: Mr. Holzer, ask your question.

MR. HOLZER: The speed limit there is 50 miles an hour. We have proved it, but we'll prove it again. So regardless of that, that's why the question is an appropriate question and his answer is it doesn't meet the State minimum standard?

MR. SCHMIDT: Objection just to Mr. Holzer testifying.

MR. GARBER: Okay. We can move on from this point.

MR. HOLZER: Good, because I think we are cross examined out.

MR. GARBER: See, look at that, worked out well.

MR. SCHMIDT: Is that it?

MR. HOLZER: That's it.

MR. GARBER: Mr. Schmidt.

REDIRECT EXAMINATION

BY MR. SCHMIDT:

Q. Mr. Caloggero, there were questions Mr. Holzer asked you about turning either going north or southbound but turning into Nepali property at the driveway. And I think you described that as a free turn I think was the word I wrote down.

A. Right turn.

Q. The right turn is a free turn. I think he was asking you about that. Can you explain what a free turn is? What do you mean by that?

A. Basically, what I mean what is a free turn is when you make the turn, there is no obstruction to continue forward.

Q. So, people who would be turning into the property you would expect would just continue to drive back into the property?

A. Continue their maneuver off the record.

Q. There's no parking lot --

A. Correct.

Q. -- or gate or any reason for anybody to turn right off of Harford Road and stop in terms of getting, once they are on the driveway?

A. That's correct.

Q. The parking lot as a matter of fact is a fairly substantial distance away into the interior of the property, is it not?

A. That's correct.

Q. You also answered some questions about the design speed and I think the speed limit. Could you just explain to the Board what is the difference between a design speed and a speed limit on a road?

A. The design speed of a road is that of which the road is designed; that's why it's the design speed. So for instance, if we had a road that needed to be designed and the State Highway determined that the design speed is 50, they would go to the guidelines and apply all the 50 miles an hour design speed standards to the road.

Q. When you say design speed standards, does that

mean the grade of the road, pitch of the road, type of building material, all those kinds of things?

A. All that and the safety features on the side of the road.

Q. Compare if you will of that between a speed limit; what is the speed limit?

A. In most cases speed limit is ten miles per hour below the design speed. They typically design for ten miles an hour above. However, a lot of these instances, you know, a lot of these roads have been here for a significant amount of time and the State Highway makes determinations based on their own sights or politically determined based on certain instances.

Q. Okay. You testified back during direct last week that you did examine the capacity of the road system as an issue, the capacity of Harford Road, did you not?

A. From the Baltimore County basic services map.

Q. Right, and you determined that traffic counts were not needed because there were no signalized intersections that would be impacted from a capacity

standpoint, is that correct?

A. That's correct.

Q. In terms of the number of vehicles on this section of Harford Road, is there any concern that you have or analysis that you have done that this road is over-congested or overwhelmed by traffic?

A. No, sir.

Q. I guess just to conclude, so, you have looked at the existing point of intersection or access between Harford Road and the existing what I would call two lane driveway that has an inbound lane and outbound lane and concluded that under the proposal, vehicles can safely enter and exit the property based on sight distance considerations and other safety considerations?

A. Yes.

Q. And you have also at the request of the State Highway Administration submitted and prepared as shown on the documentation on the board, 15-A and B and 16-A and B an alternative to that where an outbound lane is located further to the south, I believe, is that

correct?

A. North.

Q. I'm sorry, north, correct?

A. That's right.

Q. And that's an exit lane only as shown it's on your plan?

A. Correct.

Q. You have testified, I believe, that based on that that would provide an additional measure of sight distance if it were construction and installed and make conditions even better from a traffic engineering standpoint, correct?

A. Yes, that is correct.

Q. And you submitted all those drawings to the State Highway Administration?

A. Yes, I have.

Q. You have talked to the State Highway Administration?

A. Yes, I have.

Q. You advised them of your findings, answered their questions and provided the information that they

requested of you?

A. Yes, I have.

Q. Have they indicated to you at this point in time they require additional information?

MR. GARBER: Mr. Schmidt, I think this has all been covered and well understood that a conversation is ongoing, there is no final decision that is left open, he's submitted everything that they have to date. There doesn't seem to be any issue as to those things to lead to any recross of the same questions we have already the answers to.

MR. SCHMIDT: Then I have no further questions.

MR. HOLZER: I think the Board has questions.

MS. MURPHY: You indicated you didn't do any traffic counts, correct?

THE WITNESS: Correct.

MS. MURPHY: Doesn't this Board need to know the traffic counts in order to weigh the special exception factors in terms of congestion on the road,

regardless what is SHA is requiring and the County is requiring, don't we need to know that?

THE WITNESS: I don't think so. But again, maybe again, when I look at this type of situation and looking at either the proposed day-to-day operations as was told by me or looking at the State Highway Administration trips that they are proposing, we look at a lot of peak hours, the trips are going to be in my opinion more de minimus during the morning and evening peak hours, whereas, we are looking at the safety features of the road versus the volume on the road.

MS. MURPHY: Regardless of what the SHA requires in terms of access and social events, this Court has a different duty in terms of weighing factors in special exceptions cases. Don't we need to know what the traffic counts and the volume of traffic even in special events and limited events, that's what's being proposed here.

THE WITNESS: I don't know if you are telling me you need that.

MS. MURPHY: I am asking you as an expert witness testifying for the Petitioner. You have testified in other cases, you have testified in other cases did you put in evidence of traffic counts and traffic sites.

THE WITNESS: In cases where it may be required.

MS. MURPHY: Required by who? I mean, I don't care about the State Highway. I'm inquiring for this Board and we what need to have to weigh?

THE WITNESS: I don't have the information you are requesting.

MS. MURPHY: How about with the accidents, you didn't do any accident studies?

THE WITNESS: No.

MS. MURPHY: Okay. Also don't we need that information to weigh whether or not there is a danger on the road under the special exceptions factor and the conditions of the road?

THE WITNESS: With my testimony I am presenting to you that it's a safe access.

MS. MURPHY: Well, not the access. I don't care about entering and exiting. This is a different question. This has to do with accidents on that road in front of that. So, congestion on that road and there is another factor which is danger on the road, panic, fire or other dangers. Let's say an accident is a danger, does that weigh on your opinion? Does that weigh in terms of something you need to know to give us an opinion?

THE WITNESS: Typically, volume, typically, when you are looking at the safety aspects of a road, a lot of times volume doesn't come into consideration because the road is either safe or not safe for the conditions that they are supposed to be traveled. So as you are driving say northbound or southbound approaching these turns and the State Highway Administration is advising you to drive this road at 30 miles per hour, a two lane road without passing zone and if you are following the signs and following the speed limits, you are going to navigate this road properly as I have done numerous times, I can't

testify to all the residents there, they more than likely have done that numerous times as well, it doesn't make the road unsafe as long as you are traveling it to the conditions that are out there.

MS. MURPHY: But an accident by definition is somebody who hasn't done that. So, isn't it important for us to know at this locale how many accidents have occurred at the entrance on this stretch of road. Maybe not the ones on Harford Road at the other end, but isn't that something we need to know.

THE WITNESS: Again, I'm going with the design or the actual physical aspects of the road itself. If the conditions are safe --

MS. MURPHY: In a perfect world.

THE WITNESS: In a perfect world if people were to drive it --

MS. MURPHY: But accidents by definition are not --

THE WITNESS: They are called crashes.

MS. MURPHY: Whatever you want to call it,

collisions, crashes, your testimony is your opinion is that doesn't factor into your opinion doesn't change the nature of what you testified to; if you found out there were a hundred accidents right in front of entrance, that wouldn't matter?

THE WITNESS: You are asking me that specifically if there were a hundred accidents at this intersection or 50, whatever the number, there is an extreme high number of incidents right at this location, then, yes, I would have to take that under consideration. That information was not presented under cross, that was something completely different presented under cross.

MS. MURPHY: I realize that. I'm asking a different question.

THE WITNESS: I'm looking at it from the prospective of the road itself.

MS. MURPHY: How many accidents would it take to change your than opinion? Would 20 make a difference, 30 make a difference?

MR. GARBER: Per year, 20, 30 per year?

MS. MURPHY: Exactly, annually.

THE WITNESS: Truly, I am not trying to avoid your question, it's a larger calculation of vehicle miles traveled over a year and new risk calculations, the number of accidents specifically at an intersection.

MS. MURPHY: I realize that. But I'm saying in front of this access point.

THE WITNESS: I can't give you that number because it's a bigger number than three accidents. I have to look at the vehicle miles traveled along this section of the road, the number of vehicles, the number of accidents and make a calculation and then the State compares it to other similar locations that have these types of conditions to determine if this would be a high crash location in which improvements may or may not be needed.

MS. MURPHY: I'm not talking about improvements to the road.

THE WITNESS: The crashes that warrant improvements?

MS. MURPHY: I'm just talking about your opinion in terms of the special exceptions factors, which is the only issue in this case which we have to weigh. In deciding this case, there's nine factors. Regardless of the access point, it's your opinion as I understand it there are no specific number of accidents that would sway you one way or the other? Is that I am what I am hearing?

THE WITNESS: My opinion is the road is safe for the conditions the State Highway Administration --

MS. MURPHY: I know you said that. That's not what my question was.

THE WITNESS: I don't know the number of accidents.

MS. MURPHY: That's what I am asking. If you don't, then you don't. I was curious as to whether you had enough.

MR. GARBER: You indicated that nothing was presented to you on cross. You were presented with Protestant's Exhibit 10 just for ID only, that you

were reported there were 41 accidents between Hartley Mill and Glen Arm Road between January 1st, 2016 and April 1st, 2018. Do you need to see the table again?

THE WITNESS: I have it.

MR. GARBER: Let's assume all 41 accidents occurred in the strip from the, the first bend Is heading northbound to exit the site after the State Highway property. Let's assume that all 41 occurred. And I have no information that's what's going on. Assuming that to be the case, would that change anything in terms of your opinions?

THE WITNESS: I'd have to take a detailed look as to what the contributing factors are for said crashes.

MR. GARBER: You would need to know the details of each accident to make an assessment as to whether or not there is a particular danger in that stretch of roadway.

THE WITNESS: Yes.

MR. GARBER: Would your answer be the same if it was half of that, if it was 20 accidents?

THE WITNESS: Again, yes, the answer is the same. It's very important to understand the characteristics of each accident.

MR. GARBER: If it was half of the 20, down to ten, it would be the same?

THE WITNESS: Again, yes.

MR. GARBER: We can keep dividing in half until we are down to one or some fraction, it would be the same.

THE WITNESS: What most engineers do, they look for patterns. What are the patterns of the accident that are occurring in this area? When I did my routine survey assessment, what did I see? I see in both directions the State Highway Administration has put up the reverse turn signs of 30 miles per hour speed limits, advisory speed in both directions, there's chevron arrow signs in both directions around both sides of the road. There's the turn arrow to help people come around the turn. There is, there was no delineators in the road, the delineators as in the reflectors that help people guide around the turn. I

believe some of those have been the taken out with snow plows or other means. There are also the rumble strips that are in the middle of the road so that as people are navigating the road, if they travel off on to the center line, it's another warning saying, hey, too fast to the right, get back in your lane. There is also a street light above or at the intersection of the access in Napoleon. I think they are trying to highlight that area with lights to try to help people navigate the road.

So, the State highway has in my opinion has been reviewing this area and providing numerous measures. But again, if people are traveling at too fast for the conditions, because the speed limit is 45 miles an hour coming southbound, and I have seen it northbound as well, I know we are disagreeing on that, they don't mix and match the 45 miles an hour speed to 50 miles an hour, they'll keep the whole road at 45 miles an hour, they will modify it. The State Highway is taking all these measures of correctness to either highlight the safety of the area or make sure

it's more safe. But again, if people are traveling it too fast for the conditions, that's hard to correct.

MR. GARBER: To be fair, you don't know when any of these, I am not going to call them traffic control measures, but the signage, rumble strips, you don't know when they were installed.

THE WITNESS: I do not.

MR. GARBER: Ms. Dopkin.

MS. DOPKIN: You mentioned the absence of passing zones and I was wondering based on the topography on the east side of Harford Road and the State Highway Administration, is there the potential to install or that the SHA would require a deceleration lane for entering the property?

THE WITNESS: There's always the possibility.

MS. DOPKIN: Is it physically possible?

THE WITNESS: I don't think one is warranted based on the peak hour turns.

MS. DOPKIN: That's not the question.

THE WITNESS: I'm sorry.

MS. DOPKIN: Is it physically doable? Are the contours such that you could do it?

THE WITNESS: I think the contours would present a challenge.

MS. DOPKIN: A challenge?

THE WITNESS: Significant challenge. The grades are significant on the west. On the east side of the road.

MS. DOPKIN: East side of the road near the entrance. Then coming south where the shark fin is, could there be a bypass lane because the State owns the right of way? Again, are the contours --

THE WITNESS: The State owns the right of way to the north of Bonapart, but they do not to the south. So on the south side, if I may approach --

MS. DOPKIN: But the proposed entrance is north of Bonapart.

THE WITNESS: To provide a pass lane, you have to bring it back in accordingly. This house on the southwest corner, their property is right adjacent to the roadway. A lot of that property would have to

be obtained for any left turn or bypass lanes.

MS. DOPKIN: Thank you.

MR. GARBER: Mr. Holzer, in light of those questions, do you have follow up?

RECROSS EXAMINATION

BY MR. HOLZER:

Q. I have a question based on Mr. Schmidt's questioning in terms of the traffic count. It seems to me that your testimony related to the road and the traffic is not taking into consideration that the State Highway Administration required the circle on north of the subject site, and if the State Highway wanted to amend Harford Road by creating a circle as opposed to a regular intersection, that there must be some traffic issue that caused them to do that.

Now, do you agree with me that there is traffic, a traffic count could possibly be the reason that they ask for a circle or created a circle north of the subject site?

A. They take all factors into consideration when looking at alternative intersection measures. Once

you get to that control measure, in my opinion you would look at a four way stop, a roundabout or a traffic signal.

Q. Okay.

A. And based on whatever State Highway used in their determination, decide that a roundabout was the best solution for that intersection.

Q. That implies to me, although again, I am just a lawyer, not a traffic engineer or expert like you, but that implies to me the fact that there was a significant amount of traffic going north and south on Harford Road which necessitated some remedial action on the part of the cross street, which I can't remember the name of the street that goes across.

A. Glen Arm or Mount Vista.

Q. Yes, where the circle is. So there has to be a reason why the State Highway Administration required that intersection to be changed from a normal intersection to the circular and could not that be the fact that the traffic count has increased on Harford Road substantially?

MR. SCHMIDT: Objection. Just because it's narrative testimony and then putting a question mark again at the end of it. I mean, it's just an improper question, Mr. Garber.

MR. GARBER: Well Mr. Holzer has his own style. The question is fine, that is, in your experience there would be some type of increase in traffic count to necessitate SHA'S decision to necessitate a change, design change in the layout.

THE WITNESS: There could be numerous factors involved. There could have been accidents at that location. They may use that to try to slow down all the speeds to travel southbound, so you are not coming from straight southbound to make a 30 miles per hour turn. It could be the cross street travel increased significantly which causes delays to people trying to cross or make a left turn at the intersection. That could create an issue. So, it doesn't necessarily mean that traffic was increased on Harford Road.

MR. GARBER: So, it could be related to

increase of traffic on Harford Road, but it could be due to other factors or it could be a combination of a whole bunch of factors.

THE WITNESS: Absolutely.

MR. GARBER: So that --

MR. HOLZER: I am happy.

MR. GARBER: Are you done with your questions?

MR. HOLZER: Yes, I only had the one.

MR. SCHMIDT: I have questions in view of the Board's question.

REDIRECT EXAMINATION

BY MR. SCHMIDT:

Q. Mr. Caloggero, we are on the discussion as to why State Highway may have installed the roundabout at the intersection of Harford, Mount Vista and Glen Arm Roads. Could it be that the intersection there was not in alignment in terms of the fact that the intersection was not a 90 degree for each traffic movement?

A. Yes, that could be another factor.

Q. Couldn't that be a driving factor if the roads didn't match, when I say match, lead up to a certain way so they were aligned?

A. Sure.

Q. Mr. Caloggero, I'm going to show you an aerial photograph taken off of the county GIS system.

MR. GARBER: To identify for the record --

MR. SCHMIDT: I am not identifying it.

MR. GARBER: This was Petitioner's Exhibit 21.

MR. SCHMIDT: Yes.

MR. GARBER: There you go.

MR. SCHMIDT: I ask it be marked Exhibit 21 at this point. This is a slightly a little bit of a different scale and doesn't show everything that that one shows.

MR. GARBER: Does it show everything as the earlier one?

MR. SCHMIDT: Maybe that's the easier way to do it. Thank you. Yes, this is actually better.

MR. HOLZER: So are we canning 21?

MR. SMITH: We are canning 21.

MR. HOLZER: Feeding it to the shark, so to speak.

Q. I'm going to show you, I believe, I don't know how many of these you may have, Ms. Murphy, but it's marked Petitioner's Exhibit Number 2, if you want to give one so each Board member has a copy.

Mr. Holster, Petitioner's Exhibit Number 2.

MR. GARBER: Are you asking about the Glen Arm/Mount Vista intersection?

MS. MURPHY: Go ahead, you can ask questions.

MR. SCHMIDT: I'll hold it up so everybody can see it, Board members and Mr. Caloggero.

Q. Mr. Caloggero, I'll refer you to what has been previously accepted into evidence in this case as Petitioner's Exhibit Number 2. Let me ask you, sir, does this show the intersection at the time this picture was taken of Mount Vista, Glen Arm and Harford Roads?

A. Yes, it does.

Q. And was this photograph taken before the roundabout was installed?

A. Yes.

Q. Can you describe the intersection, is it across, 90-degree cross intersection?

A. It's a four legged intersection where Glen Arm Road is coming in at approximately 90-degree angle, Mount Vista looks about 30 or 60 degrees.

Q. Now having seen this, Mr. Caloggero, as a traffic engineer, would the fact that this intersection is configured in this manner be significant justification in your mind to install a roundabout at this location in order to make that intersection more navigable and safe for all the traffic on all the roads?

MR. HOLZER: Objection. Objection. He just finished testifying there can be numerous reasons why he had not done the analysis, he had not done the investigation, and repeatedly, I have been excused of asking the same thing, but repeatedly he said the answer to that, it's an objectionable question to ask

him for his opinion at this stage after those answers.

MR. GARBER: Also, he's already testified that the change in the traffic circle could be due to traffic counts, could be due to any number of factors. You have already asked him, including the fact that the roads align in a perfect or basic cross or T section --

MR. HOLZER: Right.

MR. GARBER: -- or at 90-degree angles on all corners, which that intersection clearly is not 90 degree angles on all corners and that may be the reason why the traffic circle is there. Any further explanation gets into the SHA decision making that we are not here for.

MR. HOLZER: And I am deliberately asking, Mr. Garber, not to comment on why SHA did this. I asked him as a traffic engineer, he's a qualified engineer. I assume he has an opinion he can express an opinion about the design or condition of intersections. And what I asked him is in his opinion, not to get into the mind of the SHA, would

the configuration of this intersection before it was improved in and of itself be a factor that was significant enough that could result in the installation of the roundabout in his opinion.

MR. GARBER: In isolation, the fact that it does not line up with the 90 degree corners --

MR. SCHMIDT: That fact in and of itself drives the need for a roundabout.

MR. HOLZER: Objection.

MS. MURPHY: I am pretty sure he agrees with you.

MR. GARBER: I understood that by implication because he said the SHA may take that as implication or factor and, therefore, he was agreeing with that. Mr. Holzer, you had something to say?

MR. HOLZER: Yes, I object to his testifying at that because he's already said he doesn't understand what they did. He didn't explore it.

MR. GARBER: His question is different.

MR. SCHMIDT: My question is not asking him

to get into the minds of SHA.

MR. GARBER: I will say this, I am not sure where it would be important to hear what his personal opinion is as to whether or not it is, when he's already said or agreed with you it could have been a factor, legitimate factor for them to consider.

MR. SCHMIDT: I think it's important, I think it's relevant that this expert witness testify if it's his opinion, since there has been an inference or speculation as to what the reasons were from SHA and I am sure we can produce evidence maybe as to why these improvements were made, but I think it's a fair question, appropriate question to ask Mr. Caloggero if in his opinion the configuration of this intersection is in and of itself a sufficient basis to install a roundabout.

MR. GARBER: I think we understood that from his testimony.

MR. HOLZER: I'll withdraw my the objection.

MR. GARBER: We can move on.

MR. HOLZER: Let him say that.

MR. GARBER: Mr. Holzer and Mr. Schmidt, we understood that from his earlier testimony as to that being a potential factor as to why the SHA did what it did. We don't need to know what his personal opinion was as if he was to be like the Grand Puba of SHA as to whether or not he's going to determine what you want to put it.

MR. SCHMIDT: Thank you.

Q. Mr. Caloggero, let me move on to something else. You have been out to this site four or five times?

A. Yes.

Q. You drive this road you said approximately once a week, correct?

A. Correct.

Q. Based on your experience with this road, where is the nearest traffic intersection, I'm sorry, traffic red light?

A. There is one to the north at, north, north of the traffic signal.

Q. North of the traffic signal.

A. North of the roundabout, north of the roundabout, is it Fork?

MR. GARBER: Fork Road?

A. Fork and Sunshine, I believe.

MR. GARBER: The next intersection, I believe, is Fork Road.

A. I'd have to look at my map, but I think the one to the south is at North Wind.

Q. How far away, if you know?

A. Significantly south, where the signals in my opinion are not influential to the operation.

Q. The choke points or operation of the signal which would stop traffic eventually leading to congestion or back up, do these traffic signals impact at this point traffic?

A. No.

Q. Have you ever noticed any undue levels of congestion where the vehicles are not moving or stopped which would the affect the flow of traffic in this area?

A. No, it would not.

Q. What time of the day have you driven here?

A. It depends, throughout the day at numerous times. Sometimes you are in platoons of traffic, platoons of may five or 10 cars catch up to each other traverse through the area at a reasonable speed, but that does not create a flow of traffic congestion.

Q. Has there been any evidence, anecdotal or otherwise, that you have reviewed or seen that suggest as there is any type of capacity or congestion issue on this stretch of Harford Road? When I say on this stretch of Harford Road, the section of Harford Road which is shown on Petitioner's Exhibit 15-A?

MR. HOLZER: Objection. It's an improper question because he's already testified he didn't do any analysis of traffic counts.

MR. SCHMIDT: That's my point --

MR. GARBER: I don't think he's talking from that prospective.

MR. SCHMIDT: -- he doesn't need to do traffic counts if he's been up and down the road

hundreds of times.

MR. GARBER: Hold on. Hold on. I agree with what Mr. Schmidt is saying here. Anecdotally, does he feel that the roads are congested since he's someone who travels it on occasion with some frequency but still on occasion, as opposed to doing strict traffic counts in connection with his being a traffic engineer.

MR. HOLZER: Then, Your Honor, the way for the Board to address this testimony, is that if he is using his own personal knowledge of riding up and down, he's in no different situation --

MR. GARBER: It's not expert testimony.

MR. HOLZER: It's not expert testimony.

MR. GARBER: I agree with you. It would be anecdotal. Same thing as anybody on your side that would be getting up to say the same thing. It has nothing to do with being an expert in that regard.

MR. HOLZER: I just wanted the evidence not coming in not as expert testimony.

MR. GARBER: It's not perceived as expert

testimony, it would be received as factual.

MR. HOLZER: Yes, thank you.

MR. SCHMIDT: Mr. Garber, do I understand your ruling that the only way an expert can render an opinion is if he does a traffic count? He's not allowed to render an opinion based on his own personal observations of the circumstances here.

MR. GARBER: Absolutely is, that's a lay opinion in this case.

MR. SCHMIDT: It's a lay opinion?

MR. GARBER: That would be a lay opinion. It is no different than anyone on this side of the aisle, they can come up and say the exact same thing. It adds nothing by way as if coming from an expert witness because it doesn't require any type of studies or anything on his part, his expertise to have his observations conveyed in the testimony.

MR. SCHMIDT: Yes, sir, I understand your ruling.

Q. Mr. Caloggero, as an expert witness, why didn't you do traffic counts here?

A. Because Baltimore County is outside of the, it's outside the transportation zone.

Q. Outside the area?

A. Yes.

MS. MURPHY: What difference does that make?

THE WITNESS: Because the capacity is okay. If it's outside of the area of influence according to the Baltimore County Basic Services Manual. It's in an acceptable traffic shed which means there is available capacity of the roadway.

MS. MURPHY: That's for the purposes of basic services.

THE WITNESS: It's compatible.

MS. MURPHY: That's a different issue. Basic services is a different issue.

THE WITNESS: But it's based on capacity. We can agree to disagree but it's based on capacity.

MR. SCHMIDT: I don't have any further questions of the witness.

MR. HOLZER: No further questions.

MR. GARBER: All right. Mr. Caloggero, congratulations.

THE WITNESS: I am having so much fun.

MR. GARBER: After a week, you are finally done.

THE WITNESS: Thank you.

MR. GARBER: Next up, Mr. Schmidt.

MR. SCHMIDT: Yes, I would call Rob Powell.

MR. GARBER: Do you need a minute or two or are you fine to proceed.

MR. SCHMIDT: I am fine to proceed.

MR. GARBER: Very well. Do we have the witness. Here we go.

MR. SCHMIDT: While he's doing that, can we get the site plan, put it on the board?

JAMES ROBERT POWELL,

a witness of lawful age, being produced on behalf of the Petitioner, having been first duly sworn in accordance with law, was examined and testified as follows:

MS. DOPKIN: Please the state your name and

address for the record, spelling your last name.

THE WITNESS: James Robert Powell, P O W E L L.

MS. DOPKIN: And your address?

THE WITNESS: 421 Rockway Road, Baltimore, Maryland, 21228.

MR. GARBER: Is that home or work address?

THE WITNESS: Both.

MR. GARBER: What company are you with?

THE WITNESS: I am self employed consultant.

MR. GARBER: Okay. I wanted to ask, I don't want to ask your title if you are self employed.

THE WITNESS: Me, myself and I.

DIRECT EXAMINATION

BY MR. SCHMIDT:

Q. Mr. Powell, you indicate you are self employed at the present time, is that correct?

A. Correct.

Q. Previous to your self employment, where did you work?

A. Baltimore County Department of Environment.

Q. How long did you work for the Baltimore County Department of Environment?

A. Thirty-seven years four months and change.

Q. I assume you retired from the County?

A. Yes.

Q. When did you retire from the County?

A. November, 2014.

Q. How many years did you say you worked there?

A. Thirty-seven.

Q. During your 37 years of employment with the County, can you tell us what you did in the Department of Environment? I think you probably predated becoming Department of Environment?

A. Yes, we were the Health Department back in those days. I was up supervisor of the soil evaluation section. I conducted soil tests, supervised employees conducting soil tests for new construction or repair of failing septic systems, reviewed septic plans, et cetera.

Q. Did you do that kind of work in your entire

career in Baltimore County?

A. Yes.

Q. At the end of the day you were the supervisor, the head man in that department within the Environmental Protection?

A. It's a section within a section, being section chief, I guess would be a better term.

Q. How many septic systems proposed or existing would you say you have evaluated over the years?

A. Thousands.

Q. Have you ever been during your course of the employment at Baltimore County, did you ever testify before the Board of Appeals or what was then the Zoning Commissioner Administrative Law Judge about septic issues?

A. I did.

Q. Do you have any type or is there any type of state registration or designation for people who work in septic fields septic systems?

A. There's a Board administered by the Department of Environment called a Licensed Environmental Health

Specialist. It's a licensure that requires renewal every two years along with 20 hours of continuing education credits.

Q. Do you hold that certification presently?

A. I do.

Q. How long have you been an Environmental Specialist, Licensed Environmental Specialist?

A. At least 33 years, 33-35.

Q. I would offer Mr. Powell as a Licensed Environmental Specialist. Obviously, he's going to give testimony of the potential septic system for the use on this property.

MR. GARBER: Just to the slow that down, what is he being offered as expert in?

MR. SCHMIDT: A Licensed Environmental Specialist, I believe it's called, Mr. Powell?

THE WITNESS: Licensed Environmental Health Specialist.

MR. SCHMIDT: Environmental Health Specialist. He's going to render an opinion about the feasibility of a septic system to serve the proposed

use on this property.

MR. GARBER: Okay. I am just, quick question here for me. You said you were the Section Chief because you described as section within a section, so which section.

THE WITNESS: Field supervisor. That would be the official term would have been Sanitarian III in the old days.

MR. GARBER: But you are a Field Supervisor and what was the section?

THE WITNESS: The Soil Evaluation Section.

MR. GARBER: Soil Evaluation Section. That was the level you reached at the time of retirement?

THE WITNESS: Yes.

MR. GARBER: I wanted to make sure I had the right designations. Mr. Holzer, any questions for Mr. Powell?

CROSS EXAMINATION ON QUALIFICATIONS

BY MR. HOLZER:

Q. I had one, but I am not sure I should ask it now. I was going to ask, when I heard 37 years, I was

going to ask you, were you here when I was the County Attorney in 1978, but when I did the calculations --

A. I was.

Q. You were? Okay. Okay. You were in at that time the Health Department and I was the County Attorney?

A. Correct.

Q. And you were doing the same sort of thing?

A. Yes.

Q. Okay. And then subsequently through multiple changes of that Department of the Environment, all that stuff, you still stayed doing the same thing?

A. Correct.

MR. HOLZER: I have had the pleasure of having Mr. Powell as a witness that I had to cross examine years ago throughout those 37 years and I look forward to this, but he's certainly acceptable.

MR. GARBER: Admitted as proffered.

DIRECT EXAMINATION (CONTINUED)

BY MR. SCHMIDT:

Q. Mr. Powell, you have been to this property?

A. I have.

Q. How many times, do you know?

A. Twice.

Q. Okay. Are you familiar with the condition of the property, the soils of the property and the other sort of geographic or topographic features considered as relates to the feasibility of the septic system here?

A. When I conducted the inspection, we walked over the property, evaluated where one of the existing septic systems were, found the well location, the existing well location, and a general recognizance of the topography as well as other conditions.

Q. How about the soils or the soil conditions, is that a factor that you would ultimately consider?

A. We did not conduct any soil evaluation test. We used the USDA Soil Survey Manual to evaluate the soil series. The soils are mapped as a matter series as deep well drained, imposes little or no limitations regarding on site waste soil, waste disposal as a general evaluation.

Q. Okay. Let me ask you, Mr. Powell, just a little bit about the process in this case, the applicant getting approval of a septic system for the property for the use. What would they generally do and I assume that hasn't changed since you left and retired. What steps will they go through in order to get a septic system review and approval?

A. The initial step in a non residential situation would be a water usage report which I was contracted by the Congregation to provide, which I did. I spoke at length with a Board member. We visited the site twice and came up with a letter of usage based on the information provided to me using design guidelines for flows from the Maryland Department of Environment.

Q. Okay. And I am going to show you what is labeled, Ms. Murphy, I am going to have to give you a couple more copies of this, which I will get to you, but I am going to show you a document. You have a scope of it?

A. I do.

Q. Very well. So, I can give you three and I have one as well of a document in fact called a Water Usage Summary. Is this the document you are referring to and prepared?

A. Yes.

MR. SCHMIDT: And I am going to ask it be marked Petitioner's Exhibit 22, I believe it is.

MR. GARBER: Well, we had 21, but you withdrew 21.

MS. MURPHY: You were going to use the aerial but used Number Two.

MR. SCHMIDT: Yes, so it's 21.

MR. GARBER: The aerial was not received in evidence is not for identification. That's why this is 21.

MR. SCHMIDT: That's fine, that's fine.

MR. HOLZER: Could I interject, is there a resume that normally one presents a resume; in this case is there a resume of Mr. Powell?

MR. SCHMIDT: Mr. Powell's credentials are such I didn't think it was needed. He's only been

employed at Baltimore County, so there's not a history of a lot of employment. It's over 30 years.

MR. HOLZER: All right. I just asked the question. I didn't need a long explanation.

MR. SCHMIDT: I am giving you an explanation, long or short.

(Petitioner's Exhibit Number 21 was admitted into evidence.)

MR. GARBER: So we are back to Petitioner's Exhibit 21. Sorry for the interruption.

Q. Mr. Powell, the document I have offered or asked you to identify, is that the Water Usage Summary you prepared?

A. It is.

Q. I don't want you to read it to the Board, I am going too submit it, but generally tell us what that is, how it was prepared, whether it's been submitted and reviewed and accepted or not.

A. First we meet with the property owners and/or developers to establish a pattern of usage, especially in a situation where it's not something standard like

a residence. A residence, MDE, assigns, Maryland Department of Environment, assigns 150 gallons flow per bedroom per day. With a non residential application, each site is different and usage is different and each usage is different so it's inherent before you prepare the report to evaluate what the intended usage is and get to the details, how many people are visiting the site? On what occasions is food being served? Is food being prepared onsite or offsite? Will there be portable facilities for outside functions, are they going to use inside facilities? All that factors into an anticipated sewage flow which is factored into the preparation of the Water Usage Summary.

Q. Did you consider all those factors here?

A. I did.

Q. Kind of breaking it down, did you look at what I would say would be the typical usage say during the week?

A. I broke it down into the actual usage for a weekday, whether it be meetings and/or office staff in

the building versus and also looked at gatherings for high holidays and festivals.

Q. And I think that's noted in your report, is it not?

A. Along with weddings and what wouldn't be proposed and would not be in the building. I looked at, I asked the question specific to the site. I asked for all halls or churches, is there going to be a hall where food is served? The answer to that was no. Is the hall going to be rented out to either outsiders or to be used by members? The answer to that again was no. They told me the hall is specifically for religious purposes. There would not even be seating in the hall. The only time the hall would be used for anything else other than prayer would be for a wedding and the wedding would be, those in attendance would be the priest, the couple and immediate family only. All other functions outside of the wedding, like a reception, would be held in an offsite venue.

Q. How many bathrooms are there in the building,

if you know?

A. One and a half on the first floor and two and a half on the second.

Q. Is there any proposed change to that in terms of number of facilities?

A. To my knowledge, no.

Q. Is there a commercial kitchen in the facility?

A. There is not.

Q. There is a previous residential kitchen, but is the there a difference between a commercial kitchen and residential kitchen?

A. Commercial kitchen is when you have fryers and ovens, Code requires a hood with fire suppression and although I don't know the exact cost, I have been told those figures are well into the five figures. In addition, all the surfaces have to be stainless steel. The appliances must be stainless steel and cleaned. None of the appliances in there are stainless steel. It's residential appliances for a residential kitchen.

Q. Now, you prepared this water use summary report submitted to Baltimore County?

A. Yes.

MR. SCHMIDT: I would offer as the witness has described it as Exhibit 21.

MR. GARBER: Mr. Holzer.

MR. HOLZER: I don't know whether I can approve it or object to it at this point. If he is submitting it, he's submitting it.

MR. GARBER: So admitted.

(Petitioner's Exhibit Number 21 was admitted into evidence.)

Q. And Mr. Powell has that been to the best of your knowledge reviewed by Baltimore County?

A. We met with Mr. Kotroco, myself, Craig Rogers, him members of the groundwater management section of the Baltimore County Department of Environment. We presented our proposal, I explained the proposal and I received word back from Mr. Rogers two weeks later that the proposal was accepted. There was no approval to it, it's accepted because the sewage disposal reserve area will be based on the anticipated flows, peak flows that were outlined in my outside in my

correspondence.

MR. GARBER: So the plan was approved? S.

THE WITNESS: Yes.

MR. GARBER: So, that was communicated by phone or writing?

THE WITNESS: By phone by Mr. Rogers.

Q. You mentioned peak flows. What do you mean when you say that?

A. MDE regulations require that the design of septic system be based on peak sewage flow. The maximum daily flow for any given day of the year and there are guidelines regarding gallons per seat or gallons per person, depending on the type much venue being proposed. But the actual flows are about 60 percent of that. For example, a four bedroom house under MDE designed guidelines has a peek design flow of 600 gallons per day. It's based on two persons per bedroom, 75 gallons per person per day. I would venture to say that nobody has used that much water for a four bedroom house.

Q. Based on that, what is the next step to go

through in order to obtain approval for a septic system.

A. We would have to file for a soil percolation test application, showing the plan depicting the area and number of tests to be conducted. The tests would be conducted by the personnel from the Department of Environment and the decision rendered by the Department of Environment at that time.

Q. They would then, what, approve the location and design of the proposed septic facilities, is that how it works?

A. They would approve it or needed additional tests to move to an additional area, they would do that. There is ample room on the site for additional tests if some reason the test results were not satisfactory.

Q. Okay, I don't know whether you want to use the plan, Mr. Powell, but I understand the perk tests have not yet been conducted, is that correct?

A. To my knowledge as of about three or four days ago.

Q. Okay. Based on your knowledge of the site though and based on your knowledge of the soils, I assume or have you experience with other property in the vicinity of Baltimore County during your 37 years where you have approved septic systems in this area?

A. Each site is different. Each property is site specific. When I was employed by the County, I probably went above and beyond because people would come to me and ask me, what do you think of this, should I buy, what do you think the chances are to pass a soil test. And I would render an opinion based on geology, soils, what I know of the hydrology of the area, topography, all those enter into it and based on what I have seen on site and the mapping of the soils for this property, I feel confident that there will be a true septic area on this property to meet the intended usage.

Q. If the septic system is approved here based on the conclusions you just expressed, will there be any in your view from the operation of that system and a septic system, would there be any impact on other

properties, other septic systems on other properties, other adjacent wells or anything like that?

A. The septic system, given the topography and steep slopes that abut the western part of the cleared area and the eastern part would tell me there couldn't be a septic area within probably two or 300 feet --

MR. GARBER: I'm sorry, cannot be?

THE WITNESS: Cannot be. Those slopes are in excess of 25 percent. MDE regulations prohibit system or septic areas on 25 percent slopes, and furthermore, they required minimum setback of 25 feet from the slopes of the subject area.

Q. And do we have room on this property for a septic system in view of those slopes?

A. Yes.

Q. Plenty of room?

A. Yes.

Q. Okay.

MR. GARBER: You said 150 feet from the property line?

THE WITNESS: About 300.

MR. GARBER: 300 feet. Sorry.

MR. SCHMIDT: I don't have any other questions, Mr. Powell.

MR. GARBER: Just a general, I don't believe you answered the question as to whether or not it will impact adjacent properties, whether septic, well or other.

THE WITNESS: Oh, well, yes. This is an unconfined act which means the wells receive recharge from the rainfall and the surface infiltration within one or two acres area of the well site.

MR. GARBER: I am sorry.

THE WITNESS: Within one or two acres of the well site. It's not a coastal plane well where they are receiving the water from miles off site. The recharge area for this well is basically on its own property.

Q. And that applies to the other properties as well, depending on how the other property are, their wells are like in a confined area.

A. It's also unconfined aquifer, yes.

MS. DOPKIN: Was it also your testimony that the septic system would not affect adjacent property or would?

THE WITNESS: Correct, yes, they would if the system would not.

MR. GARBER: You can say that though we don't have a design or plan at the moment as to where it will be within the set location.

THE WITNESS: Like I said before, they can't be on steep slopes and the steep slopes surround, if I may -- Well, this plan doesn't show the topography, but their steep slope was here.

MR. GARBER: You are showing to the west steep slope.

THE WITNESS: To the west and below the three bedroom tenant house down towards the stream, that's all steep slopes.

MR. GARBER: What about toward the south?

THE WITNESS: The system would not be placed in that location. One, the existing system we believe is there that we are not going to be using.

And it gets in the lower topographic setting, which I am not comfortable placing the septic area.

MR. SCHMIDT: Where do you think it will be, Mr. Rogers?

THE WITNESS: Probably right in here.

MR. GARBER: Why don't you show us and also describe it for the record.

MR. SCHMIDT: If you can describe it on the features on that plan, either distances or in relation to dwellings or buildings.

THE WITNESS: It will be probably several hundred feet below the existing building used for worship just to obtain gravity fall at the lower level, basement level, for no other reasons than that.

MR. GARBER: Several hundred feet to the south of it?

THE WITNESS: Yes, sir.

MR. GARBER: Therefore, I assume then that the one that you think will be put in that location, that will be north of the existing one.

THE WITNESS: Yes, sir.

MR. GARBER: Because you said the existing one was even to the south.

THE WITNESS: The existing one I have been told is down by the barn. I advised the clients that rather than trying to attempt to use a system that is quite old that the County had no records on or property that's been vacant, I was told, four or five years, there is no way to assess its functionality. It would be best just to abandon it and do a whole new system so you know what you have going in rather than guess work.

MR. GARBER: Are there any other features of the property that define the location as to where the septic field could be?

THE WITNESS: There is an existing drilled well in a pit that used to serve the facility somewhere just above the existing, called the existing shed, the old pool house. It's in the pit. It's a drill well in a pit. It's not grouted by the nature of its construction. I recommended the well be abandoned. They were planning on abandoning it anyway

and drill a new well somewhere in the vicinity off to the corner of the building right here.

MR. GARBER: But my question was are there any other environmental features of the property that could confine where the septic field came down?

THE WITNESS: Other than the slopes and the actual regulations say 100 feet off of bodies of water not in the swales, but professional judgment dictates you don't go down to the barn, you stay high.

MR. GARBER: So, it would not be near any streams? What did you say?

THE WITNESS: Streams.

MR. GARBER: Not be near any streams and not be near any slopes.

THE WITNESS: Correct.

MR. GARBER: And just to follow up to something. You were moving kind of quick there. The next step, assuming this goes forward, the next step in terms of well and septic, you would have to go to soil perk test?

THE WITNESS: Yes, sir.

MR. GARBER: So you find the soil perk area and then that test is submitted to the Department of Environment for a decision?

THE WITNESS: Generally, the decision is made on the spot. And what happens then is the client would then hire a well driller to meet with the County on the property to identify a spot where the well could be drilled, the driller files for a permit with the County to drill a well, and then he goes out and drills, and files a completion report when done.

MR. GARBER: What about septic?

THE WITNESS: Septic would not be designed prior to the building permit. At that point in time a design that would be shown on the plan where the building permit would be approved and the clients would then hire a licensed septic contractor to install the system.

MS. DOPKIN: Is there also a requirement for a septic user area?

THE WITNESS: There is the State regulations for new construct or subdivision or land

require a septic reserve area of 10,000 square feet. That's based on the assumption that that's the number for one installation and two repairs.

For a larger non residential property, Baltimore County Department of Environment either code or regulations or policy, I'm not sure which, requires sufficient area for one installation and two repairs, hence, the requirement for water report, water usage summary. So, you can't determine how much area you really need until you find out how much waste you are going to be treating, then ascertain the soil conditions after the perk test and the valuation will be made, is there enough area for one installation and two repairs. If not, they have to go back out and dig it out to establish that area.

MR. GARBER: Sitting here today, there is no way to determine whether or not a septic reserve area, one would be required or feasible.

THE WITNESS: Oh, it's required. It's a non issue.

MR. GARBER: So, I'm trying to get the

terminology. You are talking about installation and repairs, I assume you are referring to the reserve.

THE WITNESS: The reserve.

MR. GARBER: So, as to the location, you can't opine about that sitting here today.

THE WITNESS: Correct.

MS. MURPHY: Is there a location for the septic reserve?

THE WITNESS: Correct. Yes. That would be the septic reserve area to serve both the three bedroom dwelling and the religious center.

MS. MURPHY: Would one septic system serve the sanctuary and the dwelling?

THE WITNESS: In this case, yes.

BY MR. SCHMIDT:

Q. Why is that, Mr. Powell?

A. The existing three bedroom dwelling was served by a metal septic tank that collapsed. I didn't bother to look for the field component. The field component would be located on slopes greater than 25 percent. Just the fact that it had a metal septic

tank tells me that the field system, if it still exists, is probably in very poor condition. Here again, why try and repair something that is old and again, we had no records, we, I'm talking like I'm still working for Baltimore County. The County had no records on, so it was recommended that a whole new system be installed to serve all the functions on the property.

Q. Mr. Powell, I mean, is the area that is available for septic, is that large enough to accommodate the underlying system, the reserve areas, repair areas? I mean, we have, this is a fairly large site, is it not?

A. It is, but I did rough measurements. I would estimate about 70,000 square feet maybe more available to be tested for waste disposal. If for some reason wherever the tests are conducted and there is a problem, they could move around the site. They have flexibility to move.

MR. GARBER: If I can, 70,000 square feet, is that all within the cleared area within the

property site?

THE WITNESS: Yes, basically. Once you get out of the cleared area, there is steeper slopes.

MS. MURPHY: How much area do you need for the septic reserve?

THE WITNESS: Depending on the usage proposed, they may decide to increase it a little or they may decide to keep it at 10,000 and see how the soil tests do. The soil tester deep bores 10,000 square feet may be acceptable for one installation and two future repairs. If there is heavier surface clay layer or some bedrock conditions that limit how deep you can go on the system, then the area would have to be spread out to a larger area.

MS. MURPHY: The 10,000 was for new subdivisions, residential area.

THE WITNESS: Yes.

MS. MURPHY: You are saying this large non residential property, that's the way you are classifying it.

THE WITNESS: Correct.

MR. GARBER: How much do you need for large residential or non residential.

THE WITNESS: It would be the same amount, one for one installation and two future repairs. Here again, it could be ten, 11,000 square feet it may be more depending on the results of the soil tests that's yet to be determined.

MR. GARBER: Going back to the 70,000 square feet available for testing, there is a minimum of 10,000 square feet needed for the system, two questions with that. One, does the 70,000 square feet include the prior septic area?

THE WITNESS: No.

MR. GARBER: So, that's already been being excluded from that rough estimate.

THE WITNESS: (Indicating nodding head up and down.)

MR. SCHMIDT: You have to answer the question.

THE WITNESS: I'm sorry. It takes some getting used to.

MR. GARBER: Thank you, Mr. Schmidt.

THE WITNESS: No, it does not include the original septic system. The sewer line from the mansion, from the building to the system will be intercepted, but that will be intercepted, but that will be removed.

MR. GARBER: The field itself is outside the calculation.

THE WITNESS: Outside that area.

MR. GARBER: And then the minimum 10,000, is that based on the use of the property that's been reported to you, that's how the property will be used?

THE WITNESS: My water usage summary's based on what the clients told me and I have, I had prepared the report and submitted it to the consultant prior to sending out, is this correct, is this accurate? And I was told, yes, and based on that, we submitted this to the County. The area that's required would be based on total flows in this report.

MR. SCHMIDT: Which includes festivals.

THE WITNESS: Which includes the festivals,

yes.

MR. GARBER: The property as maximum use as reported to you has already been accounted for within your summary?

THE WITNESS: Yes.

MR. GARBER: Mr. Holzer, sorry about that. But it helped clarify things for all of us.

MR. HOLZER: You have certainly taken all of my thunder.

CROSS EXAMINATION

BY MR. HOLZER:

Q. If I may, I mean, this is a little confusing. What is this plat that's marked as Petitioner's Exhibit Number 1? This is what you used to opine --

A. No.

Q. -- on your testimony?

A. No, I had a different plan that had topography, general county topography based on area photographs.

Q. And did that assist you in terms of being able.

A. Yes.

Q. Could we see that?

MR. SCHMIDT: Sure, if you have got it, Mr. Powell.

THE WITNESS: Yes. Somewhere.

MR. GARBER: Is that already an exhibit?

THE WITNESS: No.

MR. GARBER: There is an exhibit with topographical lines on it.

MR. SCHMIDT: I pulled one to explain the property, but --

MR. GARBER: If it's already an exhibit, we can reference it and use that.

THE WITNESS: This is October 20th, 2017, date on the plan.

Q. I asked him if the document that he has in his hand has more detail than the Exhibit Number 1 and he said he didn't think so, other than the topography?

MR. SCHMIDT: Mr. Garber, I'm looking at my exhibit list that I have been keeping and I don't see it, but --

MS. DOPKIN: It's on the traffic exhibit.
MR. SCHMIDT: What was it?
MS. DOPKIN: Only topography we have is a partial which is on Mr. Caloggero's.
MR. SCHMIDT: We can use this one.
THE WITNESS: You can look at this.
MR. GARBER: I thought I saw topographical lines on it.
MS. DOPKIN: It's not completed.
MR. GARBER: Sorry for the distraction, Mr. Holzer.
MR. SCHMIDT: I'm happy to mark this because it does show the topography, Mr. Holzer, if you can refer to it. I'm marking it as Petitioner's Exhibit Number 22, I think it would be helpful.
Just for the record, this is the plan dated October 20th, 2017. It's prepared by Little Associates, which is Mr. Motsco's company, and shows I think much of what's on Petitioner's Exhibit 1 except there are topographical lines.
MR. MURPHY: Mr. Holzer, Exhibit 22, do you

have an issue with that?

MR. GARBER: Mr. Holzer. Any issue with Exhibit 22 then?

MR. HOLZER: No.

MR. GARBER: You are fine.

MR. HOLZER: Since I called for it, I don't think I have an objection to it.

MR. GARBER: Thank you.

(Petitioner's Exhibit Number 22 was admitted into evidence.)

BY MR. HOLZER:

Q. All right. Where do we start? For those folks that are, have not been permitted to go on to the property, the neighbors and so forth that have not gone on to the property and you described a lot of different things that are existing and proposed, if there is no objection, I would like for you, now that we have the topography, would you stand up here and tell me where the existing well is and mark it on this Exhibit Number 1 and then where the existing septic area is and just your initials would be fine. I don't

want you to destroy what is on here. But can you do that for me?

A. I have not actually seen the existing septic system. I was told it was down by the barn and that was based on a contractor that had looked at the property. So I can't the attest to that.

Q. Well, let me just say, where is the existing well? And if you could just put your initials where the existing well is and I'll refer to it.

A. It will be approximate.

Q. I understand. I understand. I am not picking at you.

A. (Witness is drawing on the Exhibit 1.) Well pit, is that 12.

Q. Yes, we are together on that. That's all, well never mind, it just says we are old. And for the record, he has marked on Exhibit Number 1 that was up here a square marked well pit with his initials and today's date?

MR. GARBER: Do you need a pointer? Pen works.

Q. Now, you have indicated there is an existing septic system for the toilet facilities, I guess, on the existing building. I know it's not your testimony but what were you advised just so we got a general idea of where the septic drained to?

A. There were clean outs in the sewer line. There were clean out in the line running down from the building towards the direction of the barn.

Q. Okay.

A. Spaced every 150 feet or thereabouts and I was told that the system was in the vicinity, the field component, whatever it was, is in the vicinity of the barn.

Q. Okay, could you just do the same thing or you --

A. I cannot say, it's hearsay on my part.

Q. I don't want to put you in an uncomfortable position?

MR. SCHMIDT: But the barn is shown, Mr. Holzer.

MR. HOLZER: Yes. That's in the general

area of the existing septic.

THE WITNESS: (Indicating nodding head up and down.)

Q. Do you know whether or not that was for a single family home or commercial operation or can you describe what it is that you have been told it was?

A. The original usage was for a residence.

Q. Yes, yes.

A. So, logic dictates the original system was for that use alone.

Q. What would that have been back in the day?

A. Who knows?

Q. You don't know?

A. There are no records on Baltimore County data base that indicates the design of the system much less soil tests results, there is nothing.

Q. Is that because this has historically been a single family residence for years and years even before that kind of stuff was required?

A. I have no knowledge one way or the other.

Q. Okay. When did you first become acquainted

with this site?

A. When I met their consultant, Mr. Rogers, and a member of the Board of the Congregation on this site, June of this year.

Q. June of 2018?

A. June or May of 2018.

Q. And you said you have visited this site personally how many times?

A. Twice.

Q. What were the dates? If you don't know the exact day, approximate time?

A. First time, like I said, May or June, second time was July, probably mid July is my best guess.

Q. July, 2018?

A. Yes.

Q. Was there any activity on this site when you visited or was it just you and the representatives from the applicant?

A. First time I visited the site with Mr. Shara, who is a Board member, it was myself, Chris, Craig Rogers, their consultant, and they had a number of

members of the Congregation working on renovating the damage to the building.

Q. To the main house?

A. Main building, yes?

Q. And then the next time you met there --

A. I was by myself.

Q. You were by yourself?

A. Yes.

Q. You had no opportunity to see any activity from the standpoint of festivals or anything like that in regard to how the property was used when they were having the festival?

A. No, I was not at the festival.

Q. Or any festival?

A. Or any festival on that property.

Q. So we have got where the old well was, we have got where we think the existing septic is. Can you tell me, again, I heard the testimony but I couldn't follow it on this document, where is the new well being proposed?

A. I do not know if I have a location shown or

not. Let's see on this document, no, I do not. I was told that the well location was supposed to be somewhere off of the side of the drive, but I have no, I do not have an exact location on the plan.

Q. Instead of doing it on this new Exhibit 22, can you do it where you put the well, can you tell us, like you had to do it down here, but this is the other existing well.

A. I can't be sure.

Q. Would it be in this general area of the existing well?

A. It would be somewhere off of the drive.

Q. This drive here?

A. That drive, yes.

Q. You are referring to the circular drive.

A. Somewhere, here but I don't know the exact location.

Q. I am not asking for exact location. I have had a, and you said this well, was it almost like a hand dug well? Was it drilled?

A. No.

Q. Was it drilled?

A. It was a drilled well in a pit which means the well was not constructed to current standards by today's standards. New wells today must be drilled and grouted. This well by the construction that I saw, it obviously was not grouted. There was a jet pump in the building indicating they were pooling the water from a shallow, shallow level. It's very possible the well was not sufficiently deep to provide enough sewerage capacity to meet construction standards. I recommended drilling a new well. They had already intended to do that already.

Q. Basically, the well supplied the house over the years and that's all it needed for the residents?

A. It supplied the entire property.

Q. Okay. It supplied the barn, did it go all the way down to the barn?

A. Unlikely.

Q. Did it go to the existing shed, when you say it supplied the entire property?

A. There was a tenant house on the property right

off of the main building, the three bedroom dwelling --

Q. Right?

A. And there were remains of a pool house showing evidence of a bathroom. Given the well's location, it's logical to surmise those wells served three structures. The barn, I would suspect not.

Q. Generally, the existing well which was, let's say, well, let me ask you another way, having just done this on a piece of property I am aware of, we had a hand dug well which served the house and then under the new circumstances, we ended up with a 400-foot deep well; would that be the kind of well that this new well that you are proposing on there site be?

A. The depth of the well is determined largely by what the licensed well driller observes during the drilling process. When they are drilling, well they are using compressed air to blow the rock shavings out of the hole. Any groundwater they hit is coming out of the hole with it. They will look at the depth at which they hit the water and do a rough calculation on

how many gallons a minute the well appears to yield. Based on that they will probably will drill deeper to obtain storage capacity in the bore hole and another day do the yield test. If it passes the yield test, they will approve the well.

Q. Is there any water capacity that's needed for what is being proposed on this the use of this entire property?

A. Once they drill the well, do a completion report, a study will have to be made and it will be evaluated by the Department of Environment to determine is there sufficient capacity. It's combination of storage in the well casing and yield. There is a minimum yield of one gallon per minute recovery. There is also a minimum storage capacity for a two hour period that has to be met.

Q. Okay. Now, will the water that is being produced by this new well, based on what you just testified, will that serve just the house or how will it serve, let's say there is a festival and 200 people come to that and want to drink water from the well, is

that being accounted for or is it not?

A. There will be no food served on site except catered. They bring it on site, they serve, take it out, no food washing, food prep. There is no kitchen use of water for festival. There will be no use of bathrooms; they will use outside portable facilities for the festivals. So the water usage would be whatever they bring to drink, each individual family.

Q. You mean the individual people coming to this to a festival or event would have to bring their own water and wouldn't be calculated in terms of well production?

A. No, they would be bringing their own food or food will be provided along with drinks or snacks.

Q. Okay. We'll get into that. Okay. So this well would produce water for the existing main house, correct?

A. Correct.

Q. And for the two story dwelling right here?

A. Correct.

Q. Where there possibly may be somebody living

there on the property and that would be it from what I understand your notes, the existing shed and pool will be disregarded or be covered over?

A. I don't know what the disposition of the other out buildings will be, but they will not be utilized.

Q. Well, if they are not utilized, they will either be torn down or sitting there empty, right?

A. They won't be utilized, that's all I can tell you.

Q. Is that what was told you?

A. That is what I was told, it will not be utilized.

Q. You are basing everything in regard to your testimony on what you were told by the property owner?

A. If they were to utilize the shed, which is actually the old pool house, they would have to file for a permit to totally rehabilitate the structure, at what point in time the Department of Environment would receive the permit and review the proposal and make a decision regarding the adequacy of the outside facilities.

Q. Right now they have testified they are going to get rid of the pool and maybe the shed next to the pool. But suppose they decide to keep the pool, would they need, you know, to fill a pool, you need water, so would that be also supplied by this same well?

A. Normally not, the reason being the well water from that geologic formation would be rather acidic and corrosive. If they filled the pool, they would burn up the well in the process and the chemicals treating the water would be enough that generally all pools are filled from public water supplies, hydrants by the tank trucks you see running down the road.

Q. All right. We have sort of exhausted where the water is going to go or come from. Then the only other point is you have described the new septic area and septic reserve area. Is that saying the same thing?

A. Sewage disposal reserve area covers it.

Q. Somewhere that's going to be inside of the existing forest, wherever that forest may occur, is that right?

A. It will be in the cleared area, probably several hundred feet below the main building, the exact location I do not know.

Q. Okay. But several hundred feet would be down somewhere in here and I'm describing to the left of the existing building and probably north of the two story dwelling?

A. No, sir.

Q. Well, then show me.

A. It would be in the main area directly below the main building right in here. That would be the prime location if I were to design the layout for the system.

Q. So, for the record, what he has described is it would be to the left or the rear, I guess, of the existing home building and it would be a circular area above the 670 foot plus or minus line that is shown running to the about of the existing building.

MR. GARBER: When you say to the left, that's the west.

THE WITNESS: It's --

MR. HOLZER: It's actually to the southwest.

MR. GARBER: To the southwest.

MR. HOLZER: I could have him mark with a pencil where it is but if that's enough description, that's fine.

MR. GARBER: Just clarifying what you meant by left.

Q. And you are saying that Petitioner's Exhibit Number 22, which contains all of the elevation drawing, why is that relevant, why did you have that in your possession in terms of your testimony or your analysis of this site?

A. That's the information I was provided by the surveyor and it gave a good description and view of the property as far as the existing buildings and topography.

Q. But you didn't have Exhibit Number 1?

A. No, I did not.

Q. So that's all that were given?

A. Correct.

Q. Okay. I was wondering why you utilized that one. I was ad libbing those questions. Now, I have to go back to what my notes were. If you bear with me, I don't want to repeat.

You testified that the soils on the property were deep and well drained?

A. Correct.

Q. What does that mean?

A. That is based on the description provided by the USDA Natural Resource Conservation Service and it's a description of the manner series of soils. That's the main soils in that cleared area is a manor series.

Q. M A N O R?

A. Correct.

Q. Like Manor Road?

A. Correct.

Q. Now, did you review anything from the soil conservation part of Baltimore County to further educate yourself as to the soil?

A. No, sir, I pulled it off the web site for USDA

and RCS actually.

Q. Would soil conservation have any information that could be valuable to understand what the soils are on this property?

A. I used that information just to verify what I suspected as far as the soil conditions on the property and I am very well acquainted with manor soils having had 37 years of work in Baltimore County.

Q. I am sure you are. Describe manor soils in terms of its ability to retain water or not retain water or provide sufficient water in the well? I mean is manor soils go all the way down to three or 400 feet?

A. Manor soils are soils that are derived in place from weathered rock, in this case schist. Schist, S C H I S T, in case I slurred my pronunciation.

Q. We didn't misunderstand.

A. These soils are weathered in place. They are not eluvial, they are found on high topographical grassy settings on ridge lines, side slope shoulders.

They are not eluvial or colluvial. Colluvial means you are in a foot slope. We have a subsidence of soil being washed off of other areas and being deposited. That is not the case. These soils are generally soil surface clays running from two feet thick to four, five sometimes as much as six. The bedrock runs depends on each site. Like I say, each site is very specific.

Q. On this site, this is a unique site, isn't it, in terms of its height, in terms of it sitting very high in the general area of Harford Road?

A. I would not find it unique. I would just observe that it is on a ridge line, situated on a knoll and ridge line heading towards the south or south/southwest.

Q. Okay. Would manor soil be different if it was in the valley?

A. Then it wouldn't be manor soil. Each soil description is based on how it's formed. Is it formed by water deposition in which case it's a drainage swale or flood plane in which case it's colluvial.

Different characteristics. Different concerns. The soils that are on the ridge lines are generally weathered in place, in this area from natural parent bedrock.

Q. You have taught me this before in our past discussions, so I appreciate that. But when that driller starts, he's going to go through manor soil and through bedrock, is he not?

A. He's going to drill into bedrock, yes.

Q. The question is how deep he has to go in that bedrock in order to get the right quantity of water as to provide the service that this property and the people using it need, is that right?

A. He will make that decision on site while he's drilling. And there are a number of factors that come into that decision as to whether he proceeds or not.

Q. In other words, he may end up having to move the well, potential well new site to some place other than what they originally thought, correct?

A. If the site which is approved by the County and the driller is yields a well that is either

suspect or they suspect may not be satisfactory in yield, they will move to another site. Many times when the County meets the well driller on site, they will identify a well area, so if the driller is drilling and he hits what looks to be a low yielding well, he can move into another spot in the preapproved area, give the County a location of fact without stopping drilling operations, call the County and have them out a day later and have them approve another well while the rig sits on site not being used.

Q. Ultimately, it's up to the County to approve not only the site location but also the capacity of the well.

A. Site location comes first.

Q. I understand.

A. Then a completion report. Once they receive the completion report, then the County will evaluate the capacity of the well to serve the intended use.

Q. And that calculation by the County will be based upon what they have been told by you as the potential use?

A. Correct.

Q. Right. Now, you made it a point to say that this application that you marked that has been marked Petitioner's 21 is a non residential application, is that right?

A. When the water usage summary is required, it's generally always for a non residential application.

Q. Correct, correct. So, basically, that means that the way the Environmental Department or you would look at a well if they proposed to just use this house for a single family purpose or whether they proposed to use this property in this house for, I don't know whether I want to say commercial, but it's certainly none residential which means it's different from what was there before, right?

A. Can you rephrase that? There were several questions there I didn't --

Q. I'm sorry, I do that all the time. When the County, because you called this a non residential application, it means that in your mind there is a difference between the usage that existed on the

property, which was purely residential, to a usage that on the property that exceeds or is different from the single family use, right?

A. It's called non residential because that's the way the Baltimore County Department of Environment views the proposal. If it's not residential, it's something else, and then they require additional information to assure the adequacy of the facilities.

Q. Right. Right. So within the Department of Environment, DEPS, whatever you want to call it now, and it changes all the time, they want to make a distinction between the single family use and something that's not a single family use?

A. Baltimore County Department of Environment wants to insure the adequacy of the water supplied. If it were a residential use, the minimum requirement would be one gallon per minute irregardless whether it's one bedroom or ten. That's in-state regulation. When it comes to non residential use, that's when they want additional information to assure adequacy.

Q. So, we can almost be assured that the well

production from the new well will have to exceed one gallon per whatever?

A. I would not be willing to make that statement.

Q. Why not?

A. It depends on how much storage capacity is in the well. It depends on the size of the storage tank inside the building.

Q. How much storage is proposed here? You don't know that, do you?

A. Well hasn't been drilled. Until the well is drilled, it's all a moot point.

Q. So all of these different functions come after the well is actually built and then we'll know what kind of storage tank you will need, you will know how much water is contained in the well itself and then you can figure out whether it's acceptable or not.

A. That would be correct, yes.

Q. That's where DEPS or Department of Environment would come in and say yes or no?

A. Based on the completion report and the yield. Not just the yield but the amount of storage capacity

in the well that they will observe static water level in the well bore hole before initiating the yield test, that being the well driller.

Q. Right. So I think you have certainly answered that question.

Did you, have you in your report, I haven't gotten to your report yet, but the letter of usage, did you define the usage for each building?

A. I did.

Q. You did. So then I'll hold that question until I get to see your report.

Is it okay or permissible or okay is the best way to say, is it okay for the applicant to, at of today, as of yesterday, as of tomorrow, use the toilet facilities in the existing house?

MR. SCHMIDT: I'm going to object to the question. When he says it's okay, you mean from a regulatory standpoint, is it functioning?

MR. GARBER: Can you use it today is what I understood. If you and I were to go there today, could we use it?

MR. SCHMIDT: Can we use it? I thought he meant by a regulatory, does the toilet facility function?

THE WITNESS: To my knowledge, yes.

Q. So did you try it?

A. Didn't have the need to. Should I have --

Q. I didn't get that personal. I'll withdraw that question from the record. Okay.

Is it okay to use the existing well, drinking the water from the existing well, if you can even get it through the pipes?

A. I don't know. That's an unknown.

Q. You didn't try. And I'm not criticizing. You just didn't have reason to determine whether or not the well was functioning?

A. Because we are not, the plan is not to use the well, to abandon it, that really didn't enter into the discussion.

Q. Well, I just wondered, since you were in the Health Department, whether there was any concern that using the existing well with the water that it

produces could be dangerous to the health, safety and welfare to anybody using that property?

A. That determination has not been made.

MR. GARBER: You don't know if the water was treated previously?

THE WITNESS: There appeared to be no treatment devices on the water supply. I think there was a water conditioner in the well pit.

MR. GARBER: Do you know if that was functioning?

THE WITNESS: I don't know.

Q. In your opinion as a health person, is it safe to use water in an abandoned septic system? Is it safe to flush the toilet or use it in an abandoned septic system?

A. The definition of abandoned, according to the County Plumbing Code, is disconnecting from the system to the house or structure it serves. This system has not been disconnected. It's not considered abandoned.

Q. How do you know it's not been disconnected?

A. I didn't crawl down the sewer pipes, if that's

what you are asking.

Q. That's really what I am asking. It's easy to say certain things but harder to pinpoint the fact that you did or didn't check. That's what I am asking?

A. The clean out pipes in the sewer line leading from the main building down to the vicinity of the barns where we suspect the existing field system is located, those pipes were still there and still appear to be functioning. I did not conduct an inspection of the functionality of the system. Here again it's a moot point. It's going to be abandoned, back filled and new system installed.

MR. GARBER: The existing septic is going to be backfilled.

MR. SCHMIDT: I think he testified both the well and existing septic system that's existing are not going to be used, they are going to be discontinued and backfilled. That's why they are going to do a whole new well and septic system.

MR. GARBER: I didn't hear the backfilled

part before. I understood it was not going to be used. I just didn't know what was going to happen next as to the septic system as opposed the well was clear, the septic system, I didn't know.

MS. DOPKIN: Mr. Powell, does the County require that back filling?

THE WITNESS: For septic system and well, yes.

MS. DOPKIN: Thank you.

THE WITNESS: Septic system will be pumped out by a licensed scavenger or subject based hauler and collapsed and filled with cleaner. The well abandonment requires a licensed well driller to remove the cap. Under regulation they can fill the bore hole with rock dust to about 20 feet and the remainder of the backfill of the well casing itself is with cement grout. The pit is immaterial. The concern is the actual well bore hole that intersects the ground water. They want to make sure that it's an abandoned well but not backfilled providing the opportunity for contamination and the backfilling process eliminates

that concern, with respect to the septic system being backfilled.

MR. GARBER: Is there a period of time where that area cannot be used for any purpose, can't be used as part of the new septic field? Is it just to be abandoned and left alone for a period of time.

THE WITNESS: It would be abandoned and backfilled, depending on if they back filled with soil. Obviously, it will settle, but other than that, there's no restriction.

MR. GARBER: Is there a setback for septic field? How far a back from the existing house is it supposed to go?

THE WITNESS: Minimum requirement is 20 feet for septic area or septic component and a hundred feet from the well.

MS. DOPKIN: How far does the septic have to be from each other? Is that the hundred feet?

THE WITNESS: There is no requirement on the same property. It comes to best professional judgment. Obviously, if you are putting in a new

system you don't want to be immediately next to or adjacent to an existing system that's been backfilled. Other than that, I know of no requirement on the same property either in County or State codes

MR. GARBER: I this think Ms. Dopkin's question is the new septic field has to be at least a hundred feet from the new well.

THE WITNESS: Correct.

MS. DOPKIN: And do you know if it will be more than a hundred feet based on the rough areas?

THE WITNESS: It will be.

MS. DOPKIN: Based on where I believe the well is going to be drilled from what I have been told, it will probably be several hundred feet away if not more.

MS. DOPKIN: Do you know how far it will be from any well on any adjoining property?

THE WITNESS: Given that location according to this drawing, probably 400, 355 feet to be sure, probably closer to 400.

BY MR. HOLZER:

Q. Just the question. As a result of your answers dealing with the septic system and so forth and the water, did you advise your clients not to use the old system, either the old well or the old septic reserve area?

A. I have no recommendation one way or the other.

Q. Did you see when you were there the first time, the first site visit, did you see porta pottys on the property? Do you recall?

A. Not that I recall but I wasn't specifically looking for them.

Q. Well, porta pottys are the --

A. I understand what they look like, but I didn't look around all sides of the building to look for the john.

Q. Got you. And you were there to deal with the question of the well and the septic reserve system, right?

A. For the proposed development, yes.

Q. Exactly. So, okay. I have a picture here marked as Four for Identification for Protestants.

And your location of the septic reserve area, the proposed septic reserve area is in this area behind the --

MR. GARBER: One second, Mr. Holzer. People, please keep your voices down. I'm sorry for the interruption.

MR. HOLZER: Not a problem.

Q. Your testimony was that above the 6, 70-foot behind the building somewhere before the existing woods would be this area of the possible septic reserve area, is that right?

A. Approximately.

Q. I want to show you a picture of the one of the events that has occurred on the site. I see, you can look at it if you like, Exhibit 4 ID, you see cars parked on the grass in an area behind here's the existing facility. With the septic reserve area, would it be appropriate to be able to park vehicles on the grass and would that have any impact on the septic reserve area?

A. That's not the septic reserve area.

Q. I understand that isn't. I understand. That's why I explained to you there is the back of the building, there is the tree line, this is where the cars were parked on that particular day. My question is, assuming you find the proper location for septic reserve area, is it advisable or not advisable to allow parking on the grass on top of it?

A. That depends on the physical construction characteristics of the system components and the type of system.

Q. Well, 'splain.

A. 'Splain. If it's a standard deep in-ground system like a deep trench, we don't install dry walls. Baltimore County does not install dry wells or seepage pits any longer. It's deep trench systems.

Q. When you say deep trench, I have just gone through this on a piece of property, can you tell me what that means?

A. Deep trench is slot excavation in the ground two feet wide by a depth to be determined by the results of the soil tests. Perforated pipe is placed,

stone is placed in the trench up to within two feet of the ground surface, perforated pipe is placed on top of that stone, two inches of stone are placed on top of the pipe, geotextile fabric is placed on top of that and then the remaining 14 to 18 some inches is backfilled with clean earth. That replaced the seepage pits.

If there were to be parking over top of a system, you could engineer system components so that would not be an issue but it has to be known in advance. If the system design were a shallow pressure dosing system, shallow being defined as two feet deep, maybe 36 inches or sand mound, no parking would be allowed on top of the system because the soil has a tendency to compact the surface soil clay structure in the first one or two feet that would effect the functioning of the system.

MR. GARBER: If can stop there real quick. The answer is getting longer, getting more confused.

So, parking design can factor in a deep trench system, described as you did, two inches of

rock followed by perforated pipe, followed by more rock followed by geotextile fabric followed by soil on top.

THE WITNESS: Correct.

MR. GARBER: If it's not a deep trench system, you used another term to describe this.

THE WITNESS: Shallow pressured dosed or an above ground system.

MR. GARBER: I think we can figure out what a above ground system and I am sure we are not parking on top of the above ground.

THE WITNESS: Right.

MR. GARBER: So the shallow --

THE WITNESS: Pressure dosed.

MR. GARBER: How is that constructed?

THE WITNESS: Pressure dosed piping designed by consultant, which is what I do in my consulting work now. Piping sizes depending on the design range from an inch and a quarter to the inch and a half lateral Schedule 40 piping.

MR. GARBER: Is that PVC?

THE WITNESS: PVC, holes are drilled at specific intervals on the site. It's not standard pre-made three hole large perforated pipe that one normally sees during septic system installation. It's an engineered system, elevations are shot and pump requirements are ascertained. It's completely pressure dosed system that's a situation where you would not be allowed to park on it.

MR. GARBER: Do you have any idea which system would be used?

THE WITNESS: I doubt very seriously. I would say that 99 percent probability that these pre-engineered systems would not be necessary here. The soil, I expect to be deep and porous.

MR. GARBER: You expect a deep trench system?

THE WITNESS: Yes.

MR. GARBER: I'm sorry, Mr. Holzer.

MR. HOLZER: I would have the same question.

Q. Knowing that in an overflow parking situation,

because only 38 parking spaces are being provided for this site right here, right there, okay, 38, and if you have a hundred cars, they have to park somewhere, so why wouldn't you, as the expert, recommend that they go to the better facility or the one that you could park cars on top of?

MR. SCHMIDT: That's what he said. 99 percent sure it would be a deep trench system.

Q. The deep trench system, is that what you are saying, the one with gravel pipe gravel, that's what you would recommend?

A. Here again, the septic area we referred to, both you and I referred to, is 200 feet behind the dwelling. All this parking is in the front.

Q. I understand that. I said that to you before. I understand that. But there will be, above this area there will be grass planted, okay. And if it's grass, then you can have cars parked whether they are parked by the tennis court which is here or whether they are parked there, the point of the matter is the protection of the system would need to be the deeper

and better of the three that you have talked about?

A. When they file for building permit, the client will be required to provide where the overflow parking will be and the standard Baltimore County Department of Environment comments would be keep the parking out of the subject area if at all possible. If they can't, the system can be engineered and designed to accommodate that.

Q. Now, as the expert that's been retained to do this, I'm asking you directly, now that you have seen this photograph, now that you understand that vehicles are going to be parked somewhere on the grass, would you use that information to advise the County what should be required here?

MR. SCHMIDT: Do you understand the question?

THE WITNESS: I don't understand this question at all.

MR. GARBER: Please rephrase.

Q. You are the expert for the developer, right?

A. Correct.

Q. You have been retained to analyze all this, right?

A. I have been retained to perform the water Usage Summary Report which I have done and I offer advice and consult regarding the waste disposal system.

Q. Do you have any obligation ethically to advise Baltimore County that there may be mark parking on top of the septic area if it's grass?

A. That would violate client privilege, number one. If it were an issue, I would advise the client to do it. Nobody in their right mind is going to drive down the behind the building to park a couple hundred feet from the building and then walk up to use the facility. Let's honest here.

Q. I am being honest. That's an improper answer, because the question is do you or do you not have an ethical responsibility, former County employee, to advise the County Department of the Environment or whomever reviews this that you know that there is potential for car parking on top of the septic reserve

area?

MR. SCHMIDT: Objection. That's just an improper question asking this witness if he has ethical responsibility. What does that have to do with the special exception criteria?

MR. GARBER: I have to agree with Mr. Schmidt. I'll hear you out.

MR. HOLZER: I don't want to say anything other than to say it's okay to come in and preach, but if you are not going to require -- well, I'll tell you the answer, this Board can provide the requirement that that be analyzed by the County as a condition for approving this plan. That's the simple answer.

MR. GARBER: Well, I'm going to follow up on one point that you created. You would expect the Department of Environment would say keep the parking out of the septic area if at all possible.

THE WITNESS: If the parking being proposed was near the septic area, the Department of Environment would say, what are you planning to do for overflow or additional parking. At that time they

would require a fenced off area around the system so nobody could park on it, which has been done before by myself in other capacity in lives gone by, or they would say, if you are going to park over it, we want to see the engineered proposal to make sure the system can accommodate that.

MR. GARBER: Okay, so here I am trying to get to the phrase if at all possible, if there are other areas for parking, then you can possibly apparently avoid having to park on the septic area.

THE WITNESS: Correct.

MR. GARBER: Leaving aside the logistics that you just said, you are not going to park hundreds of feet away from the building facility, leaving that part aside, if it's anticipated any overflow parking to could go in that field, the County would require the engineered proposal to show the system would withstand that type of weight.

THE WITNESS: Correct.

MR. GARBER: Who does that engineered proposal?

THE WITNESS: Either the County or they would require the property owner to hire a consultant or engineer to engineer that proposal.

MR. GARBER: You could be that person.

THE WITNESS: I could be in a person.

MS. DOPKIN: Would civil engineers to that?

THE WITNESS: Normally not. I am not going to go into detail before the Board but there are ways to do it.

MR. HOLZER: Mr. Chairman, the actual reality is if no one tells the County that there may be parking on top of the septic reserve area or on the grass, if no one notifies them of that, then how are they even going to consider that anybody would be parking on the grass. That's something that occurs in this County daily. So, the only way that I can say, if the witness doesn't have the responsibility to tell them is that the Board has to indicate something in its decision, if you are going to approve this, that alerts the County because, frankly, I have been there, done that, seen this and I understand that if the

Board is concerned about that, and I suggest maybe you should be, then I think it's an obligation of the Board to make sure that it gets to the County reviewers, whoever they are. And the only way I see that can be done is if it's a condition if you are inclined to approve it.

THE WITNESS: Is there any obligation on the part of the Petitioner to notify the County of the potential of parking in the area that will contain the septic field once fully identified?

THE WITNESS: I would say yes.

MR. GARBER: Is that recorded on the document somewhere that is part of the permit application or how is that done?

THE WITNESS: That would be part of the site plan that would show the parking area and overflow parking or ancillary additional parking during higher usage events that what you normally would expect to experience during a weekday.

MR. GARBER: Is there a specific space in this project to avoid having parking in the potential

septic areas that you have identified for overflow parking?

THE WITNESS: I don't know that I am qualified to answer this. There is at least two or 300 feet behind the back of the building where the septic system will not be.

MR. SCHMIDT: Mr. Powell, in fact, on the photograph Mr. Holzer showed you, none of the cars were on the grass where the septic field is proposed?

MR. HOLZER: Objection. Objection.

MR. SCHMIDT: Following up on your question. I apologize.

MS. MURPHY: Aren't we still on your cross?

MR. HOLZER: Yes.

MR. SCHMIDT: I apologize.

MR. HOLZER: Is the Board finished your questions?

MR. GARBER: My question to you is how much longer do you think you will be with this witness or when do you think you will be wrapping up?

MR. HOLZER: I'll try and wrap up.

MR. GARBER: Just so we know how far we are going today.

MR. HOLZER: Half hour, 45 minutes.

MR. GARBER: Mr. Schmidt, he has half hour, 45 minutes more to go with this witness.

MR. SCHMIDT: Yes, sir.

MR. GARBER: I am assuming you will have redirect or something perhaps.

MR. SCHMIDT: Very little at this point.

MR. GARBER: Okay. So we are looking at somewhere between 45 minutes, maybe a little more. With that, so why don't we take a break at this time.

MR. HOLZER: Thank you.

MR. GARBER: We'll come back at 4:00 o'clock and we'll finish up with this witness. Thank you.

(A recess was taken from 3:52 PM to 4:03 PM.)

MR. GARBER: All right, everybody. We are going to get started to keep moving. I believe we were getting up close to wrapping up cross

examination.

MR. HOLZER: Yes.

Q. Mr. Powell, I'm looking at your Water Usage Summary and I just want to verify some things with you, so if you can take that out, Petitioner's Exhibit 21. Did your clients come to you before they acquired or purchased this property or after they had already purchased it?

A. I was contacted by Mr. Craig Rogers, who is a consultant for the clients. He asked me would I do the Water Summary Report. And the answer is that I was contacted I believe after they purchased.

Q. So you have already testified that the analysis or the language or the facts that you put in your Water Usage Summary basically came from your discussions with the applicants, is that right?

A. I prepared the initial report based on our discussions. I sent the narrative to Mr. Rogers and Mr. Shara whom I met on the property, and a Board member of Congregation and asked if this information was correct and I was told yes.

Q. I want to get through this quickly for everybody's benefit. In looking at the first page you described the facility, which I have no questions about, other than to say it's known as Bella Vista. Do you have any background on why this sight, whether it has any historical value or not?

A. I have no knowledge.

MR. SCHMIDT: Just objection. I am not calling him as, he's an environmentalist in terms of --

MR. HOLZER: I am asking questions of what he wrote, that's all. It's right there.

MR. GARBER: Okay.

Q. Under the words, the mansion, you have been told by the Congregation that you said or by the representatives that they have 800 to 900 members, correct? That's correct?

A. Which page are we talking about?

Q. Page one under the mansion.

MR. GARBER: Page two of the exhibit.

MR. HOLZER: Yes.

Q. On that same paragraph at the end, you said based on what you have been told, members of the Congregation coming to pray or worship will normally be there anywhere from 10 to 30 minutes. Is that correct? Do you recall them telling you that?

A. Yes, that's correct.

Q. Okay. You are also claiming in here it is anticipated that during the weekdays approximately 10 to 15 people will visit the site for worship, meditation and prayer. That's correct, that's what they told you?

A. Correct.

Q. During the weekend the number of those worshipping would increase to approximately 30 members, that's correct?

A. That's correct.

Q. That's what they told you. Now, going to the next paragraph under the mansion, it says, members may use the prayer room for a wedding ceremony and blessing by the priest, which may take up two hours but the celebration afterwards would take place at

another venue offsite. That's what they told you the use of the property would be?

A. Correct.

Q. And you included that, obviously, in this report. Now, they also said insofar as the tenant dwelling, did you actually go in there and determine there were three bedrooms?

A. Yes.

Q. And it is currently vacant?

A. Oh, yes.

Q. And because of how it looks inside, you could tell it's vacant?

A. It's been vandalized quite badly.

Q. Okay. And this, they are telling you that this building, tenant building, will be used for housing the priest and his wife, right?

A. Correct.

Q. It will not be rented out to any others, correct?

A. Correct.

Q. Yes. When it comes to other out buildings, it

says, no use is currently planned for this. And that's the barn. Do you know whether or not the barn is on some sort of historical or preservation?

A. I have no knowledge of that.

Q. You didn't, in your direction, your purpose, you are not concerned about historical stuff at all, were you?

A. That is not part of the contract with the clients.

Q. Right, okay.

A. That's not my area of expertise.

Q. Okay. They also said there is a swimming pool and a pool house, they are in poor condition and they are not to be used, is that correct?

A. That is correct.

Q. Okay. They told you when you talked about the outside grounds, which I think is important here, it says, there will be three or four outside festivals during any year, festivals to be held outside. Do you mean outside of the building, the main building?

A. Outside of the main building, yes.

Q. Generally in front of the mansion, correct?
A. Correct.
Q. That's what you were advised?
A. Correct.
Q. Okay. You were also advised that there will be no food preparation, warming or cleaning of dishes in the kitchen inside the mansion, is that right?
A. Yes.
Q. Okay. What if they propose to prepare food in the kitchen, would that go against what you were told by them as a condition?
MR. SCHMIDT: Objection.
MR. SCHMIDT: Mr. Holzer, what if this is wrong, then it would be wrong.
Q. I don't like that question. My question is are these limitations conditions or binding on your client in terms of the use of the kitchen?
A. They are not binding but use of the kitchen for serving or warming food would require review and approval by the Health Department who would then have to certify the facility as a food service facility

which then requires extensive renovation to the existing kitchen.

Q. Okay. Have they started renovating the kitchen, by the way?

A. The kitchen doesn't need renovating in my opinion. I was commenting to the young lady here that my wife would love that kitchen. That's why I don't dare bring her on the property, I'd be in deep trouble.

Q. I heard you say that, that's why I asked you the question.

MR. GARBER: You know are on the record twice here, right?

Q. No. So, really, my question to you is if you are presenting to this Board the fact under your summary that that's what you were told and then for them to come back and utilize the kitchen after the Board's made its decision one way or another, would that be fair to the Board from the standpoint of should they attach a condition to the approval that says you can't use the kitchen?

A. Well, I'm not going to tell the Board what they should do, number one.

Q. Good, okay.

A. Okay. Number two, if they were to change their mind and decide they are going to serve food there, that would instigate a review by the Department of Environment and Health Department in Baltimore County which would require additional review regarding flows, projected flows, et cetera, which could effect many things. But they have not done that.

Q. How would the County know, if no one, no neighbor is permitted on the property, they are using the kitchen and nobody reports it to the, nobody reports it to the County; how would this County know?

MR. SCHMIDT: Objection. I mean, these questions are so speculative, Mr. Garber. And Mr. Powell, how about if they put a MacDonald's restaurant behind the building but they don't allow the neighbors to come on the property, wouldn't that change things? That's the nature of these things. We are making a proposal without changing the building.

MR. GARBER: I would say to Mr. Holzer, yes, there's a possibility, put whatever conditions you want on the property, people may violate those conditions, it may never been known. It happens every day in every situation.

MR. HOLZER: Exactly.

MR. GARBER: So your point is should it be a condition or not. I don't know that this witness is going to be able to say in light of your questions whether or not it should be based on the fact that somebody could violate it or not violate it or whether or not it takes a binding representation or any of that other stuff. Those are matters probably toward the end of the case unless you want witnesses to present those points.

MR. HOLZER: I have examples when we present our case where the County has ignored the request. That's all I'll say.

MR. GARBER: You have said that in the past.

MR. HOLZER: Yes.

MR. GARBER: I am looking to forward to hearing your evidence.

MR. HOLZER: I am not sure you are.

MR. GARBER: So the objection is sustained.

BY MR. HOLZER:

Q. I'll go back. To the best of your knowledge, the client, your client has agreed not to have food preparation in the kitchen?

A. Correct.

Q. Otherwise, you would not have put it in your report?

A. Correct. I asked that question specifically.

Q. Okay. Good. You were given certain festivals, outside festivals. You list them here, Holi, H O L I, you have indicated that they suggested that the attendance would be between a hundred and 200 people, right?

A. That's what I was told.

Q. Summer festival is number two, a hundred and 200 people, correct?

A. Correct.

Q. Number three, D A S H I N I, biggest event in the year, mid October, ten day festival, last three days will increase the usage of the mansion by as many as 50 members, is that correct?

A. As many as 50 members coming for prayer or worship in the mansion.

Q. Yes, and last day brings approximately 200 people; you were told 200 people?

A. I was.

Q. The fourth one was Diwali, D I W A L I, I'm not going to ask you a question because that's fairly clear. As to what you were told under 2-B is, again, the mansion, all of the outdoor festivals will not entail usage of either the kitchen or food preparation or clean up, nor will the bathroom facilities, one and a half for the first floor, be used while attending the festival. That's what they told you to put in the report?

A. No, that's what they told my and I put it in the report.

Q. And you included in the report. They didn't

tell you to put it in the report?

A. I asked very specific questions, day by day operations, so I included all that in the report.

Q. Then you concluded what the highest usage is under small 1, 2 and 3?

A. Correct. That's the worst case scenario.

Q. That's the worst case scenario. Now, under six, little six, you added the qualifier, in consideration of the unforeseen possibility of additional meetings and/or staffing arising in the future, the Congregation is proposing or requesting that the design flow of the sewage flow system will be 700 GPD. That's what you were told.

A. That's correct, that was at my suggestion.

Q. That was at your suggestion. And what would be the design flow that would be below 700 GPD? Was there one?

MR. SCHMIDT: 699.

MR. GARBER: Let's keep to the questions and answers best as possible. So, your question is?

Q. The question was very straightforward from his

report. In consideration of the unforeseen possibility of additional meetings or staffing arising in the future, they are proposing the design flow be 700 GPW. So that implies to me as the reader there must have been some lesser design flow in the event that everything as you set forth in the prior page was not overstepped or not increased. You don't understand that question. I'll ask it --

A. My mother as a teacher would qualify it as a run on sentence. Can I say this?

MR. GARBER: Everyone, one at a time. I hear three people talking at once. You asked a question of the witness, you understand the question?

THE WITNESS: All right, let me try to answer it. You tell me if that's not correct. Subsection 5 under 2 says, MDE regulations and I quote, the regulation stipulates a minimal flow from non residential usage of 400 per day. That's the Code.

Q. Yes.

A. Everything below that is really a moot point.

If you exceed that then you have to design for the peak flow that exceeds that.

Q. Right.

A. So the minimum base design flow would be 400 gallons per day. I advised the Congregation if unforeseen circumstances start to happen where you have more meetings on the second floor, I'm talking about meetings, not social functions or parties, it would be advisable to increase the flow now so the system can accommodate it without having to worry about overtaxing the system five or 10 years down the line.

Q. That was really simple to answer, wasn't it?

A. I don't know we'll find out.

Q. So like I asked you, what you are saying is that the normal non residential growth requirement is 400, but you've upped it to 700 based upon things that are not foreseen or additional meetings or staffing. So, would that include growth of the Congregation from what was presented to you to a potential higher number?

A. Growth of the Congregation did not come into that decision, but growth of the Congregation, it would accommodate that considering the minimal usage that the facility will receive.

Q. Well, then what was it if it wasn't the growth of the Congregation, what was it that under your urging they moved it up to 700, what circumstances, what specifics?

A. Hiring additional staff, hiring maybe having additional meetings for the Congregation.

Q. Anything else?

A. To my knowledge, no. And there was nothing else other than what I have just stated that went into that consideration.

Q. Okay. We have already talked about the location of the septic system, so I'm not going to get into that or the age of it or what they desire. It a commitment of your client that you are representing to the County that the swimming pool will be abandoned?

MR. SCHMIDT: If you know, Mr. Powell.

A. I know they have told me that swimming pool

will not be used. That's all I have been told.

Q. That doesn't mean, it might not be used but is it going to be destroyed, leveled or filled in?

A. I have not received such information.

Q. Okay. We talked about the depth of the well and you don't know. When you met with the County and DEPS or Department of the Environment, Mr. Rogers okayed this report by phone?

A. I e-mailed the preliminary report to Mr. Shara and Mr. Rogers and Mr. Rogers I believe e-mailed me and/or called me and told me it was fine. I believe it was an e-mail.

Q. Okay. Okay. Did the County Department of the Environment Protection and Sustainability approve this?

A. I was told by Mr. Rogers it was approved by a telephone call two weeks after it was submitted.

Q. Do we have any documentation of that, and in DEPS who would have been approving it?

A. It would have been the supervisor of the well program and/or the manager of the groundwater. Not

the well program, the septic program. My bad.

Q. So, you really don't know whether it's true or not unless you believe Mr. Rogers, correct?

A. I've dealt with Mr. Rogers professionally for over 20 years. I have never known the man to lie to me, he's straightforward. I trust people who tell me the straight lines and don't BS me.

Q. That's great, I appreciate that.

A. I took his word for it. I believe I had a follow up conversation with the supervisor of the soil evaluation program on the job site. Her name is Mia Lowery, by the way. I verified with her that yes, it was approved.

Q. Mia Lowery?

A. Mia Lowery, L O W E R Y.

Q. She's with the department?

A. She has my old job, Environmental Department, soil evaluation inspection, supervisor.

Q. When you talked to her and confirmed it, did she indicate to you that there was documentation of the approval?

A. I did not ask, she did not say.

Q. Okay. So --

A. I would point out that Groundwater Management Section will not approve a soil percolation application on a non residential property until a water flow analysis has been submitted and approved. That is the checkpoint.

Q. Okay. So what you are saying is if I summoned Ms. Mia Lowery, your old position, if I summons her to come to this hearing, she will confirm that the County on such and such a date has approved the Water Usage Summary you have submitted?

A. Yes.

MR. HOLZER: Thank you. That's what we'll do. No further questions.

MR. GARBER: Mr. Schmidt.

REDIRECT EXAMINATION

BY MR. SCHMIDT:

Q. Mr. Powell, just a couple. I think you mentioned that the minimum distance between a well and a septic system, septic reserve area or sewage

disposal reserve area, I'll try using the right technology, on the property is 100 feet, is that correct?

A. Yes.

Q. Is that a State requirement or County requirements?

A. Both.

Q. Is there a similar requirement as it relates to the distance between a sewage reserve area or sewage disposal reserve area and an adjacent property or property line?

A. Ten feet.

Q. Okay. How about a well on another property line or another sewage disposal area on another property line, is there any such requirement?

A. Sewage disposal area on another property there's no requirement.

Q. So you can have two of them right next to each other on two properties potentially?

A. The well, minimum 100 feet, if it's directly, depending on the situation, if it's directly uphill

from an adjacent well, a greater distance might be required. But we are 300 feet, 355 feet from the nearest potential septic area on the site property line. That will not be an issue.

Q. You are not near an adjacent sewage disposal reserve areas, i.e., septic systems or wells on any of the adjacent properties?

A. That would be correct.

Q. Turning back to your report, your report had a number of comments about the festivals that occur, and I would point out there is a festival at this time which is why some of the ladies here are dressed as they are. But in any event, the numbers that you gave in terms of the 100, 200 people that might be there, is that for the entire festival or is that at any one time?

A. That is for any given, the peak day of the festival, as I was told from the summer festival is what we are talking about?

Q. Right, for example, 100, 200.

A. That would be the day of the festival?

Q. That would be the full day.

A. Right.

Q. There might be a hundred people, 200 people spread out over 10 hours, 12 hours, whatever, as opposed to at one time?

A. Yeah.

Q. Your report indicates that for those events, there would be porta-johnnies or porta-potties brought in, correct?

A. That's what I was told, yes.

Q. Turns to the last page of your report, I just want to make sure I understand it. This is the section you talked about in answering Mr. Holzer with the Roman numerals under subsection two, Roman numeral IV, this is on the last page, your maximum total flow generated by the facility as you computed it would be 360 gallons per day. Am I reading that correctly?

A. That's correct.

Q. And that's broken down between the wedding being there, the staff being there, and then there being a meeting there and that would generate

360 gallons per day?

A. Yes.

Q. Then under Roman numeral V, because this is a non residential, the COMAR, C O M A R, requires that the minimum being 400 gallons per day. So even though the projection was 360 per day based on the numbers of people, you actually had the minimum baseline under the COMAR requirement is 400 gallons per day, is that correct?

A. That's correct.

Q. Under you Roman numeral VI, as I read it, you essentially, basically, from the projected nearly doubled that to engineer it to be 700 gallons per day. Is that correct?

A. That is also correct.

Q. Okay. You haven't actually, I think you indicated, I'm not going to ask you about your personal habits, you didn't attempt to use either the toilet facilities or the spigots or sinks or anything in the dwelling?

A. No, I did not.

Q. Okay. You don't know if they are working or not?

A. I have no idea.

MR. SCHMIDT: Okay. I have no other questions of Mr. Powell.

MR. GARBER: Just to clarify a point here, if you look at the Roman numerals again under B-1 through 6, as I understand it, you have 300 gallons per day assigned for a wedding which would estimate a hundred people attending that wedding, correct, three gallons per person?

THE WITNESS: Yes, sir.

MR. GARBER: Okay. So, I'm just trying to figure out, if they are not going to be use the facilities, that's the understanding reflected within the Roman numerals, then we can go into that calculation, is that correct, the 300 down?

MR. SCHMIDT: Mr. Garber, I think they wouldn't be using the facilities for the festivals is what he's saying.

MR. GARBER: Well, I understand for the

wedding too, is that being accurate?

THE WITNESS: They may be using the facilities for wedding, and it was explained to me that only the family and immediate couple are there in the hall for the actual ceremony. There may be as much as a hundred people on the property.

MS. MURPHY: I'm sorry, one second. I can't hear because you keep talking. It's a mumbling sound. So can you repeat what you are saying?

THE WITNESS: You mean can I remember what I said.

MS. MURPHY: You are also being taped, everything you are saying right now can be recorded. So go ahead.

THE WITNESS: As it was explained to me, the wedding is only attended by the priest, the couple and immediate family. I was told there may be as much as a hundred people on the property, but not necessarily in the hall, I assumed to congratulate the couple when the ceremony is completed. If for no other reason, it's a two to three hour ceremony, long

time standing. But the worse case scenario they would have the opportunity to use the facility. That's why I included it. All of this I had put in there is worse case scenario, keeping in mind the State requires the system flows be calculated use peak flows, not the average normal flow, is probably 60 percent of that.

MR. GARBER: Okay. So I am just trying to get to how you came to the numbers. Going to the staff, 30 gallons per day is based on three staff members?

THE WITNESS: Two staff members, 15 gallons per person per day. MDE guidelines recommend, so I just went with that.

MR. GARBER: Trying to figure out why the staff would be at 15 gallons a day, meeting of the Board of Trustees, 10 people, that's three gallons per day.

THE WITNESS: Well, staff will be there during normal business hours I'm assuming from like 9:00 to 5:00 or 8:00 to 4:00, where a meeting, if it's

anymore than two hours meeting, it's too long.

MR. GARBER: It's because staff would be there longer during the course of the day as opposed to a meeting, wedding or whatever else brings people to the facility.

THE WITNESS: Correct.

MR. GARBER: Then 700 which was trying to accommodate an increase in meetings and an increase in staff, does it also accommodate an increase in maybe the number of attendees for a wedding.

THE WITNESS: It's a really nebulous figure, that's why I added extra to be on the safe side. I don't know if anybody goes to a wedding where somebody is at the church door counting, 100, you can't come in anymore.

MR. GARBER: I am curious how you came to 700 as that number as opposed to, for the sake of argument, 500.

THE WITNESS: Nothing magical. I just decided that that would probably be error on the side of caution.

MR. GARBER: With that in mind, Mr. Holzer, do you have any further questions?

MR. HOLZER: No.

MR. GARBER: Mr. Schmidt?

MR. SCHMIDT: No, we do not.

MR. GARBER: Board members?

MS. MURPHY: We have to analyze special exceptions. Do you have an opinion as to whether or not the new well and much septic will have any effect on the aqua streams.

THE WITNESS: No.

MR. GARBER: Any follow up?

MR. HOLZER: No.

MR. GARBER: I thank you, sir, for your time. Mr. Schmidt?

MR. SCHMIDT: I have no other witnesses for today. I did have two documents just because I wanted to put into evidence as they are related to the public domain and something earlier which was said. I'll give a copy to Mr. Holzer, I think he may have asked about these. But I have a copy of the shark fin

shaped property, just a copy of the deed by which the State Highway Administration acquired it in 2015. I have a copy of the deed, if I can enter that as the next exhibit. That's obviously from the Land Records of Baltimore County.

MR. GABER: 23.

MR. SCHMIDT: I also similarly have a copy of the printout from the State --

MR. GARBER: Sorry, Mr. Schmidt, you are saying.

MR. SCHMIDT: I have a copy of the printout from the State Department of Assessments and Taxation as it relates to the property and reflects the transfer as well. I'll mark them consecutively.

MR. GARBER: 23 and 24. By way of housekeeping to make sure this has been done. 21 and 22, Mr. Holzer, you didn't have objection to those?

MR. HOLZER: No.

MR. GARBER: 23 and 24 you have no objection.

MR. HOLZER: No.

MR. GARBER: 21 through 24 are admitted.

(Petitioner's Exhibit Numbers 21 through 24 were admitted into evidence.)

MR. SCHMIDT: I believe all exhibits One through 24 are admitted on my side. Mr. Holzer has some for identification only, but just to make sure that those are properly admitted. I believe that to be the case.

MR. GARBER: Mr. Holzer, that's your recollection too.

MR. HOLZER: Whatever he had said.

MR. GARBER: With that in mind.

MR. SCHMIDT: I don't have any other witnesses at this time. It may very well be the Petitioner's case. I do want to just reflect on what has occurred here today in case there is anybody I would bring. That's what I anticipated. I didn't bring any other witness. I did for example potentially have Mr. Rogers on call because I knew Mr. Powell was going to refer to his testimony, for

example. I don't know that I will bring him in. He may be rebuttal, if need be.

MR. GARBER: That leaves us in a bit of a pickle. If that's the end of your case today, we can start with Mr. Holzer's case today and maybe get one or two brief witnesses in. Are you done?

MR. SCHMIDT: If you want to do that, that's fine with me.

MR. GARBER: Mr. Holzer, do you think you can squeeze here today?

MR. HOLZER: I can present one witness who's related to the Kingsville Community Association position, would take about five minutes.

MR. GARBER: For purposes of the letter from earlier and whatnot?

MR. HOLZER: Yes.

MR. GARBER: Mr. Schmidt?

MR. BERNSTEIN: That's fine.

MR. GARBER: Well, then do I hear that you are closing your case out?

MR. SCHMIDT: Subject to --

MR. GARBER: Not including rebuttal.
MR. SCHMIDT: Yes.
MR. GARBER: So your direct case is done resting on your direct?
MR. SCHMIDT: Yes.
MR. GARBER: You want to be heard before you call a witness?
MR. HOLZER: I want to be sure it wouldn't be something carried over to the next day, the October date. But if he's finished --
MR. GARBER: That would be my concern here too.
MR. SCHMIDT: If you have a witness you want to bring in, that's fine.
MR. HOLZER: That's not the question. I have a witness I can put on. My question is I want to make sure that you are not reopening your case in October at the next hearing date.
MR. GARBER: On direct.
MR. HOLZER: On direct, right.
MR. GARBER: If you have reservation about

it, now would be the time to voice that.

MR. SCHMIDT: Well, I do have a reservation about it because I was trying to accommodate the Board and use all the time. Then I would ask we recess for the day, given the hour, and I'll close my case either at the beginning of the next hearing or not.

MR. GARBER: Mr. Holzer.

MR. HOLZER: That's acceptable to me.

MR. GARBER: That's where we are at. If there is any problem on the 11th, you will get notification of that. I anticipate knowing the answer to that is myself shortly. Otherwise, I'll see everyone on October 11th.

MR. HOLZER: Yes.

MR. SCHMIDT: Thank you.

MR. GARBER: Thank you.

(The proceedings were adjourned at 4:37 PM.)

CERTIFICATE OF NOTARY PUBLIC/REPORTER

STATE OF MARYLAND

HOWARD COUNTY, to wit:

I, Patricia A. Cirasole, a Notary Public in and for the State of Maryland, do hereby certify that the within-named witness personally appeared before me and, after having been duly sworn by me, was examined by counsel.

I further certify that I am not an employee of counsel nor related to counsel or the parties in any way and have no interest in the outcome of the proceeding.

I further certify that the reading and signing were specifically waived by counsel and the witness.

As witness my hand and Notarial Seal this 3 day of October, 2018.

Patricia A. Cirasole, Notary Public

My Commission expires June 14, 2021.

1

1 4:18 26:13 68:9, 19,21 237:14 238:17 239:19 240:20 241:13,17 254:18 296:5

1.77 13:14

1/15 100:10

10 16:13,19 28:14 30:21 48:18 123:5 124:14,21 126:9 128:3,4,14, 15,17 130:21 131:19 143:12 184:21 202:5 287:4,8 298:11 305:4 309:17

10,000 231:1 234:8,9,15 235:10 236:10

100 69:18 229:7 303:2,20 304:14, 20 310:14

10th 106:14 107:4 111:21 116:12 119:21 140:9 159:3

11 16:14,19 29:4, 11 54:8 129:14 143:11,18,20 145:3 148:7 150:11,21

11,000 235:5

11424 84:18

11:07 103:4

11:30 103:5

11th 5:13 316:10, 13

12 29:10 54:10,14 55:17,20 56:11, 21 57:4,11,14,17 154:15 155:19 157:9 241:14 305:4

12:26 152:15

12:30 151:2

13 30:3,8 48:18 56:10,17 57:2,5, 12,15,18

14 30:12 58:2 273:5

145 65:12

147 160:1,3 161:13 162:16 166:10

15 28:14 30:16 33:16 48:18 50:4 52:9 62:20 63:3, 20 158:2 287:9 309:12,16

15-A 8:14 31:5,16 52:12 53:4 54:11 55:4 175:19 202:13

15-A&B 8:14,17

15-B 8:14 31:6,17

15-C 8:14

150 217:2 224:19 242:10

155 80:7

16 33:16 65:17 158:2

16-A 8:14 9:11 10:5,7 11:13,14 65:2,5 175:19

16-A&B 8:15,21 9:8

16-B 8:14 58:20 71:8 79:7,12 88:12 144:8 150:7

16-C 60:1

16th 10:14,17,18, 20

17 10:14,19 11:18

17-A 12:2

17-A&B 10:18

17-ABC&D 10:3

17-D 11:8

18 12:13 13:10 14:3,12 64:10 273:5

18-122-X 4:3

180 77:11

1800 136:20

1800's 138:6

19 19:7,10 26:1, 13,15 27:5,19 28:1 34:7 35:1 39:8

190 68:10 69:6 79:9,13 87:19

1978 212:2

1:13 152:15

1:15 152:7,9

1st 185:2,3

2

2 4:18 23:17 68:9, 19,21 195:6,8,17 296:5 297:16

2-B 295:12

20 28:6,14 31:18 32:7 34:7,12 36:21 48:14 69:18 87:7 118:18 123:6 125:13 126:10 182:19,21 185:21 186:4 210:2 267:15 268:15 301:5

200 60:18 73:15 74:17 79:16 149:13 159:12,13 249:20 276:13 294:16,20 295:7, 8 304:14,20 305:3

2011 75:13

2013 84:20,21 85:2

2014 208:8

2015 312:2

2016 129:14 185:2

2017 100:11 129:15 238:14 239:17

2018 6:21 100:9, 13,17 106:14 129:15 185:3 244:5,6,14

20th 238:14 239:17

21 194:10,13,21 195:1 215:8,9,12, 15 216:7,10 220:3,9 260:4 285:6 312:16 313:1,2

21228 207:6

22 215:7 239:15, 21 240:3,9 246:5 254:10 312:17

23 129:15 312:6, 15,19

24 312:15,19 313:1,3,6

25 224:9,10,11 232:21

250 73:16 74:19

3

3 4:4 6:21 16:3,8, 12 296:5

30 22:17 23:4,5 32:16 38:1 42:20 73:14 74:16 92:11 159:9,16, 21 163:15,18 165:12 168:21 170:2,16,19 180:18 182:20,21 186:15 192:14 196:8 216:2 287:4,14 309:10

300 53:1 90:5 224:6,21 225:1 283:5 304:2 307:8,17

305 72:4,8,13 73:16 74:21

33 210:8

33-35 210:8

331 159:18

335 159:17,19

345 60:7 68:2 76:20 80:4

35 41:7 73:15 74:19

3500 109:7 116:4, 5

355 158:4 159:3,6 269:19 304:2

36 273:13

360 75:1,4 160:17,21 161:1 305:17 306:1,6

365 50:8,14,20 51:6 53:5,6 122:7 158:21

37 208:11 211:21 212:16 223:4 256:8

38 276:1,2

3:52 284:17

4

4 23:17 25:2 271:15

40 41:7,10 46:16 72:3 73:16 74:21 274:20

400 256:13 269:19,20 297:18 298:4,17 306:5,8

400-foot 248:12

41 129:16 130:4, 10 131:2 185:1,5, 8

421 207:5

425 75:7,9 153:20 154:5,12 161:4 162:19 163:9 166:10,16 167:10 169:7

45 72:8 75:1,4 81:11,16,17 84:1 85:18,19 92:10 152:6 160:1 161:1,12 163:6 165:7,8 187:15, 17,19 284:3,5,11

48 152:8

496 160:2,16

4:00 284:14 309:21

4:03 284:18

4:37 316:19

4th 27:16

5

5 297:16

50 46:16 75:2,5 81:10,21 83:5 84:2,11 85:7 92:10,13 153:19 154:5,12 161:2, 13 162:16 163:5, 9,12,16,20,21 165:7,13 166:16 167:5,9 168:2,15, 18 169:3,10 170:1 171:3,9 173:18,19 182:8 187:18 295:4,5

500 310:18

52 122:7

551 163:1,10 164:2 165:14 166:12,17

555 166:20,21 168:3

5:00 309:21

6

6 7:7,8 271:8 307:8

60 46:16 196:8 221:15 309:7

600 221:17

670 253:17

68th 75:13

699 296:18

7

7 26:21 129:15

7-A 82:18 83:10, 11,19

7-B 85:4

7-C 85:10

70 52:17 53:6 61:14 75:16,17

70,000 233:15,20 235:8,11

70-foot 271:8

700 296:13,16 297:4 298:17 299:7 306:13 310:7,17

75 221:18

8

8 26:21 107:1 118:8,13,17 120:16 122:18 123:3,5 124:14, 20 143:12

80 61:14

800 286:16

8:00 309:21

9

9 26:14 113:21 114:1 115:17,18 118:5,14,18

90 164:21 193:19 197:10 198:6

90-degree 23:2 196:5,7 197:9

900 286:16

99 275:12 276:8

9:00 309:21

A

AASHTO 75:12 93:2,4,8 94:4 95:19,21 96:2,9, 16,18 97:1,9,13, 17,20 98:8,9,11 105:17

abandon 228:9 264:17

abandoned 228:21 265:13, 14,16,19 266:12 267:19 268:6,7 299:19

abandoning 228:21

abandonment 267:13

ABC&D 10:15

ability 256:10

absence 188:9

absolutely 64:3 98:8 111:8 123:4 131:18 154:7 167:15 193:4 204:8

abut 224:4

accept 90:13

acceptable 88:15 205:10 212:17 234:10 262:16 316:8

accepted 195:16 216:18 220:18,19

access 9:2 10:17,21 11:7,9, 16 23:18 25:4,6 29:2,5,6 30:9,13 31:9 33:7,11,12, 13,17 46:19 47:2, 8,10,14 49:2 60:12,13,14,19 61:1,10 62:9 63:5,14 68:9,18 70:6 76:4,13,14 77:16,21 78:4,6, 8,9,13,15,17,18 80:13 81:2,4 94:21 95:6,11,15 96:11 98:2,18,21 104:10 105:13, 14,20 106:1 122:11 129:11 131:16 145:13 149:12 154:18,21 155:1,6 156:19 163:2 164:19 175:9 178:14 179:21 180:1 183:8 184:5 187:8

accident 127:5 129:18,20 131:7, 20 179:14 180:6 181:5 185:16 186:3,12

accidents 127:6 128:19 129:14,19 130:4,11 131:2, 20,21 179:13 180:3 181:8,18 182:4,7,18 183:5, 10,13 184:7,15 185:1,5,21 192:11

accommodate 233:11 277:8 280:6 298:10 299:3 310:8,9 316:3

accommodated 126:7

accompanied 24:12

accompany 130:4

accompanying 112:13

accomplish 140:6

accordance 206:19

accounted 237:3 250:1

accurate 21:16 236:17 308:1

accurately 21:11 144:6,7

accused 50:3 138:7

acidic 252:7

acknowledged 48:15 155:14

acquainted 243:21 256:7

acquired 285:7 312:2

acres 13:14 225:11,13

act 225:9
acting 164:14
action 191:12
activity 103:21 244:16 245:9
actual 29:20 51:17 117:19 125:7 155:7 159:7 169:20 181:13 217:20 221:14 229:7 267:18 281:10 308:5
ad 255:2
add 31:13 42:9 139:4
added 159:3 296:8 310:12
adding 69:21 70:2 139:4
addition 6:6,7 219:16
additional 9:3 31:14 149:7 176:9 177:4 222:12,13,14 261:7,20 279:21 282:17 292:8 296:10 297:2 298:18 299:9,10
address 203:10 207:1,4,7
adds 204:14
adequacy 251:20 261:8,15, 20
adjacent 12:18 76:10 189:20 224:2 225:6 226:2 269:2 303:10 304:1,5,7
adjoining 269:17
adjoins 12:6
adjourned 316:18
adjust 126:14
administered 209:20
Administration 10:9 12:6 13:3 24:3 30:5 32:18, 21 33:13 43:6 44:18 45:16,19 46:10,12,13,18 47:1 48:1 60:11 61:9,18 66:1,5 67:3 77:17 78:15 87:9,16 88:5,15 89:9,13,15 90:9, 16,20 92:1,6 95:10,14,19 96:5, 11 97:20 99:2 101:16 103:19 104:2 107:10,13 111:13 115:21 116:18 118:17 121:11,19 122:6 125:19,21 126:13 127:12,15 129:6 131:4 133:19 136:7,16 138:18 141:2 154:21 175:18 176:15,18 178:7 180:17 184:11 186:14 188:12 190:11 191:17 312:2
Administration's 76:9 92:9
administrative 14:16 27:18 107:5 125:3 209:14
admissibility 18:13
admit 27:4,11
admitted 12:1 27:20 32:8 115:9 118:6,8,14 150:17 151:1 212:18 216:8 220:8,10 240:10 313:1,3,6,8
adopt 93:9
adults 126:10
advance 5:16 273:11
adverse 90:8
advice 39:4 99:3 278:5
advisable 272:6 298:9
advise 165:11 270:3 277:13 278:7,11,19
advised 176:20 228:4 242:4 290:3,5 298:5
advising 180:17
advisory 39:1,3 73:14 159:10 170:15,19 186:16
advocate 112:5
aerial 55:12 194:5 215:11,13
affect 136:11 201:20 226:2
affirm 17:17
afraid 36:3
age 206:17 299:17
agencies 134:20
agency 33:5,6 97:19 129:3 134:19 164:13
agree 15:7 26:18 38:8 53:21 56:21 57:4 88:16 104:13 111:10 158:3 159:20 161:10,15 163:1 166:12,18 190:16 203:2,15 205:18 279:6
agreed 199:5 294:7
agreeing 32:20 198:14
agreement 27:14
agrees 89:9 90:6 198:10
ahead 23:6 59:17 67:21 130:18 169:18 195:11 308:14
air 248:18
aisle 204:13
akin 164:18
alerts 41:21 281:20
align 197:6
aligned 194:3
alignment 193:18
allergic 40:18
allowed 77:18 204:6 273:14 275:8
alternative 9:1 11:9,16 61:19 78:13,15,20 175:20 190:21
alternatives 33:16 75:17 90:10 104:10
amend 190:13
American 4:3 5:3
amount 51:6 174:11 191:11 235:3 262:21
ample 222:14
analysis 36:13 46:15 47:18 99:8 101:20 127:4 175:5 196:18 202:16 254:13 285:14 302:6
analyze 278:1 311:7
analyzed 279:12
ancillary 282:17
and/or 216:19 217:21 296:10 300:11,21
anecdotal 202:8 203:16
Anecdotally 203:3
angle 57:18 196:7
angles 197:9,11
animals 136:2 137:7
annually 183:1
answering 41:12 104:10 170:5,10 305:13
answers 113:12 158:7 177:11 197:1 270:2 296:20
anticipate 5:18 151:17 152:1 316:11
anticipated 217:12 220:20 280:15 287:8 313:18
anymore 310:1, 15
apologize 60:1 142:9 158:11 283:12,15
apparently 70:16 93:17 138:6 280:10
Appeals 4:5

209:13

appeared 265:6

appears 19:12 23:21 103:19 249:1

apple 147:15

apples 147:14

appliances 219:17,18,19

applicable 165:15

applicant 214:3 244:18 263:13

applicants 285:16

applicants's 124:3

application 155:7 217:4 222:4 260:3,4,7, 20 282:14 302:5

applies 225:18

apply 134:1 168:7 173:19

approach 10:2 23:15 27:8 28:2 59:13 64:17 68:8 69:4 90:6,19 124:1 189:15

approaches 25:4

approaching 29:2 57:19 67:15, 19 72:14 180:16

approval 33:7,12 214:3,7 220:18 222:1 290:20 291:20 301:21

approve 33:13 89:21 147:10 220:6 222:9,12 249:5 259:9,11 281:19 282:6 300:14 302:4

approved 221:2 223:5,18 230:15 258:20 300:16 301:13 302:6,11

approving 279:13 300:19

approximate 11:10 21:9 51:19 60:6 99:15,16 241:10 244:11

approximately 26:19 52:19 53:2, 6 54:15 61:14 80:4 196:7 200:14 271:12 287:8,14 295:7

April 185:3

aqua 60:15 311:10

aquifer 225:21

area 11:10 12:7 18:10,17 22:6 43:7 45:14 60:6 65:13 66:7,19 92:13 93:1 104:5 128:10 129:8,9 135:4 142:6,13 144:2 149:20 150:6 153:10 165:11 168:21 170:1 186:12 187:9,12,21 201:21 202:6 205:3,8 220:20 222:4,13 223:5, 13,16 224:5,6,12 225:11,16,20 227:2 230:1,19 231:1,7,9,13,15, 18 232:10 233:9, 21 234:3,4,13,14, 16 235:12 236:9, 18 237:18 240:21 243:1 246:10 252:15,16,18 253:1,10,16 255:12 257:11 258:3 259:4,7 268:4,15 270:5 271:1,2,10,11,16, 17,20,21 272:6 276:12,16 277:6 278:9 279:1,17, 19 280:1,10 281:12 282:9,16 289:11 302:21 303:1,9,10,14,16 304:3

areas 224:10 233:11,12 257:3 269:10 280:9 283:1 304:6

argument 18:14 310:18

arising 296:10 297:2

Arm 84:19 128:10 131:3 185:2 191:15 193:16 195:19 196:6

Arm/mount 195:10

arrange 17:1

arrangements 5:10

arrive 118:21 126:10

arrow 29:19 30:7, 10,20 43:12,14 58:7 186:17,18

arrows 29:16

artist's 61:17

ascertain 231:11

ascertained 275:6

asks 132:13

aspect 111:14

aspects 137:13 140:13 180:11 181:13

assess 228:8

assessment 185:16 186:13

Assessments 312:12

assigned 307:9

assigns 217:1,2

assist 23:19 24:9 146:10 165:2 237:20

Associates 239:18

Association 6:1 7:2 314:12

assume 84:16 103:15 185:5,8 197:18 208:5 214:5 223:3 227:18 232:2

assumed 124:11 308:19

assuming 123:10 146:9 148:1 168:17,19 185:10 229:18 272:5 284:7 309:20

assumption 15:3 231:2

assure 27:1 123:21 261:8,20

assured 261:21

attach 291:20

attachment 117:12

attempt 228:5 306:18

attempted 165:10

attendance 218:17 294:16

attended 308:16

attendees 310:10

attending 295:16 307:10

attention 10:11 20:14

attest 241:6

Attorney 212:2,6

attorneys 4:12 5:20

authenticate 17:20

automatically 110:4

Avenue 13:13 22:20 25:5,7 30:9,18 63:5,14 65:15 68:17 77:1, 3,5,6,9,19 78:3 91:8 144:1,2

average 121:21 122:6,12 126:9 309:6

avoid 183:3 280:10 282:21

await 146:13

aware 22:2 92:19 120:2 143:12 248:10

B

B-1 307:7

back 4:2,5 16:2 20:9 35:5 38:1,8 39:7 54:11,12,21 59:14 66:13,18 103:1,17 104:12 105:3,4 114:19 132:21 133:6 152:5,9 156:19, 20 172:19 174:14 187:6 189:19 201:15 208:15 216:9 220:17 231:14 235:8 243:11 255:3

266:12 267:6 268:8,12 272:2 283:5 284:14 291:17 294:6 304:9

backfill 267:16

backfilled 266:15,19,21 267:20 268:2,8 269:2 273:6

backfilling 267:21

background 98:4 286:5

backwards 77:11

bad 132:2 301:1

badly 288:13

bald 169:8

ball 170:16

Baltimore 5:3 19:13 33:10 45:15 127:11 129:5,14 146:19 157:6 174:18 205:1,9 207:5 208:1,2 209:1,12 216:1 219:21 220:12,15 223:4 231:5 233:5 243:14 255:19 256:8 261:5,14 272:14 277:4 278:8 292:7 312:5

bank 170:16

barn 228:4 229:9 241:4 242:8,13, 19 247:16,17 248:7 289:2

barns 266:8

base 19:18 48:4 243:15 298:4

based 9:4 20:16 21:12 22:4 27:14 28:11 32:19 36:12,17 38:9,11 47:2 60:21 81:1, 11 93:14 95:18 96:8 105:5 109:6, 9 116:4,5 121:20, 21 122:19 129:10 131:7,16 134:17 135:21 136:6 137:7,9 142:10 163:19 174:12,13 175:13 176:8 188:10,19 190:7 191:5 200:17 204:6 205:17,18 214:13 220:20 221:10,17,21 223:1,2,11,13,18 231:2 236:11,14, 17,19 237:18 241:5 249:2,18 255:9 257:19 259:20 262:20 267:11 269:10,12 285:17 287:2 293:10 298:17 306:6 309:10

baseline 306:7

basement 227:14

bases 164:13

basic 174:18 197:6 205:9,13, 16

basically 13:14 54:12 95:13 101:17 172:14 225:16 234:2 247:13 260:8 285:15 306:12

basing 94:3 251:13

basis 26:5 31:20 120:11 199:15

bat 27:3

bathroom 248:5 295:15

bathrooms 218:21 250:6

bear 255:3

bed 65:19

bedrock 234:12 257:6 258:4,8,9, 11

bedroom 217:3 221:15,18,20 226:16 232:11,17 248:1 261:18

bedrooms 288:7

begin 4:9

beginning 316:6

behalf 5:2 206:17

belabor 28:8 163:8

Belair 141:11,16, 20 142:5,8,11 143:6,21 145:4,7 146:8 147:7 149:6,8,14 150:6

believed 18:9

believes 88:15

Bella 286:4

beltway 38:1 142:7

bend 140:15 185:6

benefit 286:2

BERNSTEIN 314:18

bigger 183:10

biggest 295:1

binder 49:13

binding 290:16, 18 293:12

birthday 126:10

bit 23:14 25:5 30:16 194:14 214:2 314:3

black 42:9,11 126:4

Bless 40:17

blessing 287:20

blind 62:20 164:8

blindly 123:19

blocking 60:2

blow 17:13 248:18

blowup 143:21

blue 12:14 34:19 60:15 65:8

blurry 42:4,13

board 4:5,12 5:6 7:17 8:13 10:1,4 14:15,17 27:6 32:5 54:5 59:19 66:20 117:21 120:14 147:1,13 151:9 152:19 165:2 173:12 175:19 177:14,19 179:10 195:7,14 203:10 206:15 209:13,20 214:11 216:15 244:3,20 279:11 281:8,18 282:1,3 283:16 285:19 291:15,19 292:1 309:17 311:6 316:3

Board's 16:7 193:11 291:18

bodies 229:7

Bonapart 12:19 13:13 22:19 25:4, 7 30:9,14,18 42:1,6,17 63:4,14 65:15 68:17 77:1, 3,5,6,9,19 78:3 80:10,14,21 81:1, 3 91:8 189:14,17

book 75:10

bore 249:3 263:2 267:14,18

bores 234:9

bother 128:21 132:8 153:9,13 232:19

bothersome 46:17

bottom 10:7 140:21

bound 39:17 76:15

box 4:5

brakes 37:13 72:9 143:1

braking 169:2

branches 90:4

break 17:1 102:12,15,20 103:18 110:5 151:3 162:13 284:12

breaking 168:20 217:17

breath 133:6

bring 189:19 250:3,8,10 291:8 313:18,19 314:1 315:14

bringing 39:19 250:13

brings 295:7 310:4

broad 9:5

broke 217:20

broken 74:7 305:19

brought 10:11 90:14 305:8

brush 9:5 11:6 13:21 65:13 77:13

BS 301:7
Buddhist 133:21
building 100:4 109:7 134:20 174:2 218:1,6,21 227:12 229:2 230:13,15 236:4 242:3,8 245:2,4 247:7 248:1 253:2,6,11,16,18 262:7 263:8 266:7 270:14 271:9 272:3 277:2 278:13,14 280:14 283:5 288:15 289:20,21 292:18,21
buildings 227:10 251:5 254:16 288:21
built 262:13
bunch 111:6 193:3
burn 252:9
bushes 58:12 64:16
business 309:20
button 166:7
buy 223:10
bypass 189:11 190:1

C

calculated 250:11 309:5
calculation 183:3,13 236:8 248:21 259:19 307:17
calculations 183:5 212:2
call 38:15 47:10, 11 60:4 64:21 84:16 90:11,12, 18,19 98:13 135:15 143:14 170:16 175:11 181:21 188:4 206:8 259:8 261:10 300:17 313:20 315:7
called 39:1 43:11 181:20 209:21 210:16 215:2 228:17 240:6 260:19 261:4 300:11
calling 152:1 286:9
calls 151:12
Caloggero 4:4 7:21 8:5 11:17 12:4,18 16:12 17:9,10,12 18:6, 9,15 19:1,6,11 20:14 21:3 22:1 24:17 26:12 28:6, 8 30:21 32:10 33:21 52:7 83:2,3 84:14 109:18 111:19 113:17 120:20 132:6 146:19 147:18 151:10 172:5 193:14 194:5 195:14,15 196:9 199:13 200:10 204:20 206:1
Caloggero's 239:4
canning 194:21 195:1
cap 267:14
capacity 174:15, 16,21 202:10 205:7,11,17,18 247:10 249:3,6, 12,15 259:12,18 262:5,21 280:3
car 49:4 50:12,15 54:12,13,15,16, 18 60:15,20 63:20 68:8 69:18 72:10,17 73:3,15 79:12 159:5,8 169:3,5,9 278:21
care 114:5 128:18,20 135:14 179:9 180:2
career 209:1
careful 93:10
carried 315:9
cars 60:15 67:16 68:19 69:19,21 70:2 72:20 73:5, 7,11,19 202:5 271:15 272:4 276:3,6,18 283:8
case 4:3,18,21 5:20 14:15,17,18, 20 15:3,4,18,19 24:14 36:18 81:5 86:18 90:3 97:5 106:8 112:12 115:3 121:8 123:13 132:15 133:7 148:4 151:17,19 165:2 167:17 168:7 170:4 184:3,4 185:10 195:16 204:9 214:2 215:19 232:14 256:15,16 257:4, 20,21 293:14,17 296:6,7 309:1,4 313:9,16,17 314:4,5,20 315:3, 17 316:5
cases 90:3 174:7 178:16 179:3,4,6
casing 249:13 267:16
catch 202:5
catered 250:3
Catholic 141:10, 16 142:6 145:4 148:1,2,4,15
caused 137:3 190:15
caution 310:21
cautionary 41:2
celebration 287:21
cement 267:16
cemetery 148:14
center 4:3 5:3 126:4 187:5 232:11
centers 136:4,21
ceremony 73:1 287:19 308:5,20, 21
certification 210:4
certify 290:21
cetera 119:1 208:20 292:9
Chairman 5:21 138:8 151:2 166:1 281:10
challenge 189:4, 5,6
chance 19:5 123:17
chances 223:10
change 80:17 81:1 90:2 91:7 92:1,2,3,6 99:1 133:1 135:14,19 136:5,7,10,13 137:3,17 138:2, 16 182:2,19 185:10 192:9 197:3 208:4 219:4 292:4,20
changed 46:21 136:12 137:2 138:11 191:18 214:5
changing 81:4 138:21 292:21
character 28:11
characteristics 186:3 258:1 272:9
charge 33:10
check 40:7 51:16 128:21 129:2 154:6 155:2,11 156:2,3,4,9 266:4
checked 81:17
checkpoint 302:7
chemicals 252:9
chevron 30:11, 19 63:12 186:17
chevrons 23:13, 15,16,19 24:4,13 25:9,12 29:7,13, 16,19,20 30:6,10, 14 43:12
chief 209:7 211:4
choice 61:17
choke 201:13
chose 163:21
Chris 244:20
Christmas 126:6
church 47:13 48:5 108:21 109:10 141:10,16 142:3,4,6,9 144:1,15 145:4, 13 146:18,20,21 147:2,7 148:1,2, 4,15 310:14
churches 218:8
circle 49:5 50:7 53:5 55:4 57:8 153:14 190:11, 13,18 191:16 197:3,12
circular 191:19 246:15 253:16

circumstances 204:7 248:12 298:6 299:7
cited 41:3
citizen 90:8
citizens 87:21 89:12 90:1,2,16, 19 130:10
citizens' 89:16
Civic 6:1 7:1
civil 155:5 281:6
claiming 287:7
clarify 237:7 307:6
clarifying 254:7
Clark 82:21
classification 47:17
classifications 48:1
classified 46:4
classify 93:18
classifying 46:6, 10 234:20
clay 234:11 273:15
clays 257:5
clean 242:6,7 266:6 273:6 295:15
cleaned 219:17
cleaner 267:12
cleaning 290:6
clear 10:5 13:21 16:1 69:17 76:13 79:20 105:12 160:6 170:15 267:4 295:12
cleared 224:4 233:21 234:3 253:1 255:12
client 98:17 101:17 109:20 120:8 132:18 148:18 230:5 277:2 278:10,11 290:17 294:7 299:18
client's 46:3
clients 46:15 86:12,21 88:9 131:15 132:9 134:4 228:4 230:15 236:14 270:3 285:6,10 289:9
clips 49:14
close 87:12 284:21 316:5
closed 88:2
closer 44:2 269:20
closing 314:20
coastal 225:14
code 219:13 231:5 265:17 297:19
codes 269:4
collapsed 232:18 267:12
collectively 9:21
collisions 182:1
colluvial 257:1, 21
color 13:6,7 14:6 34:13
colored 20:19 65:8
colorized 12:11 34:19
COMAR 306:4,8
combination 193:2 249:13
Comery 141:7 147:6
Comery's 144:20
comfortable 92:8 170:5,10 227:2
commence 151:19
comment 24:19 28:12 197:16
commenting 291:6
comments 4:11 277:5 304:10
commercial 46:5 47:6,8,10, 13,16,19 48:2,8 93:19 135:15 136:4 137:3 219:7,10,12 243:5 260:13
Commissioner 209:14
commitment 299:18
common 164:1
communicate 123:2
communicated 119:9,11,14,18, 20 221:4
communicating 123:1
communication 104:8,21
community 88:20 314:12
community's 91:4
compact 273:15
company 207:9 239:18
comparable 141:16 142:12 150:3
compare 108:16 133:20 141:9 144:6 145:2,9,16, 21 146:4,5,6,15, 20 149:3,4 174:5
compared 145:1
compares 142:13 143:3 183:14
comparing 145:11,12 146:8 147:13
comparison 146:7 147:18
compatible 205:14
compel 112:12
complain 123:20
completed 25:3 239:9 308:20
completely 57:17 137:6 182:12 275:6
completion 230:10 249:9 259:16,17 262:20
comply 38:3
component 232:19,20 242:12 268:15
components 272:9 273:9
compressed 248:18
computed 305:16
computer 110:4 111:3 114:15
concern 175:4 264:20 267:17 268:1 315:11
concerned 282:1 289:6
concerns 45:16 53:18 258:1
conclude 175:8
concluded 175:12 296:4
conclusions 164:14 223:19
condense 103:10
condition 169:8 170:4 197:19 213:4 233:2 279:12 282:5 289:13 290:11 291:20 293:8
conditioner 265:8
conditions 8:17 9:15 21:12 32:9, 11 77:14 80:12 91:7 93:13,14 106:6 126:5 129:10 130:2 169:20 170:3 176:11 179:19 180:14 181:4,14 183:15 184:10 187:14 188:2 213:13,14 231:12 234:12 256:6 290:16 293:2,4
conduct 213:16 266:10
conducted 208:17 213:9 222:5,6,19 233:17
conducting 208:18
confident 223:15

configuration 198:1 199:14
configured 196:11
confine 229:5
confined 225:20
confirm 134:5 139:19 302:10
confirmed 301:19
conflict 98:12
conflicts 151:11
confused 273:19
confusing 237:12
congested 203:4
congestion 177:21 180:4 201:15,19 202:7, 10
congratulate 308:19
congratulations 206:2
Congregation 214:10 244:3 245:1 285:20 286:15 287:3 296:11 298:5,19 299:1,2,6,10
conjunction 24:8
connection 203:7
consecutively 312:14
conservation 255:10,19 256:2
consideration 180:12 182:11 190:10,20 296:9 297:1 299:14
considerations 175:14,15
considered 144:11 213:6 265:19
considers 14:17 94:11
consistent 4:21 148:18 150:7
construct 137:13 230:21
constructed 131:5,6 136:8 137:15 247:3 274:15
constructing 134:20
construction 9:1 176:10 208:19 228:20 247:5,10 272:8
consult 278:5
consultant 207:11 236:15 244:2,21 274:17 281:2 285:10
consulting 274:18
contacted 285:9, 12
contained 140:8 262:15
contamination 267:21
context 109:17
contingent 95:13
continuation 25:18,19,20
continue 172:16, 18,20
CONTINUED 8:3 212:19
continuing 145:17 148:21 210:2
contours 150:9 189:2,3,12
contract 289:8
contracted 214:10
contractor 230:16 241:5
contrary 124:5
contributing 185:13
control 131:5 188:5 191:1
conversation 177:7 301:10
convey 125:20
conveyed 125:18 204:17
copies 14:8 34:11 109:12 117:7,17 214:18
copy 6:3,4 7:6 13:7 17:9 27:16 28:20 34:17 113:14 117:9 195:7 311:20,21 312:1,3,7,11
corner 21:6 30:2 71:8 189:20 229:2
corners 197:10, 11 198:6
correct 8:10,11, 16,20 9:2,3,10, 11,15,16,19,20 11:2 12:7,8,15,21 13:1,3 24:2 25:11 26:16,18 33:2,3, 19 36:11 39:6 41:5,8,9 42:8,16 43:2,5,21 44:12 45:6 46:2 48:19 49:6 50:9,14,18 51:14 53:8,13,14, 20 58:5,15 61:3 62:12 65:6 70:5 74:16,20 76:12 78:21 79:3,14 80:3,15 81:7 91:13,16 92:16, 17 96:3,14 97:7 101:18,19 102:1 107:15 116:16,20 122:20 134:2 139:11,14 153:8 163:4,6 166:19 168:5 173:1,5,9 175:1,2 176:1,3, 7,12,13 177:17, 18 188:2 200:15, 16 207:18,19 212:7,13 222:19 226:4 229:15 232:6,9 234:21 236:16 250:17, 18,20 254:21 255:7,15,17 258:19 260:1,8 262:17 269:8 274:4 277:21 280:11,19 285:21 286:17 287:5,6, 10,12,15,16 288:3,17,19,20 289:14,15 290:1, 2,4 294:9,12,20, 21 295:4 296:6, 14 297:15 301:3 303:3 304:8 305:9,18 306:9, 10,14,15 307:10, 17 310:6
correctly 57:9 305:17
correctness 187:20
correspondenc e 117:12 221:1
corridor 131:8
corrosive 252:8
cost 219:14
counsel 113:8
count 190:8,17 191:20 192:8 204:5
counter 71:5
counting 310:14
counts 152:21 153:10,13 174:19 177:17,20 178:17 179:4 197:4 202:16,21 203:7 204:21
county 12:12 19:13 20:10 33:10 35:10 45:15 77:18 78:3 82:8 127:11 129:5,15 146:19 157:2,5,7 174:18 178:1 194:6 205:1,9 208:1,2, 5,7,12 209:1,12 212:1,5 216:1 219:21 220:12,15 223:4,7 228:6 230:6,9 231:5 233:5 236:18 237:18 243:14 255:19 256:8 258:20 259:3,7,8, 11,17,19 260:19 261:5,14 265:17 267:5 269:4 272:14 277:4,13 278:8,18,19 279:12 280:16 281:1,11,16,20 282:3,8 292:8,11, 14 293:17 299:19 300:6,13 302:10 303:5 312:5
couple 9:13 12:4 35:15 123:7 160:13 214:18 218:17 278:13 302:19 308:4,16, 20
court 4:13,15,16, 17,19 5:4,10 7:18

15:14,16,17 103:16 124:17,18 144:1 147:6 178:15 276:19

courtroom 4:9

cover 5:18,19

coverage 10:9

covered 177:6 251:3

covers 252:18

cow 136:20

Craig 220:13 244:20 285:9

crash 183:16

crashes 128:1 181:20 182:1 183:20 185:14

crawl 265:21

crazy 7:15

create 26:10 55:17 192:18 202:7

created 48:15 153:14 190:18 279:15

creating 67:5 190:13

credentials 215:20

credits 210:3

criteria 24:5 136:7 279:5

critical 86:8

criticize 133:4

criticizing 264:13

cross 7:18 32:1 34:4 102:9 103:7 152:1 162:8 167:20 171:18 182:12,13 184:20 191:13 192:15,17 196:5 197:6 211:18 212:15 237:10 283:13 284:21

Cultural 4:3 5:3

curb 51:18 69:7 76:15

curiosity 102:9

curious 184:17 310:16

current 247:3

curve 22:19 23:16 29:20

cut 58:17 64:16 90:4 141:3 151:5 164:19

cutting 67:21

D

daily 221:11 281:16

damage 131:21 245:2

danger 179:17 180:5,7 185:17

dangerous 77:18 129:8 265:1

dangers 180:6

dare 291:8

dark 25:13

data 105:2 243:14

date 5:9,13 11:2 31:1 55:10 83:13 84:6,12 85:17 177:9 238:15 241:19 302:11 315:10,18

dated 6:21 107:4 239:16

dates 10:13 99:15 244:10

day 4:2,4,9,18,21 5:5,7,17 36:4,6 50:5 99:16 107:6, 7 121:21 122:7, 12 123:15 126:9, 12,14,20 141:6 145:14 202:2,3 209:3 217:3 221:11,17,18 243:11 244:11 249:4 259:9 272:4 293:5 295:2,7 296:2 297:18 298:5 304:17,21 305:1, 17 306:1,5,6,8,13 307:9 309:10,13, 16,18 310:3 315:9 316:5

day-to-day 126:7 178:5

days 4:18 121:20 122:7 123:19 208:16 211:8 222:20 295:3

de 14:21 178:9

deal 155:20 157:10 270:16

dealing 270:2

deals 155:9

dealt 301:4

death 41:20

deaths 132:3

deceleration 188:14

December 99:17,19 100:9, 11

decide 191:6 234:7,8 252:3 292:5

decided 310:20

deciding 184:4

decision 71:17, 19 72:7 78:2 98:6 104:15,17,19 134:9 165:2 177:7 192:8 197:13 222:7 230:3,4 251:20 258:14,16 281:19 291:18 299:2

decisions 98:8,9

decreases 76:1

deed 312:1,3

deemed 69:19 168:21

deep 133:6 213:19 234:9,12 247:9 248:13 255:6 258:10 272:12,13,15,16, 19 273:12,20 274:5 275:14,15 276:8,9 291:8

deeper 249:2 276:21

defer 114:18

define 29:20 37:4 93:3 228:13 263:8

defined 273:12

definition 181:5, 18 265:16

degree 193:19 197:11 198:6

degrees 77:11 196:8

delays 192:16

deliberately 197:15

delineators 186:20

department 208:1,3,12,14,15 209:4,20 212:5, 11 214:15 217:2 220:15 222:6,8 230:2 231:5 249:11 251:18 260:9 261:5,9,14 262:18 264:20 277:4 278:19 279:16,19 290:20 292:6,7 300:7,13 301:16,17 312:12

depend 89:19

depending 58:21 221:13 225:19 234:6 235:6 268:8 274:18 303:21

depends 61:8 97:19 202:3 257:7 262:5,6 272:8

depict 21:13 144:6

depicted 8:17 21:14 79:12 83:19 145:3

depicting 9:15 20:18 65:13 222:4

depicts 12:13 144:3

deposited 257:3

deposition 110:16 257:20

depositions 5:16

DEPS 261:10 262:18 300:7,19

depth 248:15,20 272:20 300:5

derived 256:14

describe 13:9 31:6 196:4 227:7, 8 243:6 256:9 274:6

describing 253:5
description 121:10 129:19 254:5,15 255:9, 11 257:19
design 134:10, 11,13,17 135:1,9, 11,18,21 136:5,7, 9,11 137:2,5,10, 11,12,13,16,17 138:2,3,10,18,21 139:2,5 140:13 173:11,13,14,15, 18,19,21 174:8 181:13 192:9 197:19 214:14 221:9,16 222:10 226:7 230:14 243:15 253:12 273:11,20 274:19 296:12,16 297:3, 5 298:1,4
designated 92:18,20
designation 209:18
designations 211:16
designed 136:8 138:4 173:15,17 221:16 230:12 274:17 277:7
designing 134:20
Designs 75:13
desire 91:5 299:17
destroy 241:1
destroyed 300:3
detail 238:17 281:8
detailed 98:4 124:12 129:18 131:11 185:12
details 107:17 108:12,15 185:16 217:7
determination 78:1 105:2 191:6 265:3
determinations 174:12
determine 95:5 122:10,14 127:5 138:18 183:15 200:7 231:9,17 249:12 264:14 288:6
determined 129:11 131:9,16 132:10 134:11, 14,17,19 135:9 137:10 173:17 174:13,19 235:7 248:15 272:20
determines 95:15
determining 146:11
developed 116:5
developer 277:20
developers 216:20
developing 48:3
development 138:3 270:19
devices 265:7
devil's 112:4
Dewitt 82:21
dictates 229:8 243:9
difference 29:16 39:16 84:8 86:8 93:2 96:15 167:13 173:12 182:20 205:5 219:10 260:21
differently 47:9
difficult 69:10 76:19 143:2
dig 231:14
dimensions 52:1
direct 8:3 36:4 115:4 134:3 174:14 207:15 212:19 315:3,4, 19,20
directed 15:17
directing 29:13 30:14
direction 20:1 30:8,18 39:18 58:8 71:2 242:8 289:5
directions 71:1 186:14,16,17
directly 53:15 253:10 277:10 303:20,21
disagree 81:9 104:13 158:3 168:12 205:18
disagreeing 187:16
disagreement 168:14
disclosing 22:14
disconnected 265:19,20
disconnecting 265:17
discontinued 266:19
discovery 110:16
discretion 151:9
discuss 104:14
discussion 15:11 113:9 193:14 264:18
discussions 258:6 285:16,18
dishes 290:6
disposal 213:20 220:19 233:16 252:18 278:5 303:1,10,14,16 304:5
disposition 251:4
disregarded 251:3
distance 8:8 14:1 25:1 49:12 50:6,14 51:7 53:7 55:19,21 59:2,8 60:21 61:2,13 62:1,4,11 63:18 64:1 65:14 66:14 67:6,8,18 68:2,5 69:1,9,15,18,20 70:1 71:9,11,15, 18,19 72:3,13 73:3,4,10 74:13, 18 76:14 77:2,13 78:11 79:1,4,13 80:1,7,20,21 81:19 87:20 88:14 89:8,9 98:5 104:9 139:20 154:3,11 158:4, 10 159:15,16 160:9,16,17,19, 20,21 161:3,11, 12 162:18,19,21 165:14 166:15,17 167:3,10,13,14, 18 168:1,3,10 169:6 173:7 175:14 176:10 302:20 303:9 304:1
distances 8:21 31:17 61:15 227:9
distinction 29:17 45:7 47:17 261:12
distinguishes 48:8
distraction 239:10
distribution 126:2
district 33:9 157:5
diverted 39:9
dividing 186:7
Division 33:11 154:18 155:2
Diwali 295:10
doable 189:1
document 17:2 114:2 115:20 119:4 128:8 131:19 155:1,4 157:17 214:19 215:2,3 216:11 238:16 245:19 246:1 282:13
documentation 26:7 155:8 175:19 300:18 301:20
documents 64:10 116:13 311:17
domain 311:19
door 146:17 310:14
Dopkin 188:8,9, 17,20 189:1,5,9, 16 190:2 206:21 207:4 226:1 230:18 239:1,3,9 267:5,9 268:17 269:9,12,16 281:6
Dopkin's 269:5

Dorothy 6:21
dosed 274:7,14, 16 275:7
dosing 273:12
doubled 306:13
doubt 129:16 275:11
drain 23:21
drainage 257:20
drained 213:19 242:5 255:6
draw 20:14
drawing 159:8 241:13 254:11 269:19
drawings 55:12 139:19 140:14 176:14
dressed 304:12
drill 28:7 228:19 229:1 230:9 249:2,9 258:9
drilled 228:15 230:8 246:20 247:1,2,4 262:10, 11 269:13 275:1
driller 230:6,8 248:16 258:7,21 259:3,4 263:3 267:13
drilling 247:11 248:17 258:15 259:5,8
drills 230:10
drink 249:21 250:8
drinking 130:2 264:10
drinks 250:14
drive 35:5 39:11 51:2,4,14 92:7,13 142:4 143:7 158:9 172:18 180:17 181:17 200:14 246:3,12, 13,14,15 278:13
driven 18:21 38:12 74:9 137:9 142:5,8 202:2
driver 23:19 24:9 25:3 37:15,19 129:21
driver's 56:19 57:19 63:3
drivers 23:6 31:12 70:4 92:6, 12
drives 37:7 198:8
driveway 25:14, 16,18,19,20 31:2, 3 59:6 158:3,13, 14,16,17 159:14 172:8 173:4 175:11
driveways 44:21
driving 11:4 26:8 35:16 42:18 43:10 51:13 63:4 101:5 130:3 164:21 165:13 170:18 180:15 194:1
drove 41:17 99:21
drunk 164:8
dry 272:13,14
due 68:13 106:5 146:7 193:2 197:3,4
dug 246:20 248:11
duly 206:18
dust 267:15
duty 178:15
dwelling 232:11, 13,17 248:1 250:19 253:7 276:14 288:6 306:20
dwellings 227:10

E

e-mail 108:1,3,4 109:11 111:3 112:1 113:14 114:13 115:6,8,9 300:12
e-mailed 300:9, 10
e-mails 108:5,10 109:18 110:9 111:6 112:11 114:21 116:8 117:17
earlier 58:20 79:15,16 86:5 125:8,9 154:9 194:18 200:3 311:19 314:15
early 105:1
earth 273:6
easier 49:20 72:19 194:19
east 77:8 188:11 189:7,9
eastern 224:5
easy 109:12 112:17 266:2
edition 75:13
educate 255:20
education 210:3
effect 63:8 273:16 292:9 311:9
efforts 124:3
egress 55:14 86:13 88:4 148:11
Eighteen 65:9,10
elevation 254:10
elevations 140:15,19 275:5
eliminates 267:21
else's 76:8
eluvial 256:20 257:1
employed 207:10,13,17 216:1 223:7
employee 278:18
employees 208:18
employment 207:20 208:11 209:12 216:2
empty 251:7
encompasses 128:10
encouraging 147:9
encroached 67:4
end 5:14 50:21 132:13 181:10 192:3 209:3 258:17 287:1 293:14 314:4
ended 248:12
engaged 113:8
engineer 98:17 164:12 191:9 196:10 197:17,18 203:8 273:9 281:3 306:13
engineered 275:5 277:7 280:5,17,20
engineering 24:5 29:17 45:13 144:4 176:11
engineers 108:17 155:5 164:13 186:10 281:6
entail 295:14
enter 8:9 31:6,11 66:16 76:11 79:5 83:16 153:7 175:13 223:13 264:17 312:3
entering 129:12 149:8 153:1 180:2 188:14
entire 15:18,19 106:7 136:13 145:18 208:21 247:15,20 249:7 304:15
entirety 68:20 137:17
entitled 125:5 154:18
entrance 8:18 9:15 22:9 32:12 42:14 43:3,19 44:1,6,7,9 49:4 58:4,7,13 60:5 62:8 67:6,9 69:12 70:13 71:9 75:16, 19,20 77:18 78:18 79:11,21 80:18 87:4,12 88:21 91:11 93:18 96:12 98:18 181:8 182:5 189:10,16
entranceway 45:15 88:2
Environment 208:1,3,13,14 209:21 212:11 214:15 217:2 220:15 222:7,8 230:3 231:5

249:11 251:18 261:5,10,14 262:18 277:5 278:19 279:16,20 292:7 300:7,14

environmental 209:5,21 210:6,7, 10,15,17,19 229:4 260:9 301:17

environmentalist 286:9

equivalent 142:12

erroneous 10:5

error 129:21 310:20

essence 10:6

essentially 306:12

establish 18:11 124:5 216:20 231:15

established 138:4

estimate 27:13 156:17 233:15 235:15 307:9

estimated 101:14

ethical 278:18 279:4

ethically 278:7

evaluate 213:17 217:6 259:17

evaluated 209:9 213:10 249:11

evaluating 14:17

evaluation 208:17 211:11,12 213:16,21 301:11,18

evening 53:16 109:9 178:10

event 73:6 74:11 122:4 250:10 295:1 297:5 304:13

events 122:3 126:6 130:8 153:2,7 178:14, 18 271:14 282:18 305:7

eventually 201:14

everybody's 286:2

everyday 142:4

everyone's 60:2

evidence 15:4 51:5 115:11 117:2,15 118:1, 14 120:21 123:11,17 124:11 125:10 151:1 165:1 179:4 195:16 199:11 202:8 203:19 215:14 216:8 220:10 240:10 248:5 294:2 311:18 313:4

exact 123:2 169:10 204:13 219:14 244:11 246:4,16,18 253:3

examination 7:19 8:3,8 18:11 32:2 34:4 102:10 103:7 152:2 162:8 172:3 190:5 193:12 207:15 211:18 212:19 237:10 285:1 302:17

examine 174:15 212:16

examined 171:18 206:19

examples 293:16

excavation 272:19

exceed 126:11 262:1 298:1

exceeds 170:18 261:2 298:2

exception 142:15,21 146:3, 12 177:21 279:5

exceptions 144:12 178:16 179:18 184:2 311:8

excess 224:9

excessive 130:1 168:20

excised 152:20

excluded 235:15

excuse 40:16,19 137:12

excused 196:19

exercise 23:9

exhausted 252:13

exhibit 6:8,21 7:7,8 10:7 11:18 12:2,10,13 13:8, 10 14:3,12 16:3, 8,12,14,17 19:6, 7,10 20:16 21:4 25:2 26:1,13,15 27:5,19 28:1,6, 14,18 30:21 31:18 32:7 39:8 40:14 48:14 50:5 52:9 53:4 55:20 56:17 57:12 58:20 59:20 60:1 64:10 65:1,8 79:7,12 82:3 88:12 112:9 113:21 114:4 115:2,5,18 117:19 118:5,8, 13 120:16 122:18 123:3 128:3,4,14, 15,17 130:21 131:19 143:11, 18,20 144:8 145:3,15 148:7 150:21 155:19 157:14 158:6,7 184:21 194:10,13 195:6,8,17 202:13 215:7 216:7,10 220:3,9 237:14 238:6,8, 12,17,20 239:1, 15,19,21 240:3,9, 20 241:13,17 246:5 254:9,18 271:15 285:6 286:20 312:4 313:2

exhibits 8:12 9:7,8 12:5 13:5 14:18 16:5 28:3 31:5 33:16 34:6 50:4 82:18 118:17 140:3,7 158:2 313:5

existed 260:21

existing 8:18 9:4 10:11,17,20 11:7 29:2 31:15 33:17 54:7 55:13 60:19 61:1,10,18 67:7 69:13 70:13 75:16 77:15 78:8, 9 80:12,13 87:7, 13 88:2 91:7,9 94:21 109:7 158:16,17 159:14 175:9,10 209:8 213:10,12 226:20 227:12,20 228:1, 3,15,17 232:17 240:16,19,20 241:3,7,9 242:1,3 243:1 245:17 246:8,11 247:19 248:8 250:16 251:2 252:20 253:6,16,18 254:16 263:15 264:9,10,21 266:8,14,17 268:12 269:2 271:9,17 291:2

exists 59:9 233:2

exit 8:9 10:10,12 31:10 49:3 51:4 54:4 61:6,7,13 62:1,2,3,8 66:15, 21 67:9,11 69:12, 14 70:14 77:6,8, 19 78:13 79:2,11, 21 80:19 86:13 87:3,4,9,12,13,14 88:1,3,21 91:11 95:7 96:12 175:13 176:5 185:7

exit/entrance 87:7

exited 53:12

exiting 49:4 77:5 129:12 149:8 167:19 180:2

exits 54:1

expect 172:18 275:14,15 279:15 282:19

expecting 23:6

expedition 111:2

experience 20:17 38:10 89:14 91:2 192:7 200:17 223:3 282:19

experienced 36:15 53:19

expert 37:21 69:11 70:8,9 96:8 111:11 130:9,16 144:5 149:5 162:9 165:4

179:1 191:9 199:8 203:13,14, 18,20,21 204:4, 14,20 210:14 276:4 277:9,20

expertise 98:5 204:16 289:11

experts 49:15

explain 10:4 51:11 165:10 167:12 172:12 173:12 238:10

explained 108:10,12,15 110:17 220:16 272:2 308:3,15

explanation 11:19 17:5 197:13 216:4,6

explore 198:18

express 197:18

expressed 170:9 223:19

extensive 46:15 291:1

extent 129:20

extra 310:12

extreme 182:9

extremely 130:20

eye 56:19 57:19

F

fabric 273:4 274:2

faces 25:6

facilities 134:1 217:10,12 219:5 222:10 242:2 250:6 251:21 261:8 263:15 295:15 306:19 307:15,19 308:3

facility 58:4 102:4 122:19 219:7 228:16 264:2 271:17 276:5 278:15 280:14 286:3 290:21 299:4 305:16 309:2 310:5

facing 25:4,20 31:9

fact 54:16 129:5 146:11 170:9 173:6 191:10,20 193:18 196:10 197:5 198:5,7 215:2 232:21 259:7 266:3 283:7 291:15 293:10

factor 167:16 179:18 180:5 182:2 193:21 194:1 198:2,14 199:6 200:4 213:15 273:20

factored 217:13

factors 177:21 178:16 184:2,4 185:13 190:20 192:11 193:2,3 197:4 217:12,15 258:15

facts 123:11 124:11 285:14

factual 204:1

failing 208:19

fair 26:21 28:17 51:20 103:9 162:6 188:3 199:12 291:19

fairly 21:11 173:7 233:12 295:11

fall 227:13

familiar 26:8 127:21 128:6 141:18 154:17 155:1,4,8 157:16 213:4

family 44:17,20 45:9,14,21 47:9, 17 126:8 218:18 243:5,18 250:8 260:11 261:3,12, 13 308:4,17

farm 137:3

fast 37:3,4,6 187:6,14 188:2

faster 41:4

favor 61:19 80:1 151:6

feasibility 210:21 213:7

feasible 231:18

features 23:11 24:20 27:2 174:3 178:11 213:6 227:9 228:12 229:4

February 100:10,18

Federal 97:18

Feeding 195:2

feel 36:15 80:13 92:7 129:7 151:7 170:12 203:4 223:15

feet 50:8,14 52:17,18 53:1,6 60:7,18 61:14 68:2,10 69:6 72:4,8,13 73:15, 16 74:17 75:9,16, 17 76:20 79:9,13, 16 80:4,7 87:19 90:5 109:7 116:5, 6 153:20 154:5, 12 158:4,21 159:12,13,17,18 160:2,16,17 161:1 162:19 163:1 164:2 168:3 169:7 224:6,11,19 225:1 227:12,15 229:7 231:1 233:15,20 234:10 235:5,9,10,11 242:10 253:2,4 256:13 257:5 267:15 268:15, 16,18 269:7,10, 14,19 272:20 273:1,12,16 276:13 278:14 280:14 283:5 303:2,12,20 304:2

felt 89:13

fence 58:18 60:10,18 68:13, 14 69:7,8 88:8, 10,13,18 89:1,5,6

fenced 280:1

festival 73:2 130:15 245:12, 13,14,15 249:20 250:5,10 294:19 295:2,17 304:11, 15,18,21

festivals 101:12 123:6 124:15,21 125:12 153:2 218:2 236:20,21 245:10 250:7 289:18,19 294:14 295:13 304:10 307:19

FHA 93:2

field 11:2,3 85:18 104:14 159:4 162:11 211:6,9 228:14 229:5 232:19 233:1 236:7 242:11 266:8 268:5,12 269:6 280:16 282:10 283:9

fields 209:19

Fifteen 52:10

figure 94:17 145:7 146:15 159:20 262:16 274:9 307:14 309:15 310:12

figured 143:5

figures 219:15

file 14:15 15:3 16:7,21 155:7 222:3 251:16 277:2

files 230:8,10

fill 156:5,6 252:4 267:14

filled 155:14 156:21 252:8,11 266:12 267:12 268:8 300:3

filling 267:6

fin 13:16,17 14:9 64:11 66:4,5 189:10 311:21

final 177:7

finally 206:4

find 5:15 132:2 230:1 231:10 257:12 272:5 298:14

finders 146:11

findings 176:20

fine 4:7 74:14 102:18,21 115:14 116:21 149:1 151:8,9 192:6 206:10,11 215:16 240:5,21 254:6 300:11 314:8,18 315:14

finish 139:16 150:5 284:15

finished 7:20

62:21 153:17 196:17 283:16 315:10

finishes 17:10

fire 180:6 219:13

fishing 111:2

fits 106:7

flexibility 233:19

flood 257:21

floor 109:6 117:8, 14,20,21 118:1 219:2 295:16 298:7

flow 201:20 202:7 217:2,13 221:10,11,16 296:12,16 297:3, 5,17 298:2,4,9 302:6 305:15 309:6

flows 214:14 220:20,21 221:7, 14 236:19 292:9 309:5,6

flush 265:14

folks 240:13

follow 19:17 37:16 38:5 171:5 190:4 229:16 245:19 279:14 301:10 311:12

follower 71:11

food 217:9 218:9 250:2,4,13,14 290:6,9,19,21 292:5 294:7 295:14

Foos 7:1

foot 140:11 253:17 257:2

footage 109:6

foreseen 298:18

forest 35:10 142:2 252:20

forever 43:11

Fork 201:3,4,5,7

form 149:12

formation 252:7

formed 129:7 257:19

forming 112:3

forward 17:5 172:16 212:17 229:18 294:1

forwarded 5:6 7:12

found 66:9 182:3 213:11 256:20

foundation 124:9 162:6

foundational 20:8

fourth 295:10

fraction 186:8

frankly 281:20

free 74:1 172:8, 11,12,14

frequency 203:5

Friday 126:5

front 17:19 34:8 110:20 111:5 118:16 180:4 182:4 183:8 276:14 290:1

fryers 219:12

full 305:1

fully 282:10

fun 133:9 206:3

function 264:3

functionality 228:8 266:11

functioning 263:18 264:15 265:10 266:10 273:17

functions 217:11 218:18 233:7 262:12 298:8

fund 153:2

funds 73:2

future 73:21 127:14 134:7,18 234:11 235:4 296:11 297:3

G

GABER 312:6

gallon 249:14 261:17 262:2

gallons 217:2 221:12,13,17,18 249:1 298:5 305:17 306:1,5,8, 13 307:8,11 309:10,12,16,17

Garber 4:2 5:14 6:5,8,11,13,18 7:7,10,14 8:1 10:18,20 11:13, 20 12:1 13:5,15, 18 14:4,11,14,21 15:2,7,9,13,21 16:3,5,8,14,18,20 17:2,11,19 18:4, 12,18 19:9 20:6 25:15 26:1,4,12, 17 27:4,21 28:20 31:15,20 32:5 34:1,15,18 39:8 40:8,20 44:3,5,14 45:3,7 47:20 48:7,13 49:13,17, 21 52:9,18,21 56:16 57:12,16 59:20 61:1,4,16 62:2,7,12,16 64:6,8 65:4,16 66:2 67:10 68:3, 6,11 70:21 71:5 72:5,10 73:17 74:15,19,21 75:10,15 78:6 79:10,18,20 80:5, 9,12,17 81:5 82:1,4,10,12 83:2,10,17 84:3, 8,14 85:4,9,21 86:7,16,19 87:2, 11 91:10,14,17, 20 92:15,18 94:2, 6,9,16,21 95:2,7, 21 102:8,13,17, 19 103:1,6,9,14 105:6,16 106:18 107:1 110:3,8 111:19 112:4,16, 20 113:4,7,16,20 114:6,14,20 115:11,17 116:7 117:1,4,14,19 118:3,5,12 119:7, 13 120:1,10,13 121:4,12 122:18, 21 123:15,21 124:7,10,17 125:6 127:2 128:2,6,13 130:21 132:6,19 133:5,10,13,15 137:21 138:5,9 139:15 141:5 142:17,21 143:5, 11,15 145:2,9,20 146:13 147:3,17 148:3,7 149:1 150:5,11,17 151:6,10,13,18 152:3,6,17 154:8, 15 157:19 158:8, 12 160:3,6,19 161:4,9,19 162:8 163:13 164:5,6 165:6,18 166:7, 14,21 167:12,16 168:1,6,9,13,17 169:18 170:6,9, 12,20 171:5,7,15, 19 172:2 177:5 182:21 184:19 185:5,15,20 186:4,7 188:3,8 190:3 192:4,5,21 193:5,7 194:7,9, 12,17 195:9 197:2,9,16 198:5, 12,20 199:2,17, 21 200:2 201:4,6 202:18 203:2,13, 15,21 204:3,8,11 206:1,4,7,9,12 207:7,9,12 210:13 211:2,9, 12,15 212:18 215:8,13 216:9 220:4,8 221:2,4 224:7,19 225:1,4, 12 226:6,13,18 227:6,15,18 228:1,12 229:3, 10,13,16 230:1, 11 231:16,21 232:4 233:20 235:1,8,14 236:1, 7,10 237:2,6 238:6,8,12,19 239:7,10 240:2,5, 8 241:20 253:19 254:3,7 263:19 265:4,9 266:14, 21 268:3,11 269:5 271:4 273:18 274:5,9, 13,15,21 275:9, 15,18 277:19 279:6,14 280:7, 12,20 281:4 282:12,20 283:18 284:1,4,7,10,14, 19 286:13,20 291:12 292:16 293:1,7,19 294:1, 4 296:19 297:11 302:16 307:6,13, 18,21 309:8,15 310:2,7,16 311:1, 4,6,12,14 312:9, 15,19 313:1,10, 13 314:3,9,14,17, 19 315:1,3,6,11, 19,21 316:7,9,16

gate 173:2
gates 101:2
gathered 123:17
gatherings 101:12 125:13 218:1
gave 87:16 120:3 122:12 156:17 166:1 254:15 304:13
geared 92:15
general 39:17 130:20 134:15,17 213:12,21 225:4 237:18 242:4,21 246:10 257:11
generally 14:17 19:12 26:18 40:9 214:4 216:16 230:4 248:8 252:10 257:4 258:2 260:7 290:1
generate 109:8 122:5 126:9 305:21
generated 305:16
generation 99:7 108:18 109:6 116:3 121:20 126:1
geographic 213:6
geologic 252:7
geology 223:12
Geometric 75:12
George's 157:2, 5
geotextile 273:4 274:2
get-togethers 101:12
GIS 12:12 19:14 20:10 27:5 194:6
give 7:5 9:12 17:8,9 27:15 46:19 52:16 67:18 73:13 84:16 99:3,15 113:11,19 117:20 129:19 136:17 162:9 180:9 183:9 195:7 210:11 214:17 215:1 259:7 311:20
giving 9:5 98:3 216:5
Glen 84:19 128:10 131:3 185:2 191:15 193:16 195:9,19 196:6
glimpsed 40:9
good 69:1 86:12 133:12 158:12 171:17 254:15 292:3 294:13
Google 82:3 83:8,11,13 84:12, 19
government 97:18 134:19
GPD 296:13,16
GPW 297:4
grade 174:1
grades 189:7
Grand 200:6
granted 146:12
graphs 59:16
grass 271:16,19 272:7 276:17 277:12 278:9 281:13,15 283:9
grassy 256:21
gravel 276:10
gravity 227:13
great 301:8
greater 6:1 7:1 232:20 304:1
green 65:16,18 66:19
ground 10:8 162:2 267:18 272:19 273:2 274:8,10,11
grounds 289:17
groundwater 220:14 248:19 300:21 302:3
group 158:2
grout 267:17
grouted 228:19 247:5,6
growth 298:16, 19 299:1,2,5
guarantee 99:20
guard 23:18 60:9
guess 8:1 11:9 17:5 65:7 81:12 97:8 106:15 156:16 161:17 162:4 175:8 209:7 228:11 242:2 244:13 253:15
guide 93:4,8,9 96:18 186:21
guidelines 93:5, 6,10,11 94:4 173:19 214:14 221:12,16 309:13
guys 90:21

H

habits 306:18
half 185:21 186:4,7 219:2,3 274:20 284:3,4 295:16
hall 218:9,10,12, 14 308:5,19
halls 218:8
hallway 4:8
halting 139:15
hand 21:6 22:8 23:17 24:9 50:7 55:3,6 57:8,20 63:21 71:8 163:14 238:17 246:20 248:11
handed 6:16 7:11 17:4
handicap 164:9
handing 6:16
handle 49:16 170:13
happen 84:15 107:14,18 126:12 170:2 267:2 298:6
happened 90:7 169:9
happy 193:6 239:12
hard 188:2
harder 266:3
Harford 8:18 12:7,19 13:13 19:19 20:20 21:6 22:3 25:14 29:2 30:12 31:10 33:2, 10 35:6,10,11,12 39:18 40:3 42:18 45:1 63:4 81:9,20 82:8 83:4 84:18 92:18,20 127:6 128:9 131:3 135:2,4,9,12,19 137:20 141:9,19 142:13 148:19 153:10 157:6 160:4 166:10 173:3 174:16 175:4,10 181:9 188:11 190:13 191:12,20 192:20 193:1,16 195:19 202:11,12 257:11
Hartley 128:9 130:12 185:1
hat 89:21
hauler 267:11
head 64:8 77:10 169:4 209:4 235:16 243:2
heading 25:8 57:6 72:12 185:7 257:14
health 208:15 209:21 210:17,19 212:5 264:20 265:1,12 290:20 292:7
hear 44:5 50:3 57:21 112:20 141:9 199:3 266:21 279:7 297:12 308:8 314:19
heard 26:6 105:8 123:18 164:5 211:21 245:18 291:10 315:6
hearing 5:9,12 9:7 27:18 31:1 50:6 86:5 99:18 107:5 110:16 114:16 141:6 165:21 184:8 294:2 302:10 315:18 316:6
hearsay 242:16
heavier 234:11
heck 130:9
height 257:10

held 218:19 289:19

helped 237:7

helpful 27:6 239:15

hey 187:5

high 153:7 182:9 183:16 218:2 229:9 256:20 257:11

higher 282:18 298:20

highest 122:9 296:4

highlight 187:9, 21

highly 164:15

highway 10:9 12:6,9 13:3,20 23:3 24:3 29:18 30:5 32:18,21 33:2,4,6,12 36:1 38:17 39:4 43:6 44:18 45:12,16, 18 46:4,9,11,13, 17 47:1,18 48:1 60:11 61:9,12,18 66:1,5,8,9 67:3 76:9 77:17 78:14 87:8,16 88:4,15 89:8,13,15,20,21 90:9,16,20 91:21 92:5,9 93:9,18 94:13,18 95:2,5, 8,10,14,19 96:3, 5,11,17,18 97:4, 6,20 98:11,20 99:1,5 100:6 101:15 103:19 104:1 107:10,12 109:19 111:12,15 115:21 116:3,18 118:16 119:1,9, 10 121:11,19 122:6 125:19,21 126:13 127:12,15 129:6 131:4 133:19 136:6,15 138:17 141:2 153:18 154:14,20 155:14 156:3,4 163:15,18 164:3, 12 165:17 166:11,12 167:3 169:14 170:15 173:17 174:12 175:18 176:15,17 178:6 179:9 180:16 184:10 185:8 186:14 187:11,20 188:12 190:11,12 191:5, 17 193:15 312:2

Highway's 38:12 90:11,18 98:13

highways 75:13 96:20 97:2,3

hill 21:2 31:13 35:10 39:21 74:3 77:12,15 140:15 142:2

hills 150:3,6,7

Hindu 133:20

hinge 125:7

hire 230:6,16 281:2

hiring 299:9

historical 286:6 289:3,6

historically 243:17

history 131:7 216:1

hit 72:9 131:20 166:7 248:19,21

hits 259:5

hold 94:16 121:4 128:2 195:13 203:2 210:4 263:10

hole 248:19,20 249:3 263:2 267:14,18 275:3

holes 275:1

Holi 294:15

holidays 218:2

Holster 195:8

Holzer 5:9,12,21 6:7,10,12,14 7:4, 5,13,16 9:13 10:1 11:20,21 14:4,5,9 16:19,20 17:8 18:1,7 19:4 20:3, 11 26:4,5 28:20, 21 31:19 32:3 34:1,3,5,17 40:7, 12,17 44:4 48:12 49:15,19,21 50:2 52:10,13 56:7,18 57:14 59:19 62:14 67:12 71:4 82:3,5,9,11,14,17 84:16,18 85:5,20 86:4,17 94:8,20 95:1,4 102:8,11, 16,18,21 103:3,8, 12 105:6 106:20 109:21 110:6,11, 21 111:1,8,11,20 112:14 113:2,10, 13,16,19 114:1,9, 12,16,17 115:7, 14 117:3 118:4,7, 10,12 119:6,10, 19 120:4,8,12 121:2,6 123:13, 16 124:2,8,20 125:2,11 127:3 132:12,15,21 133:2,3,12 138:7, 15 141:3 143:4,6, 9,13,17 144:19 145:3 146:18 147:3,5,12 150:10,12 151:2, 18,20 152:4,13, 17,18 154:10 157:13,18,21 158:10 160:5,8, 11 161:7 162:12 165:16 166:19 170:21 171:7,8, 13,17 172:1,5 177:14 190:3,6 192:5 193:6,9 194:21 195:2 196:16 197:8,15 198:9,15,16 199:19 200:1,2 202:14 203:9,14, 19 204:2 205:21 211:16,19 212:14 215:17 216:3 220:4,5 237:6,8, 11 239:11,13,21 240:2,4,6,11 242:20,21 254:1, 4 269:21 271:4,7 275:18,19 279:8 281:10 283:8,10, 14,16,21 284:3, 13 285:2 286:11, 21 290:13 293:1, 6,16,21 294:3,5 302:14 305:13 311:1,3,13,20 312:17,18,21 313:6,10,12 314:9,11,16 315:8,15,20 316:7,8,14

Holzer's 4:20 86:21 168:2 314:5

home 11:4,5 35:7 44:17,20 45:14, 21 47:18 126:8,9 135:3 207:7 243:5 253:16

honest 110:18 278:15,16

Honor 84:18 203:9

hood 219:13

hope 72:1 131:10

hoping 105:3

horizontal 139:18

hour 22:17 23:4,5 32:16 38:2 41:7, 10 72:4,8 73:14, 15 74:16 75:2,5 81:10,11,17,18, 21 83:5 84:1 85:7,18,19 92:11 99:16 152:14 153:19 154:5,12 159:9,16,21 160:1 161:1,2,13 162:16 163:5,9, 12,16,18,21 164:1,21 165:13 166:16 167:5,9 168:3,16,18,21 169:10 170:1,16 171:3,9 173:19 174:8,9 180:18 186:15 187:15, 17,18,19 188:19 192:15 249:16 284:3,4 308:21 316:5

hours 109:9 178:8,10 210:2 287:20 305:4 309:20 310:1

house 21:1 45:4, 9 53:15 61:11 189:19 221:15,20 226:16 228:18 245:3 247:13,21 248:4,11 249:19 250:16 251:16 260:10,12 263:15 265:18 268:12 289:13

housekeeping 312:16

housing 288:16

huge 148:15

hundred 78:2 118:19 123:7 182:4,7 227:12, 15 253:2,4 268:16,18 269:7, 10,14 276:3 278:14 294:16,19 305:3 307:10 308:6,18

hundreds 203:1 280:13
hydrants 252:11
hydrology 223:12
hypothetical 88:10 165:12 167:1
hypothetically 169:16

I

i.e. 304:6
ID 143:12 154:16 157:12,18 184:21 271:15
idea 104:19 144:17 242:5 275:9 307:3
identification 19:9 82:13,14,19 83:1 86:1,3 106:19 113:21 115:19 128:3,5 143:19 215:14 270:21 313:7
identified 64:20 82:9 84:1,12 282:10 283:1
identify 13:8 16:12 20:16 47:12 82:7 84:15 86:3 113:12 114:7 194:7 216:12 230:7 259:4
identifying 66:6 194:8
Ignatius 142:2
III 211:7
illegally 164:14
illustrate 55:5
illustration 138:5,12
image 83:9,12,13
imagine 144:9
immaterial 267:17
immediately 12:18 269:1
impact 156:8 169:11 201:15 223:21 225:6 271:19
impacted 60:9 144:14 174:21
impacting 59:5
implication 198:13,14
implies 191:8,10 297:4
important 83:17 111:14 181:7 186:2 199:3,7 289:17
imposes 213:19
improper 55:21 59:8 111:4 192:3 202:14 278:16 279:3
improved 198:2
improvements 33:14 122:11 183:16,19,21 199:12
in-ground 272:12
in-state 261:18
inbound 69:1,9 76:13 91:8,9 149:11 175:11
inch 274:19
inches 273:3,5, 13,21
incidents 182:9
inclined 282:6
include 235:12 236:2 298:19
included 288:4 295:21 296:3 309:3
includes 236:20, 21
including 33:15 197:5 315:1
incongruous 125:8
incorrectly 51:13
increase 46:21 47:3 61:13,15 62:1,4 65:14 69:14 76:14 138:19 139:5,7 192:7 193:1 234:7 287:14 295:3 298:9 310:8,9
increased 62:6 191:20 192:16,19 297:7
increases 62:10 78:10
independent 101:20
indicating 64:5 235:16 243:2 247:7
individual 106:3 250:8,9
inference 199:9
infiltration 225:10
influence 205:8
influential 201:12
inform 132:8
information 14:19 87:17 98:4 101:15 104:9,17 106:12 109:5 111:16 116:2,4 120:2,5,7 121:18 122:15 123:2 125:18,20 126:15 127:18,19 130:19 131:11 134:3 140:8 144:21 156:21 176:21 177:4 179:11,17 182:11 185:9 214:13 254:14 256:2,5 261:8,20 277:13 285:20 300:4
ingress 86:13 88:3 148:11
inherent 217:5
initial 214:8 285:17
initials 240:21 241:8,18
initiating 263:2
inject 103:21
injected 104:8
injuries 132:4
injury 131:20
input 89:12 90:9
inquiring 179:9
inside 142:7 217:11 252:19 262:7 288:11 290:7
inspect 100:2
inspection 213:9 266:10 301:18
install 188:13 196:12 199:15 230:17 272:13,14
installation 198:4 231:3,7,13 232:1 234:10 235:4 275:4
installed 31:12 32:21 176:10 188:6 193:15 196:2 233:7 266:13
instance 48:5 126:2,3 131:8 136:4 146:1 173:16
instances 174:10,13
instigate 292:6
institution 47:13 108:17
institutional 48:2,6,8 94:1,3 135:15
insure 261:15
intended 116:14 217:7 223:17 247:12 259:18
intense 122:9
intent 136:1
intercepted 236:5
interested 64:13 108:7,9
Interestingly 41:21
interior 173:7
interject 106:2 215:17
interruption 216:10 271:6
intersection 12:19,20 13:13 131:3 148:12 160:16 161:11 162:21 165:14 166:17 167:2,6, 13,18 168:1,4,6,

9,11 175:9 182:8 183:6 187:7 190:14,21 191:7, 18,19 192:18 193:16,17,19 195:10,18 196:4, 5,6,11,14 197:10 198:1 199:14 200:18 201:6

intersections 174:21 197:20

intersects 267:18

interstate 97:10

interstates 97:13

intervals 275:2

introduce 6:18 10:15 26:9 55:10 135:14

introduced 6:1 17:13,14 18:2,9 19:8 52:11 54:9 55:15 62:17 75:14 77:12

introducing 84:11 114:2 115:5

introduction 26:6

intuitive 71:5

investigation 85:18 196:19

involved 90:3 121:8 156:20 192:11

involvement 98:20

irregardless 261:17

irrelevant 114:9, 12

ISD 162:19 166:11,20

island 31:2,8

isolation 198:5

issuance 99:4

issue 8:8 20:13 25:15 45:5 80:14 89:14 90:17 98:18 105:14 107:17 112:12, 17,21 114:15 146:3 148:3 174:16 177:9 184:3 190:15 192:18 202:10 205:15,16 231:20 240:1,2 273:10 278:11 304:4

issues 96:11 155:9 209:15

ITE 47:12 108:16 116:4

items 139:21 162:14

IV 305:15

J

James 206:16 207:2

January 99:18, 20 100:9,13 106:14 107:4 111:21 116:12 118:10 119:21 121:9 140:9 159:3 185:2

jet 247:6

job 51:14 56:1 91:3 157:4 301:11,17

Joe's 141:16 142:6 148:1,8,9

john 270:15

Joppa 135:4 136:17,20 137:2, 18

Joseph's 141:10 145:4

Judge 14:16 107:5 209:14

judgment 229:8 268:21

July 10:14,18,20 99:20 100:9,10, 16,17,18 244:13, 14

jump 47:20 109:16

jumping 4:20

June 244:4,5,6, 12

jurisdiction 33:4

justification 196:12

K

keeping 238:20 309:4

key 16:6 18:3

kid 162:11

kidding 133:16

kind 71:10 97:14 123:11 208:21 217:17 229:17 243:19 248:13 262:14

kinds 164:10 174:2

Kingsville 6:1 7:1 314:12

kitchen 219:7,9, 10,11,12,19 250:4 290:7,10, 17,18 291:2,4,5, 7,17,21 292:13 294:8 295:14

knew 313:20

knoll 257:14

knowing 275:21 316:11

knowledge 18:10 20:17 21:12,17 22:4 89:17 119:16 125:15 203:11 219:6 220:12 222:20 223:1,2 243:20 264:4 286:7 289:4 294:6 299:12

Kotroco 5:2 18:8 106:15 113:6 146:21 220:13

L

label 10:2 26:18, 19

labeled 8:13 10:8,13 11:9 19:12 214:17

labelling 20:11

labels 19:20

ladies 304:12

lady 58:17 89:1 291:6

land 137:3 230:21 312:4

landscape 31:8

landscaped 31:2

lane 73:9 137:18, 19 138:17 175:11,12,20 176:5 180:18 187:6 188:14 189:11,18

lanes 148:11 149:7,15 190:1

language 285:14

laptop 108:6 109:14

large 233:10,12 234:18 235:1 275:3

largely 248:15

larger 143:21 183:3 231:4 234:14

lateral 274:20

latitude 32:4

law 14:16 41:8 107:5 125:3 168:20 206:19 209:14

lawful 206:17

Lawrence 5:2

lawyer 191:9

lay 124:8 162:6 204:8,10,11

layer 234:12

layout 192:9 253:12

lead 177:10 194:2

leader 118:20

leading 201:14 266:6

leads 112:8

leave 31:7 112:17 126:11 151:8 153:7 157:18

leaves 314:3

leaving 11:15 17:19 29:1 78:10 153:1 280:12,14

left 21:6 23:7 25:7,10 29:5,6, 12,14 30:10 31:11 42:1,2,3,7, 12,18,21 49:3,4,5

50:12,15 53:5 54:1,19 55:5,7 57:2,6,8,20 58:9 59:3,5,8 60:9 61:7 62:4,20 63:17,18 64:2 66:15,21 67:16, 19 68:1 69:2 71:8 76:1,19 79:17 87:20 88:7 89:9 169:4,11 177:8 190:1 192:17 214:5 253:5,15, 19 254:8 268:6

left-hand 55:18 85:13

legged 196:6

legitimate 199:6

length 139:2 214:11

lesser 92:3 297:5

letter 6:2 106:14, 16 107:2,4,8,9, 16,21 108:13,15 112:1 113:3 116:12 118:9,10 119:21 122:4,16 140:9 159:2 214:12 263:7 314:14

letters 107:20

letting 86:11

level 33:13 149:19 162:12 211:13 227:14 247:8 263:1

leveled 300:3

levels 201:18

libbing 255:2

licensed 209:21 210:7,9,15,17 230:16 248:16 267:11,13

licensure 210:1

lie 301:5

life 41:11,12 43:10

lifetime 19:1

light 30:19,20 63:15 187:7 190:3 200:19 293:9

lights 53:19 187:9

likening 138:11

limit 32:11 36:3, 7,10,16 37:5,10, 13 38:3,6,14,18 39:4 81:10,21 83:21 92:4,11,15 120:15 124:3 137:4,5 159:9 161:14 165:12 166:17 168:15 171:8 173:11,13 174:6,7 187:14 234:12

limitations 27:12 32:1 213:19 290:16

limited 178:18

limits 38:20 92:6 137:8,12 180:20 186:16

lines 40:11 238:9 239:8,20 256:21 258:2 301:7

lining 159:5

list 154:19 155:2, 11 156:2,3,4 238:20 294:14

listen 91:2

literally 133:7 162:1

live 35:9

lives 280:3

living 250:21

local 97:13

locale 144:12,14, 16 146:8 181:7

locate 68:18 69:2

located 25:12 30:13 37:17 50:11,15 54:12 175:21 232:20 266:9

location 21:6,7, 9,13 24:19 26:19 29:11 50:7 51:12, 18 53:4 54:11 55:21 56:12,15 59:4 60:20 61:6 67:9,10,11 68:21 69:19 78:20 79:5 83:19 84:4,9,15, 17 85:9 86:8 91:9 104:10 106:6 129:20 142:11 146:9 163:11 165:7,8 182:10 183:16 192:12 196:13 213:11,12 222:9 226:8,20 227:19 228:13 232:4,7 245:21 246:2,4,17,18 248:5 253:3,12 259:7,12,14 269:18 271:1 272:5 299:16

locations 63:6 183:14

logic 243:9

logical 248:6

logistics 280:12

long 89:7 104:19 109:21 110:8,10 150:19 155:21 181:3 208:2 210:6 216:4,6 308:21 310:1

longer 272:15 273:19 283:19 310:3

looked 55:6 57:11 68:20 156:6 175:8 218:1,6 241:5

losing 80:7

lot 24:11 42:8 44:17 66:13 74:7 93:13,14 104:7 130:11 150:10 169:16 172:21 173:6 174:9,10 178:8 180:12 189:21 216:2 240:15

lots 148:15

love 64:11 66:4 88:6 291:7

low 259:5

lower 21:5 24:1 227:1,13

Lowery 301:12, 14,15 302:9

Luckily 124:17

lunch 103:8 110:2,5 114:19 151:3 152:19

M

Macdonald's 292:17

Madam 4:13

made 59:16 60:19 170:14 199:12 230:5 231:13 249:10 260:2 265:3 291:18

magical 310:19

main 245:3,4 248:1 250:16 253:2,10,11 255:12 266:7 289:20,21

maintain 60:19 169:1

maintained 61:2

maintaining 80:18 169:3

major 126:6

make 4:10 6:11 14:5 15:2,21 17:16 32:10 49:8, 21 51:14,20 58:9 59:8 64:9 66:21 67:4,9,20 69:21 71:16 72:19,21 73:6 74:15 76:4, 5,12 78:1 84:8 91:3,5 92:12,14 98:6,8,9 104:15, 17 109:12 115:2 117:9 131:1 147:18 152:7 163:11 167:4,19 172:15 176:11 181:3 182:19,20 183:13 185:16 187:21 192:14,17 196:13 205:6 211:15 251:19 258:14 261:11 262:3 267:19 280:5 282:3 305:12 312:16 313:7 315:17

makes 8:6 39:16 49:20 76:18 90:1 169:9 174:12

making 23:19 24:9 37:7 49:5 78:2 138:5 165:2 197:13 292:21

man 209:4 301:5

man's 111:3

management 33:11 154:18 220:14 302:3

manager 300:21

mandatory 92:3

maneuver 31:13 70:2 71:16 172:20
manner 87:5 112:9 196:11 255:11
manor 255:12,16 256:7,9,12,14 257:16,18 258:7
mansion 39:20 40:3 236:4 286:14,19 287:18 290:1,7 295:3,6, 13
manual 108:18 154:6 205:9 213:17
map 19:18 84:12 142:12 148:10 150:8 174:18 201:8
mapped 213:18
mapping 223:14
maps 28:3
mark 12:13 28:6 44:19 82:12,14, 21 113:20 115:14 132:13 143:9 192:2 239:12 240:19 254:4 278:8 312:14
marked 7:9 12:3 14:13 28:13 30:6 82:19 115:19 128:5 143:19,20 157:9,13 158:21 194:13 195:6 215:7 237:13 241:17,18 260:3 270:21
marker 53:5
marking 239:14
markings 31:12
Maryland 10:9 13:3 32:18 33:6 38:11 43:6 44:18 46:11,12,21 65:12 84:19 121:19 166:10 207:6 214:14 217:1
match 187:17 194:2
matching 52:20
material 126:1 174:2
materiality 112:7 125:6
matter 54:16 73:21 173:6 182:5 213:18 276:20
matters 293:13
maximum 221:11 237:2 305:15
MDE 217:1 221:9, 16 224:9 297:16 309:13
MDOT 167:3
Meaning 102:3
means 23:2 33:7, 17 92:3 99:12 187:2 205:10 225:9 247:2 257:1 260:8,14, 20 272:18
meant 105:15 254:7 264:2
measure 51:5,9 55:21 170:18 176:9 191:1
measured 50:6, 20 53:4 140:11 158:10 159:6,7
measurement 159:4 170:17
measurements 9:4 51:21 139:19 158:1 233:14
measures 187:13,20 188:5 190:21
mechanism 89:11
median 29:5 50:16 60:4
meditation 287:10
meet 95:2,7 104:13 164:3 165:16 167:3 171:1,12 216:19 223:16 230:6 247:10
meeting 11:2,3,4 101:9 104:14 305:21 309:16,21 310:1,4
meetings 101:13 217:21 296:10 297:2 298:7,8,18 299:10 310:8
meets 94:13,18 259:3
member 195:7 214:11 244:3,20 285:20
members 7:17 10:1 14:14 147:1 195:14 218:11 220:14 245:1 286:16 287:2,15, 18 295:4,5 309:11,12 311:6
mention 7:12 44:16
mentioned 7:10 188:9 221:7 302:20
merits 106:4
met 100:6 161:12 167:8 220:13 244:2 245:5 249:16 285:19 300:6
metal 232:18,21
Methodist 146:20
Mia 301:11,14,15 302:9
mid 244:13 295:2
middle 31:3 73:8 130:13 187:3
miles 22:17 23:4, 5 32:16 38:1 41:7,10 72:3,8 73:14,15 74:16 75:2,5 81:10,11, 16,17,21 83:5 84:1,11 85:7,18, 19 92:10 153:19 154:5,12 159:9, 16,21 160:1 161:1,2,12,13 162:16 163:5,9, 12,15,16,18,21 164:21 165:13 166:16 167:5,9 168:2,16,18,21 169:10 170:1,16 171:3,9 173:19 174:7,9 180:18 183:4,11 186:15 187:15,17,18,19 192:14 225:15
Mill 128:9 130:12 185:2
mind 15:16 27:4 52:15,16 196:12 197:21 241:16 260:20 278:12 292:5 309:4 311:1 313:13
minds 199:1
minimal 93:2 297:17 299:3
minimum 93:6, 12 94:13,15,18 95:3,8 96:3 153:19 154:1,2 164:3 165:16 166:10,11,18 167:7 169:14 171:1,12 224:11 235:9 236:10 249:14,15 261:16 268:14 298:4 302:20 303:20 306:5,7
minimus 178:9
minus 253:17
minute 82:1 206:9 249:1,14 261:17
minutes 102:19 152:6,8 161:5 284:3,5,11 287:4 314:13
mislabeled 9:9
misrepresentation 123:12
misunderstand 256:18
misunderstanding 97:8
mix 187:17
modifications 76:5
modify 187:19
moment 18:13 52:15 86:1 133:19 143:1 167:17 226:7
month 35:15
months 208:4
monumental 60:5
moot 262:11 266:12 297:21
morning 35:13 81:14 99:21 109:9 178:9

mother 297:9
Motsco's 239:18
mound 273:13
Mount 130:12 191:15 193:16 195:19 196:8
mounted 8:13
mouth 129:1
move 24:17 60:12,13 67:6,8 68:18 117:3 118:3 120:13 127:2 171:15 199:21 200:10 222:13 233:18,19 258:17 259:2,6
moved 61:6 69:14 75:16 91:11 299:7
movement 69:21 193:20
moves 78:18
movies 34:18
moving 81:4 117:1 150:11,12 201:19 229:17 284:20
multiple 123:8 212:10
mumbling 308:8
Murphy 6:15 10:3 12:11 13:6 14:10 15:8 17:8,9 27:16 28:5 34:10, 12 65:1 82:16 103:10 106:21 114:11 115:16 117:7,9,13 118:9 152:16 157:12,16 177:16,19 178:13 179:1,8,13,16 180:1 181:5,15, 18,21 182:14,18 183:1,7,18 184:1, 12,16 195:5,11 198:10 205:5,12, 15 214:17 215:10 232:7,12 234:4, 15,18 239:21 283:13 308:7,12 311:7

N

Napali 20:21
Napoleon 187:8
narrative 192:2 285:18
narrowed 103:13
national 93:5 96:18 109:10
nationwide 96:19
natural 255:10 258:3
nature 22:13 28:11,13 144:6 182:3 228:19 292:20
navigable 196:14
navigate 180:20 187:10
navigating 187:4
nearest 200:18 304:3
nebulous 310:11
necessarily 15:2 192:19 308:19
necessitate 192:8,9
necessitated 191:12
Necker 144:2
needed 16:21 98:14 104:17 132:10 140:6 173:16 174:20 183:17 215:21 222:12 235:10 247:14 249:6
neighbor 90:6 292:12
neighbor's 59:6 60:10 68:17 69:8 88:17 90:5
neighborhood 19:13 22:5 142:16
neighbors 240:14 292:19
Nepali 4:3 5:3 8:9 19:19 32:12 172:7
night 7:11
nodding 64:8 235:16 243:2
noon 152:14
normal 191:18 298:16 309:6,20
north 23:14 25:8 29:8 30:13,17 32:16 35:16 36:2, 8,14 37:17 39:17 41:7 58:14 60:13, 14 61:14 63:4 70:18,19 71:3,7 72:20 75:17 76:2, 6,8,13,14,15 81:9,16 91:8 131:10 139:3 153:15 172:6 176:2,3 189:14, 17 190:12,18 191:11 200:20 201:1,2,9 227:20 253:6
northbound 11:11 20:20 25:2, 6 29:6 44:21 68:6,8,12 72:12, 14 73:10 76:20 81:18 88:13 161:14 162:16 163:5,6,14 165:13 166:9 180:15 185:7 187:16
northeast 12:20 13:12
note 145:17 148:20
noted 150:20 218:3
notes 251:2 255:3
noticed 11:5 201:18
notification 22:18 316:11
notifies 281:13
notify 282:8
November 208:8
novo 14:21
number 6:8 7:8 14:12 21:13,14, 21 22:6,7,10 23:8,14 25:13 27:19 29:1,4 32:7 34:21 35:1 39:7 40:13 41:1 43:9, 17 49:1 50:4,13 54:10,13 55:17 56:10,11 57:14 58:2 62:20 64:10 107:1 115:18 120:16 128:4 129:18 131:19 139:7 143:18 150:21 157:4 161:19 175:3 182:8,9 183:5,9, 10,12,13 184:6, 14 195:6,8,17 197:4 215:11 216:7 219:5 220:9 222:5 231:2 237:14 238:17 239:15 240:9,20 241:17 244:21 254:10,18 258:15 278:10 287:13 292:2,4 294:19 295:1 298:21 304:10 310:10,17
numbers 12:2 19:21 20:8 26:14 28:14 34:6 48:17 73:13 74:16 85:14 118:13 304:13 306:6 309:9 313:2
numeral 21:5 305:14 306:3,11
numerals 305:14 307:7,16
numerous 18:17 19:3 130:3 142:8 180:21 181:2 187:12 192:10 196:17 202:3

O

obeying 41:17
object 17:11 20:3 26:5 86:2,14,21 87:21 150:13,18 161:16 165:4 198:16 220:6 263:16
objected 82:6 144:19
objection 6:20 11:21 14:10,11 18:18 20:7 31:19 40:5 59:11 63:1 86:15 93:20 94:14 99:10 117:5,6 118:11 119:3,6,13 120:6, 10,18 123:10 132:11 142:14 144:9 145:18,21 146:6 148:21 161:20 162:2 164:4 171:13

192:1 196:16 198:9 199:20 202:14 240:7,17 279:2 283:10 286:8 290:12 292:15 294:4 312:17,20

objectionable 196:21

objects 137:6

obligation 278:7 282:2,7

observation 142:10

observations 204:7,17

observe 257:13 263:1

observed 153:6

observes 248:16

obstructed 60:17 69:7

obstructing 69:8 77:13

obstruction 88:18 172:15

obstructions 51:18

obtain 171:4 222:1 227:13 249:3

obtained 190:1

occasion 126:13 203:5,6

occasionally 11:5 35:8,11

occasions 18:17 217:8

occur 61:13 92:2 164:15 252:20 304:10

occurred 127:6 132:2 181:8 185:6,8 271:14 313:17

occurring 186:12

occurs 281:15

October 5:12,13 112:14 238:14 239:17 295:2 315:9,18 316:13

offer 11:18 17:7 31:17 114:3 210:9 220:2 278:4

offered 210:14 216:11

office 85:12 217:21

officer 41:3 125:3

official 211:7

offsite 217:10 218:20 288:1

okayed 300:8

ongoing 177:7

onsite 217:9

open 111:3 143:16 177:8

opening 146:17

operate 134:7

operating 148:9

operation 134:4 201:12,13 223:20 243:5

operations 149:10 178:5 259:8 296:3

opine 232:5 237:14

opined 36:2,7

opinion 32:18 38:9,12,17 46:20 48:5 57:19 70:7, 8,9 76:4 77:3 78:19 87:19 89:20 94:2 96:8 104:16 112:3 129:7 135:13 148:6 162:9 178:9 180:7,9 182:1,2,19 184:2, 5,9 187:11 191:1 197:1,18,19,21 198:4 199:4,9,14 200:5 201:12 204:5,6,9,10,11 210:20 223:11 265:12 291:6 311:8

opinions 185:11

opportunity 245:9 267:20 309:2

oppose 90:15,21

opposed 24:4 29:19 190:14 203:6 267:3 305:5 310:3,17

opposing 90:21

opposite 63:8 71:2 77:7

optimistic 8:1

options 74:8

orange 60:15 65:7 66:3 147:15

oranges 147:14

order 54:19 140:19 156:18 177:20 196:13 214:6 222:1 258:11

original 6:14 236:3 243:7,9

originally 258:19

outbound 69:14 148:11,12 175:12,20

outcome 62:11

outdoor 295:13

outlined 12:14 220:21

outs 242:6

outsiders 218:11

ovens 219:13

over-congested 175:6

overflow 275:21 277:3 279:21 280:15 282:17 283:1

overhead 63:15

overruled 31:21 119:6 165:19

overstepped 297:7

overtaxing 298:11

overwhelmed 175:6

owned 13:2

owner 47:9 76:11 135:13 251:14 281:2

owners 216:19

ownership 12:9, 14

owns 58:17 89:1 97:19 189:11,13

P

package 43:18

pages 117:11,17

panic 180:6

paragraph 118:15 120:17 121:7 287:1,18

parcel 65:4,21

parent 258:3

parishioners 148:16

park 271:18 275:8 276:3,6 278:13 280:2,4, 10,13

parked 159:5 271:16 272:4 276:18,20 277:12

parking 100:4 148:12,13 149:13 172:21 173:6 272:7 273:8,13, 20 274:10 275:21 276:1,14 277:3,5 278:8,21 279:16, 18,21 280:9,15 281:12,15 282:9, 16,17,21 283:2

Parkville 82:8

part 14:19 26:10 33:1 36:18 43:5 89:6 95:6,10 98:3 106:9 107:13 112:6 133:9 155:5,6 191:13 204:16 224:4,5 242:16 255:19 267:1 268:5 280:15 282:8,13, 15 289:8

partial 239:4

participation 5:17

parties 298:8

parts 13:7

party 126:10

pass 189:18 223:11

passes 249:4

passing 180:18 188:10

past 58:11 60:3 90:7 98:8 99:21 258:5 293:20
path 136:20
pattern 216:20
patterns 186:11
pause 52:14 150:16
paved 136:21
pavements 130:1
paving 31:11
peak 109:9 178:8,10 188:19 220:21 221:7,10 298:2 304:17 309:5
pedestrian 74:4
peek 221:16
Pen 241:20
pencil 254:5
pending 99:4
people 4:7 31:6,7 37:21 39:2,3 41:13 45:20 49:17 51:4,5,12 103:15 118:18 122:5 123:6,7 124:15 125:13,14 129:11 130:6,13 164:14,16 165:9 172:17 181:16 186:19,21 187:4, 9,13 188:1 192:16 209:18 217:8 223:8 249:20 250:9 258:13 271:5 287:9 293:3 294:17,20 295:8 297:12 301:6 304:14 305:3 306:7 307:10 308:6,18 309:17 310:4
people's 88:17
perceived 203:21
percent 27:1 78:2 221:15 224:9,10 232:21 275:12 276:8 309:7
percolation 222:3 302:4
perfect 66:11 73:18 117:3 169:8 181:15,16 197:6
perforated 272:21 273:2 274:1 275:3
perform 278:3
period 112:3 249:16 268:3,6
perk 222:18 229:20 230:1 231:12
permissible 147:10 263:12
permit 46:19 47:2 67:4 95:6,15 96:11 98:20,21 105:14,20 106:1 154:21 155:6 156:19 230:8,13, 15 251:17,19 277:2 282:13
permits 33:12
permitted 147:8 240:13 292:12
person 73:4 101:9 221:13,18 265:12 281:4,5 307:11 309:13
personal 38:10 131:20 132:4 142:10 199:3 200:5 203:11 204:6 264:7 306:18
personally 74:9 244:8
personnel 222:6
persons 221:17
perspective 149:6
Petitioner 120:19 179:2 206:18 282:8
petitioner's 7:8 12:2 14:12 27:19 28:6 32:7 50:4 113:8 114:4 144:8 145:14 151:17 194:9 195:6,8,17 202:13 215:7 216:7,9 220:9 237:13 239:14,19 240:9 254:9 260:4 285:5 313:2,16
phone 55:9 164:8 221:5,6 300:8
phones 4:10
photo 10:8 26:20,21 39:7,14 83:14 84:3 149:21
photograph 16:7 20:18 21:8, 10,11,14 22:3 23:8,11 24:1,20 39:20 40:13 43:18 81:20 82:11 83:4,12 194:6 196:1 277:11 283:8
photographs 9:9,13,14,17 16:6 17:3 24:19 25:10 27:14,17 28:9,13 34:7 45:8 63:7,11 82:6 237:19
photos 9:7 10:12,16 16:10 17:21 19:17 26:17 27:5,7,9
phrase 280:8
physical 54:11 91:7 181:13 272:8
physically 49:6 51:8 77:9 100:21 141:14 164:18 188:17 189:1
picking 241:11
pickle 314:4
picture 10:8 11:7,8,11 20:19 22:6,7,10 23:15, 18 25:11,12 29:1, 10,11 30:2,12,17 31:9 34:21 35:2 39:10,17 42:3,13 49:1 50:13 54:13 55:3,8 56:11 58:6 63:3,11,20 81:13 84:6,7,13 85:3 144:3,15 195:19 270:20 271:13
pictures 11:3 17:18,20 20:1 21:19,20 29:21 54:5 55:16 62:17 77:12 81:13 82:20 85:17 146:18 163:7
piece 248:10 272:17
pinpoint 266:3
pipe 272:21 273:2,4 274:1 275:3 276:10
pipes 264:11 265:21 266:6,9
piping 274:16, 18,20
pit 228:16,18,19 241:14,18 247:2 265:8 267:17
pitch 174:1
pits 272:15 273:7
place 15:11 54:21 61:11 256:15,19 258:3, 18 287:21
placing 227:2
plain 19:18
Plaintiff 140:20
plan 9:18 10:2 94:13 95:13 117:8,14,20 154:18 155:2,6 176:6 206:15 221:2 222:4,18 226:7,11 227:9 230:14 237:17 238:15 239:16 246:4 264:16 279:13 282:16
plane 225:14 257:21
planned 159:8 289:1
planning 228:21 279:20
plans 11:10 117:21 118:1 208:20
planted 276:17
plat 237:13
plate 23:5
platoons 202:4,5
play 112:4
pleasure 212:14
plenty 32:3 60:8 105:19 224:16
plot 69:11
plows 187:2
Plumbing

265:17
Plumer 144:1
PM 152:15 284:17,18 316:19
point 9:2 25:7 28:8 29:2 31:9 35:3 47:16 49:3,4 51:15 55:2 57:2 59:15 68:3 72:5,6 80:13 87:9 88:12 104:11 127:2,16 131:1 138:10 139:3 163:8 171:16 175:9 177:3 183:8 184:5 194:14 201:16 202:17 220:6 230:13 251:18 252:15 260:2 262:11 266:12 276:20 279:15 284:9 293:7 297:21 302:3 304:11 307:6
pointer 241:20
pointing 30:20 65:16 71:2
points 29:5 62:9 63:5 129:11 148:11 201:13 293:15
pole 63:21
police 41:2 129:15 132:1
policy 75:12 231:6
politically 137:9 174:13
pool 228:18 248:4 251:2,16 252:2,3,4,8 289:12,13 299:19,21
pooling 247:7
pools 252:11
poor 169:7 233:2 289:13
porous 275:14
porta 270:8,12
porta-johnnies 305:8
porta-potties 305:8
portable 217:10 250:6
portion 8:6
position 17:17 38:17 92:9 167:2 242:18 302:9 314:13
possession 254:12
possibility 188:16 293:2 296:9 297:2
possibly 144:10, 18 145:19 190:17 250:21 280:9
post 30:19 85:12
posted 32:20,21 36:3,7,10,16 37:5,10,12 38:3, 5,14,18 74:10 75:3,4,6
potential 9:1 11:15 49:2 63:5 74:8 101:12 132:9 188:12 200:4 210:11 258:18 259:21 278:21 282:9,21 298:20 304:3
potentially 47:12 60:13 114:21 131:2 169:12 303:19 313:20
pottys 270:8,12
pounding 71:2
Powell 206:8,16 207:2,17 210:9, 16 211:17 212:15,21 214:1 215:19 216:11 220:11 222:18 225:3 232:16 233:9 238:4 267:5 283:7 285:3 292:17 299:20 302:19 307:5 313:21
Powell's 215:20
pray 287:3
prayer 218:15 287:10,19 295:5
pre-engineered 275:13
pre-made 275:3
preach 279:9
preapproved 259:6
precise 135:10
predated 208:13
predetermined 136:9 139:3
prefer 77:7
preference 62:7
preliminary 300:9
prep 250:4
preparation 217:13 290:6 294:8 295:14
prepare 28:18 140:19 217:6 290:9
prepared 8:12 140:3,16 175:18 215:4 216:13,17 217:9 219:20 236:15 239:17
285:17
present 141:14 189:4 207:18 293:15,17 314:11
presentation 26:11
presented 140:17 141:1 182:11,13 184:20 220:16 298:20
presenting 179:21 291:15
presently 210:4
presents 215:18
preservation 289:3
President 7:1
pressure 273:11 274:14,16 275:7
pressured 274:7
presume 123:18
pretend 169:21
pretty 157:19 198:10
prevail 97:17 98:12
prevails 97:21
previous 207:20 219:9
previously 64:19,20 125:1 139:8 195:16 265:5
priest 218:17 287:20 288:16 308:16
prime 253:12
Prince 157:1,5
print 109:15 110:1
printed 110:13
printer 109:13
printout 20:10 27:5 312:8,11
prior 31:1 230:13 235:12 236:16 297:6
private 47:9 135:16
privilege 278:10
privileged 109:20
probability 275:12
probative 165:1
problem 77:1 79:4 86:4 87:5 88:6,8 115:13 233:18 271:7 316:10
problems 132:9
proceed 13:19 206:10,11
proceedings 4:1 133:7 150:16 316:18
proceeds 258:16
process 33:12 78:2 95:6 98:3 104:8 154:19 214:2 248:17 252:9 267:21
produce 199:11 250:16
produced 5:7 114:10 127:21 206:17 249:18
produces 265:1
product 109:11
production 112:9,12 250:12 262:1

professional 229:8 268:20
professionally 301:4
proffer 113:15
proffered 59:4 212:18
profile 140:20
program 300:21 301:1,11
prohibit 49:3 224:9
prohibited 49:6 59:2
prohibition 50:10
prohibitions 54:1
project 45:4 106:15 156:1 282:21
projected 292:9 306:12
projection 306:6
projects 96:17
promise 133:12
pronunciation 256:17
proper 17:17 30:5 111:7 138:18 163:19 272:5
properly 39:1 72:16 180:21 313:8
properties 102:6 136:10 224:1 225:6,18 303:19 304:7
property 8:9,19 12:10,14,17 13:2, 11 19:19 20:21 22:5 25:15,17 31:7 32:12 44:11 45:21 46:4,7,10, 20 48:11 50:11 58:13,17 65:7,19 66:1,6,8 67:5 68:13,15,17 76:8, 11 80:14 88:17 90:5 94:5 95:11 99:4,9,11,14 100:1,3,5,6,8 101:1,9,16,21 104:2,4 105:8,11 106:3,8,10 107:3 108:11 116:9,11, 14,19 120:15 121:10 122:9,14 123:2,8 129:12 131:17,21 135:3, 12,13 136:1 139:1,4 141:21 144:14 146:10 153:1,11,15 172:7,18,19 173:8 175:13 185:8 188:14 189:20,21 210:12 211:1 212:21 213:5,10 214:4 216:19 223:3,6, 15,16 224:13,20 225:17,19 226:3 228:7,13 229:4 230:7 231:4 233:8 234:1,19 236:11,12 237:2 238:11 240:14,15 241:6 245:11,15 247:15,20,21 248:10 249:8 251:1,14 254:16 255:6 256:4,7 258:12 260:12 261:1,2 265:2 268:20 269:4,17 270:9 272:17 281:2 285:7,19 288:2 291:8 292:12,19 293:3 302:5 303:2,10, 11,13,15,16 304:3 308:6,18 312:1,13
proposal 58:16 61:12 148:18 175:12 220:16,18 251:19 261:6 280:5,17,21 281:3 292:21
propose 79:1 88:4 91:10 290:9
proposed 10:10 33:17 39:14 54:7 61:4,5,19 62:3 67:10,11 78:8 79:10,21 80:18 86:13 87:3,12,14 88:1,3 91:11 95:7 104:9 119:2 120:15,20 134:18 135:17 145:5,6, 15 147:9 158:3,8, 13,14 159:14 178:5,19 189:16 209:8 210:21 218:6 219:4 221:14 222:10 234:7 240:16 245:20 249:7 260:10,11 262:8 270:19 271:2 279:18 283:9
proposing 63:9, 10,11 67:7 90:10 178:7 248:14 296:11 297:3
prospective 182:17 202:19
protection 209:5 276:21 300:14
protestant's 82:18 114:1 115:17,18 118:5, 7,13 128:4 143:18,20 145:3 150:21 154:15 155:19 157:9 184:21
Protestants 123:14,16,19 128:2 143:11 148:7 270:21
prove 171:9
proved 171:9
provide 67:8 75:20 89:12 101:15 109:4 111:17 116:8 126:15 127:19 176:9 189:18 214:10 247:9 256:11 258:12 277:3 279:11
provided 6:4 111:16 112:2 115:9 120:5 121:7 130:19 176:21 214:13 250:14 254:14 255:9 276:1
providing 95:18 96:7 105:2 130:5 144:5 187:12 267:20
proximity 32:11
Puba 200:6
public 38:2 252:11 311:18
pull 57:1 110:9, 12 169:4
pulled 57:7 131:11 238:10 255:21
pulling 81:2,3 84:11
pump 87:15 142:21 247:7 275:5
pumped 267:10
purchased 285:7,8,12
purely 261:1
purpose 27:21 28:7 64:14,15 120:21 121:2 125:14 260:11 268:4 289:5
purposes 4:20 19:9 67:5,14 82:13,15 86:1,11 106:19 112:10 113:21 115:5 119:8 124:16 128:3 133:11 135:2 205:12 218:13 314:14
push 76:18
put 16:16 26:14 29:18 35:6 48:17 49:19 69:12 89:21 96:16 123:17 129:1 151:20 157:11 158:1 170:19 179:4 186:15 200:8 206:15 227:19 241:8 242:17 246:6 285:14 292:17 293:2 294:10 295:17,19 296:1 309:3 311:18 315:16
puts 132:13
putting 46:15 47:15 63:7 131:5 192:2 268:21
PVC 274:21 275:1

Q

quadrant 13:12 65:3
QUALIFICATIONS 211:18
qualified 197:17 283:4
qualifier 296:8
qualify 297:9
quality 34:14,15
quantity 258:11

quarter 274:19

query 165:14

question 13:12 20:8,11,12 31:1 36:5 40:19 44:3 54:20 59:15 62:14 71:21 72:16 83:17 86:11 87:2,15 90:15 93:16 94:6 95:12 96:21 97:8 98:10 99:8 105:7, 17 110:6 112:6,7, 8 113:12 115:13 120:1,12 121:1,2, 5,6,13,15,16 124:12 125:11 126:19 132:5,8, 13,19 135:10,11 138:14 139:16 145:10,18 146:2 150:5 158:7 160:10 161:5,7, 20,21 162:5,15 165:3,19,20 166:2,4,5,6,9,16 168:2 169:13 170:21 171:7,11 180:3 182:15 183:3 184:13 188:20 190:7 192:2,4,6 193:11 196:21 198:20,21 199:13 202:15 211:3 216:4 218:7 225:5 229:3 235:19 258:10 263:5,10, 17 264:8 269:6 270:1,17 272:4 275:20 277:16,18 278:17 279:3 283:12,18 290:15 291:11,14 294:12 295:11 296:20,21 297:8,13 315:15, 16

questioning 102:15 103:2 113:1 114:18 124:3 165:5 190:8

questions 33:21 48:11 54:8 64:9 70:16 80:9 103:11 104:11 110:14 111:11 116:2 124:20 126:21 132:12 141:4 151:4 152:20 161:8 164:16 172:5 173:10 176:21 177:11,13,15 190:4 193:8,10 195:12 205:20,21 211:16 225:3 235:11 255:2 260:17 283:17 286:3,11 292:16 293:9 296:2,19 302:15 307:5 311:2

quick 102:12 118:15 211:2 229:17 273:18

quickly 110:10 286:1

quit 103:13

quote 74:2 297:17

R

race 169:9

rail 23:18 60:10

rainfall 225:10

raise 89:14

raised 70:17

raiser 73:2

raisers 153:2

raising 146:3

range 274:19

rate 127:6

Ravens 126:17

RCS 256:1

re-explain 109:2

reached 211:13

reacted 111:15

reaction 169:7

read 216:15 306:11

reader 297:4

reading 26:7 305:17

ready 34:2 40:20 72:11 103:14 151:14,18 152:18

real 90:15 112:11 273:18

reality 41:13 281:11

realize 182:14 183:7

rear 148:14 253:15

reason 74:1,4 91:12 92:11 129:13,16 162:2 173:2 190:17 191:17 197:12 222:15 233:16 252:6 264:14 308:21

reasonable 27:13 88:20 93:5 202:6

reasons 196:17 199:10 227:14

rebuttal 314:2 315:1

recall 58:19 141:12 270:9,10 287:5

receive 225:9 251:19 259:16 299:4

received 85:21 125:10 204:1 215:13 220:17 300:4

receiving 225:15

recently 131:6,9

reception 169:7 218:19

recess 103:4 152:14 284:17 316:4

recharge 225:9, 16

recognizance 213:12

recognize 27:2,3 83:18 84:4,9 85:9

recognized 86:8

recognizes 20:10 83:3 157:14

recognizing 18:13

recollection 30:3 37:6 40:8,11 313:11

recommend 88:9,16 91:8 165:11 276:4,11 309:13

recommendation 43:6 60:19 270:6

recommendations 43:9 95:18

recommended 228:20 233:6 247:11

recommending 76:7

recommends 23:3 163:18 170:2

record 5:1 10:5 13:9 14:18,19 15:10,11,12,13, 15,17 16:2 27:11 40:7 53:3 103:17 113:9 124:21 133:11 150:20 152:16 160:3,6 172:20 194:7 207:1 227:7 239:16 241:17 253:14 264:8 291:12

recorded 4:21 282:12 308:13

recording 4:15

records 228:6 233:4,6 243:14 312:4

recovery 249:15

recross 177:10 190:5

red 48:17 200:19

redirect 115:4 172:3 193:12 284:8 302:17

reduce 38:13,20 92:10

reduced 80:6

reducing 36:15

reduction 38:18

refer 19:7 104:4 195:15 239:14 241:9 313:21

reference 160:7 238:13

referred 12:5,12 114:13 115:20 144:2 145:13 276:12,13

referring 45:4,10 59:20 75:10 78:6 110:15,20 115:1, 6,8 122:16 215:3 232:2 246:15

reflect 313:16
reflected 123:3 307:15
reflectors 186:21
reflects 312:13
regard 98:18 106:15 107:8 111:12 203:18 245:11 251:13
registration 209:18
regular 122:13, 19 190:14
regulation 261:18 267:14 297:17
regulations 93:11 221:9 224:9 229:7 230:21 231:6 297:16
regulatory 137:11,12 164:13 263:18 264:2
rehabilitate 251:17
related 8:7 103:21 113:2 140:13 155:9 190:9 192:21 311:18 314:12
relates 19:20,21 24:21 213:7 303:8 312:13
relating 28:3
relation 227:9
relationship 19:17 21:5 31:8
relative 49:18 105:17 110:13 111:14 116:9 135:4 144:5
relevance 112:6 124:4,5 144:10, 17,18 145:19 147:2 150:14,15
relevant 112:2 129:7 130:16 199:8 254:11
religious 47:13 73:1 218:13 232:11
relocate 87:13
rely 37:12 96:4
relying 111:4 112:10
remain 81:5
remainder 267:15
remaining 24:18 273:5
remains 248:4
remark 23:10
remarkable 24:20
remedial 191:12
remember 83:21 191:14 308:10
removal 11:6
remove 66:19 267:13
removed 65:14 88:8,11 89:5 236:6
render 204:4,6 210:20 223:11
rendered 222:7
renewal 210:1
renovating 245:1 291:3,5
renovation 291:1
rented 218:10 288:18
reopening 315:17
repair 208:19 233:3,12
repairs 231:3,7, 14 232:2 234:11 235:4
repeat 36:5 165:20 255:4 308:9
repeatedly 196:19,20
repetitive 8:5 126:19 127:1 151:5
rephrase 260:16 277:19
replace 11:12
replaced 273:6
replacing 10:6
report 132:1 214:9 217:6 218:3 219:21 230:10 231:8 236:15,19 249:10 259:16,17 262:20 263:6,7,11 278:4 285:11,17 288:5 294:11 295:18, 20,21 296:1,3 297:1 300:8,9 304:9 305:7,11
reported 129:14 185:1 236:12 237:3
reporter 4:13,16, 17,19 5:4,10 15:14,18 103:16 124:18
reports 129:18 130:3 292:13,14
representation 293:12
representatives 244:17 286:16
representing 130:6 299:18
request 47:2 88:1,2 104:1,18 175:17 293:18
requested 109:4 127:11,13,14,17 177:1
requesting 179:12 296:11
require 58:16 105:13 106:4,5 177:4 188:13 204:15 221:9 231:1 261:7 267:6 279:10 280:1,16 281:2 290:19 292:8
required 33:8 71:11 72:7 130:14 140:18 156:8,9,10,11 159:16 179:7,8 190:11 191:17 224:11 231:18,19 236:19 243:19 260:6 277:3,14 304:2
requirement 41:2 167:8 230:18 231:8 261:16 268:14,19 269:3 279:11 298:16 303:5,8, 15,17 306:8
requirements 93:3,12 94:13,15, 19 95:3,8 96:2,3 97:1,9,17 98:11 104:2 105:7,11, 18,19 164:3 275:6 303:6
requires 129:3 178:14 210:1 219:13 231:6 267:13 291:1 306:4 309:5
requiring 178:1, 2
resembles 16:15
reservation 315:21 316:2
reserve 220:20 231:1,17 232:2,3, 8,10 233:11 234:5 252:16,18 270:5,17 271:1,2, 11,17,20,21 272:6 278:21 281:12 302:21 303:1,9,10 304:6
reset 166:7
residence 135:16 217:1 243:7,18
residential 47:11 48:2 93:19 135:2,13 214:8 217:3 219:9,11, 19 231:4 234:16, 19 235:2 260:4,7, 14,19 261:1,4,6, 16,19 297:18 298:16 302:5 306:4
residents 181:1 247:14
resolution 112:21
resolve 90:17 112:17 124:18
resolved 110:5 114:14
resolves 20:13
resolving 114:17
Resource 255:10
respect 146:7 268:1
respond 89:16,

18 147:4
responsibilities 107:13
responsibility 106:9 278:18 279:4 281:17
rest 151:4
restate 166:8
restaurant 292:18
resting 315:4
restriction 268:10
restrictive 96:2
result 125:17 198:3 270:1
results 222:15 235:6 243:16 272:21
resume 103:1 215:18,19
retain 256:10
retained 31:5 98:16 100:12 277:9 278:1,3
retire 208:7
retired 208:5 214:6
retirement 211:13
reverse 22:16,21 23:2 24:14 25:8 40:14 41:1 186:15
review 36:17 47:2 67:14 98:2 106:7 126:1 129:10 214:7 251:19 255:18 290:19 292:6,8
reviewed 64:19 129:9 202:9 208:20 216:18 220:12
reviewers 282:4
reviewing 34:16 187:12
reviews 278:20
revisited 18:14
revisory 22:16
rid 252:2
ridge 256:21 257:13,14 258:2
ridiculous 111:8
riding 203:11
rig 259:10
risk 183:4
road 8:18 12:7,19 13:13 18:21 19:19 20:17,20 21:7 22:3 24:1 25:14 26:8 28:1, 10,11,12 29:3,8 30:13 31:10 32:9, 10 33:1,2 35:6, 11,12 36:13 37:2, 7,15 38:12,21 39:18 40:4 41:6, 17 42:2,18,20 43:14 45:1 51:2,4 54:3,18 56:2,20 57:5 63:4 65:11, 12,19,20 66:7 73:8,19 74:3,9 76:6 77:8 81:9,21 82:7 83:4 84:19 92:16,20 93:15 97:2,19 104:4 106:5 122:10 127:6 128:9,10 130:12 131:3 134:18,19,21 135:2,4,5,9,12, 19,21 136:1,12, 14,18,20 137:1,2, 13,15,18,19,20 138:9,10,16 139:2,6 141:9,11, 17,19,20 142:5,6, 8,11,13 143:6,21 144:15 145:4,8, 12,15 146:8 147:7 148:17,19 149:6,8,14 150:7 153:10 160:4 164:10 165:7 166:10 169:1 173:3,13,14,15, 16,20 174:1,4,15, 16 175:4,5,10 177:21 178:11,12 179:18,19 180:3, 4,5,11,13,17,18, 20 181:3,9,13 182:17 183:12,19 184:9 185:2 186:18,20 187:3, 4,10,18 188:11 189:8,9 190:9,13 191:12,21 192:20 193:1 196:7 200:14,17 201:4, 7 202:11,12,21 207:5 252:12 255:16 257:11
roads 21:12 38:1, 19 96:17 97:14, 15 138:4 174:10 193:17 194:1 195:20 196:15 197:6 203:4
roadway 21:1 167:20,21 185:18 189:21 205:11
Rob 206:8
Robert 206:16 207:2
rock 248:18 256:15 267:15 274:1,2
Rockway 207:5
Rogers 220:13, 17 221:6 227:4 244:2,21 285:9, 18 300:7,10,16 301:3,4 313:20
Roman 305:14 306:3,11 307:7, 16
room 4:6 103:16 222:14 224:13,16 287:19
rotate 4:8
rough 233:14 235:15 248:21 269:10
roundabout 67:17 131:6,9 191:2,6 193:15 196:2,13 198:4,8 199:16 201:2,3
route 11:5
routine 186:13
ruler 51:10 52:21
rules 54:3 56:2
ruling 204:4,19
rumble 187:2 188:5
run 58:20 131:20 297:10
running 143:21 242:7 252:12 253:18 257:5
runs 257:6

S

safe 32:15 36:15 39:2 46:16 62:5 69:19,20 70:5,11, 14 78:4 87:8,10 88:20 89:8,10 90:2 91:3,5,15 96:8 129:11 131:16 169:1 170:18 179:21 180:13 181:14 184:10 188:1 196:14 265:12,14 310:12
safely 175:13
safer 76:5 77:21 78:4,9 90:17
safest 60:20
safety 67:14 75:21 76:1 174:3 175:14 178:11 180:11 187:21 265:1
Saint 141:10,16 142:1,6 145:4 147:21 148:8,9
sake 310:17
sanctuary 232:13
sand 273:13
Sanitarian 211:7
satisfactory 222:16 259:1
satisfied 45:15
Saturday 122:5
Saturdays 122:7 130:14
scale 52:6,19 194:15
scared 41:20
scavenger 267:11
scenario 296:6,7 309:1,4
scenarios 164:11,14,16
Schedule 274:20
schist 256:15,16
Schmidt 4:17 5:1,2 6:3,20 7:3, 5,20 8:4 11:17 14:3,7,14 15:1,6, 10,12,19 16:2,4, 11,16 17:4,6,7 18:4,5,8,15,20 19:6 20:12 26:3 27:15,17 28:4 31:16 33:20

34:10 40:5,15,16, 18,21 52:6,12 56:5,9 59:11 63:1 65:9 68:14 82:1, 4,5 83:18 86:2, 15,19,20 87:6 93:20 94:14,17 99:10 105:12,21 109:16,17 110:15 111:10 112:8,16, 19 113:5,10,14, 16,17 114:3 117:4,6,11,16 118:2,11 119:3, 12 120:6,18 123:10 124:10,14 126:21 132:11,17 133:1,3,9,14 142:14,19 143:7 144:9 145:17 146:5,17 147:11 148:20 149:2 150:13,19 151:7, 8,13,16 152:5,12 157:15 160:8,12 161:6,16 162:4 164:4 171:13,21 172:2,4 177:5,12 192:1 193:10,13 194:8,11,13,19 195:13 198:7,21 199:7 200:2,9 202:17,20 203:3 204:3,10,18 205:19 206:7,8, 11,14 207:16 210:15,19 212:20 215:6,12,16,20 216:5 220:2 225:2 227:3,8 232:15 235:18 236:1,20 238:3, 10,19 239:2,5,12 242:19 263:16 264:1 266:16 276:7 277:15 279:2,7 283:7,11, 15 284:4,6,9 286:8 290:12,13 292:15 296:18 299:20 302:16,18 307:4,18 311:4,5, 15,16 312:7,9,11 313:5,14 314:7, 17,21 315:2,5,13 316:2,15

Schmidt's 115:3 190:7

school 148:9,16

scope 214:20

script 132:21 133:1

scroll 49:14

seat 83:3 221:12

seating 4:6 218:14

section 38:20 65:17,18 144:3 175:4 183:12 197:7 202:12 208:17 209:6 211:3,4,5,10,11, 12 220:14 302:4 305:13

seepage 272:14 273:7

sees 32:5 57:15 73:11 275:4

selected 128:9

send 121:18

sending 236:16

sense 8:6 164:2

sentence 297:10

separate 9:2 16:17 62:8 157:8

separation 60:6

September 6:21

septic 208:19,20 209:8,15,19 210:11,21 213:7, 11 214:3,7 221:10 222:1,10 223:5,16,18,21 224:1,3,6,10,14 225:6 226:2 227:2 228:14 229:5,19 230:11, 12,16,19 231:1, 17 232:8,10,12, 18,21 233:10 234:5 235:12 236:3 240:20 241:3 242:2,5 243:1 245:17 252:15,16 265:13,15 266:14,17,20 267:3,4,7,10 268:1,5,11,15,17 269:6 270:2,4,17 271:1,2,10,17,19, 21 272:5 275:4 276:12 278:9,21 279:17,19 280:10 281:12 282:10 283:1,6,9 299:16 301:1 302:21 304:3,6 311:9

series 16:6 213:18 255:11,13

serve 87:4 210:21 228:16 232:10,12 233:7 249:19,20 250:3 259:18 292:5

served 217:9 218:9 232:17 248:6,11 250:2

serves 265:18

service 255:10 258:12 290:21

services 174:18 205:9,13,16

serving 290:19

set 104:3 129:10 135:1,2,11 226:8 297:6

setback 224:11 268:11

setting 227:1

settings 256:21

settle 86:17 268:9

Seven-b 85:5

Seven-c 85:7

seven-year 162:11

Seventy 52:18

sewage 217:13 220:19 221:10 252:18 296:12 302:21 303:9,10, 14,16 304:5

sewer 236:3 242:6 265:21 266:6

sewerage 247:10

SHA 48:7 95:21 98:1 105:7 123:1 178:1,13 188:13 197:13,16,21 198:13 199:1,10 200:4,6

SHA'S 192:8

shallow 247:8 273:11,12 274:7, 13

shaped 312:1

Shara 244:19 285:19 300:9

sharing 104:9

shark 13:16,17 14:9 66:4,5 189:10 195:2 311:21

shark's 64:11

Sharon 35:4 39:10

sharp 24:8

shavings 248:18

shed 205:10 228:18 247:19 251:2,15 252:2

sheet 19:21 65:8

shopping 126:4, 6 136:4,21

short 38:20 52:17,18 53:6 74:13 151:21 216:6

shortly 316:12

shot 275:5

shoulders 256:21

show 9:12 12:10 27:17,18 28:1 51:5 54:5 55:18 58:21 59:17 63:17 77:12 81:12,20 82:4,11, 20 87:9 102:7 115:1 123:7 125:13 127:20 142:11 143:4 144:15 146:18 147:12 154:13,17 194:5,15,17 195:4,18 214:16, 19 226:11 227:6 239:13 253:9 271:13 280:17 282:16

showed 8:21 9:6 50:5,12 61:12 85:18 283:8

showing 10:4 19:16,18 29:12 30:10 42:9 55:20 63:8 64:14,15 65:19 68:9 77:4 83:4 145:15 147:8 222:4 226:13 248:4

shown 11:10 22:7 23:11 31:5, 16 33:16 49:3 55:4 61:9 130:11 144:7 150:7 163:7 175:18 176:5 202:13 230:14 242:19

245:21 253:17

shows 23:16,18 30:14,19 31:2 39:20 42:6 43:18 44:9 57:1 63:12, 14,15 81:21 84:3 194:16 239:18

shrinks 76:21

shy 56:9

side 12:20 22:16 29:5,6 49:4 50:7, 12 53:5 55:3,6,18 56:1 57:8 64:1 66:7,16 76:6 77:7,8 85:13 137:1 174:3 188:11 189:7,9, 15 203:16 204:12 246:3 256:21 310:13,20 313:6

sides 186:18 270:14

sight 8:8,21 14:1 24:21 31:17 49:11 50:6,14 51:6,17 53:6 55:19,21 59:2 60:21 61:2,13,15 62:1,4,10 63:18 64:1 65:14 66:13 67:5,8,18 68:2,5 69:1,9,14,18,20 70:1 71:15,19 72:2,13 73:10 74:13,18 77:2,13 78:10 79:1,4,13 80:1,7,20,21 87:20 98:5 104:9 139:20 159:5,15, 16 160:19,21 161:3,11,12 162:18,19,21 163:2 167:3,10, 14,18 168:1,3,8, 10 169:6,11 175:14 176:9 286:5

sights 174:12

sign 22:10,13,21 23:5 24:12,14,15 29:9,13 30:10 36:2 38:21 41:1 43:14 58:12 85:8

signage 23:12 24:4 28:10,11 32:19 92:3 165:10 188:5

signal 148:10 149:9,10 191:3 200:21 201:1,13

signalized 148:12 174:20

signals 201:11, 15

signature 106:17

signed 6:2,3,14

significant 81:18 174:11 189:6,7 191:11 196:12 198:3

significantly 77:4 192:16 201:11

signified 45:1 63:12

signify 55:13

signifying 44:19

signs 22:15 23:2 24:7 28:1 30:7 31:14 32:19 37:16,17 41:18 42:8 43:12 44:19 45:2 180:19 186:15,17

silent 4:11

similar 27:11 102:3 135:16 183:14 303:8

similarly 16:5 312:7

simple 279:13 298:13

simply 41:17

single 44:17,20 45:9,14,21 47:9, 17 126:8 137:18 243:5,18 260:11 261:3,12,13

sinks 306:19

sir 5:1 7:16 28:17, 21 44:15 59:13 85:10 91:4 94:3 115:20 121:13 152:21 175:7 195:17 204:18 227:17,21 229:21 253:8 255:21 284:6 307:12 311:14

site 9:15 11:15 18:16 19:3 22:4 27:8 29:1 30:9,13 32:16 36:17 37:12,18 42:15 43:4 44:1,6,8,9 45:4 47:2 48:4 53:10,12,13 59:1, 4,5,8 63:18,19 65:15 67:7 69:10 71:12 72:11,12, 14,18 73:1,3 76:16 77:6,15,16 78:10,13 81:16 87:20 99:21 119:2 126:2 131:10 134:2 135:1 136:3 139:19 141:10,15 145:5,15 147:9 148:14 149:12 154:11 155:5 166:15 185:7 190:12,19 200:11 206:15 213:20 214:12 217:4,8 218:7 222:14 223:1,6,14 225:11,14,15 233:13,18 234:1 244:1,3,7,16,19 248:14 250:2,3 254:13 255:21 257:7,9 258:14, 18,20 259:2,3,10, 12,14 270:8 271:14 275:2 276:2 282:16 287:9 301:11 304:3

sites 147:19 179:5

sits 259:10

sitting 41:3 55:18 57:1,11 63:20 119:17 231:16 232:5 251:7 257:10

situated 257:13

situation 75:21 89:19 178:4 203:12 214:9 216:21 275:7,21 293:5 303:21

size 106:7 262:6

sizes 274:18

skin 34:19

slam 37:13

slide 76:13

slightly 194:14

slit 42:4

slope 226:12,14 256:21 257:2

slopes 224:4,8, 10,12,14 226:10, 17 229:6,14 232:20 234:3

slot 272:19

slow 36:4,8 37:10 192:12 210:13

slurred 256:16

smack 130:13

small 296:5

Smart 4:15,16,19 15:16 124:18

SMITH 164:7 195:1

snacks 250:14

sneezed 40:15

snow 187:2

snowy 130:2

social 178:14 298:8

soil 208:16,17,18 211:11,12 213:14,16,17,18, 20 222:3 223:11 229:20 230:1 231:11 234:9 235:6 243:16 255:18,20 256:2, 6 257:2,4,16,18 258:7 268:9 272:21 273:14,15 274:2 275:14 301:10,18 302:4

soils 213:5,14,18 223:2,12,14 255:5,11,12 256:3,8,9,12,14, 19 257:4 258:2

solution 191:7

solves 88:6,7

someone's 165:13

sort 16:6 104:15 212:8 213:6 252:13 289:3

sound 308:9

sounds 70:21

south 19:2 20:21 22:8 29:12 30:9, 16 32:16 35:16 36:2,8,14 37:17 49:5 57:6 58:2 60:21 71:2 79:2 91:7 136:3 139:3 149:12 158:4,11 169:4 175:21

189:10,15 191:11 201:9,11 226:18 227:16 228:2 257:14

south/ southwest 257:15

southbound 30:8,12,18 59:3 60:3 63:4 66:6 67:15,17 68:7 79:6 80:2 81:14, 15,16 85:19 88:7 160:1 161:13 172:7 180:15 187:15 192:13,14

southwest 189:20 254:2,3

space 282:20

Spaced 242:10

spaces 149:13 276:1

speak 61:17 195:3

special 122:3 126:12 130:8 142:15,21 144:12 146:3,11 177:20 178:16,18 179:18 184:2 279:5 311:7

Specialist 210:1, 7,10,16,18,20

specific 55:10 105:11 106:6 141:21 184:6 218:7 223:7 257:8 275:2 282:20 296:2

specifically 108:7,9 125:16 149:4 182:7 183:5 218:13 270:10 294:12

specifics 299:8

speculation 199:10

speculative 165:3 292:16

speed 22:16 23:5 32:11,15 36:3,7, 10,15,16 37:5,10, 13,21 38:3,6,13, 18,20 39:1,2,4 73:14 74:10 81:9, 21 83:21 92:4,6, 11,15 134:10 135:21 136:5,9, 11 137:2,3,5,8, 12,16 138:2,3,18, 21 139:2,6 159:9 161:14 163:6 165:11 168:15 169:20 170:13 171:8 173:11,13, 14,16,18,20,21 174:5,6,7,8 180:20 186:16 187:14,17 202:6

speeds 97:16 130:1 134:11,13, 17 135:1,9,11,18 137:10,11,12 163:4,19 168:20 170:19 192:13

spelling 207:1

spent 152:19

spigots 306:19

splain 272:11,12

split 62:8

splitting 80:19

spoke 214:11

spot 35:6 230:5,7 259:6

spots 40:9

spread 234:14 305:4

square 109:6,7 116:5 231:1 233:15,20 234:10 235:5,9,10,11 241:18

squeeze 314:10

SSD 162:17 166:10

stadium 126:17

staff 217:21 299:9 305:20 309:10,12,16,19 310:2,9

staffing 296:10 297:2 298:18

stage 197:1

stainless 219:16,17,18

stand 4:4 121:9 240:18

standard 153:19 154:1,2 165:17 166:11,12,18 167:7 171:2,12 216:21 272:12 275:2 277:4

standards 93:7, 9 95:19 97:15 167:3 169:14 173:20,21 247:3, 4,11

standing 55:16 74:5 81:8 309:1

standpoint 24:6 29:18 45:12,13, 20 144:4,12 148:17 175:1 176:12 245:10 263:18 291:19

start 25:8,11 124:10,12 151:19 240:12 298:6 314:5

started 104:21 123:14 284:20 291:3

starts 258:7

state 10:9 12:5,9 13:3,20 23:3 24:3 29:18 30:4 32:18, 21 33:2,4,6,12 38:11,17 39:4 43:6 44:18 45:12, 16,18 46:4,9,11, 12 47:1,18 48:1 54:17 56:2 60:3, 11 61:8,12,17 64:16 65:21 66:5, 8,9 67:3 76:9 77:17 78:3,14 87:8,16 88:4,14 89:8,12,15,20,21 90:9,11,12,13,16, 18,19 91:2,21 92:5,9 93:5,9,18 94:7,10,13,18 95:2,5,8,9,14,19 96:3,5,10,17,18, 20 97:2,3,4,5,18, 20 98:11,13,20 99:1,5 100:6 101:15 103:19 104:1 107:9,10, 12 109:19 111:12,14 112:1, 2 115:10,21 116:3,17 118:16 119:1,8,10,16 121:10,19 122:5 125:18,20 126:13 127:12,15,16,17, 18 129:5 131:4 133:19 136:6,15 138:17 141:1 153:14,18 154:14,20 155:14 156:3,4,19 163:15,18 164:3, 12 165:17 166:10,11 167:3, 7 169:14 170:2, 15 171:12 173:17 174:11 175:17 176:15,17 178:6 179:9 180:16 183:14 184:10 185:7 186:14 187:11,19 188:12 189:11,13 190:11,12 191:5, 17 193:15 206:21 209:18 230:20 269:4 303:5 309:4 312:2,8,12

State's 91:3 157:3

stated 58:21 116:2 299:13

statement 161:10,15,17 162:5,6,10 262:3

static 81:6 263:1

stating 135:18 171:6

statistics 109:10

stay 229:9

stayed 212:12

steel 219:16,17, 18

steep 224:4 226:10,12,14,17

steeper 234:3

step 133:5 147:17 214:8 221:21 229:18

steps 214:6

stick 138:1

stipulates 297:17

stone 273:1,3

stop 51:19 58:12 72:7,9 73:15 74:2,12 75:21 90:20,21 133:4 165:14 166:14,17 169:5 173:3 191:2 201:14 273:18

stopped 11:6 67:16,19 72:11 73:7,9,19 201:20

stopping 71:9,15 72:2,13 73:4 74:18 154:3,11 160:9,17,18,19, 20,21 161:3,12 162:18,19 166:15 167:10,13,14 168:7,8,9,11 169:6 259:8

storage 249:3, 13,15 262:5,6,8, 14,21

storm 23:21 169:8

story 250:19 253:7

straight 52:3 149:17 192:14 301:7

straightforward 296:21 301:6

stream 226:16

streams 229:11, 12,13 311:10

street 22:18 30:20 42:1 44:20 53:15 58:11,13 68:16 69:8 83:9 84:19 187:7 191:13,14 192:15

streets 42:10 75:13

stretch 181:9 185:18 202:11,12

strict 203:6

strike 106:13

strip 185:6

strips 187:3 188:5

structure 45:9 251:17 265:18 273:15

structures 248:7

studies 139:18 140:6 163:19 179:14 204:15

study 126:12 131:8 156:8 249:10

stuff 105:20 212:12 243:19 289:6 293:13

style 192:6

subdivision 230:21

subdivisions 234:16

subject 116:11, 14 135:1 145:5 146:10 190:12,19 224:12 267:11 277:6 314:21

subjective 36:12 37:9 38:9,16 163:17

submission 154:18 155:2,6,7 157:8

submissions 157:7

submit 6:4 216:16

submitted 28:9 156:9 159:2 175:18 176:14 177:8 216:17 219:21 230:2 236:15,18 300:17 302:6,12

submitting 220:7

subpoena 112:13

subsection 297:16 305:14

subsequently 212:10

subsidence 257:2

substantial 148:13 173:7

substantially 27:10 191:21

substitution 6:6

successive 56:11

sudden 43:19 46:3

suddenly 73:11

sufficient 199:15 231:7 249:12 256:11

sufficiently 247:9

suggest 202:9 282:1

suggested 78:12 294:15

suggestion 296:14,15

suggestions 89:16

summary 215:3 216:12 217:14 219:20 231:9 237:4 260:6 278:4 285:4,11, 15 291:16 302:12

summary's 236:13

summer 294:19 304:18

summoned 302:8

summons 302:9

Sundays 122:8 130:15

Sunshine 201:5

supervised 208:18

supervisor 208:16 209:3 211:6,9 300:20 301:10,18

supplemented 107:9,16

supplied 247:13, 15,16,20 252:5 261:15

supplies 252:11

supply 265:7

support 89:4

supporting 87:21 88:1

suppose 37:8 72:19 88:19 252:3

supposed 4:6 34:20 37:16,19, 20 42:19 51:1,3 54:3,6 55:1 56:3 111:17 180:14 246:2 268:13

suppression 219:13

surface 225:10 234:11 257:5 273:2,15

surfaces 219:16

surmise 248:6

surround 226:11

surrounding 19:19 65:7

survey 139:19 140:14 159:8 186:13 213:17

surveyor 254:15

suspect 248:7 259:1 266:8

suspected 256:6

sustain 20:7,12 119:13

Sustainability 300:14

sustained 120:10 294:4

swale 257:21

swales 229:8

sway 184:7

swimming 289:12 299:19,21

sworn 206:18

synagogues 147:1

system 12:12 20:17 144:16 145:16 174:16 194:6 210:11,21 213:7 214:3,7 221:10 222:2 223:18,20,21 224:3,10,14 226:2,5,19,20 228:5,10 230:17 232:12 233:1,7, 11 234:13 235:10 236:3,4 241:4 242:2,11 243:9, 15 253:13 265:13,15,17,18 266:8,11,13,17, 20 267:3,4,7,10 268:1 269:1,2 270:2,4,17 272:9, 10,13 273:9,11, 12,14,17,21 274:6,8,10 275:4, 5,7,10,16 276:8, 9,21 277:7 278:6 280:1,5,17 283:6 296:12 298:10,11 299:16 302:21 309:5

systems 208:19 209:8,19 213:11 223:5 224:1 272:15 275:13 304:6

T

table 90:14 127:21 128:7,14, 16 185:3

takes 82:10 166:8 235:20 293:12

taking 74:6 187:20 190:10

talk 5:9 54:17 113:6

talked 6:3 28:10 40:14 92:8 147:20 169:5 176:17 277:1 289:16 299:15 300:5 301:19 305:13

talking 13:7 46:18 56:17 71:1 89:19 130:21 154:19 163:2 183:18 184:1 202:18 232:1 233:4 286:18 297:12 298:7 304:19 308:8

tall 49:17

tank 232:18 233:1 252:12 262:6,14

taped 308:12

taught 258:5

Taxation 312:12

teacher 297:9

team 100:7 101:13

technically 11:12 152:8 169:5

technology 303:2

telephone 63:21 300:17

telling 37:18 56:1 178:21 287:5 288:14

tells 23:6 42:17 43:14 233:1 281:11

temple 20:21 21:1 25:20,21 118:19,20

temples 133:21

ten 29:1 31:9 49:1 50:13 102:19 126:11 174:7,9 186:5 235:5 261:18 295:2 303:12

tenant 226:16 247:21 288:5,15

tend 92:7

tendency 273:15

tennis 276:19

term 64:12 66:4 71:17 209:7 211:7 274:6

terminology 232:1

terms 21:6 31:17 32:15 33:7 37:9 51:6 54:17 99:7 133:21 145:7 153:14 173:3 175:3 177:21 178:14,15 180:8 184:2 185:11 190:8 193:18 219:4 229:19 237:20 250:11 254:12 256:10 257:10 286:9 290:17 304:14

test 142:15 213:16 222:4,15 223:11 229:20 230:2 231:12 249:4 263:3

tested 233:16

tester 234:9

testified 18:2,16, 18 22:15 32:9,14 36:1,6 39:20 40:2 58:19 64:20 79:15,16 86:7 122:2 126:16 133:20 141:7 144:21 147:6 153:6 164:11 169:19 174:14 176:8 179:3 182:3 197:2 202:15 206:19 249:19 252:1 255:5 266:16 285:13

testifies 132:12

testify 18:10 20:9 22:2 39:13 41:16 77:10 98:1 181:1 199:8 209:12

testifying 17:12 62:21 63:5 82:21 86:5 140:1,4 171:14 179:2 196:17 198:17

testimony 8:7 14:1 28:2,9 36:4 37:9 47:21 70:17 84:11,17 94:12 95:13 96:7 103:18 107:21 111:5 112:10 115:4 120:19 125:8 132:14 134:3 144:5,20 145:14 154:9 160:15 165:6 179:20 182:1 190:9 192:2 199:18 200:3 203:10,13,14,20 204:1,17 210:11 226:1 237:16 242:3 245:18 251:14 254:12 271:8 313:21

testing 235:9

tests 208:17,18 222:5,13,15,18 233:17 234:9 235:6 243:16 272:21

thereabouts 242:10

thick 257:5

thing 97:21 119:15 153:18 196:20 203:16,17 204:13 212:8,12 242:14 252:17

things 12:4 67:13 86:6 109:19 122:3 136:12,15 153:2 164:17 174:2 177:10 237:7 240:16 266:3 285:4 292:10,20 298:17

thinks 164:17

Thirty-seven 208:4,10

thought 7:4 43:12 56:7 90:12 134:12 170:11,14 239:7 258:19 264:1

Thousands 209:10

thunder 237:9

tickets 74:6

Timahoe 144:1

time 6:2 7:17 8:7 9:14 24:12 32:14 33:18 37:12,21 41:20 42:19 53:9 60:8 74:12,13 75:14 83:7,13,21 100:5 102:14,16 104:11 110:2,14 117:21 122:2,16 128:11,13,14,16 136:18 137:1 147:18 156:10 169:3,6,7,10 174:11 177:4 195:18 202:2 207:18 211:13 212:5 218:14 222:8 230:13 244:11,12,13,19 245:5 251:18 260:18 261:11 268:3,6 270:8 279:21 284:12 297:11 304:11,16 305:5 309:1 311:15 313:15 316:1,4

times 18:20 19:3 24:11 35:12,15 40:15 42:8 44:18 83:16 87:7 93:13, 14 99:14 100:8, 19 101:7 118:21 142:8 160:13 180:12,21 181:2 200:12 202:4 203:1 213:2 244:8 259:2

Timonium 146:20

Timothy 5:2

tired 132:12

tires 169:8

title 207:13

today 4:6,16 5:4, 14 49:2 53:21 59:18 62:18 77:4 92:8 119:17 120:14 123:1 124:18 151:15,19 152:10 231:16 232:5 247:4 263:14,19,20 284:2 311:17 313:17 314:4,5, 10

today's 241:19 247:4
toilet 242:2 263:15 264:2 265:14 306:19
told 18:8 108:20 109:8 132:17 134:6,9 178:6 218:12 219:14 228:4,7 236:14, 17 241:4 242:11 243:6 246:2 251:10,11,14 259:20 269:14 285:21 286:15 287:2,11,17 288:1 289:16 290:10 291:16 294:18 295:8,12, 17,19 296:13 299:21 300:1,11, 16 304:18 305:10 308:17
tomorrow 263:14
tonight 103:15
top 21:2 39:21 157:4 272:7 273:2,3,4,8,14 274:3,11 276:6 278:8,21 281:12
topographic 213:6 227:1
topographical 238:9 239:7,20 256:20
topography 188:11 213:13 223:13 224:3 226:12 237:18 238:18 239:3,13 240:18 254:17
torn 251:7
total 129:14,15 236:19 305:15
totally 251:17
touch 76:7,8
Towson 38:1
traffic 23:13 24:5 29:13,17 30:15 31:10 37:21 45:13 69:11 73:9 79:6 98:16 126:7 127:4,21 128:18 130:9,16 131:5 144:4 145:12 146:7,9 148:10, 17 149:5,6,8,9,10 152:21 153:10,13 155:10 156:8 164:12 174:19 175:6 176:11 177:17,20 178:17 179:4,5 188:4 190:8,10,15,17 191:3,9,11,20 192:8,19 193:1, 19 196:10,15 197:3,4,12,17 200:18,19,21 201:1,14,15,16, 20 202:4,7,16,21 203:7 204:5,21 205:10 239:1
transcript 5:5,7
transcripts 124:19
transfer 312:14
transportation 96:19 108:17 205:2
travel 83:20 167:20 170:1 187:4 192:13,15
traveled 180:14 183:4,11
traveling 25:2 72:3,8,14 168:20 181:4 187:13 188:1
travelling 56:20 57:5 168:18
travels 203:5
traverse 74:3 202:6
treat 47:8
treated 265:5
treating 231:11 252:10
treatment 265:7
tree 272:3
trees 13:21 58:17 64:16 89:2 164:19
trench 272:13, 15,16,19 273:1, 21 274:5 275:15 276:8,9
triangular 13:14 14:8
trip 36:20 99:7 108:17 109:5 116:3 121:19 126:1,2
trips 48:3 116:5 122:10 126:9,11 139:5,7 178:7,8
trouble 291:9
trucks 252:12
true 38:2 84:10 223:16 301:2
trust 301:6
Trustees 309:17
truthfully 41:13
turn 21:4,21 22:8, 16,19,21 23:2,6, 7,17,20 24:9,15 25:3,8 29:21 30:1,6 36:10 37:2 41:1,21 43:1 49:5,21 55:5 57:6,20 58:9 59:1,3,5,8 60:8, 17,20 61:15 62:20 63:17,18 64:1 66:21 68:5 70:18,20 71:8,12 72:11,21 73:5,6, 11 74:1,10 77:9 79:9,17 80:8 85:15 87:20 88:8, 14 89:9 93:1 149:7 163:12,13, 14 164:20 167:5, 20 169:1,4,9 170:13,17,18 172:9,10,11,13, 14,15 173:2 186:15,18,19,21 190:1 192:15,17
turned 4:10 50:19
turner 76:19
turning 55:1 67:16,19 68:1 72:17 73:19 76:15,16 77:15 81:1 169:11 172:6,7,17 304:9
turns 23:3 24:8 32:15 37:7 39:2 56:2 76:1 180:16 188:19 305:11
Twenty 37:1
type 48:6 89:19 92:16 102:4 108:21 126:1 129:19 139:10 174:1 178:4 192:7 202:10 204:15 209:17 221:13 272:9 280:18
types 38:19 44:19 97:15 183:15
typical 92:9 108:21 121:20 122:12 126:7,14 217:18
typically 38:19, 21 47:11 65:6 71:15 92:5 121:18 122:6 125:21 129:3,17 155:5 174:8 180:10

U

ultimately 144:13 213:15 259:11
Unanimous 15:9
unannotated 20:9
uncomfortable 242:17
uncommon 165:9
unconfined 225:9,21
underlying 233:11
underneath 23:5
understand 4:17 9:13 14:20 15:14 27:21 29:15 41:19 51:3,12 52:2 54:19 55:15 56:4 72:16 86:11 87:2 88:19 91:4 96:21 111:13 112:5,7 121:12 124:2 137:14 147:13 150:18 156:14 161:18 166:6 184:6 186:2 198:18 204:3,18 222:18 241:11 251:2 256:3 259:15 270:13 272:1 276:15,16 277:11,15,17 281:21 297:8,13 305:12 307:8,21
understanding 19:15,20 27:12 31:21 105:19

125:4,5 133:21 307:15

understands 116:18 121:15

understood 47:21 94:2 105:16 126:17 157:19 177:6 198:12 199:17 200:3 263:20 267:1

undue 201:18

unforeseen 296:9 297:1 298:6

unique 257:9,12

United 146:20

universal 4:18

unknown 264:12

unsafe 69:21 88:10 90:2 91:17 92:14 96:8 181:3

unsigned 6:9

upgrade 136:14

uphill 303:21

upped 298:17

upset 39:15

Upside 13:17

urging 299:7

usage 214:9,13 215:3 216:12,20 217:4,5,7,14,18, 20 223:17 231:8 234:6 236:13 243:7 250:7 260:6,21 261:1 263:7,8 278:4 282:18 285:3,15 295:3,14 296:4 297:18 299:3 302:11

USDA 213:17 255:10,21

useable 99:9,11

user 230:19

utilize 77:7 99:4 251:15 291:17

utilized 36:13 116:4 251:5,6,8, 12 255:1

Utilizing 71:21

V

vacant 228:7 288:9,12

valley 257:17

valuable 256:3

valuation 231:12

vandalized 288:13

varies 97:14

vehicle 50:20 57:1,11,19 59:5, 18 60:5,6,7,8 67:15,16,19 68:4, 9,12 69:4 71:11 72:11,13 74:2 76:15,16,20 79:8 80:2,3 88:12,13 167:19 168:2,17, 19 169:1 170:13 183:4,11

vehicles 67:14, 20 74:11 75:21 81:1 153:1,6 175:3,13 183:12 201:19 271:18 277:11

venture 221:19

venue 218:20 221:13 288:1

verified 301:12

verify 256:5 285:4

version 20:9

versus 93:11 140:13 178:11 218:1

vertical 139:18

VI 306:11

vicinity 223:4 229:1 242:11,12 266:7

view 11:15 60:2 63:3 69:4 83:9 84:19 193:10 223:20 224:14 254:15

viewing 26:17

views 261:6

violate 41:8,9 169:14 278:10 293:3,11

violation 164:1

visit 270:8 287:9

visited 19:3 214:12 244:7,17, 19

visiting 217:8

visits 22:4

Vista 130:12 191:15 193:16 195:10,19 196:8 286:4

visual 68:5 140:11

visualizing 27:2

visually 13:8 51:16 88:11 89:7

voice 316:1

voices 271:5

volume 153:7 178:11,17 180:10,12

W

wait 4:7 70:21 82:1 139:15 143:13

waiting 5:15 104:12

Wal-mart 136:5

walk 278:14

walked 100:6,7 213:9

walking 74:5 159:5

walls 272:13

Walmart 47:15 126:3

wanted 10:14 14:5 51:21 59:3 66:14 190:13 203:19 207:12 211:15 311:17

warming 290:6, 19

warn 42:14

warning 24:12, 14 29:8,13 37:16, 17 187:5

warnings 32:19

warrant 183:20

warranted 188:19

washed 257:3

washing 250:4

waste 110:14 213:20 231:10 233:16 278:5

watch 37:18

watching 41:17

water 214:9 215:2 216:12 217:14 219:20 221:19 225:15 229:7 231:8 236:13 247:8 248:21 249:6,17, 21 250:5,7,11,16 252:4,6,10,11,14 256:10,11 257:20 258:11 260:6 261:15 262:15 263:1 264:10,21 265:4,7,8,13 267:19 270:3 278:3 285:3,11, 15 302:6,11

ways 35:20 281:8

weathered 256:15,19 258:3

web 255:21

wedding 218:16, 19 287:19 305:19 307:9,10 308:1,3, 16 310:4,10,13

weddings 218:5

weeds 11:6 65:13

week 35:12,13, 14,15 36:13,20 83:20 121:21 130:7,15 174:15 200:15 206:4 217:19

weekday 217:21 282:19

weekdays 118:19 119:1 287:8

weekend 122:1 287:13

weekends 118:20 130:14

weeks 36:20 105:4,5 156:18 220:17 300:17

weigh 177:20 179:10,17 180:7, 8 184:4

weighing 178:15
weight 125:9 280:18
welfare 265:2
well's 248:5
wells 224:2 225:9,20 247:4 248:6 272:14 304:6
west 66:7 189:7 226:13,15 253:20
western 224:4
wet 130:1 169:7
whatnot 314:15
wheel 159:4
whichever 82:15 158:7
whomever 278:20
wide 272:20
wife 288:16 291:7
Wind 201:9
winter 10:8 105:1
withdraw 59:11 199:19 264:7
withdrew 215:9
withstand 280:18
witness' 11:19
witnesses 124:4 151:14,21 152:1 293:14 311:16 313:15 314:6
wondered 264:19
wonderful 20:19
wondering 188:10 255:1
woods 271:10
word 45:3 172:9 220:17 301:9
words 56:21 102:5 104:3 122:21 129:1 140:15 158:15 258:17 286:14
work 33:9 61:9, 21 155:21 207:7, 21 208:2,21 209:18 228:11 256:8 274:18
worked 61:10 171:19 208:9
working 30:4 233:5 245:1 307:1
works 69:13 222:11 241:21
world 181:15,16
worry 18:12 298:10
worse 77:4,14 79:5,7,8,11 309:1,4
worship 146:21 227:13 287:3,9 295:6
worshipper 118:21
worshipping 287:14
worst 296:6,7
worth 46:17
wrap 283:21
wrapping 103:6 283:20 284:21
writing 221:5
wrong 71:17 158:15 290:14
wrote 106:14 107:2 172:9 286:12

Y

year 122:7,12 123:6 129:13 182:21 183:4 221:11 244:4 289:19 295:2
years 30:4 36:20, 21 37:1 46:1,16 61:11 77:19 137:16 208:4,9, 11 209:9 210:2,8 211:21 212:16 216:2 223:4 228:8 243:18 247:14 256:8 298:11 301:5
yesterday 263:14
yield 249:1,4,13, 14 259:2 262:20, 21 263:2
yielding 259:5
yields 258:21
York 37:11
young 291:6

Z

zone 180:19 205:2
zoned 65:12
zones 188:10
Zoning 209:14

Day 2

BOARD OF APPEALS OF BALTIMORE COUNTY

Case No. 18-122-X

In the Matter of: Nepali American Cultural Center

Re: Petition for Special Exception pursuant to BCZR Section 1A01.2.C.6 to allow a church or other building for religious worship on property zoned RC-2.

* * * * * * *

Baltimore County Council's Chambers
Historic Courthouse
400 Washington Avenue
Towson, Maryland 21204

Thursday, September 6, 2018
Commencing at 9:22 a.m.

****

IRWIN REPORTING
301 W. Pennsylvania Avenue
Towson, Maryland 21204
(410) 494-1880

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I N D E X

Testimony of: Page

John Motsco

By Mr. Schmidt 14, 33, 198
By Mr. Holzer 18, 105, 218

Joseph Caloggero

By Mr. Schmidt 238, 244
By Mr. Holzer 243

P R O C E E D I N G S

MR. GARBER: Welcome everyone to Day 2 of the Nepali American Cultural Center matter, Case No. 18-122-X. Again, this is the Day 2. We are convened here again today at the County Council room. With that in mind, I know there was confusion as to whether or not we should be back at the Board or whether we should be here.

I understand from Ms. Kennington, who works over at the Court of Appeals, that she has asked that if there is to be any modification in the agreement, the prior agreement, as to how we're going to settle this then we can communicate in writing.

So if you-all want to switch back to the Board of Appeals for Day 3, please send an email to Ms. Kennington so that she can make arrangements with County Council and let them know.

MR. HOLZER: Can we put it on the record here before the Board right now?

MR. GARBER: That's fine as well, if that's the agreement.

MR. HOLZER: My position is that I thought Ms. Kennington knew last time at the end of the case that we thought that we could go back. But she had, out of an abundance of caution, scheduled it over here.

MR. GARBER: The notice had it listed for all days being in this room.

MR. HOLZER: I understand. I advised her yesterday, depending on what counsel wanted to do, I believe that we could be accommodated in the Board office or Board hearing room, which with allow you more comfort from the standpoint of having the audio, the visual, whatever else is necessary, instead of having to try to set it up over here for the next day. And the next day would be September 12th, which is next week.

MR. GARBER: We will note that the attendance here today is fewer in terms of people compared to Day 1.

MR. HOLZER: Correct.

MR. GARBER: The Board's normal room easily will accommodate the people who are present here today for Day 2.

Mr. Schmidt?

MR. SCHMIDT: Just for the record, for the court reporter, Lawrence E. Schmidt with Smith, Gildea & Schmidt with offices in Towson at 600 Washington Avenue, here today on behalf of the Petitioner. And seated to my immediate right is Timothy Kotroco, who is my co-counsel.

In terms of what Mr. Holzer said, I would agree. And we can follow up with a letter, if Ms. Kennington wants that.

I will say, we sort of deliberately asked our side not to come out in force, because we half thought we were going to be back over there with Mr. Holzer, since we had talked about it last time.

We told our people that they didn't need to show up as much, which accounts for our crowd. I think we can go back across the street. That would

make sense.

MR. GARBER: To be clear, for today, if you did tell folks that they didn't need to attend today because you thought we would be meeting at the Board, are you saying that we should do something about that, that is, to allow them to attend?

MR. SCHMIDT: Yeah. We'll make sure, I think, next time probably a group of this size. This is about the amount of people we were expecting.

(Attendee participation.)

MR. SCHMIDT: For the benefit of the court reporter, my client, a representative of Nepali, indicated that we should be okay from our standpoint in terms of the number of people attending.

MR. GARBER: But as for Day 2, today you're not contending that there's going to be a problem because the confusion as to whether or not they should be back at the Board of Appeals versus today in terms of your client and your members

attending, correct?

MR. SCHMIDT: There's no problem for today.

MR. GARBER: We can proceed today then?

MR. SCHMIDT: Yes, sir.

MS. DOPKIN: Out of an abundance of deference to Ms. Kennington, if you guys could just do a one-line memo and sign it so that she has a piece of paper for the file, she'll be happier.

MR. SCHMIDT: Absolutely. I understand. I like her to be happy too, that way I can get my hearing dates occasionally. I agree.

MR. GARBER: I will alert everyone now that there may be a problem for me on October 11th, which is Day 4. I'm still trying to sort that out. There was a subsequently scheduled deposition, of course.

MR. HOLZER: Understood.

MR. SCHMIDT: We know how that works.

MR. GARBER: Also for those in attendance here today, we are treating this as if it

is a courtroom. Therefore, turn your cellphones off or mute them.

In addition, there is to be no loud noises, no interruptions, no audible comments regarding testimony or opinions on the matter. That's reserved obviously for the witnesses and counsel up front here today.

If you need an ADA-compliant bathroom, I understand they are located on the first floor. Other than that, we can get started.

MR. SCHMIDT: Thank you Chairman Garber and members of the Board --

MR. GARBER: Real quick.

MR. HOLZER: Could I have a preliminary?

MR. SCHMIDT: Yes, sir.

MR. HOLZER: J. Carroll Holzer, 508 Fairmount Avenue on behalf of the Protestants that were here on Day 1, rather than have to list them, I would add, I have a letter here but it's not signed. But I've been retained by the Greater Kingsville

Civic Association, Inc.

So as of today I would like -- and I'll be representing them as a party in this matter.

MR. GARBER: Greater Kingsville --

MR. HOLZER: -- Civic Association, Inc. And Dorothy Foos, who many of you may know --

MR. GARBER: I do know Ms. Foos.

MR. HOLZER: -- as the president, has authorized me to represent them. They sent me an unsigned copy. I'd prefer to have a signed copy. I'm going to hold on to it until the next hearing, and then I'll introduce that.

MR. GARBER: Mr. Schmidt, anything about that?

MR. SCHMIDT: No, sir. I'm sure Mr. Holzer will supply that, when he gets it.

MR. GARBER: Mr. Schmidt.

MR. SCHMIDT: Before I call my next witness, Mr. Garber and members of the panel, when we were here last time, there was some cross-examination, I believe, by Mr. Holzer of my

client and some of the witnesses, and he requested that we produce certain documents, which I brought today.

So I'm going to hand to the Board what I've premarked. I believe we are up to Exhibit 5. I will give, if I can approach, to Ms. Murphy an original and three copies.

This is a copy of the Articles of Incorporation of Nepali American Cultural Center of Baltimore that we just simply got from the Department of Assessments and Taxation. The entity is a entity in good standing with that office. Mr. Holzer had asked about that.

(Petitioner's Exhibit No. 5 marked for identification.)

The next two exhibits, which I premarked as Exhibits 6 and 7, there had been some questions about a deed of trust for the property when my client purchased the property.

I think, as I recall, Mr. Holzer may have had a copy of it but it wasn't the copy that showed

it was recorded in the land records with the clerk's stamp on it. I've given Mr. Holzer a copy of that.

There's also a letter from the attorney who is the attorney who prepared the document indicating that he prepared it. There's some language from him as well on that. And Mr. Holzer asked that we bring copies of that document.

MR. GARBER: Just to be clear, Exhibit 6 seems to be --

MR. SCHMIDT: The letter. I kind of got them a little backwards, I think. Exhibit 6 is the letter, and the deed of trust is 7.

If you look on the last page of the instrument it indicates or -- it's page 43 in the recording book -- says, I certify I'm a licensed Maryland attorney. I prepared this deed of trust. And the letter is from Daniel Radebaugh.

I would just mark those accordingly. And, with that, I would call my next witness, if I can.

MR. GARBER: Mr. Holzer, any problems with Exhibits 5 through 7?

MR. HOLZER: No. I believe they were requested and promised.

MR. GARBER: They will be so admitted.

MR. HOLZER: There may be an additional one.

MR. GARBER: So 5 through 7.

MR. HOLZER: That's fine.

(Petitioner's Exhibit No. 6 marked for identification.)

(Petitioner's Exhibit No. 7 marked for identification.)

MR. SCHMIDT: My next witness would be John Motsco. If I can ask Mr. Motsco to come up to the stand.

(Witness Motsco sworn.)

MS. DOPKIN: State your name and address for the record, and spell your last name.

THE WITNESS: My name is John Motsco, M-O-T-S-C-O, professional engineer with Little & Associates at 1055 Taylor Avenue, Suite 307, in Towson, Maryland.

EXAMINATION BY MR. SCHMIDT:

Q. Mr. Motsco, you can sit. I know we have Exhibit Nos. 1 and 2 behind you. If you need to refer to them during the course of your testimony, please get up. Just keep your voice up so our court reporter and the Board can hear you.

You've identified yourself, Mr. Motsco, as an employee of Little & Associates?

A. That is correct.

Q. Just briefly, what's the nature of the business of Little & Associates?

A. It's a civil engineering firm specializing in land development, land planning, surveying, permitting.

Q. How long have you been with Little & Associates?

A. Fourteen years.

Q. And what's your occupation personally? What do you do?

A. I'm a senior project engineer, and my job is to supervise a team of engineers, preparing

plans, computations and other such documents for county and regulatory approval.

Q. Are you a professional engineer and licensed in the state of Maryland?

A. Yes, I am.

Q. How long have you been so licensed?

A. Five years.

Q. And tell us a little bit about the nature of the work you've done. You've described it a little bit.

But have you done work in Baltimore County over the years?

A. Yes. Our work is primarily in Baltimore County. At the time that I've been employed with Little & Associates, I've worked on a number of projects from single lots, minor subdivisions to 150- or 200-lot subdivisions, numerous commercial properties of various sizes, large flex-use buildings, down to small convenience-store type.

Q. Have you prepared plans for zoning cases including special exceptions, zoning variances and

the like?

A. Yes.

Q. I show you Exhibit No. 1, which is the site plan that's on the board.

Did you prepare that document, or was it prepared under your supervision and direction?

A. Yes.

Q. Let me show you, Mr. Motsco, a copy of the document I believe --

MR. SCHMIDT: Ms. Murphy, I did not premark this. I will give you the copies.

Q. (By Mr. Schmidt) -- which is entitled John Motsco, PE. I ask if you can identify this.

A. This is a copy of my resume and work experience.

Q. Generally describing, I assume, sir, the nature of your background, your education and so on, so forth.

A. Correct.

Q. I note that it also indicates, on the second page, development plan hearings, Board of

Appeals' hearings, and zoning hearings that you've participated in.

A. Yes.

Q. I assume at those hearings you've testified as an expert witness?

A. Correct.

Q. And been accepted by the Board of Appeals and the county's administrative law judge as an expert witness.

A. Yes.

MR. SCHMIDT: I'm going to offer this as Exhibit No. 8 and offer Mr. Motsco as a civil engineer with expertise as it relates to the zoning petition and issues surrounding the same in this case.

MR. GARBER: Expert in --

MR. SCHMIDT: He's a civil engineer. He does have expertise in the zoning regulations as they are applicable to this case.

MR. GARBER: Expertise in Baltimore County zoning regulations with specific reference to

this case.

MR. SCHMIDT: Yes, sir.

I will turn him over to Mr. Holzer for voir dire.

MR. HOLZER: Thank you.

(Petitioner's Exhibit No. 8 marked for identification.)

MR. GARBER: On Exhibit 8, where are you.

MR. HOLZER: It was just handed to me.

MR. GARBER: Sorry. I'm just trying to compartmentalize the two issues.

MR. HOLZER: Right. I'm just having a minute to glance over it based on his testimony and based on the background.

MR. GARBER: I meant just solely for admissibility.

MR. HOLZER: I understand.

EXAMINATION BY MR. HOLZER:

Q. I'm looking at the list of community input meetings. None of those are official in terms of

administrative law hearing or a Board of Appeals' hearing, right?

A. No.

Q. Just county community --

A. It's a requirement of the county development process.

Q. And you don't have to be an expert or attorney to deal with those.

A. Correct.

Q. In development plan hearings, those would be in front of an administrative law judge?

A. That is correct.

Q. And that was Mr. Beverungen?

A. I believe in every case so far on those it has been.

Q. In the Trappe Lane case before this Board, did you testify as an expert?

A. I did.

Q. And they recognized you?

A. That is correct.

Q. All the rest of the cases listed are

variances, special hearings, and special exceptions. You listed a number of those, is that correct?

A. Yes.

Q. They've all been for developers, applicants?

A. Homeowners. Yes.

Q. Property owners.

A. And homeowners.

Q. Have you represented any individual neighbors or individuals who own a single-family house?

A. Yes.

Q. Which ones?

A. It was the Morris Avenue or Lane. I don't recall which it was. I may have actually the wrong name. If I could see the list, I would be able to tell you.

Q. Counsel can give you the list.

(Complies.)

Q. (By Mr. Holzer) I'm looking halfway down to Morris Avenue, I think, is what you suggested.

A. Yes.

Q. What was that project?

A. That was a setback to a flood plain for the current homeowner/resident.

Q. Any other ones where you've represented individual homeowners rather than developers or builders or applicants?

A. The Phoenix Auto. I represented the operators of the business. It's an auto repair shop. Height residence is for the current resident of that dwelling as well.

Q. On 1250 Jerusalem Road?

A. Yes.

Q. Let me go into your background, if I may, just a little bit.

Interesting that you've worked for Little & Associates for 14 years, you've said, but you've only been a licensed civil engineer for five, is that correct?

A. That's correct.

Q. What were the other nine years? What did

you do for them?

A. As a civil engineer, once you have a degree, there's a requirement of work experience prior to getting a license.

During that time, I worked under and along with others people at work, professional engineers at that time, to learn more about the profession and prepare myself to become a professional engineer.

Q. So as of five years ago you were able to say you got a degree in civil engineering, right?

A. Five years ago today, I was able to say I was a professional engineer.

Q. Right. Up until then you were not able to say that, when you testified at any hearings or whether you commented on your opinion in any hearing.

A. I did not appear at any hearings prior to having my license.

Q. So all of these appearances listed on page 2 of Developers 8 occurred within the last five years.

A. That's correct.

Q. Okay. Thanks.

Now, in terms of your experience in the last five years, do you have specific engineering qualifications or degrees relative to sound issues?

A. I do not.

Q. What about forestry, forest analysis, forest development, forest buffer planning, et cetera?

A. Forest buffers and forest conservation, that is not an engineer exercise. That's done by an environmental ecologist. It's a separate certification and education.

Q. And did you say you have a certification as that?

A. No, I do not.

Q. As part of your qualifications, does land planning fall within the civil engineering degree?

A. It does in this jurisdiction.

Q. It does in this jurisdiction.

A. Yes.

Q. Baltimore County, you mean.

A. Yes.

Q. In other jurisdictions it may not.

A. Some jurisdictions offer a separate license or registration of some sort for land planners specifically. But that is not available here.

Q. In regard to zoning regulations, is there a degree or certificate that you would have received to make you an expert in the Baltimore County zoning regulations?

A. Not to my knowledge.

Q. So any knowledge of yours relative to zoning would be based on, what, your five years of experience?

A. My full 14 years of experience.

Q. So you dealt with zoning issues for 14 years?

A. Yes.

Q. Even though the first nine you were not qualified or received any qualifications or degrees, is that correct?

A. I had a degree for the 14 years.
Q. What degree?
A. Civil engineering.
Q. Maybe I'm confused.
Did you obtain any certification or a formal background in terms of zoning in Baltimore County?
A. No.
Q. You learned it during the course of your 14 years from experience, is that correct?
A. That is correct.
Q. Now, as a civil engineer, do you have any ethical requirements or standards which you are obligated to follow in terms of responsibilities not only to your client but to any one relative community that may be around to the zoning administration personnel?
A. Yes.
Q. What's that?
A. Civil engineers have a code of ethics as part of the licensing.

Q. Could you just tell us -- don't spend more than five seconds on it -- what is your responsibility?

A. To uphold the law and do the right thing.

Q. The right thing for your client or the right thing in terms of a particular project?

A. Public health, safety, and welfare.

Q. Good. Okay.

Do you have any qualifications relative to stormwater management?

A. Just my professional license and my experience.

Q. Is there anything --

Are there any other kinds of degrees or any approvals that are necessary to be an expert in stormwater management?

A. No, there are not.

Q. There are not.

Do you have any credentials that address your expertise in regard to determination of wetlands?

A. I didn't state that I had any qualifications. That's a environmental ecologist. I'm an engineer.

Q. So you're not saying that you can comment on wetlands, or whatever, that may be on the property or elsewhere.

A. Other than what is shown on the plan as determined by others, if that were to apply.

Q. That will get me into a question that I will pursue, when we get to your direct testimony.

But you're saying now that anything relative to determination of wetlands is not your personal analysis. It was someone else's.

A. That's correct.

Q. From your position as a senior project engineer, does that mean --

Let me ask you this: Did you get into this case initially at the very beginning, or were you retained later?

A. Are you referring to the firm or myself personally?

Q. I'm referring to you personally.

A. I've been involved with this case since the first week it was at the office.

Q. Which was what date?

A. I would not have committed it to memory.

Q. Approximately. 2001? 2014?

Don't look at anybody else.

A. I'm looking at the plan. We have a project number. It was 2017, is when the project was started.

Q. Do you recall in what month of that year?

A. Not off the top of my head, no.

Q. At that time was there any -- or had the property been purchased?

MR. SCHMIDT: Objection. This is beyond voir dire, I believe. I'm not quite sure where we're going.

MR. GARBER: I agree that the last question involving in this project seems to be a bit far afield from his qualifications as to whether or not we should receive him as an expert in the fields

tendered by Mr. Schmidt.

MR. HOLZER: I'll get it later.

Well, I believe I can ask him --

Well, he's already explained, I believe, that he was initially in this project some week in 2017.

MR. GARBER: Yes, but for purposes of voir dire, that is, again, Is he an expert in the fields identified by Mr. Schmidt? I'm not sure --

Explain to me why it would be relevant to that analysis.

MR. HOLZER: I can re-ask the question during the merits questioning, if you want.

I have no further questions.

MR. GARBER: In the fields as identified by Mr. Schmidt, are you satisfied, or do you object to him as an expert?

MR. HOLZER: I object to him as an expert for purposes of the record.

MR. GARBER: And on what basis?

MR. HOLZER: That I don't think he's

qualified to render opinions. I read the administrative law judge testimony, which I know is not relevant for purposes of this Board. It's here de novo.

But I think he's made comments, testimony that exceed his ability as an expert to testify. I just want to avoid having those expressed here before the Board.

MR. GARBER: If it comes to the testimony that goes beyond the scope of how he's been proffered as an expert, certainly you would have the right to object on that basis and then see how things go, maybe cross-examine him if it gets to that. You have both of those available to you during the course of the merits.

But in terms of him being an expert in civil engineering, him being an expert in Baltimore County zoning regulations by virtue of background and everything, do you --

MR. HOLZER: I still object.

MR. GARBER: Mr. Schmidt, do you have

any response?

MR. SCHMIDT: I would just say -- obviously I can ask the witness about this -- I think the Board and Mr. Holzer will know that Little & Associates, like all engineering firms, has a broad base of people who work there.

Mr. Motsco was the lead guy. There were other people in his office who contributed, I'm sure, to the preparation of the plan.

If there's a specific detail that Mr. Holzer objects to, I can try to produce that person. But he is the project manager. And if I ask him if his company identified wetlands, I think that's something he can answer. But he's clearly an expert. He's the lead guy for Little & Associates on this project.

MR. GARBER: Just to be clear, the seal and stamp on there, are you the engineer of record?

THE WITNESS: Yes.

MR. GARBER: I think that --

MR. SCHMIDT: He's sealing that that

plan is accurate. I don't know where Mr. Holzer is going with this. But that plan was obviously prepared by Mr. Motsco. He sealed it and his team.

MR. HOLZER: My response is, yeah, he sealed it. Yes, he's the civil engineer. But he relied on the opinion of others to form certain testimony below.

I just want to make sure that when I make an objection to testimony that is being offered, it will be within the context of the fact that he has admitted he is not a sound expert. He had admitted that he's not a forestry expert. He's admitted that he has no stormwater management expertise, nor wetlands.

So I'm only saying that I am familiar with what took place below, even though I was not there, because I read the transcript. I just want to avoid extension of his testimony into areas that he personally is not qualified for.

MR. GARBER: With that in mind, we're going to accept him as an expert as tendered by Mr.

Schmidt. I believe that the issues raised by Mr. Holzer go to the weight of the testimony, which is a matter for the merits of the testimony to come.

So, with that in mind, Mr. Schmidt, you may proceed.

EXAMINATION BY MR. SCHMIDT:

Q. Mr. Motsco, let me start off by maybe addressing some of these comments that have just been made.

You've identified yourself as a civil engineer, professional engineer and so licensed by the State of Maryland, correct?

A. That is correct.

Q. I assume or can you tell us a little bit about the firm that employees you, Little & Associates, and the individuals there who would have assisted you with this project, who helped you out and what kind of things are they involved with as you are the project manager.

A. In this particular project, I had a drafts person that was helping me prepare the physical

plan, and we would have enlisted the help of a licensed surveyor for the property outline. Beyond that it was between me and the drafts person that prepared this plan.

Q. Was there any identification of environmental resources that might exist or don't exist on the property?

A. There are streams shown on the plan and woods line, and those are as provided by Baltimore County GIS.

Q. You indicated that you were --

MR. GARBER: If I may, you said Baltimore County GIS. Could you identify for the record what you're referring to.

THE WITNESS: Geospatial information systems, I believe it stands for. That is a digital format that the county has flown aerial photography of the county in order to determine topography, the locations of existing paving, buildings, streams, tree lines, any number of features. They have the files available from the county, not including the

official zoning lines, ergo, metro, district.

Any number of things that were previously on paper maps provided by the county are now being incorporated into their GIS system. That is available to the public for download and serves as a starting point for virtually every project.

Q. (By Mr. Schmidt) Is that an acceptable data source for you as an engineer to use in the county information that's available?

A. Yes. In many cases that is the best information available.

Q. Does the county accept plans and documents that's based, in terms of the source of data, on the information in the county's GIS system?

A. Yes.

Q. In this case, you indicated, you were hired in 2017 or Little & Associates was hired in 2017.

A. Yes.

Q. And are you aware --

Did you attend the hearing before Administrative Law Judge Beverungen in this case?

A. I did.

Q. And did you testify at that hearing?

A. I did.

Q. And Judge Beverungen, I believe, issued a decision in this case in January of 2018, and the hearing was shortly before that decision was issued.

Knowing that that's when you testified before Judge Beverungen, does that give you any assistance in how long you may have been involved in the project before it went to that hearing?

A. I would say sometime around six months. I know we were working on the project for quite some time before we got to the hearing. The hearing was rescheduled, I believe, once.

Q. So perhaps in the spring or early summer of 2017?

A. Yes. Late spring, early summer.

Q. Okay. And you indicated you have sealed this plan, is that correct?

A. That is correct.

Q. Let me ask you: Are you familiar -- I

assume you are familiar with this property and the site?

A. I am.

Q. Have you been there personally --

A. Yes.

Q. Mr. Motsco, let me finish my question, before you answer --

A. I'm sorry.

Q. -- just so the court reporter can get both question and answer.

Have you been out to the property?

A. Yes.

Q. How many times?

A. At least twice.

Q. Can you maybe give us a little bit of overview -- if you would like to use either the aerial or the site plan, maybe the site plan -- and describe the property?

When I say to describe it, I'm going to ask you generally about the zoning and the geographic character and improvements.

MR. GARBER: Before you start, if you're going to point, you're going to need to describe what you're pointing to and where on Exhibit 1 that you are pointing.

Because, obviously, you can say, Right here. The court reporter is not going to be able to take down what you are conveying, other than the literal words.

So please try to be specific as to what you're pointing to or referencing.

A. This is Exhibit 1. We're using Exhibit 1. The property itself is marked by a heavy bold, dashed line that surrounds the property. The property contains 30.8 acres. It's zoned RC-2.

The property is bound on the northwest side and north side by Harford Road, which is labeled, and runs along the boundary of the property as well, including through the very northern part of the property.

There is a existing access driveway near the intersection of Harford Road and Bonaparte

Avenue on Harford Road on the south side that leaves Harford Road and heads south into the site, meandering to the existing house which is more or less in the center of the property. It's a little to one side but it is centered generally in the property of the existing house and driveway there.

Most of the driveway are open field. It looks like it may have been lawn at some point in the past. The limits of the lawn is roughly outlined by a plan which is labeled "Woods." There's three out-structures; there's a pool and then a small pool house, a shed and a two-story dwelling that are also on the property. And they are all located to the east and southeast of the main house.

To the northeast of the house, there's an existing tennis court, and then at the very southern end of the property, there is an existing large barn.

MR. GARBER: Just by way of background, you said there was marked as Exhibit 1 the map that

you're looking at prior to the start of the hearing.

We all agreed to use that physical exhibit that you are actually referencing with the actual label "Exhibit 1" in the file.

Mr. Holzer and I are in agreement that is the exact same plan as what's contained in the file version of Exhibit 1.

MR. HOLZER: I would add to that. I would mark this exhibit as 1A so that way we have everything that you have.

MR. SCHMIDT: I would be happy to do that.

Just for the record, Exhibit 1A, which I'll mark, is now on the board. If I can have a sticker, I will do that. I'll mark this 1A. It's identified as is Exhibit 1, as the plan to accompany the Petition for Special Exception. This is on a hard board, and it's a little easier for us to mount on the easels. It's the same document.

MR. GARBER: Mr. Holzer, that's acceptable?

MR. HOLZER: Yes.

(Petitioner's Exhibit No. 1A marked for identification.)

Q. (By Mr. Schmidt) Mr. Motsco, you described, I think, the improvements on the property.

The buildings that you've described, the barn, the tennis court, the pool, et cetera, they are all existing, are they not?

A. That is correct.

Q. Is there anything on this plan that is not existing as of today in terms of improvements on the property?

A. We have a portion of parking and a small bit of driveway extension that is north of the existing house and it comes off of the existing driveway, where it bends on the more northerly part of the existing driveway.

Q. I know it's going to be hard to describe, as Chairman Garber mentioned, but could you go up and point out and describe as best as you can where the parking area improvement is going to be and

where the driveway extension may be?

A. As you're coming into the site on the existing driveway, there is a bend to the left where you turn and face the existing house. At that point, there is a small spur of existing paving that will have a fire department turnaround installed and some pull-in parking spaces on that small spur of existing paving.

And then continuing on the main driveway to the house, between that bend and the loop portion of the driveway at the house, there are additional parking spaces proposed on both sides of that drive aisle.

Q. You indicated there's a fire engine turnaround. What's the purpose of that? Why would that be shown here?

A. It's a requirement of the fire code, that the fire department have a way --

The loop driveway would serve the function at the existing house, and then for the small spur there would be an additional turnaround required.

That is in the event of a fire or other emergency that requires the fire department to bring equipment. They are able to maneuver their vehicles and get it back out of the property and not get stuck.

Q. You've described the improvements to the parking lot and the fire turnaround.

Can you also point out the possible relocation or possible extension of the driveway down at Harford Road?

A. We have alternates that are being explored by our traffic engineer with State Highway. There is a alternate access drive that is shown on this plan as provided by the traffic engineer that illustrates an alternate exit which may be used to satisfy SHA requirements.

Q. Other than the two what I'm going to call areas of proposed improvement, the driveway and the parking area with the turnaround, are there any other improvements proposed for this property as part of this plan?

A. No physical improvements. I believe they are still undergoing cosmetic improvements to the property.

Q. Any new building proposed, new structures?

A. No.

Q. I think there was testimony in the first day of hearing that some of the structures that are there, some of the older structures, particularly the ones that are in a state of disrepair, may be removed, is that correct?

A. That's my understanding as well.

Q. As to your understanding, do you know which of those structures may be removed?

A. The one I know for certain is the existing pool and the structures that are there for the enjoyment of the pool are in disrepair and likely to be removed first.

Q. You indicate that Harford Road essentially -- and it's shown on your plan -- runs along the perimeter of a large portion of the property, isn't that correct?

A. That is correct.

Q. Is that a county road or a state road?

A. It is a state road.

Q. Maybe you can draw your attention, now that you've described the property for us a little bit --

Well, let me ask you, before I leave there: Could you also show the Board maybe again --

I know it's hard to point out. I hear what Mr. Garber is saying.

Is much of the property in woods and trees?

A. There's a swath of woods along Harford Road that at its narrowest is probably 60 or 50 feet and closest to the driveway entrance.

And then as you move around along the Harford Road side and you get to the westerly side of the property, the patch of thick trees is approximately 100-feet wide.

That continues into the southern portion of the property around the barn, which becomes almost completely wooded.

The woods then continue on the eastern property line, the two main eastern property lines along the existing stream that is there, and there's a large swath of woods there as well.

Q. Does this plan show or is it anticipated that there would be any clearing of these wooded areas?

A. We do not anticipate any clearing of the wooded areas at this time.

Q. You did mention that there's a stream on the property. Where is that located?

A. It runs along the southeastern and southern property line. It wanders on and off the property and onto the neighbors but generally along the southeastern and southern property line.

Q. Is there any construction or road improvement or building or anything in that area of the stream, or will there be any impact to the stream under the proposal?

MR. HOLZER: Objection. For purposes of the record, he established that he is not a

person that can identify an environmental impact, and he's admitted that was somebody else.

MR. GARBER: Can you restate your question?

Q. (By Mr. Schmidt) Let me ask it this way: Mr. Motsco, is there any new construction, be it road construction, grading, or any type of improvement, that would impact the stream that exists on the property?

A. There's no proposed construction that is in the vicinity of the stream.

Q. The parking lot expansion, as you've described it, and driveway expansion, how far are they away from the stream? Could you even estimate?

A. Roughly estimating, 500 to 700 feet away from the stream.

Q. Let me ask you, if I can --

And maybe I'll draw your attention to Exhibit 2 which is also mounted.

There was testimony before, Mr. Motsco, about the general locale or neighborhood of this

property. I think that aerial photograph shows the property, does it not?

A. It does.

Q. Is it outlined or how is it shown on Exhibit 2?

A. It's shown roughly in the center of this plan and it is with a pink highlighter.

Q. Can you tell is a little bit about the general vicinity and the locale in which this property is located? What's around it and near it?

A. To the east and south of the property, there is a significant portion of existing wooded vegetation, trees. And the stream we previously talked about is in that area. Beyond that, there is some farmland with some scattered houses.

On the opposite side of Harford Road from our site, there are single-family dwellings. That would be on the western and northern side of Harford Road from us. There's a handful of individual homes. And beyond that there is another patch of woods. And I believe there's a stream in there as

well.

To the east of the property, we have a church and a school that are actually on Mount Vista Road, which intersects Harford Road near the property. They would be east of the property, heading towards the edge of the plan.

Q. Is that, I believe it's referred, the Christian Redeemer property?

A. Yes, that's one of them.

Q. And can you describe --

I think you said a church and a school. Can you describe the activity that goes on there, to the best of your knowledge, in a little more detail?

A. The only knowledge I would have is from a visit, seeing the activities on a weekday. At that time, the church facility appeared to be a standard Christian denomination church. It was kind of quiet in the middle of the day but otherwise appeared to be in use and able to support a sizable congregation.

The school at that time was running a day

camp with several hundred kids out and about playing in the fields and the other facilities on the site.

Q. Is there a swimming pool there?

A. There is a swimming pool.

Q. Is there a corn maze on the property?

A. It does appear that there was, at least at the time that this photo was taken.

Q. How about the topography of the site and the general area; flat, hilly? What kind of topography was there?

A. It's very hilly.

Q. How about the property? Is the former dwelling at the high point or low point? Can you kind of describe that for us?

A. The main structure is at the highest point on this property. It appears to be the highest point in the surrounding area.

The property generally in all directions slopes down, in some cases rather quickly from the main house and lawn area to the property line of the neighboring properties.

Q. The property at the present time --

Is the building occupied at the present time? Is anybody living there?

A. Nobody is living there.

Q. How about in the outbuilding that you described, the other small dwelling near the main dwelling?

A. No, they're not currently used as residences.

Q. Is the property in any kind of agriculture use at the present time?

A. It is not.

Q. How about the visibility of the building? Can it be seen, if you know, from Harford Road or from adjacent properties?

A. I can't speak for adjacent properties. I haven't visited all of them. From Harford Road, at best, there are a couple spots where you may get a glimpse of the building but it's generally screened from the road.

Q. Is that because of the trees?

A. Because of the trees and extreme topography along Harford Road.

Q. Are there any farms that you know of or any either dairy or agriculture or even properties that are planted in the immediate vicinity or adjacent to this property?

A. There are none immediately adjacent. The immediate adjacent properties are all currently wooded.

Q. Wooded or residential?

A. Yes.

Q. Or, I guess, institutional in the case of the Redeemer?

A. Yes.

Q. I think this might be a good time since you've been describing the property in the area --

MR. SCHMIDT: Ms. Murphy, I have premarked a series of photographs with letters, not numbers, because I didn't know what numbers I would be up to. I will give you four copies of those. Hopefully, they are all identical. I will give the

witness one as well. If I can, I will stand over his shoulder, so I can see them as well. I brought six copies.

(Petitioner's Exhibit No. 9A-MM marked for identification.)

Q. (By Mr. Schmidt) Mr. Motsco, I'm going to show you a series of photographs and ask you to identify each one, if you can, sir.

MR. GARBER: Before you start, this is Exhibit 9.

MR. SCHMIDT: Yes, it would be 9. As I indicated, each photograph is labeled with a letter, which I will refer to as a letter as I question the witness.

MR. GARBER: The copy I have received runs from A through MM.

MR. SCHMIDT: That's correct.

Q. (By Mr. Schmidt) Mr. Motsco, if you can do it this way, describe each letter so the Board and the court reporter knows what you're talking about.

MR. GARBER: Mr. Holzer, do you have a

copy?

MR. HOLZER: Yes, I do.

Q. (By Mr. Schmidt) We'll start with Exhibit 9A. And, Mr. Motsco, if you can kind of go through these and tell the Board what they are looking at, what these photographs are showing.

A. Exhibit A shows a new sign that has been installed identifying the property and the use.

Q. Where is that located?

A. That is located at the current existing driveway which has a small landscaped island. The sign has been installed in that island.

Q. And that current driveway actually, when it gets down to Harford Road, splits, does it not, so there's an entrance on one side and an exit on the other?

A. That is correct. It is split.

Q. And then it joins together on the other side of the landscaped drive?

A. Yes.

Q. That's the existing sign that's at the

entrance.

A. Uh-huh.

Q. B.

A. B is looking east from the driveway entrance up along Harford Road, generally showing the view somebody would have from a car.

Q. Okay.

A. C is looking in the opposite direction on Harford Road, which would be westerly.

Q. Okay.

A. D is, again, looking easterly from a different location within the existing driveway. You're able to see a portion of the intersection of Boneparte Avenue in the left-hand side of that photograph.

Q. And Boneparte is kind of on the other side of Harford.

A. Correct. Not directly but across the street from the driveway.

Q. Okay.

A. Exhibit E is a photograph looking down

Boneparte Avenue from the opposite side of Harford Road.

Q. Is that a dead end road; Boneparte?

A. It is.

Q. What kind of land uses are located down Boneparte?

A. Single-family dwellings.

Exhibit F is taken some distance up the driveway from Harford Road, and you can see a gate is installed.

In the middle of the driveway is the landscaped island we discussed. You can also see the split driveway for ingress and egress.

MR. GARBER: F shows what?

THE WITNESS: Where you're standing in the driveway, inside the property, looking back at Harford Road.

Q. (By Mr. Schmidt) The driveway is gated shortly after one would turn onto it from Harford Road.

A. Yes.

Q. Matter of fact, there's a vehicle parked in the driveway, is there not, on the Harford Road side of the gate?

A. That is correct.

Q. Okay.

A. Exhibit G is a little bit further up the driveway, again turned facing Harford Road. You can see the landscaped island and the vehicle. They are in the same location from the previous photograph.

Exhibit H is turned around and it's facing into the property. And we are now a good distance into the property. The driveway goes over a little bit of a hill there and it does turn to the left. The house in this photo is not visible but it is off to the very left of this photograph.

Exhibit I is much further down the driveway. We've made the left-hand turn. This is in the vicinity of the proposed pull-in parking.

You can see in the center of the photo the existing building and the access driveway and the loop driveway in front of the building.

Q. The building was formerly used for residential purposes, correct?

A. That is correct.

Q. This is the building, as was testified at the last hearing, that will be converted to the temple.

A. That is correct.

Q. Are there any exterior additions or changes proposed to that building; enlarging it or putting a wing on or anything like that?

A. No additions.

Exhibit J is now at the beginning of the loop portion of the driveway. It's a little clearer picture of the existing dwelling, proposed temple and shows the turnaround and the lawn space in front.

Q. Okay.

A. Exhibit K. We are now up near the front porch of the existing building. We're looking back along the driveway, towards Harford Road.

You can see the driveway going off towards

the back of the photograph and then just the tree line that is visible, nothing else.

Q. Is Harford Road visible from that --

A. No, it is not.

Q. Okay.

A. Exhibit L is a photograph of the room that will be converted to the temple. In this photograph it shows some chairs set up for a function that was being held previously.

Q. That was described, those chairs.

There are not going to be any pews there or permanent seating but chairs could be brought in for events depending on the particular use at the time, is that correct?

A. Yes, that was my understanding. The chairs would be occasional, temporary use in the temple portion.

Q. Okay.

A. Exhibit M is again in the temple room. It's looking down the main access hallway from the front doors to the left in that hallway. It's just

another interior view of the main worship room.

Q. Okay.

A. Exhibit N is a photograph of one corner of the worship room, and there are two structures of some kind in there for religious worship.

Exhibit O is the back of the building. It just shows the back of the building. It's similar in construction to the front.

Exhibit P is a existing two-car garage that's under a portico.

Q. And that's attached to the building?

A. Attached to the building.

Q. To the rear of the building?

A. It is to the rear on the eastern side of the building.

Q. Okay.

A. This photograph is from --

Q. When you say "this" --

A. I'm sorry.

Q is a photograph showing a little bit of the rear facade of the building standing on that

porch that is over the garage in the previous photo.

You can see to the left of the photo, looking back down the valley. And down there somewhere is Harford Road running along.

Q. Okay.

A. R is the same location. It's turned slightly. It's a better view looking down the valley at the neighbors of Harford Road.

Q. Would that be looking towards the barn which is in the rear of the property?

A. Yes. In the general direction of the barn. Southerly.

Q. Can you see the barn from the building?

A. I do not believe so.

Q. Okay.

A. Photograph S is the smaller dwelling on the property, which is located southeast of the main dwelling.

Q. That's shown on your plan as "Existing Two-Story Dwelling."

A. That's correct.

Q. I know there was testimony about that potentially being a caretaker's cottage or a place for the leader of the priests at that building.

A. Yes. That is that building.

Q. Okay.

A. Exhibit T is a closer photograph of that same two-story dwelling.

Exhibit U is another photograph of that same dwelling.

Q. Is that habitable at the present time, Mr. Motsco, in your opinion?

A. I wouldn't want to live there.

Q. Okay.

A. Exhibit V is the existing tennis court that is to the west of the main house.

Q. And that's also marked on your plan and labeled.

A. That is labeled on the plan.

Q. Okay.

A. Exhibit W. We can see a shelter that's at the pool, and there is actually a pool in that

photograph even though it's overgrown.

Exhibit X is a more clear photo of the structure adjacent to the pool.

Q. Sort of a gazebo, an open-walled structure?

A. Yes. It's a roof.

Exhibit Y is inside of that small structure. You can see to the left side of that photograph there is a pool house and shed structure that appeared to be used for storage for the pool and the yard.

Exhibit Z shows the existing pool and the surrounding pool deck. It's overgrown and in disrepair.

Turn to Exhibit AA. That is a closer photograph of the pool house.

BB is again a photograph of the side of the pool house and storage.

When we turn to Exhibit CC, I believe we're on the western porch of the property and looking in a westerly direction. You can see the existing vegetation. And those trees are mature so the grade

is apparent by the fact that you're looking over the tops of the treetops.

Q. That photograph was obviously taken during the summertime?

A. Yes.

Q. I think the Board members can see it. But there's a label distance from Harford Road, the right of way of Harford Road to the building, of about 340 feet, is that correct?

A. Yes.

Q. So you're over a 100 yards from the building to get to Harford Road.

A. That is correct.

Q. And you indicated that, I guess, it looks like a third of that, or 100 feet, you said, was in forest or trees.

A. Correct.

Q. Is that the area of the trees there that you're looking at?

A. Yes. This would represent the trees to the west of the property between the property and

Harford Road.

Q. That's Exhibit CC.

A. Yes.

Q. Okay.

A. Exhibit DD has moved down to the lawn and it's turned. It's in the same general vicinity to the west of the house. But the photograph was taken in a more southerly direction showing the property as it falls off towards those trees in the middle of the photograph and shows the existing vegetation off into the distance.

Q. Okay.

A. Photo EE is in the yard again. It's turned in a more westerly direction showing the same vegetation and grade.

Exhibit FF is taken from the driveway, the existing driveway and I believe it is looking in a easterly direction at the nearest neighbor's house. That's a little bit visible in the upper right corner of the photo. You can see a piece of the roof.

Q. Would that be generally the area, Mr. Motsco, of where your, quote, alternate access drive would be, that general vicinity?

A. Yes. The alternate access driveway would be installed in the lawn area that's shown in this photograph.

Q. So the Board can identify that, if they look at the plan, that's the labeling in that general area?

A. Uh-huh.

Q. Okay.

A. Exhibit GG. We're standing in a similar location, and the photograph has been turned closer towards the west.

You can see a little bit of the striping for Harford Road on the very left-hand side, and there's a telephone pole basically looking straight down Boneparte Avenue, next to that telephone pole.

Exhibit HH is the same general location. It is looking in a more southerly direction along the existing driveway, which is visible on the

right-hand side of the photograph.

Q. Same kind of direction?

A. The fence is visible in the picture. II is the same location, showing the same features. That's another photograph of the area where the possible future entrance would be located.

Q. That fence, again just to give the Board reference, if they're looking at these photographs outside the hearing, is a temporary fence that runs along the east side of the driveway.

A. Yes. There's a small wooden fence that was visible in one of the earlier photos blocking off the existing driveway entrance from people bypassing the gate.

If we turn to JJ, this is a photograph of the Redeemer church taken from close to the entrance to the church and looking along Mount Vista Road.

KK is looking left from the entrance, which would be a westerly direction.

Q. Also Redeemer.

A. Still the Redeemer entrance, looking along

Mount Vista Road in a westerly or left direction from the exit.

Q. Mount Vista Road at Redeemer is a two-lane road, one lane in each direction.

A. That's correct.

Q. And Harford Road at this location is also a two-lane road, one road in each direction.

A. That's correct.

Q. Okay.

A. Exhibit LL is the same location at the Redeemer entrance, looking in the opposite direction to the right or east.

Q. Okay.

A. Then MM is a photograph of a part of the grounds of the Redeemer property.

Q. Mr. Motsco, do these photographs, do you know when these were taken?

A. Earlier this year, when we visited the site in preparation for the last hearing.

Q. You and I were out there on a very hot day, as I recall, in July.

A. I think we managed to pick a hotter day today.

Q. Do these fairly and accurately depict conditions on the property as of that time?

A. Yes.

Q. And to the best of your knowledge has the conditions of the property changed since these photographs were taken in July?

A. Not to my knowledge.

MR. SCHMIDT: Mr. Garber, I will offer as Exhibit 9A through 9MM the photographs that the witness has identified.

MR. GARBER: Mr. Holzer?

MR. HOLZER: Do you want me to object now? 9A is wrong.

MR. SCHMIDT: It's not wrong. It's the condition of the property as of July, when it was taken.

MR. GARBER: 2018?

MR. SCHMIDT: Two months ago or a month-and-a-half ago. The sign has been changed

since then. The sign issue, we can get into. But there's been no building, nothing has been torn down.

MR. HOLZER: The sign has been changed so it doesn't accurately depict the scene as it is today. I have no objection.

MR. GARBER: We will admit the photos understanding that they reflect the condition as of July 2018.

Q. (By Mr. Schmidt) Mr. Motsco, if you know, do you know if the sign that was shown in the first two exhibits, I believe A and B, still exists on the property?

A. I do not.

Q. It was there, when you were there last.

A. If was there in July, when we were there.

Q. To the best of your knowledge the main house, the proposed temples, all the other buildings currently remain as they are shown in the photographs?

A. Yes.

Q. All the trees and all the other vistas remain the same. The woods haven't been cleared. Trees haven't been knocked down. Streams haven't been moved. None of that has happened.

A. That is my understanding.

Q. Let me ask you, now that we've shown some photographs of the building, can you give us, Mr. Motsco, a little historic context about this property, about its background and the age of the house and some of that detail that you're aware of?

A. The property and the existing barn are listed as historic structures by the State of Maryland.

Q. What list?

A. Maryland Historical Trust. It's MHT.

Q. Are they listed by Baltimore County?

A. No. Baltimore County just observes the State record.

Q. So they're not on either the Baltimore County preliminary or final landmarks list.

A. No.

Q. And tell us a little about the background of the property to the best of your knowledge.

A. The property was originally developed by Napoleon Boneparte's nephew. He went by the name of Boneparte. His first name is escaping me. He was a one-time attorney general for the United States and built this Bella Vista as his home.

Q. That's the name of the estate, is Bella Vista?

A. That's the name of the estate. And that was the name of the original house which burned down I believe in the '30s.

The current house was built as a replacement to that structure and has remained more or less since then.

Q. You may have answered this.

Is the house occupied at this time?

A. No, it is not.

Q. Is it habitable at this time? If you know.

A. Maybe. It's in disrepair but it's not totally uninhabitable. Salvageable.

Q. I'm going to show you, if I can --

You mentioned that the property is listed by the Maryland Historical Trust?

Mr. Motsco, just generally, can you identify the document that I'm handing you?

MR. GARBER: This is Exhibit 10.

(Petitioner's Exhibit No. 10 marked for identification.)

A. This is the listing for the property which I obtained from the inventory of historic properties. It spells out the -- BA 539 is the Bella Vista site and describes the site as being owned by Charles Boneparte.

The other listing on here is BA 539A, which is the Bella Vista Farm, which is the large barn which still exists to the southern part of the property.

Q. So the barn is listed as an MHT structure, is that correct?

A. Correct.

Q. The building/temple/former dwelling is not

an MHT structure, is that correct?

A. That is correct.

Q. The outbuildings around the dwelling/temple are also not MHT structures.

A. That is correct.

MR. SCHMIDT: I would offer that as Exhibit No. 10.

MR. GARBER: So admitted.

Q. (By Mr. Schmidt) If you know, Mr. Motsco, is this property served by public utilities? When I say that, public water and sewer.

A. It is not.

Q. At the time of the occupancy of the building at one time, I assume there was evidence of water and sewer, private water and sewer to that house, is that correct?

A. That's correct. At one time the property was served by well and septic.

Q. Is that functional, if you know, at the present time?

A. It's being treated as not functional.

Q. Being treated by you as not functional?

A. By the parishioners.

Q. Can you describe what the plans were just from an overview as to how that would be addressed under this plan?

A. The congregation has enlisted a registered sanitarian who is coordinating with Baltimore County to seek and I believe he has obtained approval of a well and percolation plat which means that the county has tentatively approved the proposed location of a well and septic location and size to serve the proposed function of the property.

It is my understanding that the percolation tests, which are subsurface exploration, there's a criteria those need to be conducted under, and the percolation test is used to determine the soil condition and aid in sizing and designing the septic system for the proposed use.

Those tests are attended by a representative of Baltimore County, who will verify the quality of the soil for septic uses.

Q. But there was a septic system out here that was functioning at one time.

A. Correct.

Q. And there was a well that was functioning at one time.

A. Yes.

Q. But those will be ungraded as the county determines in order to provide appropriately sized facilities for this use, is that correct?

A. That is correct.

Q. This is a fairly large property, is it not?

A. It's 30.8 acres which is very large.

Q. In your view -- and I know you're not a registered sanitarian -- are there areas within the property that could be identified as suitable for the construction of a septic?

MR. HOLZER: Objection. He's not qualified.

MR. GARBER: Some of the words in your questions were drowned out at the end.

So what was your complete question?

Please don't answer. There's an objection pending.

MR. SCHMIDT: I understand that the witness is not a sanitarian, and he's indicated that these tests are all subject to the county's approval.

But as a civil engineer and one who looks at an overall property, whether the property is appropriately sized and of the character to be able to accommodate a septic system, I'm asking him from background whether it could be so accommodated in his viewpoint.

MR. HOLZER: I object. He is not a sanitarian. He's testified he's not an environmental person to even do the site plan that's marked No. 1 and 1A yet alone to render that kind of opinion.

I move that it be denied and stricken.

MR. SCHMIDT: Mr. Garber, I'm just asking that from an engineering standpoint, not that it would function but as someone who lays out the

site from an engineering standpoint whether the property -- there are properties, for example, that would be so small an area that they could not reasonably accommodate a septic field. And as an engineer if he would be laying out such a plan, he would be able to say, This property simply isn't big enough. The criteria for septic fields are such that it's just not large enough.

I'm not asking him as a sanitarian but as an overall engineer.

MR. GARBER: I think that it would be fertile ground for cross-examination. I will allow the question. Overruled.

A. If I can just elaborate that well and percolation plats are prepared by engineers. A registered sanitarian supervises the installation and design of the septic system itself.

But as far as the location and general size of the septic reserve area, that responsibility falls on an engineer. And I've personally prepared many perc plats which have been reviewed and

approved by Baltimore County with little or no modification.

That being said, given the size of the property and the fact that you have two similar uses in the vicinity and a number of surrounding homes that also use well and septic systems for their water supply, it would be surprising to me if given the size of the property they were unable to find suitable soil for obtaining water and installing a septic system.

Q. Let me ask you, if I can, Mr. Motsco, changing direction just a little bit, you have described the access to the property from the driveway, the existing access.

Can you explain to the Board, let's start, the modifications that are proposed insofar as the parking and whether there is a sufficient amount of parking, in your opinion as an engineer, as shown on your plan and how you arrived at that?

If you can discuss those improvements first.

A. We have shown a parking calculation on the plan, in that we have shown 38 clearly delineated parking spaces. And the number 38 was based upon --

For religious worship, the zoning code requires one parking space for every four seats which is obviously a regulation that's geared towards Judeo-Christian worship.

Given the use for this religious use, we were given an estimate of the maximum number of people that would be expected on a regular event and prepared a parking layout that accommodated that.

Q. So you have 38 proposed parking spaces.

A. Yes. With coordination with the zoning office, they agreed that given the proposed use that that was an appropriate way of determining the parking requirement.

Q. Those spaces will all be paved and clearly marked and striped as required.

A. That is correct.

Q. In the event there would be an occasion where there may be more vehicles than 38 on the site

at any one time, are there areas within the property where additional parking could be provided if necessary?

A. There are additional paved areas, especially in the vicinity of the garage -- we looked at the photograph earlier -- that could accommodate a handful of cars there, there's extensive paved driveway that could be parked along or partially on and then there are significant areas of mowed lawn which are relatively flat and easily accessible from the drive aisle. There's extensive overflow parking, if the need were to arise.

Q. But there are 38 clearly marked, identified parking spaces on your plan, not counting the additional paved areas along the driveway and by the garage in the back and the loop road around the house as well as the overflow areas in the grass.

A. That's correct.

Q. How about, if you can -- and I know we're going to hear testimony from a traffic engineering standpoint.

But could you also describe in a little more detail the alternative for the driveway, which is the other potential improvement to the site, in terms of how that's laid out, where that would access Harford Road?

Just give us more detail about that.

MR. GARBER: Hold on a second, please.

Just as a reminder, if you have your cellphones with you, please turn them off.

Thank you.

A. The proposed possible access that we have shown on the plan is located east of the existing entrance. It's accessing Harford Road on the other side of the intersection with Boneparte Avenue. And there is still ongoing discussion with SHA --

Q. SHA is what.

A. Maryland State Highway Administration.

-- regarding what is the best access for this site.

The one current thought, which is what's reflected on the plan, is that the drive aisle we're

adding could be used for leaving the site only as it accommodates different site distance from that location. And an expert will testify more to that.

The alternate exit satisfies some of the State Highway Administration's concerns.

Q. You identified some photographs as the grade and area suitable to construct that driveway if SHA determines it necessary.

A. Yes.

Q. From an engineering standpoint.

A. Yes.

Q. I know you've described the wooded areas which are fairly substantial on this property, are they not?

A. They are.

Q. Are there any additional landscaping that would be proposed or needed in your opinion?

A. Due to the existing vegetation on the site and the fact that it appears to have had trees planted in a landscaping manner at some point in its past which are now very mature and in the yard, our

office prepared a conceptual landscape plan.

And in reviewing the requirements for a landscape plan, the requirement for additional planting would be minimal, if anything at all.

Most of those requirements are geared towards screening things from view, which is accomplished on this site by the existing vegetation and the natural grade.

Q. Obviously many of the trees here are very mature.

A. Yes.

Q. How about lighting? Is there any additional lighting proposed or any consideration about screening lighting, or is that a concern?

A. I don't believe that there's any lighting that is proposed that's more than what would be associated with a dwelling of that size. Porch lights, that sort of thing.

Any light that would be generated would be shielded by the existing vegetation and the topography.

Q. Mr. Motsco, let me ask you: You are familiar with the county requirements in terms of the criteria that the Board of Appeals must apply in approving a special exception, are you not?

A. I am.

Q. Let me ask you about some of those in particular.

First of all, you're required, are you not, to identify the locale in which this property sits.

Do you have an opinion, sir, as to what the locale of this property is just generally, the neighborhood associated with this property?

A. In a general sense, to the north of the property is the county line.

Q. With what --

A. Harford County.

Q. Uh-huh.

A. To the east is Bel Air Road, to the west is Glen Arm Road and to the south is a river. In a rural area, it's tough to define a neighborhood. But those are practically physical boundaries that

would designate a general location.

Q. I think you said Glen Arm.

Is it Long Green Pike?

A. Yes. Sorry. In Glen Arm.

Q. Mr. Motsco, I'm going to show you a document which is somewhat self-authenticating in terms of taken from the county website, My Neighborhood, the county GIS, as you identified it before, is it not?

A. (Nods.)

Q. Does this show the location of the subject property?

A. Yes. It's demarcated in the general middle of the page with a red star.

Q. If you can just generally describe the blue highlighter mark that's around that as to what that's demonstrating and what that's showing.

A. You can see at the top, right corner of the page there is a blue highlighter. It follows a black line. That is the county boundary, Harford County being on the other side of the line and

continuing in a clockwise direction.

At the very edge of the page, the blue line follows Bel Air Road until towards the bottom of the page, where it follows Gunpowder Falls along the river to Harford Road and follows Harford Road northerly and then follows Long Green Pike from Harford Road to the county line.

Q. The properties in this area are all generally rural in nature in terms of reflecting the rural zoning of this general area?

A. Yes.

Q. And these properties, are they inside or outside the county's urban-rural demarcation line?

A. Outside.

Q. This obviously is a rural area. So we don't have any major roads -- when I say "major," major interstates or anything like that -- in this vicinity, do we not?

A. Not in this vicinity.

MR. SCHMIDT: I would ask that this be accepted as the next exhibit.

MR. HOLZER: It shows what it shows. I don't agree how it's defined.

MR. GARBER: That's understood.

Q. (By Mr. Schmidt) With that locality having been defined at least by you, Mr. Motsco, do you have an opinion as to whether this proposal would be generally detrimental to the health, safety, and general welfare of the local involved?

A. I do not feel that it would be.

Q. You do have an opinion.

A. Yes. Sorry.

Q. What is that opinion?

A. That it would not be detrimental.

Q. And why do you say that, sir?

A. The proposed use utilizes existing structures and existing property. The scope of the work that is proposed is minimal and much of the work that would be done is, in fact, making the existing structures habitable and safe.

Given the size of the property and the low intensity of the use, I don't see that it would be a

nuisance.

Q. Let me ask you about some of the specific criteria which are found in the regulations. I know you're not a traffic engineer. We do have a witness. But generally, as an engineer, let me ask you to comment.

Do you believe there would be any adverse impact on traffic, or would the proposal create congestion in the roads, streets, and allies within the locale?

MR. HOLZER: Objection.

MR. SCHMIDT: Within his level of expertise.

MR. GARBER: You're going to have a traffic engineer testify to the same point?

MR. SCHMIDT: Yes, sir.

MR. GARBER: I don't know what he's going to add. I will sustain it.

MR. SCHMIDT: I will withdraw the question.

Q. (By Mr. Schmidt) Let me move along.

Mr. Motsco, do you believe that the proposal would create any potential hazard from fire, panic, or other dangers greater than the inherent adverse effects associated with a building used for religious worship elsewhere in the RC-2 zone in this locale?

MR. HOLZER: Objection. There's been no testimony about fire effects or any experience with regard to fire. He hasn't even testified to it.

MR. SCHMIDT: I'm going to ask him what's the basis of his opinion.

MR. GARBER: Do you have an opinion on that subject matter, sir?

THE WITNESS: Yes.

MR. GARBER: What is that opinion?

THE WITNESS: That it is no greater danger here than anywhere else in the similar situation.

Q. (By Mr. Schmidt) Can you explain your opinion in terms of the building and their reuse,

any improvements to the buildings that may be made as they relate to fire, panic, or dangers of that type?

A. It's reusing an existing structure and it is located a significant distance from any other structures that could be consumed, if there were to be a fire.

Additionally, due to the fact that the original Bella Vista mansion was burned down, this home, when it was built, was constructed of concrete as the current owner at that time had a, I guess, justified fear of fire and apparently constructed the home in a fire-resistant manner. It's this home that would be repurposed for the worship.

Q. As part of that repurposing, if there are any interior improvements that are required of the property, new electrical systems, plumbing systems and the like, would they be built to Baltimore County code?

A. Yes. Permits and inspections would be required for those.

Q. And those permits would be signed off by the fire marshal's office as well?

A. I believe so.

Q. They would need an occupancy permit?

A. Yes, they would need an occupancy permit.

Q. Do you believe or have an opinion, Mr. Motsco, as to whether the proposal will tend to overcrowd the land or cause any undue concentration in population greater than the inherent effects associated with a building for religious worship in this zone?

A. I have an opinion, yes.

Q. And what is that opinion?

A. My opinion is that due to the large size of the property and the small congregation, the relatively small structure that there would be no undue crowding of the land.

Q. You were here for the first day of hearings.

A. Yes.

Q. And you were here when testimony was

offered as to somewhat the schedule of uses out here, that unlike Judeo-Christian religions there's not a typical Sunday service, for example, or a particular service on a regular day of the week.

A. That it my understanding.

Q. Do those factors influence your opinion in any way?

A. Yes. I think compared to a more typical or what we would experience Sunday mass letting out at noon that there's not an event here on a regular basis that would generate 200 cars leaving a parking lot at the same time.

Q. Let me ask you: The next criteria that's listed in the zoning regulations relate to whether the proposal might adversely impact certain public, what I would call, utilities. Let me ask you generally about them and ask you to render an opinion on each.

Will there be any impact here on the public school system or on schools?

A. No.

Q. How about parks or other recreational amenities in the area?

A. No.

Q. This is not served by public water and public sewer, is it?

A. That's correct.

Q. So there will be no impact of this use on the public sewer system or public water system, is that correct?

A. That's correct.

Q. I will leave the transportation impacts to our traffic engineer.

Let me ask you, Mr. Motsco: Do you have an opinion as to whether the proposed building use for religious worship will interfere with adequate light and air as another criteria?

A. I do have an opinion.

Q. And what is that opinion?

A. It would not interfere.

Q. Why not?

A. Due to the size of the property and its

distance from any adjoining properties, any impact would be completely contained within the site.

Q. I think you've indicated that the visibility of the building is difficult from adjacent properties. There might be some locations where you see it.

A. Right. The visibility is very limited.

Q. This proposal -- you indicated at the beginning of your testimony the property is zoned RC-2.

A. That's correct.

Q. Is the building for religious worship or church permitted in the RC-2 by special exception?

A. Yes, it is.

Q. As such, do you have an opinion as to whether the proposal is consistent with the property's zoning classification of the spirit and intent of the zoning regulations?

A. I do have an opinion.

Q. And what is that, sir?

A. I do believe it is appropriate and with the

spirit and intent.

Q. Why is that?

A. A special exception is that it's a use -- if you look at the property, its use is not entirely by right but it's intended that there would be churches and religious worship in the RC-2 zone, if the property is appropriate to that use.

Given the size of this property and its direct access to the state highway, it would seem appropriate to me for that type of use.

Q. You indicated other than the improvements for the parking area and the potential improvement for the driveway, will there be any other clearing or grading necessary for the conversion of the site for the building for religious worship?

A. Not to my knowledge.

Q. So there won't be any clearing of any of the trees or disturbance of any of the lawn areas or hills or valleys as shown on the photographs?

A. None is needed for what's shown at this time.

Q. Given that, sir, do you have an opinion as to whether the proposal would be inconsistent with the county's impermeable surface and vegetative provisions?

A. I do.

Q. And what is that?

A. That the property would comply with those regulations.

Q. And finally let me ask you if this will be detrimental to the natural or environmental resources of the site, including the forest, the streams, the wetlands, aquifers and flood plains as located on this property and the surrounding locale?

MR. HOLZER: Objection on the same basis. He's not a forestry person, not somebody who could testify to the environmental impacts on this property.

MR. SCHMIDT: He can certainly testify that the property, as an engineer, and the site plan that he's prepared is not calling for any clearing, not causing for any bridges or any other disturbance

of the stream. So from an environmental standpoint he can certainly, as an engineer, testify as to those types of factors.

MR. GARBER: I actually agree. He can provide some opinion on this subject matter. There's already testimony in the record that construction would be about 500-to-700 feet away from the stream.

However, the point you wish to make about that is ripe for cross-examination.

MR. HOLZER: Thank you.

MR. GARBER: Overruled. You may answer.

Q. (By Mr. Schmidt) You can answer about potential environmental impacts or on the natural features of the property in that locale.

A. Given that much of the proposed use is reuse of existing improvements to the property, the only potential for concern would be the proposed parking and their impacts.

And at this time there is no trees in that

vicinity, so there would be no clearing, and additionally there would be a grading permit that's required for that construction which would be reviewed by the appropriate agencies at that time to determine if there would be an impact and meet the requirements to negate those impacts, if there are any.

Q. Mr. Motsco, you testified before that the property itself is not farmed and not in agriculture use. It's been a residential property in the past, is that correct?

A. That is correct.

Q. I think you testified that there are not agriculture uses at least in the immediate vicinity. And when I say "agriculture uses," working farms, either dairy farms, horse farms, or crop farms, in the immediate vicinity. Is that correct?

A. There are none immediate adjacent to the property. But based on aerial photos, there are some crop lands that are in the general area.

Q. Given that, is there any impact of this

proposed use on any of those agriculture operations or agriculture uses in the locale?

A. Not in my opinion.

MR. SCHMIDT: Mr. Garber, I may be done. We've been going almost two hours. Can we take a five-minute recess? I want to make sure I'm finished. And that may conclude my direct examination of this witness.

MR. HOLZER: I was going to say, after he finished, he's been going for two hours. We probably should take a break before cross-examination.

MR. SCHMIDT: If I have any other questions, it might be one or two.

MR. GARBER: I'm thinking along the same lines as you. Would five minutes be sufficient for you?

MR. HOLZER: I'm going to take two hours.

MR. GARBER: For the break, do you need ten minutes, five?

MR. HOLZER: Ten minutes.

MR. GARBER: Ten minutes is more appropriate for the number of people here, to get people filtered in and out. Let's do ten minutes. We'll be back here five after 11.

(Recess was taken.)

MR. GARBER: Mr. Schmidt, do you have any more questions?

MR. SCHMIDT: Yes, I do. Just a couple.

Q. (By Mr. Schmidt) Mr. Motsco, I know I asked you, and they're labeled on here, about the dimensions of the property.

And you had testified previously that the building which was proposed for conversion to the temple is somewhat centrally located on the property, correct?

A. That is correct.

Q. The dimensions are measured. In the westerly direction, it's some 340 feet to the property line, where Harford Road runs along the

west end side, correct?

A. Yes.

Q. I didn't ask you in terms of the northerly direction the distance of the building to the property line, where the driveway is.

Can you tell us what that is? You might need to approach the plan.

A. From the existing main building to Harford Road in the vicinity of the driveway is approximately 655 feet.

Q. That's over two football fields in that direction.

A. Yes.

MR. GARBER: Do I understand 650 feet approximately to the north?

THE WITNESS: Yes.

Q. (By Mr. Schmidt) And to what would be the east, the distance is approximately --

A. 430, 435.

Q. And finally to the south, or the rear of the property, the distance is --

A. About 1,000 feet.

Q. So it's over three football fields.

A. Uh-huh.

Q. In terms of the use of the building and these distances, can you tell us how that would relate, if at all, in terms of the use of the building and the impact on its neighbors?

A. That's part what I was referring to. The size of the property and the small use is that it's very isolated from the neighbors from a direct impact point of view.

Q. Are there any zoning variances that are being requested in association with this proposal?

A. No.

Q. Are there any variances that are needed to the best of your knowledge?

A. No, there are not.

Q. Would this project be subject to the county's residential transition area -- they call them RTA for short -- standards that may be applicable for churches?

A. It would not. The distance would be greater than anything required.

Q. Under the RTA.

A. Yes.

Q. It meets any RTA requirement.

A. Yes.

Q. In conclusion, do you have an opinion, Mr. Motsco, as to whether this proposed use for this building that is proposed for use for religious worship would have a greater impact or a lesser impact on the locale than other properties in the zone?

A. I do.

Q. And what is that?

A. I feel that this would have a lesser impact than many other properties due to its direct access to a state road and, as just discussed, the large size of the property and the distance from any neighbors.

Q. Thank you.

MR. SCHMIDT: I don't have any further

questions save for possible redirect.

MR. GARBER: Mr. Holzer.

MR. HOLZER: Yes. I'm taking notes.

MR. GARBER: No problem.

EXAMINATION BY MR. HOLZER:

Q. I would just like to start off by showing the witness a plan to accompany this request.

MR. GARBER: Can you show that to Mr. Schmidt?

MR. SCHMIDT: Course not.

MR. HOLZER: He has it.

MR. SCHMIDT: This is, what, the original plan that was filed below?

MR. HOLZER: Yes.

MR. GARBER: Mark that as an exhibit --

MR. HOLZER: Not until he identifies it.

MR. GARBER: -- for identification purposes so we know which document is being referred to.

MR. SCHMIDT: I don't believe that's

entirely consistent with what's on the board.

Q. (By Mr. Holzer) This was done by your company. I don't know whether you did it or not. Did you do this?

A. This was prepared by our office. And, yes, I was working on it.

Q. I'm asking particularly about the adding of the alternative access drive, which is shown on 1 and 1A. This does not have that.

When did this access drive come about?

A. Just to clarify, this is not the plan that was filed below.

Q. It was given to my clients. Did you give it to my clients?

A. This may have been a draft that was circulated prior.

Q. Given to the community by your clients?

A. Possibly. I can't say how you got it.

Q. But you did draw this.

A. Yes. This is our plan. I'm just clarifying it wasn't what was filed.

Q. Could you tell me why there was no access shown on that while it is shown on 1 and 1A?

A. That was added in preparation for the first day of this hearing.

Q. So it wasn't used before the ALJ.

A. Correct.

Q. So the ALJ had what is similar to this document that I've just shown you without the access drive shown.

A. That's correct.

Q. Is the access drive shown because the county or the State Highway Administration required that?

A. You're going to have to ask our traffic engineer for specifics. To my knowledge, the State Highway Administration has not issued a final decision on anything.

Q. Correct. And so are you saying you don't know how you added that on or under whose direction?

A. No. It was a discussion between myself and the traffic engineer that I added that, at his

direction, to the plan to be used at this hearing.

Q. And when was that added by you to 1 and 1A?

A. The date is in the lower part of that.

Q. What's the date?

A. This was last revised on July 18th of 2018.

Q. July the 18th of 2018.

Was that around the time that there was an event held on-site to your knowledge?

A. I know there was an event held this summer. I have no idea what date that actually was.

MR. GARBER: With respect to that document --

MR. HOLZER: I would mark this as Protestants' 3.

MR. SCHMIDT: No objection with the caveat the record will reflect that Mr. Motsco indicated that plan was never filed with Baltimore County. It apparently is some original draft at some point time, although his office did prepare it.

MR. GARBER: The plan is understood for what it is.

(Protestants' Exhibit No. 3 marked for identification.)

MR. HOLZER: He said that was what was presented to the administrative law judge.

MR. SCHMIDT: No.

MR. HOLZER: Without the access.

MR. SCHMIDT: I don't think he said that.

MR. HOLZER: Let's clarify that.

Q. (By Mr. Holzer) Was this alternative access drawing shown to the administrative law judge in this case?

A. No.

Q. Thank you.

MR. GARBER: So the clarification was as to this plan, Protestants' 3, versus was there any access road shown to the ALJ.

MR. HOLZER: Correct.

MR. GARBER: Right.

MR. HOLZER: Obviously it was done in consulting with their traffic engineer and the State

Highway Administration.

Q. (By Mr. Holzer) Do you have the pictures?

A. I do not.

Q. Let's take picture Exhibit No. 9A.

This is the notice or sign that was there when you were at the property.

A. Correct.

Q. You do not know what the new sign looks like or why there was a new sign?

A. I was not involved with any changes to the sign.

Q. So, therefore, you do not know whether or not the county required the sign shown in 9A to be removed and a new sign placed. You do not know anything about that.

A. Other than what I've heard today, no.

Q. In looking at these pictures, were these taken by you or were they taken by someone else?

A. Mr. Schmidt and I were on-site together that day. He was operating the camera.

Q. So any imperfections --

MR. SCHMIDT: Blame me.

Q. -- I can blame Mr. Schmidt?

A. Yes.

Q. Picture No. B, this shows the site from the entrance, the right-hand side entrance looking north, is that correct?

A. Northeasterly.

Q. If I were to continue on this road going up away, I would end up going to the roundabout.

A. That's correct.

Q. We'll call that north. And Exhibit C is standing in the same location looking to the left as you come out of the site or south, right?

A. Yes.

Q. And it shows the curve that is right in front of the entranceway and it also shows the curve that goes to the left.

A. Yes.

Q. It does not show anything further south on Harford Road.

A. That's correct.

Q. Are there any other photos in this group that show Harford Road in the southerly direction?

A. You mean further beyond what's shown in this photograph?

Q. Yes.

A. I do not believe so.

Q. So then D again looks north towards the roundabout.

A. Yes.

Q. And E shows the same thing, the entranceway to Boneparte Avenue. And there are homes, are there not, on the east side of Harford Road, south of Boneparte Avenue and the intersection with Harford?

A. East side of Harford Road?

No.

Q. I'm sorry. West side.

A. There are homes on Harford Road opposite of this property.

Q. Very good. And if I look at F, which is an excellent picture taken by Mr. Schmidt --

MR. GARBER: You get the good and the

bad.

Q. (By Mr. Holzer) -- showing a home directly across the street from the entranceway to the facility, correct?

A. That is correct.

Q. When you come out of this facility, there is only two ways you can go; you can go right and there's a right access for the exit and then there is a left access to go left to go south, right?

A. That would be an ingress and egress. From this picture, the left side of that landscape island would be for entering the site. And anybody leaving would go to the right of that island and make a left or right from that point.

Q. Is that on the directions now? Because people, when they come out of this facility, turn to the left and go left to go south.

Are you saying that there's some sort of prohibition against going south?

A. I'm saying that that's not the intended use of the driveway as it's constructed.

Q. What you're saying is that if I bear to the right, then, if I want to go south, I have to take a left turn.

A. Yes.

Q. So either way, to go south, one must either go on the left side and go south or to the right side of the circular landscaping and then turn left.

MR. SCHMIDT: Objection. That's not what he said. He said that it's intended. Anybody who wants to turn left would go to the right side of the island.

Q. (By Mr. Holzer) Is it prohibited going to the left side of the entranceway?

A. Not at this time.

Q. When you say "not at this time," you said that three times now. Do you expect that there will be a prohibition?

A. I expect that additional signage will be installed if the facility is approved and becomes operational.

Q. But people are using this right now, are

they not?

Your clients are using this right now.

A. I believe so, yes.

Q. And they're going out there to play volleyball, they're going out there to work on the project, they're going out there for other events, correct?

A. I don't know the details of their visits.

Q. But you do know they are using the entrance and exit.

A. Yes.

Q. Let me ask you: When you were asked whether there would be any other clearing or grading, you answered, "Not at this time."

You just answered my question now, "Not at this time." When you were asked whether there was any clearing of the woods, you said, "Not at this time."

Now, when someone says "not at this time" to me, that indicates that there is a potential for the future that there will be clearing of woods,

that there will be road demarcation, that there will be changes on the site.

Has your company, Little & Associates, have they done any preliminary plans showing additional buildings, additional development, additional requirements of an enlarged facility on this site?

A. No. Everything that is planned for the site is shown on this plan here, on Exhibit 1A.

Q. Everything is planned at this time.

Is there any other --

MR. SCHMIDT: You just used "at this time."

MR. HOLZER: I know. That's how I wanted to.

A. This property has already been there for 125 years. I could not guess as to what 125 years from now may hold for this property.

All I can say is for the current proposed use all of those "at this time" would apply.

Q. For 150 years, whatever figure you used, it was used for a private residence. And now it's not

being used for a private residence but is being used for a commercial facility. So that's what raises a question of whether this will be a proposal of additional development in the future.

And I say: Do you or do you not have any plans in the drawings that are ready to go that indicate additional development of homes, cutting down of trees, et cetera?

A. We do not.

Q. Then why are you asking for a special exception for this entire property?

Could you not ask for a special exception only to encompass the facilities related to the building, the extra outside building, et cetera, and the entranceway?

Why don't you just limit the special exception to that period and place all of the forest and the woods that you've shown here as depicted that protect the neighborhood and all the way down to the stream and all along the Hirchenruder's (phonetic) side of the property?

Why don't you just exclude that area for your request for a special exception? Could you explain that?

A. We saw no need to restrict the religious use to just one or two buildings in the small area of the property.

Q. I'm not talking about a small area of the property.

Define the area that's left out of the 30.8 acres. Define the area that is shown in this area here, where you have the existing barn, tennis court, parking, building and entranceway.

Just limit the special exception to that area which would then provide for the community protection that this forest would never be affected in the future.

Can you answer that?

A. There were a couple of questions in there.

Q. Which one do you want me to ask you first?

A. Whatever you started with.

You asked why we didn't limit the special

exception?

Q. Yes.

A. We did not limit the special exception because we saw no need to.

Q. I understood that. You answered that already.

My question was: Now, upon knowing that there are concerns about this project, wouldn't it make sense to provide assurance to the neighbors that "not at this time" related to all these other questions would be protected because you're only asking for a special exception for the use that you need in the center here.

A. You're worried about the tree clearing?

Q. I'm worried about the fact that all of a sudden the existing tree line could disappear and you come in and you ask for an increased facility, a larger facility, more parking facilities.

A. A special exception wouldn't grant permission to clear those trees.

Q. Why didn't you just create preservation for

that area?

A. For preservation of the trees?

The trees are protected by Maryland State forest conservation law. And any proposed clearing would be reviewed and approved by Baltimore County subject to the constraints of that law.

Q. Right. Subject to the request by you that you want to have a variance to that law and you want to provide another building on the site.

MR. SCHMIDT: Objection. This is also speculative. Obviously if the trees would ever be cleared, as Mr. Motsco says, they would have to be subject to the forest conservation laws as well as they would have to amend this special exception. Special exception is for what it is.

MR. GARBER: I understood the point. But Mr. Motsco did say "at this time" or "not at this time" several times, which opened the door to these questions for Mr. Holzer to ask, What about the future?

So you get some leeway on it. The point is

taken. I think that's where Mr. Holzer is going with this. I expect this to wrap up shortly.

MR. HOLZER: Thank you.

MR. GARBER: That worked out well.

MR. HOLZER: Mr. Chairman, obviously the Board understands what the issue was, and I don't see a need to drag it out anymore.

Q. (By Mr. Holzer) Looking at the rest of these pictures which you have in front of you, it is my understanding that since you're asking for a special exception for the entire property that the special exception would run all the way down to Harford Road, correct?

A. That is correct.

Q. Okay. And if it runs all the way down to Harford Road that means that --

How do you characterize or come to the conclusion that the RTA does not apply?

A. The RTA would apply to parking and structures associated with the religious facility.

Q. And so you believe that the distance from

the parking and the structure is what would generate the RTA, and that's why you came to that opinion.

A. An RTA is applied to buildings and parking.

Q. That's why you testified the way you just did on direct.

A. You're going to have to give me a little direction there.

Q. I don't.

A. I'm not sure what you're asking.

Q. You must remember what you testified on direct.

MR. SCHMIDT: Objection. You're asking him to agree with you as to his thought process. I don't even know what the question is.

MR. HOLZER: I'm not asking again.

MR. GARBER: Mr. Holzer, I will say, it was confusing to me.

Q. (By Mr. Holzer) The question was: Because of the special exception going to Harford Road, does that create, in your opinion, an RTA issue?

I believe your answer was, No.

A. My answer would still be no.

Q. Have you ever been out at the site at nighttime?

A. No, I have not.

Q. So you don't know the effect of vehicles exiting the property in the evening on the house that's sitting directly on Exhibit G, directly across the street from the entrance.

A. I do not have any personal knowledge of that.

Q. That's on F and G. For the new proposed possible access route -- I know you had a picture of what the area was here -- was the purpose of that new access route, was that designed to avoid the entrance and exit directly across the street from this individual house?

A. You would have to ask the traffic engineer. He's the one that provides the layout.

Q. You don't have anything related to the aspect of in and out and the value of the existing entrance?

A. That was somebody else that analyzed those aspects of it.

Q. Somebody else in your --

A. The traffic engineer, who's here today.

Q. I understand that.

Was it your firm that created the new access route? Did you design it, locate it, physically draw it on this plan under your own knowledge and purpose, the reason for it, or did somebody just tell you to do it?

A. I was told, This is where we think it could be. I put it on the plan. I was given an exhibit which was transferred onto the plan.

Q. Who told you that?

A. Joe Caloggero.

Q. The traffic expert.

A. Yes.

Q. Did you have any personal knowledge in dealing with the State Highway Administration?

A. I have not been involved in those dealing.

Q. I want to try to get these questions

finished so that you can put that away.

Were these pictures all taken at the same day with Mr. Schmidt and you?

A. Yes.

Q. Obviously you were there in the daytime, and obviously you were there when there was no use of the facility, is that correct?

A. That's correct.

Q. So there were no people there playing volleyball at the time you were there taking these pictures.

A. No.

Q. On Exhibit L, was this set up with these seats?

Shown as the way they are in L, was this set up by you or someone else?

A. The room was in that condition when we arrived at the property that day. Someone else but I don't know who.

Q. You said you were out there twice. This was one time with Mr. Schmidt.

When were you out there before?

A. I was out there in preparation for the hearing before the ALJ.

Q. Had you been there before that hearing, when you designed this plan that was submitted as 1 and 1A?

A. No. A representative from my office went out there to confirm the information we obtained from Baltimore County GIS.

Q. So the only time you went out there was really to see what it was like before the hearing before the ALJ.

A. In preparation for the hearing, several weeks in advance.

Q. Did you go out by yourself?

A. I met Tim Kotroco and some representatives from the congregation.

Q. That was it? There were no other people there other than those folks.

A. Correct.

Q. So you never personally confirmed how many

people would be out there using this facility or how many people were out there during one of the events that they held on this site, other than what you were told. You were not personally viewing anybody else out there.

A. Correct.

Q. Did you count the number of seats that are shown on Exhibit L?

I don't mean now.

A. I think we guessed. Looking at it, we approximated what we thought was in there.

Q. What did you approximate?

A. I think it was 70 or 80.

Q. On Exhibit N, this shows a picture of what, to your knowledge.

A. Items for religious worship.

Q. Were they there when you got there?

A. Yes.

Q. Were they there when you left?

A. Yes.

Q. To the best of your knowledge, were they

items of religious worship that were utilized for religious purposes?

A. They were in that room. That's about all I can say.

Q. But you are coming to the opinion that they are religious -- they exhibit religious tendencies or religious uses.

A. I would have to admit that that's probably speculation. But, yes, it would look that way.

Q. That's what you testified in direct.

A. Yes.

Q. You testified that the building was being used for functions, in your direct testimony, and it's now being used as a temple, when you identified N, is that right?

A. I believe I said that was the room that would be used.

Q. So the question is: Was your testimony that it would be the room that was used? Or was it being used?

A. My understanding is that this room will be

used for religious worship and not at all in this configuration, when it is finally used for religious worship.

Q. But why do you set up all those seats and have the religious items in there? It's not being used now.

A. I have no way of answering that question.

Q. Right.

A. I don't know.

Q. Right.

So you don't know --

Well, do you want to change your testimony that --

MR. SCHMIDT: Objection. Come on, Mr. Holzer. You're arguing with this witness.

Q. (By Mr. Holzer) -- the use in this building was functioning now?

A. I'm sorry. Say that again.

Q. Do you want to change your testimony from your direct that it is now being used as a religious facility?

MR. GARBER: I will sustain it. Argumentative. Can you rephrase it?

MR. HOLZER: No. I think the record will show exactly what he said.

Q. (By Mr. Holzer) Looking at Exhibit R, this picture seems to confirm your testimony that this site is a prominent site in terms of the area, that it's probably one of the highest sites in the area and that valley exists below this site.

Is that a fair statement?

A. Yes, that's what I --

Q. That's what you tried to show on this exhibit.

A. Correct.

Q. Is this site higher than the property to the west? I guess this is the west.

A. Yes, that is the west. And, yes, it is higher.

Q. Is it higher than the property to the north?

A. Yes.

Q. Is it higher than the property to the east?
A. Yes.
Q. And it's higher than --
Or is it higher than the property to the south?
A. Yes.
Q. The photograph V showing the tennis court, does that plan to stay?
A. From what I've been told, yes.
Q. And it's shown on your site plan.
A. It is on the plan as well.
Q. Do you know that there's a volleyball court, that they play volleyball out there all the time?
A. I did not.
Q. Did you know that?
A. No. I knew there was a volleyball used. I assumed it was on the same court.
MR. SCHMIDT: If you look at the next in the picture, it's a volleyball net and not a tennis net.

MR. GARBER: It's Mr. Holzer's time for questions.

MR. HOLZER: Mr. Schmidt, even though you took the pictures, you're not supposed to be talking to me now.

MR. SCHMIDT: I'm sorry.

MR. HOLZER: Apology accepted.

Q. (By Mr. Holzer) Now when one looks --

MR. HOLZER: It is a volleyball net but it could be reduced to a tennis court net also, Mr. Schmidt.

Let me go on.

Q. (By Mr. Holzer) As I understand your testimony, the pool and the shed around it are going to go, correct?

A. Yes.

Q. What are they going to be replaced with?

A. Yard. Open space.

Q. Is FF, is that the alternative access picture?

A. Hang on.

That is in the general vicinity of where the access would be.

Q. I know this wood along the front of this picture actually sort of encloses the current access.

So if you were going with the drawing that you have up there to the end of the property, it appears that you would have to cut your way through those trees that are shown on this picture to access Harford Road.

A. Straight ahead in this photograph?

Q. No.

A. There are a handful of trees to the left-hand side of this photo --

Q. Yes.

A. -- between the lawn area and Harford Road.

Q. Right. Would those go?

A. Some of them would. If that access is built some of those trees would need to be removed.

Q. If you were to go straight through this picture, in the middle of it, you're actually going

beyond this property, would you not, so that the access road must go to the left?

A. You're saying leaving the site in this photograph, you would travel from the right-hand side to the left-hand side.

Q. Right.

A. We're looking parallel to the proposed road.

Q. Let me show you, so you don't misunderstand what I'm saying.

MR. GARBER: Which photo are you looking at?

MR. HOLZER: I'm looking at FF.

Q. (By Mr. Holzer) Do you see the space between the trees?

A. Uh-huh.

Q. Would the access road go out through there, or would it go through the existing trees on the left-hand side of the picture?

A. No. I don't know how to do this clearly for everybody. The gap in the trees, if you look at

the bottom of it, you can see that there's a roof to a house.

Q. Yes.

A. That is the neighbor's house.

Q. Correct.

A. So in this photograph you are looking east, and the access would actually be going to the left, to the north, off the page.

MR. GARBER: If I can, can you look at photograph GG?

MR. HOLZER: Yes.

MR. GARBER: Would that help?

MR. HOLZER: I will ask the witness.

Q. (By Mr. Holzer) Would photograph GG explain where the new access road would go on a clearer way?

A. From FF to GG, Larry turned to the left to take the photograph. You can see what appears to be a red shrub of some kind in both photographs, to help tie you down.

The access would be somewhere in those three large trees and the red bush in photograph GG.

Q. Perfect. That explains it.

So on both of them you can see where the proposed access would enter Harford Road.

A. On FF, I don't know that it looks far enough that you would see Harford Road. You would see where the drive aisle would be.

Q. Thank you.

MR. HOLZER: That may be it. Let me just make sure.

MR. GARBER: (Nods.)

Q. (By Mr. Holzer) Those are all the questions I have on the pictures. Don't get too excited.

MS. DOPKIN: Before we leave the pictures, Mr. Motsco, go back to picture FF.

For my benefit, the location of the adjoining property, can you mark that on Exhibit 1A.

THE WITNESS: You see the roof in photo FF. That is this dwelling right here, in the lowest right-hand corner of the plan. The address for that is 12241 Harford Road.

MS. DOPKIN: How far from the property

line would that be?

THE WITNESS: Over 100 feet.

MS. DOPKIN: Thank you. That helps.

MR. GARBER: Just to be clear, the residence you just referred to, that is 100 feet from the property line.

THE WITNESS: Yes.

MS. DOPKIN: And about the same distance from Harford Road?

THE WITNESS: More or less, yes.

Q. (By Mr. Holzer) Mr. Motsco, since you've been involved in presenting this, testifying below, has the DoE, Department of the Environment, have they issued any approvals for wetland area or stream location other than you're getting stream location off of the GIS?

A. They have not asked for or reviewed, none have been prepared, any wetland delineation report or anything of that nature.

Q. Do you know from a general standpoint in which direction this site drains from?

Let's take the main house as an example. Which direction does water run off, rain run off? Any other runoff, which way does it go? If you know.

A. The house is generally located as close to the top of the hill as it could be. So we're talking about the house.

The driveway right in front of it may go a completely different direction because of the top of the hill.

The house itself would generally drain in a southerly direction towards the existing barn.

Q. Which direction would the proposed new parking area and pavement, what direction would that flow? Did you do any analysis of that?

A. That would flow towards Harford Road. Northerly on the site.

Q. I think I understand what you just said. I just want to make sure the record is clear.

Any drainage from the parking area and the existing driveway would drain in a northerly

direction towards Harford Road.

A. Yes.

Q. And not in a westerly direction.

A. Correct.

Q. Thank you.

Can you say, based on your experience, whether any of this --

Well, you've already said it would drain in a northerly direction. Is that so?

A. Yes.

Q. It would also presumably drain in the direction of the driveway and the entrance on Harford Road.

A. Yes.

Q. I thought I had it right.

When you visited the site and you had taken these pictures, could you describe the house in terms of its square footage?

Do you know what the square footage is?

A. I do not. Anything I say would be a guess.

MR. GARBER: The main dwelling?

MR. HOLZER: Yes.

Q. (By Mr. Holzer) You don't know?

A. No. There are two-and-a-half floors in the house with various jogs on the outside of the building. It would be difficult to estimate.

Q. To your knowledge does anybody in your firm know the answer to that?

A. No.

Q. Do you know how many rooms are in the existing facility?

A. No.

Q. Is it fair to say that in taking these pictures you only went into the one room and shown the hallway and that's the extent of your site visit?

A. The visit where we took the pictures, that was the only room in the house that we entered.

On my previous visit, I had been through -- I don't know that I got every room, but I saw almost the entire interior of the house.

Q. Did you go to the second floor?

A. Yes.

Q. And what did you see up there?

A. Hallway, bedrooms, bathroom.

Q. How many rooms did you see on the first floor, where you took the pictures?

A. I couldn't say. It's been too long since I walked through the house.

Q. Did you go into the basement of the house?

A. No.

Q. You never went into the basement at all to see what was there.

A. No.

Q. At the time you visited the main house, was there running water available in the house?

A. I do not know.

Q. Was there toilet facilities in the house?

A. I do not know.

Q. How did you arrive at your conclusion that the house might be functional now? Which is what you said towards the last part of your testimony.

You said the house may be occupied. Then

you said, It's not functional. Which is it? Is it not functional now? Or can it be occupied?

A. I don't know if it's functional now. I meant that the general condition of the building is habitable. Obviously running water would be a criteria for that.

Q. What about electric?

A. There is electric in the building.

Q. So there is electric in the building. You don't know about any water.

A. No.

Q. Or toilet facilities.

A. Correct.

Q. Do you know anything about the well and septic?

A. I know that there is an existing one that is being replaced.

Q. Existing what; well?

A. And septic.

Q. Both. And the county has approved that at this point?

A. Approved what; the existing ones?

Q. No. Approved the future, whatever they may be, to be consistent with commercial use by your client.

MR. SCHMIDT: Objection to the phrase "commercial use." This is an institution. It's not a commercial use.

MR. HOLZER: Commercial-institutional use.

A. Calculations were prepared for the religious use, which Baltimore County reviewed and approved by a verified, registered sanitarian that was used, the size, septic reserve area shown in the well and percolation plat.

And the well and percolation plat has been approved by Baltimore County. And there are perc tests scheduled for later this month based on that plan.

Q. On Exhibit 1A, is the septic area and the well area shown?

A. They are not.

Q. Why not?

A. Because I do not have the information as to the exact location of them.

Q. So they are going to have to dig a new well?

A. That is my understanding that that is the plan.

Q. And they will have to relocate an old existing septic system, is that correct?

A. Typically they would be abandoned in place and a new one constructed elsewhere.

Q. Elsewhere.

A. On the property.

Q. So neither one of those aspects are shown on 1A at this time.

A. The existing ones?

Q. You don't show the existing ones, do you?

A. We don't know where they are.

Q. If you don't know where they are, you couldn't show the existing ones and you don't yet have approval for showing the new well or the new

septic.

A. We do have an approval of the location of the new well and septic.

Q. Can you show that on this plan?

A. I do not have that information.

Q. Either you have the information and you could show it or you don't have the information.

A. I don't have the information. Our registered sanitarian, who's here to testify as well, has that information.

Q. He's here. He's going to testify.

A. Yes.

Q. Okay. That's the first time I heard that. All right. Then we'll ask him that question.

Are there any, on the site plan, new athletic fields or sports facility fields shown on the plan?

A. There are none.

Q. None.

A. Correct.

Q. And even though you don't know about

volleyball, if you assume that the tennis court is also being used as a volleyball court, there will be no new fields proposed at this time for the facility.

A. At this time, yes.

Q. But there could be in the future, could there not?

A. That's an open-ended question. I can't answer for what --

Q. Well, you're giving me an open-ended answer. So I can certainly ask an open-ended question.

MR. SCHMIDT: Objection.

A. We are not currently proposing any athletic fields.

Q. I understand that at this time.

Is there room on this 30-acre site to put a baseball field?

MR. SCHMIDT: Objection. That's entirely speculative. Is there room on this site to build a golf course? Is there room on this site to

put a McDonald's restaurant?

I mean, what does that have to go with this case? It's entirely speculative. The plans we're asking to be approved is the plan that's on the board. Obviously if that plan is amended in the future, the county will make us either come back and amend the special exception or do whatever this Board has the authority to impose whatever conditions it has.

All these questions are about things that may never happen and, more to the point, are not proposed under the current request.

MR. HOLZER: I will adopt his question.

MR. GARBER: Which question?

MR. SCHMIDT: I didn't ask a question. I made a statement.

MR. HOLZER: I'm entitled to find out what they're proposing to do and how they're proposing to use this special exception.

MR. GARBER: I think your point is made that at this time this is what's reflected. We

don't know what could happen in the future, right?

MR. HOLZER: Yes, we do know.

MR. GARBER: We do.

MR. HOLZER: The community itself is concerned that there will be a larger development. That's why I asked the question before of could you restrict the special exception to merely the area of the development that he's testified to.

We're not trying to cut out the barn. We're just saying, what they want to use this for, we would like the special exception to be restricted to that, that would (a) preserve all the forests, (b) ensure -- and this is important. I've been around doing this a long time -- that if they do want to develop this property with an additional building or additional field, they would have to come back to this Board or to the county.

MR. SCHMIDT: Mr. Garber, Mr. Holzer knows --

I will stipulate he has been doing this a long time.

More to the point, certainly he can request this Board to impose a condition that any additional improvements to the site or any material changes to this plan would require an amendment to the special exception and so on and so forth. And that's certainly an appropriate legal argument.

But it's not in the context of questioning this witness. This witness is telling you the plan that he has been asked to prepare, showing what's proposed.

He's required as part of the package to outline the boundaries of the property and show acreage of the entire property, in fact provide a legal description of the entire property. That's required as part of the file.

So for Mr. Holzer to take those requirements and suggest that they're going to build something and tear out all these trees is simply inappropriate.

He can ask for that condition or restriction. You-all may or may not impose that.

But it's unfair to this witness in the context of his questioning and answering.

I object.

MR. HOLZER: I will ask a new question.

MR. GARBER: That's fine. Move on then.

Q. (By Mr. Holzer) Let's talk about parking. How many spaces are you providing?

A. Thirty-eight clearly delineated parking spaces.

Q. That figure, I think you've testified, was based upon information that you gave to the zoning office, is that correct?

A. We were provided with an approximate number of regular attendees by our client. And due to the way the parking requirements are worded for religious-use facilities, if you don't have pews, there's nothing to base it on.

So they took our anticipated attendance and accepted that as being applied in lieu of seats, which generated the parking requirement shown.

Q. So basically you got to pick the number of people that would be in attendance and the county had no basis upon which to limit that because there is no understanding.

They took what you gave them, and they came up with the requirement of one for four and therefore 38.

A. One for four is in the zoning regulations.

Q. I understand.

A. As it would apply to a religious facility with physical seats.

Q. It would apply to a religious facility that has those kinds of requirements that's not involved in the situation like this unique property, isn't that so?

If they were doing it in another zone or another RC-2 zone and somebody came in and said, We have 200 people attending our 9:00 Sunday service, they would do it on that basis.

You walked into the zoning people and said, We can't tell you. We'll tell you normally 20

people show up, or, Normally, X number show up. And that's what they base 38 spaces on. Isn't that correct?

A. The zoning requirement is one space for four seats. That is what would apply to any religious facility. This religious facility may have four seats for elderly or disabled. Obviously, one parking spot wasn't appropriate, so we chose to ask our client for expected attendance and generate parking requirements still applying the one to four but standing room.

Q. So your client is the one that provided the county that information.

A. (Nods.)

Q. When I look at this photograph L that you took --

A. I don't have them here.

Q. You know which one.

MR. GARBER: Let's make sure he has the photograph in front of him.

MR. SCHMIDT: Let's be fair to the

witness.

MR. HOLZER: I'm always fair to the witnesses.

Q. (By Mr. Holzer) That appears to be about 120 to 150 seats.

MR. SCHMIDT: Objection. He testified about 80.

MR. HOLZER: I know what he testified. It was a guess. I'm asking him to guess again.

MR. SCHMIDT: Objection. Asked and answered.

MR. GARBER: Mr. Holzer, if you're asking him to agree that this is up to 150 seats, there's another way to approach that.

MR. SCHMIDT: It's not. It's 80 seats.

MR. HOLZER: He testified that he thought it was 80 seats.

Q. (By Mr. Holzer) Is that more than you told the zoning office as to how many people would normally be there?

A. It's less. If we're talking about the 80

number, which I testified to, that is less.

Q. How many did you tell them?

A. Four times 38. So --

MR. GARBER: 152.

A. 152. 150, I believe, was the number.

Q. You told them that the average attendance would be 152.

A. The maximum normal attendance. So a festival or holiday.

Q. A festival or holiday. In other words, if you didn't limit it to a normal religious service, you related it to an event?

A. A religious festival.

Q. An event.

A. We were discussing worship only.

Q. If it was worship only then you're saying 150 worshipping as the average that they would expect.

A. The maximum.

Q. The maximum that they would expect.

Are you now trying to say that also meant

if they have an event at the site it would only be 150 as well?

A. No. I'm saying that 150 is what the parking was based on, which is appropriate given the religious differences, when the code was written, for a Judeo-Christian worship.

Q. Let me get this straight. If they had an event there, such as they had this last August, then Mr. Schmidt asked you a couple questions about that.

MR. SCHMIDT: No, I didn't.

MR. HOLZER: Yes, you did. You asked him, There are 38 spaces, one for four seats, maximum number of people.

Q. (By Mr. Holzer) But what happens if there are more vehicles?

You explained there's an additional paved area for them to park on, which is the entrance area, the roundabout, and you also said they could park on the grass, right?

A. I did not indicate the roundabout. The entrance area has additional parking adjacent to the

house. There is additional paving in the garage area of the existing house.

Q. Right. Exactly. I'm sorry. I misspoke. You indicated that. And then you said parking on the grass.

A. Yes. There is a substantial lawn area that would be suitable for very occasional use.

Q. How many vehicles?

A. We didn't do any kind of analysis. Far in excess of 38 or 50 cars.

Q. So there would be no limitation on the number of people who could drive onto this site with their vehicle and park. Even if they exceeded the paved parking area, they could park on the grass and that would be okay.

A. There would be parking available for them on the grass.

Q. Plus the grass.

A. Parking in the grass would be available.

Q. Yes. So there would be no parking limit

based upon the fact that there could be an event that would attract a thousand people.

MR. SCHMIDT: Objection. When he asked, There's no limit, do you mean limit under the law? I don't understand what that question is.

MR. HOLZER: He's not a lawyer. I'm not asking under the law. I'm asking him under what is being proposed by your client, a thousand people, 500 cars could come onto that site and that would not create a problem from your standpoint as an engineer.

A. We have not prepared an analysis of the overflow parking area. I can't state what that number could be.

Q. Okay. Okay.

The fire turnaround, that's something new that wasn't proposed before the administrative law judge, was it?

A. That was on the plan that the administrative law judge saw.

Q. Why did you put that on?

It wasn't on the plan that was handed out to the community prior to the hearing. So what caused that?

A. I can't say for a fact whether it was on the plan that was handed out to the community. I don't have that plan.

Q. That's not the question. The question is: What precipitated the requirement of putting the fire turnaround on this site?

A. We added it. If it wasn't on a plan you've seen, that was a draft. And anything prior to what was filed with the ALJ should be considered a draft. That was not a final product.

Q. Now that you said that, could I just ask you my question?

What precipitated the requirement that you put on this fire turnaround? Who and what and when?

A. So in the process of going from a draft plan to a plan that is suitable for a hearing, we want to ensure that we're meeting all the requirements that would be applicable.

One of those would be a fire turnaround for emergency equipment, so it would have been added as we finalized the plan.

Q. Did the fire department require that?

A. The fire department had not seen the plan prior to us filing, so they never saw a plan that did not have the turnaround.

But through our experience and the volume of work we do in Baltimore County, we know that there would be one required, so we provided one.

Q. Has the fire department been satisfied with what you've shown on the plan?

A. I don't know that they've seen the plan.

Q. As of today, we don't know whether that fire turnaround has been approved by the county or not.

MR. SCHMIDT: Objection. He doesn't work for the county. Ask the county.

MR. GARBER: I think the question is: Does he know? He answered, no, he does not know.

MR. HOLZER: Right.

Q. (By Mr. Holzer) You do not know.

A. No.

Q. You testified that your clients have done cosmetic improvements in the building. What are they?

A. To my knowledge, the great extent of that was to clean out all the used needles, alcohol bottles and do their best to remove the swastikas and other graffiti within the building.

Q. I think you showed us a picture of the building on L and M. I would ask you, does this look unimproved on those two pictures, L and M? It looks pretty nice to me.

A. When I visited the site the first time, all of that work was there and was covered in graffiti. It was cleaned of graffiti but otherwise that building is what was there.

Q. What about this second picture, the M? It looks like the hallway was cleaned. It's been pretty cleaned up, right?

A. Yeah. That is the original hallway to the

house. It was a nice house when it was last inhabited. Thankfully it wasn't destroyed too much.

Q. When you visited, as you said, you went upstairs. Were the upstairs rooms as nice looking and as clean looking at this one, M?

A. No.

Q. They were still dirty?

A. I wouldn't say they were dirty. They weren't at 100 percent yet.

Q. But clearly there had been work on the inside. Is that a fair statement?

A. Yes.

Q. When you first went to the site was there electricity in there at the time?

A. Yes.

Q. The first time.

A. Yes.

Q. Not with Mr. Schmidt.

A. Yes, there was.

Q. You had lights? You were able to turn on lights inside and so forth?

A. Yes.

Q. I show you a picture --

MR. GARBER: Protestants' 4?

MR. HOLZER: Protestants' 4.

(Protestants' Exhibit No. 4 marked for identification.)

Q. (By Mr. Holzer) Are you familiar with the site this July with the tent there, with vehicles parked on the grass?

A. No, there was no tent. As I said previously, there were very few cars anytime I have been on the site.

Q. Is this what you envision, that cars could be parked on the grass, like this photograph depicts?

A. Sure.

Q. Would this tent, would that be something that you would envision that could be in addition to what is on this site plan?

A. Physical addition to the building?

Q. No, it's not. It's a tent set up on the

outside.

Is that something that would be in addition to what's shown in Exhibit 1A?

A. Obviously this temporary tent is not shown on our plan. I don't know if that answers your question.

Q. You were not asked to prepare anything to show that additional facilities, kitchen, additional dining area, additional tents. You were not asked to prepare anything like that and to locate it on the site plan.

A. Correct.

MR. HOLZER: I would mark this for identification only as 4. I will have someone identify the basis for it and how it got there and when it was taken.

MR. GARBER: You mean for purposes of admissibility.

MR. HOLZER: Yes.

MR. GARBER: Mr. Schmidt, do you have any questions about the admissibility for

Protestants' Exhibit 4?

MR. SCHMIDT: I guess I would probably want to ask whoever took it, when they took it and get an idea of when it was taken.

MR. GARBER: Trying to figure out a way to streamline as much as I can.

MR. HOLZER: That's why I marked it for identification.

MR. GARBER: Right now it's 12:25. How much longer do you think you have?

MR. HOLZER: Another hour.

MR. GARBER: Does it make sense to break now for sometime in the next several minutes. Are you at a natural breaking point?

MR. HOLZER: I'm at a natural breaking point. I'm getting hungry.

MR. GARBER: With that being said, why don't we do 45 minutes. Does that work for everybody?

MR. SCHMIDT: That's fine.

MR. HOLZER: Sure.

(Recess was taken.)

MR. GARBER: Mr. Holzer, back to you.

MR. HOLZER: Thank you. For the Board's edification, I went through the rest of the questions to try to avoid repeats and to cut this down hopefully.

Q. (By Mr. Holzer) You testified that you were only at the site two times, one time with Mr. Schmidt and one other time prior to when he took the pictures, is that right?

A. He took the pictures of the most recent visit.

Q. The second time you had been there is when he took the pictures.

A. Correct.

Q. At either of two those occasions where you had the opportunity to be on-site, did you observe what took place when there were three different events taking place at three different times on this property?

A. No, I have not.

Q. So you cannot --

Your opinion in regard to 502.1 is not based upon any personal observance of any problems that may have affected the neighbors at that time, is that right?

MR. SCHMIDT: Objection to the form of that question, Mr. Chairman. He uses the word "problems." Obviously it's based on his understanding. He's an expert as an engineer. He's been to the site.

MR. GARBER: You object to the word choice.

MR. SCHMIDT: Yes, I do.

Q. (By Mr. Holzer) The simple question is: Your 502.1 testimony is not based upon any observance of the three events that your clients held in which there may or may not have been more people than just yourself and Mr. Schmidt.

A. No. My testimony is based on the anticipated day-to-day use of the facility.

Q. Exactly. Not in terms of special events.

A. Correct.

Q. You testified that even though the site has a lot of trees that you believe there was no need for a landscape plan.

A. I said we prepared a plan, and based on the county requirements for landscaping, which is primarily geared towards screening, none or very little additional planting would be required to satisfy that.

Q. Could you present me today with the landscape plan that you prepared?

A. Yes. If I could go --

Q. Sure.

MR. HOLZER: Mr. Chairman, may I have an opportunity to look at this?

MR. GARBER: Yes, of course.

I assume you've seen it, Mr. Schmidt.

MR. SCHMIDT: I have.

MR. HOLZER: Really?

MR. SCHMIDT: I have. The new landscaping is mainly around the parking area and

driveways, as I recall.

MR. HOLZER: For purposes of this record, it does appear that there is additional landscaping but primarily around the parking area and the driveway. I think this should be submitted as an exhibit.

MR. SCHMIDT: No objection.

MR. HOLZER: It should have been part of the record.

MR. GARBER: It will be now.

MR. HOLZER: Around the entrance area and along the driveway around the parking. The 14, 13 and 22 parking sites. I hope that adds up to 58.

MS. MURPHY: Thirty-eight.

MR. SCHMIDT: It's generally around the area of the new construction.

A. If I can specify --

MR. GARBER: One second. There's no question pending.

So we're marking this as Protestants' 5?

MR. HOLZER: Or Developers. Why should

I have to submit their landscape plan?

MR. GARBER: We just want that marked for the purposes of the record.

MR. HOLZER: That's fine. I will mark it. Protestants' 5.

(Protestants' Exhibit No. 5 marked for identification.)

Q. (By Mr. Holzer) This is the plan. And what is it dated?

A. This is a conceptual landscape plan dated July 25, 2018.

Q. Since it says it's conceptual, does that mean it could change?

A. Yes. This was as prepared for a first preliminary review by the county landscape architect.

Q. When they review it, they may have some other additions or comments.

A. That's correct.

Q. It has not been presented to them yet.

A. It's been submitted to their office. They

have not reviewed it yet to my knowledge.

Q. As I said to the Board, just looking at this, it looks like additional landscaping. Are these trees, evergreens, deciduous? Do you know?

A. The proposal is for some of them to be deciduous, some evergreen. There's a ledger in the corner of the plan.

Q. I see.

MR. HOLZER: At the top left corner is the ledger of the type of planting.

Q. (By Mr. Holzer) Is that it?

A. Uh-huh.

MR. HOLZER: I will offer this. I will take it back to the Board.

MR. GARBER: Mr. Schmidt, I assume you have no objection.

MR. SCHMIDT: No objection.

MR. GARBER: So admitted.

Q. (By Mr. Holzer) I think you testified that the RC-2 zone permits a church if the site complies with the special exception requirements, is that

correct?

A. I said it's permitted by special exception in an RC-2 zone.

Q. Right. But doesn't it also have to comply with the special exception requirements?

A. Yes, there are criteria placed on a special exception.

Q. Those criteria are the 502.1, is that correct?

A. I have to take your word on that. I haven't committed it to memory.

Q. I thought you did all these special exceptions.

A. I know what it says, but I don't have the numbers memorized.

Q. When Little & Associates were contacted by the applicant here, which you said was sometime in 2017, probably the spring, do you know whether they had acquired the property?

A. I do not.

Q. Did you ask them whether or not this

property was theirs or under contract or what? Did you just assume?

A. At that time we knew that they were -- they already owned it or they were under contract to buy it. And for the purposes of our work it doesn't make much of a difference.

Q. You knew it was either under contract or they had acquired it, right?

A. Yes.

Q. Under those circumstances, did you give them any advice in regard to, since you were the senior person, zoning requirements or the other aspects of approving a site plan such as you presented?

A. I'm not sure I follow your question.

Q. The question would be easy, if I could just say it.

What did you advise them about proceeding?

A. We advised them of the special exception is not a guarantee and explained to them the process, time frames and what would be entailed.

We had a meeting with Tim Kotroco prior to that, the attorney at the time.

Q. So they knew there was a zoning requirement. They knew there was a procedure requirement.

Did they know anything about when they would get permits to be able to improve the property or utilize the property to your knowledge?

A. We talked about utilization of the property as a religious temple would be pending the approval of the special exception.

Q. In other words, being able to use the property as a religious institution, they would have to await the outcome or the decision of these hearings.

A. Yes.

Q. Did you give them any advice insofar as being able to utilize the property in the meantime?

MR. SCHMIDT: Objection. I'm just trying to figure out what the relevance of this as it relates to the special exception.

MR. HOLZER: This all goes back to the motion that we filed on the first day, it goes back to the issues that were presented to the county on the first day and depending on what the answers are, obviously, it may have an impact on the approval.

MR. GARBER: I will overrule the objection.

A. Could you repeat the question please?

(Question read back.)

A. At that time, we knew that they were undergoing cleaning up, replacing windows, getting the trash out, cosmetic work to the property, and that would be fine to continue as a property owner or contract purchaser.

Q. Did you know they were going to be holding events there?

A. I did not.

Q. You didn't know that they were holding get-togethers for a number of people, not just to paint or repair the building but to fundraise, to have parties there. You didn't know that.

A. Beyond a group of people showing up on weekends or in the evenings to work on the house as a group, no.

Q. Thank you.

If you had been aware that there were events being held with regular attendance and those events being greater than 300 people, would you have changed your analysis in terms of parking requirements or approval or submission of those requirements on Exhibit 1A?

MR. SCHMIDT: Objection. Mr. Garber, again -- and I think you ruled at the first day's hearing, and you recognized that the Board is not sitting in its capacity to consider appeals of code violation cases.

We acknowledge and my client acknowledged that they have had fundraisers and certain gatherings since they've owned the property, just as I may have a fundraiser at my house or I may have a celebration at my house or we all may do that.

I think what the relevant inquiry in this

case is is whether the special exception, which is the use of the property if an approval is granted both in terms of the sort of mundane, routine daily activities as well as the festivals that have been described, is the inquiry.

I'm not sure where these questions are going other than I understand the neighbors didn't like it that they had a fundraiser out there. I get that.

I frankly don't understand what that has to do with the proposed use of this property going forward. It's not a code violation case.

MR. HOLZER: I will explain it.

MR. GARBER: The way I understood it was it was not dealing with code enforcement issues but rather how would the holding of these types of events, how would that impact the way the plan is designed?

And that is, would you make different accommodations, would you have a different parking arrangement or configuration, what does that mean

for the purposes of the special exception factors?

That's how I interpreted your question. It was beyond the strict code enforcement part.

MR. HOLZER: Mr. Chairman, you're right on the money. I have written down here a response.

The credibility of this witness in terms of his opinion in regard to 502.1 would be based upon these questions and this answer.

We're not trying a code violation case over again. Your Honor is exactly right. That's still my question.

MR. GARBER: I will overrule the objection. The question stays.

Q. (By Mr. Holzer) The question was: The assumptions that you've made in regard to parking requirements, would those change if you were advised that instead of 150 maximum there could be attendance at events, whatever, held on-site of 300 people or over?

Would that requirement change your opinion in regard to your testimony dealing with parking?

MR. SCHMIDT: I will just object to the supposition that there have been over 300 people on the property. Facts not in evidence and how we know that. I understand your ruling to my prior objection.

MR. GARBER: I recognize the 300 number to be more of a hypothetical because that's not a fact that's been established in the evidence. Since he is an expert witness on that point, he can certainly answer the question.

MR. HOLZER: Thank you.

A. The answer is, no, we would have proposed the same or materially similar layout. We would have proposed parking, paving and the site improvements for 364 days of the year and not the one day of year that there may be a larger crowd.

Q. Maybe there would be three or five days. Would that affect your opinion, if it was a regular special event and not a religious appearance on a particular day?

A. That would depend on the number of times a

year and the actual size of the crowd that's anticipated during that day.

Q. Didn't I ask you, Did you know that there were going to be special events? You said, you didn't know that.

A. I did not.

Q. So you were never told by your client and you never tried to find out what other special events would be held, is that right?

A. We found out what we needed to know for the religious worship, which is what the parking requirements address.

Q. If you have a religious institution and they're holding Bingo parties and so forth, take a Roman Catholic, Episcopalian, a Methodist, don't those calculations go into the requirement for parking, if they had them regularly as part of the religious activities on-site?

A. The parking requirements would be separate. They would have parking requirements one per four seats, and if they had some sort of hall where those

types of functions were being held, there could be additional requirements for that.

Q. And that hall could be this main building, could it not?

A. The interior of the structure would not lend itself to a large hall for entertaining outside of the worship work.

Q. You don't know that, because you don't even know the square footage of this building, do you? You just testified you didn't.

A. I don't need to know the square footage to know the interior layout.

Q. Really.

Are you telling me that you couldn't put 300 people in the hall that's shown in one of these pictures and in the hallway or in the other portion of the building?

A. If your purpose was to just jam as many people in the room as possible, maybe.

Q. What about upstairs, while downstairs is being held?

Are you telling me that you're going to take that position, when you previously testified that you didn't measure the square footage, you didn't pursue the basement to find out whether --

Are you really taking that position?

MR. SCHMIDT: Objection.

A. Yes.

MR. HOLZER: Yes, he answered.

MR. SCHMIDT: Arguing with the witness.

MR. HOLZER: I'm not arguing. This witness has to be truthful.

MR. GARBER: We can strike that comment. But the question stands and the answer stands.

Q. (By Mr. Holzer) You may or may not have used this testimony or commented on in regard to the parking spaces.

But did you use as a basis for your calculation four people per car?

A. Yes. The calculation is based on one car per four seats. Because there are no seats, in lieu

of seats we used an expected attendance.

Q. So you did use that calculation of four people per car.

A. Yes.

Q. Other than your two visits and other than your preparation, you really don't know how this property has been used from the time of its purchase until now.

Is that a fair statement?

A. Like you said, I've been there twice. I don't live in the area that I see it on a regular basis.

Q. Thank you.

I know we went into this area before of you're not an environmental person. But as the overall producer of this site plan, do you know whether or not there are any plans to mitigate sheet flow adversely affecting in the northern direction, specifically Ms. Foxworthy's property, which is on the north side where you said the flow would go?

A. We haven't proceeded to any sort of

analysis on that at this point.

MR. GARBER: When you say "on that," what are you referring to?

THE WITNESS: On the runoff.

A. In the vicinity of Ms. Foxworthy's house, there is a roadside ditch and an inlet. Without closer examination, I wouldn't be able to state what possible problems there are.

MR. GARBER: If I can ask and jump in: Where is that property located on 1A?

THE WITNESS: It is directly across Harford Road from the entrance at the northwestern corner of Boneparte Avenue and Harford Road.

MR. GARBER: Would that be the house that's depicted in Petitioner's 9E and F?

THE WITNESS: Is that the one looking from the site towards Harford Road, down the driveway?

MR. GARBER: Let's get the actual exhibit.

MS. DOPKIN: Would you show us where on

the site plan the inlet is?

MR. GARBER: First, the question is 9E and F, is that Ms. Foxworthy? Is that correct?

MR. HOLZER: Yes.

MR. GARBER: Is that the house that you're referring to, sir?

THE WITNESS: In E it is to the left of that photo, behind the stop sign, and clearly visible in F.

MR. GARBER: So E would show different homes than F, correct? And F is the one that we're talking about here with this testimony.

THE WITNESS: Any home in E would be further down the road and not directly adjacent.

MR. GARBER: Got it. The next question from Ms. Dopkin is, is there a way in these photos to show the inlet and the roadside ditch?

THE WITNESS: The inlet and the roadside ditch are visible in 9B. It's to the right of the white striping.

MR. GARBER: Is that a sewer grate in

9B?

THE WITNESS: Almost in the middle of the plan, that's the top to a storm drain inlet.

MR. GARBER: That's on the subject property side, correct?

THE WITNESS: Correct.

MR. GARBER: What about the roadside ditch and inlet you referred to to Ms. Foxworthy's property?

THE WITNESS: There is another ditch on our side of Harford Road that's visible in 9C, west of the driveway along Harford Road.

MR. GARBER: What about the other side of Harford Road?

THE WITNESS: There's no picture here to depict anything there. You can actually see in 9C that Harford Road is actually sloped away from Ms. Foxworthy's property and back toward the subject site.

MR. GARBER: Thank you, Mr. Holzer.

Q. (By Mr. Holzer) Did you measure the

distance --

From what we'll call the tennis court or the volleyball court, whichever net goes up or down, are there any homes close to that site as depicted on Exhibit 1A?

A. The closest homes would be all the way on the other side of Harford Road, on the west side of Harford Road on the property.

Q. In other words, where you just were talking about Ms. Foxworthy's property, that's the homes that you're referring to?

A. Ms. Foxworthy would be to the north.

Q. Right.

A. So to the west of the property, the closest home to the sports court would be here on the west side of the Harford Road.

Q. Look at lot 12150. Is that on there?

A. Yes.

Q. Can you measure from that home to the tennis court or volleyball court, the distance?

A. I would say it's 300 to 350 feet.

Q. Thanks. Since you haven't been out there when there were any events, you can't tell what the impacts of people on the subject site, how it would impact those people that you just described?

A. In what case? What events?

Q. Noise.

A. No, I have not been there when the property was in use.

Q. I have a few more questions and that will be it.

We already addressed the issue that you're not a sound expert, so you wouldn't be able to opine one way or the other as to who or what could hear who or what, right?

A. As far as noise levels at any adjoining location, no.

Q. I believe you testified that in your analysis of 502.1, you felt this was a low impact or low intensity impact on the neighbors, is that right?

A. Yes.

Q. How did you conclude that for your opinion?

A. During my visits to the site, my review of plans and aerial photos of the area, 502 requires that it not be a greater impact than it would be on other sites.

So this, in the scheme of a religious worship facility, would be a low impact site and location due to its proximity to a state road and due to the size of the property.

Q. So you were not including in your opinion any noise problems, traffic problems, any relative type of problem that could be generated by the use of this site on the neighbors.

A. What my opinion was is that any noise or sounds that were generated by this site would be no more impactful here than it would be in a similarly zoned property elsewhere.

Q. You also testified previously that this is the highest site in the area, is that correct?

A. Directly around the house is.

Q. But the whole site of 30 acres is higher

than the surrounding properties on the east, west, north or south.

A. Not in its entirety but the majority.

Q. So that wouldn't be a relative factor to set this property apart?

A. Not in my opinion.

Q. So in your opinion the geography and physical location of this site is not relevant to your opinion.

A. I said the height was not a detriment. The physical location of the property is a consideration. And in that case I think this property is better than the similarly zoned property nearby.

Q. Suppose it was a similarly located piece of property that's flat, would you find any difference between this site and the church located on a flat piece of property?

A. No. Again, it's primarily driven by the distance to the surrounding neighbors.

Q. You just said they're within 300 feet of

adjacent properties. You never testified as to how close the house was on the north of this site that you've shown on Exhibit 1A, and you've identified for the Board as this property right here. And I'm pointing to Mr. Pohler's property. You testified about that.

Are you telling me that that couldn't be effected by something?

A. There's no requirement that there's no effect. That it's not a greater detriment to the community here than it would be elsewhere.

Q. Let me ask you this question. Suppose you go over to Bel Air Road and you have a church at Bel Air Road that's surrounded by commercial activity. Wouldn't there be a difference between this property and that property?

A. If it --

MR. SCHMIDT: Objection.

A. If it was surrounded by partial property, it wouldn't be similarly zoned.

MR. GARBER: Sir, there's an objection

pending.

MR. SCHMIDT: I will withdraw the objection based on his answer.

MR. HOLZER: He hasn't answered.

A. If it was surrounded by commercial properties it wouldn't be similarly zoned and, thus, we wouldn't be comparing it for the purposes of 502.

Q. So that's one answer.

Suppose you had a church on a flat piece of property that was a church operation but, in fact, was different from this physical site in terms of either road access, surrounding properties, et cetera.

Wouldn't this be different from that?

A. It would be. You could conceivably have a site that is located at the end of a residential street which is different. That's obviously a worse scenario than direct access to the state highway.

In that case, the access to this site is good for its use. It's direct access to Harford Road.

Q. So your analysis then is based upon the fact that there is, in your opinion, no other location that would be better than this or worse than this, that this is the best. There's no impact.

MR. SCHMIDT: Objection. I don't understand the question. I don't understand how it relates to the criteria.

MR. HOLZER: The criteria is as he's already testified to. The impact has to be greater here than elsewhere in the zone. That's the old standard that we all live by in the zoning law.

Q. (By Mr. Holzer) So the question that I have is that you have not been able to find a piece of property that is any worse than this site or any better, right?

A. I haven't shopped for an available site. If that's what you're asking.

Q. That's true. That's what I'm saying.

Nor have you shopped for a site that would indicate that the property here is worse than at

someplace else.

In other words, just the opposite of what your testimony is.

You haven't done that research, have you?

MR. GARBER: He's basically asking if you compared properties.

A. What properties? I don't know what properties would exist that would be suitable for this.

Q. You've answered the question.

MR. HOLZER: He hasn't compared it to any properties.

Q. (By Mr. Holzer) To your knowledge of your client in terms of their religious activity, can you explain here the depth of your knowledge relative to how they equate to a Christian church, a Jewish church, a synagogue?

Do you have any ability to articulate how this congregation functions versus what many other people as Christians would understand how their church functions?

MR. SCHMIDT: Objection. That's so far out of the area of this man's expertise. It's completely an unfair question.

MR. GARBER: How it would impact the design here?

MR. HOLZER: Yes.

MR. GARBER: I would have to agree with Mr. Schmidt.

MR. HOLZER: How it would impact the design is very simple. He has testified in regard to 502.1 criteria, and he has drawn those conclusions that this would be no different than any church. And that's why it's relevant for him to understand.

MR. GARBER: I'm still not hearing why there would be a difference between the way a church, synagogue would be run other than the general religious use, which is how it was understood previously, right?

MR. HOLZER: Because the answer to that question is what they testified in Day 1. They

testified there is no religious Sunday morning 9:00 or 11:00. They testified that from a religious standpoint that anybody can walk in and do whatever they want to do, say a prayer, ask for forgiveness.

MR. GARBER: Right. So how does that impact your question?

MR. HOLZER: It impacts my question because I want to know what he compared, what he analyzed in regard to coming up with these conclusions that this facility did not violate 502.1.

MR. GARBER: Again, going back to the point, how does that relate to practice of this religion versus that of any other type of Christian church or Jewish synagogue?

MR. HOLZER: It relates to how they testified. I'm not the one to talk about religion. They were the ones that explained, on Day No. 1, how their religious institution functions.

MR. GARBER: Right. As the engineer, how did that impact his opinions and his plan?

MR. HOLZER: Correct. Because based on what he knows about the building, based on how he can opine that there will be no impact on the neighbors, or whatever, it's all relevant. It's all tied together.

MR. GARBER: Can you answer the question?

THE WITNESS: I think so.

A. The difference from a normal Judeo-Christian worship in the way the service or prayers are attended is that there is no formalized date and time that everybody comes and leaves at the same time. So your peak traffic would always be less from this facility than a comparable church or synagogue. And then, because there are no pews, the way we had to figure out a way to apply seats to a facility with no seats.

And so we have a peak attendance to regular service that was used for the parking requirements. Beyond that, worship is worship in my opinion.

Q. So the only thing that you said so far that

when I've asked you about festivals that are held there is that you don't know anything about them.

So, therefore, the question that I have is absent that knowledge. How can you make the opinion that it does not violate 502.1?

MR. SCHMIDT: Objection. He didn't testify that he didn't know anything about festivals. He testified that the fundraising events he was not involved in.

But obviously he sat and I believe he testified that he's aware of the operation of the church in terms of two parts of it; one, what I would call the week-to-week operation and, also, the periodic festivals, the religious festivals there.

We're not talking about fundraising events but the three to four festivals that they have yearly. We heard about them on the first day of testimony.

MR. GARBER: Mr. Holzer, what say you?

MR. HOLZER: I don't want to say any more. I have no further questions.

MR. GARBER: Are you done with cross-examination?

MR. SCHMIDT: I'm sorry. Are you done? I thought you said you were done.

MR. HOLZER: I said I have no further questions.

MR. GARBER: Just on that point?

MR. HOLZER: Not just on that point, on all points.

MR. GARBER: Mr. Schmidt, redirect?

EXAMINATION BY MR. SCHMIDT:

Q. Mr. Motsco, let me just follow up on that. You were here for the first day of testimony. You heard the testimony from several representatives of the church as to essentially how the church operates.

A. Yes.

Q. You heard that unlike the Judeo-Christian type of church, there are no regularly scheduled weekly services on a Sunday morning, for example, in a Christian church.

A. Yes.

Q. You also heard, did you not, that there are periodic festivals that are conducted? Some are 15 days long, some are shorter than that. There may be three or four a year.

There was discussion about major versus minor religious festivals and the significance and how that impacts attendance.

Did you hear that?

A. Yes.

Q. Was it your testimony, sir, when you were addressing 502.1 that you took into account, quote, how the church operates and how these services and religious activities would work over the course of the year in concluding that it would not be detrimental to the health, safety, and general welfare locale?

A. Yes.

Q. I understand you were not part of the decision to have a fundraising event out here, correct?

A. That's correct.

Q. You didn't attend the fundraising event, correct?

A. That's correct.

Q. But you have an understanding of how the church would operate on an annual type of basis in terms of festivals and services and attendance, correct?

A. Yes.

Q. Is that what your conclusion was based upon?

A. Yes. My conclusion was based on the regular operation of the worship.

Q. Thank you.

The landscape plan that was submitted, that has not been approved by the Mr. Hermann, who is the county's landscape architect, is that correct?

A. That's correct.

Q. Has that been prepared in accordance with the county's landscape manual and any other source that might be relevant in terms of the requirements

for landscaping?

A. Yes.

Q. Is those requirements generally driven by new construction or new improvements to the property?

A. That is correct.

Q. So there is an existing building and several existing buildings, are there not?

A. Yes.

Q. In addition to the landscaping that's proposed and shown on that plan, there's also significant mature landscaping on the property, correct?

A. That is correct.

Q. You've indicated that there is no proposal or no intention as shown on this plan to remove any of the landscaping that's out there except for, as I think you've described it, if the driveway is required to be expanded or altered, correct?

A. Correct.

Q. But all the woods that are shown in all the

various photographs are going to remain at least as it's contemplated at the current time.

A. That's correct.

Q. Let me also ask you: I think you said at the beginning of your direct examination a lot of the base source material on this plan in terms of the location of environmental features, existing improvements, driveways, et cetera, was in large part based on information obtained through the county's GIS system, correct?

A. That is correct.

Q. Did you also indicate on cross, I believe, that not only you but other representatives of Little & Associates have been to this site? Is that correct?

A. Yes. The individual helping me prepare this plan, once we had compiled all the GIS data and prepared a draft plan, visited the site. Sometimes buildings get obscured in heavy trees and sometimes in aerial photos things aren't always what they seem.

So they visited the site to confirm that what we're showing on the plan is an accurate representation of the site.

Q. That would be as to improvements on the site and the environmental features and the like that would have been shown on the GIS system.

A. Yes.

Q. So that information on the GIS system has been field verified, in essence, by somebody from Little & Associates.

A. Yes. And I actually did the same exercise on my first visit to the property and walked the entire site myself.

Q. Is it your opinion, sir, that the site as shown on Petitioner's Exhibit No. 1 and I believe 1A, as it's shown up there, is true and accurate in terms of conditions on the property at the present time?

A. Yes.

Q. You were asked about stormwater management, were you not, or some stormwater management

questions by Mr. Holzer?

A. Yes.

Q. At least as to the proposed driveway -- excuse me.

MR. SCHMIDT: Strike that.

Q. (By Mr. Schmidt) As to the existing driveway, at least under one scenario that may remain, correct?

A. Yes.

Q. There would be no additional paving, if State Highway Administration accepts the existing configuration of the driveway, correct?

A. Correct.

Q. Insofar as the grades in that area, do I understand the property runs down from the property, down towards Harford Road at that area?

A. Yes.

Q. Are there any ditches, improvements, collections or any of that type of feature on the Petitioner's side of Harford Road that would collect or channel that water as it comes down off the

property under today's circumstances?

A. There is at least one inlet and a roadside ditch along Harford Road.

Q. On our side of Harford Road.

A. Yes.

Q. How far does that ditch extend, if you know?

A. It extends at least several hundred feet from the entrance. Beyond that, I can't say.

Q. Is it on both sides of the driveway? When I say "both sides," what would be east and west is the configuration, go along both up and down Harford Road. Or is it only on one side of driveway as it relates to Harford Road?

Do you understand what I'm asking?

A. There's a little bit to the north on Harford Road from the subject --

Q. Why don't you show us where it is on the plan. And if you can verbalize where the ditch is.

A. There's a ditch heading in a easterly direction on Harford Road, and that's starting at

the driveway entrance and heading east. There is some ditch there for a distance. I didn't examine all the way up Harford Road.

Q. How about on the other side of the existing driveway?

A. It does exist at least in this vicinity getting down to the big bend in Harford Road.

Q. So there's a ditch that's along that side.

How about on the other side of Harford Road? If you know, is there a ditch on the other side of Harford Road?

A. On the other side of Harford Road, many of the properties fall off rather significantly from Harford Road. So there would be no ditch for runoff into the yards.

Q. And there's at least one storm drain.

A. Yes.

Q. Will we be required by the county as part of the permitting process in terms of the construction of either the parking area or the new access point, assuming it's required, to take into

account any grading, stormwater runoff and the like?

A. Yes. We would have to prepare a grading plan at the very last and obtain a grading permit.

Q. Would that take into account any water runoff that might be generated by any of those changes?

A. Yes. When we prepare that plan, we would look at whether or not additional work is needed to address those concerns.

Q. How far in terms of linear feet is the new parking area from the property boundary? If you can estimate that.

A. At its closest point, I would say it's at least 200 feet.

Q. How long is the driveway from that parking area? Is it shorter or longer than that?

A. The driveway to Harford Road?

Q. Yes, sir.

A. It's longer, probably at least 300 feet.

Q. The length of a football field.

MR. GARBER: The driveway is 300 feet?

THE WITNESS: From the area of the new parking.

MR. GARBER: The driveway itself is not 300 feet in length. It's 300 feet from its point of access to the proposed parking area to Harford Road.

THE WITNESS: Yes.

A. There's additional driveway beyond the proposed parking.

Q. To get to the building.

A. Correct.

MS. MURPHY: From what point in the entrance area? What point are you starting at for the 300 feet?

THE WITNESS: The existing entrance here at Harford Road, the driveway comes in, bends to the left, and then there's a left turn here, where we're proposing parking in two directions from that point on the plan and from that point down to the entrance.

MS. MURPHY: And you're saying that's 300 feet.

THE WITNESS: Approximately.

Q. (By Mr. Schmidt) What's the grade in that area? Is it running toward Harford Road, or is it running towards what would be the east?

A. Where the driveway is, it is generally flowing towards the east. Over where there are trees along Harford Road on the plan, that's a very steep slope that goes directly to Harford Road.

Q. In terms of water that would be running off from the parking lot, it would go downhill. I assume water runs downhill.

MR. SCHMIDT: Maybe Mr. Holzer will stipulate to that.

Q. (By Mr. Schmidt) If the water runs downhill from the new parking area, it would run towards the east. If you can indicate that direction.

A. Yes, it runs in this general direction.

Q. Certainly, on the Harford Road side, there's a stand of forest or trees along there. The water would have to go through if it's running towards Harford Road, correct?

A. Yes.

Q. Then you indicated a ditch on our side of Harford Road.

A. Yes.

Q. Is Harford Road -- I know many state roads and road designs, typically they will require roads to be crowned so that when it rains water doesn't accumulate on the roads for public safety and traffic considerations.

Do you know what the grade is of Harford Road? Is it crowned? Is it higher in the middle than on both sides, or is it higher across one way? If you know.

A. Without looking at the pictures, in this area here to the west of the existing entrance is sloped entirely towards the subject property.

Q. If something was going to flow across Harford Road, at least in that area it would have to flow uphill.

A. Yes.

Q. How about down closer to the driveway? If

you know.

A. It's rather flat here. And without having a survey done, I can't say.

Q. Fair enough.

I know we talked about the height of the property and the fact that the property is somewhat crowned in the higher location in terms of the property where the building is located, is that correct?

A. Yes.

Q. Visibility is dependent upon a couple of factors, is it not, not just height?

A. Correct.

Q. Is the view of the building and the view of the grounds screened by anything?

The mere fact that they're higher than some of the properties around them, can you see the grounds or the building from every adjacent property?

MR. HOLZER: Objection. Calls for a conclusion that he's been on other property. I

think he's testified he hadn't been to any other properties.

MR. SCHMIDT: I will strike that.

Q. (By Mr. Schmidt) Can you see it from Harford Road?

MR. GARBER: Can you see what from Harford Road?

MR. SCHMIDT: The building.

MR. GARBER: Which building?

MR. SCHMIDT: The subject building.

MR. GARBER: The main building?

MR. SCHMIDT: Yes, sir.

A. Only sparingly through a few select gaps in the trees.

Q. Mr. Motsco, let me ask you, you indicated that you were out to the property on at least two occasions, correct?

A. Yes.

Q. And the first time you were out there, do you know when that was approximately?

A. Last fall sometime.

MR. HOLZER: I object to these questions now. They go beyond the scope of direct.

MR. SCHMIDT: He asked him all about how many times he's been out there and what he saw the first time he was out there and so on and so forth. These are directly in response.

MR. GARBER: What is your question?

MR. SCHMIDT: I'm going to show him some photographs and see if it's consistent with what he observed, when he was out on the property the first time.

MR. GARBER: It did come up during the course of your cross-examination.

MR. SCHMIDT: It certainly did.

MR. HOLZER: I asked him very well about all of this stuff. And you heard the answers. Now I want you to what he --

Go ahead. I want you to see what he's submitting on redirect, and you tell me if that's appropriate redirect.

Q. (By Mr. Schmidt) I'm going to show you a

series of five photographs and ask if you can identify these --

MR. SCHMIDT: I will mark them 11A, B, C, D and E.

(Petitioner's Exhibit No. 11A-E marked for identification.)

Q. (By Mr. Schmidt) -- and ask you if they are reflective of the conditions that you saw on the property when you visited --

MR. GARBER: Mr. Schmidt, this is Exhibit 11A through E?

MR. SCHMIDT: Yes, sir.

Q. (By Mr. Schmidt) Mr. Motsco, why don't you take those one at a time and start with Exhibit 11A to describe the property, and let us know if that was consistent with the appearance of the property at the time you visited it the first time.

A. Exhibit 11A is a photo of the front door and front porch. And at the time of my visit some of the rubbish had been removed but otherwise was relatively the same.

Q. Do you know if all the graffiti that's shown on there, was that done by the current owners of the property? If you know.

Did they deface their own building? If you know.

A. I can't say for a fact who did it.

Q. You don't know who did that.

A. No.

We go to B, and that is very similar to what I saw on my first visit. Again, some rubbish around the building would have been cleaned up by the time I visited.

Then C is looking at the -- that's the side door of what will be the worship room.

Q. The entrance to the worship room.

A. Yes. That is generally what I saw, when I was there.

Q. So somebody had knocked out the door and broken all the windows.

A. Yes.

Q. These are broken windows in the worship

room to the right of the front door, when you're facing the front of the house. That's picture D. You can see they are broken out and missing.

Then picture E appears to be the garage that we saw in the first round of pictures and the poor condition of that structure as well.

MR. SCHMIDT: I would offer these as Exhibits 11A through E.

MR. GARBER: Mr. Holzer, A through E?

MR. HOLZER: You already ruled on my objection.

MR. GARBER: As to your visibility. The questions are one thing. We're now going to do this for the photos.

MR. HOLZER: I don't believe they're appropriate on redirect examination. I asked the gentleman to explain what it all looked like, and he couldn't explain to me. That would have been the appropriate time to present these.

But if the Board's going to allow them in, you're going to allow them in. I do have a question

of the witness on these pictures.

MR. GARBER: The question I had is I'm -- outside I understand that questions were asked of this witness as a condition of the property the first time he visited.

I'm just wondering, why are we going down this road as to what it looked like the first time he was there, for purposes of establishing that there was graffiti or broken windows, which has little to do with the plan at the moment other than, look, they cleaned it up. That's been testified to and I think is fairly well established even without the photographs.

MR. SCHMIDT: Two reasons.

First of all, sir, there were questions about the condition of the property. Mr. Holzer asked on direct examination when the property was acquired.

Second, I'd like to have those into evidence in anticipation of my cross-examination to some of the Protestants.

MR. GARBER: Mr. Holzer, what say you?
MR. HOLZER: Go ahead and let them in for the simple reason that when he questions the witnesses, they're going to be able to explain.
MR. GARBER: They are so admitted.
MR. HOLZER: Now I have a question.
MR. GARBER: We're not there yet.
MR. SCHMIDT: I do not have any other questions.
MR. GARBER: I stand corrected.
EXAMINATION BY MR. HOLZER:
Q. Mr. Motsco, how long has this property been abandoned?
A. That I do not know. In excess of ten years.
Q. In excess of ten years.
So you don't know who put the ruble down, right?
A. No.
Q. You don't know who wrote anything on the walls, right?

A. Correct.

Q. You don't know when that was done, correct?

A. Correct.

Q. You don't know who did any of that, correct?

A. Correct.

MR. HOLZER: No other questions.

MS. DOPKIN: I have one question. It relates back to your direct testimony regarding the proposed new well and installation for septic.

Will that one system and one well serve both the main dwelling and the smaller dwelling, or will it require separate systems?

THE WITNESS: I can't say that. We would have to have the sanitarian who prepared the computations answer that.

MS. DOPKIN: You also testified to the uses on the nearby road to the east.

THE WITNESS: Mount Vista.

MS. DOPKIN: Mount Vista Road. That there is both a church and another facility.

THE WITNESS: It's a private school. At the time I was there it was functioning as a summer day camp.

MS. DOPKIN: How large are those properties? If you know.

THE WITNESS: I don't know.

MS. DOPKIN: Are there ball fields and athletic facilities on either of them to your knowledge?

THE WITNESS: There are.

MS. DOPKIN: Thank you.

MR. GARBER: I have a couple questions. There was some questions raised about drainage and whatnot. I'm looking at the landscape plan here.

Just by way of background, the existing main dwelling that you said sits at a crown and then there's the high point of the property --

THE WITNESS: Uh-huh.

MR. GARBER: -- the proposed parking looks to be on the same elevation more or less as the main building.

THE WITNESS: Yes. It's very similar.

MR. GARBER: So those two areas would be the high point. And then, therefore, around it it all descends down, whether it runs off to the west, north or east, correct?

THE WITNESS: Correct.

MR. GARBER: Do the existing woods aid with the drainage or the anticipated drainage from the parking area?

THE WITNESS: Yes.

MR. GARBER: I don't have any more questions about that.

MS. DOPKIN: I'm looking at Protestant's Exhibit 4 that shows, it looks like, an aerial photograph, and it looks as though the main dwelling is surrounded on three sides by trees.

Are those trees higher than the dwelling?

MR. SCHMIDT: I'm going to give him a copy of the photograph, if I can, while you're asking the question.

MS. DOPKIN: Please.

MR. SCHMIDT: I think the question is: Are the trees as high or higher than the building?

THE WITNESS: Some of those trees are in fact taller than the building.

MS. DOPKIN: I refer you to your Petitioner's Exhibit 9H and I. It looks as though there are trees along the driveway that totally block visibility of the main dwelling. Is that accurate?

THE WITNESS: Visibility from where? Harford Road?

MS. DOPKIN: Harford Road.

THE WITNESS: That is correct. Exhibit H is the photo that you were looking at?

MS. DOPKIN: Yes, sir.

THE WITNESS: There we are actually some distance into the property already, and the house is still not visible.

MS. DOPKIN: If you're continuing on the driveway to Petitioner's Exhibit I, is that past those trees?

THE WITNESS: Yes. Those trees -- I answered incorrectly before.

These trees are not -- we're not between the house and Harford Road in this photo.

MR. GARBER: Which photo?

THE WITNESS: Those trees would block the house from Harford Road. If you flip to I, they are directly behind you in that photo.

MS. DOPKIN: So that would be somewhere where the existing driveway turns?

THE WITNESS: Yes.

MR. SCHMIDT: Does this help, Mr. Motsco?

THE WITNESS: That kind of hides where we're looking.

MS. MURPHY: You said DoE hasn't reviewed the plan yet, is that right?

THE WITNESS: No. They would have looked at it, when the perc plat was filed, to ensure that any of the proposed facilities weren't being placed in an area that they would be concerned

about.

I don't know if they did in this case but a lot of times they will make a site visit of their own to preliminarily assess the property for environmental constraints.

If we were approved for perc testing, they would have concluded that those locations are not endangering the environment.

MS. MURPHY: So is that their only involvement in looking at this plan? Will they look at it again? Is there a process?

THE WITNESS: They will also look at it, when we file a grading permit for the proposed parking.

MS. MURPHY: Do you think they have any impact or say in regard to any of the trees that we've talked about that are in the photographs and on the site plans in terms of keeping those trees or not?

Do you have any sense of that?

THE WITNESS: They would want us to

meet the forest conservation requirements.

MS. MURPHY: Do you know what that is, and do you know what that would mean?

THE WITNESS: There's a percentage of the property that would be preserved in trees. And being an RC zone, it would be a higher percentage. I don't know what the percentage is off the top of my head but it would not insignificant.

MS. MURPHY: So that may or may not mean all the trees would be saved. It could mean that some of them would be removed, is that right?

THE WITNESS: Without doing an actual measurement of what trees are out there, I couldn't answer whether or not more or less would be what's protected.

MS. MURPHY: Do you know whether your client just hypothetically would agree to --

Let's say if this gets approved, hypothetically, would your clients agree to a condition and an order that all the trees that are on the plan and in the photographs remain, short of

the three trees that look like they need to be removed for the driveway access alternative route, if SHA requires that route?

Do you have any sense of whether your clients would agree to that? Again, this is a hypothetical because we're not finished with this hearing.

THE WITNESS: You would have to ask them. I think it would be more appropriate in this case just to require the forest conservation we addressed and meet those criteria and have DoE enforce it.

MS. MURPHY: As a condition, you're suggesting?

Have a condition in an order hypothetically that EPS then enforce -- well, obviously, they will -- that it meet all the requirements? Is that what you're suggesting?

THE WITNESS: Yes. From an environmental standpoint, they would be more concerned about the stands of trees from an

environmental standpoint than a single tree in a yard that no deer are finding a home there.

MS. MURPHY: In this case, we don't have an RTA situation. And, by the way, that's because -- and just to confirm with you -- there's no RTA applicability here because it's not DR zoned, right?

THE WITNESS: Yes.

MS. MURPHY: To make sure I remembered that right, because it's RC-2, so there's no specific need for a buffer.

But here we're applying special exception factors, and obviously that's an issue for the protestants in terms of the surrounding homes. And so the tree issue has to do with the buffer.

And so I was just curious as to whether or not as an engineer you would think that keeping those trees, the existing woods on the property would be beneficial or would --

THE WITNESS: I think the existing woods would be -- I feel like that would be a good

solution just because of the enforceability, that it then quickly becomes something that is applied to many properties.

And there's an enforcement division. They have a methodology for enforcing that and requiring restoration if that was to be a problem in the future versus scattered trees in the yard where it would be a court case from the neighbors to have them replaced.

MS. MURPHY: So you're trailing off at the end there.

So your opinion was that it would be something that would be helpful to have in terms of the buffer with the neighborhood.

THE WITNESS: Yes. If the buffer is an issue, I think the appropriate thing would be to prepare a forest conservation plan and record a forest conservation easement.

MS. MURPHY: You also talked about lighting. I think your testimony was that I had written down -- correct me if I'm wrong -- there was

only going to be two porch lights.

THE WITNESS: It would be porch lights similar to any --

It's a dwelling. So at the entrances there would be porch lights and some small landscape lighting. In the criteria of a special exception, it's not industrial sodium vapor streetlights lighting up the parking lot.

MS. MURPHY: That's the question. But now what about parking lots? They need lights for the parking lot. So there are additional lights, right?

THE WITNESS: There are none proposed at this time.

MS. MURPHY: I know you're not the light expert. I know a lighting plan will be proposed.

In terms of us trying to conclude whether or not one of the factors of special exception is lighting, any idea what kind of lighting is going to be proposed for the parking lot?

THE WITNESS: I imagine it would be as minimal as possible.

MS. MURPHY: As minimal.

THE WITNESS: It wouldn't be lit up like a 7-Eleven at night.

MS. MURPHY: Again, if hypothetically it was adopted or we agree to it, a condition would be a lighting plan be filed.

Is that something that you would suggest with the county?

THE WITNESS: Yes. The county has a procedure for reviewing those.

MR. SCHMIDT: Ms. Murphy, in answer to your question, I'm going to say, because he didn't answer the question, I'll get you an answer whether my client would be willing to enter into a restriction, as you mentioned. I just want to make sure I understand your question.

I'm assuming that the areas that you're concerned about primarily is sort of the perimeter of the property, where the woods is.

MR. GARBER: I would jump in to say that the north and west sides, where there are peoples' homes, the opposite side of Harford Road.

MR. SCHMIDT: Let me just say, to the best of my knowledge in talking with my clients and preparing for this, there are plans to do something with those trees or clear.

I will certainly ask them about if they're willing to enter into a restriction. And I can advise you of that.

As I indicated during his direct exam, there could be as many as three trees taken down here. But that's going to be ultimately the decision of the State Highway Administration.

I believe in this area it's mainly open at the present time.

Mr. Motsco, is the area generally open?

THE WITNESS: There's no woods. There's scattered trees in the yard area.

MR. GARBER: So there may be a handful of trees that would also get removed as part of the

proposed parking.

THE WITNESS: Correct.

MR. SCHMIDT: Do you know how many?

THE WITNESS: Not off the top of my head.

MS. MURPHY: You indicated in your testimony that the trees to the right of the entrance along Harford Road also serve a purpose in collecting water drainage. I think Mr. Schmidt asked you that question.

In terms of asking your client whether or not they would agree as a condition, certainly those boundary of trees has to play a big part in it. That would serve to assist in the drainage of water.

MR. SCHMIDT: Stormwater management, visibility, lighting, et cetera.

MS. MURPHY: I'm throwing that out there to try to figure out whether or not this gentleman knew or had some sense.

THE WITNESS: I will add that along the boundary with Harford Road, much of the slope --

most of the ground there is so steep that it would be nearly impossible to utilize for construction of anything.

Trees is really the best use of that property.

MR. SCHMIDT: Even if you wanted to use it, it couldn't be a ball field.

THE WITNESS: This area here is a near-vertical face that you couldn't walk up without a rope, I don't think. That is where all the trees are now, along the perimeter.

MR. GARBER: You're pointing to the west side of the property.

THE WITNESS: Yes, the west side of the property along Harford Road.

MS. DOPKIN: Mr. Motsco, there seems to be evidence of an older driveway that comes out at the southwest end of the property.

THE WITNESS: There is an old driveway there.

MS. DOPKIN: Is there access to Harford

Road there?

THE WITNESS: There is a driveway access here. Much of the road is deteriorated and gone. There's a patch -- I walked all this in one of my visits.

There's a patch here at the bottom that's still visible. The clearing is still there. You can see evidence of an old road. And then the only other remaining paving is right at the old barn. And there's some when you get to the smaller two-story building.

MR. SCHMIDT: Is there any intention, Mr. Motsco, to use that for an alternate means of access?

THE WITNESS: No.

MS. DOPKIN: Thank you. That was my question.

MR. GARBER: In terms of your design, did the fact that the site get on the Maryland Inventory of Historic Properties factor into your design in any way, shape, or form?

THE WITNESS: It was a consideration. And we felt that because of the very minimal proposed improvements, just parking on the lawn and to preserve the building and the grounds that from a historical standpoint, since the house isn't listed, it's just the property and the barn, having somebody there using the property would be the best way to protect it.

MR. SCHMIDT: To prevent --

THE WITNESS: Versus being vacant and vandalized and used for --

MR. SCHMIDT: To prevent demolition by neglect essentially.

THE WITNESS: Correct.

MR. GARBER: I understand that. But in terms of the site itself, did the historic nature of the site itself, did that factor into any aspect of your design on Exhibit 1A?

THE WITNESS: We tried to preserve -- We didn't propose a parking lot. We used the drive aisles that were there as our access lane

for the parking space, and we tried to pick spots that would require minimal or no grading in order to install the parking lots so that the net change to the land would be the minimal necessary.

MR. GARBER: As I understand what you're saying, you want to disturb the site as little as possible to preserve that part of the historic nature of the site.

THE WITNESS: Correct.

MR. HOLZER: I have a question produced by your question.

Q. (By Mr. Holzer) Who did you check with in terms of the historic issues that you talked about on direct?

A. The Department of Planning.

Q. You testified, I believe, that it's not on the Baltimore County Landmarks List, right?

A. Not to my knowledge.

Q. Some of the buildings are on the Maryland Department of --

MR. SCHMIDT: MHT.

MR. GARBER: Maryland Historical Trust.

Q. (By Mr. Holzer) MHT.

A. Yes.

Q. Did you check the Register of National Historic Districts?

A. No.

Q. If had you checked that register of the National Historic Districts, you would have found that this property is within that district.

Do you have any basis to say that I'm wrong?

A. I have nothing.

Q. If you know.

You didn't check it, did you?

A. No, I have no --

MR. HOLZER: Thank you. No further questions.

MR. GARBER: Mr. Schmidt?

MR. SCHMID: No other questions.

MR. GARBER: Sir, thank you very much for your time.

It is now almost 2:45. Mr. Schmidt, I believe you have another witness to hopefully at least get --

MR. SCHMIDT: We'll have to see how far we get.

I call Joseph Caloggero.

(Witness Caloggero sworn.)

EXAMINATION BY MR. SCHMIDT:

Q. Sir, could you please state your name for the record?

A. Joe Caloggero.

Q. Could you spell it for our benefit?

A. C-A-L-O-G-G-E-R-O. Feel free to call me Joe.

Q. Where is it that you work, sir?

A. I work for The Traffic Group, 9900 Franklin Square Drive, Suite H, Baltimore, Maryland 21236.

MR. GARBER: 9900 --

THE WITNESS: Franklin Square Drive, Suite H, as in Harry, Baltimore 21236.

MR. GARBER: And what is your title

there?

THE WITNESS: Vice president.

MR. GARBER: Mr. Schmidt?

Q. (By Mr. Schmidt) Mr. Caloggero, can you tell us what your occupation is, sir?

A. I'm a traffic engineer.

Q. And you indicated you're employed at The Traffic Group and the vice president of that organization, correct?

A. Correct.

Q. Tell us a little bit about what The Traffic Group does and what you do.

MR. GARBER: Hold on one second. Everyone, please, put your cellphones --

I hope I don't have to ask again.

Please repeat your question.

Q. (By Mr. Schmidt) Mr. Caloggero, can you just generally tell us the business of The Traffic Group and what you do specifically for that organization.

A. So we do traffic engineering and

transportation planning. We also conduct traffic counts. Those are our general services.

Me, personally, I am vice president/manager of developing projects and/or state projects, county projects. I take them --

For example, for a development project, I take them from the beginning of the project to approvals, to design, and then we stop at the construction aspects of it.

Q. What's your educational background, Mr. Caloggero?

A. I have a bachelor of science in civil engineering from West Virginia University.

Q. Do you hold any type of professional licenses or registrations?

A. Yes. I am a professional engineer in numerous states, including where I first got my PE in West Virginia. I'm also licensed in Maryland. I'm also a professional transportation planner and a professional traffic operations engineer.

Q. I'm going to hand you, Mr. Caloggero, a

document which I believe represents your resume, your curriculum vitae.

Can you identify that?

A. Yes.

Q. If you will, sir, that indicates places where you have testified and been accepted as an expert witness. Is that the case?

A. That is correct.

Q. That would include before the administrative law judge, or formerly known as the zoning commissioner, of Baltimore County?

A. Yes.

Q. And also testified before this Board, the Board of Appeals?

A. Yes.

Q. Also you've testified, it appears to be, in a number of other jurisdictions throughout the state of Maryland and in other states, Pennsylvania included, correct?

A. Pennsylvania, Virginia and Delaware.

Q. You've been a traffic engineer since 1993?

A. Yes.

Q. And also were employed as such by the Maryland State Highway Administration, correct?

A. That is correct.

MR. SCHMIDT: I'm going to ask that Mr. Caloggero's CV be the next exhibit. I think it's Exhibit No. 12, Ms. Murphy?

MS. MURPHY: 12.

MR. SCHMIDT: It be accepted as an exhibit. I'm going to offer him obviously as the traffic engineer. He's going to testify as it relates to traffic issues regarding this proposal.

MR. GARBER: Traffic engineer. Traffic issues related to this proposal, is that correct?

MR. SCHMIDT: Yes, sir.

MR. GARBER: Mr. Holzer, do you have any questions about the admissibility?

MR. HOLZER: He's laughing. I just have one or two very quick personal questions.

MR. GARBER: About this?

MR. HOLZER: Yes.

(Petitioner's Exhibit No. 12 marked for identification.)

EXAMINATION BY MR. HOLZER:

Q. I understand you've been in Calvert, or, as they say, Calvert County?

A. Yes.

Q. Carroll County?

A. Yes.

Q. Charles County?

A. Whatever is on my resume, yes, sir.

Q. La Plata, Howard County, Prince George's County?

A. Yes, sir.

Q. I've never seen you down there, when I'm there.

A. I've been.

MR. HOLZER: I have no other questions.

MR. GARBER: As to Exhibit 12, no objection?

MR. HOLZER: No objection.

MR. GARBER: Submitted as to the

proffered area of expertise.

MR. HOLZER: No problem.

MR. GARBER: So accepted as an expert as tendered.

EXAMINATION BY MR. SCHMIDT:

Q. Did there come a time that you were retained by the Petitioner in this case, the Nepali American Cultural Center of Baltimore, regarding this proposal and the subject property?

A. Yes.

Q. And how long ago were you hired? If you know.

A. I believe it was December.

Q. What were you asked to do?

A. For the first hearing, the administrative judge hearing, I was hired to review the access and try to understand the amount of traffic that would be utilizing the site and provide expert testimony at the hearing.

Q. You've done an analysis of what? I assume the proposed use of the property and how it would

generate traffic, correct?

A. Yes.

Q. Have you also looked at the surrounding road network and improvements in the area?

A. In general, yes.

Q. I know Mr. Motsco talked a little bit about them. Maybe you can approach one of the exhibits and give us a general idea.

Can you tell us a little bit about -- we know the property is on Harford Road -- the roads in the area, the general area, any traffic improvements or features that are particularly significant that you think need to be evaluated or considered?

MR. GARBER: Just before you start your testimony, please keep in mind that if you say, Right here, that's not going to translate well onto the transcript.

If you could explain what you're referring to in more detail in the description, that would be better for everyone, rather than me interrupting every five minutes and go, Where is "that," and,

What do you mean by "this?"

THE WITNESS: I will do my best.

A. So recently a roundabout was constructed at Mount Vista Road. My understanding that the advisory speeds for this roundabout are 20 miles per hour.

For the site access, both north and south of the site, the site access is what is called a reverse turn area.

The reverse turn is signed in both directions by the Maryland State Highway Administration. The sign shows the curvature plus it's at a 90-degree angle, which means it is a more severe turn and not a curve. The curve sign, you've probably seen them, is more of a curve versus a 90-degree sign.

With the differential between the two, the curve sign is for speeds 35 miles and above. That's what the SHA would recommend.

At this location, the SHA recommends that this area be traveled at 30 miles per hour.

MR. GARBER: Which location?
THE WITNESS: The entire curvature.
MR. GARBER: The entire stretch --
THE WITNESS: The entire --
Basically, the entire stretch south of the roundabout and passing the site and as it turns to the south as well in the northbound direction.
So both this area -- I know it's hard to explain. I'm trying to do my best.
MR. GARBER: Basically, northwest central point on Harford Road.
THE WITNESS: Yes.
MR. GARBER: You're now starting at Mount Vista Road, going southbound around the north end of the property, heading to the west and then proceeding down, halfway down the property as outlined on Exhibit 2.
THE WITNESS: That would be what I was trying to say. Then in the reverse as well. The signs are in both directions.
Q. (By Mr. Schmidt) Mr. Caloggero, just so

we're clear, the roundabout, or the traffic circle, was a recent improvement up at the intersection of Harford Road and Mount Vista.

A. That is correct.

Q. And that's one of those deals where you get into the circle, like we have here in Towson, and try to make sure people understand how to get in and out of it, which many Baltimore County drivers seem to be challenged by.

But from that location down to the intersection, there is a significant curve or curves which are the 90-degree curves.

A. Correct. The State Highway Administration would label that as turns.

Q. Once you get -- in effect, if you're traveling from the roundabout, or circle, then past the entrance here you would then have the same situation on the other side, turns for traffic coming and going beyond the actual entrance point.

A. That is correct.

Q. So it's the same situation with the severe

turns on both up and down or I guess we could --

A. North and south.

Q. North and south of the access point onto Harford Road.

A. Correct. There's also additional warning signs on the turns themselves. They are called Chevrons. They are directing the traffic towards the right as you traverse the turns.

Q. As the traffic engineer, in terms of the roundabout, might there be occasions where people might, for example, turn, even if they wanted to go south on Harford Road from this location --

And I think we heard this on the first day of testimony from a couple people who live there who essentially said that they would come out, go up to the circle to almost do a U-turn and go through the entire circle to go the other direction because that's an easier traffic movement.

Is that something that happens with these traffic circles often?

A. I don't know about "often" but it can

happen, yes.

Q. Do you have any evidence it occurred here other than the testimony?

A. Just testimony.

When I was doing my site investigations, I used that as my U-turn area.

Q. In terms of signalized intersections, are there anything relevant signalized intersections here in the area?

A. They are quite a distance away from this location. There is one at Fork Road and Sunshine Road to the north and maybe one further down north wind to the south.

Q. How far are they, if you know, from this location?

A. They're not even shown on the map.

Q. On Exhibit 2.

A. On Exhibit 2's map. They're not even listed on this map. I don't have the approximate distance. But they wouldn't, in my opinion, be --

The signals would not influence our access.

Q. And this property is outside of the urban-rural demarcation line, is it not?

A. That is correct.

Q. So it would not be impacted by the county's basic services match for transportation, is that correct, because of that?

A. That is correct.

Q. Let me ask you, Mr. Caloggero, I know one of the things that typically traffic engineers take a look at is sort of the capacity. I don't know that it's generally applicable to intersections and how much traffic can get from intersections.

But did you look or give any kind of analysis to the capacity, if that's the fair term, of the road system here, of how many vehicles are going to be going up and down Harford Road, either coming out of or entering this property and nearby?

A. It was not requested by either Baltimore County or the Maryland State Highway Administration.

So we were really looking at the site access trips. This way the State Highway

Administration could make proper determinations on the access.

Q. Did you say it wasn't requested or was?

A. Capacity analyses or highway capacity manual methodologies, the analyses of turning movements or levels of service, were not requested by either agency. It is my opinion just based on the trips.

Q. Did you make a calculation in the number of trips?

A. We have a couple calculations, yes.

Q. Let me ask you if you can explain to the Board the methodology and how you calculated or what, if any, determination that you made in terms of the number of trips.

A. Sure. Typically we use ITE, the Institute of Transportation Engineer's Trip Generation Manual.

However, this kind of use is atypical. So, therefore, when you have an atypical use, you approach the users and try to determine to the best of our ability how they are going to use the

property.

So based on my discussions, for a weekday, there would be about approximately 20 people coming to the temple on a weekday. This could be numerous times throughout the day. That would be 20 trips in, 20 trips out. Again, over the entire period of the day, the temple would be available for use.

Then on weekends -- we received information on a typical weekend that less than 100 people would visit during, again, the entire day that it would be open.

When we had our discussions with the Maryland State Highway Administration, they asked us for a different type of analyses, again using ITE.

MR. GARBER: Can I jump in here just to verify a couple point?

THE WITNESS: Absolutely.

MR. GARBER: You said this use is a atypical. What use?

THE WITNESS: The use of the site as a temple. It's atypical because there's not a

category for a temple in the ITE Trip Generation Manual.

MS. MURPHY: But there's religious.

THE WITNESS: There is churches.

MS. MURPHY: Right. Why wouldn't you use that?

THE WITNESS: We did. The State Highway Administration asked us to use churches. But, again, for the weekend, churches are typically based on a start time and an end time, and the trips are based on those times, the start times.

MR. GARBER: So because you're not using the ITE manual for purposes of your site access trip analysis, you mentioned discussions with the people who would be using the temple during the course of the week to try to assess in -- as best as you could assess the volume to expect on a typical weekday or an average 20 people coming in throughout the day.

THE WITNESS: Yes.

MR. GARBER: So 20 trips in, 20 trips

out. On the weekend, just to be clear, it's less than 100 per day, that is, less than 100 in, less than 100 out on Saturday and on Sunday.

THE WITNESS: That is my understanding, yes.

MR GARBER: We'll stop there. You were about to talk about SHA and the use of the ITE manual.

A. SHA further requested the use of the ITE manual and to review this as a church. So when we did so --

The church is typically based on square footage, when you review the trips or calculate the trips. Excuse me.

So we requested information on the size of the existing building. And we tried to be a little bit conservative, whereas the entire first floor, which would not be used as a temple, was approximately 3,500 square feet. So we generated trips based on 3,500 square feet.

Q. Let me stop you there for just a second,

Mr. Caloggero. I'm going to hand to you a copy of what appears to be a building floor plan and ask:

Have you ever seen this document before, Mr. Caloggero?

MS. MURPHY: This is actually 14. The reason is it says locality outline was 11. The photos of the graffiti was 12A through E. And then Mr. Caloggero's resume was 13. So you're on 14.

MR. SCHMIDT: Sorry, Ms. Murphy.

MS. MURPHY: That was on me.

(Petitioner's Exhibit No. 14 marked for identification.)

Q. (By Mr. Schmidt) Mr. Caloggero, you indicated that the ITE manual, I believe, as it relates to churches ties into the square footage of the building, and, therefore, you looked at the building here.

Is that correct?

A. That is correct.

Q. And I think I asked you if you had seen this exhibit, which I think, again, is 14.

A. Yes, I have.

Q. Mr. Caloggero, can you tell us what this is and how, if any way, you used it in your trip generation computations?

A. Yes. So I used the first-floor floor plan. And again for a conservative analysis, I totaled up the entire first floor's square footage and came up with 3,500 square feet versus the hall area. The hall area is much smaller.

Q. Is the hall area shown in a different color?

A. Yes. The hall area is shown in yellow. Unfortunately, I did not calculate that number nor can I see the numbers, and I didn't bring my glasses. I can't give you a square footage of the hall but it's substantially smaller than 3,500.

However, we did generate the trips for the entire first floor to try to give the SHA some kind of trips that they could work with to assess the impacts.

And based on 3,500 square feet, during the

weekday it was one morning trip, during the evening peak hour, two trips, and on a weekend we had 24 peak-hour trips.

Q. That's based on the ITE methodology as it were?

A. That is correct.

Q. That's based on the square footage of the entire first floor of the building using the ITE's methodology for a church.

A. That is correct.

Q. So that's even a lesser amount of traffic than your analysis utilizing your questioning of the Petitioner, is it not?

A. This would be less, in my opinion, yes.

Q. Tell us, if you can bring us full circle: What does this all mean from a capacity standpoint in terms of overburdening or causing congestions on the roads in the area based on these numbers and methodology.

A. During the weekday, when you have your more significant amount of traffic on the roadway

network, I would consider these trips di minimus.

If we're talking one trip in the morning peak hour, that's one trip every 60 minutes. Two trips is one trip every 30 minutes.

In comparison, ITE states that one single-family home would generate ten daily trips. So it would probably generate one or two peak-hour trips as well.

Q. From a capacity standpoint or the ability of the road system to essentially absorb this additional traffic, what are your conclusions there?

A. Again, de minimis. And I would expect little-to-no impacts.

Q. How about the festivals? You heard the testimony about these periodic festivals with more people.

Did you look at that or consider that and whether that would have any type of significant impact on traffic capacity or volume in the area?

A. We did not look at it per se. But my opinion would be that these kind of establishments

do have -- not only these establishments but churches and other kind of institutes do have peak events.

However, unless there's a need for a separate traffic management plan to accommodate these events, these are outside of the realm where typically the State Highway Administration or other jurisdictions would review or try to make improvements to accommodate such an increase in traffic for a particular event.

For instance, what I like to use is for a football game on a Sunday in Baltimore. The State Highway Administration does not design the interstate to accommodate ten football games a year.

They understand that there's going to be excess traffic and there's an expectation that there may be some delays entering or exiting the site.

But since it's only few-and-far between, they deem it okay. They don't try to create a ten-lane highway to accommodate a potential worst day.

I'm not saying that the temple is like a Raven football game comparing the traffic. It's just an analogy that most people understand.

Q. About the Christian church around the Christmas service or Easter service, for example, would you equate it to be the same kind of thing?

A. I know I live next to a Catholic church up in Harford County. St. Ignatius. I know when to avoid that during the proper times, because they do have services where they park on both sides of the road, and there is an expected delay when entering and exiting.

Q. Speaking of parking, is there parking permitted along Harford Road or parking available along Harford Road along this stretch?

A. There is not.

Q. You've heard about the parking that's proposed on the site in terms of the actual number of paved spaces as well as the potential for overflow areas for the grass.

Do you believe that to be significant? Or

sufficient, I should say.

A. Yeah. In my opinion, yes.

Q. Even for the festivals as they've been described?

A. Yes.

Q. Mr. Caloggero, from a capacity standpoint in terms of the number of vehicles, do you have an opinion, sir, as to whether this proposal would detrimentally impact or cause inappropriate levels of congestion on the road system, the immediate road system in the area?

A. No, I believe it will not.

Q. You also, I believe, Mr. Caloggero, looked at sight distance issues as it relates to the entrance to the property, is that correct?

A. That is correct.

Q. And there is one access point to the property, is there not?

A. That is correct.

Q. Ms. Dopkin had asked Mr. Motsco about the driveway to the rear.

As I understand, there is no proposal to add traffic or another point of access or exit at that location, is that correct?

A. That is my understanding.

Q. Do you think that's needed for any reason as a traffic engineer?

A. No, I do not.

Q. Let me ask you about, first of all, sort of the existing conditions out there.

MR. SCHMIDT: Let me go off the record.

(Discussion off the record.)

(Petitioner's Exhibit No. 15A-B, marked for identification.)

Q. (By Mr. Schmidt) Mr. Caloggero, I'm going to give you the next exhibit, which I believe is 15. I will number these as opposed to assign a letter. Maybe we can also do --

You have one on your witness table. Maybe let's put one up here so everybody can see.

Mr. Caloggero, what I've identified as Petitioner's Exhibit 15 is a document that's

labeled, Sight Distance. It's looks to be two parts to it. A sort of representation, I believe, of Harford Road and then another representation below that.

Let me ask you, if I can, just to go through that document, and if you can tell the Board members what they're looking at and what that is showing and is that existing or proposed or whatever it is.

If you can explain it for us.

A. Of course. This is what we call a plan profile. The top portion is the plan, which is looking at it from a 2D overhead perspective.

The bottom portion is the profile, which is based on the vertical alignment of the road.

Q. If you could just explain it. Break it down and maybe explain both sequences or both parts.

A. Then we received what we call contours. And contours are the grades. We received this from John's office.

MR. GARBER: Whose office?

MR. SCHMIDT: John Motsco.

A. We received it. We superimposed it on the roadway network. And then once you have all the contours, you develop the profile based on the elevations on the road themselves.

So for the neighbors and everyone, the site entrance is located at point A. And everyone who is aware of the site knows that the roundabout is higher. You can see how the profile goes.

Q. It's going up the hill towards --

A. Up the hill.

Q. Going on to the right and towards the roundabout.

A. Correct. This shows that the elevation comes upward and then from point A it comes slightly backward as well.

So we have to measure two aspects for sight distance, both the horizontal and vertical alignments. So in the south direction, based on the curvature of the road for a vehicle at its exit point, exiting the site access.

Q. And this is the existing exit point.

A. The existing exit point. When looking to the left, the first car coming northbound can be seen 365 feet away. That's the maximum distance that you can see a vehicle.

MR. GARBER: When you're sitting in the existing drive and you look to the left, which is looking south, to see northbound traffic on Harford Road, the first moment the sight distance is --

THE WITNESS: 365 feet.

Q. (By Mr. Schmidt) Mr. Caloggero, what did you say the speed limits are designed there?

Given that you can see the curve in the road, what's the speed there?

A. Again, the State Highway Administration suggests 30 miles per hour to traverse this turn safely. There's advisory speed plates, as we had talked about earlier, on this road. The speed limit itself is 45, but they're saying you can't go 45.

Me, personally, I was in my SUV. I tried taking that at a higher rate of speed. I was

extremely uncomfortable and had to brake pretty significantly to get to 35 to finish making the turn.

So it's 365 feet to the south and the sight distance to the north would be 440 feet.

MR. GARBER: At the drive, looking to the right, you're looking north. Now you're looking at southbound traffic?

THE WITNESS: Correct.

MR. GARBER: So it is how much?

THE WITNESS: 440 feet.

Q. (By Mr. Schmidt) That's the existing condition.

A. That is correct.

Q. Mr. Caloggero, in your opinion as a professional engineer, based on the geometry of the road and the curvature of the road, the factors, is that an adequate and appropriate sight distance for traffic exiting the subject property either turning left or right, the two dimensions-distances?

A. In my opinion, yes.

Q. Why is that? Expand on that.

A. We use AASHTO. The State Highway recommends that we review AASHTO, which is the policy of geometric design of highway and streets.

So I brought this ginormous manual here with me. We're only using portions of it. Again, this is a guide. It's not 100 percent set in stone that these are the exact numbers we have to follow but it is a guide, and professional engineering judgment should be used at all times.

So when looking at sight distance, when turning left --

MR. GARBER: When turning left outside of the driveway.

A. When turning left out of the site access, a vehicle should be able to see going at 30 miles per hour, 245 feet to make that maneuver safely.

MR. GARBER: Turn left at 35 miles per hour outside, 240 feet is the minimum sight distance you would need.

THE WITNESS: For 30 miles per hour.

At 35 miles per hour, they suggest 285 feet. And at 40 miles per hour, they suggest 325 feet.

MR. GARBER: Turning left out of the there, I understand the turn itself is recommended 35. Right in front of the driveway, it's 45, correct?

MR. SCHMIDT: It's recommended 30.

THE WITNESS: Recommended 30.

MR. GARBER: Recommended 30 at the turn?

THE WITNESS: Yes.

MR. GARBER: At the driveway what's it recommended?

THE WITNESS: Again, the vehicles can only be traveling --

You're basing it off of actual conditions. As the vehicle is coming around the turn, they're traveling 30 to 35 miles per hour.

If they're traveling 40 miles per hour, the sight distance necessary to make a move is 325 feet. We can see 365.

So, to me, based on the conditions of the road, the speed which you can traverse these turns, that's an acceptable sight distance.

Q. How about to the right?

A. To the right we have 440 feet. Again, for 40 miles an hour, it's 325 feet. Again, as you're coming down the hill, you have that sharp right turn. Again, you have to slow or else you're driving straight into the curve itself.

So as you're coming down the hill, you're making a sharp right turn. So vehicles are slowing. And, again, it's advised at 30 miles per hour.

Q. The sight distance in that direction is what?

A. 440 feet. Now that's just for --

The other reason why too, there's something else called stopping sight distance. Stopping sight distance is for the vehicles that are traveling on Harford Road.

Q. So you have sight distance for somebody who's pulling out of the property to turn left or

right. Their sight distance.

A. Correct.

Q. Then you have stopping distance for the people who are on Harford Road.

A. That is correct.

Q. Is there any difference in the way you calculate or you view stopping sight distance versus the sight distance for the people in the car?

A. Yes.

Q. Can you explain that?

A. AASHTO explains it a lot better. But the thought process behind it is as you're traveling, you're slamming on your brakes or you're stopping or you're slowing.

And the purpose of stopping sight distance is to avoid a collision in the road. It's your second safety measure. It's typically the minimum measurement.

If vehicles along this road can stop if someone were to make a erratic maneuver, if a young child was chasing a ball across the street, and you

can see that distance, that vehicle should be able to stop.

What AASHTO does as well with stopping sight distance, they build in additional safety factors. Perception-reaction time.

Basically, stopping sight distance is based on poor perception-reaction time, wet pavement conditions, bald tires.

So they add in a little bit more time for that person to identify the house or identify what's happening and be able to take their foot off the gas, onto the brake and slow down and/or stop.

And depending on the complexity of the situation, that perception-reaction time can go up. In this case, this is atypical. I used that word a few times. I hope it doesn't come back to haunt me.

But atypical meaning -- more typical meaning --

This road, as you're coming south, has numerous driveways. So the driver is expecting to see driveways, side streets. There's side streets

here. There are driveways here. People should be -- the alert, careful driver should be expecting traffic or turning movements in the road.

Q. Can you quantity the requirement or is there a number for the stop?

You've given us the sight distance requirements.

A. Sure.

Q. How about the stopping sight distance requirements or recommendations?

A. So going right to the highest number, traveling at 45 miles an hour, I should be able to stop in 360 feet.

So if I were to somehow take this from going northbound and if I can get my car to take this at 45 miles an hour, at the same point that this car is existing the site to go south or to go north, that car should be able to stop within 360 feet. And the same south, which is 440 feet.

It's those factors that I review to determine if an access is safe or not.

MR. GARBER: Just to summarize that, if a vehicle is traveling 45 miles per hour on Harford Road in that stretch, they would need 360 feet for stopping sight distance. Whether northbound or southbound, it's going to be the same.

THE WITNESS: That's correct.

MR. GARBER: And then stopping sight distance, does it or does it not account for a part that is baked into the number, the poor reception-reaction time, whether worn tires and wet conditions?

THE WITNESS: That's correct.

MR. GARBER: Even ideal conditions would yield probably a smaller number. They've already, as I said, baked that into the 360 number.

THE WITNESS: That is correct.

Q. (By Mr. Schmidt) Thank you. I believe that's Exhibit 15. I think you've prepared another. Maybe you can put this on the board.

A. (Complies.)

Q. Before you talk about that, let me give

this to everybody.

(Discussion off the record.)

MR. SCHMIDT: For the record, the exhibit that Mr. Caloggero has just been explaining, which is a document showing a sight distance of 365 feet to the south, or left, coming out of the exiting property. And 440 feet will be 15A.

Exhibit 15B is, as I understand it -- and Mr. Caloggero will explain it -- essentially the same document except instead of showing a schematic, it actually has an aerial photograph superimposed on the top part. That will be 15B. This will be A.

MR. HOLZER: Got you. That makes sense.

MR. GARBER: For purposes of time for the remainder of today, this room needs to be cleared out, locked down by 4:30, which means that somewhere in the 4:00 time, a little after, is the time frame when we have to call it to get packed up and out.

(Discussion off the record.)

Q. (By Mr. Schmidt) Mr. Caloggero, you've explained, again, 15A and Exhibit 15B, which we've talked about ad nauseam, is an aerial photograph superimposed to show the actual geometry and actually show the road, correct?

A. That is correct.

Q. That also has to the bottom part of the page the same contour and elevation grade changes, correct?

A. That is correct.

Q. Also, I believe that you've explained there are corresponding letters and coordinating letters showing points of the road in terms of the elevation vis-a-vis the top portion and the grade, correct?

A. That's correct.

Q. The same sight distances are shown here; that is, 365 feet to the south, or to the left, when one would be exiting, and 440 to the north, or to the right.

A. Correct.

Q. I'm trying to make sure we get through

this.

Is there anything else that you would like to explain or highlight as it relates to Exhibit 15B?

A. Absolutely. This, as you can see -- and the neighbors will clearly attest as well -- is the aerial. I don't have the date. It was taken from Google. In my opinion, clearly it's fall or the winter. There's no vegetation in here.

Not today itself but when I've been out to visit the site, the vegetation has grown which makes it a little bit more difficult for not only the site access but also makes it difficult for Boneparte, to make exiting maneuvers with that growth.

The few days that I was out there -- I visited days almost back to back or two days apart. So one day the growth was full. Then another day some of it was cut down. I don't know who but I noticed it was cut down to help increase sight distance. There was still some vegetation growth.

Now to help achieve acceptable sight

distance, we have reached out to the SHA, the Maryland State Highway Administration, and they have agreed that whatever was in the State Highway Administration right of way, they would be more than happy to remove, as long as it's not above a certain size tree. Then they wouldn't remove it. But if there's weeds, the vegetation, the growth that would obstruct sight distance, it would impact safety for both existing plus future traffic.

So it may be hard to see but what we've identified here -- if this is north, the northwest quadrant of the site access intersection with Boneparte, there is additional right of way on the west side that travels up to the north side. Sorry. Up the west side, up to the north.

So whatever is in that area of right of way, the SHA has agreed to mow or cut down or remove the vegetation that should be removed to help sight distance.

Q. The purple line as shown on this plan, Mr. Caloggero, which shows the sight distance of 440

feet, is that entirely within the State Highway Administration right of way?

A. Yes.

Q. The State Highway Administration right of way, which the state has these rights of way adjacent to the paved sections of the road, allows the state to make such necessary maintenance or even widening, if they choose to do that at some point. So they would have the legal ability to come in here and make that mowing or cutting.

A. That's correct. It's their property.

Q. So you indicated that on one occasion for which you were out there, it was more fully grown and another occasion it appeared to have been cut back.

A. That is correct.

Q. Do you know if the state were the ones who came in and cleared that?

A. I do not know.

Q. Do they typically have on state roads as a general proposition sort of a maintenance schedule

or a mowing schedule that they follow?

A. The State Highway typically has a regular mowing schedule. But for something like this, it would probably have to get onto a schedule to say there is concerns and this should be mowed weekly, biweekly, monthly, or addressed so that it's safe.

Q. In your conversations with them, they had agreed in fact to mow this and maintain it as is required.

A. That's correct. We're still under complete negotiations for safety.

Q. I know there's another design that we're going to talk about. In terms of this particular drawing, this drawing being 15B, this sight distance looks somewhat across the right of way which State Highway has agreed to maintain.

A. That is correct.

Q. Anything else about that particular drawing that you want to discuss or emphasize?

A. No. I think we've hit everything.

Q. Mr. Caloggero, you've started to indicate,

and I think I've represented to the Board, that you have had discussions with State Highway about this project, have you not?

A. I have.

Q. And those discussions are continuing, is that correct?

A. That is correct.

Q. Ultimately, the State will require --

Let me ask it in the form of a question.

Will the State require an access permit for this particular location?

A. Absolutely.

Q. And ultimately then the State will determine or tell you what is actually required in terms of improvements, is that correct?

A. That is absolutely correct.

Q. As of today's date has an access permit been issued?

A. No.

Q. Let me next go to the next exhibit.

MS. DOPKIN: Before you leave this

exhibit, may I ask Mr. Caloggero a question?

MR. SCHMIDT: Sure.

MS. DOPKIN: We have some paragraphs, Petitioner's 9, that show Harford Road and the Chevron sign both north and south.

THE WITNESS: Yes.

MS. DOPKIN: That would be 9B and 9C. Does the Chevron signs, do those location of those signs appear on any of your drawings?

A. I don't believe we placed them on the drawings.

MR. SCHMIDT: We have some other pictures I'm going to get to of those signs. I think what you're referring to -- I will hold it up -- is Mr. Caloggero indicated that in some curves, it's like a curved arrow. But then when there's a severe turn, they mark it with signs like this.

MS. DOPKIN: I want to try to place them.

MR. SCHMIDT: We have some photos of them. We'll get there.

THE WITNESS: To the best of my knowledge, the signs would be located here.

On 15B, where we have labeled 365, so on the west side of the road, there would be Chevrons directing traffic around that turn.

MS. DOPKIN: So if you're going to turn left coming up to that turn, they're on the west side of the curve.

THE WITNESS: Right. Or right, when you're coming. It's telling you to turn to the right.

And the same curves, again for purposes of this drawing, somewhere between A and F, we'll call it, to the north of the site entrance there is going to be Chevrons in that general area helping southbound traffic turn.

MS. DOPKIN: What is the distance from the entrance to the roundabout?

THE WITNESS: I want to say 750, 800 feet.

MR. GARBER: Mount Vista Road or Glen

Arm Road?

THE WITNESS: Yeah. That's shooting from the hip. But I can get you that information. It's about 800 feet-ish.

MR. SCHMIDT: I'm going to mark this next one 16A and B. Let me make sure I'm giving Mr. Holzer the correct one.

(Discussion off the record.)

MR. SCHMIDT: 16A.

(Petitioner's Exhibit No. 16A-B marked for identification.)

Q. (By Mr. Schmidt) Mr. Caloggero, you had mentioned and Mr. Motsco has testified that the underlying site plan, which is Exhibit No. 1, shows potentially a new access or exit point from the property, is that correct?

A. That is correct.

Q. Just to bring us to speed as to how that occurred, was that as a result of discussions that you had with State Highway Administration?

A. That is correct.

Q. Did they ask you to look at relocating the exit point from the property along Harford Road?

A. That is correct.

Q. And as a result of that and I think Mr. Motsco testified that you actually gave him input and then he showed it on the plan.

Does this plan -- "this plan" being 16A -- show a potential new exit?

A. That is correct. Yes.

Q. Under this plan, just to describe it, the entrance would remain the same, which is where the existing access point is today, correct?

A. Correct.

Q. When you turn in, you're to the right of the landscape island.

A. Correct.

Q. But then the exit would be -- when you're exiting, you're again right, because you're going the other way. The right of the landscaped island would move that to the north --

A. North.

Q. -- a certain distance, correct?

A. That is correct.

Q. You were here this morning.

A. Correct.

Q. We showed some photographs of the area of the property that's involved and the potential trees which would be removed.

With all that being said, if you can, Mr. Caloggero, tell us what this drawing is showing, again, the top and bottom portion, and what that's showing in terms of sight distances and that potential construction.

A. Sure. Since we're now all educated on sight distance and plans, again, this is our plan and profile drawing.

What coworkers and I did out in the field is what we call spotted. We moved up and spotted. We walked up and down this portion of the frontage of our right of way and tried to determine the best available outbound sight for a car leaving this site.

So if we were to relocate the access point further to the north -- I believe we have it shown about 70 feet -- relocating it about 70 feet a little bit north around the turn, when looking to the south, the horizontal curve still is the obstruction but now we can see 450 feet away and looking to the north 500 feet, again with maintaining proper vegetation height on the west side of Harford Road.

As we talked about, it would be basically a really oversized monumental entrance, where you would have one way out on the north side, one way in on the south side, and we would have to close the existing outbound so there wouldn't be any confusion amongst the drivers.

So all drivers leaving, they would have to go -- it's two one-way systems basically from the point of curvature heading towards the parking lot, towards Harford Road.

Q. Obviously this plan doesn't change any of the other factors or conclusions that you've

rendered insofar as speeds and sight distance and stopping sight distance, correct?

A. Correct.

Q. This is just providing an additional merely 85 feet to the south?

A. Correct.

Q. And I believe an additional 50 feet or so to the north.

A. Fifty or 60 feet to the north. Correct.

Q. Also, there are some photos on this plan. "This plan" being 16A and B.

Can you tell us what those are depicting?

A. Correct. The top picture on the drawing that's somewhat imbedded into the plan view shows in the southbound lane, generally leaving the roundabout, what you're seeing as you're coming down the hill towards the site access.

At this point, you can see a 45-mile-an-hour speed limit, but right before that it tells you that the speed limit is 45. We need you to take this at 30.

It's different that the signs are next to each other that way. But, again, that's a reverse turn sign that shows it's a straight 90 degree and then to the right 90 degree and then up 90 degree with the arrow. Again, that signifies a sharp turn or turn ahead.

The one below is a winter photo taken where you can see without the vegetation, looking up towards the roundabout.

Q. To the north.

A. To the north, yes.

MR. GARBER: The bottom photo, it says, Looking from proposed exit.

I'm looking at the proposed exit, and I see that Boneparte Avenue would be to the left, right.

THE WITNESS: No. That would be -- sorry. That picture may be from point A on the drawing. That's from its existing location.

I think the picture we were using here was just trying to show if the vegetation was cut down how far you can see to the north.

MR. GARBER: Where it says, Looking for proposed exits, it's actually looking at the existing exit and reflect the sight distance today from the same exhibit but it was winter.

When you probably could see the proposed exit, it was winter.

THE WITNESS: Correct. Again, this access would move a little bit further to the north. The line of sight comes inside where this line of site was inside. So closer to the west. I apologize for that.

MR. GARBER: That's okay.

Q. (By Mr. Schmidt) Anything else about this exhibit, Mr. Caloggero?

A. No. I think this shows how -- again, trying to work with SHA, they ask, How can we increase the sight distance? This is one way we can increase sight distance.

Q. Finally, Mr. Caloggero, this will be 16B.

MR. SCHMIDT: I will give it to Mr. Holzer.

Q. (By Mr. Schmidt) This is also, is it not, sort of a schematic with an aerial rendering of the alternative with the relocated outbound or exit lane.

A. Correct. So, again, this is the plan view. What we were asked to do here by the Maryland State Highway Administration -- and they came up with some really good questions, and that's why we're doing all these exercises -- is they came back and said, How about if we relocate the entire access directly across from Boneparte?

The State Highway Administration, they asked us to review. Because we've talked about moving the outbound access. They said, What about inbound? Can we move inbound certain areas to make things work better?

A lot of times they want the intersection and the line to cross from Boneparte to try to make the intersection work more efficiently.

So what we did was we reviewed three different locations where a vehicle would turn left

into the site.

Vehicle 1, in yellow, that's turning left under all scenarios of our existing and our proposed access from the last drawing, which was 16A.

So when looking from Vehicle 1, Vehicle 1 can look southbound, because now they're looking at northbound vehicles. Vehicle 1 can see 345 feet.

That's going to be enough sight distance to be able to make a left turn safely as a vehicle is coming around the turn. Then all they're just trying to do is clear 12 feet.

Looking in the opposite direction, Vehicle A coming down the hill --

MR. SCHMIDT: Which is also yellow.

A. -- which is also yellow, can see 332 feet away. So as that car is slowing, stopping, hopefully has their directional on, that's how far you can see back. Vehicle A can see Vehicle 1 making the left turn.

So then we looked at Vehicle 2, which would turn into the existing outbound area, so looking at

another alternative for the existing outbound.

So Vehicle 2 in orange and looking at Vehicle B in orange, Vehicle B can now see Vehicle 2 360 feet away. So that's a little bit better than Vehicle 1 by approximately 30 feet.

However, Vehicle 2 can only see 190 feet to turn left. That's going to create a hazard in my opinion. I think we need about 200 feet. And I can get the exact numbers.

But we want a little bit more sight distance, when turning left into the site, in my opinion. And that obstructed -- Vehicle 2, when looking, is obstructed by the fence on the neighbor's property across the street.

Q. I believe that's Ms. Foxworthy.

A. Then Vehicle 3, we looked at --

And, again, we're eyeballing a potential inbound access where a vehicle might stop or kind of where we have our outbound proposed condition.

Vehicle 3, again looking backwards, we can see further up the hill. So Vehicle C can see

Vehicle 3 about 425 feet away. However, when looking for northbound vehicles, again we are at 191 feet due to the (a) curvature of the road and (b) the fence.

So we're kind of in that conundrum area; what is the best location for outbound, what is the best location for inbound?

So that is why we have our proposed access as shown previously on Exhibit 1 and 1A, where we would have recommended to the SHA to have inbound. And if they wanted to increase the outbound sight distance, we could move it further to the north for outbound but maintain inbound.

However, I do want to go back and say, we've testified that the existing, in our opinion, is still sufficient and safe.

MR. GARBER: If you had to come up with an improvement, that would be an improvement. You're saying come up with an exit-only lane that would be to the northeast of the existing access.

THE WITNESS: That is correct. We've

submitted a lot of this information to the Maryland State Highway. They are still in review.

I guess they have to weigh the checks and balances of the network and what we've shown them for them to determine what we would need to do to obtain an access permit from the State Highway Administration.

MR. GARBER: Is there any reasonable expectation that they may come back with something that's completely different from this?

THE WITNESS: Oh, yeah. Maybe not completely different. I don't know what their goals and objectives would be, besides our goals and objectives, which would be to make it better.

But as we're moving stuff around, I don't think there's many different areas where we can move an access.

If we move it further to the south, the sight distance using 16B, looking to the south, the sight distance to the south gets worse.

MR. GARBER: For example, if you go

down to the west side of the property where the abandoned road is, you wouldn't have an expectation that they're going to say, You probably should use that as your ingress point or egress point.

THE WITNESS: I believe we have shown enough information and enough data to the State Highway Administration, again, where we believe we have provided a safe and efficient access and alternative to that safe and efficient access to a different one that's also safe.

Q. (By Mr. Schmidt) I think what Mr. Garber is asking you is you don't anticipate the State Highway Administration to ask you to explore the driveway that's been closed that go through the back of the property.

MR. GARBER: I'm thinking fairly different than what is depicted in 15, 15A, B, 16A, B, that we are sitting here today looking at these plans that may not ever come to fruition and then be something completely different than what happens down the line and the effects we can't take a look

at here today.

MR. SCHMIDT: Obviously, the Petitioners are at the mercy of State Highway Administration. They asked for data, as Mr. Caloggero has indicated. He's given them all kinds of data and all kinds of different alternatives.

Q. (By Mr. Schmidt) Mr. Caloggero, you would expect the State Highway Administration in granting an access permit here to select one of the options that you've shown on Exhibit 15A, B, 16A or 16B?

MR. HOLZER: Objection. There's another alternative, and they denied the access altogether.

MR. SCHMIDT: Right.

Q. (By Mr. Schmidt) If they granted an access permit, you would expect it to be as shown on 15A, 15B, 16A or 16B.

A. That is correct. And I believe we've demonstrated, in my opinion, today with the sight distances, the stopping sight distances, the speeds, the curvature of the road, the SHA warning signs and

how they would like us to drive the road and the conditions that you can physically drive the road that we have provided is not only existing safe but we believe we've provided alternatives for what may be safer egress, while maintaining a safe ingress.

MR. SCHMIDT: I would formally offer 15A, 15B, 16A and 16B into evidence. They've been marked and explained by the witness.

MR. HOLZER: I have no objection to that.

MR. GARBER: So admitted.

MR. SCHMIDT: With that being said, I think that's a good time, Mr. Garber, to stop.

MR. GARBER: I don't think there's any problem with that.

MR. SCHMIDT: Unless any members of the Board have any questions.

MR. HOLZER: Could we just say on the record that next Wednesday, I believe it is, is the next hearing date. We'll still start at 9:00. There will still be their case going on.

MR. GARBER: The witness is still on the stand.

MR. HOLZER: For cross-examination.

MR. GARBER: To finish direct and cross.

MR. HOLZER: Exactly. And then after that the sanitarian, he'll go.

So is it fair to say that my case won't start until after lunch?

MR. GARBER: Without knowing how long you expect to take on cross-examination, that's probably reasonable.

MR. HOLZER: I'll make sure it's responsible.

MR. GARBER: Fair enough.

MR. SCHMIDT: Let me say for the record, I understand the prohibition on talking to witnesses who are testifying. I will not be discussing Mr. Caloggero's testimony.

However, as he's indicated, he has continued to make these submissions to State Highway

Administration. If he's advised that State Highway Administration has decided on one of these, or whatever, I would like him to be able to tell me that between now and next week. I will tell Mr. Holzer, if we get that information.

MR. GARBER: Yes. If something materially changes in relation to these plans and his testimony within the next six days, I think that's only fair.

MR. SCHMIDT: If he calls me and says he gets a letter from State Highway saying, Do this, I will let you know what it is.

MR. HOLZER: That's fair.

MR. GARBER: We are reconvening next Wednesday, September 12th, 9 a.m. in the Board of Appeals' room, not the County Council, not here. The Board of Appeals' room. And, therefore, if we have standing room only, we'll rotate people in and out as necessary.

Before we close the record for today, Ms. Dopkin does have a question.

MS. DOPKIN: For southbound traffic on Harford Road, there is a considerable downhill grade.

THE WITNESS: Correct.

MS. DOPKIN: Does that affect the stopping sight distance?

THE WITNESS: Minimally. They usually look at zero to 3 percent and then 3 to 6 percent as stopping sight distances on a grade. I didn't believe this was more than a 3-percent grade coming down the hill.

If I can elaborate a little bit more to help out the situation, that's part of the reason why I've asked the State Highway Administration to also not consider 2 and 3, due to that downgrade. Area 1 is more flat, where you can make that turn more easily. I forget exactly where the --

Going back to the very first drawing, 15A, that's more difficult to see, but you can see where the letters on the north side of the site access, so from J to B, it's a downgrade. As you get to B to

A, it's significantly less.

So when you're turning beyond A and B, it's a fairly flat area, and we believe it allows a safer inbound maneuvering. Again, the SHA will be reviewing all this.

MS. DOPKIN: Second question: Is 30 miles per hour recommended speed as opposed to does the state put any physical improvements in the road to slow traffic?

THE WITNESS: In certain instances. There's measures. I'm sure you've seen rumble bumps or even rumble strips or the cutouts in the road, where if you cross the center line and there's slots in the road that makes a humming noise. So there are those types of measures.

MS. DOPKIN: Would they be appropriate here?

THE WITNESS: If people obey the signs and follow the advisory speeds, they're not needed. Usually you start taking those additional measures, if there's an accident history.

If this was a brand-new road and a speed limit of 45 and you had people running off the road itself, then you may want to add the Chevrons and then put the rumble bumps in the road to warn people of an unsafe condition or a hazardous condition. But it's usually a stepping-stone.

I don't know the accident history here. I don't want to suggest an accident history or not. However, if there was an accident history of excessive speeds and running off the road, crossing the road and into the curb area, then I would anticipate the SHA adding additional corrective measures.

MS. DOPKIN: Lastly, it appears the state owns the right of way on the west side of the road but not on the frontage of this Petitioner's property.

A. Correct.

Q. Would they be required to donate the right of way to State Highway Administration?

The second part of the question: If so,

would that result in any improved sight visibility?

MR. SCHMIDT: For example, as a condition to the access permit?

MS. DOPKIN: Yes.

THE WITNESS: They have not, to my knowledge, at this point. We received one letter, I believe, in November from the State Highway Administration. And I don't believe in that letter they suggested any donation of right of way.

Any widening here, and typically widening if this was a much higher use, or if the SHA was thinking of trying to get a four-lane section from the roundabout to the south to some location, if there was an excessive amount of traffic using Harford Road, they would consider that.

Right now I don't see a need for that, and it would be a large project on the State Highway Administration because of the slopes coming down into the road. It would be a significant cut and significant retaining walls.

MR. GARBER: Thank you. Any questions

based on that?

MR. HOLZER: I have a lot of questions, but I'll hold them.

MR. GARBER: Fair point. Thank you.

(Whereupon the hearing was suspended at 4:03 p.m.)

C E R T I F I C A T E

STATE OF MARYLAND

COUNTY OF BALTIMORE

I, Ann M. Lavoie, Shorthand Reporter in and for the County of Baltimore, do hereby certify that the foregoing pages to be a true, complete, and accurate transcript of the hearing In the matter of the Petition for Special Exception, before Baltimore County, Case No. 2018-0122-X held at the time and place hereinbefore set forth, to the best of my knowledge, skill, and ability this 21st day of September, 2018.

Ann M. Lavoie
Shorthand Reporter

My Commission Expires:
October 17, 2021

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(a) 148:12 294:3

(b) 148:13 294:3

1

1 5:21 9:19 14:3 16:3 38:4,11 39:21 40:4,7,16 77:16 106:8 107:2 108:2 126:5 194:21 195:18 203:15 284:14 292:2,5,7, 18 293:5 294:9 301:16

1,000 103:1

10 73:6,7 74:7

100 64:11,15 137:2,5 161:9 253:9 255:2,3 268:7

100-feet 45:18

1055 13:20

11 101:5 256:6

11:00 195:2

11A 214:3,11,14, 18 216:8

11A-E 214:5

11th 8:14

12 242:7,8 243:1, 18 292:11

120 153:5

12150 186:17

12241 136:20

125 116:16

1250 21:12

12:25 164:9

12A 256:7

12th 5:18 300:15

13 168:13 256:8

14 21:17 24:15,16 25:1,9 168:12 256:5,8,11,21

15 199:3 263:15, 21 274:18 296:17

150 116:20 153:5, 13 154:5,17 155:2,3 177:17

150- 15:17

152 154:4,5,7

15A 275:7 276:2 296:17 297:10,16 298:7 301:18

15A-B 263:12

15B 275:8,12 276:2 277:4 280:14 283:3 297:17 298:7

16A 284:6,9 285:7 288:11 292:4 296:17 297:10,17 298:7

16A-B 284:10

16B 290:19 295:19 297:10,17 298:7

18-122-X 4:5

18th 108:5,6

190 293:6

191 294:2

1993 241:21

1A 40:9,13,15 41:2 77:16 106:9 107:2 108:2 116:8 126:6 136:16 143:19 144:15 163:3 175:10 183:10 186:5 190:3 203:16 235:18 294:9

2

2 4:3,5 6:4 7:17 14:3 22:20 47:19 48:5 247:17 250:17 292:20 293:2,3,6,12 301:15

2's 250:18

20 151:21 246:5 253:3,5,6 254:18, 21

200 93:11 151:18 207:14 293:8

200-lot 15:17

2001 28:6

2014 28:6

2017 28:9 29:6 35:17 36:16 171:18

2018 36:5 69:19 70:9 108:5,6 169:11

21236 238:17,20

22 168:13

24 258:2

240 268:19

245 268:17

25 169:11

285 269:1

2:45 238:1

2D 264:13

3

3 4:17 108:14 109:1,16 293:16, 20 294:1 301:8, 15

3,500 255:19,20 257:8,16,21

3-percent 301:10

30 188:21 246:21 259:4 266:16 268:16,21 269:7, 8,9,18 270:12 288:21 293:5 302:6

30-acre 146:17

30.8 38:14 76:12 118:9

300 175:7 177:18 178:2,6 180:15 186:21 189:21 207:19,21 208:4, 13,21

307 13:20

30s 72:12

325 269:2,20 270:6

332 292:15

340 64:9 101:20

345 292:7

35 246:18 267:2 268:18 269:1,5, 18

350 186:21

360 273:13,18 274:3,15 293:4

364 178:15

365 266:4,10 267:4 269:21 275:5 276:17 283:3

38 80:2,3,12,21 81:13 151:7 152:2 154:3 155:12 156:10

4

4 8:15 162:3,4,5 163:14 164:1 221:14

40 269:2,19 270:6

425 294:1

43 12:14

430 102:19

435 102:19

440 267:5,11 270:5,15 273:19 275:7 276:18 278:21

45 164:18 266:19 269:5 273:12,16 274:2 288:20 303:2

45-mile-an-hour 288:19

450 287:6

4:00 275:18

4:03 305:5

4:30 275:17

5

5 11:5,14 12:21 13:6 168:20 169:5,6

50 45:13 156:10 288:7

500 47:15 157:9 287:7

500-to-700 98:7

502 188:3 191:7

502.1 166:2,15 171:8 177:7 187:18 194:11 195:11 197:5 199:12

508 9:17

539 73:11

539A 73:14

58 168:13

6

6 11:17 12:9,11 13:8 301:8
60 45:13 259:3 288:9
600 6:8
650 102:14
655 102:10

7

7 11:17 12:12,21 13:6,10
7-eleven 230:5
70 127:13 287:3
700 47:15
750 283:19

8

8 17:12 18:6,8 22:20
80 127:13 153:7, 15,17,21
800 283:19 284:4
85 288:5

9

9 53:10,11 282:4 300:15
90 289:3,4
90-degree 246:13,16 248:12
9900 238:16,18
9:00 151:18 195:1 298:20
9A 54:4 69:11,15 110:4,13
9A-MM 53:4
9B 184:19 185:1 282:7
9C 185:11,17 282:7
9E 183:15 184:2
9H 222:6
9MM 69:11

A

a.m. 300:15
AA 63:14
AASHTO 268:2,3 271:11 272:3
abandoned 144:10 218:13 296:2
ability 30:6 193:18 252:21 259:9 279:9
absent 197:4
absolutely 8:10 253:17 277:5 281:12,16
absorb 259:10
abundance 5:6 8:6
accept 32:21 35:12
acceptable 35:7 40:21 270:3 277:21
accepted 17:7 87:21 132:7 150:20 241:6 242:9 244:3
accepts 204:11
access 38:20 43:13 57:20 59:20 66:2,4 79:13,14 82:5,11, 18 96:9 104:16 106:8,10 107:1,8, 11 109:6,10,17 113:8,9 123:12, 14 124:7 132:19 133:2,5,9,18 134:2,17 135:7, 15,20 136:3 191:12,18,19,20 206:21 208:5 226:2 233:21 234:3,14 235:21 244:16 246:7,8 249:3 250:21 251:21 252:2 254:14 262:17 263:2 265:21 268:15 273:21 277:13 278:12 281:10,17 284:15 285:12 287:1 288:17 290:8 291:10,14 292:4 293:18 294:8,20 295:6,17 296:8,9 297:9,12,15 301:20 304:3
accessible 81:11
accessing 82:13
accident 302:21 303:7,8,9
accommodate 6:3 77:10 78:4 81:7 260:5,9,14, 20
accommodated 5:12 77:11 80:11
accommodates 83:2
accommodations 176:20
accompany 40:16 105:7
accomplished 84:7
accordance 200:19
account 199:12 207:1,4 274:8
accounts 6:20
accumulate 210:8
accurate 32:1 203:2,16 222:9
accurately 69:3 70:5
achieve 277:21
acknowledge 175:16
acknowledged 175:16
acquired 171:19 172:8 217:18
acreage 149:13
acres 38:14 76:12 118:10 188:21
activities 49:15 176:4 179:18 199:14
activity 49:12 190:14 193:14
actual 40:3 179:1 183:19 225:12 248:19 261:18 269:16 276:4
ad 276:3
ADA-COMPLIANT 9:8
add 9:20 40:8 89:18 232:20 263:2 272:9 303:3
added 107:3,19, 21 108:2 158:10 159:2
adding 83:1 106:7 303:12
addition 9:3 162:18,20 163:2 201:10
additional 13:4 42:11,21 81:2,4, 15 83:16 84:3,13 114:18 116:4,5 117:4,7 148:15, 16 149:2 155:16, 21 156:1 163:8,9 167:8 168:3 170:3 180:2 204:10 207:8 208:7 229:11 249:5 259:11 272:4 278:13 288:4,7 302:20 303:12
additionally 91:8 99:2
additions 58:8, 11 169:18
address 13:17 26:19 136:19 179:12 207:9
addressed 75:4 187:11 226:11 280:6
addressing 33:8 199:12
adds 168:13
adequate 94:15 267:18
adjacent 51:15, 16 52:5,7,8 63:3 95:5 99:18 155:21 184:14 190:1 211:18 279:6
adjoining 95:1 136:16 187:15
administration 25:17 82:17 107:12,16 110:1 124:19 204:11

231:14 242:3 246:12 248:13 251:19 252:1 253:13 254:8 260:7,13 266:15 278:2,4 279:2,4 284:20 291:7,12 295:7 296:7,13 297:4,8 300:1,2 301:14 303:20 304:8,18

Administration's 83:5

administrative 17:8 19:1,11 30:2 35:21 109:4,11 157:17,20 241:10 244:15

admissibility 18:17 163:18,21 242:17

admit 70:7 128:8

admitted 13:3 32:11,12 47:2 74:8 170:18 218:5 298:11

adopt 147:13

adopted 230:7

advance 126:14

adverse 89:7 90:4

adversely 93:15 182:18

advice 172:11 173:17

advise 172:18 231:10

advised 5:10 172:19 177:16 270:12 300:1

advisory 246:5 266:17 302:19

aerial 34:17 37:17 48:1 99:19 188:3 202:20 221:15 275:11 276:3 277:7 291:2

affect 178:18 301:5

affected 118:15 166:4

affecting 182:18

afield 28:20

age 71:9

agencies 99:4

agency 252:7

agree 6:13 8:12 28:18 88:2 98:4 122:13 153:13 194:7 225:17,19 226:5 230:7 232:12

agreed 40:2 80:14 278:3,17 280:8,16

agreement 4:13 5:2 40:5

agriculture 51:10 52:4 99:9, 14,15 100:1,2

ahead 133:11 213:18 218:2 289:6

aid 75:17 221:7

air 85:18 87:3 94:16 190:13,14

aisle 42:13 81:11 82:21 136:6

aisles 235:21

alcohol 160:7

alert 8:13 273:2

alignment 264:15

alignments 265:19

ALJ 107:5,7 109:17 126:3,12 158:12

allies 89:9

altered 201:19

alternate 43:13, 15 66:2,4 83:4 234:13

alternates 43:11

alternative 82:2 106:8 109:10 132:19 226:2 291:3 293:1 296:9 297:12

alternatives 297:6 298:4

altogether 297:13

amend 120:14 147:7

amended 147:5

amendment 149:4

amenities 94:2

American 4:4 11:9 244:8

amount 7:9 79:17 244:17 258:11,21 304:14

analogy 261:3

analyses 252:4,5 253:14

analysis 23:7 27:13 29:11 138:15 156:9 157:12 175:8 183:1 187:18 192:1 244:20 251:14 254:14 257:6 258:12

analyzed 124:1 195:9

and/or 240:4 272:12

angle 246:13

annual 200:6

answering 129:7 150:2

answers 163:5 174:4 213:16

anticipate 46:8 296:12 303:12

anticipated 46:5 150:19 166:20 179:2 221:8

anticipation 217:20

anymore 121:7

anytime 162:11

apologize 290:11

Apology 132:7

apparent 64:1

apparently 91:12 108:18

appeals 4:11,17 7:20 17:7 85:3 175:14 241:14

Appeals' 17:1 19:1 300:16,17

appearance 178:19 214:16

appearances 22:19

appeared 49:16, 18 63:9 279:14

appears 50:16 83:19 133:8 135:17 153:4 216:4 241:16 256:2 303:14

applicability 227:6

applicable 17:19 103:21 158:21 251:11

applicant 171:17

applicants 20:5 21:7

applied 122:3 150:20 228:2

apply 27:8 85:3 116:19 121:18,19 151:10,12 152:5 196:16

applying 152:10 227:12

approach 11:6 102:7 153:14 245:7 252:20

appropriately 76:8 77:9

approval 15:2 75:8 77:6 144:21 145:2 173:10 174:5 175:9 176:2

approvals 26:15 137:14 240:8

approved 75:10 79:1 114:19 120:5 142:20 143:1,2,12,16 147:4 159:15 200:16 224:6 225:18

approving 85:4 172:13

approximate 127:12 150:14 250:19

approximated 127:11

approximately 28:6 45:18 102:10,15,18 209:1 212:20 253:3 255:19 293:5

aquifers 97:12

architect 169:16 200:17

area 41:21 43:19 46:17 48:14 50:9, 17,20 52:16 64:18 66:1,5,9 67:5 78:3,19 83:7 85:20 87:8,10,15 94:2 96:12 99:20 103:19 118:1,5,7, 9,10,14 120:1 123:13 130:7,8 133:16 137:14 138:14,20 143:13,19,20 148:7 155:17,18, 21 156:2,6,15 157:13 163:9 167:21 168:4,11, 16 182:11,14 188:3,19 194:2 204:14,16 206:20 207:11,16 208:1, 5,12 209:3,15 210:15,18 221:9 223:21 231:15, 17,19 233:8 244:1 245:4,11 246:9,21 247:8 250:6,9 257:8,9, 10,12 258:18 259:19 262:11 278:16 283:15 286:5 292:21 294:5 301:16 302:3 303:11

areas 32:18 43:18 46:7,9 76:14 81:1,4,9, 15,17 83:12 96:18 221:2 230:19 261:20 291:15 295:16

arguing 129:15 181:9,10

argument 149:6

Argumentative 130:2

arise 81:12

Arm 85:19 86:2,4 284:1

arrangement 176:21

arrangements 4:18

arrive 141:18

arrived 79:19 125:18

arrow 282:16 289:5

Articles 11:8

articulate 193:18

aspect 123:20 235:17

aspects 124:2 144:14 172:13 240:9 265:17

assess 224:4 254:16,17 257:19

Assessments 11:11

assign 263:16

assist 232:14

assistance 36:9

assisted 33:17

Associates 13:20 14:8,11,16 15:15 21:17 31:5, 15 33:16 35:17 116:3 171:16 202:14 203:10

association 10:1,5 103:13

assume 16:16 17:4 33:14 37:1 74:14 146:1 167:17 170:15 172:2 209:11 244:20

assumed 131:18

assuming 206:21 230:19

assumptions 177:15

assurance 119:9

athletic 145:16 146:14 220:8

attached 60:11, 12

attend 7:3,6 35:20 200:2

attendance 5:20 8:21 150:19 151:2 152:9 154:6,8 175:6 177:18 182:1 196:18 199:8 200:7

attended 75:19 196:11

attendee 7:11

attendees 150:15

attending 7:16 8:1 151:18

attention 45:4 47:18

attest 277:6

attorney 12:3,4, 16 19:8 72:6 173:2

attract 157:2

atypical 252:18, 19 253:19,21 272:15,17

audible 9:4

audio 5:15

August 155:8

authority 147:8

authorized 10:9

auto 21:8,9

Avenue 6:9 9:18 13:20 20:14,21 39:1 55:14 56:1 66:18 82:14 112:11,13 183:13 289:15

average 154:6, 17 254:18

avoid 30:7 32:17 123:14 165:5 261:9 271:16

await 173:14

aware 35:19 71:10 175:5 197:11 265:8

B

BA 73:11,14

bachelor 240:12

back 4:8,16 5:5 6:17,21 7:20 43:4 56:16 58:19 59:1 60:6,7 61:3 81:16 101:5 136:14 147:6 148:17 165:2 170:14 174:1,2,9 185:18 195:12 219:9 272:16 277:16 279:15 291:9 292:18 294:14 295:9 296:14 301:18

background 16:17 18:15 21:14 25:6 30:18 39:20 71:9 72:1 77:11 220:15 240:10

backward 265:16

backwards 12:11 293:20

bad 113:1

baked 274:9,15

balances 295:4

bald 272:8

ball 220:7 233:7 271:21

Baltimore 11:10 15:11,13 17:20 24:1,9 25:6 30:17 34:9,13 71:16,17, 19 75:7,20 79:1 91:18 108:17 120:5 126:9 143:11,16 159:9 236:17 238:17,20 241:11 244:8 248:8 251:18 260:12

barn 39:19 41:7 45:20 61:9,11,13 71:11 73:15,18 118:11 138:12 148:9 234:9 235:6

base 31:6 150:18 152:2 202:6

baseball 146:18

based 18:14,15 24:13 35:13 80:3 99:19 139:6 143:17 150:12 155:4 157:1 166:3,8,15,19 167:5 177:7 181:20 191:3 192:1 196:1,2 200:10,12 202:9 252:7 253:2 254:10,11 255:12,20 257:21 258:4,7,18 264:15 265:4,19 267:16 270:1 272:6 305:1

basement 141:8, 10 181:4

basic 251:5

basically 66:17 151:1 193:5 247:5,10 272:6 287:10,17

basing 269:16

basis 29:20 30:12 90:12 93:11 97:15 151:3,19 163:15 181:18 182:12 200:6 237:10

bathroom 9:8 141:3

BB 63:16

bear 114:1

bedrooms 141:3

beginning 27:18 58:12 95:9 202:5 240:7

behalf 6:9 9:18

Bel 85:18 87:3 190:13

Bella 72:7,8 73:12,15 91:9

bend 42:3,10 206:7

bends 41:16 208:15

beneficial 227:19

benefit 7:12 136:15 238:12

Beverungen 19:13 35:21 36:4, 8

big 78:6 206:7 232:13

Bingo 179:14

bit 15:8,10 21:15 28:19 33:14 37:15 41:14 45:5 48:8 57:6,13 60:20 65:19 66:15 79:12 205:16 239:11 245:6,9 255:17 272:9 277:12 287:4 290:8 293:4,10 301:12

biweekly 280:6

black 86:20

blame 111:1,2

block 222:8 223:6

blocking 67:12

blue 86:15,19 87:2

board 4:8,17,21 5:13 7:5,20 9:12 11:4 14:6 16:4,21 17:7 19:1,16 30:3,8 31:4 40:14,18 45:8 53:19 54:5 64:6 66:7 67:7 79:15 85:3 106:1 121:6 147:5,8 148:17 149:2 170:2,14 175:13 190:4 241:13,14 252:13 264:6 274:19 281:1 298:17 300:15,17

Board's 6:2 165:4 216:20

bold 38:12

Bonaparte 38:21

Boneparte 55:14,16 56:1,3,6 66:18 72:5 73:13 82:14 112:11,13 183:13 277:13 278:13 289:15 291:11,18

Boneparte's 72:4

book 12:15

bottles 160:8

bottom 87:3 135:1 234:6 264:14 276:7 286:10 289:12

bound 38:15

boundaries 85:21 149:12

boundary 38:17 86:20 207:11 232:13,21

brake 267:1 272:12

brakes 271:13

brand-new 303:1

break 100:11,20 164:13 264:16

breaking 164:14, 15

bridges 97:21

briefly 14:10

bring 12:6 43:2 257:14 258:15 284:18

broad 31:6

broken 215:19, 21 216:3 217:9

brought 11:2 53:2 59:12 268:5

buffer 23:8 227:11,15 228:14,15

buffers 23:10

build 146:21 149:17 272:4

builders 21:7

building 44:4 46:17 51:2,13,19 57:20,21 58:1,4, 9,19 60:6,7,11, 12,13,15,21 61:13 62:3,4 64:8,12 70:2 71:7 74:14 90:4,21 92:10 94:14 95:4, 12 96:15 101:15 102:4,8 103:4,7 104:9 117:14 118:12 120:9 128:12 129:16 140:5 142:4,8,9 148:16 160:4,9, 11,17 162:20 174:20 180:3,9, 17 196:2 201:7 208:9 211:8,14, 18 212:8,9,10,11 215:4,11 220:21 222:2,4 234:11 235:4 255:16 256:2,16,17 258:8

building/temple/ former 73:21

buildings 15:19 34:19 41:6 70:18 91:1 116:5 118:5 122:3 201:8 202:19 236:19

built 72:7,13 91:10,18 133:19

bumps 302:11 303:4

burned 72:11 91:9

bush 135:21

business 14:11 21:9 239:18

buy 172:4

bypassing 67:13

C

C-A-L-O-G-G-E-R-O 238:13

calculate 255:13 257:13 271:7

calculated 252:13

calculation 80:1 181:19,20 182:2 252:9

calculations 143:10 179:16 252:11

call 10:18 12:19 43:17 93:16 103:19 111:11 186:2 197:13 238:6,13 264:11, 18 275:19 283:13 286:17

called 246:8 249:6 270:17

calling 97:20

calls 211:20 300:10

Caloggero 124:15 238:6,7, 11 239:4,17 240:11,21 247:21 251:8 256:1,4,13 257:2 262:6,13 263:14,20 266:11 267:15 275:4,9 276:1 278:21 280:21 282:1,15 284:12 286:9 290:14,19 297:5, 7

Caloggero's 242:6 256:8 299:19

Calvert 243:4,5

camera 110:20

camp 50:1 220:3

capacity 175:14 251:10,14 252:4 258:16 259:9,19 262:6

car 55:6 181:19, 20 182:3 266:3 271:8 273:15,17, 18 286:20 292:16

careful 273:2
caretaker's 62:2
Carroll 9:17 243:7
cars 81:7 93:11 156:10 157:9 162:11,13
case 4:4 5:5 17:15,19 18:1 19:14,16 27:18 28:2 35:16,21 36:5 52:12 109:12 147:3 176:1,12 177:9 187:5 189:12 191:19 224:2 226:10 227:3 228:8 241:7 244:7 272:15 298:21 299:8
cases 15:20 19:21 35:10 50:19 175:15
category 254:1
Catholic 179:15 261:7
caused 158:3
causing 97:21 258:17
caution 5:6
caveat 108:16
celebration 175:20
cellphones 9:1 82:9 239:14
center 4:4 11:9 39:4 48:6 57:19 119:13 244:8 302:13
centered 39:5
central 247:11
centrally 101:16
certificate 24:8
certification 23:13,14 25:5
certify 12:15
cetera 23:9 41:7 117:8,14 191:13 202:8 232:16
Chairman 9:11 41:19 121:5 166:7 167:14 177:4
chairs 59:8,10, 12,15
challenged 248:9
change 129:12, 19 169:13 177:16,20 236:3 287:20
changed 69:7,21 70:4 175:8
changing 79:12
channel 204:21
character 37:21 77:9
characterize 121:17
Charles 73:13 243:9
chasing 271:21
check 236:12 237:4,14
checked 237:7
checks 295:3
Chevron 282:5,8
Chevrons 249:7 283:4,15 303:3
child 271:21
choice 166:12
choose 279:8
chose 152:8
Christian 49:8, 17 193:16 195:14 198:21 261:4
Christians 193:20
Christmas 261:5
church 49:3,11, 16,17 67:16,17 95:13 170:20 189:17 190:13 191:9,10 193:16, 17,21 194:13,17 195:15 196:14 197:12 198:15, 16,19,21 199:13 200:6 219:21 255:10,12 258:9 261:4,7
churches 96:6 103:21 254:4,8,9 256:15 260:2
circle 248:1,6,16 249:16,17 258:15
circles 249:20
circular 114:7
circulated 106:16
circumstances 172:10 205:1
Civic 10:1,5
civil 14:12 17:12, 17 21:18 22:2,10 23:18 25:3,12,20 30:17 32:5 33:10 77:7 240:12
clarification 109:15
clarify 106:11 109:9
clarifying 106:21
classification 95:17
clean 160:7 161:5
cleaned 160:16, 19,20 215:11 217:11
cleaning 174:11
clear 7:2 12:8 31:17 63:2 119:20 137:4 138:19 231:7 248:1 255:1 292:11
cleared 71:2 120:12 275:17 279:18
clearer 58:13 135:15
clearing 46:6,8 96:13,17 97:20 99:1 115:13,17, 21 119:14 120:4 234:7
clerk's 12:1
client 7:13,21 11:1,19 25:15 26:5 143:4 150:15 152:9,12 157:8 175:16 179:7 193:14 225:17 230:16 232:11
clients 106:13, 14,17 115:2 160:3 166:16 225:19 226:5 231:5
clockwise 87:1
close 67:16 138:5 186:4 190:2 287:13 300:20
closed 296:14
closer 62:6 63:14 66:13 183:7 210:21 290:10
closest 45:14 186:6,14 207:13
co-counsel 6:11
code 25:20 42:17 80:4 91:19 155:5 175:14 176:12,15 177:3,9
collect 204:20
collecting 232:9
collections 204:19
collision 271:16
color 257:11
comfort 5:14
comment 27:4 89:6 181:13
commented 22:15 181:16
comments 9:4 30:5 33:8 169:18
commercial 15:17 117:2 143:3,6,7 190:14 191:5
Commercial-institutional 143:8
commissioner 241:11
committed 28:5 171:11
communicate 4:14
community 18:20 19:4 25:16 106:17 118:14 148:4 158:2,5 190:11
company 31:13 106:3 116:3
comparable 196:14
compared 5:21 93:8 193:6,11

195:8

comparing 191:7 261:2

comparison 259:5

compartmentalize 18:12

compiled 202:17

complete 76:21 280:10

completely 45:21 95:2 138:9 194:3 295:10,12 296:20

complexity 272:13

complies 20:19 170:20 274:20

comply 97:7 171:4

computations 15:1 219:16 257:4

conceivably 191:15

concentration 92:8

conceptual 84:1 169:10,12

concern 84:14 98:19

concerned 148:5 223:21 226:21 230:20

concerns 83:5 119:8 207:9 280:5

conclude 100:7 188:1 229:18

concluded 224:7

concluding 199:15

conclusion 104:7 121:18 141:18 200:10,12 211:21

conclusions 194:12 195:10 259:11 287:21

concrete 91:10

condition 69:17 70:8 75:17 125:17 142:4 149:2,20 216:6 217:4,16 225:20 226:13,15 230:7 232:12 267:13 293:19 303:5 304:3

conditions 69:4, 7 147:9 203:17 214:8 263:9 269:16 270:1 272:8 274:11,13 298:2

conduct 240:1

conducted 75:15 199:3

configuration 129:2 176:21 204:12 205:12

confirm 126:8 130:6 203:1 227:5

confirmed 126:21

confused 25:4

confusing 122:17

confusion 4:7 7:19 287:14

congestion 89:9 262:10

congestions 258:17

congregation 49:20 75:6 92:15 126:17 193:19

conservation 23:10 120:4,13 225:1 226:10 228:17,18

conservative 255:17 257:6

considerable 301:2

consideration 84:13 189:12 235:1

considerations 210:9

considered 158:12 245:13

consistent 95:16 106:1 143:3 213:9 214:16

constraints 120:6 224:5

construct 83:7

constructed 91:10,12 113:21 144:11 246:3

construction 46:16 47:6,7,10 60:8 76:16 98:7 99:3 168:16 201:4 206:20 233:2 240:9 286:12

consulting 109:21

consumed 91:6

contacted 171:16

contained 40:6 95:2

contemplated 202:2

contending 7:18

context 32:10 71:8 149:7 150:1

continue 46:1 111:8 174:13

continued 299:21

continues 45:19

continuing 42:9 87:1 222:19 281:5

contour 276:8

contours 264:18,19 265:4

contract 172:1,4, 7 174:14

contributed 31:8

conundrum 294:5

convened 4:6

convenience-store 15:19

conversations 280:7

conversion 96:14 101:15

converted 58:5 59:7

conveying 38:7

coordinating 75:7 276:12

coordination 80:13

copies 11:7 12:7 16:11 52:20 53:3

copy 10:10 11:8, 21 12:2 16:8,14 53:15 54:1 221:19 256:1

corn 50:5

corner 60:3 65:20 86:18 136:19 170:7,9 183:13

correct 6:1 8:1 14:9 16:19 17:6 19:9,12,20 20:2 21:19,20 23:1 24:21 25:10,11 27:14 33:12,13 36:19,20 41:9 44:10,21 45:1 53:17 54:17 55:18 57:4 58:2, 3,7 59:14 61:21 64:9,13,17 68:5,8 73:19,20 74:1,2, 5,16,17 76:3,9,10 80:19 81:18 94:6, 9,10 95:11 99:11, 12,17 101:17,18 102:1 107:6,10, 18 109:18 110:7 111:6,10,21 113:4,5 115:7 121:13,14 125:7, 8 126:20 127:6 130:14 132:15 135:5 139:4 142:13 144:9 145:20 150:13 152:3 163:12 165:15 167:1 169:19 171:1,9 184:3,11 185:5,6 188:19 196:1 199:21 200:1,3,4, 8,17,18 201:6,13, 14,19,20 202:3, 10,11,15 204:8, 12,13 208:10 209:21 211:9,13 212:17 219:1,2,3, 5,6 221:5,6 222:13 228:21 232:2 235:14 236:9 239:9,10 241:8,19 242:3,4, 14 245:1 248:4, 13,20 249:5 251:3,6,7 256:18, 19 258:6,10

262:15,16,19 263:3 265:14 267:9,14 269:6 271:2,5 274:6,12, 16 276:5,6,9,10, 14,15,20 279:11, 16 280:10,17 281:6,7,15,16 284:7,16,17,21 285:3,9,12,13,16 286:1,2,4 288:2, 3,6,9,13 290:7 291:5 294:21 297:18 301:4 303:18

corrected 218:10

corrective 303:12

cosmetic 44:2 160:4 174:12

cottage 62:2

Council 4:6,19 300:16

counsel 5:11 9:6 20:18

count 127:7

counting 81:14

counts 240:2

county 4:6,19 15:2,11,14 17:21 19:4,5 24:1,9 25:7 30:18 34:10, 13,17,18,21 35:3, 8,12 45:2 71:16, 17,20 75:7,10,20 76:7 79:1 85:2, 14,16 86:7,8,20, 21 87:7 91:19 107:12 108:18 110:13 120:5 126:9 142:20 143:11,16 147:6 148:17 151:2 152:13 159:9,15, 18 167:6 169:15 174:3 206:18 230:10,11 236:17 240:4 241:11 243:5,7,9,11,12 248:8 251:19 261:8 300:16

county's 17:8 35:14 77:5 87:13 97:3 103:19 200:17,20 202:10 251:4

couple 51:18 101:10 118:18 155:9 211:11 220:12 249:14 252:11 253:16

court 4:11 6:7 7:13 14:5 37:9 38:6 39:17 41:7 53:20 62:14 118:12 131:7,13, 18 132:10 146:1, 2 186:2,3,15,20 228:8

courtroom 9:1

covered 160:15

coworkers 286:16

create 89:8 90:2 119:21 122:20 157:10 260:19 293:7

created 124:6

credentials 26:19

credibility 177:6

criteria 75:15 78:7 85:3 89:3 93:13 94:16 142:6 171:6,8 192:8,9 194:11 226:11 229:6

crop 99:16,20

cross 202:12 291:18 299:5 302:13

cross-examination 10:21 78:12 98:10 100:12 198:2 213:13 217:20 299:3,11

cross-examine 30:13

crossing 303:10

crowd 6:20 178:16 179:1

crowding 92:17

crown 220:16

crowned 210:7, 11 211:7

Cultural 4:4 11:9 244:8

curb 303:11

curious 227:16

current 21:4,10 54:10,13 72:13 82:20 91:11 116:18 133:4 147:12 202:2 215:2

curriculum 241:2

curvature 246:12 247:2 265:20 267:17 287:18 294:3 297:21

curve 111:15,16 246:14,15,18 248:11 266:13 270:9 283:8 287:5

curved 282:16

curves 248:11,12 282:15 283:12

cut 133:8 148:9 165:5 277:18,19 278:17 279:14 289:20 304:19

cutouts 302:12

cutting 117:7 279:10

CV 242:6

D

daily 176:3 259:6

dairy 52:4 99:16

danger 90:18

dangers 90:3 91:2

Daniel 12:17

dashed 38:13

data 35:7,13 202:17 296:6 297:4,6

date 28:4 108:3, 4,10 196:12 277:7 281:17 298:20

dated 169:9,10

dates 8:12

day 4:3,5,17 5:17, 21 6:4 7:17 8:15 9:19 44:7 49:18, 21 68:20 69:1 92:18 93:4 107:4 110:20 125:3,18 174:2,4 178:16, 20 179:2 194:21 195:18 197:17 198:13 220:3 249:13 253:5,7, 10 254:19 255:2 260:21 277:17

day's 175:12

day-to-day 166:20

days 5:9 178:15, 17 199:4 277:15, 16 300:8

daytime 125:5

DD 65:5

de 30:4 259:12

dead 56:3

deal 19:8

dealing 124:19, 20 176:15 177:21

deals 248:5

dealt 24:16

December 244:13

decided 300:2

deciduous 170:4,6

decision 36:5,6 107:17 173:14 199:20 231:14

deck 63:12

deed 11:18 12:12,16

deem 260:19

deer 227:2

deface 215:4

deference 8:7

define 85:20 118:9,10

defined 88:2,5

degree 22:3,10 23:18 24:8 25:1,2 289:3,4

degrees 23:5 24:20 26:14

Delaware 241:20

delay 261:11

delays 260:17

deliberately 6:15

delineated 80:2 150:9

delineation 137:18
demarcated 86:13
demarcation 87:13 116:1 251:2
demolition 235:12
demonstrated 297:19
demonstrating 86:17
denied 77:18 297:12
denomination 49:17
department 11:11 42:6,18 43:2 137:13 159:4,5,11 236:15,20
depend 178:21
dependent 211:11
depending 5:11 59:13 174:4 272:13
depict 69:3 70:5 185:16
depicted 117:18 183:15 186:4 296:17
depicting 288:12
depicts 162:15
deposition 8:16
depth 193:15
descends 221:4
describe 37:18, 19 38:3 41:18,20 49:10,12 50:14 53:19 75:3 82:1 86:15 139:17 214:15 285:10
describes 73:12
describing 16:16 52:16
description 149:14 245:19
design 78:17 124:7 194:5,10 234:18,21 235:18 240:8 260:13 268:4 280:12
designate 86:1
designed 123:14 126:5 176:18 266:12
designing 75:17
designs 210:6
destroyed 161:2
detail 31:10 49:13 71:10 82:2, 6 245:19
details 115:8
deteriorated 234:3
determination 26:20 27:12 252:14
determinations 252:1
determine 34:18 75:16 99:5 252:20 273:21 281:14 286:19 295:5
determined 27:8
determines 76:8 83:8
determining 80:15
detriment 189:10 190:10
detrimental 88:7,13 97:10 199:16
detrimentally 262:9
develop 148:15 265:4
developed 72:3
developers 20:4 21:6 22:20 168:21
developing 240:4
development 14:13 16:21 19:6, 10 23:8 116:5 117:4,7 148:5,8 240:6
di 259:1
difference 172:6 189:16 190:15 194:16 196:9 271:6
differences 155:5
differential 246:17
difficult 95:4 140:5 277:12,13 301:19
dig 144:4
digital 34:16
dimensions 101:13,19
dimensions-distances 267:20
dining 163:9
dire 18:4 28:16 29:8
direct 27:10 96:9 100:7 103:10 104:16 122:5,11 128:10,13 129:20 191:18,20 202:5 213:2 217:17 219:9 231:11 236:14 299:4
directing 249:7 283:5
direction 16:6 55:8 61:11 63:20 65:8,14,18 66:20 67:2,19 68:1,4,7, 11 79:12 87:1 101:20 102:4,12 107:19 108:1 112:2 122:7 137:21 138:2,9, 12,13,14 139:1,3, 9,12 182:18 205:21 209:16,17 247:7 249:17 265:19 270:13 292:12
directional 292:17
directions 50:18 113:15 208:17 246:11 247:20
directly 55:18 113:2 123:7,15 183:11 184:14 188:20 209:8 213:6 223:8 291:10
dirty 161:7,8
disabled 152:7
disappear 119:16
discuss 79:20 280:19
discussed 56:12 104:17
discussing 154:15 299:19
discussion 82:15 107:20 199:6 263:11 275:2,21 284:8
discussions 253:2,12 254:14 281:2,5 284:19
disrepair 44:9,16 63:13 72:20
distance 56:8 57:11 64:7 65:11 83:2 91:5 95:1 102:4,18,21 104:1,18 121:21 137:9 186:1,20 189:20 206:2 222:17 250:10,20 262:14 264:1 265:18 266:4,9 267:5,18 268:11, 19 269:20 270:3, 13,17,18,20 271:1,3,7,8,15 272:1,4,6 273:6,9 274:4,8 275:5 277:20 278:1,8, 19,21 280:14 283:17 286:1,14 288:1,2 290:3,17, 18 292:8 293:11 294:12 295:19,20 301:6
distances 103:5 276:16 286:11 297:20 301:9
district 35:1 237:9
Districts 237:5,8
disturb 236:6
disturbance 96:18 97:21
ditch 183:6 184:17,19 185:8, 10 205:3,6,19,20 206:2,8,10,14 210:2
ditches 204:18
division 228:4
document 12:4, 7 16:5,9 40:19 73:5 86:6 105:19

107:8 108:12 241:1 256:3 263:21 264:6 275:5,10

documents 11:2 15:1 35:12

Doe 137:13 223:16 226:11

donate 303:19

donation 304:9

door 120:18 214:18 215:14,18 216:1

doors 59:21

Dopkin 8:6 13:16 136:13,21 137:3, 8 183:21 184:16 219:8,17,20 220:4,7,11 221:13,21 222:5, 12,15,19 223:9 233:16,21 234:16 262:20 281:21 282:3,7,18 283:6, 17 300:21 301:1, 5 302:6,16 303:14 304:4

Dorothy 10:6

downgrade 301:15,21

downhill 209:10, 11,14 301:2

download 35:5

downstairs 180:20

draft 106:15 108:18 158:11, 12,18 202:18

drafts 33:20 34:3

drag 121:7

drain 138:11,21 139:8,11 185:3 206:16

drainage 138:20 220:13 221:8 232:9,14

drains 137:21

draw 45:4 47:18 106:19 124:8

drawing 109:11 133:6 280:14,18 283:13 286:9,15 288:13 289:18 292:4 301:18

drawings 117:6 282:9,11

drawn 194:11

drive 42:12 43:13 54:19 66:2 81:11 82:21 106:8,10 107:9,11 136:6 156:12 235:21 238:17,19 266:7 267:6 298:1,2

driven 189:19 201:3

driver 272:20 273:2

drivers 248:8 287:15,16

driveway 38:20 39:6,7 41:14,16, 17 42:1,3,9,11,19 43:9,18 45:14 47:13 54:11,13 55:4,12,19 56:9, 11,13,16,18 57:2, 7,12,17,20,21 58:13,20,21 65:16,17 66:4,21 67:10,13 79:14 81:8,15 82:2 83:7 96:13 102:5,9 113:21 138:8,21 139:12 168:5,12 183:18 185:12 201:18 204:4,7, 12 205:10,13 206:1,5 207:15, 17,21 208:3,7,15 209:5 210:21 222:7,20 223:10 226:2 233:17,19 234:2 262:21 268:14 269:5,12 296:13

driveways 168:1 202:8 272:20,21 273:1

driving 270:9

drowned 76:20

due 83:18 91:8 92:14 94:21 104:16 150:15 188:8,9 294:3 301:15

dwelling 21:11 39:13 50:13 51:6, 7 58:14 61:16,18, 20 62:7,9 73:21 84:17 136:18 139:21 219:12 220:16 221:16,17 222:8 229:4

dwelling/temple 74:3

dwellings 48:17 56:7

E

earlier 67:12 68:18 81:6 266:18

early 36:15,17

easels 40:19

easement 228:18

easier 40:18 249:18

easily 6:3 81:10 301:17

east 39:14 48:11 49:2,5 55:4 67:10 68:12 82:12 85:18 102:18 112:12,14 131:1 135:6 189:1 205:11 206:1 209:4,6,16 219:18 221:5

Easter 261:5

easterly 55:11 65:18 205:20

eastern 46:1,2 60:14

easy 172:16

ecologist 23:12 27:2

edge 49:6 87:2

edification 165:4

educated 286:13

education 16:17 23:13

educational 240:10

EE 65:13

effect 123:5 190:10 248:15

effected 190:8

effects 90:4,8 92:9 296:21

efficient 296:8,9

efficiently 291:19

egress 56:13 113:10 296:4 298:5

elaborate 78:14 301:12

elderly 152:7

electric 142:7,8, 9

electrical 91:17

electricity 161:14

elevation 220:20 265:14 276:8,13

elevations 265:5

else's 27:13

email 4:17

emergency 43:1 159:2

emphasize 280:19

employed 15:14 239:7 242:2

employee 14:8

employees 33:15

encloses 133:4

encompass 117:13

end 5:4 39:18 56:3 76:20 102:1 111:9 133:7 191:16 228:11 233:18 247:15 254:10

endangering 224:8

enforce 226:12, 16

enforceability 228:1

enforcement 176:15 177:3 228:4

enforcing 228:5

engine 42:14

engineer 13:19 14:20 15:3 17:13, 17 21:18 22:2,8, 12 23:11 25:12 27:3,16 31:18 32:5 33:11 35:8 43:12,14 77:7

78:5,10,20 79:18 89:4,5,15 94:12 97:19 98:2 107:15,21 109:21 123:17 124:4 157:11 166:9 195:20 227:17 239:6 240:16,20 241:21 242:11,13 249:9 263:6 267:16

Engineer's 252:17

engineering 14:12 22:10 23:4, 18 25:3 30:17 31:5 77:20 78:1 81:20 83:10 239:21 240:13 268:9

engineers 14:21 22:6 25:20 78:15 251:9

enjoyment 44:16

enlarged 116:6

enlarging 58:9

enlisted 34:1 75:6

ensure 148:13 158:20 223:20

entailed 172:21

enter 136:3 230:16 231:9

entered 140:17

entering 113:12 251:17 260:17 261:11

entertaining 180:6

entire 117:11 121:11 140:20 149:13,14 203:13 247:2,3,4,5 249:17 253:6,10 255:17 257:7,18 258:8 291:10

entirety 189:3

entitled 16:12 147:17

entity 11:11,12

entrance 45:14 54:15 55:1,5 67:6,13,16,18,21 68:11 82:13 111:5 115:9 123:8,15,21 139:12 155:17,21 168:11 183:12 205:9 206:1 208:12,14,19 210:15 215:15 232:8 248:17,19 262:15 265:7 283:14,18 285:11 287:11

entrances 229:4

entranceway 111:16 112:10 113:3 114:13 117:15 118:12

environment 137:13 224:8

environmental 23:12 27:2 34:6 47:1 77:15 97:10, 16 98:1,15 182:15 202:7 203:5 224:5 226:20 227:1

envision 162:13, 18

Episcopalian 179:15

EPS 226:16

equate 193:16 261:6

equipment 43:3 159:2

ergo 35:1

erratic 271:20

escaping 72:5

essence 203:9

essentially 44:18 198:15 235:13 249:15 259:10 275:9

established 46:21 178:8 217:12

establishing 217:8

establishments 259:21 260:1

estate 72:8,10

estimate 47:14 80:9 140:5 207:12

estimating 47:15

ethical 25:13

ethics 25:20

evaluated 245:13

evening 123:6 258:1

evenings 175:2

event 43:1 80:10, 20 93:10 108:8,9 154:12,14 155:1, 8 157:1 178:19 199:20 200:2 260:10

events 59:13 115:6 127:2 165:19 166:16,21 174:16 175:6,7 176:17 177:18 179:4,9 187:2,5 197:8,15 260:3,6

evergreen 170:6

evergreens 170:4

evidence 74:14 178:3,8 217:20 233:17 234:8 250:2 298:7

exact 40:6 144:3 268:8 293:9

exam 231:11

examination 14:1 18:19 33:6 100:8 105:5 183:7 198:11 202:5 216:16 217:17 218:11 238:8 243:3 244:5

examine 206:2

exceed 30:6

exceeded 156:14

excellent 112:20

exception 40:17 85:4 95:13 96:3 117:11,12,17 118:2,13 119:1,3, 12,19 120:14,15 121:11,12 122:19 147:7,19 148:7, 11 149:5 170:21 171:2,5,7 172:19 173:11,21 176:1 177:1 227:12 229:6,19

exceptions 15:21 20:1 171:13

excess 156:10 218:14,16 260:16

excessive 303:10 304:14

excited 136:12

exclude 118:1

excuse 204:4 255:14

exercise 23:11 203:11

exercises 291:9

exhibit 11:5,14 12:8,11 13:8,10 14:3 16:3 17:12 18:6,8 38:4,11 39:21 40:2,4,7,9, 13,16 41:2 47:19 48:5 53:4,10 54:3,7 55:21 56:8 57:6,10,16 58:12, 18 59:6,19 60:3, 6,9 62:6,8,14,20 63:2,6,11,14,18 65:2,5,16 66:12, 19 68:10 69:11 73:6,7 74:7 87:21 105:15 109:1 110:4 111:11 116:8 123:7 124:12 125:13 127:8,14 128:6 130:5,13 136:16 143:19 162:5 163:3 164:1 168:6 169:6 175:10 183:20 186:5 190:3 203:15 214:5,11, 14,18 221:14 222:6,13,20 235:18 242:6,7, 10 243:1,18 247:17 250:17,18 256:11,21 263:12,15,21 274:18 275:4,8 276:2 277:3 281:20 282:1 284:10,14 290:4, 14 294:9 297:10

exhibits 11:16, 17 12:21 70:12 216:8 245:7

exist 34:6,7 193:8 206:6

existing 34:19 38:20 39:3,6,17, 18 41:8,11,15,17 42:3,4,5,8,20 44:14 46:3 48:12

54:10,21 55:12 57:20 58:14,19 60:9 61:19 62:14 63:11,20 65:10, 17 66:21 67:13 71:11 79:14 82:12 83:18 84:7, 20 88:15,16,19 91:4 98:18 102:8 118:11 119:16 123:20 134:18 138:12,21 140:10 142:16,18 143:1 144:9,16,17,20 156:2 201:7,8 202:7 204:6,11 206:4 208:14 210:15 220:15 221:7 223:10 227:18,20 255:16 263:9 264:8 266:1,2,7 267:12 273:17 278:9 285:12 287:14 289:18 290:3 292:3,21 293:1 294:15,20 298:3

exists 47:9 70:12 73:16 130:9

exit 43:15 54:15 68:2 83:4 113:8 115:10 123:15 263:2 265:20 266:1,2 284:15 285:2,8,17 289:13,14 290:3, 6 291:3

exit-only 294:19

exiting 123:6 260:17 261:12 265:21 267:19 275:7 276:18 277:14 285:18

exits 290:2

Expand 268:1

expanded 201:19

expansion 47:12,13

expect 114:16,18 121:2 154:18,20 254:17 259:12 297:8,16 299:11

expectation 260:16 295:9 296:2

expected 80:10 152:9 182:1 261:11

expecting 7:10 272:20 273:2

experience 16:15 22:3 23:3 24:14,15 25:10 26:12 90:8 93:9 139:6 159:8

expert 17:5,9,16 19:7,17 24:9 26:15 28:21 29:8, 17,19 30:6,11,16, 17 31:15 32:11, 12,21 83:3 124:16 166:9 178:9 187:12 229:16 241:7 244:3,18

expertise 17:13, 18,20 26:20 32:13 89:13 194:2 244:1

explain 29:10 79:15 90:20 118:3 135:14 176:13 193:15 216:17,18 218:4 245:18 247:9 252:12 264:10, 16,17 271:10 275:9 277:3

explained 29:4 155:16 172:20 195:18 276:2,11 298:8

explaining 275:4

explains 136:1 271:11

exploration 75:14

explore 296:13

explored 43:11

expressed 30:7

extend 205:6

extends 205:8

extension 32:18 41:14 42:1 43:9

extensive 81:8, 11

extent 140:14 160:6

exterior 58:8

extra 117:14

extreme 52:1

extremely 267:1

eyeballing 293:17

F

facade 60:21

face 42:4 233:9

facilities 50:2 76:9 117:13 119:18 141:16 142:12 150:17 163:8 220:8 223:20

facility 49:16 113:4,6,16 114:19 116:6 117:2 119:17,18 121:20 125:7 127:1 129:21 140:10 145:16 146:4 151:10,12 152:6 166:20 188:7 195:10 196:14,17 219:21

facing 57:7,10 216:2

fact 32:10 57:1 64:1 79:4 83:19 88:18 91:8 119:15 149:13 157:1 158:4 178:8 191:10 192:2 211:6,16 215:6 222:4 234:19 280:8

factor 189:4 234:20 235:17

factors 93:6 98:3 177:1 211:12 227:13 229:19 267:17 272:5 273:20 287:21

Facts 178:3

fair 130:10 140:12 152:21 153:2 161:11 182:9 211:4 251:14 299:8,15 300:9,13 305:4

fairly 69:3 76:11 83:13 217:12 296:16 302:3

Fairmount 9:18

fall 23:18 206:13 212:21 277:8

falls 65:9 78:20 87:4

familiar 32:15 36:21 37:1 85:2 162:7

Farm 73:15

farmed 99:9

farmland 48:15

farms 52:3 99:15, 16

fear 91:12

feature 204:19

features 34:20 67:4 98:16 202:7 203:5 245:12

feel 88:9 104:15 227:21 238:13

feet 45:13 47:15 64:9,15 98:7 101:20 102:10,14 103:1 137:2,5 186:21 189:21 205:8 207:10,14, 19,21 208:4,13, 21 255:19,20 257:8,21 266:4, 10 267:4,5,11 268:17,19 269:1, 2,20 270:5,6,15 273:13,19 274:3 275:6,7 276:17 279:1 283:20 287:3,6,7 288:5, 7,9 292:7,11,15 293:4,5,6,8 294:1,3

feet-ish 284:4

felt 187:18 235:2

fence 67:3,7,9,11 293:13 294:4

fertile 78:12

festival 154:9,10, 13

festivals 176:4 197:1,8,14,16 199:3,7 200:7 259:14,15 262:3

few-and-far 260:18

fewer 5:20

FF 65:16 132:19 134:13 135:16 136:4,14,18

field 39:7 78:4 146:18 148:16 203:9 207:20 233:7 286:16

fields 28:21 29:9, 15 50:2 78:7 102:11 103:2 145:16 146:3,15 220:7

Fifty 288:9

figure 116:20 150:11 164:5 173:20 196:16 232:18

file 8:9 40:4,6 149:15 224:13

filed 105:13 106:12,21 108:17 158:12 174:2 223:19 230:8

files 34:21

filing 159:6

filtered 101:4

final 71:20 107:16 158:13

finalized 159:3

finally 97:9 102:20 129:2 290:19

find 79:8 147:17 179:8 181:4 189:16 192:14

finding 227:2

fine 5:1 13:7 150:5 164:20 169:4 174:13

finish 37:6 267:2 299:4

finished 100:7, 10 125:1 226:6

fire 42:6,14,17,18 43:1,2,7 90:3,8,9 91:2,7,12 92:2 157:16 158:9,17 159:1,4,5,11,15

fire-resistant 91:13

firm 14:12 27:20 33:15 124:6 140:6

firms 31:5

first-floor 257:5

five-minute 100:6

flat 50:9 81:10 189:16,17 191:9 211:2 301:16 302:3

flex-use 15:18

flip 223:7

flood 21:3 97:12

floor 9:9 140:21 141:5 255:17 256:2 257:5,18 258:8

floor's 257:7

floors 140:3

flow 138:15,16 182:18,20 210:17,19

flowing 209:6

flown 34:17

folks 7:3 126:19

follow 6:13 25:14 172:15 198:12 268:8 280:1 302:19

Foos 10:6,7

foot 272:11

footage 139:18, 19 180:9,11 181:3 255:13 256:15 257:7,15 258:7

football 102:11 103:2 207:20 260:12,14 261:2

force 6:16

forest 23:7,8,10 64:16 97:11 117:17 118:15 120:4,13 209:19 225:1 226:10 228:17,18

forestry 23:7 32:12 97:15

forests 148:12

forget 301:17

forgiveness 195:4

Fork 250:11

form 32:6 166:6 234:21 281:9

formal 25:6

formalized 196:11

formally 298:6

format 34:17

forward 176:12

found 89:3 179:10 237:8

four-lane 304:12

Fourteen 14:17

Foxworthy 184:3 186:12 293:15

Foxworthy's 182:19 183:5 185:8,18 186:10

frame 275:19

frames 172:21

Franklin 238:16, 19

frankly 176:10

free 238:13

front 9:7 19:11 57:21 58:16,18 59:21 60:8 111:16 121:9 133:3 138:8 152:20 214:18,19 216:1,2 269:5

frontage 286:18 303:16

fruition 296:19

full 24:15 258:15 277:17

fully 279:13

function 42:19 59:8 75:12 77:21

functional 74:19,21 75:1 141:19 142:1,2,3

functioning 76:2,4 129:17 220:2

functions 128:13 180:1 193:19,21 195:19

fundraise 174:20

fundraiser 175:19 176:8

fundraisers 175:17

fundraising 197:8,15 199:20 200:2

future 67:6 115:21 117:4 118:16 120:20 143:2 146:6 147:6 148:1 228:7 278:9

G

game 260:12 261:2

games 260:14

gap 134:21

gaps 212:13

garage 60:9 61:1 81:5,16 156:1 216:4

Garber 4:3 5:1,8, 19 6:2 7:2,17 8:4, 13,20 9:11,13 10:4,7,13,17,19 12:8,20 13:3,6 17:16,20 18:8,11, 16 28:18 29:7,15, 20 30:9,21 31:17, 20 32:20 34:12 38:1 39:20 40:20 41:19 45:10 47:3 53:9,15,21 56:14 69:10,13,19 70:7 73:6 74:8 76:19 77:19 78:11 82:7 88:3 89:14,17 90:13,16 98:4,12 100:4,15,20 101:2,7 102:14 105:2,4,8,15,18 108:11,20 109:15,19 112:21 120:16 121:4 122:16 130:1 132:1 134:11 135:9,12 136:10 137:4 139:21 147:14,20 148:3, 18 150:5 152:19 153:12 154:4 159:19 162:3 163:17,20 164:5, 9,12,17 165:2 166:11 167:16 168:10,18 169:2 170:15,18 174:6 175:11 176:14 177:12 178:6 181:12 183:2,9, 14,19 184:2,5,10, 15,21 185:4,7,13, 20 190:21 193:5 194:4,7,15 195:5, 12,20 196:6 197:19 198:1,7, 10 207:21 208:3 212:6,9,11 213:7, 12 214:10 216:9, 12 217:2 218:1,5,

7,10 220:12,19 221:2,7,11 223:5 231:1,20 233:12 234:18 235:15 236:5 237:1,18, 20 238:18,21 239:3,13 242:13, 16,20 243:18,21 244:3 245:14 247:1,3,10,13 253:15,18 254:12,21 255:6 264:21 266:6 267:6,10 268:13, 18 269:3,9,12 274:1,7,13 275:15 283:21 289:12 290:1,12 294:17 295:8,21 296:11,16 298:11,13,14 299:1,4,10,15 300:6,14 304:21 305:4

gas 272:12

gate 56:9 57:3 67:14

gated 56:18

gatherings 175:18

gave 150:12 151:5 285:5

gazebo 63:4

geared 80:6 84:5 167:7

general 47:21 48:9 50:9 61:11 65:6 66:3,9,19 72:6 78:18 85:13 86:1,13 87:10 88:8 99:20 133:1 137:20 142:4 194:18 199:16 209:17 240:2 245:5,8,11 279:21 283:15

generally 16:16 37:20 39:5 46:14 50:18 51:19 55:5 66:1 73:4 85:11 86:15 87:9 88:7 89:5 93:17 138:5, 11 168:15 201:3 209:5 215:16 231:17 239:18 251:11 288:15

generate 93:11 122:1 152:9 245:1 257:17 259:6,7

generated 84:19 150:21 188:12,15 207:5 255:19

generation 252:17 254:1 257:4

gentleman 216:17 232:19

geographic 37:20

geography 189:7

geometric 268:4

geometry 267:16 276:4

George's 243:11

Geospatial 34:15

get-togethers 174:19

GG 66:12 135:10, 14,16,21

Gildea 6:8

ginormous 268:5

GIS 34:10,13 35:4,14 86:8 126:9 137:16 202:10,17 203:6, 8

give 11:6 16:11 20:18 36:8 37:15 52:20,21 67:7 71:7 82:6 106:13 122:6 172:10 173:17 221:18 245:8 251:13 257:15,18 263:15 274:21 290:20

giving 146:10 284:6

glance 18:14

glasses 257:15

Glen 85:19 86:2,4 283:21

glimpse 51:19

goals 295:12,13

golf 146:21

good 11:12 26:8 52:15 57:11 112:19,21 191:20 227:21 291:8 298:13

Google 277:8

grade 63:21 65:15 83:7 84:8 209:2 210:10 276:8,14 301:3,9, 10

grades 204:14 264:19

grading 47:7 96:14 99:2 115:14 207:1,2,3 224:13 236:2

graffiti 160:9,15, 16 215:1 217:9 256:7

grant 119:19

granted 176:2 297:15

granting 297:8

grass 81:17 155:19 156:5,15, 18,19,20 162:9, 14 261:20

grate 184:21

great 160:6

greater 9:21 10:4 90:3,17 92:9 104:2,10 175:7 188:4 190:10 192:10

Green 86:3 87:6

ground 78:12 233:1

grounds 68:15 211:15,18 235:4

group 7:8 112:1 175:1,3 238:16 239:8,12,19

grown 277:11 279:13

growth 277:14, 17,20 278:7

guarantee 172:20

guess 52:12 64:14 91:11 116:16 130:16 139:20 153:9 164:2 249:1 295:3

guessed 127:10

guide 268:7,9

Gunpowder 87:4

guy 31:7,15

guys 8:7

H

habitable 62:10 72:19 88:19 142:5

half 6:16

halfway 20:20 247:16

hall 179:21 180:3, 6,15 257:8,9,10, 12,16

hallway 59:20,21 140:14 141:3 160:19,21 180:16

hand 11:4 240:21 256:1

handed 18:10 158:1,5

handful 48:19 81:7 133:13 231:20

handing 73:5

Hang 132:21

happen 147:11 148:1 250:1

happened 71:4

happening 272:11

happier 8:9

happy 8:11 40:11 278:5

hard 40:17 41:18 45:9 247:8 278:10

Harford 38:16,21 39:1,2 43:10 44:18 45:12,16 48:16,18 49:4 51:14,17 52:2 54:14 55:5,9,17 56:1,9,17,19 57:2,7 58:20 59:3 61:4,8 64:7,8,12 65:1 66:16 68:6 82:5,13 85:16 86:20 87:5,7 101:21 102:8 111:20 112:2,12, 13,14,17 121:13, 16 122:19 133:10,16 136:3, 5,20 137:9 138:16 139:1,13 183:12,13,17

185:11,12,14,17 186:7,8,16 191:20 204:16,20 205:3,4,12,14,17, 21 206:3,7,9,11, 12,14 207:17 208:5,15 209:3,7, 8,18,21 210:3,5, 10,18 212:5,7 222:11,12 223:4, 7 231:3 232:8,21 233:15,21 245:10 247:11 248:3 249:4,12 251:16 261:8,14,15 264:3 266:8 270:19 271:4 274:2 282:4 285:2 287:9,19 301:2 304:15

Harry 238:20

haunt 272:16

hazard 90:2 293:7

hazardous 303:5

he'll 299:7

head 28:12 225:8 232:5

heading 49:6 205:20 206:1 247:15 287:18

heads 39:2

health 26:7 88:7 199:16

hear 14:6 45:9 81:20 187:13 199:9

heard 110:16 145:13 197:17 198:14,18 199:2 213:16 249:13 259:14 261:17

hearing 5:13 8:12 10:11 19:1,2 22:16 35:20 36:2, 6,10,13 40:1 44:7 58:5 67:9 68:19 107:4 108:1 126:3,4,11,13 158:2,19 175:13 194:15 226:7 244:15,16,19 298:20 305:5

hearings 16:21 17:1,4 19:10 20:1 22:14,17 92:19 173:15

heavy 38:12 202:19

height 21:10 189:10 211:5,12 287:8

held 59:9 108:8,9 127:3 166:17 175:6 177:18 179:9 180:1,21 197:1

helped 33:17

helpful 228:13

helping 33:21 202:16 283:15

helps 137:3

Hermann 200:16

HH 66:19

hides 223:14

high 50:13 220:17 221:3 222:2

higher 130:15, 18,19 131:1,3,4 188:21 210:11,12 211:7,16 221:17 222:2 225:6 265:9 266:21 304:11

highest 50:15,16 130:8 188:19 273:11

highlight 277:3

highlighter 48:7 86:16,19

highway 43:12 82:17 83:5 96:9 107:12,16 110:1 124:19 191:18 204:11 231:14 242:3 246:11 248:13 251:19,21 252:4 253:13 254:8 260:7,13, 20 266:15 268:2, 4 278:2,3 279:1,4 280:2,16 281:2 284:20 291:7,12 295:2,6 296:7,12 297:3,8 299:21 300:1,11 301:14 303:20 304:7,17

hill 57:13 138:6, 10 265:10,11 270:7,10 288:17 292:13 293:21 301:11

hills 96:19

hilly 50:9,11

hip 284:3

Hirchenruder's 117:20

hired 35:16,17 244:11,16

historic 71:8,12 73:10 234:20 235:16 236:8,13 237:5,8

historical 71:15 73:3 235:5 237:1

history 302:21 303:7,8,9

hit 280:20

hold 10:11 82:7 116:17 239:13 240:14 282:14 305:3

holding 174:15, 18 176:16 179:14

holiday 154:9,10

Holzer 4:20 5:3, 10 6:1,12,18 8:18 9:14,17 10:5,8, 16,21 11:13,20 12:2,6,20 13:1,4, 7 18:3,5,10,13, 18,19 20:20 29:2, 12,18,21 30:20 31:4,11 32:1,4 33:2 40:5,8,20 41:1 46:20 53:21 54:2 69:13,14 70:4 76:17 77:13 88:1 89:11 90:7 97:14 98:11 100:9,18 101:1 105:2,3,5,11,14, 16 106:2 108:13 109:3,6,9,10,18, 20 110:2 113:2 114:12 116:13 120:19 121:1,3,5, 8 122:15,16,18 129:15,16 130:3, 5 132:3,7,8,9,13 134:13,14 135:11,13,14 136:8,11 137:11 140:1,2 143:8 147:13,17 148:2, 4,18 149:16 150:4,7 153:2,4, 8,12,16,18 155:11,14 157:6 159:21 160:1 162:4,7 163:13, 19 164:7,11,15, 21 165:2,3,7 166:14 167:14,19 168:2,8,11,21 169:4,8 170:9,11, 13,19 174:1 176:13 177:4,14 178:11 181:8,10, 15 184:4 185:20, 21 191:4 192:9, 13 193:11,13 194:6,9,20 195:7, 16 196:1 197:19, 20 198:5,8 204:1 209:12 211:20 213:1,15 216:9, 10,15 217:16 218:1,2,6,11 219:7 236:10,12 237:2,16 242:16, 18,21 243:3,17, 20 244:2 275:13 284:7 290:21 297:11 298:9,18 299:3,6,13 300:5, 13 305:2

Holzer's 132:1

home 72:7 91:10, 13 113:2 184:13 186:15,19 227:2 259:6

homeowner/ resident 21:4

homeowners 20:6,8 21:6

homes 48:20 79:5 112:11,17 117:7 184:11 186:4,6,10 227:14 231:3

Honor 177:10

hope 168:13 239:15 272:16

horizontal 265:18 287:5

horse 99:16

hot 68:20

hotter 69:1

hour 164:11 246:6,21 258:2 259:3 266:16 268:17,19,21 269:1,2,18,19 270:6,12 273:12, 16 274:2 302:7

hours 100:5,10, 19

house 20:11 39:3,6,12,15,16 41:15 42:4,10,11,

20 50:20 57:14 62:15 63:8,15,17 65:7,18 70:18 71:10 72:11,13, 17 74:16 81:17 123:6,16 135:2,4 138:1,5,7,11 139:17 140:4,17, 20 141:7,8,13,14, 16,19,21 156:1,2 161:1 175:2,19, 20 183:5,14 184:5 188:20 190:2 216:2 222:18 223:4,7 235:5 272:10

houses 48:15

Howard 243:11

humming 302:14

hundred 50:1 205:8

hungry 164:16

hypothetical 178:7 226:6

hypothetically 225:17,19 226:15 230:6

I

idea 108:10 164:4 229:20 245:8

ideal 274:13

identical 52:21

identification 11:15 13:9,11 18:7 34:5 41:3 53:5 73:8 105:18 109:2 162:6 163:14 164:8 169:7 214:6 243:2 256:12 263:13 284:11

identified 14:7 29:9,16 31:13 33:10 40:15 69:12 76:15 81:13 83:6 86:8 128:14 190:3 263:20 278:11

identifies 105:16

identify 16:13 34:13 47:1 53:8 66:7 73:5 85:9 163:15 214:2 241:3 272:10

identifying 54:8

Ignatius 261:8

II 67:3

illustrates 43:15

imagine 230:1

imbedded 288:14

immediately 52:7

impact 46:18 47:1,8 89:8 93:15,19 94:7 95:1 99:5,21 103:7,11 104:10, 11,15 174:5 176:17 187:4,18, 19 188:4,7 192:5, 10 194:4,9 195:6, 21 196:3 224:16 259:19 262:9 278:8

impacted 251:4

impactful 188:16

impacts 94:11 97:16 98:15,20 99:6 187:3 195:7 199:8 257:20 259:13

imperfections 110:21

impermeable 97:3

important 148:13

impose 147:8 149:2,21

impossible 233:2

improve 173:7

improved 304:1

improvement 41:21 43:18 46:17 47:8 82:3 96:12 248:2 294:18

improvements 37:21 41:5,11 43:6,20 44:1,2 79:20 91:1,16 96:11 98:18 149:3 160:4 178:15 201:4 202:8 203:4 204:18 235:3 245:4,11 260:9 281:15 302:8

inappropriate 149:19 262:9

inbound 291:15 293:18 294:7,10, 13 302:4

include 241:9

included 241:19

including 15:21 34:21 38:18 97:11 188:10 240:17

inconsistent 97:2

incorporated 35:4

Incorporation 11:9

incorrectly 223:2

increase 260:9 277:19 290:17,18 294:11

increased 119:17

indicating 12:4

individual 20:9 21:6 48:19 123:16 202:16

individuals 20:10 33:16

industrial 229:7

influence 93:6 250:21

information 34:15 35:9,11,14 126:8 144:2 145:5,6,7,8,10 150:12 152:13 202:9 203:8 253:8 255:15 284:3 295:1 296:6 300:5

ingress 56:13 113:10 296:4 298:5

inhabited 161:2

inherent 90:4 92:9

initially 27:18 29:5

inlet 183:6 184:1, 17,18 185:3,8 205:2

input 18:20 285:5

inquiry 175:21 176:5

inside 56:16 63:6 87:12 161:11,21 290:9,10

insignificant 225:8

inspections 91:20

install 236:3

installation 78:16 219:10

installed 42:6 54:8,12 56:10 66:5 114:19

installing 79:9

instance 260:11

instances 302:10

Institute 252:16

institutes 260:2

institution 143:6 173:13 179:13 195:19

institutional 52:12

instrument 12:14

intended 96:5 113:20 114:9

intensity 88:21 187:19

intent 95:18 96:1

intention 201:16 234:12

Interesting 21:16

interfere 94:15, 19

interior 60:1 91:16 140:20 180:5,12

interpreted 177:2

interrupting 245:20

interruptions 9:4

intersection 38:21 55:13

82:14 112:13 248:2,11 278:12 291:17,19

intersections 250:7,8 251:11, 12

intersects 49:4

interstate 260:14

interstates 87:17

introduce 10:12

inventory 73:10 234:20

investigations 250:5

involved 28:2 33:18 36:9 88:8 110:10 124:20 137:12 151:13 197:9 286:6

involvement 224:10

involving 28:19

island 54:11,12 56:12 57:8 113:11,13 114:11 285:15,19

isolated 103:10

issue 70:1 121:6 122:20 187:11 227:13,15 228:16

issued 36:4,6 107:16 137:14 281:18

issues 17:14 18:12 23:5 24:16 33:1 174:3 176:15 236:13 242:12,14 262:14

ITE 252:16 253:14 254:1,13 255:7,9 256:14 258:4 259:5

ITE's 258:8

items 127:16 128:1 129:5

J

jam 180:18

January 36:5

Jerusalem 21:12

Jewish 193:16 195:15

JJ 67:15

job 14:20

Joe 124:15 238:11,14

jogs 140:4

John 13:13,18 16:12 265:1

John's 264:20

joins 54:18

Joseph 238:6

Judeo-christian 80:7 93:2 155:6 196:10 198:18

judge 17:8 19:11 30:2 35:21 36:4,8 109:4,11 157:18, 20 241:10 244:16

judgment 268:10

July 68:21 69:8, 17 70:9,16 108:5, 6 162:8 169:11

jump 183:9 231:1 253:15

jurisdiction 23:19,20

jurisdictions 24:3,4 241:17 260:8

justified 91:12

K

keeping 224:18 227:17

Kennington 4:10,18 5:4 6:14 8:7

kids 50:1

kind 12:10 33:18 49:17 50:9,14 51:10 54:4 55:16 56:5 60:5 67:2 77:16 135:18 156:9 223:14 229:20 251:13 252:18 257:18 259:21 260:2 261:6 293:18 294:5

kinds 26:14 151:13 297:5,6

Kingsville 9:21 10:4

kitchen 163:8

KK 67:18

knew 5:4 131:17 172:3,7 173:3,4 174:10 232:19

knocked 71:3 215:18

knowing 36:7 119:7 299:10

knowledge 24:11,12 49:13, 14 69:6,9 70:17 72:2 96:16 103:16 107:15 108:8 123:9 124:9,18 127:15, 21 140:6 160:6 170:1 173:8 193:13,15 197:4 220:9 231:5 236:18 283:2 304:6

Kotroco 6:11 126:16 173:1

L

La 243:11

label 40:4 64:7 248:14

labeled 38:16 39:10 53:12 62:17,18 101:12 264:1 283:3

labeling 66:8

laid 82:4

land 12:1 14:13 23:17 24:5 56:5 92:8,17 236:4

landmarks 71:20 236:17

lands 99:20

landscape 84:1, 3 113:11 167:4, 11 169:1,10,15 200:15,17,20 220:14 229:5 285:15

landscaped 54:11,19 56:12 57:8 285:19

landscaping 83:16,20 114:7 167:6,21 168:4 170:3 201:1,10, 12,17

lane 19:16 20:14 68:4 235:21 288:15 291:4 294:19

language 12:5

large 15:18 39:18 44:20 46:4 73:15 76:11,12 78:8 92:14 104:17 135:21 180:6 202:8 220:4 304:17

larger 119:18 148:5 178:16

Larry 135:16

Lastly 303:14

Late 36:17

laughing 242:18

law 17:8 19:1,11 26:4 30:2 35:21 109:4,11 120:4,6, 8 157:5,7,17,20 192:12 241:10

lawn 39:8,9 50:20 58:15 65:5 66:5 81:10 96:18 133:16 156:6 235:3

Lawrence 6:7

laws 120:13

lawyer 157:6

laying 78:5

layout 80:11 123:18 178:13 180:12

lays 77:21

lead 31:7,15

leader 62:3

learn 22:7

learned 25:9

leave 45:7 94:11 136:13 281:21

leaves 39:1 196:12

leaving 83:1 93:11 113:12 134:3 286:20 287:16 288:15

ledger 170:6,10

leeway 120:21

left 42:3 57:13,15

59:21 61:2 63:7 67:18 68:1 111:12,17 113:9, 11,13,17 114:3,6, 7,10,13 118:9 127:19 134:2 135:7,16 170:9 184:7 208:16 266:3,7 267:20 268:12,13,15,18 269:3 270:21 275:6 276:17 283:7 289:15 291:21 292:2,9, 19 293:7,11

left-hand 55:14 57:17 66:16 133:14 134:5,19

legal 149:6,14 279:9

lend 180:6

length 207:20 208:4

lesser 104:10,15 258:11

letter 6:13 9:20 12:3,10,12,17 53:12,13,19 263:16 300:11 304:6,8

letters 52:18 276:12 301:20

letting 93:9

level 89:12

levels 187:15 252:6 262:9

license 22:4,18 24:4 26:11

licensed 12:15 15:4,6 21:18 33:11 34:2 240:18

licenses 240:15

licensing 25:21

lieu 150:20 181:21

light 84:19 94:15 229:16

lighting 84:12, 13,14,15 228:20 229:6,8,16,20 230:8 232:16

lights 84:18 161:20,21 229:1, 2,5,10,11

limit 117:16 118:13,21 119:3 151:3 154:11 156:21 157:4 266:18 288:19,20 303:2

limitation 156:11

limited 95:7

limits 39:9 266:12

linear 207:10

lines 34:20 35:1 46:2 100:16

list 9:19 18:20 20:16,18 71:14, 20 236:17

listed 5:8 19:21 20:2 22:19 71:12, 16 73:2,18 93:14 235:5 250:19

listing 73:9,14

lit 230:4

literal 38:8

little-to-no 259:13

live 62:12 182:11 192:12 249:14 261:7

living 51:3,4

LL 68:10

local 88:8

locale 47:21 48:9 85:9,11 89:10 90:6 97:13 98:16 100:2 104:11 199:17

locality 88:4 256:6

locate 124:7 163:10

located 9:9 39:14 46:11 48:10 54:9,10 56:5 61:17 67:6 82:12 91:5 97:13 101:16 138:5 183:10 189:15,17 191:16 211:8 265:7 283:2

location 55:12 57:9 61:6 66:13, 19 67:4 68:6,10 75:11 78:18 83:3 86:1,11 111:12 136:15 137:15 144:3 145:2 187:16 188:8 189:8,11 192:3 202:7 211:7 246:20 247:1 248:10 249:12 250:11,15 263:3 281:11 282:8 289:18 294:6,7 304:13

locations 34:19 95:5 224:7 291:21

locked 275:17

long 14:15 15:6 36:9 86:3 87:6 141:6 148:14,21 199:4 207:15 218:12 244:11 278:5 299:10

longer 164:10 207:16,19

looked 81:6 216:17 217:7 223:19 245:3 256:16 262:13 292:20 293:16

loop 42:10,19 57:21 58:13 81:16

lot 43:7 47:12 93:12 167:3 186:17 202:5 209:10 224:3 229:8,11,21 235:20 271:11 287:18 291:17 295:1 305:2

lots 15:16 229:10 236:3

loud 9:3

low 50:13 88:20 187:18,19 188:7

lower 108:3

lowest 136:18

lunch 299:9

M

M-O-T-S-C-O 13:19

made 30:5 33:9 57:17 91:1 147:16,20 177:15 252:14

main 39:15 42:9 46:2 50:15,20 51:6 59:20 60:1 61:17 62:15 70:17 102:8 138:1 139:21 141:13 180:3 212:11 219:12 220:16,21 221:15 222:8

maintain 280:8, 16 294:13

maintaining 287:8 298:5

maintenance 279:7,21

major 87:16,17 199:6

majority 189:3

make 4:18 7:1,7 24:9 32:8 98:9 100:6 113:13 119:9 136:9 138:19 147:6 152:19 164:12 172:6 176:19 197:4 224:3 227:9 230:17 248:7 252:1,9 260:8 268:17 269:20 271:20 276:21 277:14 279:7,10 284:6 291:15,18 292:9 295:14 299:13,21 301:16

makes 275:13 277:11,13 302:14

making 88:18 267:2 270:11 292:19

man's 194:2

managed 69:1

management 26:10,16 32:13 203:20,21 232:15 260:5

manager 31:12 33:19

maneuver 43:3 268:17 271:20

maneuvering 302:4

maneuvers 277:14

manner 83:20 91:13

mansion 91:9

manual 200:20 252:5,17 254:2, 13 255:8,10 256:14 268:5

map 39:21 250:16,18,19

maps 35:3

mark 12:18 40:9, 14,15 86:16 105:15 108:13 136:16 163:13 169:4 214:3 282:17 284:5

marked 11:14 13:8,10 18:6 38:12 39:21 41:2 53:4 62:16 73:7 77:16 80:18 81:13 109:1 162:5 164:7 169:2,6 214:5 243:1 256:11 263:12 284:10 298:8

marking 168:20

marshal's 92:2

Maryland 12:16 13:21 15:4 33:12 71:13,15 73:3 82:17 120:3 234:19 236:19 237:1 238:17 240:18 241:18 242:3 246:11 251:19 253:13 278:2 291:6 295:1

mass 93:9

match 251:5

material 149:3 202:6

materially 178:13 300:7

matter 4:4 9:5 10:3 33:3 57:1 90:14 98:5

mature 63:21 83:21 84:10 201:12

maximum 80:9 154:8,19,20 155:13 177:17 266:4

maze 50:5

Mcdonald's 147:1

meandering 39:3

meaning 272:17, 18

means 75:9 121:16 234:13 246:13 275:17

meant 18:16 142:4 154:21

meantime 173:18

measure 181:3 185:21 186:19 265:17 271:17

measured 101:19

measurement 225:13 271:18

measures 302:11,15,20 303:13

meet 99:5 225:1 226:11

meet all 226:17

meeting 7:4 158:20 173:1

meetings 18:21

meets 104:5

members 7:21 9:12 10:19 64:6 264:7 298:16

memo 8:8

memorized 171:15

memory 28:5 171:11

mention 46:10

mentioned 41:19 73:2 230:17 254:14 284:13

mercy 297:3

mere 211:16

merits 29:13 30:15 33:3

met 126:16

Methodist 179:15

methodologies 252:5

methodology 228:5 252:13 258:4,9,19

metro 35:1

MHT 71:15 73:18 74:1,4 236:21 237:2

middle 49:18 56:11 65:9 86:13 133:21 185:2 210:11

miles 246:5,18, 21 266:16 268:16,18,21 269:1,2,18,19 270:6,12 273:12, 16 274:2 302:7

mind 4:7 32:20 33:4 245:15

minimal 84:4 88:17 230:2,3 235:2 236:2,4

Minimally 301:7

minimis 259:12

minimum 268:19 271:17

minimus 259:1

minor 15:16 199:7

minute 18:14

minutes 100:16, 21 101:1,2,4 164:13,18 245:21 259:3,4

missing 216:3

misspoke 156:3

misunderstand 134:9

mitigate 182:17

MM 53:16 68:14

modification 4:12 79:2

modifications 79:16

moment 217:10 266:9

money 177:5

month 28:11 143:17

month-and-a-half 69:21

monthly 280:6

months 36:11 69:20

monumental 287:11

morning 195:1 198:20 258:1 259:2 286:3

Morris 20:14,21

motion 174:2

Motsco 13:13, 15,18 14:2,7 16:8,13 17:12 31:7 32:3 33:7 37:6 41:4 47:6,20 53:6,18 54:4 62:11 66:2 68:16 70:10 71:8 73:4 74:9 79:11 85:1 86:5 88:5 90:1 92:7 94:13 99:8 101:11 104:8 108:16 120:12,17 136:14 137:11 198:12 212:15 214:13 218:12 223:13 231:17 233:16 234:13 245:6 262:20 265:1 284:13 285:5

mount 40:18 49:3 67:17 68:1,3 219:19,20 246:4 247:14 248:3 283:21

mounted 47:19

move 45:15 77:18 89:21 150:5 269:20 285:20 290:8 291:15 294:12 295:16,18

moved 65:5 71:4 286:17

movement 249:18

movements 252:6 273:3

moving 291:14 295:15

mow 278:17 280:8

mowed 81:10 280:5

mowing 279:10 280:1,3

mundane 176:3

Murphy 11:6 16:10 52:17

168:14 208:11,20 223:16 224:9,15 225:2,9,16 226:13 227:3,9 228:10,19 229:9, 15 230:3,6,13 232:6,17 242:7,8 254:3,5 256:5,9, 10

mute 9:2

N

Napoleon 72:4

narrowest 45:13

National 237:4,8

natural 84:8 97:10 98:15 164:14,15

nature 14:10 15:8 16:17 87:9 137:19 235:16 236:8

nauseam 276:3

near-vertical 233:9

nearby 189:14 219:18 251:17

nearest 65:18

needed 83:17 96:20 103:15 179:10 207:8 263:5 302:19

needles 160:7

negate 99:6

neglect 235:13

negotiations 280:11

neighbor's 65:18 135:4 293:14

neighborhood 47:21 85:12,20 86:8 117:19 228:14

neighboring 50:21

neighbors 20:10 46:14 61:8 103:7, 10 104:19 119:9 166:4 176:7 187:19 188:13 189:20 196:4 228:8 265:6 277:6

Nepali 4:4 7:14 11:9 244:7

nephew 72:4

net 131:20,21 132:9 186:3 236:3

net also 132:10

network 245:4 259:1 265:3 295:4

nice 160:13 161:1,4

night 230:5

nighttime 123:3

Nods 86:10 136:10 152:14

noise 187:6,15 188:11,14 302:14

noises 9:3

noon 93:10

normal 6:2 154:8,11 196:9

north 38:16 41:14 85:13 102:15 111:6,11 112:7 130:20 135:8 182:20 186:12 189:2 190:2 205:16 221:5 231:2 246:7 247:14 249:2,3 250:12 267:5,7 273:18 276:18 278:11, 14,15 282:5 283:14 285:20,21 287:2,4,7,12 288:8,9 289:10, 11,21 290:8 294:12 301:20

northbound 247:7 266:3,8 273:15 274:4 292:7 294:2

northeast 39:16 294:20

Northeasterly 111:7

northerly 41:16 87:6 102:3 138:17,21 139:9

northern 38:18 48:18 182:18

northwest 38:15 247:10 278:11

northwestern 183:12

Nos 14:3

note 5:19 16:20

notes 105:3

notice 5:8 110:5

noticed 277:19

November 304:7

novo 30:4

nuisance 89:1

number 7:15 15:15 20:2 28:9 34:20 35:2 79:5 80:3,9 101:3 127:7 150:14 151:1 152:1 154:1,5 155:13 156:12 157:14 174:19 178:6,21 241:17 252:9,15 257:13 261:18 262:7 263:16 273:5,11 274:9, 14,15

numbers 52:19 171:15 257:14 258:18 268:8 293:9

numerous 15:17 240:17 253:4 272:20

O

obey 302:18

object 29:17,18 30:12,20 69:14 77:13 150:3 166:11 178:1 213:1

objection 28:15 32:9 46:20 70:6 76:17 77:1 89:11 90:7 97:14 108:15 114:8 120:10 122:12 129:14 143:5 146:13,19 153:6, 10 157:3 159:17 166:6 168:7 170:16,17 173:19 174:7 175:11 177:13 178:5 181:6 190:18,21 191:3 192:6 194:1 197:6 211:20 216:11 243:19,20 297:11 298:9

objectives 295:13,14

objects 31:11

obligated 25:14

obscured 202:19

observance 166:3,16

observe 165:17

observed 213:10

observes 71:17

obstruct 278:8

obstructed 293:12,13

obstruction 287:6

obtain 25:5 207:3 295:6

obtained 73:10 75:8 126:8 202:9

obtaining 79:9

occasion 80:20 279:12,14

occasional 59:16 156:7

occasionally 8:12

occasions 165:16 212:17 249:10

occupancy 74:13 92:4,5

occupation 14:18 239:5

occupied 51:2 72:17 141:21 142:2

occurred 22:20 250:2 284:19

October 8:14

offer 17:11,12 24:4 69:10 74:6 170:13 216:7 242:10 298:6

offered 32:9 93:1

office 5:13 11:12 28:3 31:8 80:14 84:1 92:2 106:5 108:19 126:7 150:13 153:19

169:21 264:20,21
offices 6:8
official 18:21 35:1
older 44:8 233:17
on-site 108:8 110:19 165:17 177:18 179:18
one-line 8:8
one-time 72:6
one-way 287:17
ongoing 82:15
open 39:7 132:18 231:15,17 253:11
open-ended 146:8,10,11
open-walled 63:4
opened 120:18
operate 200:6
operates 198:16 199:13
operating 110:20
operation 191:10 197:11,13 200:13
operational 114:20
operations 100:1 240:20
operators 21:9
opine 187:12 196:3
opinion 22:15 32:6 62:11 77:17 79:18 83:17 85:10 88:6,10,12 90:12,13,16,21 92:6,12,13,14 93:6,18 94:14,17, 18 95:15,19 97:1 98:5 100:3 104:7 122:2,20 128:5 166:2 177:7,20 178:18 188:1,10, 14 189:6,7,9 192:2 196:20 197:4 203:14 228:12 250:20 252:7 258:14 259:21 262:2,8 267:15,21 277:8 293:8,12 294:15 297:19
opinions 9:5 30:1 195:21
opportunity 165:17 167:15
opposed 263:16 302:7
opposite 48:16 55:8 56:1 68:11 112:17 193:2 231:3 292:12
options 297:9
orange 293:2,3
order 34:18 76:8 225:20 226:15 236:2
organization 239:9,20
original 11:7 72:11 91:9 105:13 108:18 160:21
originally 72:3
out-structures 39:11
outbound 286:20 287:14 291:3,14 292:21 293:1,19 294:6, 11,13
outbuilding 51:5
outbuildings 74:3
outcome 173:14
outline 34:2 149:12 256:6
outlined 39:10 48:4 247:17
overburdening 258:17
overcrowd 92:8
overflow 81:12, 17 157:13 261:20
overgrown 63:1, 12
overhead 264:13
overrule 174:6 177:12
Overruled 78:13 98:12
oversized 287:11
overview 37:16 75:4
owned 73:13 172:4 175:18
owner 91:11 174:13
owners 20:7 215:2
owns 303:15

P

p.m. 305:5
package 149:11
packed 275:19
paint 174:20
panel 10:19
panic 90:3 91:2
paper 8:9 35:3
paragraphs 282:3
parallel 134:7
parishioners 75:2
park 155:17,19 156:13,15 261:10
parked 57:1 81:8 162:9,14
parking 41:13,21 42:7,12 43:7,19 47:12 57:18 79:17,18 80:1,3, 5,11,12,16 81:2, 12,14 93:11 96:12 98:20 118:12 119:18 121:19 122:1,3 138:14,20 150:7, 9,16,21 152:8,10 155:4,21 156:5, 14,17,20,21 157:13 167:21 168:4,12,13 175:8 176:20 177:15,21 178:14 179:11,17,19,20 181:17 196:19 206:20 207:11,15 208:2,5,8,17 209:10,15 220:19 221:9 224:14 229:8,10,11,21 232:1 235:3,20 236:1,3 261:13, 14,17 287:18
parks 94:1
part 23:17 25:21 38:18 41:16 43:21 68:14 73:16 91:15 103:8 108:3 141:20 149:11,15 168:8 177:3 179:17 199:19 202:9 206:18 231:21 232:13 236:7 274:8 275:12 276:7 301:13 303:21
partial 190:19
partially 81:9
participated 17:2
participation 7:11
parties 174:21 179:14
parts 197:12 264:1,17
party 10:3
passing 247:6
past 39:9 83:21 99:10 222:20 248:16
patch 45:17 48:20 234:4,6
paved 80:17 81:4,8,15 155:16 156:14 261:19 279:6
pavement 138:14 272:7
paving 34:19 42:5,8 156:1 178:14 204:10 234:9
PE 16:13 240:17
peak 196:13,18 258:2 259:3 260:2
peak-hour 258:3 259:7
pending 77:2 168:19 173:10 191:1
Pennsylvania 241:18,20
people 5:20 6:3, 19 7:9,15 22:6 31:6,8 67:13 80:10 101:3,4

113:16 114:21 125:9 126:18 127:1,2 151:2,18, 20 152:1 153:19 155:13 156:12 157:2,8 166:18 174:19 175:1,7 177:19 178:2 180:15,19 181:19 182:3 187:3,4 193:20 248:7 249:10,14 253:3, 9 254:15,18 259:16 261:3 271:4,8 273:1 300:18 302:18 303:2,4

peoples' 231:3

perc 78:21 143:16 223:19 224:6

percent 161:9 268:7 301:8

percentage 225:4,6,7

perception-reaction 272:5,7, 14

percolation 75:9,13,16 78:15 143:14,15

Perfect 136:1

perimeter 44:20 230:20 233:11

period 117:17 253:6

periodic 197:14 199:3 259:15

permanent 59:12

permission 119:20

permit 92:4,5 99:2 207:3 224:13 281:10,17 295:6 297:9,16 304:3

permits 91:20 92:1 170:20 173:7

permitted 95:13 171:2 261:14

permitting 14:14 206:19

person 31:11 33:21 34:3 47:1 77:15 97:15 172:12 182:15 272:10

personal 27:13 123:9 124:18 166:3 242:19

personally 14:18 27:21 28:1 32:19 37:4 78:20 126:21 127:4 240:3 266:20

personnel 25:17

perspective 264:13

petition 17:14 40:17

Petitioner 6:10 244:7 258:13

petitioner's 11:14 13:8,10 18:6 41:2 53:4 73:7 183:15 203:15 204:20 214:5 222:6,20 243:1 256:11 263:12,21 282:4 284:10 303:16

Petitioners 297:3

pews 59:11 150:17 196:15

Phoenix 21:8

phonetic 117:21

photo 50:7 57:14,19 61:1,2 63:2 65:13,20 133:14 134:11 136:17 184:8 214:18 222:14 223:4,5,8 289:7, 12

photograph 48:1 53:12 55:15, 21 57:9,15 59:1, 6,7 60:3,17,20 61:16 62:6,8 63:1,8,15,16 64:3 65:7,10 66:6,13 67:1,5,15 68:14 81:6 112:4 131:7 133:11 134:4 135:6,10,14,17, 21 152:15,20 162:14 221:15,19 275:11 276:3

photographs 52:18 53:7 54:6 67:8 68:16 69:8, 11 70:20 71:7 83:6 96:19 135:18 202:1 213:9 214:1 217:13 224:17 225:21 286:5

photography 34:17

photos 67:12 70:7 99:19 112:1 184:16 188:3 202:20 216:14 256:7 282:20 288:10

phrase 143:5

physical 33:21 40:2 44:1 85:21 151:11 162:20 189:8,11 191:11 302:8

physically 124:8 298:2

pick 69:1 151:1 236:1

picture 58:14 67:3 110:4 111:4 112:20 113:11 123:12 127:14 130:6 131:20 132:20 133:4,9, 21 134:19 136:14 160:10,18 162:2 185:15 216:2,4 288:13 289:17,19

pictures 110:2, 17 121:9 125:2, 11 132:4 136:12, 14 139:17 140:13,16 141:5 160:12 165:10, 11,14 180:16 210:14 216:5 217:1 282:13

piece 8:9 65:20 189:15,18 191:9 192:14

Pike 86:3 87:6

pink 48:7

place 32:16 62:2 117:17 144:10 165:18,19 282:18

places 241:5

plain 21:3

plains 97:12

plan 16:4,21 19:10 27:7 28:8 31:9 32:1,2 34:1, 4,8 36:19 37:17 39:10 40:6,16 41:10 43:14,21 44:19 46:5 48:7 49:6 61:19 62:16, 18 66:8 75:5 77:15 78:5 79:19 80:2 81:14 82:12, 21 84:1,3 97:19 102:7 105:7,13 106:11,20 108:1, 17,20 109:16 116:8 124:8,12, 13 126:5 131:8, 10,11 136:19 143:18 144:7 145:4,15,17 147:4,5 149:4,8 157:19 158:1,5,6, 10,19 159:3,5,6, 12,13 162:19 163:5,11 167:4,5, 11 169:1,8,10 170:7 172:13 176:17 182:16 184:1 185:3 195:21 200:15 201:11,16 202:6, 17,18 203:2 205:19 207:3,7 208:18 209:7 217:10 220:14 223:17 224:10 225:21 228:17 229:16 230:8 256:2 257:5 260:5 264:11,12 278:20 284:14 285:6,7,10 286:14 287:20 288:10,11,14 291:5

planned 116:7,9

planner 240:19

planners 24:5

planning 14:13 23:8,18 236:15 240:1

plans 15:1,20 35:12 75:3 116:4 117:6 147:3 182:17 188:3 224:18 231:6 286:14 296:19 300:7

planted 52:5 83:20

planting 84:4 167:8 170:10

plat 75:9 143:14, 15 223:19

Plata 243:11

plates 266:17
plats 78:15,21
play 115:4 131:13 232:13
playing 50:1 125:9
plumbing 91:17
Pohler's 190:5
point 35:6 38:2 39:8 41:20 42:5 43:8 45:9 50:13, 15,17 83:20 89:15 98:9 103:11 108:19 113:14 120:16,21 142:21 147:11,20 149:1 164:14,16 178:9 183:1 195:13 198:7,8 206:21 207:13 208:4,11,12,18 220:17 221:3 247:11 248:19 249:3 253:16 262:17 263:2 265:7,15,21 266:1,2 273:16 279:8 284:15 285:2,12 287:1, 18 288:18 289:17 296:4 304:6 305:4
pointing 38:3,4, 10 190:5 233:12
points 198:9 276:13
pole 66:17,18
policy 268:4
pool 39:11,12 41:7 44:15,16 50:3,4 62:21 63:3,8,9,11,12, 15,17 132:14
poor 216:6 272:7 274:9
population 92:9
porch 58:19 61:1 63:19 84:17 214:19 229:1,2,5
portico 60:10
portion 41:13 42:10 44:20 45:19 48:12 55:13 58:13 59:17 180:16 264:12,14 276:14 286:10,18
portions 268:6
position 5:3 27:15 181:2,5
Possibly 106:18
potential 82:3 90:2 96:12 98:15, 19 115:20 260:20 261:19 285:8 286:6,12 293:17
potentially 62:2 284:15
practically 85:21
practice 195:13
prayer 195:4
prayers 196:11
precipitated 158:8,16
prefer 10:10
preliminarily 224:4
preliminary 9:15 71:20 116:4 169:15
premark 16:11
premarked 11:5, 16 52:18
preparation 31:9 68:19 107:3 126:2,13 182:6
prepare 16:5 22:8 33:21 108:19 149:9 163:7,10 202:16 207:2,7 228:17
prepared 12:4,5, 16 15:20 16:6 32:3 34:4 78:15, 20 80:11 84:1 97:20 106:5 137:18 143:10 157:12 167:5,11 169:14 200:19 202:18 219:15 274:18
preparing 14:21 231:6
present 6:3 51:1, 2,11 62:10 74:20 167:10 203:17 216:19 231:16
presented 109:4 169:20 172:14 174:3
presenting 137:12
preservation 119:21 120:2
preserve 148:12 235:4,19 236:7
preserved 225:5
president 10:8 239:2,8
president/ manager 240:3
pretty 160:13,20 267:1
prevent 235:9,12
previous 57:9 61:1 140:18
previously 35:2 48:13 59:9 101:14 162:11 181:2 188:18 194:19 294:9
priests 62:3
primarily 15:13 167:7 168:4 189:19 230:20
Prince 243:11
prior 4:13 22:4, 17 40:1 106:16 158:2,11 159:6 165:9 173:1 178:4
private 74:15 116:21 117:1 220:1
problem 7:19 8:2,14 105:4 157:10 188:12 228:6 244:2 298:15
problems 12:20 166:3,8 183:8 188:11
procedure 173:4 230:12
proceed 8:4 33:5
proceeded 182:21
proceeding 172:18 247:16
process 19:6 122:13 158:18 172:20 206:19 224:11 271:12
produce 11:2 31:11
produced 236:10
producer 182:16
product 158:13
profession 22:7
professional 13:19 15:3 22:6, 8,12 26:11 33:11 240:14,16,19,20 267:16 268:9
proffered 30:11 244:1
profile 264:12,14 265:4,9 286:15
prohibited 114:12
prohibition 113:19 114:17 299:17
project 14:20 21:2 26:6 27:15 28:8,9,19 29:5 31:12,16 33:17, 19,20 35:6 36:10, 12 103:18 115:6 119:8 240:6,7 281:3 304:17
projects 15:16 240:4,5
prominent 130:7
promised 13:2
proper 252:1 261:9 287:8
properties 15:18 50:21 51:15,16 52:4,8 73:11 78:2 87:8,12 95:1,5 104:11,16 189:1 190:1 191:6,12 193:6,7,8,12 206:13 211:17 212:2 220:5 228:3 234:20
property 11:18, 19 20:7 27:6 28:14 34:2,7 37:1,11,18 38:12, 13,14,15,17,19 39:4,6,13,18 41:5,12 43:4,20 44:3,20 45:5,11, 17,20 46:2,11,13, 15 47:9 48:1,2, 10,11 49:2,5,8 50:5,12,16,18,20 51:1,10 52:6,16 54:8 56:16 57:11,

12 61:10,17 63:19 64:21 65:8 68:15 69:4,7,17 70:13 71:9,11 72:2,3 73:2,9,17 74:10,17 75:12 76:11,15 77:8 78:2,6 79:4,8,13 81:1 83:13 85:9, 11,12,14 86:12 88:16,20 91:17 92:15 94:21 95:9 96:4,7,8 97:7,13, 17,19 98:16,18 99:9,10,19 101:13,17,21 102:5,21 103:9 104:18 110:6 112:18 116:15,17 117:11,21 118:6, 8 121:11 123:6 125:18 130:15,19 131:1,4 133:7 134:1 136:16,21 137:6 144:13 148:15 149:12, 13,14 151:14 165:20 171:19 172:1 173:7,8,9, 13,18 174:12,13 175:18 176:2,11 178:3 182:7,19 183:10 185:5,9, 18 186:8,10,14 187:7 188:9,17 189:5,11,13,16, 18 190:4,5,15,16, 19 191:10 192:15,21 201:5, 12 203:12,17 204:15 205:1 207:11 210:16 211:6,8,19,21 212:16 213:10 214:9,15,16 215:3 217:4,16, 17 218:12 220:17 222:17 224:4 225:5 227:18 230:21 233:5,13, 15,18 235:6,7 237:9 244:9,21 245:10 247:15,16 251:1,17 253:1 262:15,18 267:19 270:21 275:7 279:11 284:16 285:2 286:6 293:14 296:1,15 303:17

property's 95:17

proposal 46:19 88:6 89:8 90:2 92:7 93:15 95:8, 16 97:2 103:13 117:3 170:5 201:15 242:12,14 244:9 262:8 263:1

propose 235:20

proposed 42:12 43:18,20 44:4 47:10 57:18 58:9, 14 70:18 75:10, 12,18 79:16 80:12,14 82:11 83:17 84:13,16 88:15,17 94:14 98:17,19 100:1 101:15 104:8,9 116:18 120:4 123:11 134:7 136:3 138:13 146:3 147:12 149:10 157:8,17 176:11 178:12,14 201:11 204:3 208:5,8 219:10 220:19 223:20 224:13 229:13, 17,21 232:1 235:3 244:21 261:18 264:8 289:13,14 290:2, 5 292:3 293:19 294:8

proposing 146:14 147:18,19 208:17

proposition 279:21

protect 117:19 235:8

protected 119:11 120:3 225:15

protection 118:15

Protestant's 221:14

protestants 9:18 217:21 227:14

protestants' 108:14 109:1,16 162:3,4,5 164:1 168:20 169:5,6

provide 76:8 98:5 118:14 119:9 120:9 149:13 244:18

provided 34:9 35:3 43:14 81:2 150:14 152:12 159:10 296:8 298:3,4

providing 150:8 288:4

provisions 97:4

proximity 188:8

public 26:7 35:5 74:10,11 93:15, 19 94:4,5,8 210:8

pull-in 42:7 57:18

pulling 270:21

purchase 182:7

purchased 11:19 28:14

purchaser 174:14

purple 278:20

purpose 42:15 123:13 124:9 180:18 232:8 271:15

purposes 29:7, 19 30:3 46:20 58:2 105:19 128:2 163:17 168:2 169:3 172:5 177:1 191:7 217:8 254:13 275:15 283:12

pursue 27:10 181:4

put 4:20 124:12 125:1 146:17 147:1 157:21 158:17 180:14 218:17 239:14 263:19 274:19 302:8 303:4

putting 58:9 158:8

Q

quadrant 278:12

qualifications 23:5,17 24:20 26:9 27:2 28:20

qualified 24:20 30:1 32:19 76:18

quality 75:21

quantity 273:4

question 27:9 28:19 29:12 37:6, 10 47:4 53:13 76:21 78:13 89:20 115:15 117:3 119:7 122:14,18 128:18 129:7 145:14 146:8,12 147:13, 14,15 148:6 150:4 157:5 158:7,15 159:19 163:6 166:7,14 168:19 172:15,16 174:8,9 177:2,11, 13,14 178:10 181:13 184:2,15 190:12 192:7,13 193:10 194:3,21 195:6,7 196:7 197:3 213:7 216:21 217:2 218:6 219:8 221:20 222:1 229:9 230:14,15, 18 232:10 234:17 236:10,11 239:16 281:9 282:1 300:21 302:6 303:21

questioning 29:13 149:7 150:2 258:12

questions 11:17 29:14 76:20 100:14 101:8 105:1 118:18 119:11 120:19 124:21 132:2 136:11 147:10 155:9 163:21 165:5 176:6 177:8 187:9 197:21 198:6 204:1 213:2 216:13 217:3,15 218:3,9 219:7 220:12,13 221:12 237:17,19 242:17,19 243:17 291:8 298:17 304:21 305:2

quick 9:13 242:19

quickly 50:19 228:2

quiet 49:17

quote 66:2 199:12

R

Radebaugh 12:17

rain 138:2
rains 210:7
raised 33:1 220:13
raises 117:2
rate 266:21
Raven 261:2
RC 225:6
RC-2 38:14 90:5 95:10,13 96:6 151:17 170:20 171:3 227:10
re-ask 29:12
reached 278:1
read 30:1 32:17 174:9
ready 117:6
Real 9:13
realm 260:6
rear 60:13,14,21 61:10 102:20 262:21
reason 124:9 218:3 256:6 263:5 270:16 301:13
reasonable 295:8 299:12
reasons 217:14
recall 11:20 20:15 28:11 68:21 168:1
receive 28:21
received 24:8,20 53:15 253:8 264:18,19 265:2 304:6
recent 165:11 248:2
recently 246:3
reception-reaction 274:10
recess 100:6 101:6 165:1
recognize 178:6
recognized 19:19 175:13
recommend 246:19
recommendations 273:10
recommended 269:4,7,8,9,13 294:10 302:7
recommends 246:20 268:3
reconvening 300:14
record 4:21 6:6 13:17 29:19 31:18 34:14 40:13 46:21 71:18 98:6 108:16 130:3 138:19 168:3,9 169:3 228:17 238:10 263:10,11 275:2,3,21 284:8 298:19 299:17 300:20
recorded 12:1
recording 12:15
records 12:1
recreational 94:1
red 86:14 135:18, 21
Redeemer 49:8 52:13 67:16,20, 21 68:3,11,15
redirect 105:1 198:10 213:19,20 216:16
reduced 132:10
refer 14:4 53:13 222:5
reference 17:21 67:8
referencing 38:10 40:3
referred 49:7 105:19 137:5 185:8
referring 27:20 28:1 34:14 103:8 183:3 184:6 186:11 245:18 282:14
reflect 70:8 108:16 290:3
reflected 82:21 147:21
reflecting 87:9
reflective 214:8
regard 24:7 26:20 90:9 166:2 172:11 177:7,15, 21 181:16 194:10 195:9 224:16
register 237:4,7
registered 75:6 76:14 78:16 143:12 145:9
registration 24:5
registrations 240:15
regular 80:10 93:4,10 150:15 175:6 178:18 182:11 196:18 200:13 280:2
regularly 179:17 198:19
regulation 80:6
regulations 17:18,21 24:7,10 30:18 89:3 93:14 95:18 97:8 151:8
regulatory 15:2
relate 91:2 93:14 103:6 195:13
related 117:13 119:10 123:19 154:12 242:14
relates 17:13 173:21 192:8 195:16 205:14 219:9 242:12 256:15 262:14 277:3
relation 300:7
relative 23:5 24:12 25:15 26:9 27:12 188:11 189:4 193:15
relevance 173:20
relevant 29:10 30:3 175:21 189:8 194:13 196:4 200:21 250:8
relied 32:6
religion 195:14, 17
religions 93:2
religious 60:5 80:4,8 90:5 92:10 94:15 95:12 96:6, 15 104:9 118:4 121:20 127:16 128:1,2,6,7 129:1,2,5,20 143:11 151:10,12 152:6 154:11,13 155:5 173:10,13 178:19 179:11, 13,18 188:6 193:14 194:18 195:1,2,19 197:14 199:7,14 254:3
religious-use 150:17
relocate 144:8 287:1 291:10
relocated 291:3
relocating 285:1 287:3
relocation 43:9
remain 70:19 71:2 202:1 204:8 225:21 285:11
remainder 275:16
remained 72:14
remaining 234:9
remember 122:10
remembered 227:9
reminder 82:8
remove 160:8 201:16 278:5,6, 18
removed 44:10, 13,17 110:14 133:19 214:20 225:11 226:2 231:21 278:18 286:7
render 30:1 77:16 93:17
rendered 288:1
rendering 291:2
repair 21:9 174:20
repeat 174:8 239:16
repeats 165:5
rephrase 130:2

replaced 132:17 142:17 228:9
replacement 72:14
replacing 174:11
report 137:18
reporter 6:7 7:13 14:6 37:9 38:6 53:20
represent 10:9 64:20
representation 203:3 264:2,3
representative 7:13 75:20 126:7
representatives 126:16 198:15 202:13
represented 20:9 21:5,8 281:1
representing 10:3
represents 241:1
repurposed 91:14
repurposing 91:15
request 105:7 118:2 120:7 147:12 149:1
requested 11:1 13:2 103:13 251:18 252:3,6 255:9,15
require 149:4 159:4 210:6 219:13 226:10 236:2 281:8,10
required 42:21 80:18 85:8 91:16, 21 99:3 104:2 107:12 110:13 149:11,15 159:10 167:8 201:19 206:18,21 280:9 281:14 303:19
requirement 19:5 22:3 42:17 80:16 84:3 104:5 150:21 151:6 152:4 158:8,16 173:4,5 177:20 179:16 190:9 273:4
requirements 25:13 43:16 84:2, 5 85:2 99:6 116:6 149:17 150:16 151:13 152:10 158:21 167:6 170:21 171:5 172:12 175:9,10 177:16 179:12, 19,20 180:2 196:19 200:21 201:3 225:1 226:17 273:7,10
requires 43:2 80:5 188:3 226:3
requiring 228:5
rescheduled 36:14
research 193:4
reserve 78:19 143:13
reserved 9:6
residence 21:10 116:21 117:1 137:5
residences 51:9
resident 21:10
residential 52:10 58:2 99:10 103:19 191:16
resources 34:6 97:11
respect 108:11
response 31:1 32:4 177:5 213:6
responsibilities 25:14
responsibility 26:3 78:19
responsible 299:14
rest 19:21 121:8 165:4
restate 47:3
restaurant 147:1
restoration 228:6
restrict 118:4 148:7
restricted 148:11
restriction 149:21 230:17 231:9
result 284:19 285:4 304:1
resume 16:14 241:1 243:10 256:8
retained 9:21 27:19 244:7
retaining 304:20
reuse 90:21 98:18
reusing 91:4
reverse 246:9,10 247:19 289:2
review 169:15,17 188:2 244:16 255:10,13 260:8 268:3 273:20 291:13 295:2
reviewed 78:21 99:4 120:5 137:17 143:11 170:1 223:17 291:20
reviewing 84:2 230:12 302:5
revised 108:5
right-hand 67:1 111:5 134:4 136:19
rights 279:5
ripe 98:10
river 85:19 87:5
road 21:12 38:16, 21 39:1,2 43:10 44:18 45:2,3,12, 16 46:16 47:7 48:16,19 49:4 51:14,17,20 52:2 54:14 55:5,9 56:2,3,9,17,20 57:2,7 58:20 59:3 61:4,8 64:7,8,12 65:1 66:16 67:17 68:1,3,4,6,7 81:16 82:5,13 85:18,19 87:3,5,7 101:21 102:9 104:17 109:17 111:8,20 112:2, 12,14,17 116:1 121:13,16 122:19 133:10,16 134:2, 8,17 135:15 136:3,5,20 137:9 138:16 139:1,13 183:12,13,17 184:14 185:11, 12,14,17 186:7,8, 16 188:8 190:13, 14 191:12,21 204:16,20 205:3, 4,13,14,17,21 206:3,7,10,11,12, 14 207:17 208:5, 15 209:3,7,8,18, 21 210:3,5,6,11, 18 212:5,7 217:7 219:18,20 222:11,12 223:4, 7 231:3 232:8,21 233:15 234:1,3,8 245:4,10 246:4 247:11,14 248:3 249:4,12 250:11, 12 251:15,16 259:10 261:11, 14,15 262:10 264:3,15 265:5, 20 266:9,14,18 267:17 270:2,19 271:4,16,19 272:19 273:3 274:3 276:5,13 279:6 282:4 283:4,21 284:1 285:2 287:9,19 294:3 296:2 297:21 298:1,2 301:2 302:8,12, 14 303:1,2,4,10, 11,16 304:15,19
roads 87:16 89:9 210:5,6,8 245:10 258:18 279:20
roadside 183:6 184:17,19 185:7 205:2
roadway 258:21 265:3
Roman 179:15
roof 63:5 65:21 135:1 136:17
room 4:7 5:9,13 6:2 59:6,19 60:1, 4 125:17 128:3, 16,19,21 140:13, 17,19 146:17,20, 21 152:11 180:19 215:14,15 216:1 275:16 300:16, 17,18
rooms 140:9 141:4 161:4
rope 233:10
rotate 300:18
roughly 39:9 47:15 48:6

round 216:5
roundabout 111:9 112:8 155:18,20 246:3, 5 247:6 248:1,16 249:10 265:8,13 283:18 288:16 289:9 304:13
route 123:12,14 124:7 226:2,3
routine 176:3
RTA 103:20 104:3,5 121:18, 19 122:2,3,20 227:4,6
rubbish 214:20 215:10
ruble 218:17
ruled 175:12 216:10
ruling 178:4
rumble 302:11, 12 303:4
run 121:12 138:2 194:17 209:15
running 49:21 61:4 141:14 142:5 209:3,4,9, 20 303:2,10
runoff 138:3 183:4 206:14 207:1,5
runs 38:17 44:19 46:12 53:16 67:9 101:21 121:15 204:15 209:11, 14,17 221:4
rural 85:20 87:9, 10,15

S

safe 88:19 273:21 280:6 294:16 296:8,9, 10 298:3,5
safely 266:17 268:17 292:9
safer 298:5 302:3
safety 26:7 88:7 199:16 210:8 271:17 272:4 278:8 280:11
Salvageable 72:21
sanitarian 75:7 76:14 77:4,14 78:9,16 143:12 145:9 219:15 299:7
sat 197:10
satisfied 29:16 159:11
satisfies 83:4
satisfy 43:16 167:9
Saturday 255:3
save 105:1
saved 225:10
scattered 48:15 228:7 231:19
scenario 191:18 204:7
scenarios 292:3
scene 70:5
schedule 93:1 279:21 280:1,3,4
scheduled 5:6 8:16 143:17 198:19
schematic 275:10 291:2
scheme 188:6
SCHMID 237:19
Schmidt 6:5,6,7, 8 7:7,12 8:2,5,10, 19 9:11,16 10:13, 15,17,18 12:10 13:12 14:1 16:10, 12 17:11,17 18:2 28:15 29:1,9,16 30:21 31:2,21 33:1,4,6 35:7 40:11 41:4 47:5 52:17 53:6,11,17, 18 54:3 56:18 69:10,16,20 70:10 74:6,9 77:3,19 87:20 88:4 89:12,16,19, 21 90:11,20 97:18 98:14 100:4,13 101:7,9, 11 102:17 104:21 105:9,10,12,21 108:15 109:5,7 110:19 111:1,2 112:20 114:8 116:11 120:10 122:12 125:3,21 129:14 131:19 132:3,6,11 143:5 146:13,19 147:15 148:18 152:21 153:6,10,15 155:9,10 157:3 159:17 161:18 163:20 164:2,20 165:9 166:6,13, 18 167:17,18,20 168:7,15 170:15, 17 173:19 175:11 178:1 181:6,9 190:18 191:2 192:6 194:1,8 197:6 198:3,10, 11 204:5,6 209:2, 12,14 212:3,4,8, 10,12 213:3,8,14, 21 214:3,7,10,12, 13 216:7 217:14 218:8 221:18 222:1 223:12 230:13 231:4 232:3,9,15 233:6 234:12 235:9,12 236:21 237:18 238:1,4,8 239:3, 4,17 242:5,9,15 244:5 247:21 256:9,13 263:10, 14 265:1 266:11 267:12 269:7 274:17 275:3 276:1 282:2,12, 20 284:5,9,12 290:13,20 291:1 292:14 296:11 297:2,7,14,15 298:6,12,16 299:16 300:10 304:2
school 49:3,11, 21 93:20 220:1
schools 93:20
science 240:12
scope 30:10 88:16 213:2
screened 51:19 211:15
screening 84:6, 14 167:7
seal 31:17
sealed 32:3,5 36:18
sealing 31:21
seated 6:10
seating 59:12
seats 80:5 125:14 127:7 129:4 150:20 151:11 152:5,7 153:5,13,15,17 155:12 179:21 181:21 182:1 196:16,17
seconds 26:2
section 304:12
sections 279:6
seek 75:8
select 212:13 297:9
self-authenticating 86:6
send 4:17
senior 14:20 27:15 172:12
sense 7:1 85:13 119:9 164:12 224:20 226:4 232:19 275:14
separate 23:12 24:4 179:19 219:13 260:5
September 5:17 300:15
septic 74:18 75:11,17,21 76:1, 16 77:10 78:4,7, 17,19 79:6,10 142:15,19 143:13,19 144:9 145:1,3 219:10
sequences 264:17
series 52:18 53:7 214:1
serve 42:19 75:12 219:11 232:8,14
served 74:10,18 94:4
serves 35:5
service 93:3,4 151:18 154:11 196:10,19 252:6 261:5
services 198:20 199:13 200:7 240:2 251:5 261:10
set 5:16 59:8 125:13,16 129:4 162:21 189:5

268:7

setback 21:3

settle 4:14

severe 246:14 248:21 282:17

sewer 74:11,15 94:5,8 184:21

SHA 43:16 82:15, 16 83:8 226:3 246:19,20 255:7, 9 257:18 278:1, 17 290:16 294:10 297:21 302:4 303:12 304:11

shape 234:21

sharp 270:7,11 289:5

she'll 8:9

shed 39:12 63:8 132:14

sheet 182:17

shelter 62:20

shielded 84:20

shooting 284:2

shop 21:10

shopped 192:17, 20

short 103:20 225:21

shorter 199:4 207:16

shortly 36:6 56:19 121:2

shoulder 53:2

show 6:20 16:3,8 45:8 46:5 53:7 73:1 86:5,11 105:8 111:19 112:2 130:4,12 134:9 144:17,20 145:4,7 149:12 152:1 162:2 163:8 183:21 184:10,17 205:18 213:8,21 276:4,5 282:4 285:8 289:20

showed 11:21 160:10 285:6 286:5

showing 54:6 55:5 60:20 65:8, 14 67:4 86:17 105:6 113:2 116:4 131:7 144:21 149:9 175:1 203:2 264:8 275:5,10 276:13 286:9,11

shown 27:7 34:8 42:16 43:13 44:19 48:4,6 61:19 66:5 70:11, 19 71:6 79:18 80:1,2 82:12 96:19,20 106:8 107:2,8,9,11 109:11,17 110:13 112:3 116:8 117:18 118:10 125:15 127:8 131:10 133:9 140:13 143:13,20 144:14 145:16 150:21 159:12 163:3,4 180:15 190:3 201:11,16, 21 203:6,15,16 215:2 250:16 257:10,12 276:16 278:20 287:2 294:9 295:4 296:5 297:10,16

shows 48:1 54:7 56:14 58:15 59:8 60:7 63:11 65:10 88:1 111:4,15,16 112:10 127:14 221:14 246:12 265:14 278:21 284:14 288:14 289:3 290:15

shrub 135:18

side 6:16 38:15, 16 39:1,5 45:16 48:16,18 54:15, 19 55:14,16 56:1 57:2 60:14 63:7, 16 66:16 67:1,10 82:14 86:21 102:1 111:5 112:12,14,16 113:11 114:6,7, 10,13 117:21 133:14 134:5,19 182:20 185:5,11, 13 186:7,16 204:20 205:4,13 206:4,8,9,11,12 209:18 210:2 215:13 231:3 233:13,14 248:18 272:21 278:14,15 283:4,8 287:9,12, 13 296:1 301:20 303:15

sides 42:12 205:10,11 210:12 221:16 231:2 261:10

sight 262:14 264:1 265:17 266:9 267:4,18 268:11,19 269:20 270:3,13,17,20 271:1,7,8,15 272:4,6 273:6,9 274:4,7 275:5 276:16 277:19,21 278:8,19,21 280:14 286:11, 14,20 288:1,2 290:3,9,17,18 292:8 293:10 294:11 295:19,20 297:19,20 301:6, 9 304:1

sign 8:8 54:7,12, 21 69:21 70:1,4, 11 110:5,8,9,11, 13,14 184:8 246:12,14,16,18 282:5 289:3

signage 114:18

signalized 250:7,8

signals 250:21

signed 9:20 10:10 92:1 246:10

significance 199:7

significant 48:12 81:9 91:5 201:12 245:12 248:11 258:21 259:18 261:21 304:19,20

significantly 206:13 267:2 302:1

signifies 289:5

signs 247:20 249:6 282:8,9,13, 17 283:2 289:1 297:21 302:18

similar 60:7 66:12 79:4 90:18 107:7 178:13 215:9 221:1 229:3

similarly 188:16 189:13,15 190:20 191:6

simple 166:14 194:10 218:3

simply 11:10 78:6 149:18

single 15:16 227:1

single-family 20:10 48:17 56:7 259:6

sir 8:5 9:16 10:15 16:16 18:2 53:8 85:10 88:14 89:16 90:14 95:20 97:1 184:6 190:21 199:11 203:14 207:18 212:12 214:12 217:15 222:15 237:20 238:9,15 239:5 241:5 242:15 243:10,13 262:8

sit 14:2

site 16:3 37:2,17 39:2 42:2 48:17 50:2,8 68:18 73:12 77:15 78:1 80:21 82:3,19 83:1,2,18 84:7 95:2 96:14 97:11, 19 111:4,13 113:12 116:2,6,8 120:9 123:2 127:3 130:7,9,15 131:10 134:3 137:21 138:17 139:16 140:14 145:15 146:17, 20,21 149:3 155:1 156:12 157:9 158:9 160:14 161:13 162:8,12,19 163:11 165:8 166:10 167:2 170:20 172:13 178:14 182:16 183:17 184:1 185:19 186:4 187:3 188:2,7,13, 15,19,21 189:8, 17 190:2 191:11, 16,19 192:15,17, 20 202:14,18 203:1,3,5,13,14 224:3,18 234:19 235:16,17 236:6, 8 244:18 246:7,8 247:6 250:5 251:20 253:20 254:13 260:17 261:18 265:6,8, 21 268:15 273:17

277:11,12 278:12 283:14 284:14 286:21 288:17 290:10 292:1 293:11 301:20

sites 130:8 168:13 188:5

sits 85:9 220:16

sitting 123:7 175:14 266:6 296:18

situation 90:19 151:14 227:4 248:18,21 272:14 301:13

sizable 49:19

size 7:8 75:11 78:18 79:3,8 84:17 88:20 92:14 94:21 96:8 103:9 104:18 143:13 179:1 188:9 255:15 278:6

sized 76:8 77:9

sizes 15:18

sizing 75:17

slamming 271:13

slightly 61:7 265:15

slope 209:8 232:21

sloped 185:17 210:16

slopes 50:19 304:18

slots 302:13

slow 270:8 272:12 302:9

slowing 270:11 271:14 292:16

small 15:19 39:12 41:13 42:5,7,20 51:6 54:11 63:6 67:11 78:3 92:15,16 103:9 118:5,7 229:5

smaller 61:16 219:12 234:10 257:9,16 274:14

Smith 6:7

sodium 229:7

soil 75:16,21 79:9

solely 18:16

solution 228:1

someplace 193:1

sort 6:15 8:15 24:5 63:4 84:18 113:18 133:4 176:3 179:21 182:21 230:20 251:10 263:8 264:2 279:21 291:2

sound 23:5 32:11 187:12

sounds 188:15

source 35:8,13 200:20 202:6

south 39:1,2 48:11 85:19 102:20 111:13,19 112:12 113:9,17,19 114:2,5,6 131:5 189:2 246:7 247:5,7 249:2,3,12 250:13 265:19 266:8 267:4 272:19 273:17,19 275:6 276:17 282:5 287:5,13 288:5 295:18,19,20 304:13

southbound 247:14 267:8 274:5 283:16 288:15 292:6 301:1

southeast 39:14 61:17

southeastern 46:12,15

southerly 61:12 65:8 66:20 112:2 138:12

southern 39:17 45:19 46:12,15 73:16

southwest 233:18

space 58:15 80:5 132:18 134:14 152:4 236:1

spaces 42:7,12 80:3,12,17 81:14 150:8,10 152:2 155:12 181:17 261:19

sparingly 212:13

speak 51:16

Speaking 261:13

special 15:21 20:1 40:17 85:4 95:13 96:3 117:10,12,16 118:2,13,21 119:3,12,19 120:14,15 121:11,12 122:19 147:7,19 148:7,11 149:4 166:21 170:21 171:2,5,6,12 172:19 173:11,21 176:1 177:1 178:19 179:4,8 227:12 229:6,19

specializing 14:12

specific 17:21 23:4 31:10 38:9 89:2 227:11

specifically 24:6 182:19 239:19

specifics 107:15

speculation 128:9

speculative 120:11 146:20 147:3

speed 266:12,14,17,18,21 270:2 284:18 288:19,20 302:7 303:1

speeds 246:5,18 288:1 297:20 302:19 303:10

spell 13:17 238:12

spells 73:11

spend 26:1

spirit 95:17 96:1

split 54:17 56:13

splits 54:14

sports 145:16 186:15

spot 152:8

spots 51:18 236:1

spotted 286:17

spring 36:15,17 171:18

spur 42:5,7,20

square 139:18,19 180:9,11 181:3 238:17,19 255:12,19,20 256:15 257:7,8,15,21 258:7

St 261:8

stamp 12:2 31:18

stand 13:14 53:1 209:19 218:10 299:2

standard 49:16 192:12

standards 25:13 103:20

standing 11:12 56:15 60:21 66:12 111:12 152:11 300:18

standpoint 5:14 7:15 77:20 78:1 81:21 83:10 98:1 137:20 157:10 195:3 226:20 227:1 235:5 258:16 259:9 262:6

stands 34:16 181:13,14 226:21

star 86:14

start 33:7 38:1 40:1 53:9 54:3 79:15 105:6 214:14 245:14 254:10,11 298:20 299:9 302:20

started 9:10 28:10 118:20 280:21

starting 35:6 205:21 208:12 247:13

state 13:16 15:4 27:1 33:12 43:12 44:9 45:2,3 71:12,18 82:17 83:5 96:9 104:17 107:12,15 109:21 120:3 124:19 157:13 183:7 188:8 191:18 204:11 210:5 231:14 238:9 240:4 241:17 242:3 246:11 248:13 251:19,21 253:13 254:7

260:7,12 266:15 268:2 278:2,3 279:1,4,5,7,17,20 280:2,15 281:2,8, 10,13 284:20 291:6,12 295:2,6 296:6,12 297:3,8 299:21 300:1,11 301:14 302:8 303:15,20 304:7, 17

statement 130:10 147:16 161:11 182:9

states 72:6 240:17 241:18 259:5

stay 131:8

stays 177:13

steep 209:8 233:1

stepping-stone 303:6

sticker 40:14

stipulate 148:20 209:13

stone 268:7

stop 184:8 240:8 255:6,21 271:19 272:2,12 273:5, 13,18 293:18 298:13

stopping 270:17 271:3,7,13,15 272:3,6 273:9 274:4,7 288:2 292:16 297:20 301:6,9

storage 63:9,17

storm 185:3 206:16

stormwater 26:10,16 32:13 203:20,21 207:1 232:15

straight 66:17 133:11,20 155:7 270:9 289:3

stream 46:3,10, 18,19 47:8,11,14, 16 48:13,21 98:1, 8 117:20 137:14, 15

streamline 164:6

streams 34:8,19 71:3 97:12

street 6:21 55:19 113:3 123:8,15 191:17 271:21 293:14

streetlights 229:7

streets 89:9 268:4 272:21

stretch 247:3,5 261:15 274:3

stricken 77:18

strict 177:3

strike 181:12 204:5 212:3

striped 80:18

striping 66:15 184:20

strips 302:12

structure 50:15 63:3,4,7,8 72:14 73:18 74:1 91:4 92:16 122:1 180:5 216:6

structures 44:4, 7,8,13,15 60:4 71:12 74:4 88:16, 19 91:6 121:20

stuck 43:5

stuff 213:16 295:15

subdivisions 15:16,17

subject 77:5 86:11 90:14 98:5 103:18 120:6,7, 13 185:4,18 187:3 205:17 210:16 212:10 244:9 267:19

submission 175:9

submissions 299:21

submit 169:1

submitted 126:5 168:5 169:21 200:15 243:21 295:1

submitting 213:19

subsequently 8:16

substantial 83:13 156:6

substantially 257:16

subsurface 75:14

sudden 119:16

sufficient 79:17 100:16 262:1 294:16

suggest 149:17 230:9 269:1,2 303:8

suggested 20:21 304:9

suggesting 226:14,18

suggests 266:16

suitable 76:15 79:9 83:7 156:7 158:19 193:8

Suite 13:20 238:17,20

summarize 274:1

summer 36:15, 17 108:9 220:3

summertime 64:4

Sunday 93:3,9 151:18 195:1 198:20 255:3 260:12

Sunshine 250:11

superimposed 265:2 275:11 276:4

supervise 14:21

supervises 78:16

supervision 16:6

supply 10:16 79:7

support 49:19

Suppose 189:15 190:12 191:9

supposed 132:4

supposition 178:2

surface 97:3

surprising 79:7

surrounded 190:14,19 191:5 221:16

surrounding 17:14 50:17 63:12 79:5 97:13 189:1,20 191:12 227:14 245:3

surrounds 38:13

survey 211:3

surveying 14:13

surveyor 34:2

suspended 305:5

sustain 89:18 130:1

SUV 266:20

swastikas 160:8

swath 45:12 46:4

swimming 50:3, 4

switch 4:16

sworn 13:15 238:7

synagogue 193:17 194:17 195:15 196:15

system 35:4,14 75:18 76:1 77:10 78:17 79:10 93:20 94:8 144:9 202:10 203:6,8 219:11 251:15 259:10 262:10,11

systems 34:16 79:6 91:17 219:13 287:17

T

table 263:18

taking 105:3 125:10 140:12 165:19 181:5 266:21 302:20

talk 150:7 195:17 255:7 274:21 280:13

talked 6:18 48:14 173:9 211:5 224:17 228:19 236:13 245:6 266:18 276:3 287:10 291:13

talking 53:20 118:7 132:5 138:7 153:21 184:12 186:9 197:15 231:5 259:2 299:17

taller 222:4

Taxation 11:11

Taylor 13:20

team 14:21 32:3

tear 149:18

telephone 66:17, 18

telling 149:8 180:14 181:1 190:7 283:10

tells 288:20

temple 58:6,14 59:7,16,19 101:16 128:14 173:10 253:4,7, 21 254:1,15 255:18 261:1

temples 70:18

temporary 59:16 67:9 163:4

ten 100:21 101:1, 2,4 218:14,16 259:6 260:14

ten-lane 260:20

tend 92:7

tendencies 128:6

tendered 29:1 32:21 244:4

tennis 39:17 41:7 62:14 118:11 131:7,21 132:10 146:1 186:2,20

tent 162:8,10,17, 21 163:4

tentatively 75:10

tents 163:9

term 251:14

terms 5:20 6:12 7:15,21 18:21 23:3 25:6,14 26:6 30:16 35:13 41:11 82:4 85:2 86:7 87:9 90:21 102:3 103:4,6 130:7 139:18 166:21 175:8 176:3 177:6 191:11 193:14 197:12 200:7,21 202:6 203:17 206:19 207:10 209:9 211:7 224:18 227:14 228:13 229:18 232:11 234:18 235:16 236:13 249:9 250:7 252:14 258:17 261:18 262:7 276:13 280:13 281:15 286:11

test 75:16

testified 17:4 22:14 36:7 58:4 77:14 90:9 99:8, 13 101:14 122:4, 10 128:10,12 148:8 150:11 153:6,8,16 154:1 160:3 165:7 167:2 170:19 180:10 181:2 187:17 188:18 190:1,5 192:10 194:10,21 195:1, 2,17 197:8,11 212:1 217:11 219:17 236:16 241:6,13,16 284:13 285:5 294:15

testify 19:17 30:6 36:2 83:3 89:15 97:16,18 98:2 145:9,11 197:7 242:11

testifying 137:12 299:18

testimony 9:5 14:4 18:14 27:10 30:2,5,10 32:7,9, 18 33:2,3 44:6 47:20 62:1 81:20 90:8 92:21 95:9 98:6 128:13,18 129:12,19 130:6 132:14 141:20 166:15,19 177:21 181:16 184:12 193:3 197:18 198:14 199:11 219:9 228:20 232:7 244:18 245:15 249:14 250:3,4 259:15 299:19 300:8

testing 224:6

tests 75:14,19 77:5 143:17

Thankfully 161:2

thick 45:17

thing 26:4,5,6 84:18 112:10 196:21 216:13 228:16 261:6

things 30:13 33:18 35:2 84:6 147:10 202:20 251:9 291:16

thinking 100:15 296:16 304:12

Thirty-eight 150:9 168:14

thought 5:4,5 6:17 7:4 82:20 122:13 127:11 139:15 153:17 171:12 198:4 271:12

thousand 157:2, 8

throwing 232:17

tie 135:19

tied 196:5

ties 256:15

Tim 126:16 173:1

time 5:4 6:18 7:8 10:20 15:14 22:5, 7 28:13 36:13 46:9 49:16,21 50:7 51:1,3,11 52:15 59:13 62:10 69:4 72:17, 19 74:13,14,17, 20 76:2,5 81:1 91:11 93:12 96:21 98:21 99:4 108:7,19 114:14, 15 115:14,16,18, 19 116:9,12,19 119:10 120:17,18 125:10,21 126:10 131:14 132:1 141:13 144:15 145:13 146:3,5, 16 147:21 148:14,21 160:14 161:14,16 165:8, 9,13 166:4 172:3, 21 173:2 174:10 182:7 196:12,13 202:2 203:18 212:19 213:5,11 214:14,17,19 215:12 216:19 217:5,7 220:2 229:14 231:16 237:21 244:6 254:10 272:5,7,9, 14 274:10 275:15,18,19 298:13

times 37:13 114:16 120:18 154:3 165:8,19 178:21 213:4 224:3 253:5 254:11 261:9 268:10 272:16 291:17

Timothy 6:11

tires 272:8 274:10

title 238:21

today 4:6 5:20 6:4,9 7:2,4,17,21 8:3,4,21 9:7 10:2 11:3 22:11 41:11 69:2 70:6 110:16 124:4 159:14 167:10 275:16 277:10 285:12 290:3 296:18 297:1,19 300:20

today's 205:1 281:17

toilet 141:16 142:12

told 6:19 124:11, 14 127:4 131:9 153:18 154:6 179:7

top 28:12 86:18 138:6,9 170:9 185:3 225:7 232:4 264:12 275:12 276:14 286:10 288:13

topography 34:18 50:8,10 52:1 84:21

tops 64:2

torn 70:2

totaled 257:6

totally 72:21 222:7

tough 85:20

Towson 6:8 13:21 248:6

traffic 43:12,14 81:20 89:4,8,15 94:12 107:14,21 109:21 123:17

124:4,16 188:11 196:13 210:9 238:16 239:6,8, 11,18,21 240:1, 20 241:21 242:11,12,13 244:17 245:1,11 248:1,18 249:7,9, 18,20 251:9,12 258:11,21 259:11,19 260:5, 10,16 261:2 263:2,6 266:8 267:8,19 273:3 278:9 283:5,16 301:1 302:9 304:14

trailing 228:10

transcript 32:17 245:17

transferred 124:13

transition 103:19

translate 245:16

transportation 94:11 240:1,19 251:5 252:17

Trappe 19:16

trash 174:12

travel 134:4

traveled 246:21

traveling 248:16 269:15,18,19 270:18 271:12 273:12 274:2

travels 278:14

traverse 249:8 266:16 270:2

treated 74:21 75:1

treating 8:21

tree 34:20 59:1 119:14,16 227:1, 15 278:6

trees 45:11,17 48:13 51:21 52:1 63:21 64:16,18, 20 65:9 71:1,3 83:19 84:9 96:18 98:21 117:8 119:20 120:2,3, 11 133:9,13,19 134:15,18,21 135:21 149:18 167:3 170:4 202:19 209:7,19 212:14 221:16,17 222:2,3,7,21 223:1,3,6 224:16, 18 225:5,10,13, 20 226:1,21 227:18 228:7 231:7,12,19,21 232:7,13 233:4, 10 286:6

treetops 64:2

trip 252:17 254:1, 14 257:3 258:1 259:2,3,4

trips 251:21 252:8,10,15 253:5,6 254:10, 21 255:13,14,20 257:17,19 258:2, 3 259:1,4,6,8

true 192:19 203:16

trust 11:18 12:12, 16 71:15 73:3 237:1

truthful 181:11

turn 9:1 18:3 42:4 56:19 57:13,17 63:14,18 67:15 82:9 113:16 114:3,7,10 161:20 208:16 246:9,10,14 249:11 266:16 267:3 268:18 269:4,10,17 270:8,11,21 282:17 283:5,6,7, 10,16 285:14 287:4 289:3,5,6 291:21 292:9,10, 19,21 293:7 301:16

turnaround 42:6,15,21 43:7, 19 58:15 157:16 158:9,17 159:1,7, 15

turned 57:7,10 61:6 65:6,13 66:13 135:16

turning 252:5 267:19 268:12, 13,15 269:3 273:3 292:2 293:11 302:2

turns 223:10 247:6 248:14,18 249:1,6,8 270:2

two-and-a-half 140:3

two-car 60:9

two-lane 68:3,7

two-story 39:12 61:20 62:7 234:10

type 15:19 47:7 91:3 96:10 170:10 188:12 195:14 198:19 200:6 204:19 240:14 253:14 259:18

types 98:3 176:16 180:1 302:15

typical 93:3,8 253:9 254:17 272:17

typically 144:10 210:6 251:9 252:16 254:9 255:12 260:7 271:17 279:20 280:2 304:10

U

U-TURN 249:16 250:6

Uh-huh 55:2 66:10 85:17 103:3 134:16 170:12 220:18

ultimately 231:13 281:8,13

unable 79:8

uncomfortable 267:1

undergoing 44:2 174:11

underlying 284:14

understand 4:10 5:10 8:11 9:9 18:18 77:3 102:14 124:5 132:13 138:18 146:16 151:9 157:5 176:7,10 178:4 192:7 193:20 194:14 199:19 204:15 205:15 217:3 230:18 235:15 236:5 243:4 244:17 248:7 260:15 261:3 263:1 269:4 275:8 299:17

understanding 44:11,12 59:15 70:8 71:5 75:13 93:5 121:10 128:21 144:6 151:4 166:9 200:5 246:4 255:4 263:4

understands 121:6

understood 8:18 88:3 108:20 119:5 120:16 176:14 194:19

undue 92:8,17

unfair 150:1 194:3

ungraded 76:7

unimproved 160:12

uninhabitable 72:21

unique 151:14

United 72:6

University 240:13

unlike 93:2 198:18

unsafe 303:5

unsigned 10:10

uphill 210:19

uphold 26:4

upper 65:19

upstairs 161:4 180:20

upward 265:15

urban-rural 87:13 251:2

users 252:20

utilities 74:10 93:16

utilization 173:9

utilize 173:8,18 233:2

utilized 128:1

utilizes 88:15

utilizing 244:18 258:12

V

vacant 235:10

valley 61:3,8 130:9

valleys 96:19

vandalized 235:11

vapor 229:7

variance 120:8

variances 15:21 20:1 103:12,15

vegetation 48:13 63:21 65:10,15 83:18 84:7,20 277:9,11, 20 278:7,18 287:8 289:8,20

vegetative 97:3

vehicle 57:1,8 156:13 265:20 266:5 268:16 269:17 272:1 274:2 291:21 292:2,5,7,9,12, 18,20 293:2,3,5, 6,12,16,18,20,21 294:1

vehicles 43:3 80:21 123:5 155:15 156:8 162:8 251:15 262:7 269:14 270:11,18 271:19 292:7 294:2

verbalize 205:19

verified 143:12 203:9

verify 75:20 253:16

version 40:7

versus 7:20 109:16 193:19 195:14 199:6 228:7 235:10 246:15 257:8 271:7

vertical 264:15 265:18

vice 239:2,8 240:3

vicinity 47:11 48:9 52:5 57:18 65:6 66:3 79:5 81:5 87:18,19 99:1,14,17 102:9 133:1 183:5 206:6

view 55:6 60:1 61:7 76:13 84:6 103:11 211:14 271:7 288:14 291:5

viewing 127:4

viewpoint 77:12

violate 195:10 197:5

violation 175:15 176:12 177:9

Virginia 240:13, 18 241:20

virtually 35:6

virtue 30:18

vis-a-vis 276:14

visibility 51:13 95:4,7 211:11 216:12 222:8,10 232:16 304:1

visible 57:14 59:2,3 65:19 66:21 67:3,12 184:9,19 185:11 222:18 234:7

visit 49:15 140:15,16,18 165:12 203:12 214:19 215:10 224:3 253:10 277:11

visited 51:17 68:18 139:16 141:13 160:14 161:3 202:18 203:1 214:9,17 215:12 217:5 277:16

visits 115:8 182:5 188:2 234:5

Vista 49:3 67:17 68:1,3 72:7,9 73:12,15 91:9 219:19,20 246:4 247:14 248:3 283:21

vistas 71:1

visual 5:15

vitae 241:2

voice 14:5

voir 18:3 28:16 29:8

volleyball 115:5 125:10 131:12, 13,17,20 132:9 146:1,2 186:3,20

volume 159:8 254:17 259:19

W

walk 195:3 233:9

walked 141:7 151:20 203:12 234:4 286:18

walls 218:21 304:20

wanders 46:13

wanted 5:11 116:14 233:6 249:11 294:11

warn 303:4

warning 249:5 297:21

Washington 6:9

water 74:11,15 79:7,9 94:4,8 138:2 141:14 142:5,10 204:21 207:4 209:9,11, 14,20 210:7 232:9,14

ways 113:7

website 86:7

Wednesday 298:19 300:15

weeds 278:7

week 5:18 28:3 29:5 93:4 254:16 300:4

week-to-week 197:13

weekday 49:15 253:2,4 254:18 258:1,20

weekend 253:9 254:9 255:1 258:2

weekends 175:2 253:8

weekly 198:20 280:5

weeks 126:14

weigh 295:3

weight 33:2

welfare 26:7 88:8 199:17

west 62:15 64:21 65:7 66:14 85:18 102:1 112:16 130:16,17 185:11 186:7,14,15 189:1 205:11 210:15 221:5 231:2 233:13,14 240:13,18 247:15 278:14,15 283:4, 7 287:8 290:10 296:1 303:15

westerly 45:16 55:9 63:20 65:14 67:19 68:1 101:20 139:3

western 48:18 63:19

wet 272:7 274:10

wetland 137:14, 18

wetlands 26:21 27:5,12 31:13 32:14 97:12

whatnot 220:14

whichever 186:3

white 184:20

wide 45:18

widening 279:8 304:10

wind 250:13

windows 174:11 215:19,21 217:9

wing 58:10

winter 277:9 289:7 290:4,6

withdraw 89:19 191:2

witnesses 9:6 11:1 153:3 218:4 299:18

wondering 217:6

wood 133:3

wooded 45:21 46:6,9 48:12 52:9,10 83:12

wooden 67:11

woods 34:9 39:10 45:11,12

46:1,4 48:21 71:2 115:17,21 117:18 201:21 221:7 227:18,21 230:21 231:18

word 166:7,11 171:10 272:15

worded 150:16

words 38:8 76:19 154:10 173:12 186:9 193:2

work 15:9,11,13 16:14 22:3,6 31:6 88:17,18 115:5 159:9,18 160:15 161:10 164:18 172:5 174:12 175:2 180:7 199:14 207:8 238:15,16 257:19 290:16 291:16,19

worked 15:15 21:16 22:5 121:4

working 36:12 99:15 106:6

works 4:10 8:19

worn 274:10

worried 119:14, 15

worse 191:17 192:3,15,21 295:20

worship 60:1,4,5 80:4,7 90:5 91:14 92:10 94:15 95:12 96:6,15 104:10 127:16 128:1 129:1,3 154:15,16 155:6 179:11 180:7 188:7 196:10,20 200:13 215:14, 15,21

worshipping 154:17

worst 260:20

wrap 121:2

writing 4:15

written 155:5 177:5 228:21

wrong 20:15 69:15,16 228:21 237:11

wrote 218:20

Y

yard 63:10 65:13 83:21 132:18 227:2 228:7 231:19

yards 64:11 206:15

year 28:11 68:18 178:15,16 179:1 199:5,15 260:14

yearly 197:17

years 14:17 15:7, 12 21:17,21 22:9, 11,21 23:4 24:13, 15,17 25:1,10 116:16,20 218:15,16

yellow 257:12 292:2,14,15

yesterday 5:11

yet alone 77:16

yield 274:14

you-all 4:16 149:21

young 271:20

Z

zone 90:6 92:11 96:6 104:12 151:16,17 170:20 171:3 192:11 225:6

zoned 38:14 95:9 188:17 189:13 190:20 191:6 227:6

zoning 15:20,21 17:1,13,18,21 24:7,9,13,16 25:6,16 30:18 35:1 37:20 80:4, 13 87:10 93:14 95:17,18 103:12 150:12 151:8,20 152:4 153:19 172:12 173:3 192:12 241:11

Day 2

BOARD OF APPEALS OF BALTIMORE COUNTY

Case No. 18-122-X

In the Matter of: Nepali American Cultural Center

Re: Petition for Special Exception pursuant to BCZR Section 1A01.2.C.6 to allow a church or other building for religious worship on property zoned RC-2.

* * * * * * *

Baltimore County Council's Chambers
Historic Courthouse
400 Washington Avenue
Towson, Maryland 21204

Thursday, September 6, 2018
Commencing at 9:22 a.m.

****

IRWIN REPORTING
301 W. Pennsylvania Avenue
Towson, Maryland 21204
(410) 494-1880

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I N D E X

Testimony of: Page

John Motsco

By Mr. Schmidt 14, 33, 198
By Mr. Holzer 18, 105, 218

Joseph Caloggero

By Mr. Schmidt 238, 244
By Mr. Holzer 243

P R O C E E D I N G S

MR. GARBER: Welcome everyone to Day 2 of the Nepali American Cultural Center matter, Case No. 18-122-X. Again, this is the Day 2. We are convened here again today at the County Council room. With that in mind, I know there was confusion as to whether or not we should be back at the Board or whether we should be here.

I understand from Ms. Kennington, who works over at the Court of Appeals, that she has asked that if there is to be any modification in the agreement, the prior agreement, as to how we're going to settle this then we can communicate in writing.

So if you-all want to switch back to the Board of Appeals for Day 3, please send an email to Ms. Kennington so that she can make arrangements with County Council and let them know.

MR. HOLZER: Can we put it on the record here before the Board right now?

MR. GARBER: That's fine as well, if that's the agreement.

MR. HOLZER: My position is that I thought Ms. Kennington knew last time at the end of the case that we thought that we could go back. But she had, out of an abundance of caution, scheduled it over here.

MR. GARBER: The notice had it listed for all days being in this room.

MR. HOLZER: I understand. I advised her yesterday, depending on what counsel wanted to do, I believe that we could be accommodated in the Board office or Board hearing room, which with allow you more comfort from the standpoint of having the audio, the visual, whatever else is necessary, instead of having to try to set it up over here for the next day. And the next day would be September 12th, which is next week.

MR. GARBER: We will note that the attendance here today is fewer in terms of people compared to Day 1.

MR. HOLZER: Correct.

MR. GARBER: The Board's normal room easily will accommodate the people who are present here today for Day 2.

Mr. Schmidt?

MR. SCHMIDT: Just for the record, for the court reporter, Lawrence E. Schmidt with Smith, Gildea & Schmidt with offices in Towson at 600 Washington Avenue, here today on behalf of the Petitioner. And seated to my immediate right is Timothy Kotroco, who is my co-counsel.

In terms of what Mr. Holzer said, I would agree. And we can follow up with a letter, if Ms. Kennington wants that.

I will say, we sort of deliberately asked our side not to come out in force, because we half thought we were going to be back over there with Mr. Holzer, since we had talked about it last time.

We told our people that they didn't need to show up as much, which accounts for our crowd. I think we can go back across the street. That would

make sense.

MR. GARBER: To be clear, for today, if you did tell folks that they didn't need to attend today because you thought we would be meeting at the Board, are you saying that we should do something about that, that is, to allow them to attend?

MR. SCHMIDT: Yeah. We'll make sure, I think, next time probably a group of this size. This is about the amount of people we were expecting.

(Attendee participation.)

MR. SCHMIDT: For the benefit of the court reporter, my client, a representative of Nepali, indicated that we should be okay from our standpoint in terms of the number of people attending.

MR. GARBER: But as for Day 2, today you're not contending that there's going to be a problem because the confusion as to whether or not they should be back at the Board of Appeals versus today in terms of your client and your members

attending, correct?

MR. SCHMIDT: There's no problem for today.

MR. GARBER: We can proceed today then?

MR. SCHMIDT: Yes, sir.

MS. DOPKIN: Out of an abundance of deference to Ms. Kennington, if you guys could just do a one-line memo and sign it so that she has a piece of paper for the file, she'll be happier.

MR. SCHMIDT: Absolutely. I understand. I like her to be happy too, that way I can get my hearing dates occasionally. I agree.

MR. GARBER: I will alert everyone now that there may be a problem for me on October 11th, which is Day 4. I'm still trying to sort that out. There was a subsequently scheduled deposition, of course.

MR. HOLZER: Understood.

MR. SCHMIDT: We know how that works.

MR. GARBER: Also for those in attendance here today, we are treating this as if it

is a courtroom. Therefore, turn your cellphones off or mute them.

In addition, there is to be no loud noises, no interruptions, no audible comments regarding testimony or opinions on the matter. That's reserved obviously for the witnesses and counsel up front here today.

If you need an ADA-compliant bathroom, I understand they are located on the first floor. Other than that, we can get started.

MR. SCHMIDT: Thank you Chairman Garber and members of the Board --

MR. GARBER: Real quick.

MR. HOLZER: Could I have a preliminary?

MR. SCHMIDT: Yes, sir.

MR. HOLZER: J. Carroll Holzer, 508 Fairmount Avenue on behalf of the Protestants that were here on Day 1, rather than have to list them, I would add, I have a letter here but it's not signed. But I've been retained by the Greater Kingsville

Civic Association, Inc.

So as of today I would like -- and I'll be representing them as a party in this matter.

MR. GARBER: Greater Kingsville --

MR. HOLZER: -- Civic Association, Inc. And Dorothy Foos, who many of you may know --

MR. GARBER: I do know Ms. Foos.

MR. HOLZER: -- as the president, has authorized me to represent them. They sent me an unsigned copy. I'd prefer to have a signed copy. I'm going to hold on to it until the next hearing, and then I'll introduce that.

MR. GARBER: Mr. Schmidt, anything about that?

MR. SCHMIDT: No, sir. I'm sure Mr. Holzer will supply that, when he gets it.

MR. GARBER: Mr. Schmidt.

MR. SCHMIDT: Before I call my next witness, Mr. Garber and members of the panel, when we were here last time, there was some cross-examination, I believe, by Mr. Holzer of my

client and some of the witnesses, and he requested that we produce certain documents, which I brought today.

So I'm going to hand to the Board what I've premarked. I believe we are up to Exhibit 5. I will give, if I can approach, to Ms. Murphy an original and three copies.

This is a copy of the Articles of Incorporation of Nepali American Cultural Center of Baltimore that we just simply got from the Department of Assessments and Taxation. The entity is a entity in good standing with that office. Mr. Holzer had asked about that.

(Petitioner's Exhibit No. 5 marked for identification.)

The next two exhibits, which I premarked as Exhibits 6 and 7, there had been some questions about a deed of trust for the property when my client purchased the property.

I think, as I recall, Mr. Holzer may have had a copy of it but it wasn't the copy that showed

it was recorded in the land records with the clerk's stamp on it. I've given Mr. Holzer a copy of that.

There's also a letter from the attorney who is the attorney who prepared the document indicating that he prepared it. There's some language from him as well on that. And Mr. Holzer asked that we bring copies of that document.

MR. GARBER: Just to be clear, Exhibit 6 seems to be --

MR. SCHMIDT: The letter. I kind of got them a little backwards, I think. Exhibit 6 is the letter, and the deed of trust is 7.

If you look on the last page of the instrument it indicates or -- it's page 43 in the recording book -- says, I certify I'm a licensed Maryland attorney. I prepared this deed of trust. And the letter is from Daniel Radebaugh.

I would just mark those accordingly. And, with that, I would call my next witness, if I can.

MR. GARBER: Mr. Holzer, any problems with Exhibits 5 through 7?

MR. HOLZER: No. I believe they were requested and promised.

MR. GARBER: They will be so admitted.

MR. HOLZER: There may be an additional one.

MR. GARBER: So 5 through 7.

MR. HOLZER: That's fine.

(Petitioner's Exhibit No. 6 marked for identification.)

(Petitioner's Exhibit No. 7 marked for identification.)

MR. SCHMIDT: My next witness would be John Motsco. If I can ask Mr. Motsco to come up to the stand.

(Witness Motsco sworn.)

MS. DOPKIN: State your name and address for the record, and spell your last name.

THE WITNESS: My name is John Motsco, M-O-T-S-C-O, professional engineer with Little & Associates at 1055 Taylor Avenue, Suite 307, in Towson, Maryland.

EXAMINATION BY MR. SCHMIDT:

Q. Mr. Motsco, you can sit. I know we have Exhibit Nos. 1 and 2 behind you. If you need to refer to them during the course of your testimony, please get up. Just keep your voice up so our court reporter and the Board can hear you.

You've identified yourself, Mr. Motsco, as an employee of Little & Associates?

A. That is correct.

Q. Just briefly, what's the nature of the business of Little & Associates?

A. It's a civil engineering firm specializing in land development, land planning, surveying, permitting.

Q. How long have you been with Little & Associates?

A. Fourteen years.

Q. And what's your occupation personally? What do you do?

A. I'm a senior project engineer, and my job is to supervise a team of engineers, preparing

plans, computations and other such documents for county and regulatory approval.

Q. Are you a professional engineer and licensed in the state of Maryland?

A. Yes, I am.

Q. How long have you been so licensed?

A. Five years.

Q. And tell us a little bit about the nature of the work you've done. You've described it a little bit.

But have you done work in Baltimore County over the years?

A. Yes. Our work is primarily in Baltimore County. At the time that I've been employed with Little & Associates, I've worked on a number of projects from single lots, minor subdivisions to 150- or 200-lot subdivisions, numerous commercial properties of various sizes, large flex-use buildings, down to small convenience-store type.

Q. Have you prepared plans for zoning cases including special exceptions, zoning variances and

the like?

A. Yes.

Q. I show you Exhibit No. 1, which is the site plan that's on the board.

Did you prepare that document, or was it prepared under your supervision and direction?

A. Yes.

Q. Let me show you, Mr. Motsco, a copy of the document I believe --

MR. SCHMIDT: Ms. Murphy, I did not premark this. I will give you the copies.

Q. (By Mr. Schmidt) -- which is entitled John Motsco, PE. I ask if you can identify this.

A. This is a copy of my resume and work experience.

Q. Generally describing, I assume, sir, the nature of your background, your education and so on, so forth.

A. Correct.

Q. I note that it also indicates, on the second page, development plan hearings, Board of

Appeals' hearings, and zoning hearings that you've participated in.

A. Yes.

Q. I assume at those hearings you've testified as an expert witness?

A. Correct.

Q. And been accepted by the Board of Appeals and the county's administrative law judge as an expert witness.

A. Yes.

MR. SCHMIDT: I'm going to offer this as Exhibit No. 8 and offer Mr. Motsco as a civil engineer with expertise as it relates to the zoning petition and issues surrounding the same in this case.

MR. GARBER: Expert in --

MR. SCHMIDT: He's a civil engineer. He does have expertise in the zoning regulations as they are applicable to this case.

MR. GARBER: Expertise in Baltimore County zoning regulations with specific reference to

this case.

MR. SCHMIDT: Yes, sir.

I will turn him over to Mr. Holzer for voir dire.

MR. HOLZER: Thank you.

(Petitioner's Exhibit No. 8 marked for identification.)

MR. GARBER: On Exhibit 8, where are you.

MR. HOLZER: It was just handed to me.

MR. GARBER: Sorry. I'm just trying to compartmentalize the two issues.

MR. HOLZER: Right. I'm just having a minute to glance over it based on his testimony and based on the background.

MR. GARBER: I meant just solely for admissibility.

MR. HOLZER: I understand.

EXAMINATION BY MR. HOLZER:

Q. I'm looking at the list of community input meetings. None of those are official in terms of

administrative law hearing or a Board of Appeals' hearing, right?

A. No.

Q. Just county community --

A. It's a requirement of the county development process.

Q. And you don't have to be an expert or attorney to deal with those.

A. Correct.

Q. In development plan hearings, those would be in front of an administrative law judge?

A. That is correct.

Q. And that was Mr. Beverungen?

A. I believe in every case so far on those it has been.

Q. In the Trappe Lane case before this Board, did you testify as an expert?

A. I did.

Q. And they recognized you?

A. That is correct.

Q. All the rest of the cases listed are

variances, special hearings, and special exceptions. You listed a number of those, is that correct?

A. Yes.

Q. They've all been for developers, applicants?

A. Homeowners. Yes.

Q. Property owners.

A. And homeowners.

Q. Have you represented any individual neighbors or individuals who own a single-family house?

A. Yes.

Q. Which ones?

A. It was the Morris Avenue or Lane. I don't recall which it was. I may have actually the wrong name. If I could see the list, I would be able to tell you.

Q. Counsel can give you the list.

(Complies.)

Q. (By Mr. Holzer) I'm looking halfway down to Morris Avenue, I think, is what you suggested.

A. Yes.

Q. What was that project?

A. That was a setback to a flood plain for the current homeowner/resident.

Q. Any other ones where you've represented individual homeowners rather than developers or builders or applicants?

A. The Phoenix Auto. I represented the operators of the business. It's an auto repair shop. Height residence is for the current resident of that dwelling as well.

Q. On 1250 Jerusalem Road?

A. Yes.

Q. Let me go into your background, if I may, just a little bit.

Interesting that you've worked for Little & Associates for 14 years, you've said, but you've only been a licensed civil engineer for five, is that correct?

A. That's correct.

Q. What were the other nine years? What did

you do for them?

A. As a civil engineer, once you have a degree, there's a requirement of work experience prior to getting a license.

During that time, I worked under and along with others people at work, professional engineers at that time, to learn more about the profession and prepare myself to become a professional engineer.

Q. So as of five years ago you were able to say you got a degree in civil engineering, right?

A. Five years ago today, I was able to say I was a professional engineer.

Q. Right. Up until then you were not able to say that, when you testified at any hearings or whether you commented on your opinion in any hearing.

A. I did not appear at any hearings prior to having my license.

Q. So all of these appearances listed on page 2 of Developers 8 occurred within the last five years.

A. That's correct.

Q. Okay. Thanks.

Now, in terms of your experience in the last five years, do you have specific engineering qualifications or degrees relative to sound issues?

A. I do not.

Q. What about forestry, forest analysis, forest development, forest buffer planning, et cetera?

A. Forest buffers and forest conservation, that is not an engineer exercise. That's done by an environmental ecologist. It's a separate certification and education.

Q. And did you say you have a certification as that?

A. No, I do not.

Q. As part of your qualifications, does land planning fall within the civil engineering degree?

A. It does in this jurisdiction.

Q. It does in this jurisdiction.

A. Yes.

Q. Baltimore County, you mean.

A. Yes.

Q. In other jurisdictions it may not.

A. Some jurisdictions offer a separate license or registration of some sort for land planners specifically. But that is not available here.

Q. In regard to zoning regulations, is there a degree or certificate that you would have received to make you an expert in the Baltimore County zoning regulations?

A. Not to my knowledge.

Q. So any knowledge of yours relative to zoning would be based on, what, your five years of experience?

A. My full 14 years of experience.

Q. So you dealt with zoning issues for 14 years?

A. Yes.

Q. Even though the first nine you were not qualified or received any qualifications or degrees, is that correct?

A. I had a degree for the 14 years.
Q. What degree?
A. Civil engineering.
Q. Maybe I'm confused.
Did you obtain any certification or a formal background in terms of zoning in Baltimore County?
A. No.
Q. You learned it during the course of your 14 years from experience, is that correct?
A. That is correct.
Q. Now, as a civil engineer, do you have any ethical requirements or standards which you are obligated to follow in terms of responsibilities not only to your client but to any one relative community that may be around to the zoning administration personnel?
A. Yes.
Q. What's that?
A. Civil engineers have a code of ethics as part of the licensing.

Q. Could you just tell us -- don't spend more than five seconds on it -- what is your responsibility?

A. To uphold the law and do the right thing.

Q. The right thing for your client or the right thing in terms of a particular project?

A. Public health, safety, and welfare.

Q. Good. Okay.

Do you have any qualifications relative to stormwater management?

A. Just my professional license and my experience.

Q. Is there anything --

Are there any other kinds of degrees or any approvals that are necessary to be an expert in stormwater management?

A. No, there are not.

Q. There are not.

Do you have any credentials that address your expertise in regard to determination of wetlands?

A. I didn't state that I had any qualifications. That's a environmental ecologist. I'm an engineer.

Q. So you're not saying that you can comment on wetlands, or whatever, that may be on the property or elsewhere.

A. Other than what is shown on the plan as determined by others, if that were to apply.

Q. That will get me into a question that I will pursue, when we get to your direct testimony.

But you're saying now that anything relative to determination of wetlands is not your personal analysis. It was someone else's.

A. That's correct.

Q. From your position as a senior project engineer, does that mean --

Let me ask you this: Did you get into this case initially at the very beginning, or were you retained later?

A. Are you referring to the firm or myself personally?

Q. I'm referring to you personally.

A. I've been involved with this case since the first week it was at the office.

Q. Which was what date?

A. I would not have committed it to memory.

Q. Approximately. 2001? 2014?

Don't look at anybody else.

A. I'm looking at the plan. We have a project number. It was 2017, is when the project was started.

Q. Do you recall in what month of that year?

A. Not off the top of my head, no.

Q. At that time was there any -- or had the property been purchased?

MR. SCHMIDT: Objection. This is beyond voir dire, I believe. I'm not quite sure where we're going.

MR. GARBER: I agree that the last question involving in this project seems to be a bit far afield from his qualifications as to whether or not we should receive him as an expert in the fields

tendered by Mr. Schmidt.

MR. HOLZER: I'll get it later.

Well, I believe I can ask him --

Well, he's already explained, I believe, that he was initially in this project some week in 2017.

MR. GARBER: Yes, but for purposes of voir dire, that is, again, Is he an expert in the fields identified by Mr. Schmidt? I'm not sure --

Explain to me why it would be relevant to that analysis.

MR. HOLZER: I can re-ask the question during the merits questioning, if you want.

I have no further questions.

MR. GARBER: In the fields as identified by Mr. Schmidt, are you satisfied, or do you object to him as an expert?

MR. HOLZER: I object to him as an expert for purposes of the record.

MR. GARBER: And on what basis?

MR. HOLZER: That I don't think he's

qualified to render opinions. I read the administrative law judge testimony, which I know is not relevant for purposes of this Board. It's here de novo.

But I think he's made comments, testimony that exceed his ability as an expert to testify. I just want to avoid having those expressed here before the Board.

MR. GARBER: If it comes to the testimony that goes beyond the scope of how he's been proffered as an expert, certainly you would have the right to object on that basis and then see how things go, maybe cross-examine him if it gets to that. You have both of those available to you during the course of the merits.

But in terms of him being an expert in civil engineering, him being an expert in Baltimore County zoning regulations by virtue of background and everything, do you --

MR. HOLZER: I still object.

MR. GARBER: Mr. Schmidt, do you have

any response?

MR. SCHMIDT: I would just say -- obviously I can ask the witness about this -- I think the Board and Mr. Holzer will know that Little & Associates, like all engineering firms, has a broad base of people who work there.

Mr. Motsco was the lead guy. There were other people in his office who contributed, I'm sure, to the preparation of the plan.

If there's a specific detail that Mr. Holzer objects to, I can try to produce that person. But he is the project manager. And if I ask him if his company identified wetlands, I think that's something he can answer. But he's clearly an expert. He's the lead guy for Little & Associates on this project.

MR. GARBER: Just to be clear, the seal and stamp on there, are you the engineer of record?

THE WITNESS: Yes.

MR. GARBER: I think that --

MR. SCHMIDT: He's sealing that that

plan is accurate. I don't know where Mr. Holzer is going with this. But that plan was obviously prepared by Mr. Motsco. He sealed it and his team.

MR. HOLZER: My response is, yeah, he sealed it. Yes, he's the civil engineer. But he relied on the opinion of others to form certain testimony below.

I just want to make sure that when I make an objection to testimony that is being offered, it will be within the context of the fact that he has admitted he is not a sound expert. He had admitted that he's not a forestry expert. He's admitted that he has no stormwater management expertise, nor wetlands.

So I'm only saying that I am familiar with what took place below, even though I was not there, because I read the transcript. I just want to avoid extension of his testimony into areas that he personally is not qualified for.

MR. GARBER: With that in mind, we're going to accept him as an expert as tendered by Mr.

Schmidt. I believe that the issues raised by Mr. Holzer go to the weight of the testimony, which is a matter for the merits of the testimony to come.

So, with that in mind, Mr. Schmidt, you may proceed.

EXAMINATION BY MR. SCHMIDT:

Q. Mr. Motsco, let me start off by maybe addressing some of these comments that have just been made.

You've identified yourself as a civil engineer, professional engineer and so licensed by the State of Maryland, correct?

A. That is correct.

Q. I assume or can you tell us a little bit about the firm that employees you, Little & Associates, and the individuals there who would have assisted you with this project, who helped you out and what kind of things are they involved with as you are the project manager.

A. In this particular project, I had a drafts person that was helping me prepare the physical

plan, and we would have enlisted the help of a licensed surveyor for the property outline. Beyond that it was between me and the drafts person that prepared this plan.

Q. Was there any identification of environmental resources that might exist or don't exist on the property?

A. There are streams shown on the plan and woods line, and those are as provided by Baltimore County GIS.

Q. You indicated that you were --

MR. GARBER: If I may, you said Baltimore County GIS. Could you identify for the record what you're referring to.

THE WITNESS: Geospatial information systems, I believe it stands for. That is a digital format that the county has flown aerial photography of the county in order to determine topography, the locations of existing paving, buildings, streams, tree lines, any number of features. They have the files available from the county, not including the

official zoning lines, ergo, metro, district.

Any number of things that were previously on paper maps provided by the county are now being incorporated into their GIS system. That is available to the public for download and serves as a starting point for virtually every project.

Q. (By Mr. Schmidt) Is that an acceptable data source for you as an engineer to use in the county information that's available?

A. Yes. In many cases that is the best information available.

Q. Does the county accept plans and documents that's based, in terms of the source of data, on the information in the county's GIS system?

A. Yes.

Q. In this case, you indicated, you were hired in 2017 or Little & Associates was hired in 2017.

A. Yes.

Q. And are you aware --

Did you attend the hearing before Administrative Law Judge Beverungen in this case?

A. I did.

Q. And did you testify at that hearing?

A. I did.

Q. And Judge Beverungen, I believe, issued a decision in this case in January of 2018, and the hearing was shortly before that decision was issued.

Knowing that that's when you testified before Judge Beverungen, does that give you any assistance in how long you may have been involved in the project before it went to that hearing?

A. I would say sometime around six months. I know we were working on the project for quite some time before we got to the hearing. The hearing was rescheduled, I believe, once.

Q. So perhaps in the spring or early summer of 2017?

A. Yes. Late spring, early summer.

Q. Okay. And you indicated you have sealed this plan, is that correct?

A. That is correct.

Q. Let me ask you: Are you familiar -- I

assume you are familiar with this property and the site?

A. I am.

Q. Have you been there personally --

A. Yes.

Q. Mr. Motsco, let me finish my question, before you answer --

A. I'm sorry.

Q. -- just so the court reporter can get both question and answer.

Have you been out to the property?

A. Yes.

Q. How many times?

A. At least twice.

Q. Can you maybe give us a little bit of overview -- if you would like to use either the aerial or the site plan, maybe the site plan -- and describe the property?

When I say to describe it, I'm going to ask you generally about the zoning and the geographic character and improvements.

MR. GARBER: Before you start, if you're going to point, you're going to need to describe what you're pointing to and where on Exhibit 1 that you are pointing.

Because, obviously, you can say, Right here. The court reporter is not going to be able to take down what you are conveying, other than the literal words.

So please try to be specific as to what you're pointing to or referencing.

A. This is Exhibit 1. We're using Exhibit 1. The property itself is marked by a heavy bold, dashed line that surrounds the property. The property contains 30.8 acres. It's zoned RC-2.

The property is bound on the northwest side and north side by Harford Road, which is labeled, and runs along the boundary of the property as well, including through the very northern part of the property.

There is a existing access driveway near the intersection of Harford Road and Bonaparte

Avenue on Harford Road on the south side that leaves Harford Road and heads south into the site, meandering to the existing house which is more or less in the center of the property. It's a little to one side but it is centered generally in the property of the existing house and driveway there.

Most of the driveway are open field. It looks like it may have been lawn at some point in the past. The limits of the lawn is roughly outlined by a plan which is labeled "Woods." There's three out-structures; there's a pool and then a small pool house, a shed and a two-story dwelling that are also on the property. And they are all located to the east and southeast of the main house.

To the northeast of the house, there's an existing tennis court, and then at the very southern end of the property, there is an existing large barn.

MR. GARBER: Just by way of background, you said there was marked as Exhibit 1 the map that

you're looking at prior to the start of the hearing.

We all agreed to use that physical exhibit that you are actually referencing with the actual label "Exhibit 1" in the file.

Mr. Holzer and I are in agreement that is the exact same plan as what's contained in the file version of Exhibit 1.

MR. HOLZER: I would add to that. I would mark this exhibit as 1A so that way we have everything that you have.

MR. SCHMIDT: I would be happy to do that.

Just for the record, Exhibit 1A, which I'll mark, is now on the board. If I can have a sticker, I will do that. I'll mark this 1A. It's identified as is Exhibit 1, as the plan to accompany the Petition for Special Exception. This is on a hard board, and it's a little easier for us to mount on the easels. It's the same document.

MR. GARBER: Mr. Holzer, that's acceptable?

MR. HOLZER: Yes.

(Petitioner's Exhibit No. 1A marked for identification.)

Q. (By Mr. Schmidt) Mr. Motsco, you described, I think, the improvements on the property.

The buildings that you've described, the barn, the tennis court, the pool, et cetera, they are all existing, are they not?

A. That is correct.

Q. Is there anything on this plan that is not existing as of today in terms of improvements on the property?

A. We have a portion of parking and a small bit of driveway extension that is north of the existing house and it comes off of the existing driveway, where it bends on the more northerly part of the existing driveway.

Q. I know it's going to be hard to describe, as Chairman Garber mentioned, but could you go up and point out and describe as best as you can where the parking area improvement is going to be and

where the driveway extension may be?

A. As you're coming into the site on the existing driveway, there is a bend to the left where you turn and face the existing house. At that point, there is a small spur of existing paving that will have a fire department turnaround installed and some pull-in parking spaces on that small spur of existing paving.

And then continuing on the main driveway to the house, between that bend and the loop portion of the driveway at the house, there are additional parking spaces proposed on both sides of that drive aisle.

Q. You indicated there's a fire engine turnaround. What's the purpose of that? Why would that be shown here?

A. It's a requirement of the fire code, that the fire department have a way --

The loop driveway would serve the function at the existing house, and then for the small spur there would be an additional turnaround required.

That is in the event of a fire or other emergency that requires the fire department to bring equipment. They are able to maneuver their vehicles and get it back out of the property and not get stuck.

Q. You've described the improvements to the parking lot and the fire turnaround.

Can you also point out the possible relocation or possible extension of the driveway down at Harford Road?

A. We have alternates that are being explored by our traffic engineer with State Highway. There is a alternate access drive that is shown on this plan as provided by the traffic engineer that illustrates an alternate exit which may be used to satisfy SHA requirements.

Q. Other than the two what I'm going to call areas of proposed improvement, the driveway and the parking area with the turnaround, are there any other improvements proposed for this property as part of this plan?

A. No physical improvements. I believe they are still undergoing cosmetic improvements to the property.

Q. Any new building proposed, new structures?

A. No.

Q. I think there was testimony in the first day of hearing that some of the structures that are there, some of the older structures, particularly the ones that are in a state of disrepair, may be removed, is that correct?

A. That's my understanding as well.

Q. As to your understanding, do you know which of those structures may be removed?

A. The one I know for certain is the existing pool and the structures that are there for the enjoyment of the pool are in disrepair and likely to be removed first.

Q. You indicate that Harford Road essentially -- and it's shown on your plan -- runs along the perimeter of a large portion of the property, isn't that correct?

A. That is correct.

Q. Is that a county road or a state road?

A. It is a state road.

Q. Maybe you can draw your attention, now that you've described the property for us a little bit --

Well, let me ask you, before I leave there: Could you also show the Board maybe again --

I know it's hard to point out. I hear what Mr. Garber is saying.

Is much of the property in woods and trees?

A. There's a swath of woods along Harford Road that at its narrowest is probably 60 or 50 feet and closest to the driveway entrance.

And then as you move around along the Harford Road side and you get to the westerly side of the property, the patch of thick trees is approximately 100-feet wide.

That continues into the southern portion of the property around the barn, which becomes almost completely wooded.

The woods then continue on the eastern property line, the two main eastern property lines along the existing stream that is there, and there's a large swath of woods there as well.

Q. Does this plan show or is it anticipated that there would be any clearing of these wooded areas?

A. We do not anticipate any clearing of the wooded areas at this time.

Q. You did mention that there's a stream on the property. Where is that located?

A. It runs along the southeastern and southern property line. It wanders on and off the property and onto the neighbors but generally along the southeastern and southern property line.

Q. Is there any construction or road improvement or building or anything in that area of the stream, or will there be any impact to the stream under the proposal?

MR. HOLZER: Objection. For purposes of the record, he established that he is not a

person that can identify an environmental impact, and he's admitted that was somebody else.

MR. GARBER: Can you restate your question?

Q. (By Mr. Schmidt) Let me ask it this way: Mr. Motsco, is there any new construction, be it road construction, grading, or any type of improvement, that would impact the stream that exists on the property?

A. There's no proposed construction that is in the vicinity of the stream.

Q. The parking lot expansion, as you've described it, and driveway expansion, how far are they away from the stream? Could you even estimate?

A. Roughly estimating, 500 to 700 feet away from the stream.

Q. Let me ask you, if I can --

And maybe I'll draw your attention to Exhibit 2 which is also mounted.

There was testimony before, Mr. Motsco, about the general locale or neighborhood of this

property. I think that aerial photograph shows the property, does it not?

A. It does.

Q. Is it outlined or how is it shown on Exhibit 2?

A. It's shown roughly in the center of this plan and it is with a pink highlighter.

Q. Can you tell is a little bit about the general vicinity and the locale in which this property is located? What's around it and near it?

A. To the east and south of the property, there is a significant portion of existing wooded vegetation, trees. And the stream we previously talked about is in that area. Beyond that, there is some farmland with some scattered houses.

On the opposite side of Harford Road from our site, there are single-family dwellings. That would be on the western and northern side of Harford Road from us. There's a handful of individual homes. And beyond that there is another patch of woods. And I believe there's a stream in there as

well.

To the east of the property, we have a church and a school that are actually on Mount Vista Road, which intersects Harford Road near the property. They would be east of the property, heading towards the edge of the plan.

Q. Is that, I believe it's referred, the Christian Redeemer property?

A. Yes, that's one of them.

Q. And can you describe --

I think you said a church and a school. Can you describe the activity that goes on there, to the best of your knowledge, in a little more detail?

A. The only knowledge I would have is from a visit, seeing the activities on a weekday. At that time, the church facility appeared to be a standard Christian denomination church. It was kind of quiet in the middle of the day but otherwise appeared to be in use and able to support a sizable congregation.

The school at that time was running a day

camp with several hundred kids out and about playing in the fields and the other facilities on the site.

Q. Is there a swimming pool there?

A. There is a swimming pool.

Q. Is there a corn maze on the property?

A. It does appear that there was, at least at the time that this photo was taken.

Q. How about the topography of the site and the general area; flat, hilly? What kind of topography was there?

A. It's very hilly.

Q. How about the property? Is the former dwelling at the high point or low point? Can you kind of describe that for us?

A. The main structure is at the highest point on this property. It appears to be the highest point in the surrounding area.

The property generally in all directions slopes down, in some cases rather quickly from the main house and lawn area to the property line of the neighboring properties.

Q. The property at the present time --

Is the building occupied at the present time? Is anybody living there?

A. Nobody is living there.

Q. How about in the outbuilding that you described, the other small dwelling near the main dwelling?

A. No, they're not currently used as residences.

Q. Is the property in any kind of agriculture use at the present time?

A. It is not.

Q. How about the visibility of the building? Can it be seen, if you know, from Harford Road or from adjacent properties?

A. I can't speak for adjacent properties. I haven't visited all of them. From Harford Road, at best, there are a couple spots where you may get a glimpse of the building but it's generally screened from the road.

Q. Is that because of the trees?

A. Because of the trees and extreme topography along Harford Road.

Q. Are there any farms that you know of or any either dairy or agriculture or even properties that are planted in the immediate vicinity or adjacent to this property?

A. There are none immediately adjacent. The immediate adjacent properties are all currently wooded.

Q. Wooded or residential?

A. Yes.

Q. Or, I guess, institutional in the case of the Redeemer?

A. Yes.

Q. I think this might be a good time since you've been describing the property in the area --

MR. SCHMIDT: Ms. Murphy, I have premarked a series of photographs with letters, not numbers, because I didn't know what numbers I would be up to. I will give you four copies of those. Hopefully, they are all identical. I will give the

witness one as well. If I can, I will stand over his shoulder, so I can see them as well. I brought six copies.

(Petitioner's Exhibit No. 9A-MM marked for identification.)

Q. (By Mr. Schmidt) Mr. Motsco, I'm going to show you a series of photographs and ask you to identify each one, if you can, sir.

MR. GARBER: Before you start, this is Exhibit 9.

MR. SCHMIDT: Yes, it would be 9. As I indicated, each photograph is labeled with a letter, which I will refer to as a letter as I question the witness.

MR. GARBER: The copy I have received runs from A through MM.

MR. SCHMIDT: That's correct.

Q. (By Mr. Schmidt) Mr. Motsco, if you can do it this way, describe each letter so the Board and the court reporter knows what you're talking about.

MR. GARBER: Mr. Holzer, do you have a

copy?

MR. HOLZER: Yes, I do.

Q. (By Mr. Schmidt) We'll start with Exhibit 9A. And, Mr. Motsco, if you can kind of go through these and tell the Board what they are looking at, what these photographs are showing.

A. Exhibit A shows a new sign that has been installed identifying the property and the use.

Q. Where is that located?

A. That is located at the current existing driveway which has a small landscaped island. The sign has been installed in that island.

Q. And that current driveway actually, when it gets down to Harford Road, splits, does it not, so there's an entrance on one side and an exit on the other?

A. That is correct. It is split.

Q. And then it joins together on the other side of the landscaped drive?

A. Yes.

Q. That's the existing sign that's at the

entrance.

A. Uh-huh.

Q. B.

A. B is looking east from the driveway entrance up along Harford Road, generally showing the view somebody would have from a car.

Q. Okay.

A. C is looking in the opposite direction on Harford Road, which would be westerly.

Q. Okay.

A. D is, again, looking easterly from a different location within the existing driveway. You're able to see a portion of the intersection of Boneparte Avenue in the left-hand side of that photograph.

Q. And Boneparte is kind of on the other side of Harford.

A. Correct. Not directly but across the street from the driveway.

Q. Okay.

A. Exhibit E is a photograph looking down

Boneparte Avenue from the opposite side of Harford Road.

Q. Is that a dead end road; Boneparte?

A. It is.

Q. What kind of land uses are located down Boneparte?

A. Single-family dwellings.

Exhibit F is taken some distance up the driveway from Harford Road, and you can see a gate is installed.

In the middle of the driveway is the landscaped island we discussed. You can also see the split driveway for ingress and egress.

MR. GARBER: F shows what?

THE WITNESS: Where you're standing in the driveway, inside the property, looking back at Harford Road.

Q. (By Mr. Schmidt) The driveway is gated shortly after one would turn onto it from Harford Road.

A. Yes.

Q. Matter of fact, there's a vehicle parked in the driveway, is there not, on the Harford Road side of the gate?

A. That is correct.

Q. Okay.

A. Exhibit G is a little bit further up the driveway, again turned facing Harford Road. You can see the landscaped island and the vehicle. They are in the same location from the previous photograph.

Exhibit H is turned around and it's facing into the property. And we are now a good distance into the property. The driveway goes over a little bit of a hill there and it does turn to the left. The house in this photo is not visible but it is off to the very left of this photograph.

Exhibit I is much further down the driveway. We've made the left-hand turn. This is in the vicinity of the proposed pull-in parking.

You can see in the center of the photo the existing building and the access driveway and the loop driveway in front of the building.

Q. The building was formerly used for residential purposes, correct?

A. That is correct.

Q. This is the building, as was testified at the last hearing, that will be converted to the temple.

A. That is correct.

Q. Are there any exterior additions or changes proposed to that building; enlarging it or putting a wing on or anything like that?

A. No additions.

Exhibit J is now at the beginning of the loop portion of the driveway. It's a little clearer picture of the existing dwelling, proposed temple and shows the turnaround and the lawn space in front.

Q. Okay.

A. Exhibit K. We are now up near the front porch of the existing building. We're looking back along the driveway, towards Harford Road.

You can see the driveway going off towards

the back of the photograph and then just the tree line that is visible, nothing else.

Q. Is Harford Road visible from that --

A. No, it is not.

Q. Okay.

A. Exhibit L is a photograph of the room that will be converted to the temple. In this photograph it shows some chairs set up for a function that was being held previously.

Q. That was described, those chairs.

There are not going to be any pews there or permanent seating but chairs could be brought in for events depending on the particular use at the time, is that correct?

A. Yes, that was my understanding. The chairs would be occasional, temporary use in the temple portion.

Q. Okay.

A. Exhibit M is again in the temple room. It's looking down the main access hallway from the front doors to the left in that hallway. It's just

another interior view of the main worship room.

Q. Okay.

A. Exhibit N is a photograph of one corner of the worship room, and there are two structures of some kind in there for religious worship.

Exhibit O is the back of the building. It just shows the back of the building. It's similar in construction to the front.

Exhibit P is a existing two-car garage that's under a portico.

Q. And that's attached to the building?

A. Attached to the building.

Q. To the rear of the building?

A. It is to the rear on the eastern side of the building.

Q. Okay.

A. This photograph is from --

Q. When you say "this" --

A. I'm sorry.

Q is a photograph showing a little bit of the rear facade of the building standing on that

porch that is over the garage in the previous photo.

You can see to the left of the photo, looking back down the valley. And down there somewhere is Harford Road running along.

Q. Okay.

A. R is the same location. It's turned slightly. It's a better view looking down the valley at the neighbors of Harford Road.

Q. Would that be looking towards the barn which is in the rear of the property?

A. Yes. In the general direction of the barn. Southerly.

Q. Can you see the barn from the building?

A. I do not believe so.

Q. Okay.

A. Photograph S is the smaller dwelling on the property, which is located southeast of the main dwelling.

Q. That's shown on your plan as "Existing Two-Story Dwelling."

A. That's correct.

Q. I know there was testimony about that potentially being a caretaker's cottage or a place for the leader of the priests at that building.

A. Yes. That is that building.

Q. Okay.

A. Exhibit T is a closer photograph of that same two-story dwelling.

Exhibit U is another photograph of that same dwelling.

Q. Is that habitable at the present time, Mr. Motsco, in your opinion?

A. I wouldn't want to live there.

Q. Okay.

A. Exhibit V is the existing tennis court that is to the west of the main house.

Q. And that's also marked on your plan and labeled.

A. That is labeled on the plan.

Q. Okay.

A. Exhibit W. We can see a shelter that's at the pool, and there is actually a pool in that

photograph even though it's overgrown.

Exhibit X is a more clear photo of the structure adjacent to the pool.

Q. Sort of a gazebo, an open-walled structure?

A. Yes. It's a roof.

Exhibit Y is inside of that small structure. You can see to the left side of that photograph there is a pool house and shed structure that appeared to be used for storage for the pool and the yard.

Exhibit Z shows the existing pool and the surrounding pool deck. It's overgrown and in disrepair.

Turn to Exhibit AA. That is a closer photograph of the pool house.

BB is again a photograph of the side of the pool house and storage.

When we turn to Exhibit CC, I believe we're on the western porch of the property and looking in a westerly direction. You can see the existing vegetation. And those trees are mature so the grade

is apparent by the fact that you're looking over the tops of the treetops.

Q. That photograph was obviously taken during the summertime?

A. Yes.

Q. I think the Board members can see it. But there's a label distance from Harford Road, the right of way of Harford Road to the building, of about 340 feet, is that correct?

A. Yes.

Q. So you're over a 100 yards from the building to get to Harford Road.

A. That is correct.

Q. And you indicated that, I guess, it looks like a third of that, or 100 feet, you said, was in forest or trees.

A. Correct.

Q. Is that the area of the trees there that you're looking at?

A. Yes. This would represent the trees to the west of the property between the property and

Harford Road.

Q. That's Exhibit CC.

A. Yes.

Q. Okay.

A. Exhibit DD has moved down to the lawn and it's turned. It's in the same general vicinity to the west of the house. But the photograph was taken in a more southerly direction showing the property as it falls off towards those trees in the middle of the photograph and shows the existing vegetation off into the distance.

Q. Okay.

A. Photo EE is in the yard again. It's turned in a more westerly direction showing the same vegetation and grade.

Exhibit FF is taken from the driveway, the existing driveway and I believe it is looking in a easterly direction at the nearest neighbor's house. That's a little bit visible in the upper right corner of the photo. You can see a piece of the roof.

Q. Would that be generally the area, Mr. Motsco, of where your, quote, alternate access drive would be, that general vicinity?

A. Yes. The alternate access driveway would be installed in the lawn area that's shown in this photograph.

Q. So the Board can identify that, if they look at the plan, that's the labeling in that general area?

A. Uh-huh.

Q. Okay.

A. Exhibit GG. We're standing in a similar location, and the photograph has been turned closer towards the west.

You can see a little bit of the striping for Harford Road on the very left-hand side, and there's a telephone pole basically looking straight down Boneparte Avenue, next to that telephone pole.

Exhibit HH is the same general location. It is looking in a more southerly direction along the existing driveway, which is visible on the

right-hand side of the photograph.

Q. Same kind of direction?

A. The fence is visible in the picture. II is the same location, showing the same features. That's another photograph of the area where the possible future entrance would be located.

Q. That fence, again just to give the Board reference, if they're looking at these photographs outside the hearing, is a temporary fence that runs along the east side of the driveway.

A. Yes. There's a small wooden fence that was visible in one of the earlier photos blocking off the existing driveway entrance from people bypassing the gate.

If we turn to JJ, this is a photograph of the Redeemer church taken from close to the entrance to the church and looking along Mount Vista Road.

KK is looking left from the entrance, which would be a westerly direction.

Q. Also Redeemer.

A. Still the Redeemer entrance, looking along

Mount Vista Road in a westerly or left direction from the exit.

Q. Mount Vista Road at Redeemer is a two-lane road, one lane in each direction.

A. That's correct.

Q. And Harford Road at this location is also a two-lane road, one road in each direction.

A. That's correct.

Q. Okay.

A. Exhibit LL is the same location at the Redeemer entrance, looking in the opposite direction to the right or east.

Q. Okay.

A. Then MM is a photograph of a part of the grounds of the Redeemer property.

Q. Mr. Motsco, do these photographs, do you know when these were taken?

A. Earlier this year, when we visited the site in preparation for the last hearing.

Q. You and I were out there on a very hot day, as I recall, in July.

A. I think we managed to pick a hotter day today.

Q. Do these fairly and accurately depict conditions on the property as of that time?

A. Yes.

Q. And to the best of your knowledge has the conditions of the property changed since these photographs were taken in July?

A. Not to my knowledge.

MR. SCHMIDT: Mr. Garber, I will offer as Exhibit 9A through 9MM the photographs that the witness has identified.

MR. GARBER: Mr. Holzer?

MR. HOLZER: Do you want me to object now? 9A is wrong.

MR. SCHMIDT: It's not wrong. It's the condition of the property as of July, when it was taken.

MR. GARBER: 2018?

MR. SCHMIDT: Two months ago or a month-and-a-half ago. The sign has been changed

since then. The sign issue, we can get into. But there's been no building, nothing has been torn down.

MR. HOLZER: The sign has been changed so it doesn't accurately depict the scene as it is today. I have no objection.

MR. GARBER: We will admit the photos understanding that they reflect the condition as of July 2018.

Q. (By Mr. Schmidt) Mr. Motsco, if you know, do you know if the sign that was shown in the first two exhibits, I believe A and B, still exists on the property?

A. I do not.

Q. It was there, when you were there last.

A. If was there in July, when we were there.

Q. To the best of your knowledge the main house, the proposed temples, all the other buildings currently remain as they are shown in the photographs?

A. Yes.

Q. All the trees and all the other vistas remain the same. The woods haven't been cleared. Trees haven't been knocked down. Streams haven't been moved. None of that has happened.

A. That is my understanding.

Q. Let me ask you, now that we've shown some photographs of the building, can you give us, Mr. Motsco, a little historic context about this property, about its background and the age of the house and some of that detail that you're aware of?

A. The property and the existing barn are listed as historic structures by the State of Maryland.

Q. What list?

A. Maryland Historical Trust. It's MHT.

Q. Are they listed by Baltimore County?

A. No. Baltimore County just observes the State record.

Q. So they're not on either the Baltimore County preliminary or final landmarks list.

A. No.

Q. And tell us a little about the background of the property to the best of your knowledge.

A. The property was originally developed by Napoleon Boneparte's nephew. He went by the name of Boneparte. His first name is escaping me. He was a one-time attorney general for the United States and built this Bella Vista as his home.

Q. That's the name of the estate, is Bella Vista?

A. That's the name of the estate. And that was the name of the original house which burned down I believe in the '30s.

The current house was built as a replacement to that structure and has remained more or less since then.

Q. You may have answered this.

Is the house occupied at this time?

A. No, it is not.

Q. Is it habitable at this time? If you know.

A. Maybe. It's in disrepair but it's not totally uninhabitable. Salvageable.

Q. I'm going to show you, if I can --

You mentioned that the property is listed by the Maryland Historical Trust?

Mr. Motsco, just generally, can you identify the document that I'm handing you?

MR. GARBER: This is Exhibit 10.

(Petitioner's Exhibit No. 10 marked for identification.)

A. This is the listing for the property which I obtained from the inventory of historic properties. It spells out the -- BA 539 is the Bella Vista site and describes the site as being owned by Charles Boneparte.

The other listing on here is BA 539A, which is the Bella Vista Farm, which is the large barn which still exists to the southern part of the property.

Q. So the barn is listed as an MHT structure, is that correct?

A. Correct.

Q. The building/temple/former dwelling is not

an MHT structure, is that correct?

A. That is correct.

Q. The outbuildings around the dwelling/temple are also not MHT structures.

A. That is correct.

MR. SCHMIDT: I would offer that as Exhibit No. 10.

MR. GARBER: So admitted.

Q. (By Mr. Schmidt) If you know, Mr. Motsco, is this property served by public utilities? When I say that, public water and sewer.

A. It is not.

Q. At the time of the occupancy of the building at one time, I assume there was evidence of water and sewer, private water and sewer to that house, is that correct?

A. That's correct. At one time the property was served by well and septic.

Q. Is that functional, if you know, at the present time?

A. It's being treated as not functional.

Q. Being treated by you as not functional?

A. By the parishioners.

Q. Can you describe what the plans were just from an overview as to how that would be addressed under this plan?

A. The congregation has enlisted a registered sanitarian who is coordinating with Baltimore County to seek and I believe he has obtained approval of a well and percolation plat which means that the county has tentatively approved the proposed location of a well and septic location and size to serve the proposed function of the property.

It is my understanding that the percolation tests, which are subsurface exploration, there's a criteria those need to be conducted under, and the percolation test is used to determine the soil condition and aid in sizing and designing the septic system for the proposed use.

Those tests are attended by a representative of Baltimore County, who will verify the quality of the soil for septic uses.

Q. But there was a septic system out here that was functioning at one time.

A. Correct.

Q. And there was a well that was functioning at one time.

A. Yes.

Q. But those will be ungraded as the county determines in order to provide appropriately sized facilities for this use, is that correct?

A. That is correct.

Q. This is a fairly large property, is it not?

A. It's 30.8 acres which is very large.

Q. In your view -- and I know you're not a registered sanitarian -- are there areas within the property that could be identified as suitable for the construction of a septic?

MR. HOLZER: Objection. He's not qualified.

MR. GARBER: Some of the words in your questions were drowned out at the end.

So what was your complete question?

Please don't answer. There's an objection pending.

MR. SCHMIDT: I understand that the witness is not a sanitarian, and he's indicated that these tests are all subject to the county's approval.

But as a civil engineer and one who looks at an overall property, whether the property is appropriately sized and of the character to be able to accommodate a septic system, I'm asking him from background whether it could be so accommodated in his viewpoint.

MR. HOLZER: I object. He is not a sanitarian. He's testified he's not an environmental person to even do the site plan that's marked No. 1 and 1A yet alone to render that kind of opinion.

I move that it be denied and stricken.

MR. SCHMIDT: Mr. Garber, I'm just asking that from an engineering standpoint, not that it would function but as someone who lays out the

site from an engineering standpoint whether the property -- there are properties, for example, that would be so small an area that they could not reasonably accommodate a septic field. And as an engineer if he would be laying out such a plan, he would be able to say, This property simply isn't big enough. The criteria for septic fields are such that it's just not large enough.

I'm not asking him as a sanitarian but as an overall engineer.

MR. GARBER: I think that it would be fertile ground for cross-examination. I will allow the question. Overruled.

A. If I can just elaborate that well and percolation plats are prepared by engineers. A registered sanitarian supervises the installation and design of the septic system itself.

But as far as the location and general size of the septic reserve area, that responsibility falls on an engineer. And I've personally prepared many perc plats which have been reviewed and

approved by Baltimore County with little or no modification.

That being said, given the size of the property and the fact that you have two similar uses in the vicinity and a number of surrounding homes that also use well and septic systems for their water supply, it would be surprising to me if given the size of the property they were unable to find suitable soil for obtaining water and installing a septic system.

Q. Let me ask you, if I can, Mr. Motsco, changing direction just a little bit, you have described the access to the property from the driveway, the existing access.

Can you explain to the Board, let's start, the modifications that are proposed insofar as the parking and whether there is a sufficient amount of parking, in your opinion as an engineer, as shown on your plan and how you arrived at that?

If you can discuss those improvements first.

A. We have shown a parking calculation on the plan, in that we have shown 38 clearly delineated parking spaces. And the number 38 was based upon --

For religious worship, the zoning code requires one parking space for every four seats which is obviously a regulation that's geared towards Judeo-Christian worship.

Given the use for this religious use, we were given an estimate of the maximum number of people that would be expected on a regular event and prepared a parking layout that accommodated that.

Q. So you have 38 proposed parking spaces.

A. Yes. With coordination with the zoning office, they agreed that given the proposed use that that was an appropriate way of determining the parking requirement.

Q. Those spaces will all be paved and clearly marked and striped as required.

A. That is correct.

Q. In the event there would be an occasion where there may be more vehicles than 38 on the site

at any one time, are there areas within the property where additional parking could be provided if necessary?

A. There are additional paved areas, especially in the vicinity of the garage -- we looked at the photograph earlier -- that could accommodate a handful of cars there, there's extensive paved driveway that could be parked along or partially on and then there are significant areas of mowed lawn which are relatively flat and easily accessible from the drive aisle. There's extensive overflow parking, if the need were to arise.

Q. But there are 38 clearly marked, identified parking spaces on your plan, not counting the additional paved areas along the driveway and by the garage in the back and the loop road around the house as well as the overflow areas in the grass.

A. That's correct.

Q. How about, if you can -- and I know we're going to hear testimony from a traffic engineering standpoint.

But could you also describe in a little more detail the alternative for the driveway, which is the other potential improvement to the site, in terms of how that's laid out, where that would access Harford Road?

Just give us more detail about that.

MR. GARBER: Hold on a second, please.

Just as a reminder, if you have your cellphones with you, please turn them off.

Thank you.

A. The proposed possible access that we have shown on the plan is located east of the existing entrance. It's accessing Harford Road on the other side of the intersection with Boneparte Avenue. And there is still ongoing discussion with SHA --

Q. SHA is what.

A. Maryland State Highway Administration.

-- regarding what is the best access for this site.

The one current thought, which is what's reflected on the plan, is that the drive aisle we're

adding could be used for leaving the site only as it accommodates different site distance from that location. And an expert will testify more to that.

The alternate exit satisfies some of the State Highway Administration's concerns.

Q. You identified some photographs as the grade and area suitable to construct that driveway if SHA determines it necessary.

A. Yes.

Q. From an engineering standpoint.

A. Yes.

Q. I know you've described the wooded areas which are fairly substantial on this property, are they not?

A. They are.

Q. Are there any additional landscaping that would be proposed or needed in your opinion?

A. Due to the existing vegetation on the site and the fact that it appears to have had trees planted in a landscaping manner at some point in its past which are now very mature and in the yard, our

office prepared a conceptual landscape plan.

And in reviewing the requirements for a landscape plan, the requirement for additional planting would be minimal, if anything at all.

Most of those requirements are geared towards screening things from view, which is accomplished on this site by the existing vegetation and the natural grade.

Q. Obviously many of the trees here are very mature.

A. Yes.

Q. How about lighting? Is there any additional lighting proposed or any consideration about screening lighting, or is that a concern?

A. I don't believe that there's any lighting that is proposed that's more than what would be associated with a dwelling of that size. Porch lights, that sort of thing.

Any light that would be generated would be shielded by the existing vegetation and the topography.

Q. Mr. Motsco, let me ask you: You are familiar with the county requirements in terms of the criteria that the Board of Appeals must apply in approving a special exception, are you not?

A. I am.

Q. Let me ask you about some of those in particular.

First of all, you're required, are you not, to identify the locale in which this property sits.

Do you have an opinion, sir, as to what the locale of this property is just generally, the neighborhood associated with this property?

A. In a general sense, to the north of the property is the county line.

Q. With what --

A. Harford County.

Q. Uh-huh.

A. To the east is Bel Air Road, to the west is Glen Arm Road and to the south is a river. In a rural area, it's tough to define a neighborhood. But those are practically physical boundaries that

would designate a general location.

Q. I think you said Glen Arm.

Is it Long Green Pike?

A. Yes. Sorry. In Glen Arm.

Q. Mr. Motsco, I'm going to show you a document which is somewhat self-authenticating in terms of taken from the county website, My Neighborhood, the county GIS, as you identified it before, is it not?

A. (Nods.)

Q. Does this show the location of the subject property?

A. Yes. It's demarcated in the general middle of the page with a red star.

Q. If you can just generally describe the blue highlighter mark that's around that as to what that's demonstrating and what that's showing.

A. You can see at the top, right corner of the page there is a blue highlighter. It follows a black line. That is the county boundary, Harford County being on the other side of the line and

continuing in a clockwise direction.

At the very edge of the page, the blue line follows Bel Air Road until towards the bottom of the page, where it follows Gunpowder Falls along the river to Harford Road and follows Harford Road northerly and then follows Long Green Pike from Harford Road to the county line.

Q. The properties in this area are all generally rural in nature in terms of reflecting the rural zoning of this general area?

A. Yes.

Q. And these properties, are they inside or outside the county's urban-rural demarcation line?

A. Outside.

Q. This obviously is a rural area. So we don't have any major roads -- when I say "major," major interstates or anything like that -- in this vicinity, do we not?

A. Not in this vicinity.

MR. SCHMIDT: I would ask that this be accepted as the next exhibit.

MR. HOLZER: It shows what it shows. I don't agree how it's defined.

MR. GARBER: That's understood.

Q. (By Mr. Schmidt) With that locality having been defined at least by you, Mr. Motsco, do you have an opinion as to whether this proposal would be generally detrimental to the health, safety, and general welfare of the local involved?

A. I do not feel that it would be.

Q. You do have an opinion.

A. Yes. Sorry.

Q. What is that opinion?

A. That it would not be detrimental.

Q. And why do you say that, sir?

A. The proposed use utilizes existing structures and existing property. The scope of the work that is proposed is minimal and much of the work that would be done is, in fact, making the existing structures habitable and safe.

Given the size of the property and the low intensity of the use, I don't see that it would be a

nuisance.

Q. Let me ask you about some of the specific criteria which are found in the regulations. I know you're not a traffic engineer. We do have a witness. But generally, as an engineer, let me ask you to comment.

Do you believe there would be any adverse impact on traffic, or would the proposal create congestion in the roads, streets, and allies within the locale?

MR. HOLZER: Objection.

MR. SCHMIDT: Within his level of expertise.

MR. GARBER: You're going to have a traffic engineer testify to the same point?

MR. SCHMIDT: Yes, sir.

MR. GARBER: I don't know what he's going to add. I will sustain it.

MR. SCHMIDT: I will withdraw the question.

Q. (By Mr. Schmidt) Let me move along.

Mr. Motsco, do you believe that the proposal would create any potential hazard from fire, panic, or other dangers greater than the inherent adverse effects associated with a building used for religious worship elsewhere in the RC-2 zone in this locale?

MR. HOLZER: Objection. There's been no testimony about fire effects or any experience with regard to fire. He hasn't even testified to it.

MR. SCHMIDT: I'm going to ask him what's the basis of his opinion.

MR. GARBER: Do you have an opinion on that subject matter, sir?

THE WITNESS: Yes.

MR. GARBER: What is that opinion?

THE WITNESS: That it is no greater danger here than anywhere else in the similar situation.

Q. (By Mr. Schmidt) Can you explain your opinion in terms of the building and their reuse,

any improvements to the buildings that may be made as they relate to fire, panic, or dangers of that type?

A. It's reusing an existing structure and it is located a significant distance from any other structures that could be consumed, if there were to be a fire.

Additionally, due to the fact that the original Bella Vista mansion was burned down, this home, when it was built, was constructed of concrete as the current owner at that time had a, I guess, justified fear of fire and apparently constructed the home in a fire-resistant manner. It's this home that would be repurposed for the worship.

Q. As part of that repurposing, if there are any interior improvements that are required of the property, new electrical systems, plumbing systems and the like, would they be built to Baltimore County code?

A. Yes. Permits and inspections would be required for those.

Q. And those permits would be signed off by the fire marshal's office as well?

A. I believe so.

Q. They would need an occupancy permit?

A. Yes, they would need an occupancy permit.

Q. Do you believe or have an opinion, Mr. Motsco, as to whether the proposal will tend to overcrowd the land or cause any undue concentration in population greater than the inherent effects associated with a building for religious worship in this zone?

A. I have an opinion, yes.

Q. And what is that opinion?

A. My opinion is that due to the large size of the property and the small congregation, the relatively small structure that there would be no undue crowding of the land.

Q. You were here for the first day of hearings.

A. Yes.

Q. And you were here when testimony was

offered as to somewhat the schedule of uses out here, that unlike Judeo-Christian religions there's not a typical Sunday service, for example, or a particular service on a regular day of the week.

A. That it my understanding.

Q. Do those factors influence your opinion in any way?

A. Yes. I think compared to a more typical or what we would experience Sunday mass letting out at noon that there's not an event here on a regular basis that would generate 200 cars leaving a parking lot at the same time.

Q. Let me ask you: The next criteria that's listed in the zoning regulations relate to whether the proposal might adversely impact certain public, what I would call, utilities. Let me ask you generally about them and ask you to render an opinion on each.

Will there be any impact here on the public school system or on schools?

A. No.

Q. How about parks or other recreational amenities in the area?

A. No.

Q. This is not served by public water and public sewer, is it?

A. That's correct.

Q. So there will be no impact of this use on the public sewer system or public water system, is that correct?

A. That's correct.

Q. I will leave the transportation impacts to our traffic engineer.

Let me ask you, Mr. Motsco: Do you have an opinion as to whether the proposed building use for religious worship will interfere with adequate light and air as another criteria?

A. I do have an opinion.

Q. And what is that opinion?

A. It would not interfere.

Q. Why not?

A. Due to the size of the property and its

distance from any adjoining properties, any impact would be completely contained within the site.

Q. I think you've indicated that the visibility of the building is difficult from adjacent properties. There might be some locations where you see it.

A. Right. The visibility is very limited.

Q. This proposal -- you indicated at the beginning of your testimony the property is zoned RC-2.

A. That's correct.

Q. Is the building for religious worship or church permitted in the RC-2 by special exception?

A. Yes, it is.

Q. As such, do you have an opinion as to whether the proposal is consistent with the property's zoning classification of the spirit and intent of the zoning regulations?

A. I do have an opinion.

Q. And what is that, sir?

A. I do believe it is appropriate and with the

spirit and intent.

Q. Why is that?

A. A special exception is that it's a use -- if you look at the property, its use is not entirely by right but it's intended that there would be churches and religious worship in the RC-2 zone, if the property is appropriate to that use.

Given the size of this property and its direct access to the state highway, it would seem appropriate to me for that type of use.

Q. You indicated other than the improvements for the parking area and the potential improvement for the driveway, will there be any other clearing or grading necessary for the conversion of the site for the building for religious worship?

A. Not to my knowledge.

Q. So there won't be any clearing of any of the trees or disturbance of any of the lawn areas or hills or valleys as shown on the photographs?

A. None is needed for what's shown at this time.

Q. Given that, sir, do you have an opinion as to whether the proposal would be inconsistent with the county's impermeable surface and vegetative provisions?

A. I do.

Q. And what is that?

A. That the property would comply with those regulations.

Q. And finally let me ask you if this will be detrimental to the natural or environmental resources of the site, including the forest, the streams, the wetlands, aquifers and flood plains as located on this property and the surrounding locale?

MR. HOLZER: Objection on the same basis. He's not a forestry person, not somebody who could testify to the environmental impacts on this property.

MR. SCHMIDT: He can certainly testify that the property, as an engineer, and the site plan that he's prepared is not calling for any clearing, not causing for any bridges or any other disturbance

of the stream. So from an environmental standpoint he can certainly, as an engineer, testify as to those types of factors.

MR. GARBER: I actually agree. He can provide some opinion on this subject matter. There's already testimony in the record that construction would be about 500-to-700 feet away from the stream.

However, the point you wish to make about that is ripe for cross-examination.

MR. HOLZER: Thank you.

MR. GARBER: Overruled. You may answer.

Q. (By Mr. Schmidt) You can answer about potential environmental impacts or on the natural features of the property in that locale.

A. Given that much of the proposed use is reuse of existing improvements to the property, the only potential for concern would be the proposed parking and their impacts.

And at this time there is no trees in that

vicinity, so there would be no clearing, and additionally there would be a grading permit that's required for that construction which would be reviewed by the appropriate agencies at that time to determine if there would be an impact and meet the requirements to negate those impacts, if there are any.

Q. Mr. Motsco, you testified before that the property itself is not farmed and not in agriculture use. It's been a residential property in the past, is that correct?

A. That is correct.

Q. I think you testified that there are not agriculture uses at least in the immediate vicinity. And when I say "agriculture uses," working farms, either dairy farms, horse farms, or crop farms, in the immediate vicinity. Is that correct?

A. There are none immediate adjacent to the property. But based on aerial photos, there are some crop lands that are in the general area.

Q. Given that, is there any impact of this

proposed use on any of those agriculture operations or agriculture uses in the locale?

A. Not in my opinion.

MR. SCHMIDT: Mr. Garber, I may be done. We've been going almost two hours. Can we take a five-minute recess? I want to make sure I'm finished. And that may conclude my direct examination of this witness.

MR. HOLZER: I was going to say, after he finished, he's been going for two hours. We probably should take a break before cross-examination.

MR. SCHMIDT: If I have any other questions, it might be one or two.

MR. GARBER: I'm thinking along the same lines as you. Would five minutes be sufficient for you?

MR. HOLZER: I'm going to take two hours.

MR. GARBER: For the break, do you need ten minutes, five?

MR. HOLZER: Ten minutes.

MR. GARBER: Ten minutes is more appropriate for the number of people here, to get people filtered in and out. Let's do ten minutes. We'll be back here five after 11.

(Recess was taken.)

MR. GARBER: Mr. Schmidt, do you have any more questions?

MR. SCHMIDT: Yes, I do. Just a couple.

Q. (By Mr. Schmidt) Mr. Motsco, I know I asked you, and they're labeled on here, about the dimensions of the property.

And you had testified previously that the building which was proposed for conversion to the temple is somewhat centrally located on the property, correct?

A. That is correct.

Q. The dimensions are measured. In the westerly direction, it's some 340 feet to the property line, where Harford Road runs along the

west end side, correct?

A. Yes.

Q. I didn't ask you in terms of the northerly direction the distance of the building to the property line, where the driveway is.

Can you tell us what that is? You might need to approach the plan.

A. From the existing main building to Harford Road in the vicinity of the driveway is approximately 655 feet.

Q. That's over two football fields in that direction.

A. Yes.

MR. GARBER: Do I understand 650 feet approximately to the north?

THE WITNESS: Yes.

Q. (By Mr. Schmidt) And to what would be the east, the distance is approximately --

A. 430, 435.

Q. And finally to the south, or the rear of the property, the distance is --

A. About 1,000 feet.

Q. So it's over three football fields.

A. Uh-huh.

Q. In terms of the use of the building and these distances, can you tell us how that would relate, if at all, in terms of the use of the building and the impact on its neighbors?

A. That's part what I was referring to. The size of the property and the small use is that it's very isolated from the neighbors from a direct impact point of view.

Q. Are there any zoning variances that are being requested in association with this proposal?

A. No.

Q. Are there any variances that are needed to the best of your knowledge?

A. No, there are not.

Q. Would this project be subject to the county's residential transition area -- they call them RTA for short -- standards that may be applicable for churches?

A. It would not. The distance would be greater than anything required.

Q. Under the RTA.

A. Yes.

Q. It meets any RTA requirement.

A. Yes.

Q. In conclusion, do you have an opinion, Mr. Motsco, as to whether this proposed use for this building that is proposed for use for religious worship would have a greater impact or a lesser impact on the locale than other properties in the zone?

A. I do.

Q. And what is that?

A. I feel that this would have a lesser impact than many other properties due to its direct access to a state road and, as just discussed, the large size of the property and the distance from any neighbors.

Q. Thank you.

MR. SCHMIDT: I don't have any further

questions save for possible redirect.

MR. GARBER: Mr. Holzer.

MR. HOLZER: Yes. I'm taking notes.

MR. GARBER: No problem.

EXAMINATION BY MR. HOLZER:

Q. I would just like to start off by showing the witness a plan to accompany this request.

MR. GARBER: Can you show that to Mr. Schmidt?

MR. SCHMIDT: Course not.

MR. HOLZER: He has it.

MR. SCHMIDT: This is, what, the original plan that was filed below?

MR. HOLZER: Yes.

MR. GARBER: Mark that as an exhibit --

MR. HOLZER: Not until he identifies it.

MR. GARBER: -- for identification purposes so we know which document is being referred to.

MR. SCHMIDT: I don't believe that's

entirely consistent with what's on the board.

Q. (By Mr. Holzer) This was done by your company. I don't know whether you did it or not. Did you do this?

A. This was prepared by our office. And, yes, I was working on it.

Q. I'm asking particularly about the adding of the alternative access drive, which is shown on 1 and 1A. This does not have that.

When did this access drive come about?

A. Just to clarify, this is not the plan that was filed below.

Q. It was given to my clients. Did you give it to my clients?

A. This may have been a draft that was circulated prior.

Q. Given to the community by your clients?

A. Possibly. I can't say how you got it.

Q. But you did draw this.

A. Yes. This is our plan. I'm just clarifying it wasn't what was filed.

Q. Could you tell me why there was no access shown on that while it is shown on 1 and 1A?

A. That was added in preparation for the first day of this hearing.

Q. So it wasn't used before the ALJ.

A. Correct.

Q. So the ALJ had what is similar to this document that I've just shown you without the access drive shown.

A. That's correct.

Q. Is the access drive shown because the county or the State Highway Administration required that?

A. You're going to have to ask our traffic engineer for specifics. To my knowledge, the State Highway Administration has not issued a final decision on anything.

Q. Correct. And so are you saying you don't know how you added that on or under whose direction?

A. No. It was a discussion between myself and the traffic engineer that I added that, at his

direction, to the plan to be used at this hearing.

Q. And when was that added by you to 1 and 1A?

A. The date is in the lower part of that.

Q. What's the date?

A. This was last revised on July 18th of 2018.

Q. July the 18th of 2018.

Was that around the time that there was an event held on-site to your knowledge?

A. I know there was an event held this summer. I have no idea what date that actually was.

MR. GARBER: With respect to that document --

MR. HOLZER: I would mark this as Protestants' 3.

MR. SCHMIDT: No objection with the caveat the record will reflect that Mr. Motsco indicated that plan was never filed with Baltimore County. It apparently is some original draft at some point time, although his office did prepare it.

MR. GARBER: The plan is understood for what it is.

(Protestants' Exhibit No. 3 marked for identification.)

MR. HOLZER: He said that was what was presented to the administrative law judge.

MR. SCHMIDT: No.

MR. HOLZER: Without the access.

MR. SCHMIDT: I don't think he said that.

MR. HOLZER: Let's clarify that.

Q. (By Mr. Holzer) Was this alternative access drawing shown to the administrative law judge in this case?

A. No.

Q. Thank you.

MR. GARBER: So the clarification was as to this plan, Protestants' 3, versus was there any access road shown to the ALJ.

MR. HOLZER: Correct.

MR. GARBER: Right.

MR. HOLZER: Obviously it was done in consulting with their traffic engineer and the State

Highway Administration.

Q. (By Mr. Holzer) Do you have the pictures?

A. I do not.

Q. Let's take picture Exhibit No. 9A.

This is the notice or sign that was there when you were at the property.

A. Correct.

Q. You do not know what the new sign looks like or why there was a new sign?

A. I was not involved with any changes to the sign.

Q. So, therefore, you do not know whether or not the county required the sign shown in 9A to be removed and a new sign placed. You do not know anything about that.

A. Other than what I've heard today, no.

Q. In looking at these pictures, were these taken by you or were they taken by someone else?

A. Mr. Schmidt and I were on-site together that day. He was operating the camera.

Q. So any imperfections --

MR. SCHMIDT: Blame me.

Q. -- I can blame Mr. Schmidt?

A. Yes.

Q. Picture No. B, this shows the site from the entrance, the right-hand side entrance looking north, is that correct?

A. Northeasterly.

Q. If I were to continue on this road going up away, I would end up going to the roundabout.

A. That's correct.

Q. We'll call that north. And Exhibit C is standing in the same location looking to the left as you come out of the site or south, right?

A. Yes.

Q. And it shows the curve that is right in front of the entranceway and it also shows the curve that goes to the left.

A. Yes.

Q. It does not show anything further south on Harford Road.

A. That's correct.

Q. Are there any other photos in this group that show Harford Road in the southerly direction?

A. You mean further beyond what's shown in this photograph?

Q. Yes.

A. I do not believe so.

Q. So then D again looks north towards the roundabout.

A. Yes.

Q. And E shows the same thing, the entranceway to Boneparte Avenue. And there are homes, are there not, on the east side of Harford Road, south of Boneparte Avenue and the intersection with Harford?

A. East side of Harford Road?

No.

Q. I'm sorry. West side.

A. There are homes on Harford Road opposite of this property.

Q. Very good. And if I look at F, which is an excellent picture taken by Mr. Schmidt --

MR. GARBER: You get the good and the

bad.

Q. (By Mr. Holzer) -- showing a home directly across the street from the entranceway to the facility, correct?

A. That is correct.

Q. When you come out of this facility, there is only two ways you can go; you can go right and there's a right access for the exit and then there is a left access to go left to go south, right?

A. That would be an ingress and egress. From this picture, the left side of that landscape island would be for entering the site. And anybody leaving would go to the right of that island and make a left or right from that point.

Q. Is that on the directions now? Because people, when they come out of this facility, turn to the left and go left to go south.

Are you saying that there's some sort of prohibition against going south?

A. I'm saying that that's not the intended use of the driveway as it's constructed.

Q. What you're saying is that if I bear to the right, then, if I want to go south, I have to take a left turn.

A. Yes.

Q. So either way, to go south, one must either go on the left side and go south or to the right side of the circular landscaping and then turn left.

MR. SCHMIDT: Objection. That's not what he said. He said that it's intended. Anybody who wants to turn left would go to the right side of the island.

Q. (By Mr. Holzer) Is it prohibited going to the left side of the entranceway?

A. Not at this time.

Q. When you say "not at this time," you said that three times now. Do you expect that there will be a prohibition?

A. I expect that additional signage will be installed if the facility is approved and becomes operational.

Q. But people are using this right now, are

they not?

Your clients are using this right now.

A. I believe so, yes.

Q. And they're going out there to play volleyball, they're going out there to work on the project, they're going out there for other events, correct?

A. I don't know the details of their visits.

Q. But you do know they are using the entrance and exit.

A. Yes.

Q. Let me ask you: When you were asked whether there would be any other clearing or grading, you answered, "Not at this time."

You just answered my question now, "Not at this time." When you were asked whether there was any clearing of the woods, you said, "Not at this time."

Now, when someone says "not at this time" to me, that indicates that there is a potential for the future that there will be clearing of woods,

that there will be road demarcation, that there will be changes on the site.

Has your company, Little & Associates, have they done any preliminary plans showing additional buildings, additional development, additional requirements of an enlarged facility on this site?

A. No. Everything that is planned for the site is shown on this plan here, on Exhibit 1A.

Q. Everything is planned at this time.

Is there any other --

MR. SCHMIDT: You just used "at this time."

MR. HOLZER: I know. That's how I wanted to.

A. This property has already been there for 125 years. I could not guess as to what 125 years from now may hold for this property.

All I can say is for the current proposed use all of those "at this time" would apply.

Q. For 150 years, whatever figure you used, it was used for a private residence. And now it's not

being used for a private residence but is being used for a commercial facility. So that's what raises a question of whether this will be a proposal of additional development in the future.

And I say: Do you or do you not have any plans in the drawings that are ready to go that indicate additional development of homes, cutting down of trees, et cetera?

A. We do not.

Q. Then why are you asking for a special exception for this entire property?

Could you not ask for a special exception only to encompass the facilities related to the building, the extra outside building, et cetera, and the entranceway?

Why don't you just limit the special exception to that period and place all of the forest and the woods that you've shown here as depicted that protect the neighborhood and all the way down to the stream and all along the Hirchenruder's (phonetic) side of the property?

Why don't you just exclude that area for your request for a special exception? Could you explain that?

A. We saw no need to restrict the religious use to just one or two buildings in the small area of the property.

Q. I'm not talking about a small area of the property.

Define the area that's left out of the 30.8 acres. Define the area that is shown in this area here, where you have the existing barn, tennis court, parking, building and entranceway.

Just limit the special exception to that area which would then provide for the community protection that this forest would never be affected in the future.

Can you answer that?

A. There were a couple of questions in there.

Q. Which one do you want me to ask you first?

A. Whatever you started with.

You asked why we didn't limit the special

exception?

Q. Yes.

A. We did not limit the special exception because we saw no need to.

Q. I understood that. You answered that already.

My question was: Now, upon knowing that there are concerns about this project, wouldn't it make sense to provide assurance to the neighbors that "not at this time" related to all these other questions would be protected because you're only asking for a special exception for the use that you need in the center here.

A. You're worried about the tree clearing?

Q. I'm worried about the fact that all of a sudden the existing tree line could disappear and you come in and you ask for an increased facility, a larger facility, more parking facilities.

A. A special exception wouldn't grant permission to clear those trees.

Q. Why didn't you just create preservation for

that area?

A. For preservation of the trees?

The trees are protected by Maryland State forest conservation law. And any proposed clearing would be reviewed and approved by Baltimore County subject to the constraints of that law.

Q. Right. Subject to the request by you that you want to have a variance to that law and you want to provide another building on the site.

MR. SCHMIDT: Objection. This is also speculative. Obviously if the trees would ever be cleared, as Mr. Motsco says, they would have to be subject to the forest conservation laws as well as they would have to amend this special exception. Special exception is for what it is.

MR. GARBER: I understood the point. But Mr. Motsco did say "at this time" or "not at this time" several times, which opened the door to these questions for Mr. Holzer to ask, What about the future?

So you get some leeway on it. The point is

taken. I think that's where Mr. Holzer is going with this. I expect this to wrap up shortly.

MR. HOLZER: Thank you.

MR. GARBER: That worked out well.

MR. HOLZER: Mr. Chairman, obviously the Board understands what the issue was, and I don't see a need to drag it out anymore.

Q. (By Mr. Holzer) Looking at the rest of these pictures which you have in front of you, it is my understanding that since you're asking for a special exception for the entire property that the special exception would run all the way down to Harford Road, correct?

A. That is correct.

Q. Okay. And if it runs all the way down to Harford Road that means that --

How do you characterize or come to the conclusion that the RTA does not apply?

A. The RTA would apply to parking and structures associated with the religious facility.

Q. And so you believe that the distance from

the parking and the structure is what would generate the RTA, and that's why you came to that opinion.

A. An RTA is applied to buildings and parking.

Q. That's why you testified the way you just did on direct.

A. You're going to have to give me a little direction there.

Q. I don't.

A. I'm not sure what you're asking.

Q. You must remember what you testified on direct.

MR. SCHMIDT: Objection. You're asking him to agree with you as to his thought process. I don't even know what the question is.

MR. HOLZER: I'm not asking again.

MR. GARBER: Mr. Holzer, I will say, it was confusing to me.

Q. (By Mr. Holzer) The question was: Because of the special exception going to Harford Road, does that create, in your opinion, an RTA issue?

I believe your answer was, No.

A. My answer would still be no.

Q. Have you ever been out at the site at nighttime?

A. No, I have not.

Q. So you don't know the effect of vehicles exiting the property in the evening on the house that's sitting directly on Exhibit G, directly across the street from the entrance.

A. I do not have any personal knowledge of that.

Q. That's on F and G. For the new proposed possible access route -- I know you had a picture of what the area was here -- was the purpose of that new access route, was that designed to avoid the entrance and exit directly across the street from this individual house?

A. You would have to ask the traffic engineer. He's the one that provides the layout.

Q. You don't have anything related to the aspect of in and out and the value of the existing entrance?

A. That was somebody else that analyzed those aspects of it.

Q. Somebody else in your --

A. The traffic engineer, who's here today.

Q. I understand that.

Was it your firm that created the new access route? Did you design it, locate it, physically draw it on this plan under your own knowledge and purpose, the reason for it, or did somebody just tell you to do it?

A. I was told, This is where we think it could be. I put it on the plan. I was given an exhibit which was transferred onto the plan.

Q. Who told you that?

A. Joe Caloggero.

Q. The traffic expert.

A. Yes.

Q. Did you have any personal knowledge in dealing with the State Highway Administration?

A. I have not been involved in those dealing.

Q. I want to try to get these questions

finished so that you can put that away.

Were these pictures all taken at the same day with Mr. Schmidt and you?

A. Yes.

Q. Obviously you were there in the daytime, and obviously you were there when there was no use of the facility, is that correct?

A. That's correct.

Q. So there were no people there playing volleyball at the time you were there taking these pictures.

A. No.

Q. On Exhibit L, was this set up with these seats?

Shown as the way they are in L, was this set up by you or someone else?

A. The room was in that condition when we arrived at the property that day. Someone else but I don't know who.

Q. You said you were out there twice. This was one time with Mr. Schmidt.

When were you out there before?

A. I was out there in preparation for the hearing before the ALJ.

Q. Had you been there before that hearing, when you designed this plan that was submitted as 1 and 1A?

A. No. A representative from my office went out there to confirm the information we obtained from Baltimore County GIS.

Q. So the only time you went out there was really to see what it was like before the hearing before the ALJ.

A. In preparation for the hearing, several weeks in advance.

Q. Did you go out by yourself?

A. I met Tim Kotroco and some representatives from the congregation.

Q. That was it? There were no other people there other than those folks.

A. Correct.

Q. So you never personally confirmed how many

people would be out there using this facility or how many people were out there during one of the events that they held on this site, other than what you were told. You were not personally viewing anybody else out there.

A. Correct.

Q. Did you count the number of seats that are shown on Exhibit L?

I don't mean now.

A. I think we guessed. Looking at it, we approximated what we thought was in there.

Q. What did you approximate?

A. I think it was 70 or 80.

Q. On Exhibit N, this shows a picture of what, to your knowledge.

A. Items for religious worship.

Q. Were they there when you got there?

A. Yes.

Q. Were they there when you left?

A. Yes.

Q. To the best of your knowledge, were they

items of religious worship that were utilized for religious purposes?

A. They were in that room. That's about all I can say.

Q. But you are coming to the opinion that they are religious -- they exhibit religious tendencies or religious uses.

A. I would have to admit that that's probably speculation. But, yes, it would look that way.

Q. That's what you testified in direct.

A. Yes.

Q. You testified that the building was being used for functions, in your direct testimony, and it's now being used as a temple, when you identified N, is that right?

A. I believe I said that was the room that would be used.

Q. So the question is: Was your testimony that it would be the room that was used? Or was it being used?

A. My understanding is that this room will be

used for religious worship and not at all in this configuration, when it is finally used for religious worship.

Q. But why do you set up all those seats and have the religious items in there? It's not being used now.

A. I have no way of answering that question.

Q. Right.

A. I don't know.

Q. Right.

So you don't know --

Well, do you want to change your testimony that --

MR. SCHMIDT: Objection. Come on, Mr. Holzer. You're arguing with this witness.

Q. (By Mr. Holzer) -- the use in this building was functioning now?

A. I'm sorry. Say that again.

Q. Do you want to change your testimony from your direct that it is now being used as a religious facility?

MR. GARBER: I will sustain it. Argumentative. Can you rephrase it?

MR. HOLZER: No. I think the record will show exactly what he said.

Q. (By Mr. Holzer) Looking at Exhibit R, this picture seems to confirm your testimony that this site is a prominent site in terms of the area, that it's probably one of the highest sites in the area and that valley exists below this site.

Is that a fair statement?

A. Yes, that's what I --

Q. That's what you tried to show on this exhibit.

A. Correct.

Q. Is this site higher than the property to the west? I guess this is the west.

A. Yes, that is the west. And, yes, it is higher.

Q. Is it higher than the property to the north?

A. Yes.

Q. Is it higher than the property to the east?
A. Yes.
Q. And it's higher than --
Or is it higher than the property to the south?
A. Yes.
Q. The photograph V showing the tennis court, does that plan to stay?
A. From what I've been told, yes.
Q. And it's shown on your site plan.
A. It is on the plan as well.
Q. Do you know that there's a volleyball court, that they play volleyball out there all the time?
A. I did not.
Q. Did you know that?
A. No. I knew there was a volleyball used. I assumed it was on the same court.
MR. SCHMIDT: If you look at the next in the picture, it's a volleyball net and not a tennis net.

MR. GARBER: It's Mr. Holzer's time for questions.

MR. HOLZER: Mr. Schmidt, even though you took the pictures, you're not supposed to be talking to me now.

MR. SCHMIDT: I'm sorry.

MR. HOLZER: Apology accepted.

Q. (By Mr. Holzer) Now when one looks --

MR. HOLZER: It is a volleyball net but it could be reduced to a tennis court net also, Mr. Schmidt.

Let me go on.

Q. (By Mr. Holzer) As I understand your testimony, the pool and the shed around it are going to go, correct?

A. Yes.

Q. What are they going to be replaced with?

A. Yard. Open space.

Q. Is FF, is that the alternative access picture?

A. Hang on.

That is in the general vicinity of where the access would be.

Q. I know this wood along the front of this picture actually sort of encloses the current access.

So if you were going with the drawing that you have up there to the end of the property, it appears that you would have to cut your way through those trees that are shown on this picture to access Harford Road.

A. Straight ahead in this photograph?

Q. No.

A. There are a handful of trees to the left-hand side of this photo --

Q. Yes.

A. -- between the lawn area and Harford Road.

Q. Right. Would those go?

A. Some of them would. If that access is built some of those trees would need to be removed.

Q. If you were to go straight through this picture, in the middle of it, you're actually going

beyond this property, would you not, so that the access road must go to the left?

A. You're saying leaving the site in this photograph, you would travel from the right-hand side to the left-hand side.

Q. Right.

A. We're looking parallel to the proposed road.

Q. Let me show you, so you don't misunderstand what I'm saying.

MR. GARBER: Which photo are you looking at?

MR. HOLZER: I'm looking at FF.

Q. (By Mr. Holzer) Do you see the space between the trees?

A. Uh-huh.

Q. Would the access road go out through there, or would it go through the existing trees on the left-hand side of the picture?

A. No. I don't know how to do this clearly for everybody. The gap in the trees, if you look at

the bottom of it, you can see that there's a roof to a house.

Q. Yes.

A. That is the neighbor's house.

Q. Correct.

A. So in this photograph you are looking east, and the access would actually be going to the left, to the north, off the page.

MR. GARBER: If I can, can you look at photograph GG?

MR. HOLZER: Yes.

MR. GARBER: Would that help?

MR. HOLZER: I will ask the witness.

Q. (By Mr. Holzer) Would photograph GG explain where the new access road would go on a clearer way?

A. From FF to GG, Larry turned to the left to take the photograph. You can see what appears to be a red shrub of some kind in both photographs, to help tie you down.

The access would be somewhere in those three large trees and the red bush in photograph GG.

Q. Perfect. That explains it.

So on both of them you can see where the proposed access would enter Harford Road.

A. On FF, I don't know that it looks far enough that you would see Harford Road. You would see where the drive aisle would be.

Q. Thank you.

MR. HOLZER: That may be it. Let me just make sure.

MR. GARBER: (Nods.)

Q. (By Mr. Holzer) Those are all the questions I have on the pictures. Don't get too excited.

MS. DOPKIN: Before we leave the pictures, Mr. Motsco, go back to picture FF.

For my benefit, the location of the adjoining property, can you mark that on Exhibit 1A.

THE WITNESS: You see the roof in photo FF. That is this dwelling right here, in the lowest right-hand corner of the plan. The address for that is 12241 Harford Road.

MS. DOPKIN: How far from the property

line would that be?

THE WITNESS: Over 100 feet.

MS. DOPKIN: Thank you. That helps.

MR. GARBER: Just to be clear, the residence you just referred to, that is 100 feet from the property line.

THE WITNESS: Yes.

MS. DOPKIN: And about the same distance from Harford Road?

THE WITNESS: More or less, yes.

Q. (By Mr. Holzer) Mr. Motsco, since you've been involved in presenting this, testifying below, has the DoE, Department of the Environment, have they issued any approvals for wetland area or stream location other than you're getting stream location off of the GIS?

A. They have not asked for or reviewed, none have been prepared, any wetland delineation report or anything of that nature.

Q. Do you know from a general standpoint in which direction this site drains from?

Let's take the main house as an example. Which direction does water run off, rain run off? Any other runoff, which way does it go? If you know.

A. The house is generally located as close to the top of the hill as it could be. So we're talking about the house.

The driveway right in front of it may go a completely different direction because of the top of the hill.

The house itself would generally drain in a southerly direction towards the existing barn.

Q. Which direction would the proposed new parking area and pavement, what direction would that flow? Did you do any analysis of that?

A. That would flow towards Harford Road. Northerly on the site.

Q. I think I understand what you just said. I just want to make sure the record is clear.

Any drainage from the parking area and the existing driveway would drain in a northerly

direction towards Harford Road.

A. Yes.

Q. And not in a westerly direction.

A. Correct.

Q. Thank you.

Can you say, based on your experience, whether any of this --

Well, you've already said it would drain in a northerly direction. Is that so?

A. Yes.

Q. It would also presumably drain in the direction of the driveway and the entrance on Harford Road.

A. Yes.

Q. I thought I had it right.

When you visited the site and you had taken these pictures, could you describe the house in terms of its square footage?

Do you know what the square footage is?

A. I do not. Anything I say would be a guess.

MR. GARBER: The main dwelling?

MR. HOLZER: Yes.

Q. (By Mr. Holzer) You don't know?

A. No. There are two-and-a-half floors in the house with various jogs on the outside of the building. It would be difficult to estimate.

Q. To your knowledge does anybody in your firm know the answer to that?

A. No.

Q. Do you know how many rooms are in the existing facility?

A. No.

Q. Is it fair to say that in taking these pictures you only went into the one room and shown the hallway and that's the extent of your site visit?

A. The visit where we took the pictures, that was the only room in the house that we entered.

On my previous visit, I had been through -- I don't know that I got every room, but I saw almost the entire interior of the house.

Q. Did you go to the second floor?

A. Yes.

Q. And what did you see up there?

A. Hallway, bedrooms, bathroom.

Q. How many rooms did you see on the first floor, where you took the pictures?

A. I couldn't say. It's been too long since I walked through the house.

Q. Did you go into the basement of the house?

A. No.

Q. You never went into the basement at all to see what was there.

A. No.

Q. At the time you visited the main house, was there running water available in the house?

A. I do not know.

Q. Was there toilet facilities in the house?

A. I do not know.

Q. How did you arrive at your conclusion that the house might be functional now? Which is what you said towards the last part of your testimony.

You said the house may be occupied. Then

you said, It's not functional. Which is it? Is it not functional now? Or can it be occupied?

A. I don't know if it's functional now. I meant that the general condition of the building is habitable. Obviously running water would be a criteria for that.

Q. What about electric?

A. There is electric in the building.

Q. So there is electric in the building. You don't know about any water.

A. No.

Q. Or toilet facilities.

A. Correct.

Q. Do you know anything about the well and septic?

A. I know that there is an existing one that is being replaced.

Q. Existing what; well?

A. And septic.

Q. Both. And the county has approved that at this point?

A. Approved what; the existing ones?

Q. No. Approved the future, whatever they may be, to be consistent with commercial use by your client.

MR. SCHMIDT: Objection to the phrase "commercial use." This is an institution. It's not a commercial use.

MR. HOLZER: Commercial-institutional use.

A. Calculations were prepared for the religious use, which Baltimore County reviewed and approved by a verified, registered sanitarian that was used, the size, septic reserve area shown in the well and percolation plat.

And the well and percolation plat has been approved by Baltimore County. And there are perc tests scheduled for later this month based on that plan.

Q. On Exhibit 1A, is the septic area and the well area shown?

A. They are not.

Q. Why not?

A. Because I do not have the information as to the exact location of them.

Q. So they are going to have to dig a new well?

A. That is my understanding that that is the plan.

Q. And they will have to relocate an old existing septic system, is that correct?

A. Typically they would be abandoned in place and a new one constructed elsewhere.

Q. Elsewhere.

A. On the property.

Q. So neither one of those aspects are shown on 1A at this time.

A. The existing ones?

Q. You don't show the existing ones, do you?

A. We don't know where they are.

Q. If you don't know where they are, you couldn't show the existing ones and you don't yet have approval for showing the new well or the new

septic.

A. We do have an approval of the location of the new well and septic.

Q. Can you show that on this plan?

A. I do not have that information.

Q. Either you have the information and you could show it or you don't have the information.

A. I don't have the information. Our registered sanitarian, who's here to testify as well, has that information.

Q. He's here. He's going to testify.

A. Yes.

Q. Okay. That's the first time I heard that. All right. Then we'll ask him that question.

Are there any, on the site plan, new athletic fields or sports facility fields shown on the plan?

A. There are none.

Q. None.

A. Correct.

Q. And even though you don't know about

volleyball, if you assume that the tennis court is also being used as a volleyball court, there will be no new fields proposed at this time for the facility.

A. At this time, yes.

Q. But there could be in the future, could there not?

A. That's an open-ended question. I can't answer for what --

Q. Well, you're giving me an open-ended answer. So I can certainly ask an open-ended question.

MR. SCHMIDT: Objection.

A. We are not currently proposing any athletic fields.

Q. I understand that at this time.

Is there room on this 30-acre site to put a baseball field?

MR. SCHMIDT: Objection. That's entirely speculative. Is there room on this site to build a golf course? Is there room on this site to

put a McDonald's restaurant?

I mean, what does that have to go with this case? It's entirely speculative. The plans we're asking to be approved is the plan that's on the board. Obviously if that plan is amended in the future, the county will make us either come back and amend the special exception or do whatever this Board has the authority to impose whatever conditions it has.

All these questions are about things that may never happen and, more to the point, are not proposed under the current request.

MR. HOLZER: I will adopt his question.

MR. GARBER: Which question?

MR. SCHMIDT: I didn't ask a question. I made a statement.

MR. HOLZER: I'm entitled to find out what they're proposing to do and how they're proposing to use this special exception.

MR. GARBER: I think your point is made that at this time this is what's reflected. We

don't know what could happen in the future, right?

MR. HOLZER: Yes, we do know.

MR. GARBER: We do.

MR. HOLZER: The community itself is concerned that there will be a larger development. That's why I asked the question before of could you restrict the special exception to merely the area of the development that he's testified to.

We're not trying to cut out the barn. We're just saying, what they want to use this for, we would like the special exception to be restricted to that, that would (a) preserve all the forests, (b) ensure -- and this is important. I've been around doing this a long time -- that if they do want to develop this property with an additional building or additional field, they would have to come back to this Board or to the county.

MR. SCHMIDT: Mr. Garber, Mr. Holzer knows --

I will stipulate he has been doing this a long time.

More to the point, certainly he can request this Board to impose a condition that any additional improvements to the site or any material changes to this plan would require an amendment to the special exception and so on and so forth. And that's certainly an appropriate legal argument.

But it's not in the context of questioning this witness. This witness is telling you the plan that he has been asked to prepare, showing what's proposed.

He's required as part of the package to outline the boundaries of the property and show acreage of the entire property, in fact provide a legal description of the entire property. That's required as part of the file.

So for Mr. Holzer to take those requirements and suggest that they're going to build something and tear out all these trees is simply inappropriate.

He can ask for that condition or restriction. You-all may or may not impose that.

But it's unfair to this witness in the context of his questioning and answering.

I object.

MR. HOLZER: I will ask a new question.

MR. GARBER: That's fine. Move on then.

Q. (By Mr. Holzer) Let's talk about parking. How many spaces are you providing?

A. Thirty-eight clearly delineated parking spaces.

Q. That figure, I think you've testified, was based upon information that you gave to the zoning office, is that correct?

A. We were provided with an approximate number of regular attendees by our client. And due to the way the parking requirements are worded for religious-use facilities, if you don't have pews, there's nothing to base it on.

So they took our anticipated attendance and accepted that as being applied in lieu of seats, which generated the parking requirement shown.

Q. So basically you got to pick the number of people that would be in attendance and the county had no basis upon which to limit that because there is no understanding.

They took what you gave them, and they came up with the requirement of one for four and therefore 38.

A. One for four is in the zoning regulations.

Q. I understand.

A. As it would apply to a religious facility with physical seats.

Q. It would apply to a religious facility that has those kinds of requirements that's not involved in the situation like this unique property, isn't that so?

If they were doing it in another zone or another RC-2 zone and somebody came in and said, We have 200 people attending our 9:00 Sunday service, they would do it on that basis.

You walked into the zoning people and said, We can't tell you. We'll tell you normally 20

people show up, or, Normally, X number show up. And that's what they base 38 spaces on. Isn't that correct?

A. The zoning requirement is one space for four seats. That is what would apply to any religious facility. This religious facility may have four seats for elderly or disabled. Obviously, one parking spot wasn't appropriate, so we chose to ask our client for expected attendance and generate parking requirements still applying the one to four but standing room.

Q. So your client is the one that provided the county that information.

A. (Nods.)

Q. When I look at this photograph L that you took --

A. I don't have them here.

Q. You know which one.

MR. GARBER: Let's make sure he has the photograph in front of him.

MR. SCHMIDT: Let's be fair to the

witness.

MR. HOLZER: I'm always fair to the witnesses.

Q. (By Mr. Holzer) That appears to be about 120 to 150 seats.

MR. SCHMIDT: Objection. He testified about 80.

MR. HOLZER: I know what he testified. It was a guess. I'm asking him to guess again.

MR. SCHMIDT: Objection. Asked and answered.

MR. GARBER: Mr. Holzer, if you're asking him to agree that this is up to 150 seats, there's another way to approach that.

MR. SCHMIDT: It's not. It's 80 seats.

MR. HOLZER: He testified that he thought it was 80 seats.

Q. (By Mr. Holzer) Is that more than you told the zoning office as to how many people would normally be there?

A. It's less. If we're talking about the 80

number, which I testified to, that is less.

Q. How many did you tell them?

A. Four times 38. So --

MR. GARBER: 152.

A. 152. 150, I believe, was the number.

Q. You told them that the average attendance would be 152.

A. The maximum normal attendance. So a festival or holiday.

Q. A festival or holiday. In other words, if you didn't limit it to a normal religious service, you related it to an event?

A. A religious festival.

Q. An event.

A. We were discussing worship only.

Q. If it was worship only then you're saying 150 worshipping as the average that they would expect.

A. The maximum.

Q. The maximum that they would expect.

Are you now trying to say that also meant

if they have an event at the site it would only be 150 as well?

A. No. I'm saying that 150 is what the parking was based on, which is appropriate given the religious differences, when the code was written, for a Judeo-Christian worship.

Q. Let me get this straight. If they had an event there, such as they had this last August, then Mr. Schmidt asked you a couple questions about that.

MR. SCHMIDT: No, I didn't.

MR. HOLZER: Yes, you did. You asked him, There are 38 spaces, one for four seats, maximum number of people.

Q. (By Mr. Holzer) But what happens if there are more vehicles?

You explained there's an additional paved area for them to park on, which is the entrance area, the roundabout, and you also said they could park on the grass, right?

A. I did not indicate the roundabout. The entrance area has additional parking adjacent to the

house. There is additional paving in the garage area of the existing house.

Q. Right. Exactly. I'm sorry. I misspoke. You indicated that. And then you said parking on the grass.

A. Yes. There is a substantial lawn area that would be suitable for very occasional use.

Q. How many vehicles?

A. We didn't do any kind of analysis. Far in excess of 38 or 50 cars.

Q. So there would be no limitation on the number of people who could drive onto this site with their vehicle and park. Even if they exceeded the paved parking area, they could park on the grass and that would be okay.

A. There would be parking available for them on the grass.

Q. Plus the grass.

A. Parking in the grass would be available.

Q. Yes. So there would be no parking limit

based upon the fact that there could be an event that would attract a thousand people.

MR. SCHMIDT: Objection. When he asked, There's no limit, do you mean limit under the law? I don't understand what that question is.

MR. HOLZER: He's not a lawyer. I'm not asking under the law. I'm asking him under what is being proposed by your client, a thousand people, 500 cars could come onto that site and that would not create a problem from your standpoint as an engineer.

A. We have not prepared an analysis of the overflow parking area. I can't state what that number could be.

Q. Okay. Okay.

The fire turnaround, that's something new that wasn't proposed before the administrative law judge, was it?

A. That was on the plan that the administrative law judge saw.

Q. Why did you put that on?

It wasn't on the plan that was handed out to the community prior to the hearing. So what caused that?

A. I can't say for a fact whether it was on the plan that was handed out to the community. I don't have that plan.

Q. That's not the question. The question is: What precipitated the requirement of putting the fire turnaround on this site?

A. We added it. If it wasn't on a plan you've seen, that was a draft. And anything prior to what was filed with the ALJ should be considered a draft. That was not a final product.

Q. Now that you said that, could I just ask you my question?

What precipitated the requirement that you put on this fire turnaround? Who and what and when?

A. So in the process of going from a draft plan to a plan that is suitable for a hearing, we want to ensure that we're meeting all the requirements that would be applicable.

One of those would be a fire turnaround for emergency equipment, so it would have been added as we finalized the plan.

Q. Did the fire department require that?

A. The fire department had not seen the plan prior to us filing, so they never saw a plan that did not have the turnaround.

But through our experience and the volume of work we do in Baltimore County, we know that there would be one required, so we provided one.

Q. Has the fire department been satisfied with what you've shown on the plan?

A. I don't know that they've seen the plan.

Q. As of today, we don't know whether that fire turnaround has been approved by the county or not.

MR. SCHMIDT: Objection. He doesn't work for the county. Ask the county.

MR. GARBER: I think the question is: Does he know? He answered, no, he does not know.

MR. HOLZER: Right.

Q. (By Mr. Holzer) You do not know.

A. No.

Q. You testified that your clients have done cosmetic improvements in the building. What are they?

A. To my knowledge, the great extent of that was to clean out all the used needles, alcohol bottles and do their best to remove the swastikas and other graffiti within the building.

Q. I think you showed us a picture of the building on L and M. I would ask you, does this look unimproved on those two pictures, L and M? It looks pretty nice to me.

A. When I visited the site the first time, all of that work was there and was covered in graffiti. It was cleaned of graffiti but otherwise that building is what was there.

Q. What about this second picture, the M? It looks like the hallway was cleaned. It's been pretty cleaned up, right?

A. Yeah. That is the original hallway to the

house. It was a nice house when it was last inhabited. Thankfully it wasn't destroyed too much.

Q. When you visited, as you said, you went upstairs. Were the upstairs rooms as nice looking and as clean looking at this one, M?

A. No.

Q. They were still dirty?

A. I wouldn't say they were dirty. They weren't at 100 percent yet.

Q. But clearly there had been work on the inside. Is that a fair statement?

A. Yes.

Q. When you first went to the site was there electricity in there at the time?

A. Yes.

Q. The first time.

A. Yes.

Q. Not with Mr. Schmidt.

A. Yes, there was.

Q. You had lights? You were able to turn on lights inside and so forth?

A. Yes.

Q. I show you a picture --

MR. GARBER: Protestants' 4?

MR. HOLZER: Protestants' 4.

(Protestants' Exhibit No. 4 marked for identification.)

Q. (By Mr. Holzer) Are you familiar with the site this July with the tent there, with vehicles parked on the grass?

A. No, there was no tent. As I said previously, there were very few cars anytime I have been on the site.

Q. Is this what you envision, that cars could be parked on the grass, like this photograph depicts?

A. Sure.

Q. Would this tent, would that be something that you would envision that could be in addition to what is on this site plan?

A. Physical addition to the building?

Q. No, it's not. It's a tent set up on the

outside.

Is that something that would be in addition to what's shown in Exhibit 1A?

A. Obviously this temporary tent is not shown on our plan. I don't know if that answers your question.

Q. You were not asked to prepare anything to show that additional facilities, kitchen, additional dining area, additional tents. You were not asked to prepare anything like that and to locate it on the site plan.

A. Correct.

MR. HOLZER: I would mark this for identification only as 4. I will have someone identify the basis for it and how it got there and when it was taken.

MR. GARBER: You mean for purposes of admissibility.

MR. HOLZER: Yes.

MR. GARBER: Mr. Schmidt, do you have any questions about the admissibility for

Protestants' Exhibit 4?

MR. SCHMIDT: I guess I would probably want to ask whoever took it, when they took it and get an idea of when it was taken.

MR. GARBER: Trying to figure out a way to streamline as much as I can.

MR. HOLZER: That's why I marked it for identification.

MR. GARBER: Right now it's 12:25. How much longer do you think you have?

MR. HOLZER: Another hour.

MR. GARBER: Does it make sense to break now for sometime in the next several minutes. Are you at a natural breaking point?

MR. HOLZER: I'm at a natural breaking point. I'm getting hungry.

MR. GARBER: With that being said, why don't we do 45 minutes. Does that work for everybody?

MR. SCHMIDT: That's fine.

MR. HOLZER: Sure.

(Recess was taken.)

MR. GARBER: Mr. Holzer, back to you.

MR. HOLZER: Thank you. For the Board's edification, I went through the rest of the questions to try to avoid repeats and to cut this down hopefully.

Q. (By Mr. Holzer) You testified that you were only at the site two times, one time with Mr. Schmidt and one other time prior to when he took the pictures, is that right?

A. He took the pictures of the most recent visit.

Q. The second time you had been there is when he took the pictures.

A. Correct.

Q. At either of two those occasions where you had the opportunity to be on-site, did you observe what took place when there were three different events taking place at three different times on this property?

A. No, I have not.

Q. So you cannot --

Your opinion in regard to 502.1 is not based upon any personal observance of any problems that may have affected the neighbors at that time, is that right?

MR. SCHMIDT: Objection to the form of that question, Mr. Chairman. He uses the word "problems." Obviously it's based on his understanding. He's an expert as an engineer. He's been to the site.

MR. GARBER: You object to the word choice.

MR. SCHMIDT: Yes, I do.

Q. (By Mr. Holzer) The simple question is: Your 502.1 testimony is not based upon any observance of the three events that your clients held in which there may or may not have been more people than just yourself and Mr. Schmidt.

A. No. My testimony is based on the anticipated day-to-day use of the facility.

Q. Exactly. Not in terms of special events.

A. Correct.

Q. You testified that even though the site has a lot of trees that you believe there was no need for a landscape plan.

A. I said we prepared a plan, and based on the county requirements for landscaping, which is primarily geared towards screening, none or very little additional planting would be required to satisfy that.

Q. Could you present me today with the landscape plan that you prepared?

A. Yes. If I could go --

Q. Sure.

MR. HOLZER: Mr. Chairman, may I have an opportunity to look at this?

MR. GARBER: Yes, of course.

I assume you've seen it, Mr. Schmidt.

MR. SCHMIDT: I have.

MR. HOLZER: Really?

MR. SCHMIDT: I have. The new landscaping is mainly around the parking area and

driveways, as I recall.

MR. HOLZER: For purposes of this record, it does appear that there is additional landscaping but primarily around the parking area and the driveway. I think this should be submitted as an exhibit.

MR. SCHMIDT: No objection.

MR. HOLZER: It should have been part of the record.

MR. GARBER: It will be now.

MR. HOLZER: Around the entrance area and along the driveway around the parking. The 14, 13 and 22 parking sites. I hope that adds up to 58.

MS. MURPHY: Thirty-eight.

MR. SCHMIDT: It's generally around the area of the new construction.

A. If I can specify --

MR. GARBER: One second. There's no question pending.

So we're marking this as Protestants' 5?

MR. HOLZER: Or Developers. Why should

I have to submit their landscape plan?

MR. GARBER: We just want that marked for the purposes of the record.

MR. HOLZER: That's fine. I will mark it. Protestants' 5.

(Protestants' Exhibit No. 5 marked for identification.)

Q. (By Mr. Holzer) This is the plan. And what is it dated?

A. This is a conceptual landscape plan dated July 25, 2018.

Q. Since it says it's conceptual, does that mean it could change?

A. Yes. This was as prepared for a first preliminary review by the county landscape architect.

Q. When they review it, they may have some other additions or comments.

A. That's correct.

Q. It has not been presented to them yet.

A. It's been submitted to their office. They

have not reviewed it yet to my knowledge.

Q. As I said to the Board, just looking at this, it looks like additional landscaping. Are these trees, evergreens, deciduous? Do you know?

A. The proposal is for some of them to be deciduous, some evergreen. There's a ledger in the corner of the plan.

Q. I see.

MR. HOLZER: At the top left corner is the ledger of the type of planting.

Q. (By Mr. Holzer) Is that it?

A. Uh-huh.

MR. HOLZER: I will offer this. I will take it back to the Board.

MR. GARBER: Mr. Schmidt, I assume you have no objection.

MR. SCHMIDT: No objection.

MR. GARBER: So admitted.

Q. (By Mr. Holzer) I think you testified that the RC-2 zone permits a church if the site complies with the special exception requirements, is that

correct?

A. I said it's permitted by special exception in an RC-2 zone.

Q. Right. But doesn't it also have to comply with the special exception requirements?

A. Yes, there are criteria placed on a special exception.

Q. Those criteria are the 502.1, is that correct?

A. I have to take your word on that. I haven't committed it to memory.

Q. I thought you did all these special exceptions.

A. I know what it says, but I don't have the numbers memorized.

Q. When Little & Associates were contacted by the applicant here, which you said was sometime in 2017, probably the spring, do you know whether they had acquired the property?

A. I do not.

Q. Did you ask them whether or not this

property was theirs or under contract or what? Did you just assume?

A. At that time we knew that they were -- they already owned it or they were under contract to buy it. And for the purposes of our work it doesn't make much of a difference.

Q. You knew it was either under contract or they had acquired it, right?

A. Yes.

Q. Under those circumstances, did you give them any advice in regard to, since you were the senior person, zoning requirements or the other aspects of approving a site plan such as you presented?

A. I'm not sure I follow your question.

Q. The question would be easy, if I could just say it.

What did you advise them about proceeding?

A. We advised them of the special exception is not a guarantee and explained to them the process, time frames and what would be entailed.

We had a meeting with Tim Kotroco prior to that, the attorney at the time.

Q. So they knew there was a zoning requirement. They knew there was a procedure requirement.

Did they know anything about when they would get permits to be able to improve the property or utilize the property to your knowledge?

A. We talked about utilization of the property as a religious temple would be pending the approval of the special exception.

Q. In other words, being able to use the property as a religious institution, they would have to await the outcome or the decision of these hearings.

A. Yes.

Q. Did you give them any advice insofar as being able to utilize the property in the meantime?

MR. SCHMIDT: Objection. I'm just trying to figure out what the relevance of this as it relates to the special exception.

MR. HOLZER: This all goes back to the motion that we filed on the first day, it goes back to the issues that were presented to the county on the first day and depending on what the answers are, obviously, it may have an impact on the approval.

MR. GARBER: I will overrule the objection.

A. Could you repeat the question please?

(Question read back.)

A. At that time, we knew that they were undergoing cleaning up, replacing windows, getting the trash out, cosmetic work to the property, and that would be fine to continue as a property owner or contract purchaser.

Q. Did you know they were going to be holding events there?

A. I did not.

Q. You didn't know that they were holding get-togethers for a number of people, not just to paint or repair the building but to fundraise, to have parties there. You didn't know that.

A. Beyond a group of people showing up on weekends or in the evenings to work on the house as a group, no.

Q. Thank you.

If you had been aware that there were events being held with regular attendance and those events being greater than 300 people, would you have changed your analysis in terms of parking requirements or approval or submission of those requirements on Exhibit 1A?

MR. SCHMIDT: Objection. Mr. Garber, again -- and I think you ruled at the first day's hearing, and you recognized that the Board is not sitting in its capacity to consider appeals of code violation cases.

We acknowledge and my client acknowledged that they have had fundraisers and certain gatherings since they've owned the property, just as I may have a fundraiser at my house or I may have a celebration at my house or we all may do that.

I think what the relevant inquiry in this

case is is whether the special exception, which is the use of the property if an approval is granted both in terms of the sort of mundane, routine daily activities as well as the festivals that have been described, is the inquiry.

I'm not sure where these questions are going other than I understand the neighbors didn't like it that they had a fundraiser out there. I get that.

I frankly don't understand what that has to do with the proposed use of this property going forward. It's not a code violation case.

MR. HOLZER: I will explain it.

MR. GARBER: The way I understood it was it was not dealing with code enforcement issues but rather how would the holding of these types of events, how would that impact the way the plan is designed?

And that is, would you make different accommodations, would you have a different parking arrangement or configuration, what does that mean

for the purposes of the special exception factors?

That's how I interpreted your question. It was beyond the strict code enforcement part.

MR. HOLZER: Mr. Chairman, you're right on the money. I have written down here a response.

The credibility of this witness in terms of his opinion in regard to 502.1 would be based upon these questions and this answer.

We're not trying a code violation case over again. Your Honor is exactly right. That's still my question.

MR. GARBER: I will overrule the objection. The question stays.

Q. (By Mr. Holzer) The question was: The assumptions that you've made in regard to parking requirements, would those change if you were advised that instead of 150 maximum there could be attendance at events, whatever, held on-site of 300 people or over?

Would that requirement change your opinion in regard to your testimony dealing with parking?

MR. SCHMIDT: I will just object to the supposition that there have been over 300 people on the property. Facts not in evidence and how we know that. I understand your ruling to my prior objection.

MR. GARBER: I recognize the 300 number to be more of a hypothetical because that's not a fact that's been established in the evidence. Since he is an expert witness on that point, he can certainly answer the question.

MR. HOLZER: Thank you.

A. The answer is, no, we would have proposed the same or materially similar layout. We would have proposed parking, paving and the site improvements for 364 days of the year and not the one day of year that there may be a larger crowd.

Q. Maybe there would be three or five days. Would that affect your opinion, if it was a regular special event and not a religious appearance on a particular day?

A. That would depend on the number of times a

year and the actual size of the crowd that's anticipated during that day.

Q. Didn't I ask you, Did you know that there were going to be special events? You said, you didn't know that.

A. I did not.

Q. So you were never told by your client and you never tried to find out what other special events would be held, is that right?

A. We found out what we needed to know for the religious worship, which is what the parking requirements address.

Q. If you have a religious institution and they're holding Bingo parties and so forth, take a Roman Catholic, Episcopalian, a Methodist, don't those calculations go into the requirement for parking, if they had them regularly as part of the religious activities on-site?

A. The parking requirements would be separate. They would have parking requirements one per four seats, and if they had some sort of hall where those

types of functions were being held, there could be additional requirements for that.

Q. And that hall could be this main building, could it not?

A. The interior of the structure would not lend itself to a large hall for entertaining outside of the worship work.

Q. You don't know that, because you don't even know the square footage of this building, do you? You just testified you didn't.

A. I don't need to know the square footage to know the interior layout.

Q. Really.

Are you telling me that you couldn't put 300 people in the hall that's shown in one of these pictures and in the hallway or in the other portion of the building?

A. If your purpose was to just jam as many people in the room as possible, maybe.

Q. What about upstairs, while downstairs is being held?

Are you telling me that you're going to take that position, when you previously testified that you didn't measure the square footage, you didn't pursue the basement to find out whether --

Are you really taking that position?

MR. SCHMIDT: Objection.

A. Yes.

MR. HOLZER: Yes, he answered.

MR. SCHMIDT: Arguing with the witness.

MR. HOLZER: I'm not arguing. This witness has to be truthful.

MR. GARBER: We can strike that comment. But the question stands and the answer stands.

Q. (By Mr. Holzer) You may or may not have used this testimony or commented on in regard to the parking spaces.

But did you use as a basis for your calculation four people per car?

A. Yes. The calculation is based on one car per four seats. Because there are no seats, in lieu

of seats we used an expected attendance.

Q. So you did use that calculation of four people per car.

A. Yes.

Q. Other than your two visits and other than your preparation, you really don't know how this property has been used from the time of its purchase until now.

Is that a fair statement?

A. Like you said, I've been there twice. I don't live in the area that I see it on a regular basis.

Q. Thank you.

I know we went into this area before of you're not an environmental person. But as the overall producer of this site plan, do you know whether or not there are any plans to mitigate sheet flow adversely affecting in the northern direction, specifically Ms. Foxworthy's property, which is on the north side where you said the flow would go?

A. We haven't proceeded to any sort of

analysis on that at this point.

MR. GARBER: When you say "on that," what are you referring to?

THE WITNESS: On the runoff.

A. In the vicinity of Ms. Foxworthy's house, there is a roadside ditch and an inlet. Without closer examination, I wouldn't be able to state what possible problems there are.

MR. GARBER: If I can ask and jump in: Where is that property located on 1A?

THE WITNESS: It is directly across Harford Road from the entrance at the northwestern corner of Boneparte Avenue and Harford Road.

MR. GARBER: Would that be the house that's depicted in Petitioner's 9E and F?

THE WITNESS: Is that the one looking from the site towards Harford Road, down the driveway?

MR. GARBER: Let's get the actual exhibit.

MS. DOPKIN: Would you show us where on

the site plan the inlet is?

MR. GARBER: First, the question is 9E and F, is that Ms. Foxworthy? Is that correct?

MR. HOLZER: Yes.

MR. GARBER: Is that the house that you're referring to, sir?

THE WITNESS: In E it is to the left of that photo, behind the stop sign, and clearly visible in F.

MR. GARBER: So E would show different homes than F, correct? And F is the one that we're talking about here with this testimony.

THE WITNESS: Any home in E would be further down the road and not directly adjacent.

MR. GARBER: Got it. The next question from Ms. Dopkin is, is there a way in these photos to show the inlet and the roadside ditch?

THE WITNESS: The inlet and the roadside ditch are visible in 9B. It's to the right of the white striping.

MR. GARBER: Is that a sewer grate in

9B?

THE WITNESS: Almost in the middle of the plan, that's the top to a storm drain inlet.

MR. GARBER: That's on the subject property side, correct?

THE WITNESS: Correct.

MR. GARBER: What about the roadside ditch and inlet you referred to to Ms. Foxworthy's property?

THE WITNESS: There is another ditch on our side of Harford Road that's visible in 9C, west of the driveway along Harford Road.

MR. GARBER: What about the other side of Harford Road?

THE WITNESS: There's no picture here to depict anything there. You can actually see in 9C that Harford Road is actually sloped away from Ms. Foxworthy's property and back toward the subject site.

MR. GARBER: Thank you, Mr. Holzer.

Q. (By Mr. Holzer) Did you measure the

distance --

From what we'll call the tennis court or the volleyball court, whichever net goes up or down, are there any homes close to that site as depicted on Exhibit 1A?

A. The closest homes would be all the way on the other side of Harford Road, on the west side of Harford Road on the property.

Q. In other words, where you just were talking about Ms. Foxworthy's property, that's the homes that you're referring to?

A. Ms. Foxworthy would be to the north.

Q. Right.

A. So to the west of the property, the closest home to the sports court would be here on the west side of the Harford Road.

Q. Look at lot 12150. Is that on there?

A. Yes.

Q. Can you measure from that home to the tennis court or volleyball court, the distance?

A. I would say it's 300 to 350 feet.

Q. Thanks. Since you haven't been out there when there were any events, you can't tell what the impacts of people on the subject site, how it would impact those people that you just described?

A. In what case? What events?

Q. Noise.

A. No, I have not been there when the property was in use.

Q. I have a few more questions and that will be it.

We already addressed the issue that you're not a sound expert, so you wouldn't be able to opine one way or the other as to who or what could hear who or what, right?

A. As far as noise levels at any adjoining location, no.

Q. I believe you testified that in your analysis of 502.1, you felt this was a low impact or low intensity impact on the neighbors, is that right?

A. Yes.

Q. How did you conclude that for your opinion?

A. During my visits to the site, my review of plans and aerial photos of the area, 502 requires that it not be a greater impact than it would be on other sites.

So this, in the scheme of a religious worship facility, would be a low impact site and location due to its proximity to a state road and due to the size of the property.

Q. So you were not including in your opinion any noise problems, traffic problems, any relative type of problem that could be generated by the use of this site on the neighbors.

A. What my opinion was is that any noise or sounds that were generated by this site would be no more impactful here than it would be in a similarly zoned property elsewhere.

Q. You also testified previously that this is the highest site in the area, is that correct?

A. Directly around the house is.

Q. But the whole site of 30 acres is higher

than the surrounding properties on the east, west, north or south.

A. Not in its entirety but the majority.

Q. So that wouldn't be a relative factor to set this property apart?

A. Not in my opinion.

Q. So in your opinion the geography and physical location of this site is not relevant to your opinion.

A. I said the height was not a detriment. The physical location of the property is a consideration. And in that case I think this property is better than the similarly zoned property nearby.

Q. Suppose it was a similarly located piece of property that's flat, would you find any difference between this site and the church located on a flat piece of property?

A. No. Again, it's primarily driven by the distance to the surrounding neighbors.

Q. You just said they're within 300 feet of

adjacent properties. You never testified as to how close the house was on the north of this site that you've shown on Exhibit 1A, and you've identified for the Board as this property right here. And I'm pointing to Mr. Pohler's property. You testified about that.

Are you telling me that that couldn't be effected by something?

A. There's no requirement that there's no effect. That it's not a greater detriment to the community here than it would be elsewhere.

Q. Let me ask you this question. Suppose you go over to Bel Air Road and you have a church at Bel Air Road that's surrounded by commercial activity. Wouldn't there be a difference between this property and that property?

A. If it --

MR. SCHMIDT: Objection.

A. If it was surrounded by partial property, it wouldn't be similarly zoned.

MR. GARBER: Sir, there's an objection

pending.

MR. SCHMIDT: I will withdraw the objection based on his answer.

MR. HOLZER: He hasn't answered.

A. If it was surrounded by commercial properties it wouldn't be similarly zoned and, thus, we wouldn't be comparing it for the purposes of 502.

Q. So that's one answer.

Suppose you had a church on a flat piece of property that was a church operation but, in fact, was different from this physical site in terms of either road access, surrounding properties, et cetera.

Wouldn't this be different from that?

A. It would be. You could conceivably have a site that is located at the end of a residential street which is different. That's obviously a worse scenario than direct access to the state highway.

In that case, the access to this site is good for its use. It's direct access to Harford Road.

Q. So your analysis then is based upon the fact that there is, in your opinion, no other location that would be better than this or worse than this, that this is the best. There's no impact.

MR. SCHMIDT: Objection. I don't understand the question. I don't understand how it relates to the criteria.

MR. HOLZER: The criteria is as he's already testified to. The impact has to be greater here than elsewhere in the zone. That's the old standard that we all live by in the zoning law.

Q. (By Mr. Holzer) So the question that I have is that you have not been able to find a piece of property that is any worse than this site or any better, right?

A. I haven't shopped for an available site. If that's what you're asking.

Q. That's true. That's what I'm saying.

Nor have you shopped for a site that would indicate that the property here is worse than at

someplace else.

In other words, just the opposite of what your testimony is.

You haven't done that research, have you?

MR. GARBER: He's basically asking if you compared properties.

A. What properties? I don't know what properties would exist that would be suitable for this.

Q. You've answered the question.

MR. HOLZER: He hasn't compared it to any properties.

Q. (By Mr. Holzer) To your knowledge of your client in terms of their religious activity, can you explain here the depth of your knowledge relative to how they equate to a Christian church, a Jewish church, a synagogue?

Do you have any ability to articulate how this congregation functions versus what many other people as Christians would understand how their church functions?

MR. SCHMIDT: Objection. That's so far out of the area of this man's expertise. It's completely an unfair question.

MR. GARBER: How it would impact the design here?

MR. HOLZER: Yes.

MR. GARBER: I would have to agree with Mr. Schmidt.

MR. HOLZER: How it would impact the design is very simple. He has testified in regard to 502.1 criteria, and he has drawn those conclusions that this would be no different than any church. And that's why it's relevant for him to understand.

MR. GARBER: I'm still not hearing why there would be a difference between the way a church, synagogue would be run other than the general religious use, which is how it was understood previously, right?

MR. HOLZER: Because the answer to that question is what they testified in Day 1. They

testified there is no religious Sunday morning 9:00 or 11:00. They testified that from a religious standpoint that anybody can walk in and do whatever they want to do, say a prayer, ask for forgiveness.

MR. GARBER: Right. So how does that impact your question?

MR. HOLZER: It impacts my question because I want to know what he compared, what he analyzed in regard to coming up with these conclusions that this facility did not violate 502.1.

MR. GARBER: Again, going back to the point, how does that relate to practice of this religion versus that of any other type of Christian church or Jewish synagogue?

MR. HOLZER: It relates to how they testified. I'm not the one to talk about religion. They were the ones that explained, on Day No. 1, how their religious institution functions.

MR. GARBER: Right. As the engineer, how did that impact his opinions and his plan?

MR. HOLZER: Correct. Because based on what he knows about the building, based on how he can opine that there will be no impact on the neighbors, or whatever, it's all relevant. It's all tied together.

MR. GARBER: Can you answer the question?

THE WITNESS: I think so.

A. The difference from a normal Judeo-Christian worship in the way the service or prayers are attended is that there is no formalized date and time that everybody comes and leaves at the same time. So your peak traffic would always be less from this facility than a comparable church or synagogue. And then, because there are no pews, the way we had to figure out a way to apply seats to a facility with no seats.

And so we have a peak attendance to regular service that was used for the parking requirements. Beyond that, worship is worship in my opinion.

Q. So the only thing that you said so far that

when I've asked you about festivals that are held there is that you don't know anything about them.

So, therefore, the question that I have is absent that knowledge. How can you make the opinion that it does not violate 502.1?

MR. SCHMIDT: Objection. He didn't testify that he didn't know anything about festivals. He testified that the fundraising events he was not involved in.

But obviously he sat and I believe he testified that he's aware of the operation of the church in terms of two parts of it; one, what I would call the week-to-week operation and, also, the periodic festivals, the religious festivals there.

We're not talking about fundraising events but the three to four festivals that they have yearly. We heard about them on the first day of testimony.

MR. GARBER: Mr. Holzer, what say you?

MR. HOLZER: I don't want to say any more. I have no further questions.

MR. GARBER: Are you done with cross-examination?

MR. SCHMIDT: I'm sorry. Are you done? I thought you said you were done.

MR. HOLZER: I said I have no further questions.

MR. GARBER: Just on that point?

MR. HOLZER: Not just on that point, on all points.

MR. GARBER: Mr. Schmidt, redirect?

EXAMINATION BY MR. SCHMIDT:

Q. Mr. Motsco, let me just follow up on that. You were here for the first day of testimony. You heard the testimony from several representatives of the church as to essentially how the church operates.

A. Yes.

Q. You heard that unlike the Judeo-Christian type of church, there are no regularly scheduled weekly services on a Sunday morning, for example, in a Christian church.

A. Yes.

Q. You also heard, did you not, that there are periodic festivals that are conducted? Some are 15 days long, some are shorter than that. There may be three or four a year.

There was discussion about major versus minor religious festivals and the significance and how that impacts attendance.

Did you hear that?

A. Yes.

Q. Was it your testimony, sir, when you were addressing 502.1 that you took into account, quote, how the church operates and how these services and religious activities would work over the course of the year in concluding that it would not be detrimental to the health, safety, and general welfare locale?

A. Yes.

Q. I understand you were not part of the decision to have a fundraising event out here, correct?

A. That's correct.

Q. You didn't attend the fundraising event, correct?

A. That's correct.

Q. But you have an understanding of how the church would operate on an annual type of basis in terms of festivals and services and attendance, correct?

A. Yes.

Q. Is that what your conclusion was based upon?

A. Yes. My conclusion was based on the regular operation of the worship.

Q. Thank you.

The landscape plan that was submitted, that has not been approved by the Mr. Hermann, who is the county's landscape architect, is that correct?

A. That's correct.

Q. Has that been prepared in accordance with the county's landscape manual and any other source that might be relevant in terms of the requirements

for landscaping?

A. Yes.

Q. Is those requirements generally driven by new construction or new improvements to the property?

A. That is correct.

Q. So there is an existing building and several existing buildings, are there not?

A. Yes.

Q. In addition to the landscaping that's proposed and shown on that plan, there's also significant mature landscaping on the property, correct?

A. That is correct.

Q. You've indicated that there is no proposal or no intention as shown on this plan to remove any of the landscaping that's out there except for, as I think you've described it, if the driveway is required to be expanded or altered, correct?

A. Correct.

Q. But all the woods that are shown in all the

various photographs are going to remain at least as it's contemplated at the current time.

A. That's correct.

Q. Let me also ask you: I think you said at the beginning of your direct examination a lot of the base source material on this plan in terms of the location of environmental features, existing improvements, driveways, et cetera, was in large part based on information obtained through the county's GIS system, correct?

A. That is correct.

Q. Did you also indicate on cross, I believe, that not only you but other representatives of Little & Associates have been to this site? Is that correct?

A. Yes. The individual helping me prepare this plan, once we had compiled all the GIS data and prepared a draft plan, visited the site. Sometimes buildings get obscured in heavy trees and sometimes in aerial photos things aren't always what they seem.

So they visited the site to confirm that what we're showing on the plan is an accurate representation of the site.

Q. That would be as to improvements on the site and the environmental features and the like that would have been shown on the GIS system.

A. Yes.

Q. So that information on the GIS system has been field verified, in essence, by somebody from Little & Associates.

A. Yes. And I actually did the same exercise on my first visit to the property and walked the entire site myself.

Q. Is it your opinion, sir, that the site as shown on Petitioner's Exhibit No. 1 and I believe 1A, as it's shown up there, is true and accurate in terms of conditions on the property at the present time?

A. Yes.

Q. You were asked about stormwater management, were you not, or some stormwater management

questions by Mr. Holzer?

A. Yes.

Q. At least as to the proposed driveway -- excuse me.

MR. SCHMIDT: Strike that.

Q. (By Mr. Schmidt) As to the existing driveway, at least under one scenario that may remain, correct?

A. Yes.

Q. There would be no additional paving, if State Highway Administration accepts the existing configuration of the driveway, correct?

A. Correct.

Q. Insofar as the grades in that area, do I understand the property runs down from the property, down towards Harford Road at that area?

A. Yes.

Q. Are there any ditches, improvements, collections or any of that type of feature on the Petitioner's side of Harford Road that would collect or channel that water as it comes down off the

property under today's circumstances?

A. There is at least one inlet and a roadside ditch along Harford Road.

Q. On our side of Harford Road.

A. Yes.

Q. How far does that ditch extend, if you know?

A. It extends at least several hundred feet from the entrance. Beyond that, I can't say.

Q. Is it on both sides of the driveway? When I say "both sides," what would be east and west is the configuration, go along both up and down Harford Road. Or is it only on one side of driveway as it relates to Harford Road?

Do you understand what I'm asking?

A. There's a little bit to the north on Harford Road from the subject --

Q. Why don't you show us where it is on the plan. And if you can verbalize where the ditch is.

A. There's a ditch heading in a easterly direction on Harford Road, and that's starting at

the driveway entrance and heading east. There is some ditch there for a distance. I didn't examine all the way up Harford Road.

Q. How about on the other side of the existing driveway?

A. It does exist at least in this vicinity getting down to the big bend in Harford Road.

Q. So there's a ditch that's along that side.

How about on the other side of Harford Road? If you know, is there a ditch on the other side of Harford Road?

A. On the other side of Harford Road, many of the properties fall off rather significantly from Harford Road. So there would be no ditch for runoff into the yards.

Q. And there's at least one storm drain.

A. Yes.

Q. Will we be required by the county as part of the permitting process in terms of the construction of either the parking area or the new access point, assuming it's required, to take into

account any grading, stormwater runoff and the like?

A. Yes. We would have to prepare a grading plan at the very last and obtain a grading permit.

Q. Would that take into account any water runoff that might be generated by any of those changes?

A. Yes. When we prepare that plan, we would look at whether or not additional work is needed to address those concerns.

Q. How far in terms of linear feet is the new parking area from the property boundary? If you can estimate that.

A. At its closest point, I would say it's at least 200 feet.

Q. How long is the driveway from that parking area? Is it shorter or longer than that?

A. The driveway to Harford Road?

Q. Yes, sir.

A. It's longer, probably at least 300 feet.

Q. The length of a football field.

MR. GARBER: The driveway is 300 feet?

THE WITNESS: From the area of the new parking.

MR. GARBER: The driveway itself is not 300 feet in length. It's 300 feet from its point of access to the proposed parking area to Harford Road.

THE WITNESS: Yes.

A. There's additional driveway beyond the proposed parking.

Q. To get to the building.

A. Correct.

MS. MURPHY: From what point in the entrance area? What point are you starting at for the 300 feet?

THE WITNESS: The existing entrance here at Harford Road, the driveway comes in, bends to the left, and then there's a left turn here, where we're proposing parking in two directions from that point on the plan and from that point down to the entrance.

MS. MURPHY: And you're saying that's 300 feet.

THE WITNESS: Approximately.

Q. (By Mr. Schmidt) What's the grade in that area? Is it running toward Harford Road, or is it running towards what would be the east?

A. Where the driveway is, it is generally flowing towards the east. Over where there are trees along Harford Road on the plan, that's a very steep slope that goes directly to Harford Road.

Q. In terms of water that would be running off from the parking lot, it would go downhill. I assume water runs downhill.

MR. SCHMIDT: Maybe Mr. Holzer will stipulate to that.

Q. (By Mr. Schmidt) If the water runs downhill from the new parking area, it would run towards the east. If you can indicate that direction.

A. Yes, it runs in this general direction.

Q. Certainly, on the Harford Road side, there's a stand of forest or trees along there. The water would have to go through if it's running towards Harford Road, correct?

A. Yes.

Q. Then you indicated a ditch on our side of Harford Road.

A. Yes.

Q. Is Harford Road -- I know many state roads and road designs, typically they will require roads to be crowned so that when it rains water doesn't accumulate on the roads for public safety and traffic considerations.

Do you know what the grade is of Harford Road? Is it crowned? Is it higher in the middle than on both sides, or is it higher across one way? If you know.

A. Without looking at the pictures, in this area here to the west of the existing entrance is sloped entirely towards the subject property.

Q. If something was going to flow across Harford Road, at least in that area it would have to flow uphill.

A. Yes.

Q. How about down closer to the driveway? If

you know.

A. It's rather flat here. And without having a survey done, I can't say.

Q. Fair enough.

I know we talked about the height of the property and the fact that the property is somewhat crowned in the higher location in terms of the property where the building is located, is that correct?

A. Yes.

Q. Visibility is dependent upon a couple of factors, is it not, not just height?

A. Correct.

Q. Is the view of the building and the view of the grounds screened by anything?

The mere fact that they're higher than some of the properties around them, can you see the grounds or the building from every adjacent property?

MR. HOLZER: Objection. Calls for a conclusion that he's been on other property. I

think he's testified he hadn't been to any other properties.

MR. SCHMIDT: I will strike that.

Q. (By Mr. Schmidt) Can you see it from Harford Road?

MR. GARBER: Can you see what from Harford Road?

MR. SCHMIDT: The building.

MR. GARBER: Which building?

MR. SCHMIDT: The subject building.

MR. GARBER: The main building?

MR. SCHMIDT: Yes, sir.

A. Only sparingly through a few select gaps in the trees.

Q. Mr. Motsco, let me ask you, you indicated that you were out to the property on at least two occasions, correct?

A. Yes.

Q. And the first time you were out there, do you know when that was approximately?

A. Last fall sometime.

MR. HOLZER: I object to these questions now. They go beyond the scope of direct.

MR. SCHMIDT: He asked him all about how many times he's been out there and what he saw the first time he was out there and so on and so forth. These are directly in response.

MR. GARBER: What is your question?

MR. SCHMIDT: I'm going to show him some photographs and see if it's consistent with what he observed, when he was out on the property the first time.

MR. GARBER: It did come up during the course of your cross-examination.

MR. SCHMIDT: It certainly did.

MR. HOLZER: I asked him very well about all of this stuff. And you heard the answers. Now I want you to what he --

Go ahead. I want you to see what he's submitting on redirect, and you tell me if that's appropriate redirect.

Q. (By Mr. Schmidt) I'm going to show you a

series of five photographs and ask if you can identify these --

MR. SCHMIDT: I will mark them 11A, B, C, D and E.

(Petitioner's Exhibit No. 11A-E marked for identification.)

Q. (By Mr. Schmidt) -- and ask you if they are reflective of the conditions that you saw on the property when you visited --

MR. GARBER: Mr. Schmidt, this is Exhibit 11A through E?

MR. SCHMIDT: Yes, sir.

Q. (By Mr. Schmidt) Mr. Motsco, why don't you take those one at a time and start with Exhibit 11A to describe the property, and let us know if that was consistent with the appearance of the property at the time you visited it the first time.

A. Exhibit 11A is a photo of the front door and front porch. And at the time of my visit some of the rubbish had been removed but otherwise was relatively the same.

Q. Do you know if all the graffiti that's shown on there, was that done by the current owners of the property? If you know.

Did they deface their own building? If you know.

A. I can't say for a fact who did it.

Q. You don't know who did that.

A. No.

We go to B, and that is very similar to what I saw on my first visit. Again, some rubbish around the building would have been cleaned up by the time I visited.

Then C is looking at the -- that's the side door of what will be the worship room.

Q. The entrance to the worship room.

A. Yes. That is generally what I saw, when I was there.

Q. So somebody had knocked out the door and broken all the windows.

A. Yes.

Q. These are broken windows in the worship

room to the right of the front door, when you're facing the front of the house. That's picture D. You can see they are broken out and missing.

Then picture E appears to be the garage that we saw in the first round of pictures and the poor condition of that structure as well.

MR. SCHMIDT: I would offer these as Exhibits 11A through E.

MR. GARBER: Mr. Holzer, A through E?

MR. HOLZER: You already ruled on my objection.

MR. GARBER: As to your visibility. The questions are one thing. We're now going to do this for the photos.

MR. HOLZER: I don't believe they're appropriate on redirect examination. I asked the gentleman to explain what it all looked like, and he couldn't explain to me. That would have been the appropriate time to present these.

But if the Board's going to allow them in, you're going to allow them in. I do have a question

of the witness on these pictures.

MR. GARBER: The question I had is I'm -- outside I understand that questions were asked of this witness as a condition of the property the first time he visited.

I'm just wondering, why are we going down this road as to what it looked like the first time he was there, for purposes of establishing that there was graffiti or broken windows, which has little to do with the plan at the moment other than, look, they cleaned it up. That's been testified to and I think is fairly well established even without the photographs.

MR. SCHMIDT: Two reasons.

First of all, sir, there were questions about the condition of the property. Mr. Holzer asked on direct examination when the property was acquired.

Second, I'd like to have those into evidence in anticipation of my cross-examination to some of the Protestants.

MR. GARBER: Mr. Holzer, what say you?
MR. HOLZER: Go ahead and let them in for the simple reason that when he questions the witnesses, they're going to be able to explain.
MR. GARBER: They are so admitted.
MR. HOLZER: Now I have a question.
MR. GARBER: We're not there yet.
MR. SCHMIDT: I do not have any other questions.
MR. GARBER: I stand corrected.
EXAMINATION BY MR. HOLZER:
Q. Mr. Motsco, how long has this property been abandoned?
A. That I do not know. In excess of ten years.
Q. In excess of ten years.
So you don't know who put the ruble down, right?
A. No.
Q. You don't know who wrote anything on the walls, right?

A. Correct.

Q. You don't know when that was done, correct?

A. Correct.

Q. You don't know who did any of that, correct?

A. Correct.

MR. HOLZER: No other questions.

MS. DOPKIN: I have one question. It relates back to your direct testimony regarding the proposed new well and installation for septic.

Will that one system and one well serve both the main dwelling and the smaller dwelling, or will it require separate systems?

THE WITNESS: I can't say that. We would have to have the sanitarian who prepared the computations answer that.

MS. DOPKIN: You also testified to the uses on the nearby road to the east.

THE WITNESS: Mount Vista.

MS. DOPKIN: Mount Vista Road. That there is both a church and another facility.

THE WITNESS: It's a private school. At the time I was there it was functioning as a summer day camp.

MS. DOPKIN: How large are those properties? If you know.

THE WITNESS: I don't know.

MS. DOPKIN: Are there ball fields and athletic facilities on either of them to your knowledge?

THE WITNESS: There are.

MS. DOPKIN: Thank you.

MR. GARBER: I have a couple questions. There was some questions raised about drainage and whatnot. I'm looking at the landscape plan here.

Just by way of background, the existing main dwelling that you said sits at a crown and then there's the high point of the property --

THE WITNESS: Uh-huh.

MR. GARBER: -- the proposed parking looks to be on the same elevation more or less as the main building.

THE WITNESS: Yes. It's very similar.

MR. GARBER: So those two areas would be the high point. And then, therefore, around it it all descends down, whether it runs off to the west, north or east, correct?

THE WITNESS: Correct.

MR. GARBER: Do the existing woods aid with the drainage or the anticipated drainage from the parking area?

THE WITNESS: Yes.

MR. GARBER: I don't have any more questions about that.

MS. DOPKIN: I'm looking at Protestant's Exhibit 4 that shows, it looks like, an aerial photograph, and it looks as though the main dwelling is surrounded on three sides by trees.

Are those trees higher than the dwelling?

MR. SCHMIDT: I'm going to give him a copy of the photograph, if I can, while you're asking the question.

MS. DOPKIN: Please.

MR. SCHMIDT: I think the question is: Are the trees as high or higher than the building?

THE WITNESS: Some of those trees are in fact taller than the building.

MS. DOPKIN: I refer you to your Petitioner's Exhibit 9H and I. It looks as though there are trees along the driveway that totally block visibility of the main dwelling. Is that accurate?

THE WITNESS: Visibility from where? Harford Road?

MS. DOPKIN: Harford Road.

THE WITNESS: That is correct. Exhibit H is the photo that you were looking at?

MS. DOPKIN: Yes, sir.

THE WITNESS: There we are actually some distance into the property already, and the house is still not visible.

MS. DOPKIN: If you're continuing on the driveway to Petitioner's Exhibit I, is that past those trees?

THE WITNESS: Yes. Those trees -- I answered incorrectly before.

These trees are not -- we're not between the house and Harford Road in this photo.

MR. GARBER: Which photo?

THE WITNESS: Those trees would block the house from Harford Road. If you flip to I, they are directly behind you in that photo.

MS. DOPKIN: So that would be somewhere where the existing driveway turns?

THE WITNESS: Yes.

MR. SCHMIDT: Does this help, Mr. Motsco?

THE WITNESS: That kind of hides where we're looking.

MS. MURPHY: You said DoE hasn't reviewed the plan yet, is that right?

THE WITNESS: No. They would have looked at it, when the perc plat was filed, to ensure that any of the proposed facilities weren't being placed in an area that they would be concerned

about.

I don't know if they did in this case but a lot of times they will make a site visit of their own to preliminarily assess the property for environmental constraints.

If we were approved for perc testing, they would have concluded that those locations are not endangering the environment.

MS. MURPHY: So is that their only involvement in looking at this plan? Will they look at it again? Is there a process?

THE WITNESS: They will also look at it, when we file a grading permit for the proposed parking.

MS. MURPHY: Do you think they have any impact or say in regard to any of the trees that we've talked about that are in the photographs and on the site plans in terms of keeping those trees or not?

Do you have any sense of that?

THE WITNESS: They would want us to

meet the forest conservation requirements.

MS. MURPHY: Do you know what that is, and do you know what that would mean?

THE WITNESS: There's a percentage of the property that would be preserved in trees. And being an RC zone, it would be a higher percentage. I don't know what the percentage is off the top of my head but it would not insignificant.

MS. MURPHY: So that may or may not mean all the trees would be saved. It could mean that some of them would be removed, is that right?

THE WITNESS: Without doing an actual measurement of what trees are out there, I couldn't answer whether or not more or less would be what's protected.

MS. MURPHY: Do you know whether your client just hypothetically would agree to --

Let's say if this gets approved, hypothetically, would your clients agree to a condition and an order that all the trees that are on the plan and in the photographs remain, short of

the three trees that look like they need to be removed for the driveway access alternative route, if SHA requires that route?

Do you have any sense of whether your clients would agree to that? Again, this is a hypothetical because we're not finished with this hearing.

THE WITNESS: You would have to ask them. I think it would be more appropriate in this case just to require the forest conservation we addressed and meet those criteria and have DoE enforce it.

MS. MURPHY: As a condition, you're suggesting?

Have a condition in an order hypothetically that EPS then enforce -- well, obviously, they will -- that it meet all the requirements? Is that what you're suggesting?

THE WITNESS: Yes. From an environmental standpoint, they would be more concerned about the stands of trees from an

environmental standpoint than a single tree in a yard that no deer are finding a home there.

MS. MURPHY: In this case, we don't have an RTA situation. And, by the way, that's because -- and just to confirm with you -- there's no RTA applicability here because it's not DR zoned, right?

THE WITNESS: Yes.

MS. MURPHY: To make sure I remembered that right, because it's RC-2, so there's no specific need for a buffer.

But here we're applying special exception factors, and obviously that's an issue for the protestants in terms of the surrounding homes. And so the tree issue has to do with the buffer.

And so I was just curious as to whether or not as an engineer you would think that keeping those trees, the existing woods on the property would be beneficial or would --

THE WITNESS: I think the existing woods would be -- I feel like that would be a good

solution just because of the enforceability, that it then quickly becomes something that is applied to many properties.

And there's an enforcement division. They have a methodology for enforcing that and requiring restoration if that was to be a problem in the future versus scattered trees in the yard where it would be a court case from the neighbors to have them replaced.

MS. MURPHY: So you're trailing off at the end there.

So your opinion was that it would be something that would be helpful to have in terms of the buffer with the neighborhood.

THE WITNESS: Yes. If the buffer is an issue, I think the appropriate thing would be to prepare a forest conservation plan and record a forest conservation easement.

MS. MURPHY: You also talked about lighting. I think your testimony was that I had written down -- correct me if I'm wrong -- there was

only going to be two porch lights.

THE WITNESS: It would be porch lights similar to any --

It's a dwelling. So at the entrances there would be porch lights and some small landscape lighting. In the criteria of a special exception, it's not industrial sodium vapor streetlights lighting up the parking lot.

MS. MURPHY: That's the question. But now what about parking lots? They need lights for the parking lot. So there are additional lights, right?

THE WITNESS: There are none proposed at this time.

MS. MURPHY: I know you're not the light expert. I know a lighting plan will be proposed.

In terms of us trying to conclude whether or not one of the factors of special exception is lighting, any idea what kind of lighting is going to be proposed for the parking lot?

THE WITNESS: I imagine it would be as minimal as possible.

MS. MURPHY: As minimal.

THE WITNESS: It wouldn't be lit up like a 7-Eleven at night.

MS. MURPHY: Again, if hypothetically it was adopted or we agree to it, a condition would be a lighting plan be filed.

Is that something that you would suggest with the county?

THE WITNESS: Yes. The county has a procedure for reviewing those.

MR. SCHMIDT: Ms. Murphy, in answer to your question, I'm going to say, because he didn't answer the question, I'll get you an answer whether my client would be willing to enter into a restriction, as you mentioned. I just want to make sure I understand your question.

I'm assuming that the areas that you're concerned about primarily is sort of the perimeter of the property, where the woods is.

MR. GARBER: I would jump in to say that the north and west sides, where there are peoples' homes, the opposite side of Harford Road.

MR. SCHMIDT: Let me just say, to the best of my knowledge in talking with my clients and preparing for this, there are plans to do something with those trees or clear.

I will certainly ask them about if they're willing to enter into a restriction. And I can advise you of that.

As I indicated during his direct exam, there could be as many as three trees taken down here. But that's going to be ultimately the decision of the State Highway Administration.

I believe in this area it's mainly open at the present time.

Mr. Motsco, is the area generally open?

THE WITNESS: There's no woods. There's scattered trees in the yard area.

MR. GARBER: So there may be a handful of trees that would also get removed as part of the

proposed parking.

THE WITNESS: Correct.

MR. SCHMIDT: Do you know how many?

THE WITNESS: Not off the top of my head.

MS. MURPHY: You indicated in your testimony that the trees to the right of the entrance along Harford Road also serve a purpose in collecting water drainage. I think Mr. Schmidt asked you that question.

In terms of asking your client whether or not they would agree as a condition, certainly those boundary of trees has to play a big part in it. That would serve to assist in the drainage of water.

MR. SCHMIDT: Stormwater management, visibility, lighting, et cetera.

MS. MURPHY: I'm throwing that out there to try to figure out whether or not this gentleman knew or had some sense.

THE WITNESS: I will add that along the boundary with Harford Road, much of the slope --

most of the ground there is so steep that it would be nearly impossible to utilize for construction of anything.

Trees is really the best use of that property.

MR. SCHMIDT: Even if you wanted to use it, it couldn't be a ball field.

THE WITNESS: This area here is a near-vertical face that you couldn't walk up without a rope, I don't think. That is where all the trees are now, along the perimeter.

MR. GARBER: You're pointing to the west side of the property.

THE WITNESS: Yes, the west side of the property along Harford Road.

MS. DOPKIN: Mr. Motsco, there seems to be evidence of an older driveway that comes out at the southwest end of the property.

THE WITNESS: There is an old driveway there.

MS. DOPKIN: Is there access to Harford

Road there?

THE WITNESS: There is a driveway access here. Much of the road is deteriorated and gone. There's a patch -- I walked all this in one of my visits.

There's a patch here at the bottom that's still visible. The clearing is still there. You can see evidence of an old road. And then the only other remaining paving is right at the old barn. And there's some when you get to the smaller two-story building.

MR. SCHMIDT: Is there any intention, Mr. Motsco, to use that for an alternate means of access?

THE WITNESS: No.

MS. DOPKIN: Thank you. That was my question.

MR. GARBER: In terms of your design, did the fact that the site get on the Maryland Inventory of Historic Properties factor into your design in any way, shape, or form?

THE WITNESS: It was a consideration. And we felt that because of the very minimal proposed improvements, just parking on the lawn and to preserve the building and the grounds that from a historical standpoint, since the house isn't listed, it's just the property and the barn, having somebody there using the property would be the best way to protect it.

MR. SCHMIDT: To prevent --

THE WITNESS: Versus being vacant and vandalized and used for --

MR. SCHMIDT: To prevent demolition by neglect essentially.

THE WITNESS: Correct.

MR. GARBER: I understand that. But in terms of the site itself, did the historic nature of the site itself, did that factor into any aspect of your design on Exhibit 1A?

THE WITNESS: We tried to preserve -- We didn't propose a parking lot. We used the drive aisles that were there as our access lane

for the parking space, and we tried to pick spots that would require minimal or no grading in order to install the parking lots so that the net change to the land would be the minimal necessary.

MR. GARBER: As I understand what you're saying, you want to disturb the site as little as possible to preserve that part of the historic nature of the site.

THE WITNESS: Correct.

MR. HOLZER: I have a question produced by your question.

Q. (By Mr. Holzer) Who did you check with in terms of the historic issues that you talked about on direct?

A. The Department of Planning.

Q. You testified, I believe, that it's not on the Baltimore County Landmarks List, right?

A. Not to my knowledge.

Q. Some of the buildings are on the Maryland Department of --

MR. SCHMIDT: MHT.

MR. GARBER: Maryland Historical Trust.

Q. (By Mr. Holzer) MHT.

A. Yes.

Q. Did you check the Register of National Historic Districts?

A. No.

Q. If had you checked that register of the National Historic Districts, you would have found that this property is within that district.

Do you have any basis to say that I'm wrong?

A. I have nothing.

Q. If you know.

You didn't check it, did you?

A. No, I have no --

MR. HOLZER: Thank you. No further questions.

MR. GARBER: Mr. Schmidt?

MR. SCHMID: No other questions.

MR. GARBER: Sir, thank you very much for your time.

It is now almost 2:45. Mr. Schmidt, I believe you have another witness to hopefully at least get --

MR. SCHMIDT: We'll have to see how far we get.

I call Joseph Caloggero.

(Witness Caloggero sworn.)

EXAMINATION BY MR. SCHMIDT:

Q. Sir, could you please state your name for the record?

A. Joe Caloggero.

Q. Could you spell it for our benefit?

A. C-A-L-O-G-G-E-R-O. Feel free to call me Joe.

Q. Where is it that you work, sir?

A. I work for The Traffic Group, 9900 Franklin Square Drive, Suite H, Baltimore, Maryland 21236.

MR. GARBER: 9900 --

THE WITNESS: Franklin Square Drive, Suite H, as in Harry, Baltimore 21236.

MR. GARBER: And what is your title

there?

THE WITNESS: Vice president.

MR. GARBER: Mr. Schmidt?

Q. (By Mr. Schmidt) Mr. Caloggero, can you tell us what your occupation is, sir?

A. I'm a traffic engineer.

Q. And you indicated you're employed at The Traffic Group and the vice president of that organization, correct?

A. Correct.

Q. Tell us a little bit about what The Traffic Group does and what you do.

MR. GARBER: Hold on one second. Everyone, please, put your cellphones --

I hope I don't have to ask again.

Please repeat your question.

Q. (By Mr. Schmidt) Mr. Caloggero, can you just generally tell us the business of The Traffic Group and what you do specifically for that organization.

A. So we do traffic engineering and

transportation planning. We also conduct traffic counts. Those are our general services.

Me, personally, I am vice president/manager of developing projects and/or state projects, county projects. I take them --

For example, for a development project, I take them from the beginning of the project to approvals, to design, and then we stop at the construction aspects of it.

Q. What's your educational background, Mr. Caloggero?

A. I have a bachelor of science in civil engineering from West Virginia University.

Q. Do you hold any type of professional licenses or registrations?

A. Yes. I am a professional engineer in numerous states, including where I first got my PE in West Virginia. I'm also licensed in Maryland. I'm also a professional transportation planner and a professional traffic operations engineer.

Q. I'm going to hand you, Mr. Caloggero, a

document which I believe represents your resume, your curriculum vitae.

Can you identify that?

A. Yes.

Q. If you will, sir, that indicates places where you have testified and been accepted as an expert witness. Is that the case?

A. That is correct.

Q. That would include before the administrative law judge, or formerly known as the zoning commissioner, of Baltimore County?

A. Yes.

Q. And also testified before this Board, the Board of Appeals?

A. Yes.

Q. Also you've testified, it appears to be, in a number of other jurisdictions throughout the state of Maryland and in other states, Pennsylvania included, correct?

A. Pennsylvania, Virginia and Delaware.

Q. You've been a traffic engineer since 1993?

A. Yes.

Q. And also were employed as such by the Maryland State Highway Administration, correct?

A. That is correct.

MR. SCHMIDT: I'm going to ask that Mr. Caloggero's CV be the next exhibit. I think it's Exhibit No. 12, Ms. Murphy?

MS. MURPHY: 12.

MR. SCHMIDT: It be accepted as an exhibit. I'm going to offer him obviously as the traffic engineer. He's going to testify as it relates to traffic issues regarding this proposal.

MR. GARBER: Traffic engineer. Traffic issues related to this proposal, is that correct?

MR. SCHMIDT: Yes, sir.

MR. GARBER: Mr. Holzer, do you have any questions about the admissibility?

MR. HOLZER: He's laughing. I just have one or two very quick personal questions.

MR. GARBER: About this?

MR. HOLZER: Yes.

(Petitioner's Exhibit No. 12 marked for identification.)

EXAMINATION BY MR. HOLZER:

Q. I understand you've been in Calvert, or, as they say, Calvert County?

A. Yes.

Q. Carroll County?

A. Yes.

Q. Charles County?

A. Whatever is on my resume, yes, sir.

Q. La Plata, Howard County, Prince George's County?

A. Yes, sir.

Q. I've never seen you down there, when I'm there.

A. I've been.

MR. HOLZER: I have no other questions.

MR. GARBER: As to Exhibit 12, no objection?

MR. HOLZER: No objection.

MR. GARBER: Submitted as to the

proffered area of expertise.

MR. HOLZER: No problem.

MR. GARBER: So accepted as an expert as tendered.

EXAMINATION BY MR. SCHMIDT:

Q. Did there come a time that you were retained by the Petitioner in this case, the Nepali American Cultural Center of Baltimore, regarding this proposal and the subject property?

A. Yes.

Q. And how long ago were you hired? If you know.

A. I believe it was December.

Q. What were you asked to do?

A. For the first hearing, the administrative judge hearing, I was hired to review the access and try to understand the amount of traffic that would be utilizing the site and provide expert testimony at the hearing.

Q. You've done an analysis of what? I assume the proposed use of the property and how it would

generate traffic, correct?

A. Yes.

Q. Have you also looked at the surrounding road network and improvements in the area?

A. In general, yes.

Q. I know Mr. Motsco talked a little bit about them. Maybe you can approach one of the exhibits and give us a general idea.

Can you tell us a little bit about -- we know the property is on Harford Road -- the roads in the area, the general area, any traffic improvements or features that are particularly significant that you think need to be evaluated or considered?

MR. GARBER: Just before you start your testimony, please keep in mind that if you say, Right here, that's not going to translate well onto the transcript.

If you could explain what you're referring to in more detail in the description, that would be better for everyone, rather than me interrupting every five minutes and go, Where is "that," and,

What do you mean by "this?"

THE WITNESS: I will do my best.

A. So recently a roundabout was constructed at Mount Vista Road. My understanding that the advisory speeds for this roundabout are 20 miles per hour.

For the site access, both north and south of the site, the site access is what is called a reverse turn area.

The reverse turn is signed in both directions by the Maryland State Highway Administration. The sign shows the curvature plus it's at a 90-degree angle, which means it is a more severe turn and not a curve. The curve sign, you've probably seen them, is more of a curve versus a 90-degree sign.

With the differential between the two, the curve sign is for speeds 35 miles and above. That's what the SHA would recommend.

At this location, the SHA recommends that this area be traveled at 30 miles per hour.

MR. GARBER: Which location?
THE WITNESS: The entire curvature.
MR. GARBER: The entire stretch --
THE WITNESS: The entire --
Basically, the entire stretch south of the roundabout and passing the site and as it turns to the south as well in the northbound direction.
So both this area -- I know it's hard to explain. I'm trying to do my best.
MR. GARBER: Basically, northwest central point on Harford Road.
THE WITNESS: Yes.
MR. GARBER: You're now starting at Mount Vista Road, going southbound around the north end of the property, heading to the west and then proceeding down, halfway down the property as outlined on Exhibit 2.
THE WITNESS: That would be what I was trying to say. Then in the reverse as well. The signs are in both directions.
Q. (By Mr. Schmidt) Mr. Caloggero, just so

we're clear, the roundabout, or the traffic circle, was a recent improvement up at the intersection of Harford Road and Mount Vista.

A. That is correct.

Q. And that's one of those deals where you get into the circle, like we have here in Towson, and try to make sure people understand how to get in and out of it, which many Baltimore County drivers seem to be challenged by.

But from that location down to the intersection, there is a significant curve or curves which are the 90-degree curves.

A. Correct. The State Highway Administration would label that as turns.

Q. Once you get -- in effect, if you're traveling from the roundabout, or circle, then past the entrance here you would then have the same situation on the other side, turns for traffic coming and going beyond the actual entrance point.

A. That is correct.

Q. So it's the same situation with the severe

turns on both up and down or I guess we could --

A. North and south.

Q. North and south of the access point onto Harford Road.

A. Correct. There's also additional warning signs on the turns themselves. They are called Chevrons. They are directing the traffic towards the right as you traverse the turns.

Q. As the traffic engineer, in terms of the roundabout, might there be occasions where people might, for example, turn, even if they wanted to go south on Harford Road from this location --

And I think we heard this on the first day of testimony from a couple people who live there who essentially said that they would come out, go up to the circle to almost do a U-turn and go through the entire circle to go the other direction because that's an easier traffic movement.

Is that something that happens with these traffic circles often?

A. I don't know about "often" but it can

happen, yes.

Q. Do you have any evidence it occurred here other than the testimony?

A. Just testimony.

When I was doing my site investigations, I used that as my U-turn area.

Q. In terms of signalized intersections, are there anything relevant signalized intersections here in the area?

A. They are quite a distance away from this location. There is one at Fork Road and Sunshine Road to the north and maybe one further down north wind to the south.

Q. How far are they, if you know, from this location?

A. They're not even shown on the map.

Q. On Exhibit 2.

A. On Exhibit 2's map. They're not even listed on this map. I don't have the approximate distance. But they wouldn't, in my opinion, be --

The signals would not influence our access.

Q. And this property is outside of the urban-rural demarcation line, is it not?

A. That is correct.

Q. So it would not be impacted by the county's basic services match for transportation, is that correct, because of that?

A. That is correct.

Q. Let me ask you, Mr. Caloggero, I know one of the things that typically traffic engineers take a look at is sort of the capacity. I don't know that it's generally applicable to intersections and how much traffic can get from intersections.

But did you look or give any kind of analysis to the capacity, if that's the fair term, of the road system here, of how many vehicles are going to be going up and down Harford Road, either coming out of or entering this property and nearby?

A. It was not requested by either Baltimore County or the Maryland State Highway Administration.

So we were really looking at the site access trips. This way the State Highway

Administration could make proper determinations on the access.

Q. Did you say it wasn't requested or was?

A. Capacity analyses or highway capacity manual methodologies, the analyses of turning movements or levels of service, were not requested by either agency. It is my opinion just based on the trips.

Q. Did you make a calculation in the number of trips?

A. We have a couple calculations, yes.

Q. Let me ask you if you can explain to the Board the methodology and how you calculated or what, if any, determination that you made in terms of the number of trips.

A. Sure. Typically we use ITE, the Institute of Transportation Engineer's Trip Generation Manual.

However, this kind of use is atypical. So, therefore, when you have an atypical use, you approach the users and try to determine to the best of our ability how they are going to use the

property.

So based on my discussions, for a weekday, there would be about approximately 20 people coming to the temple on a weekday. This could be numerous times throughout the day. That would be 20 trips in, 20 trips out. Again, over the entire period of the day, the temple would be available for use.

Then on weekends -- we received information on a typical weekend that less than 100 people would visit during, again, the entire day that it would be open.

When we had our discussions with the Maryland State Highway Administration, they asked us for a different type of analyses, again using ITE.

MR. GARBER: Can I jump in here just to verify a couple point?

THE WITNESS: Absolutely.

MR. GARBER: You said this use is a atypical. What use?

THE WITNESS: The use of the site as a temple. It's atypical because there's not a

category for a temple in the ITE Trip Generation Manual.

MS. MURPHY: But there's religious.

THE WITNESS: There is churches.

MS. MURPHY: Right. Why wouldn't you use that?

THE WITNESS: We did. The State Highway Administration asked us to use churches. But, again, for the weekend, churches are typically based on a start time and an end time, and the trips are based on those times, the start times.

MR. GARBER: So because you're not using the ITE manual for purposes of your site access trip analysis, you mentioned discussions with the people who would be using the temple during the course of the week to try to assess in -- as best as you could assess the volume to expect on a typical weekday or an average 20 people coming in throughout the day.

THE WITNESS: Yes.

MR. GARBER: So 20 trips in, 20 trips

out. On the weekend, just to be clear, it's less than 100 per day, that is, less than 100 in, less than 100 out on Saturday and on Sunday.

THE WITNESS: That is my understanding, yes.

MR GARBER: We'll stop there. You were about to talk about SHA and the use of the ITE manual.

A. SHA further requested the use of the ITE manual and to review this as a church. So when we did so --

The church is typically based on square footage, when you review the trips or calculate the trips. Excuse me.

So we requested information on the size of the existing building. And we tried to be a little bit conservative, whereas the entire first floor, which would not be used as a temple, was approximately 3,500 square feet. So we generated trips based on 3,500 square feet.

Q. Let me stop you there for just a second,

Mr. Caloggero. I'm going to hand to you a copy of what appears to be a building floor plan and ask:

Have you ever seen this document before, Mr. Caloggero?

MS. MURPHY: This is actually 14. The reason is it says locality outline was 11. The photos of the graffiti was 12A through E. And then Mr. Caloggero's resume was 13. So you're on 14.

MR. SCHMIDT: Sorry, Ms. Murphy.

MS. MURPHY: That was on me.

(Petitioner's Exhibit No. 14 marked for identification.)

Q. (By Mr. Schmidt) Mr. Caloggero, you indicated that the ITE manual, I believe, as it relates to churches ties into the square footage of the building, and, therefore, you looked at the building here.

Is that correct?

A. That is correct.

Q. And I think I asked you if you had seen this exhibit, which I think, again, is 14.

A. Yes, I have.

Q. Mr. Caloggero, can you tell us what this is and how, if any way, you used it in your trip generation computations?

A. Yes. So I used the first-floor floor plan. And again for a conservative analysis, I totaled up the entire first floor's square footage and came up with 3,500 square feet versus the hall area. The hall area is much smaller.

Q. Is the hall area shown in a different color?

A. Yes. The hall area is shown in yellow. Unfortunately, I did not calculate that number nor can I see the numbers, and I didn't bring my glasses. I can't give you a square footage of the hall but it's substantially smaller than 3,500.

However, we did generate the trips for the entire first floor to try to give the SHA some kind of trips that they could work with to assess the impacts.

And based on 3,500 square feet, during the

weekday it was one morning trip, during the evening peak hour, two trips, and on a weekend we had 24 peak-hour trips.

Q. That's based on the ITE methodology as it were?

A. That is correct.

Q. That's based on the square footage of the entire first floor of the building using the ITE's methodology for a church.

A. That is correct.

Q. So that's even a lesser amount of traffic than your analysis utilizing your questioning of the Petitioner, is it not?

A. This would be less, in my opinion, yes.

Q. Tell us, if you can bring us full circle: What does this all mean from a capacity standpoint in terms of overburdening or causing congestions on the roads in the area based on these numbers and methodology.

A. During the weekday, when you have your more significant amount of traffic on the roadway

network, I would consider these trips di minimus.

If we're talking one trip in the morning peak hour, that's one trip every 60 minutes. Two trips is one trip every 30 minutes.

In comparison, ITE states that one single-family home would generate ten daily trips. So it would probably generate one or two peak-hour trips as well.

Q. From a capacity standpoint or the ability of the road system to essentially absorb this additional traffic, what are your conclusions there?

A. Again, de minimis. And I would expect little-to-no impacts.

Q. How about the festivals? You heard the testimony about these periodic festivals with more people.

Did you look at that or consider that and whether that would have any type of significant impact on traffic capacity or volume in the area?

A. We did not look at it per se. But my opinion would be that these kind of establishments

do have -- not only these establishments but churches and other kind of institutes do have peak events.

However, unless there's a need for a separate traffic management plan to accommodate these events, these are outside of the realm where typically the State Highway Administration or other jurisdictions would review or try to make improvements to accommodate such an increase in traffic for a particular event.

For instance, what I like to use is for a football game on a Sunday in Baltimore. The State Highway Administration does not design the interstate to accommodate ten football games a year.

They understand that there's going to be excess traffic and there's an expectation that there may be some delays entering or exiting the site.

But since it's only few-and-far between, they deem it okay. They don't try to create a ten-lane highway to accommodate a potential worst day.

I'm not saying that the temple is like a Raven football game comparing the traffic. It's just an analogy that most people understand.

Q. About the Christian church around the Christmas service or Easter service, for example, would you equate it to be the same kind of thing?

A. I know I live next to a Catholic church up in Harford County. St. Ignatius. I know when to avoid that during the proper times, because they do have services where they park on both sides of the road, and there is an expected delay when entering and exiting.

Q. Speaking of parking, is there parking permitted along Harford Road or parking available along Harford Road along this stretch?

A. There is not.

Q. You've heard about the parking that's proposed on the site in terms of the actual number of paved spaces as well as the potential for overflow areas for the grass.

Do you believe that to be significant? Or

sufficient, I should say.

A. Yeah. In my opinion, yes.

Q. Even for the festivals as they've been described?

A. Yes.

Q. Mr. Caloggero, from a capacity standpoint in terms of the number of vehicles, do you have an opinion, sir, as to whether this proposal would detrimentally impact or cause inappropriate levels of congestion on the road system, the immediate road system in the area?

A. No, I believe it will not.

Q. You also, I believe, Mr. Caloggero, looked at sight distance issues as it relates to the entrance to the property, is that correct?

A. That is correct.

Q. And there is one access point to the property, is there not?

A. That is correct.

Q. Ms. Dopkin had asked Mr. Motsco about the driveway to the rear.

As I understand, there is no proposal to add traffic or another point of access or exit at that location, is that correct?

A. That is my understanding.

Q. Do you think that's needed for any reason as a traffic engineer?

A. No, I do not.

Q. Let me ask you about, first of all, sort of the existing conditions out there.

MR. SCHMIDT: Let me go off the record.

(Discussion off the record.)

(Petitioner's Exhibit No. 15A-B, marked for identification.)

Q. (By Mr. Schmidt) Mr. Caloggero, I'm going to give you the next exhibit, which I believe is 15. I will number these as opposed to assign a letter. Maybe we can also do --

You have one on your witness table. Maybe let's put one up here so everybody can see.

Mr. Caloggero, what I've identified as Petitioner's Exhibit 15 is a document that's

labeled, Sight Distance. It's looks to be two parts to it. A sort of representation, I believe, of Harford Road and then another representation below that.

Let me ask you, if I can, just to go through that document, and if you can tell the Board members what they're looking at and what that is showing and is that existing or proposed or whatever it is.

If you can explain it for us.

A. Of course. This is what we call a plan profile. The top portion is the plan, which is looking at it from a 2D overhead perspective.

The bottom portion is the profile, which is based on the vertical alignment of the road.

Q. If you could just explain it. Break it down and maybe explain both sequences or both parts.

A. Then we received what we call contours. And contours are the grades. We received this from John's office.

MR. GARBER: Whose office?

MR. SCHMIDT: John Motsco.

A. We received it. We superimposed it on the roadway network. And then once you have all the contours, you develop the profile based on the elevations on the road themselves.

So for the neighbors and everyone, the site entrance is located at point A. And everyone who is aware of the site knows that the roundabout is higher. You can see how the profile goes.

Q. It's going up the hill towards --

A. Up the hill.

Q. Going on to the right and towards the roundabout.

A. Correct. This shows that the elevation comes upward and then from point A it comes slightly backward as well.

So we have to measure two aspects for sight distance, both the horizontal and vertical alignments. So in the south direction, based on the curvature of the road for a vehicle at its exit point, exiting the site access.

Q. And this is the existing exit point.

A. The existing exit point. When looking to the left, the first car coming northbound can be seen 365 feet away. That's the maximum distance that you can see a vehicle.

MR. GARBER: When you're sitting in the existing drive and you look to the left, which is looking south, to see northbound traffic on Harford Road, the first moment the sight distance is --

THE WITNESS: 365 feet.

Q. (By Mr. Schmidt) Mr. Caloggero, what did you say the speed limits are designed there?

Given that you can see the curve in the road, what's the speed there?

A. Again, the State Highway Administration suggests 30 miles per hour to traverse this turn safely. There's advisory speed plates, as we had talked about earlier, on this road. The speed limit itself is 45, but they're saying you can't go 45.

Me, personally, I was in my SUV. I tried taking that at a higher rate of speed. I was

extremely uncomfortable and had to brake pretty significantly to get to 35 to finish making the turn.

So it's 365 feet to the south and the sight distance to the north would be 440 feet.

MR. GARBER: At the drive, looking to the right, you're looking north. Now you're looking at southbound traffic?

THE WITNESS: Correct.

MR. GARBER: So it is how much?

THE WITNESS: 440 feet.

Q. (By Mr. Schmidt) That's the existing condition.

A. That is correct.

Q. Mr. Caloggero, in your opinion as a professional engineer, based on the geometry of the road and the curvature of the road, the factors, is that an adequate and appropriate sight distance for traffic exiting the subject property either turning left or right, the two dimensions-distances?

A. In my opinion, yes.

Q. Why is that? Expand on that.

A. We use AASHTO. The State Highway recommends that we review AASHTO, which is the policy of geometric design of highway and streets.

So I brought this ginormous manual here with me. We're only using portions of it. Again, this is a guide. It's not 100 percent set in stone that these are the exact numbers we have to follow but it is a guide, and professional engineering judgment should be used at all times.

So when looking at sight distance, when turning left --

MR. GARBER: When turning left outside of the driveway.

A. When turning left out of the site access, a vehicle should be able to see going at 30 miles per hour, 245 feet to make that maneuver safely.

MR. GARBER: Turn left at 35 miles per hour outside, 240 feet is the minimum sight distance you would need.

THE WITNESS: For 30 miles per hour.

At 35 miles per hour, they suggest 285 feet. And at 40 miles per hour, they suggest 325 feet.

MR. GARBER: Turning left out of the there, I understand the turn itself is recommended 35. Right in front of the driveway, it's 45, correct?

MR. SCHMIDT: It's recommended 30.

THE WITNESS: Recommended 30.

MR. GARBER: Recommended 30 at the turn?

THE WITNESS: Yes.

MR. GARBER: At the driveway what's it recommended?

THE WITNESS: Again, the vehicles can only be traveling --

You're basing it off of actual conditions. As the vehicle is coming around the turn, they're traveling 30 to 35 miles per hour.

If they're traveling 40 miles per hour, the sight distance necessary to make a move is 325 feet. We can see 365.

So, to me, based on the conditions of the road, the speed which you can traverse these turns, that's an acceptable sight distance.

Q. How about to the right?

A. To the right we have 440 feet. Again, for 40 miles an hour, it's 325 feet. Again, as you're coming down the hill, you have that sharp right turn. Again, you have to slow or else you're driving straight into the curve itself.

So as you're coming down the hill, you're making a sharp right turn. So vehicles are slowing. And, again, it's advised at 30 miles per hour.

Q. The sight distance in that direction is what?

A. 440 feet. Now that's just for --

The other reason why too, there's something else called stopping sight distance. Stopping sight distance is for the vehicles that are traveling on Harford Road.

Q. So you have sight distance for somebody who's pulling out of the property to turn left or

right. Their sight distance.

A. Correct.

Q. Then you have stopping distance for the people who are on Harford Road.

A. That is correct.

Q. Is there any difference in the way you calculate or you view stopping sight distance versus the sight distance for the people in the car?

A. Yes.

Q. Can you explain that?

A. AASHTO explains it a lot better. But the thought process behind it is as you're traveling, you're slamming on your brakes or you're stopping or you're slowing.

And the purpose of stopping sight distance is to avoid a collision in the road. It's your second safety measure. It's typically the minimum measurement.

If vehicles along this road can stop if someone were to make a erratic maneuver, if a young child was chasing a ball across the street, and you

can see that distance, that vehicle should be able to stop.

What AASHTO does as well with stopping sight distance, they build in additional safety factors. Perception-reaction time.

Basically, stopping sight distance is based on poor perception-reaction time, wet pavement conditions, bald tires.

So they add in a little bit more time for that person to identify the house or identify what's happening and be able to take their foot off the gas, onto the brake and slow down and/or stop.

And depending on the complexity of the situation, that perception-reaction time can go up. In this case, this is atypical. I used that word a few times. I hope it doesn't come back to haunt me.

But atypical meaning -- more typical meaning --

This road, as you're coming south, has numerous driveways. So the driver is expecting to see driveways, side streets. There's side streets

here. There are driveways here. People should be -- the alert, careful driver should be expecting traffic or turning movements in the road.

Q. Can you quantity the requirement or is there a number for the stop?

You've given us the sight distance requirements.

A. Sure.

Q. How about the stopping sight distance requirements or recommendations?

A. So going right to the highest number, traveling at 45 miles an hour, I should be able to stop in 360 feet.

So if I were to somehow take this from going northbound and if I can get my car to take this at 45 miles an hour, at the same point that this car is existing the site to go south or to go north, that car should be able to stop within 360 feet. And the same south, which is 440 feet.

It's those factors that I review to determine if an access is safe or not.

MR. GARBER: Just to summarize that, if a vehicle is traveling 45 miles per hour on Harford Road in that stretch, they would need 360 feet for stopping sight distance. Whether northbound or southbound, it's going to be the same.

THE WITNESS: That's correct.

MR. GARBER: And then stopping sight distance, does it or does it not account for a part that is baked into the number, the poor reception-reaction time, whether worn tires and wet conditions?

THE WITNESS: That's correct.

MR. GARBER: Even ideal conditions would yield probably a smaller number. They've already, as I said, baked that into the 360 number.

THE WITNESS: That is correct.

Q. (By Mr. Schmidt) Thank you. I believe that's Exhibit 15. I think you've prepared another. Maybe you can put this on the board.

A. (Complies.)

Q. Before you talk about that, let me give

this to everybody.

(Discussion off the record.)

MR. SCHMIDT: For the record, the exhibit that Mr. Caloggero has just been explaining, which is a document showing a sight distance of 365 feet to the south, or left, coming out of the exiting property. And 440 feet will be 15A.

Exhibit 15B is, as I understand it -- and Mr. Caloggero will explain it -- essentially the same document except instead of showing a schematic, it actually has an aerial photograph superimposed on the top part. That will be 15B. This will be A.

MR. HOLZER: Got you. That makes sense.

MR. GARBER: For purposes of time for the remainder of today, this room needs to be cleared out, locked down by 4:30, which means that somewhere in the 4:00 time, a little after, is the time frame when we have to call it to get packed up and out.

(Discussion off the record.)

Q. (By Mr. Schmidt) Mr. Caloggero, you've explained, again, 15A and Exhibit 15B, which we've talked about ad nauseam, is an aerial photograph superimposed to show the actual geometry and actually show the road, correct?

A. That is correct.

Q. That also has to the bottom part of the page the same contour and elevation grade changes, correct?

A. That is correct.

Q. Also, I believe that you've explained there are corresponding letters and coordinating letters showing points of the road in terms of the elevation vis-a-vis the top portion and the grade, correct?

A. That's correct.

Q. The same sight distances are shown here; that is, 365 feet to the south, or to the left, when one would be exiting, and 440 to the north, or to the right.

A. Correct.

Q. I'm trying to make sure we get through

this.

Is there anything else that you would like to explain or highlight as it relates to Exhibit 15B?

A. Absolutely. This, as you can see -- and the neighbors will clearly attest as well -- is the aerial. I don't have the date. It was taken from Google. In my opinion, clearly it's fall or the winter. There's no vegetation in here.

Not today itself but when I've been out to visit the site, the vegetation has grown which makes it a little bit more difficult for not only the site access but also makes it difficult for Boneparte, to make exiting maneuvers with that growth.

The few days that I was out there -- I visited days almost back to back or two days apart. So one day the growth was full. Then another day some of it was cut down. I don't know who but I noticed it was cut down to help increase sight distance. There was still some vegetation growth.

Now to help achieve acceptable sight

distance, we have reached out to the SHA, the Maryland State Highway Administration, and they have agreed that whatever was in the State Highway Administration right of way, they would be more than happy to remove, as long as it's not above a certain size tree. Then they wouldn't remove it. But if there's weeds, the vegetation, the growth that would obstruct sight distance, it would impact safety for both existing plus future traffic.

So it may be hard to see but what we've identified here -- if this is north, the northwest quadrant of the site access intersection with Boneparte, there is additional right of way on the west side that travels up to the north side. Sorry. Up the west side, up to the north.

So whatever is in that area of right of way, the SHA has agreed to mow or cut down or remove the vegetation that should be removed to help sight distance.

Q. The purple line as shown on this plan, Mr. Caloggero, which shows the sight distance of 440

feet, is that entirely within the State Highway Administration right of way?

A. Yes.

Q. The State Highway Administration right of way, which the state has these rights of way adjacent to the paved sections of the road, allows the state to make such necessary maintenance or even widening, if they choose to do that at some point. So they would have the legal ability to come in here and make that mowing or cutting.

A. That's correct. It's their property.

Q. So you indicated that on one occasion for which you were out there, it was more fully grown and another occasion it appeared to have been cut back.

A. That is correct.

Q. Do you know if the state were the ones who came in and cleared that?

A. I do not know.

Q. Do they typically have on state roads as a general proposition sort of a maintenance schedule

or a mowing schedule that they follow?

A. The State Highway typically has a regular mowing schedule. But for something like this, it would probably have to get onto a schedule to say there is concerns and this should be mowed weekly, biweekly, monthly, or addressed so that it's safe.

Q. In your conversations with them, they had agreed in fact to mow this and maintain it as is required.

A. That's correct. We're still under complete negotiations for safety.

Q. I know there's another design that we're going to talk about. In terms of this particular drawing, this drawing being 15B, this sight distance looks somewhat across the right of way which State Highway has agreed to maintain.

A. That is correct.

Q. Anything else about that particular drawing that you want to discuss or emphasize?

A. No. I think we've hit everything.

Q. Mr. Caloggero, you've started to indicate,

and I think I've represented to the Board, that you have had discussions with State Highway about this project, have you not?

A. I have.

Q. And those discussions are continuing, is that correct?

A. That is correct.

Q. Ultimately, the State will require --

Let me ask it in the form of a question.

Will the State require an access permit for this particular location?

A. Absolutely.

Q. And ultimately then the State will determine or tell you what is actually required in terms of improvements, is that correct?

A. That is absolutely correct.

Q. As of today's date has an access permit been issued?

A. No.

Q. Let me next go to the next exhibit.

MS. DOPKIN: Before you leave this

exhibit, may I ask Mr. Caloggero a question?

MR. SCHMIDT: Sure.

MS. DOPKIN: We have some paragraphs, Petitioner's 9, that show Harford Road and the Chevron sign both north and south.

THE WITNESS: Yes.

MS. DOPKIN: That would be 9B and 9C. Does the Chevron signs, do those location of those signs appear on any of your drawings?

A. I don't believe we placed them on the drawings.

MR. SCHMIDT: We have some other pictures I'm going to get to of those signs. I think what you're referring to -- I will hold it up -- is Mr. Caloggero indicated that in some curves, it's like a curved arrow. But then when there's a severe turn, they mark it with signs like this.

MS. DOPKIN: I want to try to place them.

MR. SCHMIDT: We have some photos of them. We'll get there.

THE WITNESS: To the best of my knowledge, the signs would be located here.

On 15B, where we have labeled 365, so on the west side of the road, there would be Chevrons directing traffic around that turn.

MS. DOPKIN: So if you're going to turn left coming up to that turn, they're on the west side of the curve.

THE WITNESS: Right. Or right, when you're coming. It's telling you to turn to the right.

And the same curves, again for purposes of this drawing, somewhere between A and F, we'll call it, to the north of the site entrance there is going to be Chevrons in that general area helping southbound traffic turn.

MS. DOPKIN: What is the distance from the entrance to the roundabout?

THE WITNESS: I want to say 750, 800 feet.

MR. GARBER: Mount Vista Road or Glen

Arm Road?

THE WITNESS: Yeah. That's shooting from the hip. But I can get you that information. It's about 800 feet-ish.

MR. SCHMIDT: I'm going to mark this next one 16A and B. Let me make sure I'm giving Mr. Holzer the correct one.

(Discussion off the record.)

MR. SCHMIDT: 16A.

(Petitioner's Exhibit No. 16A-B marked for identification.)

Q. (By Mr. Schmidt) Mr. Caloggero, you had mentioned and Mr. Motsco has testified that the underlying site plan, which is Exhibit No. 1, shows potentially a new access or exit point from the property, is that correct?

A. That is correct.

Q. Just to bring us to speed as to how that occurred, was that as a result of discussions that you had with State Highway Administration?

A. That is correct.

Q. Did they ask you to look at relocating the exit point from the property along Harford Road?

A. That is correct.

Q. And as a result of that and I think Mr. Motsco testified that you actually gave him input and then he showed it on the plan.

Does this plan -- "this plan" being 16A -- show a potential new exit?

A. That is correct. Yes.

Q. Under this plan, just to describe it, the entrance would remain the same, which is where the existing access point is today, correct?

A. Correct.

Q. When you turn in, you're to the right of the landscape island.

A. Correct.

Q. But then the exit would be -- when you're exiting, you're again right, because you're going the other way. The right of the landscaped island would move that to the north --

A. North.

Q. -- a certain distance, correct?

A. That is correct.

Q. You were here this morning.

A. Correct.

Q. We showed some photographs of the area of the property that's involved and the potential trees which would be removed.

With all that being said, if you can, Mr. Caloggero, tell us what this drawing is showing, again, the top and bottom portion, and what that's showing in terms of sight distances and that potential construction.

A. Sure. Since we're now all educated on sight distance and plans, again, this is our plan and profile drawing.

What coworkers and I did out in the field is what we call spotted. We moved up and spotted. We walked up and down this portion of the frontage of our right of way and tried to determine the best available outbound sight for a car leaving this site.

So if we were to relocate the access point further to the north -- I believe we have it shown about 70 feet -- relocating it about 70 feet a little bit north around the turn, when looking to the south, the horizontal curve still is the obstruction but now we can see 450 feet away and looking to the north 500 feet, again with maintaining proper vegetation height on the west side of Harford Road.

As we talked about, it would be basically a really oversized monumental entrance, where you would have one way out on the north side, one way in on the south side, and we would have to close the existing outbound so there wouldn't be any confusion amongst the drivers.

So all drivers leaving, they would have to go -- it's two one-way systems basically from the point of curvature heading towards the parking lot, towards Harford Road.

Q. Obviously this plan doesn't change any of the other factors or conclusions that you've

rendered insofar as speeds and sight distance and stopping sight distance, correct?

A. Correct.

Q. This is just providing an additional merely 85 feet to the south?

A. Correct.

Q. And I believe an additional 50 feet or so to the north.

A. Fifty or 60 feet to the north. Correct.

Q. Also, there are some photos on this plan. "This plan" being 16A and B.

Can you tell us what those are depicting?

A. Correct. The top picture on the drawing that's somewhat imbedded into the plan view shows in the southbound lane, generally leaving the roundabout, what you're seeing as you're coming down the hill towards the site access.

At this point, you can see a 45-mile-an-hour speed limit, but right before that it tells you that the speed limit is 45. We need you to take this at 30.

It's different that the signs are next to each other that way. But, again, that's a reverse turn sign that shows it's a straight 90 degree and then to the right 90 degree and then up 90 degree with the arrow. Again, that signifies a sharp turn or turn ahead.

The one below is a winter photo taken where you can see without the vegetation, looking up towards the roundabout.

Q. To the north.

A. To the north, yes.

MR. GARBER: The bottom photo, it says, Looking from proposed exit.

I'm looking at the proposed exit, and I see that Boneparte Avenue would be to the left, right.

THE WITNESS: No. That would be -- sorry. That picture may be from point A on the drawing. That's from its existing location.

I think the picture we were using here was just trying to show if the vegetation was cut down how far you can see to the north.

MR. GARBER: Where it says, Looking for proposed exits, it's actually looking at the existing exit and reflect the sight distance today from the same exhibit but it was winter.

When you probably could see the proposed exit, it was winter.

THE WITNESS: Correct. Again, this access would move a little bit further to the north. The line of sight comes inside where this line of site was inside. So closer to the west. I apologize for that.

MR. GARBER: That's okay.

Q. (By Mr. Schmidt) Anything else about this exhibit, Mr. Caloggero?

A. No. I think this shows how -- again, trying to work with SHA, they ask, How can we increase the sight distance? This is one way we can increase sight distance.

Q. Finally, Mr. Caloggero, this will be 16B.

MR. SCHMIDT: I will give it to Mr. Holzer.

Q. (By Mr. Schmidt) This is also, is it not, sort of a schematic with an aerial rendering of the alternative with the relocated outbound or exit lane.

A. Correct. So, again, this is the plan view. What we were asked to do here by the Maryland State Highway Administration -- and they came up with some really good questions, and that's why we're doing all these exercises -- is they came back and said, How about if we relocate the entire access directly across from Boneparte?

The State Highway Administration, they asked us to review. Because we've talked about moving the outbound access. They said, What about inbound? Can we move inbound certain areas to make things work better?

A lot of times they want the intersection and the line to cross from Boneparte to try to make the intersection work more efficiently.

So what we did was we reviewed three different locations where a vehicle would turn left

into the site.

Vehicle 1, in yellow, that's turning left under all scenarios of our existing and our proposed access from the last drawing, which was 16A.

So when looking from Vehicle 1, Vehicle 1 can look southbound, because now they're looking at northbound vehicles. Vehicle 1 can see 345 feet.

That's going to be enough sight distance to be able to make a left turn safely as a vehicle is coming around the turn. Then all they're just trying to do is clear 12 feet.

Looking in the opposite direction, Vehicle A coming down the hill --

MR. SCHMIDT: Which is also yellow.

A. -- which is also yellow, can see 332 feet away. So as that car is slowing, stopping, hopefully has their directional on, that's how far you can see back. Vehicle A can see Vehicle 1 making the left turn.

So then we looked at Vehicle 2, which would turn into the existing outbound area, so looking at

another alternative for the existing outbound.

So Vehicle 2 in orange and looking at Vehicle B in orange, Vehicle B can now see Vehicle 2 360 feet away. So that's a little bit better than Vehicle 1 by approximately 30 feet.

However, Vehicle 2 can only see 190 feet to turn left. That's going to create a hazard in my opinion. I think we need about 200 feet. And I can get the exact numbers.

But we want a little bit more sight distance, when turning left into the site, in my opinion. And that obstructed -- Vehicle 2, when looking, is obstructed by the fence on the neighbor's property across the street.

Q. I believe that's Ms. Foxworthy.

A. Then Vehicle 3, we looked at --

And, again, we're eyeballing a potential inbound access where a vehicle might stop or kind of where we have our outbound proposed condition.

Vehicle 3, again looking backwards, we can see further up the hill. So Vehicle C can see

Vehicle 3 about 425 feet away. However, when looking for northbound vehicles, again we are at 191 feet due to the (a) curvature of the road and (b) the fence.

So we're kind of in that conundrum area; what is the best location for outbound, what is the best location for inbound?

So that is why we have our proposed access as shown previously on Exhibit 1 and 1A, where we would have recommended to the SHA to have inbound. And if they wanted to increase the outbound sight distance, we could move it further to the north for outbound but maintain inbound.

However, I do want to go back and say, we've testified that the existing, in our opinion, is still sufficient and safe.

MR. GARBER: If you had to come up with an improvement, that would be an improvement. You're saying come up with an exit-only lane that would be to the northeast of the existing access.

THE WITNESS: That is correct. We've

submitted a lot of this information to the Maryland State Highway. They are still in review.

I guess they have to weigh the checks and balances of the network and what we've shown them for them to determine what we would need to do to obtain an access permit from the State Highway Administration.

MR. GARBER: Is there any reasonable expectation that they may come back with something that's completely different from this?

THE WITNESS: Oh, yeah. Maybe not completely different. I don't know what their goals and objectives would be, besides our goals and objectives, which would be to make it better.

But as we're moving stuff around, I don't think there's many different areas where we can move an access.

If we move it further to the south, the sight distance using 16B, looking to the south, the sight distance to the south gets worse.

MR. GARBER: For example, if you go

down to the west side of the property where the abandoned road is, you wouldn't have an expectation that they're going to say, You probably should use that as your ingress point or egress point.

THE WITNESS: I believe we have shown enough information and enough data to the State Highway Administration, again, where we believe we have provided a safe and efficient access and alternative to that safe and efficient access to a different one that's also safe.

Q. (By Mr. Schmidt) I think what Mr. Garber is asking you is you don't anticipate the State Highway Administration to ask you to explore the driveway that's been closed that go through the back of the property.

MR. GARBER: I'm thinking fairly different than what is depicted in 15, 15A, B, 16A, B, that we are sitting here today looking at these plans that may not ever come to fruition and then be something completely different than what happens down the line and the effects we can't take a look

at here today.

MR. SCHMIDT: Obviously, the Petitioners are at the mercy of State Highway Administration. They asked for data, as Mr. Caloggero has indicated. He's given them all kinds of data and all kinds of different alternatives.

Q. (By Mr. Schmidt) Mr. Caloggero, you would expect the State Highway Administration in granting an access permit here to select one of the options that you've shown on Exhibit 15A, B, 16A or 16B?

MR. HOLZER: Objection. There's another alternative, and they denied the access altogether.

MR. SCHMIDT: Right.

Q. (By Mr. Schmidt) If they granted an access permit, you would expect it to be as shown on 15A, 15B, 16A or 16B.

A. That is correct. And I believe we've demonstrated, in my opinion, today with the sight distances, the stopping sight distances, the speeds, the curvature of the road, the SHA warning signs and

how they would like us to drive the road and the conditions that you can physically drive the road that we have provided is not only existing safe but we believe we've provided alternatives for what may be safer egress, while maintaining a safe ingress.

MR. SCHMIDT: I would formally offer 15A, 15B, 16A and 16B into evidence. They've been marked and explained by the witness.

MR. HOLZER: I have no objection to that.

MR. GARBER: So admitted.

MR. SCHMIDT: With that being said, I think that's a good time, Mr. Garber, to stop.

MR. GARBER: I don't think there's any problem with that.

MR. SCHMIDT: Unless any members of the Board have any questions.

MR. HOLZER: Could we just say on the record that next Wednesday, I believe it is, is the next hearing date. We'll still start at 9:00. There will still be their case going on.

MR. GARBER: The witness is still on the stand.

MR. HOLZER: For cross-examination.

MR. GARBER: To finish direct and cross.

MR. HOLZER: Exactly. And then after that the sanitarian, he'll go.

So is it fair to say that my case won't start until after lunch?

MR. GARBER: Without knowing how long you expect to take on cross-examination, that's probably reasonable.

MR. HOLZER: I'll make sure it's responsible.

MR. GARBER: Fair enough.

MR. SCHMIDT: Let me say for the record, I understand the prohibition on talking to witnesses who are testifying. I will not be discussing Mr. Caloggero's testimony.

However, as he's indicated, he has continued to make these submissions to State Highway

Administration. If he's advised that State Highway Administration has decided on one of these, or whatever, I would like him to be able to tell me that between now and next week. I will tell Mr. Holzer, if we get that information.

MR. GARBER: Yes. If something materially changes in relation to these plans and his testimony within the next six days, I think that's only fair.

MR. SCHMIDT: If he calls me and says he gets a letter from State Highway saying, Do this, I will let you know what it is.

MR. HOLZER: That's fair.

MR. GARBER: We are reconvening next Wednesday, September 12th, 9 a.m. in the Board of Appeals' room, not the County Council, not here. The Board of Appeals' room. And, therefore, if we have standing room only, we'll rotate people in and out as necessary.

Before we close the record for today, Ms. Dopkin does have a question.

MS. DOPKIN: For southbound traffic on Harford Road, there is a considerable downhill grade.

THE WITNESS: Correct.

MS. DOPKIN: Does that affect the stopping sight distance?

THE WITNESS: Minimally. They usually look at zero to 3 percent and then 3 to 6 percent as stopping sight distances on a grade. I didn't believe this was more than a 3-percent grade coming down the hill.

If I can elaborate a little bit more to help out the situation, that's part of the reason why I've asked the State Highway Administration to also not consider 2 and 3, due to that downgrade. Area 1 is more flat, where you can make that turn more easily. I forget exactly where the --

Going back to the very first drawing, 15A, that's more difficult to see, but you can see where the letters on the north side of the site access, so from J to B, it's a downgrade. As you get to B to

A, it's significantly less.

So when you're turning beyond A and B, it's a fairly flat area, and we believe it allows a safer inbound maneuvering. Again, the SHA will be reviewing all this.

MS. DOPKIN: Second question: Is 30 miles per hour recommended speed as opposed to does the state put any physical improvements in the road to slow traffic?

THE WITNESS: In certain instances. There's measures. I'm sure you've seen rumble bumps or even rumble strips or the cutouts in the road, where if you cross the center line and there's slots in the road that makes a humming noise. So there are those types of measures.

MS. DOPKIN: Would they be appropriate here?

THE WITNESS: If people obey the signs and follow the advisory speeds, they're not needed. Usually you start taking those additional measures, if there's an accident history.

If this was a brand-new road and a speed limit of 45 and you had people running off the road itself, then you may want to add the Chevrons and then put the rumble bumps in the road to warn people of an unsafe condition or a hazardous condition. But it's usually a stepping-stone.

I don't know the accident history here. I don't want to suggest an accident history or not. However, if there was an accident history of excessive speeds and running off the road, crossing the road and into the curb area, then I would anticipate the SHA adding additional corrective measures.

MS. DOPKIN: Lastly, it appears the state owns the right of way on the west side of the road but not on the frontage of this Petitioner's property.

A. Correct.

Q. Would they be required to donate the right of way to State Highway Administration?

The second part of the question: If so,

would that result in any improved sight visibility?

MR. SCHMIDT: For example, as a condition to the access permit?

MS. DOPKIN: Yes.

THE WITNESS: They have not, to my knowledge, at this point. We received one letter, I believe, in November from the State Highway Administration. And I don't believe in that letter they suggested any donation of right of way.

Any widening here, and typically widening if this was a much higher use, or if the SHA was thinking of trying to get a four-lane section from the roundabout to the south to some location, if there was an excessive amount of traffic using Harford Road, they would consider that.

Right now I don't see a need for that, and it would be a large project on the State Highway Administration because of the slopes coming down into the road. It would be a significant cut and significant retaining walls.

MR. GARBER: Thank you. Any questions

based on that?

MR. HOLZER: I have a lot of questions, but I'll hold them.

MR. GARBER: Fair point. Thank you.

(Whereupon the hearing was suspended at 4:03 p.m.)

C E R T I F I C A T E

STATE OF MARYLAND

COUNTY OF BALTIMORE

I, Ann M. Lavoie, Shorthand Reporter in and for the County of Baltimore, do hereby certify that the foregoing pages to be a true, complete, and accurate transcript of the hearing In the matter of the Petition for Special Exception, before Baltimore County, Case No. 2018-0122-X held at the time and place hereinbefore set forth, to the best of my knowledge, skill, and ability this 21st day of September, 2018.

Ann M. Lavoie
Shorthand Reporter

My Commission Expires:
October 17, 2021

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(a) 148:12 294:3

(b) 148:13 294:3

1

1 5:21 9:19 14:3 16:3 38:4,11 39:21 40:4,7,16 77:16 106:8 107:2 108:2 126:5 194:21 195:18 203:15 284:14 292:2,5,7, 18 293:5 294:9 301:16

1,000 103:1

10 73:6,7 74:7

100 64:11,15 137:2,5 161:9 253:9 255:2,3 268:7

100-feet 45:18

1055 13:20

11 101:5 256:6

11:00 195:2

11A 214:3,11,14, 18 216:8

11A-E 214:5

11th 8:14

12 242:7,8 243:1, 18 292:11

120 153:5

12150 186:17

12241 136:20

125 116:16

1250 21:12

12:25 164:9

12A 256:7

12th 5:18 300:15

13 168:13 256:8

14 21:17 24:15,16 25:1,9 168:12 256:5,8,11,21

15 199:3 263:15, 21 274:18 296:17

150 116:20 153:5, 13 154:5,17 155:2,3 177:17

150- 15:17

152 154:4,5,7

15A 275:7 276:2 296:17 297:10,16 298:7 301:18

15A-B 263:12

15B 275:8,12 276:2 277:4 280:14 283:3 297:17 298:7

16A 284:6,9 285:7 288:11 292:4 296:17 297:10,17 298:7

16A-B 284:10

16B 290:19 295:19 297:10,17 298:7

18-122-X 4:5

18th 108:5,6

190 293:6

191 294:2

1993 241:21

1A 40:9,13,15 41:2 77:16 106:9 107:2 108:2 116:8 126:6 136:16 143:19 144:15 163:3 175:10 183:10 186:5 190:3 203:16 235:18 294:9

2

2 4:3,5 6:4 7:17 14:3 22:20 47:19 48:5 247:17 250:17 292:20 293:2,3,6,12 301:15

2's 250:18

20 151:21 246:5 253:3,5,6 254:18, 21

200 93:11 151:18 207:14 293:8

200-lot 15:17

2001 28:6

2014 28:6

2017 28:9 29:6 35:17 36:16 171:18

2018 36:5 69:19 70:9 108:5,6 169:11

21236 238:17,20

22 168:13

24 258:2

240 268:19

245 268:17

25 169:11

285 269:1

2:45 238:1

2D 264:13

3

3 4:17 108:14 109:1,16 293:16, 20 294:1 301:8, 15

3,500 255:19,20 257:8,16,21

3-percent 301:10

30 188:21 246:21 259:4 266:16 268:16,21 269:7, 8,9,18 270:12 288:21 293:5 302:6

30-acre 146:17

30.8 38:14 76:12 118:9

300 175:7 177:18 178:2,6 180:15 186:21 189:21 207:19,21 208:4, 13,21

307 13:20

30s 72:12

325 269:2,20 270:6

332 292:15

340 64:9 101:20

345 292:7

35 246:18 267:2 268:18 269:1,5, 18

350 186:21

360 273:13,18 274:3,15 293:4

364 178:15

365 266:4,10 267:4 269:21 275:5 276:17 283:3

38 80:2,3,12,21 81:13 151:7 152:2 154:3 155:12 156:10

4

4 8:15 162:3,4,5 163:14 164:1 221:14

40 269:2,19 270:6

425 294:1

43 12:14

430 102:19

435 102:19

440 267:5,11 270:5,15 273:19 275:7 276:18 278:21

45 164:18 266:19 269:5 273:12,16 274:2 288:20 303:2

45-mile-an-hour 288:19

450 287:6

4:00 275:18

4:03 305:5

4:30 275:17

5

5 11:5,14 12:21 13:6 168:20 169:5,6

50 45:13 156:10 288:7

500 47:15 157:9 287:7

500-to-700 98:7

502 188:3 191:7

502.1 166:2,15 171:8 177:7 187:18 194:11 195:11 197:5 199:12

508 9:17

539 73:11

539A 73:14

58 168:13

6

6 11:17 12:9,11 13:8 301:8
60 45:13 259:3 288:9
600 6:8
650 102:14
655 102:10

7

7 11:17 12:12,21 13:6,10
7-eleven 230:5
70 127:13 287:3
700 47:15
750 283:19

8

8 17:12 18:6,8 22:20
80 127:13 153:7, 15,17,21
800 283:19 284:4
85 288:5

9

9 53:10,11 282:4 300:15
90 289:3,4
90-degree 246:13,16 248:12
9900 238:16,18
9:00 151:18 195:1 298:20
9A 54:4 69:11,15 110:4,13
9A-MM 53:4
9B 184:19 185:1 282:7
9C 185:11,17 282:7
9E 183:15 184:2
9H 222:6
9MM 69:11

A

a.m. 300:15
AA 63:14
AASHTO 268:2,3 271:11 272:3
abandoned 144:10 218:13 296:2
ability 30:6 193:18 252:21 259:9 279:9
absent 197:4
absolutely 8:10 253:17 277:5 281:12,16
absorb 259:10
abundance 5:6 8:6
accept 32:21 35:12
acceptable 35:7 40:21 270:3 277:21
accepted 17:7 87:21 132:7 150:20 241:6 242:9 244:3
accepts 204:11
access 38:20 43:13 57:20 59:20 66:2,4 79:13,14 82:5,11, 18 96:9 104:16 106:8,10 107:1,8, 11 109:6,10,17 113:8,9 123:12, 14 124:7 132:19 133:2,5,9,18 134:2,17 135:7, 15,20 136:3 191:12,18,19,20 206:21 208:5 226:2 233:21 234:3,14 235:21 244:16 246:7,8 249:3 250:21 251:21 252:2 254:14 262:17 263:2 265:21 268:15 273:21 277:13 278:12 281:10,17 284:15 285:12 287:1 288:17 290:8 291:10,14 292:4 293:18 294:8,20 295:6,17 296:8,9 297:9,12,15 301:20 304:3
accessible 81:11
accessing 82:13
accident 302:21 303:7,8,9
accommodate 6:3 77:10 78:4 81:7 260:5,9,14, 20
accommodated 5:12 77:11 80:11
accommodates 83:2
accommodations 176:20
accompany 40:16 105:7
accomplished 84:7
accordance 200:19
account 199:12 207:1,4 274:8
accounts 6:20
accumulate 210:8
accurate 32:1 203:2,16 222:9
accurately 69:3 70:5
achieve 277:21
acknowledge 175:16
acknowledged 175:16
acquired 171:19 172:8 217:18
acreage 149:13
acres 38:14 76:12 118:10 188:21
activities 49:15 176:4 179:18 199:14
activity 49:12 190:14 193:14
actual 40:3 179:1 183:19 225:12 248:19 261:18 269:16 276:4
ad 276:3
ADA-COMPLIANT 9:8
add 9:20 40:8 89:18 232:20 263:2 272:9 303:3
added 107:3,19, 21 108:2 158:10 159:2
adding 83:1 106:7 303:12
addition 9:3 162:18,20 163:2 201:10
additional 13:4 42:11,21 81:2,4, 15 83:16 84:3,13 114:18 116:4,5 117:4,7 148:15, 16 149:2 155:16, 21 156:1 163:8,9 167:8 168:3 170:3 180:2 204:10 207:8 208:7 229:11 249:5 259:11 272:4 278:13 288:4,7 302:20 303:12
additionally 91:8 99:2
additions 58:8, 11 169:18
address 13:17 26:19 136:19 179:12 207:9
addressed 75:4 187:11 226:11 280:6
addressing 33:8 199:12
adds 168:13
adequate 94:15 267:18
adjacent 51:15, 16 52:5,7,8 63:3 95:5 99:18 155:21 184:14 190:1 211:18 279:6
adjoining 95:1 136:16 187:15
administration 25:17 82:17 107:12,16 110:1 124:19 204:11

231:14 242:3 246:12 248:13 251:19 252:1 253:13 254:8 260:7,13 266:15 278:2,4 279:2,4 284:20 291:7,12 295:7 296:7,13 297:4,8 300:1,2 301:14 303:20 304:8,18

Administration's 83:5

administrative 17:8 19:1,11 30:2 35:21 109:4,11 157:17,20 241:10 244:15

admissibility 18:17 163:18,21 242:17

admit 70:7 128:8

admitted 13:3 32:11,12 47:2 74:8 170:18 218:5 298:11

adopt 147:13

adopted 230:7

advance 126:14

adverse 89:7 90:4

adversely 93:15 182:18

advice 172:11 173:17

advise 172:18 231:10

advised 5:10 172:19 177:16 270:12 300:1

advisory 246:5 266:17 302:19

aerial 34:17 37:17 48:1 99:19 188:3 202:20 221:15 275:11 276:3 277:7 291:2

affect 178:18 301:5

affected 118:15 166:4

affecting 182:18

afield 28:20

age 71:9

agencies 99:4

agency 252:7

agree 6:13 8:12 28:18 88:2 98:4 122:13 153:13 194:7 225:17,19 226:5 230:7 232:12

agreed 40:2 80:14 278:3,17 280:8,16

agreement 4:13 5:2 40:5

agriculture 51:10 52:4 99:9, 14,15 100:1,2

ahead 133:11 213:18 218:2 289:6

aid 75:17 221:7

air 85:18 87:3 94:16 190:13,14

aisle 42:13 81:11 82:21 136:6

aisles 235:21

alcohol 160:7

alert 8:13 273:2

alignment 264:15

alignments 265:19

ALJ 107:5,7 109:17 126:3,12 158:12

allies 89:9

altered 201:19

alternate 43:13, 15 66:2,4 83:4 234:13

alternates 43:11

alternative 82:2 106:8 109:10 132:19 226:2 291:3 293:1 296:9 297:12

alternatives 297:6 298:4

altogether 297:13

amend 120:14 147:7

amended 147:5

amendment 149:4

amenities 94:2

American 4:4 11:9 244:8

amount 7:9 79:17 244:17 258:11,21 304:14

analogy 261:3

analyses 252:4,5 253:14

analysis 23:7 27:13 29:11 138:15 156:9 157:12 175:8 183:1 187:18 192:1 244:20 251:14 254:14 257:6 258:12

analyzed 124:1 195:9

and/or 240:4 272:12

angle 246:13

annual 200:6

answering 129:7 150:2

answers 163:5 174:4 213:16

anticipate 46:8 296:12 303:12

anticipated 46:5 150:19 166:20 179:2 221:8

anticipation 217:20

anymore 121:7

anytime 162:11

apologize 290:11

Apology 132:7

apparent 64:1

apparently 91:12 108:18

appeals 4:11,17 7:20 17:7 85:3 175:14 241:14

Appeals' 17:1 19:1 300:16,17

appearance 178:19 214:16

appearances 22:19

appeared 49:16, 18 63:9 279:14

appears 50:16 83:19 133:8 135:17 153:4 216:4 241:16 256:2 303:14

applicability 227:6

applicable 17:19 103:21 158:21 251:11

applicant 171:17

applicants 20:5 21:7

applied 122:3 150:20 228:2

apply 27:8 85:3 116:19 121:18,19 151:10,12 152:5 196:16

applying 152:10 227:12

approach 11:6 102:7 153:14 245:7 252:20

appropriately 76:8 77:9

approval 15:2 75:8 77:6 144:21 145:2 173:10 174:5 175:9 176:2

approvals 26:15 137:14 240:8

approved 75:10 79:1 114:19 120:5 142:20 143:1,2,12,16 147:4 159:15 200:16 224:6 225:18

approving 85:4 172:13

approximate 127:12 150:14 250:19

approximated 127:11

approximately 28:6 45:18 102:10,15,18 209:1 212:20 253:3 255:19 293:5

aquifers 97:12

architect 169:16 200:17

area 41:21 43:19 46:17 48:14 50:9, 17,20 52:16 64:18 66:1,5,9 67:5 78:3,19 83:7 85:20 87:8,10,15 94:2 96:12 99:20 103:19 118:1,5,7, 9,10,14 120:1 123:13 130:7,8 133:16 137:14 138:14,20 143:13,19,20 148:7 155:17,18, 21 156:2,6,15 157:13 163:9 167:21 168:4,11, 16 182:11,14 188:3,19 194:2 204:14,16 206:20 207:11,16 208:1, 5,12 209:3,15 210:15,18 221:9 223:21 231:15, 17,19 233:8 244:1 245:4,11 246:9,21 247:8 250:6,9 257:8,9, 10,12 258:18 259:19 262:11 278:16 283:15 286:5 292:21 294:5 301:16 302:3 303:11

areas 32:18 43:18 46:7,9 76:14 81:1,4,9, 15,17 83:12 96:18 221:2 230:19 261:20 291:15 295:16

arguing 129:15 181:9,10

argument 149:6

Argumentative 130:2

arise 81:12

Arm 85:19 86:2,4 284:1

arrangement 176:21

arrangements 4:18

arrive 141:18

arrived 79:19 125:18

arrow 282:16 289:5

Articles 11:8

articulate 193:18

aspect 123:20 235:17

aspects 124:2 144:14 172:13 240:9 265:17

assess 224:4 254:16,17 257:19

Assessments 11:11

assign 263:16

assist 232:14

assistance 36:9

assisted 33:17

Associates 13:20 14:8,11,16 15:15 21:17 31:5, 15 33:16 35:17 116:3 171:16 202:14 203:10

association 10:1,5 103:13

assume 16:16 17:4 33:14 37:1 74:14 146:1 167:17 170:15 172:2 209:11 244:20

assumed 131:18

assuming 206:21 230:19

assumptions 177:15

assurance 119:9

athletic 145:16 146:14 220:8

attached 60:11, 12

attend 7:3,6 35:20 200:2

attendance 5:20 8:21 150:19 151:2 152:9 154:6,8 175:6 177:18 182:1 196:18 199:8 200:7

attended 75:19 196:11

attendee 7:11

attendees 150:15

attending 7:16 8:1 151:18

attention 45:4 47:18

attest 277:6

attorney 12:3,4, 16 19:8 72:6 173:2

attract 157:2

atypical 252:18, 19 253:19,21 272:15,17

audible 9:4

audio 5:15

August 155:8

authority 147:8

authorized 10:9

auto 21:8,9

Avenue 6:9 9:18 13:20 20:14,21 39:1 55:14 56:1 66:18 82:14 112:11,13 183:13 289:15

average 154:6, 17 254:18

avoid 30:7 32:17 123:14 165:5 261:9 271:16

await 173:14

aware 35:19 71:10 175:5 197:11 265:8

B

BA 73:11,14

bachelor 240:12

back 4:8,16 5:5 6:17,21 7:20 43:4 56:16 58:19 59:1 60:6,7 61:3 81:16 101:5 136:14 147:6 148:17 165:2 170:14 174:1,2,9 185:18 195:12 219:9 272:16 277:16 279:15 291:9 292:18 294:14 295:9 296:14 301:18

background 16:17 18:15 21:14 25:6 30:18 39:20 71:9 72:1 77:11 220:15 240:10

backward 265:16

backwards 12:11 293:20

bad 113:1

baked 274:9,15

balances 295:4

bald 272:8

ball 220:7 233:7 271:21

Baltimore 11:10 15:11,13 17:20 24:1,9 25:6 30:17 34:9,13 71:16,17, 19 75:7,20 79:1 91:18 108:17 120:5 126:9 143:11,16 159:9 236:17 238:17,20 241:11 244:8 248:8 251:18 260:12

barn 39:19 41:7 45:20 61:9,11,13 71:11 73:15,18 118:11 138:12 148:9 234:9 235:6

base 31:6 150:18 152:2 202:6

baseball 146:18

based 18:14,15 24:13 35:13 80:3 99:19 139:6 143:17 150:12 155:4 157:1 166:3,8,15,19 167:5 177:7 181:20 191:3 192:1 196:1,2 200:10,12 202:9 252:7 253:2 254:10,11 255:12,20 257:21 258:4,7,18 264:15 265:4,19 267:16 270:1 272:6 305:1

basement 141:8, 10 181:4

basic 251:5

basically 66:17 151:1 193:5 247:5,10 272:6 287:10,17

basing 269:16

basis 29:20 30:12 90:12 93:11 97:15 151:3,19 163:15 181:18 182:12 200:6 237:10

bathroom 9:8 141:3

BB 63:16

bear 114:1

bedrooms 141:3

beginning 27:18 58:12 95:9 202:5 240:7

behalf 6:9 9:18

Bel 85:18 87:3 190:13

Bella 72:7,8 73:12,15 91:9

bend 42:3,10 206:7

bends 41:16 208:15

beneficial 227:19

benefit 7:12 136:15 238:12

Beverungen 19:13 35:21 36:4, 8

big 78:6 206:7 232:13

Bingo 179:14

bit 15:8,10 21:15 28:19 33:14 37:15 41:14 45:5 48:8 57:6,13 60:20 65:19 66:15 79:12 205:16 239:11 245:6,9 255:17 272:9 277:12 287:4 290:8 293:4,10 301:12

biweekly 280:6

black 86:20

blame 111:1,2

block 222:8 223:6

blocking 67:12

blue 86:15,19 87:2

board 4:8,17,21 5:13 7:5,20 9:12 11:4 14:6 16:4,21 17:7 19:1,16 30:3,8 31:4 40:14,18 45:8 53:19 54:5 64:6 66:7 67:7 79:15 85:3 106:1 121:6 147:5,8 148:17 149:2 170:2,14 175:13 190:4 241:13,14 252:13 264:6 274:19 281:1 298:17 300:15,17

Board's 6:2 165:4 216:20

bold 38:12

Bonaparte 38:21

Boneparte 55:14,16 56:1,3,6 66:18 72:5 73:13 82:14 112:11,13 183:13 277:13 278:13 289:15 291:11,18

Boneparte's 72:4

book 12:15

bottles 160:8

bottom 87:3 135:1 234:6 264:14 276:7 286:10 289:12

bound 38:15

boundaries 85:21 149:12

boundary 38:17 86:20 207:11 232:13,21

brake 267:1 272:12

brakes 271:13

brand-new 303:1

break 100:11,20 164:13 264:16

breaking 164:14, 15

bridges 97:21

briefly 14:10

bring 12:6 43:2 257:14 258:15 284:18

broad 31:6

broken 215:19, 21 216:3 217:9

brought 11:2 53:2 59:12 268:5

buffer 23:8 227:11,15 228:14,15

buffers 23:10

build 146:21 149:17 272:4

builders 21:7

building 44:4 46:17 51:2,13,19 57:20,21 58:1,4, 9,19 60:6,7,11, 12,13,15,21 61:13 62:3,4 64:8,12 70:2 71:7 74:14 90:4,21 92:10 94:14 95:4, 12 96:15 101:15 102:4,8 103:4,7 104:9 117:14 118:12 120:9 128:12 129:16 140:5 142:4,8,9 148:16 160:4,9, 11,17 162:20 174:20 180:3,9, 17 196:2 201:7 208:9 211:8,14, 18 212:8,9,10,11 215:4,11 220:21 222:2,4 234:11 235:4 255:16 256:2,16,17 258:8

building/temple/ former 73:21

buildings 15:19 34:19 41:6 70:18 91:1 116:5 118:5 122:3 201:8 202:19 236:19

built 72:7,13 91:10,18 133:19

bumps 302:11 303:4

burned 72:11 91:9

bush 135:21

business 14:11 21:9 239:18

buy 172:4

bypassing 67:13

C

C-A-L-O-G-G-E-R-O 238:13

calculate 255:13 257:13 271:7

calculated 252:13

calculation 80:1 181:19,20 182:2 252:9

calculations 143:10 179:16 252:11

call 10:18 12:19 43:17 93:16 103:19 111:11 186:2 197:13 238:6,13 264:11, 18 275:19 283:13 286:17

called 246:8 249:6 270:17

calling 97:20

calls 211:20 300:10

Caloggero 124:15 238:6,7, 11 239:4,17 240:11,21 247:21 251:8 256:1,4,13 257:2 262:6,13 263:14,20 266:11 267:15 275:4,9 276:1 278:21 280:21 282:1,15 284:12 286:9 290:14,19 297:5, 7

Caloggero's 242:6 256:8 299:19

Calvert 243:4,5

camera 110:20

camp 50:1 220:3

capacity 175:14 251:10,14 252:4 258:16 259:9,19 262:6

car 55:6 181:19, 20 182:3 266:3 271:8 273:15,17, 18 286:20 292:16

careful 273:2
caretaker's 62:2
Carroll 9:17 243:7
cars 81:7 93:11 156:10 157:9 162:11,13
case 4:4 5:5 17:15,19 18:1 19:14,16 27:18 28:2 35:16,21 36:5 52:12 109:12 147:3 176:1,12 177:9 187:5 189:12 191:19 224:2 226:10 227:3 228:8 241:7 244:7 272:15 298:21 299:8
cases 15:20 19:21 35:10 50:19 175:15
category 254:1
Catholic 179:15 261:7
caused 158:3
causing 97:21 258:17
caution 5:6
caveat 108:16
celebration 175:20
cellphones 9:1 82:9 239:14
center 4:4 11:9 39:4 48:6 57:19 119:13 244:8 302:13
centered 39:5
central 247:11
centrally 101:16
certificate 24:8
certification 23:13,14 25:5
certify 12:15
cetera 23:9 41:7 117:8,14 191:13 202:8 232:16
Chairman 9:11 41:19 121:5 166:7 167:14 177:4
chairs 59:8,10, 12,15
challenged 248:9
change 129:12, 19 169:13 177:16,20 236:3 287:20
changed 69:7,21 70:4 175:8
changing 79:12
channel 204:21
character 37:21 77:9
characterize 121:17
Charles 73:13 243:9
chasing 271:21
check 236:12 237:4,14
checked 237:7
checks 295:3
Chevron 282:5,8
Chevrons 249:7 283:4,15 303:3
child 271:21
choice 166:12
choose 279:8
chose 152:8
Christian 49:8, 17 193:16 195:14 198:21 261:4
Christians 193:20
Christmas 261:5
church 49:3,11, 16,17 67:16,17 95:13 170:20 189:17 190:13 191:9,10 193:16, 17,21 194:13,17 195:15 196:14 197:12 198:15, 16,19,21 199:13 200:6 219:21 255:10,12 258:9 261:4,7
churches 96:6 103:21 254:4,8,9 256:15 260:2
circle 248:1,6,16 249:16,17 258:15
circles 249:20
circular 114:7
circulated 106:16
circumstances 172:10 205:1
Civic 10:1,5
civil 14:12 17:12, 17 21:18 22:2,10 23:18 25:3,12,20 30:17 32:5 33:10 77:7 240:12
clarification 109:15
clarify 106:11 109:9
clarifying 106:21
classification 95:17
clean 160:7 161:5
cleaned 160:16, 19,20 215:11 217:11
cleaning 174:11
clear 7:2 12:8 31:17 63:2 119:20 137:4 138:19 231:7 248:1 255:1 292:11
cleared 71:2 120:12 275:17 279:18
clearer 58:13 135:15
clearing 46:6,8 96:13,17 97:20 99:1 115:13,17, 21 119:14 120:4 234:7
clerk's 12:1
client 7:13,21 11:1,19 25:15 26:5 143:4 150:15 152:9,12 157:8 175:16 179:7 193:14 225:17 230:16 232:11
clients 106:13, 14,17 115:2 160:3 166:16 225:19 226:5 231:5
clockwise 87:1
close 67:16 138:5 186:4 190:2 287:13 300:20
closed 296:14
closer 62:6 63:14 66:13 183:7 210:21 290:10
closest 45:14 186:6,14 207:13
co-counsel 6:11
code 25:20 42:17 80:4 91:19 155:5 175:14 176:12,15 177:3,9
collect 204:20
collecting 232:9
collections 204:19
collision 271:16
color 257:11
comfort 5:14
comment 27:4 89:6 181:13
commented 22:15 181:16
comments 9:4 30:5 33:8 169:18
commercial 15:17 117:2 143:3,6,7 190:14 191:5
Commercial-institutional 143:8
commissioner 241:11
committed 28:5 171:11
communicate 4:14
community 18:20 19:4 25:16 106:17 118:14 148:4 158:2,5 190:11
company 31:13 106:3 116:3
comparable 196:14
compared 5:21 93:8 193:6,11

195:8

comparing 191:7 261:2

comparison 259:5

compartmentalize 18:12

compiled 202:17

complete 76:21 280:10

completely 45:21 95:2 138:9 194:3 295:10,12 296:20

complexity 272:13

complies 20:19 170:20 274:20

comply 97:7 171:4

computations 15:1 219:16 257:4

conceivably 191:15

concentration 92:8

conceptual 84:1 169:10,12

concern 84:14 98:19

concerned 148:5 223:21 226:21 230:20

concerns 83:5 119:8 207:9 280:5

conclude 100:7 188:1 229:18

concluded 224:7

concluding 199:15

conclusion 104:7 121:18 141:18 200:10,12 211:21

conclusions 194:12 195:10 259:11 287:21

concrete 91:10

condition 69:17 70:8 75:17 125:17 142:4 149:2,20 216:6 217:4,16 225:20 226:13,15 230:7 232:12 267:13 293:19 303:5 304:3

conditions 69:4, 7 147:9 203:17 214:8 263:9 269:16 270:1 272:8 274:11,13 298:2

conduct 240:1

conducted 75:15 199:3

configuration 129:2 176:21 204:12 205:12

confirm 126:8 130:6 203:1 227:5

confirmed 126:21

confused 25:4

confusing 122:17

confusion 4:7 7:19 287:14

congestion 89:9 262:10

congestions 258:17

congregation 49:20 75:6 92:15 126:17 193:19

conservation 23:10 120:4,13 225:1 226:10 228:17,18

conservative 255:17 257:6

considerable 301:2

consideration 84:13 189:12 235:1

considerations 210:9

considered 158:12 245:13

consistent 95:16 106:1 143:3 213:9 214:16

constraints 120:6 224:5

construct 83:7

constructed 91:10,12 113:21 144:11 246:3

construction 46:16 47:6,7,10 60:8 76:16 98:7 99:3 168:16 201:4 206:20 233:2 240:9 286:12

consulting 109:21

consumed 91:6

contacted 171:16

contained 40:6 95:2

contemplated 202:2

contending 7:18

context 32:10 71:8 149:7 150:1

continue 46:1 111:8 174:13

continued 299:21

continues 45:19

continuing 42:9 87:1 222:19 281:5

contour 276:8

contours 264:18,19 265:4

contract 172:1,4, 7 174:14

contributed 31:8

conundrum 294:5

convened 4:6

convenience-store 15:19

conversations 280:7

conversion 96:14 101:15

converted 58:5 59:7

conveying 38:7

coordinating 75:7 276:12

coordination 80:13

copies 11:7 12:7 16:11 52:20 53:3

copy 10:10 11:8, 21 12:2 16:8,14 53:15 54:1 221:19 256:1

corn 50:5

corner 60:3 65:20 86:18 136:19 170:7,9 183:13

correct 6:1 8:1 14:9 16:19 17:6 19:9,12,20 20:2 21:19,20 23:1 24:21 25:10,11 27:14 33:12,13 36:19,20 41:9 44:10,21 45:1 53:17 54:17 55:18 57:4 58:2, 3,7 59:14 61:21 64:9,13,17 68:5,8 73:19,20 74:1,2, 5,16,17 76:3,9,10 80:19 81:18 94:6, 9,10 95:11 99:11, 12,17 101:17,18 102:1 107:6,10, 18 109:18 110:7 111:6,10,21 113:4,5 115:7 121:13,14 125:7, 8 126:20 127:6 130:14 132:15 135:5 139:4 142:13 144:9 145:20 150:13 152:3 163:12 165:15 167:1 169:19 171:1,9 184:3,11 185:5,6 188:19 196:1 199:21 200:1,3,4, 8,17,18 201:6,13, 14,19,20 202:3, 10,11,15 204:8, 12,13 208:10 209:21 211:9,13 212:17 219:1,2,3, 5,6 221:5,6 222:13 228:21 232:2 235:14 236:9 239:9,10 241:8,19 242:3,4, 14 245:1 248:4, 13,20 249:5 251:3,6,7 256:18, 19 258:6,10

262:15,16,19 263:3 265:14 267:9,14 269:6 271:2,5 274:6,12, 16 276:5,6,9,10, 14,15,20 279:11, 16 280:10,17 281:6,7,15,16 284:7,16,17,21 285:3,9,12,13,16 286:1,2,4 288:2, 3,6,9,13 290:7 291:5 294:21 297:18 301:4 303:18

corrected 218:10

corrective 303:12

cosmetic 44:2 160:4 174:12

cottage 62:2

Council 4:6,19 300:16

counsel 5:11 9:6 20:18

count 127:7

counting 81:14

counts 240:2

county 4:6,19 15:2,11,14 17:21 19:4,5 24:1,9 25:7 30:18 34:10, 13,17,18,21 35:3, 8,12 45:2 71:16, 17,20 75:7,10,20 76:7 79:1 85:2, 14,16 86:7,8,20, 21 87:7 91:19 107:12 108:18 110:13 120:5 126:9 142:20 143:11,16 147:6 148:17 151:2 152:13 159:9,15, 18 167:6 169:15 174:3 206:18 230:10,11 236:17 240:4 241:11 243:5,7,9,11,12 248:8 251:19 261:8 300:16

county's 17:8 35:14 77:5 87:13 97:3 103:19 200:17,20 202:10 251:4

couple 51:18 101:10 118:18 155:9 211:11 220:12 249:14 252:11 253:16

court 4:11 6:7 7:13 14:5 37:9 38:6 39:17 41:7 53:20 62:14 118:12 131:7,13, 18 132:10 146:1, 2 186:2,3,15,20 228:8

courtroom 9:1

covered 160:15

coworkers 286:16

create 89:8 90:2 119:21 122:20 157:10 260:19 293:7

created 124:6

credentials 26:19

credibility 177:6

criteria 75:15 78:7 85:3 89:3 93:13 94:16 142:6 171:6,8 192:8,9 194:11 226:11 229:6

crop 99:16,20

cross 202:12 291:18 299:5 302:13

cross-examination 10:21 78:12 98:10 100:12 198:2 213:13 217:20 299:3,11

cross-examine 30:13

crossing 303:10

crowd 6:20 178:16 179:1

crowding 92:17

crown 220:16

crowned 210:7, 11 211:7

Cultural 4:4 11:9 244:8

curb 303:11

curious 227:16

current 21:4,10 54:10,13 72:13 82:20 91:11 116:18 133:4 147:12 202:2 215:2

curriculum 241:2

curvature 246:12 247:2 265:20 267:17 287:18 294:3 297:21

curve 111:15,16 246:14,15,18 248:11 266:13 270:9 283:8 287:5

curved 282:16

curves 248:11,12 282:15 283:12

cut 133:8 148:9 165:5 277:18,19 278:17 279:14 289:20 304:19

cutouts 302:12

cutting 117:7 279:10

CV 242:6

D

daily 176:3 259:6

dairy 52:4 99:16

danger 90:18

dangers 90:3 91:2

Daniel 12:17

dashed 38:13

data 35:7,13 202:17 296:6 297:4,6

date 28:4 108:3, 4,10 196:12 277:7 281:17 298:20

dated 169:9,10

dates 8:12

day 4:3,5,17 5:17, 21 6:4 7:17 8:15 9:19 44:7 49:18, 21 68:20 69:1 92:18 93:4 107:4 110:20 125:3,18 174:2,4 178:16, 20 179:2 194:21 195:18 197:17 198:13 220:3 249:13 253:5,7, 10 254:19 255:2 260:21 277:17

day's 175:12

day-to-day 166:20

days 5:9 178:15, 17 199:4 277:15, 16 300:8

daytime 125:5

DD 65:5

de 30:4 259:12

dead 56:3

deal 19:8

dealing 124:19, 20 176:15 177:21

deals 248:5

dealt 24:16

December 244:13

decided 300:2

deciduous 170:4,6

decision 36:5,6 107:17 173:14 199:20 231:14

deck 63:12

deed 11:18 12:12,16

deem 260:19

deer 227:2

deface 215:4

deference 8:7

define 85:20 118:9,10

defined 88:2,5

degree 22:3,10 23:18 24:8 25:1,2 289:3,4

degrees 23:5 24:20 26:14

Delaware 241:20

delay 261:11

delays 260:17

deliberately 6:15

delineated 80:2 150:9

delineation 137:18
demarcated 86:13
demarcation 87:13 116:1 251:2
demolition 235:12
demonstrated 297:19
demonstrating 86:17
denied 77:18 297:12
denomination 49:17
department 11:11 42:6,18 43:2 137:13 159:4,5,11 236:15,20
depend 178:21
dependent 211:11
depending 5:11 59:13 174:4 272:13
depict 69:3 70:5 185:16
depicted 117:18 183:15 186:4 296:17
depicting 288:12
depicts 162:15
deposition 8:16
depth 193:15
descends 221:4
describe 37:18, 19 38:3 41:18,20 49:10,12 50:14 53:19 75:3 82:1 86:15 139:17 214:15 285:10
describes 73:12
describing 16:16 52:16
description 149:14 245:19
design 78:17 124:7 194:5,10 234:18,21 235:18 240:8 260:13 268:4 280:12
designate 86:1
designed 123:14 126:5 176:18 266:12
designing 75:17
designs 210:6
destroyed 161:2
detail 31:10 49:13 71:10 82:2, 6 245:19
details 115:8
deteriorated 234:3
determination 26:20 27:12 252:14
determinations 252:1
determine 34:18 75:16 99:5 252:20 273:21 281:14 286:19 295:5
determined 27:8
determines 76:8 83:8
determining 80:15
detriment 189:10 190:10
detrimental 88:7,13 97:10 199:16
detrimentally 262:9
develop 148:15 265:4
developed 72:3
developers 20:4 21:6 22:20 168:21
developing 240:4
development 14:13 16:21 19:6, 10 23:8 116:5 117:4,7 148:5,8 240:6
di 259:1
difference 172:6 189:16 190:15 194:16 196:9 271:6
differences 155:5
differential 246:17
difficult 95:4 140:5 277:12,13 301:19
dig 144:4
digital 34:16
dimensions 101:13,19
dimensions-distances 267:20
dining 163:9
dire 18:4 28:16 29:8
direct 27:10 96:9 100:7 103:10 104:16 122:5,11 128:10,13 129:20 191:18,20 202:5 213:2 217:17 219:9 231:11 236:14 299:4
directing 249:7 283:5
direction 16:6 55:8 61:11 63:20 65:8,14,18 66:20 67:2,19 68:1,4,7, 11 79:12 87:1 101:20 102:4,12 107:19 108:1 112:2 122:7 137:21 138:2,9, 12,13,14 139:1,3, 9,12 182:18 205:21 209:16,17 247:7 249:17 265:19 270:13 292:12
directional 292:17
directions 50:18 113:15 208:17 246:11 247:20
directly 55:18 113:2 123:7,15 183:11 184:14 188:20 209:8 213:6 223:8 291:10
dirty 161:7,8
disabled 152:7
disappear 119:16
discuss 79:20 280:19
discussed 56:12 104:17
discussing 154:15 299:19
discussion 82:15 107:20 199:6 263:11 275:2,21 284:8
discussions 253:2,12 254:14 281:2,5 284:19
disrepair 44:9,16 63:13 72:20
distance 56:8 57:11 64:7 65:11 83:2 91:5 95:1 102:4,18,21 104:1,18 121:21 137:9 186:1,20 189:20 206:2 222:17 250:10,20 262:14 264:1 265:18 266:4,9 267:5,18 268:11, 19 269:20 270:3, 13,17,18,20 271:1,3,7,8,15 272:1,4,6 273:6,9 274:4,8 275:5 277:20 278:1,8, 19,21 280:14 283:17 286:1,14 288:1,2 290:3,17, 18 292:8 293:11 294:12 295:19,20 301:6
distances 103:5 276:16 286:11 297:20 301:9
district 35:1 237:9
Districts 237:5,8
disturb 236:6
disturbance 96:18 97:21
ditch 183:6 184:17,19 185:8, 10 205:3,6,19,20 206:2,8,10,14 210:2
ditches 204:18
division 228:4
document 12:4, 7 16:5,9 40:19 73:5 86:6 105:19

107:8 108:12 241:1 256:3 263:21 264:6 275:5,10

documents 11:2 15:1 35:12

Doe 137:13 223:16 226:11

donate 303:19

donation 304:9

door 120:18 214:18 215:14,18 216:1

doors 59:21

Dopkin 8:6 13:16 136:13,21 137:3, 8 183:21 184:16 219:8,17,20 220:4,7,11 221:13,21 222:5, 12,15,19 223:9 233:16,21 234:16 262:20 281:21 282:3,7,18 283:6, 17 300:21 301:1, 5 302:6,16 303:14 304:4

Dorothy 10:6

downgrade 301:15,21

downhill 209:10, 11,14 301:2

download 35:5

downstairs 180:20

draft 106:15 108:18 158:11, 12,18 202:18

drafts 33:20 34:3

drag 121:7

drain 138:11,21 139:8,11 185:3 206:16

drainage 138:20 220:13 221:8 232:9,14

drains 137:21

draw 45:4 47:18 106:19 124:8

drawing 109:11 133:6 280:14,18 283:13 286:9,15 288:13 289:18 292:4 301:18

drawings 117:6 282:9,11

drawn 194:11

drive 42:12 43:13 54:19 66:2 81:11 82:21 106:8,10 107:9,11 136:6 156:12 235:21 238:17,19 266:7 267:6 298:1,2

driven 189:19 201:3

driver 272:20 273:2

drivers 248:8 287:15,16

driveway 38:20 39:6,7 41:14,16, 17 42:1,3,9,11,19 43:9,18 45:14 47:13 54:11,13 55:4,12,19 56:9, 11,13,16,18 57:2, 7,12,17,20,21 58:13,20,21 65:16,17 66:4,21 67:10,13 79:14 81:8,15 82:2 83:7 96:13 102:5,9 113:21 138:8,21 139:12 168:5,12 183:18 185:12 201:18 204:4,7, 12 205:10,13 206:1,5 207:15, 17,21 208:3,7,15 209:5 210:21 222:7,20 223:10 226:2 233:17,19 234:2 262:21 268:14 269:5,12 296:13

driveways 168:1 202:8 272:20,21 273:1

driving 270:9

drowned 76:20

due 83:18 91:8 92:14 94:21 104:16 150:15 188:8,9 294:3 301:15

dwelling 21:11 39:13 50:13 51:6, 7 58:14 61:16,18, 20 62:7,9 73:21 84:17 136:18 139:21 219:12 220:16 221:16,17 222:8 229:4

dwelling/temple 74:3

dwellings 48:17 56:7

E

earlier 67:12 68:18 81:6 266:18

early 36:15,17

easels 40:19

easement 228:18

easier 40:18 249:18

easily 6:3 81:10 301:17

east 39:14 48:11 49:2,5 55:4 67:10 68:12 82:12 85:18 102:18 112:12,14 131:1 135:6 189:1 205:11 206:1 209:4,6,16 219:18 221:5

Easter 261:5

easterly 55:11 65:18 205:20

eastern 46:1,2 60:14

easy 172:16

ecologist 23:12 27:2

edge 49:6 87:2

edification 165:4

educated 286:13

education 16:17 23:13

educational 240:10

EE 65:13

effect 123:5 190:10 248:15

effected 190:8

effects 90:4,8 92:9 296:21

efficient 296:8,9

efficiently 291:19

egress 56:13 113:10 296:4 298:5

elaborate 78:14 301:12

elderly 152:7

electric 142:7,8, 9

electrical 91:17

electricity 161:14

elevation 220:20 265:14 276:8,13

elevations 265:5

else's 27:13

email 4:17

emergency 43:1 159:2

emphasize 280:19

employed 15:14 239:7 242:2

employee 14:8

employees 33:15

encloses 133:4

encompass 117:13

end 5:4 39:18 56:3 76:20 102:1 111:9 133:7 191:16 228:11 233:18 247:15 254:10

endangering 224:8

enforce 226:12, 16

enforceability 228:1

enforcement 176:15 177:3 228:4

enforcing 228:5

engine 42:14

engineer 13:19 14:20 15:3 17:13, 17 21:18 22:2,8, 12 23:11 25:12 27:3,16 31:18 32:5 33:11 35:8 43:12,14 77:7

78:5,10,20 79:18 89:4,5,15 94:12 97:19 98:2 107:15,21 109:21 123:17 124:4 157:11 166:9 195:20 227:17 239:6 240:16,20 241:21 242:11,13 249:9 263:6 267:16

Engineer's 252:17

engineering 14:12 22:10 23:4, 18 25:3 30:17 31:5 77:20 78:1 81:20 83:10 239:21 240:13 268:9

engineers 14:21 22:6 25:20 78:15 251:9

enjoyment 44:16

enlarged 116:6

enlarging 58:9

enlisted 34:1 75:6

ensure 148:13 158:20 223:20

entailed 172:21

enter 136:3 230:16 231:9

entered 140:17

entering 113:12 251:17 260:17 261:11

entertaining 180:6

entire 117:11 121:11 140:20 149:13,14 203:13 247:2,3,4,5 249:17 253:6,10 255:17 257:7,18 258:8 291:10

entirety 189:3

entitled 16:12 147:17

entity 11:11,12

entrance 45:14 54:15 55:1,5 67:6,13,16,18,21 68:11 82:13 111:5 115:9 123:8,15,21 139:12 155:17,21 168:11 183:12 205:9 206:1 208:12,14,19 210:15 215:15 232:8 248:17,19 262:15 265:7 283:14,18 285:11 287:11

entrances 229:4

entranceway 111:16 112:10 113:3 114:13 117:15 118:12

environment 137:13 224:8

environmental 23:12 27:2 34:6 47:1 77:15 97:10, 16 98:1,15 182:15 202:7 203:5 224:5 226:20 227:1

envision 162:13, 18

Episcopalian 179:15

EPS 226:16

equate 193:16 261:6

equipment 43:3 159:2

ergo 35:1

erratic 271:20

escaping 72:5

essence 203:9

essentially 44:18 198:15 235:13 249:15 259:10 275:9

established 46:21 178:8 217:12

establishing 217:8

establishments 259:21 260:1

estate 72:8,10

estimate 47:14 80:9 140:5 207:12

estimating 47:15

ethical 25:13

ethics 25:20

evaluated 245:13

evening 123:6 258:1

evenings 175:2

event 43:1 80:10, 20 93:10 108:8,9 154:12,14 155:1, 8 157:1 178:19 199:20 200:2 260:10

events 59:13 115:6 127:2 165:19 166:16,21 174:16 175:6,7 176:17 177:18 179:4,9 187:2,5 197:8,15 260:3,6

evergreen 170:6

evergreens 170:4

evidence 74:14 178:3,8 217:20 233:17 234:8 250:2 298:7

exact 40:6 144:3 268:8 293:9

exam 231:11

examination 14:1 18:19 33:6 100:8 105:5 183:7 198:11 202:5 216:16 217:17 218:11 238:8 243:3 244:5

examine 206:2

exceed 30:6

exceeded 156:14

excellent 112:20

exception 40:17 85:4 95:13 96:3 117:11,12,17 118:2,13 119:1,3, 12,19 120:14,15 121:11,12 122:19 147:7,19 148:7, 11 149:5 170:21 171:2,5,7 172:19 173:11,21 176:1 177:1 227:12 229:6,19

exceptions 15:21 20:1 171:13

excess 156:10 218:14,16 260:16

excessive 303:10 304:14

excited 136:12

exclude 118:1

excuse 204:4 255:14

exercise 23:11 203:11

exercises 291:9

exhibit 11:5,14 12:8,11 13:8,10 14:3 16:3 17:12 18:6,8 38:4,11 39:21 40:2,4,7,9, 13,16 41:2 47:19 48:5 53:4,10 54:3,7 55:21 56:8 57:6,10,16 58:12, 18 59:6,19 60:3, 6,9 62:6,8,14,20 63:2,6,11,14,18 65:2,5,16 66:12, 19 68:10 69:11 73:6,7 74:7 87:21 105:15 109:1 110:4 111:11 116:8 123:7 124:12 125:13 127:8,14 128:6 130:5,13 136:16 143:19 162:5 163:3 164:1 168:6 169:6 175:10 183:20 186:5 190:3 203:15 214:5,11, 14,18 221:14 222:6,13,20 235:18 242:6,7, 10 243:1,18 247:17 250:17,18 256:11,21 263:12,15,21 274:18 275:4,8 276:2 277:3 281:20 282:1 284:10,14 290:4, 14 294:9 297:10

exhibits 11:16, 17 12:21 70:12 216:8 245:7

exist 34:6,7 193:8 206:6

existing 34:19 38:20 39:3,6,17, 18 41:8,11,15,17 42:3,4,5,8,20 44:14 46:3 48:12

54:10,21 55:12 57:20 58:14,19 60:9 61:19 62:14 63:11,20 65:10, 17 66:21 67:13 71:11 79:14 82:12 83:18 84:7, 20 88:15,16,19 91:4 98:18 102:8 118:11 119:16 123:20 134:18 138:12,21 140:10 142:16,18 143:1 144:9,16,17,20 156:2 201:7,8 202:7 204:6,11 206:4 208:14 210:15 220:15 221:7 223:10 227:18,20 255:16 263:9 264:8 266:1,2,7 267:12 273:17 278:9 285:12 287:14 289:18 290:3 292:3,21 293:1 294:15,20 298:3

exists 47:9 70:12 73:16 130:9

exit 43:15 54:15 68:2 83:4 113:8 115:10 123:15 263:2 265:20 266:1,2 284:15 285:2,8,17 289:13,14 290:3, 6 291:3

exit-only 294:19

exiting 123:6 260:17 261:12 265:21 267:19 275:7 276:18 277:14 285:18

exits 290:2

Expand 268:1

expanded 201:19

expansion 47:12,13

expect 114:16,18 121:2 154:18,20 254:17 259:12 297:8,16 299:11

expectation 260:16 295:9 296:2

expected 80:10 152:9 182:1 261:11

expecting 7:10 272:20 273:2

experience 16:15 22:3 23:3 24:14,15 25:10 26:12 90:8 93:9 139:6 159:8

expert 17:5,9,16 19:7,17 24:9 26:15 28:21 29:8, 17,19 30:6,11,16, 17 31:15 32:11, 12,21 83:3 124:16 166:9 178:9 187:12 229:16 241:7 244:3,18

expertise 17:13, 18,20 26:20 32:13 89:13 194:2 244:1

explain 29:10 79:15 90:20 118:3 135:14 176:13 193:15 216:17,18 218:4 245:18 247:9 252:12 264:10, 16,17 271:10 275:9 277:3

explained 29:4 155:16 172:20 195:18 276:2,11 298:8

explaining 275:4

explains 136:1 271:11

exploration 75:14

explore 296:13

explored 43:11

expressed 30:7

extend 205:6

extends 205:8

extension 32:18 41:14 42:1 43:9

extensive 81:8, 11

extent 140:14 160:6

exterior 58:8

extra 117:14

extreme 52:1

extremely 267:1

eyeballing 293:17

F

facade 60:21

face 42:4 233:9

facilities 50:2 76:9 117:13 119:18 141:16 142:12 150:17 163:8 220:8 223:20

facility 49:16 113:4,6,16 114:19 116:6 117:2 119:17,18 121:20 125:7 127:1 129:21 140:10 145:16 146:4 151:10,12 152:6 166:20 188:7 195:10 196:14,17 219:21

facing 57:7,10 216:2

fact 32:10 57:1 64:1 79:4 83:19 88:18 91:8 119:15 149:13 157:1 158:4 178:8 191:10 192:2 211:6,16 215:6 222:4 234:19 280:8

factor 189:4 234:20 235:17

factors 93:6 98:3 177:1 211:12 227:13 229:19 267:17 272:5 273:20 287:21

Facts 178:3

fair 130:10 140:12 152:21 153:2 161:11 182:9 211:4 251:14 299:8,15 300:9,13 305:4

fairly 69:3 76:11 83:13 217:12 296:16 302:3

Fairmount 9:18

fall 23:18 206:13 212:21 277:8

falls 65:9 78:20 87:4

familiar 32:15 36:21 37:1 85:2 162:7

Farm 73:15

farmed 99:9

farmland 48:15

farms 52:3 99:15, 16

fear 91:12

feature 204:19

features 34:20 67:4 98:16 202:7 203:5 245:12

feel 88:9 104:15 227:21 238:13

feet 45:13 47:15 64:9,15 98:7 101:20 102:10,14 103:1 137:2,5 186:21 189:21 205:8 207:10,14, 19,21 208:4,13, 21 255:19,20 257:8,21 266:4, 10 267:4,5,11 268:17,19 269:1, 2,20 270:5,6,15 273:13,19 274:3 275:6,7 276:17 279:1 283:20 287:3,6,7 288:5, 7,9 292:7,11,15 293:4,5,6,8 294:1,3

feet-ish 284:4

felt 187:18 235:2

fence 67:3,7,9,11 293:13 294:4

fertile 78:12

festival 154:9,10, 13

festivals 176:4 197:1,8,14,16 199:3,7 200:7 259:14,15 262:3

few-and-far 260:18

fewer 5:20

FF 65:16 132:19 134:13 135:16 136:4,14,18

field 39:7 78:4 146:18 148:16 203:9 207:20 233:7 286:16

fields 28:21 29:9, 15 50:2 78:7 102:11 103:2 145:16 146:3,15 220:7

Fifty 288:9

figure 116:20 150:11 164:5 173:20 196:16 232:18

file 8:9 40:4,6 149:15 224:13

filed 105:13 106:12,21 108:17 158:12 174:2 223:19 230:8

files 34:21

filing 159:6

filtered 101:4

final 71:20 107:16 158:13

finalized 159:3

finally 97:9 102:20 129:2 290:19

find 79:8 147:17 179:8 181:4 189:16 192:14

finding 227:2

fine 5:1 13:7 150:5 164:20 169:4 174:13

finish 37:6 267:2 299:4

finished 100:7, 10 125:1 226:6

fire 42:6,14,17,18 43:1,2,7 90:3,8,9 91:2,7,12 92:2 157:16 158:9,17 159:1,4,5,11,15

fire-resistant 91:13

firm 14:12 27:20 33:15 124:6 140:6

firms 31:5

first-floor 257:5

five-minute 100:6

flat 50:9 81:10 189:16,17 191:9 211:2 301:16 302:3

flex-use 15:18

flip 223:7

flood 21:3 97:12

floor 9:9 140:21 141:5 255:17 256:2 257:5,18 258:8

floor's 257:7

floors 140:3

flow 138:15,16 182:18,20 210:17,19

flowing 209:6

flown 34:17

folks 7:3 126:19

follow 6:13 25:14 172:15 198:12 268:8 280:1 302:19

Foos 10:6,7

foot 272:11

footage 139:18, 19 180:9,11 181:3 255:13 256:15 257:7,15 258:7

football 102:11 103:2 207:20 260:12,14 261:2

force 6:16

forest 23:7,8,10 64:16 97:11 117:17 118:15 120:4,13 209:19 225:1 226:10 228:17,18

forestry 23:7 32:12 97:15

forests 148:12

forget 301:17

forgiveness 195:4

Fork 250:11

form 32:6 166:6 234:21 281:9

formal 25:6

formalized 196:11

formally 298:6

format 34:17

forward 176:12

found 89:3 179:10 237:8

four-lane 304:12

Fourteen 14:17

Foxworthy 184:3 186:12 293:15

Foxworthy's 182:19 183:5 185:8,18 186:10

frame 275:19

frames 172:21

Franklin 238:16, 19

frankly 176:10

free 238:13

front 9:7 19:11 57:21 58:16,18 59:21 60:8 111:16 121:9 133:3 138:8 152:20 214:18,19 216:1,2 269:5

frontage 286:18 303:16

fruition 296:19

full 24:15 258:15 277:17

fully 279:13

function 42:19 59:8 75:12 77:21

functional 74:19,21 75:1 141:19 142:1,2,3

functioning 76:2,4 129:17 220:2

functions 128:13 180:1 193:19,21 195:19

fundraise 174:20

fundraiser 175:19 176:8

fundraisers 175:17

fundraising 197:8,15 199:20 200:2

future 67:6 115:21 117:4 118:16 120:20 143:2 146:6 147:6 148:1 228:7 278:9

G

game 260:12 261:2

games 260:14

gap 134:21

gaps 212:13

garage 60:9 61:1 81:5,16 156:1 216:4

Garber 4:3 5:1,8, 19 6:2 7:2,17 8:4, 13,20 9:11,13 10:4,7,13,17,19 12:8,20 13:3,6 17:16,20 18:8,11, 16 28:18 29:7,15, 20 30:9,21 31:17, 20 32:20 34:12 38:1 39:20 40:20 41:19 45:10 47:3 53:9,15,21 56:14 69:10,13,19 70:7 73:6 74:8 76:19 77:19 78:11 82:7 88:3 89:14,17 90:13,16 98:4,12 100:4,15,20 101:2,7 102:14 105:2,4,8,15,18 108:11,20 109:15,19 112:21 120:16 121:4 122:16 130:1 132:1 134:11 135:9,12 136:10 137:4 139:21 147:14,20 148:3, 18 150:5 152:19 153:12 154:4 159:19 162:3 163:17,20 164:5, 9,12,17 165:2 166:11 167:16 168:10,18 169:2 170:15,18 174:6 175:11 176:14 177:12 178:6 181:12 183:2,9, 14,19 184:2,5,10, 15,21 185:4,7,13, 20 190:21 193:5 194:4,7,15 195:5, 12,20 196:6 197:19 198:1,7, 10 207:21 208:3 212:6,9,11 213:7, 12 214:10 216:9, 12 217:2 218:1,5,

7,10 220:12,19 221:2,7,11 223:5 231:1,20 233:12 234:18 235:15 236:5 237:1,18, 20 238:18,21 239:3,13 242:13, 16,20 243:18,21 244:3 245:14 247:1,3,10,13 253:15,18 254:12,21 255:6 264:21 266:6 267:6,10 268:13, 18 269:3,9,12 274:1,7,13 275:15 283:21 289:12 290:1,12 294:17 295:8,21 296:11,16 298:11,13,14 299:1,4,10,15 300:6,14 304:21 305:4

gas 272:12

gate 56:9 57:3 67:14

gated 56:18

gatherings 175:18

gave 150:12 151:5 285:5

gazebo 63:4

geared 80:6 84:5 167:7

general 47:21 48:9 50:9 61:11 65:6 66:3,9,19 72:6 78:18 85:13 86:1,13 87:10 88:8 99:20 133:1 137:20 142:4 194:18 199:16 209:17 240:2 245:5,8,11 279:21 283:15

generally 16:16 37:20 39:5 46:14 50:18 51:19 55:5 66:1 73:4 85:11 86:15 87:9 88:7 89:5 93:17 138:5, 11 168:15 201:3 209:5 215:16 231:17 239:18 251:11 288:15

generate 93:11 122:1 152:9 245:1 257:17 259:6,7

generated 84:19 150:21 188:12,15 207:5 255:19

generation 252:17 254:1 257:4

gentleman 216:17 232:19

geographic 37:20

geography 189:7

geometric 268:4

geometry 267:16 276:4

George's 243:11

Geospatial 34:15

get-togethers 174:19

GG 66:12 135:10, 14,16,21

Gildea 6:8

ginormous 268:5

GIS 34:10,13 35:4,14 86:8 126:9 137:16 202:10,17 203:6, 8

give 11:6 16:11 20:18 36:8 37:15 52:20,21 67:7 71:7 82:6 106:13 122:6 172:10 173:17 221:18 245:8 251:13 257:15,18 263:15 274:21 290:20

giving 146:10 284:6

glance 18:14

glasses 257:15

Glen 85:19 86:2,4 283:21

glimpse 51:19

goals 295:12,13

golf 146:21

good 11:12 26:8 52:15 57:11 112:19,21 191:20 227:21 291:8 298:13

Google 277:8

grade 63:21 65:15 83:7 84:8 209:2 210:10 276:8,14 301:3,9, 10

grades 204:14 264:19

grading 47:7 96:14 99:2 115:14 207:1,2,3 224:13 236:2

graffiti 160:9,15, 16 215:1 217:9 256:7

grant 119:19

granted 176:2 297:15

granting 297:8

grass 81:17 155:19 156:5,15, 18,19,20 162:9, 14 261:20

grate 184:21

great 160:6

greater 9:21 10:4 90:3,17 92:9 104:2,10 175:7 188:4 190:10 192:10

Green 86:3 87:6

ground 78:12 233:1

grounds 68:15 211:15,18 235:4

group 7:8 112:1 175:1,3 238:16 239:8,12,19

grown 277:11 279:13

growth 277:14, 17,20 278:7

guarantee 172:20

guess 52:12 64:14 91:11 116:16 130:16 139:20 153:9 164:2 249:1 295:3

guessed 127:10

guide 268:7,9

Gunpowder 87:4

guy 31:7,15

guys 8:7

H

habitable 62:10 72:19 88:19 142:5

half 6:16

halfway 20:20 247:16

hall 179:21 180:3, 6,15 257:8,9,10, 12,16

hallway 59:20,21 140:14 141:3 160:19,21 180:16

hand 11:4 240:21 256:1

handed 18:10 158:1,5

handful 48:19 81:7 133:13 231:20

handing 73:5

Hang 132:21

happen 147:11 148:1 250:1

happened 71:4

happening 272:11

happier 8:9

happy 8:11 40:11 278:5

hard 40:17 41:18 45:9 247:8 278:10

Harford 38:16,21 39:1,2 43:10 44:18 45:12,16 48:16,18 49:4 51:14,17 52:2 54:14 55:5,9,17 56:1,9,17,19 57:2,7 58:20 59:3 61:4,8 64:7,8,12 65:1 66:16 68:6 82:5,13 85:16 86:20 87:5,7 101:21 102:8 111:20 112:2,12, 13,14,17 121:13, 16 122:19 133:10,16 136:3, 5,20 137:9 138:16 139:1,13 183:12,13,17

185:11,12,14,17 186:7,8,16 191:20 204:16,20 205:3,4,12,14,17, 21 206:3,7,9,11, 12,14 207:17 208:5,15 209:3,7, 8,18,21 210:3,5, 10,18 212:5,7 222:11,12 223:4, 7 231:3 232:8,21 233:15,21 245:10 247:11 248:3 249:4,12 251:16 261:8,14,15 264:3 266:8 270:19 271:4 274:2 282:4 285:2 287:9,19 301:2 304:15

Harry 238:20

haunt 272:16

hazard 90:2 293:7

hazardous 303:5

he'll 299:7

head 28:12 225:8 232:5

heading 49:6 205:20 206:1 247:15 287:18

heads 39:2

health 26:7 88:7 199:16

hear 14:6 45:9 81:20 187:13 199:9

heard 110:16 145:13 197:17 198:14,18 199:2 213:16 249:13 259:14 261:17

hearing 5:13 8:12 10:11 19:1,2 22:16 35:20 36:2, 6,10,13 40:1 44:7 58:5 67:9 68:19 107:4 108:1 126:3,4,11,13 158:2,19 175:13 194:15 226:7 244:15,16,19 298:20 305:5

hearings 16:21 17:1,4 19:10 20:1 22:14,17 92:19 173:15

heavy 38:12 202:19

height 21:10 189:10 211:5,12 287:8

held 59:9 108:8,9 127:3 166:17 175:6 177:18 179:9 180:1,21 197:1

helped 33:17

helpful 228:13

helping 33:21 202:16 283:15

helps 137:3

Hermann 200:16

HH 66:19

hides 223:14

high 50:13 220:17 221:3 222:2

higher 130:15, 18,19 131:1,3,4 188:21 210:11,12 211:7,16 221:17 222:2 225:6 265:9 266:21 304:11

highest 50:15,16 130:8 188:19 273:11

highlight 277:3

highlighter 48:7 86:16,19

highway 43:12 82:17 83:5 96:9 107:12,16 110:1 124:19 191:18 204:11 231:14 242:3 246:11 248:13 251:19,21 252:4 253:13 254:8 260:7,13, 20 266:15 268:2, 4 278:2,3 279:1,4 280:2,16 281:2 284:20 291:7,12 295:2,6 296:7,12 297:3,8 299:21 300:1,11 301:14 303:20 304:7,17

hill 57:13 138:6, 10 265:10,11 270:7,10 288:17 292:13 293:21 301:11

hills 96:19

hilly 50:9,11

hip 284:3

Hirchenruder's 117:20

hired 35:16,17 244:11,16

historic 71:8,12 73:10 234:20 235:16 236:8,13 237:5,8

historical 71:15 73:3 235:5 237:1

history 302:21 303:7,8,9

hit 280:20

hold 10:11 82:7 116:17 239:13 240:14 282:14 305:3

holding 174:15, 18 176:16 179:14

holiday 154:9,10

Holzer 4:20 5:3, 10 6:1,12,18 8:18 9:14,17 10:5,8, 16,21 11:13,20 12:2,6,20 13:1,4, 7 18:3,5,10,13, 18,19 20:20 29:2, 12,18,21 30:20 31:4,11 32:1,4 33:2 40:5,8,20 41:1 46:20 53:21 54:2 69:13,14 70:4 76:17 77:13 88:1 89:11 90:7 97:14 98:11 100:9,18 101:1 105:2,3,5,11,14, 16 106:2 108:13 109:3,6,9,10,18, 20 110:2 113:2 114:12 116:13 120:19 121:1,3,5, 8 122:15,16,18 129:15,16 130:3, 5 132:3,7,8,9,13 134:13,14 135:11,13,14 136:8,11 137:11 140:1,2 143:8 147:13,17 148:2, 4,18 149:16 150:4,7 153:2,4, 8,12,16,18 155:11,14 157:6 159:21 160:1 162:4,7 163:13, 19 164:7,11,15, 21 165:2,3,7 166:14 167:14,19 168:2,8,11,21 169:4,8 170:9,11, 13,19 174:1 176:13 177:4,14 178:11 181:8,10, 15 184:4 185:20, 21 191:4 192:9, 13 193:11,13 194:6,9,20 195:7, 16 196:1 197:19, 20 198:5,8 204:1 209:12 211:20 213:1,15 216:9, 10,15 217:16 218:1,2,6,11 219:7 236:10,12 237:2,16 242:16, 18,21 243:3,17, 20 244:2 275:13 284:7 290:21 297:11 298:9,18 299:3,6,13 300:5, 13 305:2

Holzer's 132:1

home 72:7 91:10, 13 113:2 184:13 186:15,19 227:2 259:6

homeowner/ resident 21:4

homeowners 20:6,8 21:6

homes 48:20 79:5 112:11,17 117:7 184:11 186:4,6,10 227:14 231:3

Honor 177:10

hope 168:13 239:15 272:16

horizontal 265:18 287:5

horse 99:16

hot 68:20

hotter 69:1

hour 164:11 246:6,21 258:2 259:3 266:16 268:17,19,21 269:1,2,18,19 270:6,12 273:12, 16 274:2 302:7

hours 100:5,10, 19

house 20:11 39:3,6,12,15,16 41:15 42:4,10,11,

20 50:20 57:14 62:15 63:8,15,17 65:7,18 70:18 71:10 72:11,13, 17 74:16 81:17 123:6,16 135:2,4 138:1,5,7,11 139:17 140:4,17, 20 141:7,8,13,14, 16,19,21 156:1,2 161:1 175:2,19, 20 183:5,14 184:5 188:20 190:2 216:2 222:18 223:4,7 235:5 272:10

houses 48:15

Howard 243:11

humming 302:14

hundred 50:1 205:8

hungry 164:16

hypothetical 178:7 226:6

hypothetically 225:17,19 226:15 230:6

I

idea 108:10 164:4 229:20 245:8

ideal 274:13

identical 52:21

identification 11:15 13:9,11 18:7 34:5 41:3 53:5 73:8 105:18 109:2 162:6 163:14 164:8 169:7 214:6 243:2 256:12 263:13 284:11

identified 14:7 29:9,16 31:13 33:10 40:15 69:12 76:15 81:13 83:6 86:8 128:14 190:3 263:20 278:11

identifies 105:16

identify 16:13 34:13 47:1 53:8 66:7 73:5 85:9 163:15 214:2 241:3 272:10

identifying 54:8

Ignatius 261:8

II 67:3

illustrates 43:15

imagine 230:1

imbedded 288:14

immediately 52:7

impact 46:18 47:1,8 89:8 93:15,19 94:7 95:1 99:5,21 103:7,11 104:10, 11,15 174:5 176:17 187:4,18, 19 188:4,7 192:5, 10 194:4,9 195:6, 21 196:3 224:16 259:19 262:9 278:8

impacted 251:4

impactful 188:16

impacts 94:11 97:16 98:15,20 99:6 187:3 195:7 199:8 257:20 259:13

imperfections 110:21

impermeable 97:3

important 148:13

impose 147:8 149:2,21

impossible 233:2

improve 173:7

improved 304:1

improvement 41:21 43:18 46:17 47:8 82:3 96:12 248:2 294:18

improvements 37:21 41:5,11 43:6,20 44:1,2 79:20 91:1,16 96:11 98:18 149:3 160:4 178:15 201:4 202:8 203:4 204:18 235:3 245:4,11 260:9 281:15 302:8

inappropriate 149:19 262:9

inbound 291:15 293:18 294:7,10, 13 302:4

include 241:9

included 241:19

including 15:21 34:21 38:18 97:11 188:10 240:17

inconsistent 97:2

incorporated 35:4

Incorporation 11:9

incorrectly 223:2

increase 260:9 277:19 290:17,18 294:11

increased 119:17

indicating 12:4

individual 20:9 21:6 48:19 123:16 202:16

individuals 20:10 33:16

industrial 229:7

influence 93:6 250:21

information 34:15 35:9,11,14 126:8 144:2 145:5,6,7,8,10 150:12 152:13 202:9 203:8 253:8 255:15 284:3 295:1 296:6 300:5

ingress 56:13 113:10 296:4 298:5

inhabited 161:2

inherent 90:4 92:9

initially 27:18 29:5

inlet 183:6 184:1, 17,18 185:3,8 205:2

input 18:20 285:5

inquiry 175:21 176:5

inside 56:16 63:6 87:12 161:11,21 290:9,10

insignificant 225:8

inspections 91:20

install 236:3

installation 78:16 219:10

installed 42:6 54:8,12 56:10 66:5 114:19

installing 79:9

instance 260:11

instances 302:10

Institute 252:16

institutes 260:2

institution 143:6 173:13 179:13 195:19

institutional 52:12

instrument 12:14

intended 96:5 113:20 114:9

intensity 88:21 187:19

intent 95:18 96:1

intention 201:16 234:12

Interesting 21:16

interfere 94:15, 19

interior 60:1 91:16 140:20 180:5,12

interpreted 177:2

interrupting 245:20

interruptions 9:4

intersection 38:21 55:13

82:14 112:13 248:2,11 278:12 291:17,19

intersections 250:7,8 251:11, 12

intersects 49:4

interstate 260:14

interstates 87:17

introduce 10:12

inventory 73:10 234:20

investigations 250:5

involved 28:2 33:18 36:9 88:8 110:10 124:20 137:12 151:13 197:9 286:6

involvement 224:10

involving 28:19

island 54:11,12 56:12 57:8 113:11,13 114:11 285:15,19

isolated 103:10

issue 70:1 121:6 122:20 187:11 227:13,15 228:16

issued 36:4,6 107:16 137:14 281:18

issues 17:14 18:12 23:5 24:16 33:1 174:3 176:15 236:13 242:12,14 262:14

ITE 252:16 253:14 254:1,13 255:7,9 256:14 258:4 259:5

ITE's 258:8

items 127:16 128:1 129:5

J

jam 180:18

January 36:5

Jerusalem 21:12

Jewish 193:16 195:15

JJ 67:15

job 14:20

Joe 124:15 238:11,14

jogs 140:4

John 13:13,18 16:12 265:1

John's 264:20

joins 54:18

Joseph 238:6

Judeo-christian 80:7 93:2 155:6 196:10 198:18

judge 17:8 19:11 30:2 35:21 36:4,8 109:4,11 157:18, 20 241:10 244:16

judgment 268:10

July 68:21 69:8, 17 70:9,16 108:5, 6 162:8 169:11

jump 183:9 231:1 253:15

jurisdiction 23:19,20

jurisdictions 24:3,4 241:17 260:8

justified 91:12

K

keeping 224:18 227:17

Kennington 4:10,18 5:4 6:14 8:7

kids 50:1

kind 12:10 33:18 49:17 50:9,14 51:10 54:4 55:16 56:5 60:5 67:2 77:16 135:18 156:9 223:14 229:20 251:13 252:18 257:18 259:21 260:2 261:6 293:18 294:5

kinds 26:14 151:13 297:5,6

Kingsville 9:21 10:4

kitchen 163:8

KK 67:18

knew 5:4 131:17 172:3,7 173:3,4 174:10 232:19

knocked 71:3 215:18

knowing 36:7 119:7 299:10

knowledge 24:11,12 49:13, 14 69:6,9 70:17 72:2 96:16 103:16 107:15 108:8 123:9 124:9,18 127:15, 21 140:6 160:6 170:1 173:8 193:13,15 197:4 220:9 231:5 236:18 283:2 304:6

Kotroco 6:11 126:16 173:1

L

La 243:11

label 40:4 64:7 248:14

labeled 38:16 39:10 53:12 62:17,18 101:12 264:1 283:3

labeling 66:8

laid 82:4

land 12:1 14:13 23:17 24:5 56:5 92:8,17 236:4

landmarks 71:20 236:17

lands 99:20

landscape 84:1, 3 113:11 167:4, 11 169:1,10,15 200:15,17,20 220:14 229:5 285:15

landscaped 54:11,19 56:12 57:8 285:19

landscaping 83:16,20 114:7 167:6,21 168:4 170:3 201:1,10, 12,17

lane 19:16 20:14 68:4 235:21 288:15 291:4 294:19

language 12:5

large 15:18 39:18 44:20 46:4 73:15 76:11,12 78:8 92:14 104:17 135:21 180:6 202:8 220:4 304:17

larger 119:18 148:5 178:16

Larry 135:16

Lastly 303:14

Late 36:17

laughing 242:18

law 17:8 19:1,11 26:4 30:2 35:21 109:4,11 120:4,6, 8 157:5,7,17,20 192:12 241:10

lawn 39:8,9 50:20 58:15 65:5 66:5 81:10 96:18 133:16 156:6 235:3

Lawrence 6:7

laws 120:13

lawyer 157:6

laying 78:5

layout 80:11 123:18 178:13 180:12

lays 77:21

lead 31:7,15

leader 62:3

learn 22:7

learned 25:9

leave 45:7 94:11 136:13 281:21

leaves 39:1 196:12

leaving 83:1 93:11 113:12 134:3 286:20 287:16 288:15

ledger 170:6,10

leeway 120:21

left 42:3 57:13,15

59:21 61:2 63:7 67:18 68:1 111:12,17 113:9, 11,13,17 114:3,6, 7,10,13 118:9 127:19 134:2 135:7,16 170:9 184:7 208:16 266:3,7 267:20 268:12,13,15,18 269:3 270:21 275:6 276:17 283:7 289:15 291:21 292:2,9, 19 293:7,11

left-hand 55:14 57:17 66:16 133:14 134:5,19

legal 149:6,14 279:9

lend 180:6

length 207:20 208:4

lesser 104:10,15 258:11

letter 6:13 9:20 12:3,10,12,17 53:12,13,19 263:16 300:11 304:6,8

letters 52:18 276:12 301:20

letting 93:9

level 89:12

levels 187:15 252:6 262:9

license 22:4,18 24:4 26:11

licensed 12:15 15:4,6 21:18 33:11 34:2 240:18

licenses 240:15

licensing 25:21

lieu 150:20 181:21

light 84:19 94:15 229:16

lighting 84:12, 13,14,15 228:20 229:6,8,16,20 230:8 232:16

lights 84:18 161:20,21 229:1, 2,5,10,11

limit 117:16 118:13,21 119:3 151:3 154:11 156:21 157:4 266:18 288:19,20 303:2

limitation 156:11

limited 95:7

limits 39:9 266:12

linear 207:10

lines 34:20 35:1 46:2 100:16

list 9:19 18:20 20:16,18 71:14, 20 236:17

listed 5:8 19:21 20:2 22:19 71:12, 16 73:2,18 93:14 235:5 250:19

listing 73:9,14

lit 230:4

literal 38:8

little-to-no 259:13

live 62:12 182:11 192:12 249:14 261:7

living 51:3,4

LL 68:10

local 88:8

locale 47:21 48:9 85:9,11 89:10 90:6 97:13 98:16 100:2 104:11 199:17

locality 88:4 256:6

locate 124:7 163:10

located 9:9 39:14 46:11 48:10 54:9,10 56:5 61:17 67:6 82:12 91:5 97:13 101:16 138:5 183:10 189:15,17 191:16 211:8 265:7 283:2

location 55:12 57:9 61:6 66:13, 19 67:4 68:6,10 75:11 78:18 83:3 86:1,11 111:12 136:15 137:15 144:3 145:2 187:16 188:8 189:8,11 192:3 202:7 211:7 246:20 247:1 248:10 249:12 250:11,15 263:3 281:11 282:8 289:18 294:6,7 304:13

locations 34:19 95:5 224:7 291:21

locked 275:17

long 14:15 15:6 36:9 86:3 87:6 141:6 148:14,21 199:4 207:15 218:12 244:11 278:5 299:10

longer 164:10 207:16,19

looked 81:6 216:17 217:7 223:19 245:3 256:16 262:13 292:20 293:16

loop 42:10,19 57:21 58:13 81:16

lot 43:7 47:12 93:12 167:3 186:17 202:5 209:10 224:3 229:8,11,21 235:20 271:11 287:18 291:17 295:1 305:2

lots 15:16 229:10 236:3

loud 9:3

low 50:13 88:20 187:18,19 188:7

lower 108:3

lowest 136:18

lunch 299:9

M

M-O-T-S-C-O 13:19

made 30:5 33:9 57:17 91:1 147:16,20 177:15 252:14

main 39:15 42:9 46:2 50:15,20 51:6 59:20 60:1 61:17 62:15 70:17 102:8 138:1 139:21 141:13 180:3 212:11 219:12 220:16,21 221:15 222:8

maintain 280:8, 16 294:13

maintaining 287:8 298:5

maintenance 279:7,21

major 87:16,17 199:6

majority 189:3

make 4:18 7:1,7 24:9 32:8 98:9 100:6 113:13 119:9 136:9 138:19 147:6 152:19 164:12 172:6 176:19 197:4 224:3 227:9 230:17 248:7 252:1,9 260:8 268:17 269:20 271:20 276:21 277:14 279:7,10 284:6 291:15,18 292:9 295:14 299:13,21 301:16

makes 275:13 277:11,13 302:14

making 88:18 267:2 270:11 292:19

man's 194:2

managed 69:1

management 26:10,16 32:13 203:20,21 232:15 260:5

manager 31:12 33:19

maneuver 43:3 268:17 271:20

maneuvering 302:4

maneuvers 277:14

manner 83:20 91:13

mansion 91:9

manual 200:20 252:5,17 254:2, 13 255:8,10 256:14 268:5

map 39:21 250:16,18,19

maps 35:3

mark 12:18 40:9, 14,15 86:16 105:15 108:13 136:16 163:13 169:4 214:3 282:17 284:5

marked 11:14 13:8,10 18:6 38:12 39:21 41:2 53:4 62:16 73:7 77:16 80:18 81:13 109:1 162:5 164:7 169:2,6 214:5 243:1 256:11 263:12 284:10 298:8

marking 168:20

marshal's 92:2

Maryland 12:16 13:21 15:4 33:12 71:13,15 73:3 82:17 120:3 234:19 236:19 237:1 238:17 240:18 241:18 242:3 246:11 251:19 253:13 278:2 291:6 295:1

mass 93:9

match 251:5

material 149:3 202:6

materially 178:13 300:7

matter 4:4 9:5 10:3 33:3 57:1 90:14 98:5

mature 63:21 83:21 84:10 201:12

maximum 80:9 154:8,19,20 155:13 177:17 266:4

maze 50:5

Mcdonald's 147:1

meandering 39:3

meaning 272:17, 18

means 75:9 121:16 234:13 246:13 275:17

meant 18:16 142:4 154:21

meantime 173:18

measure 181:3 185:21 186:19 265:17 271:17

measured 101:19

measurement 225:13 271:18

measures 302:11,15,20 303:13

meet 99:5 225:1 226:11

meet all 226:17

meeting 7:4 158:20 173:1

meetings 18:21

meets 104:5

members 7:21 9:12 10:19 64:6 264:7 298:16

memo 8:8

memorized 171:15

memory 28:5 171:11

mention 46:10

mentioned 41:19 73:2 230:17 254:14 284:13

mercy 297:3

mere 211:16

merits 29:13 30:15 33:3

met 126:16

Methodist 179:15

methodologies 252:5

methodology 228:5 252:13 258:4,9,19

metro 35:1

MHT 71:15 73:18 74:1,4 236:21 237:2

middle 49:18 56:11 65:9 86:13 133:21 185:2 210:11

miles 246:5,18, 21 266:16 268:16,18,21 269:1,2,18,19 270:6,12 273:12, 16 274:2 302:7

mind 4:7 32:20 33:4 245:15

minimal 84:4 88:17 230:2,3 235:2 236:2,4

Minimally 301:7

minimis 259:12

minimum 268:19 271:17

minimus 259:1

minor 15:16 199:7

minute 18:14

minutes 100:16, 21 101:1,2,4 164:13,18 245:21 259:3,4

missing 216:3

misspoke 156:3

misunderstand 134:9

mitigate 182:17

MM 53:16 68:14

modification 4:12 79:2

modifications 79:16

moment 217:10 266:9

money 177:5

month 28:11 143:17

month-and-a-half 69:21

monthly 280:6

months 36:11 69:20

monumental 287:11

morning 195:1 198:20 258:1 259:2 286:3

Morris 20:14,21

motion 174:2

Motsco 13:13, 15,18 14:2,7 16:8,13 17:12 31:7 32:3 33:7 37:6 41:4 47:6,20 53:6,18 54:4 62:11 66:2 68:16 70:10 71:8 73:4 74:9 79:11 85:1 86:5 88:5 90:1 92:7 94:13 99:8 101:11 104:8 108:16 120:12,17 136:14 137:11 198:12 212:15 214:13 218:12 223:13 231:17 233:16 234:13 245:6 262:20 265:1 284:13 285:5

mount 40:18 49:3 67:17 68:1,3 219:19,20 246:4 247:14 248:3 283:21

mounted 47:19

move 45:15 77:18 89:21 150:5 269:20 285:20 290:8 291:15 294:12 295:16,18

moved 65:5 71:4 286:17

movement 249:18

movements 252:6 273:3

moving 291:14 295:15

mow 278:17 280:8

mowed 81:10 280:5

mowing 279:10 280:1,3

mundane 176:3

Murphy 11:6 16:10 52:17

168:14 208:11,20 223:16 224:9,15 225:2,9,16 226:13 227:3,9 228:10,19 229:9, 15 230:3,6,13 232:6,17 242:7,8 254:3,5 256:5,9, 10

mute 9:2

N

Napoleon 72:4

narrowest 45:13

National 237:4,8

natural 84:8 97:10 98:15 164:14,15

nature 14:10 15:8 16:17 87:9 137:19 235:16 236:8

nauseam 276:3

near-vertical 233:9

nearby 189:14 219:18 251:17

nearest 65:18

needed 83:17 96:20 103:15 179:10 207:8 263:5 302:19

needles 160:7

negate 99:6

neglect 235:13

negotiations 280:11

neighbor's 65:18 135:4 293:14

neighborhood 47:21 85:12,20 86:8 117:19 228:14

neighboring 50:21

neighbors 20:10 46:14 61:8 103:7, 10 104:19 119:9 166:4 176:7 187:19 188:13 189:20 196:4 228:8 265:6 277:6

Nepali 4:4 7:14 11:9 244:7

nephew 72:4

net 131:20,21 132:9 186:3 236:3

net also 132:10

network 245:4 259:1 265:3 295:4

nice 160:13 161:1,4

night 230:5

nighttime 123:3

Nods 86:10 136:10 152:14

noise 187:6,15 188:11,14 302:14

noises 9:3

noon 93:10

normal 6:2 154:8,11 196:9

north 38:16 41:14 85:13 102:15 111:6,11 112:7 130:20 135:8 182:20 186:12 189:2 190:2 205:16 221:5 231:2 246:7 247:14 249:2,3 250:12 267:5,7 273:18 276:18 278:11, 14,15 282:5 283:14 285:20,21 287:2,4,7,12 288:8,9 289:10, 11,21 290:8 294:12 301:20

northbound 247:7 266:3,8 273:15 274:4 292:7 294:2

northeast 39:16 294:20

Northeasterly 111:7

northerly 41:16 87:6 102:3 138:17,21 139:9

northern 38:18 48:18 182:18

northwest 38:15 247:10 278:11

northwestern 183:12

Nos 14:3

note 5:19 16:20

notes 105:3

notice 5:8 110:5

noticed 277:19

November 304:7

novo 30:4

nuisance 89:1

number 7:15 15:15 20:2 28:9 34:20 35:2 79:5 80:3,9 101:3 127:7 150:14 151:1 152:1 154:1,5 155:13 156:12 157:14 174:19 178:6,21 241:17 252:9,15 257:13 261:18 262:7 263:16 273:5,11 274:9, 14,15

numbers 52:19 171:15 257:14 258:18 268:8 293:9

numerous 15:17 240:17 253:4 272:20

O

obey 302:18

object 29:17,18 30:12,20 69:14 77:13 150:3 166:11 178:1 213:1

objection 28:15 32:9 46:20 70:6 76:17 77:1 89:11 90:7 97:14 108:15 114:8 120:10 122:12 129:14 143:5 146:13,19 153:6, 10 157:3 159:17 166:6 168:7 170:16,17 173:19 174:7 175:11 177:13 178:5 181:6 190:18,21 191:3 192:6 194:1 197:6 211:20 216:11 243:19,20 297:11 298:9

objectives 295:13,14

objects 31:11

obligated 25:14

obscured 202:19

observance 166:3,16

observe 165:17

observed 213:10

observes 71:17

obstruct 278:8

obstructed 293:12,13

obstruction 287:6

obtain 25:5 207:3 295:6

obtained 73:10 75:8 126:8 202:9

obtaining 79:9

occasion 80:20 279:12,14

occasional 59:16 156:7

occasionally 8:12

occasions 165:16 212:17 249:10

occupancy 74:13 92:4,5

occupation 14:18 239:5

occupied 51:2 72:17 141:21 142:2

occurred 22:20 250:2 284:19

October 8:14

offer 17:11,12 24:4 69:10 74:6 170:13 216:7 242:10 298:6

offered 32:9 93:1

office 5:13 11:12 28:3 31:8 80:14 84:1 92:2 106:5 108:19 126:7 150:13 153:19

169:21 264:20,21
offices 6:8
official 18:21 35:1
older 44:8 233:17
on-site 108:8 110:19 165:17 177:18 179:18
one-line 8:8
one-time 72:6
one-way 287:17
ongoing 82:15
open 39:7 132:18 231:15,17 253:11
open-ended 146:8,10,11
open-walled 63:4
opened 120:18
operate 200:6
operates 198:16 199:13
operating 110:20
operation 191:10 197:11,13 200:13
operational 114:20
operations 100:1 240:20
operators 21:9
opine 187:12 196:3
opinion 22:15 32:6 62:11 77:17 79:18 83:17 85:10 88:6,10,12 90:12,13,16,21 92:6,12,13,14 93:6,18 94:14,17, 18 95:15,19 97:1 98:5 100:3 104:7 122:2,20 128:5 166:2 177:7,20 178:18 188:1,10, 14 189:6,7,9 192:2 196:20 197:4 203:14 228:12 250:20 252:7 258:14 259:21 262:2,8 267:15,21 277:8 293:8,12 294:15 297:19
opinions 9:5 30:1 195:21
opportunity 165:17 167:15
opposed 263:16 302:7
opposite 48:16 55:8 56:1 68:11 112:17 193:2 231:3 292:12
options 297:9
orange 293:2,3
order 34:18 76:8 225:20 226:15 236:2
organization 239:9,20
original 11:7 72:11 91:9 105:13 108:18 160:21
originally 72:3
out-structures 39:11
outbound 286:20 287:14 291:3,14 292:21 293:1,19 294:6, 11,13
outbuilding 51:5
outbuildings 74:3
outcome 173:14
outline 34:2 149:12 256:6
outlined 39:10 48:4 247:17
overburdening 258:17
overcrowd 92:8
overflow 81:12, 17 157:13 261:20
overgrown 63:1, 12
overhead 264:13
overrule 174:6 177:12
Overruled 78:13 98:12
oversized 287:11
overview 37:16 75:4
owned 73:13 172:4 175:18
owner 91:11 174:13
owners 20:7 215:2
owns 303:15

P

p.m. 305:5
package 149:11
packed 275:19
paint 174:20
panel 10:19
panic 90:3 91:2
paper 8:9 35:3
paragraphs 282:3
parallel 134:7
parishioners 75:2
park 155:17,19 156:13,15 261:10
parked 57:1 81:8 162:9,14
parking 41:13,21 42:7,12 43:7,19 47:12 57:18 79:17,18 80:1,3, 5,11,12,16 81:2, 12,14 93:11 96:12 98:20 118:12 119:18 121:19 122:1,3 138:14,20 150:7, 9,16,21 152:8,10 155:4,21 156:5, 14,17,20,21 157:13 167:21 168:4,12,13 175:8 176:20 177:15,21 178:14 179:11,17,19,20 181:17 196:19 206:20 207:11,15 208:2,5,8,17 209:10,15 220:19 221:9 224:14 229:8,10,11,21 232:1 235:3,20 236:1,3 261:13, 14,17 287:18
parks 94:1
part 23:17 25:21 38:18 41:16 43:21 68:14 73:16 91:15 103:8 108:3 141:20 149:11,15 168:8 177:3 179:17 199:19 202:9 206:18 231:21 232:13 236:7 274:8 275:12 276:7 301:13 303:21
partial 190:19
partially 81:9
participated 17:2
participation 7:11
parties 174:21 179:14
parts 197:12 264:1,17
party 10:3
passing 247:6
past 39:9 83:21 99:10 222:20 248:16
patch 45:17 48:20 234:4,6
paved 80:17 81:4,8,15 155:16 156:14 261:19 279:6
pavement 138:14 272:7
paving 34:19 42:5,8 156:1 178:14 204:10 234:9
PE 16:13 240:17
peak 196:13,18 258:2 259:3 260:2
peak-hour 258:3 259:7
pending 77:2 168:19 173:10 191:1
Pennsylvania 241:18,20
people 5:20 6:3, 19 7:9,15 22:6 31:6,8 67:13 80:10 101:3,4

113:16 114:21 125:9 126:18 127:1,2 151:2,18, 20 152:1 153:19 155:13 156:12 157:2,8 166:18 174:19 175:1,7 177:19 178:2 180:15,19 181:19 182:3 187:3,4 193:20 248:7 249:10,14 253:3, 9 254:15,18 259:16 261:3 271:4,8 273:1 300:18 302:18 303:2,4

peoples' 231:3

perc 78:21 143:16 223:19 224:6

percent 161:9 268:7 301:8

percentage 225:4,6,7

perception-reaction 272:5,7, 14

percolation 75:9,13,16 78:15 143:14,15

Perfect 136:1

perimeter 44:20 230:20 233:11

period 117:17 253:6

periodic 197:14 199:3 259:15

permanent 59:12

permission 119:20

permit 92:4,5 99:2 207:3 224:13 281:10,17 295:6 297:9,16 304:3

permits 91:20 92:1 170:20 173:7

permitted 95:13 171:2 261:14

permitting 14:14 206:19

person 31:11 33:21 34:3 47:1 77:15 97:15 172:12 182:15 272:10

personal 27:13 123:9 124:18 166:3 242:19

personally 14:18 27:21 28:1 32:19 37:4 78:20 126:21 127:4 240:3 266:20

personnel 25:17

perspective 264:13

petition 17:14 40:17

Petitioner 6:10 244:7 258:13

petitioner's 11:14 13:8,10 18:6 41:2 53:4 73:7 183:15 203:15 204:20 214:5 222:6,20 243:1 256:11 263:12,21 282:4 284:10 303:16

Petitioners 297:3

pews 59:11 150:17 196:15

Phoenix 21:8

phonetic 117:21

photo 50:7 57:14,19 61:1,2 63:2 65:13,20 133:14 134:11 136:17 184:8 214:18 222:14 223:4,5,8 289:7, 12

photograph 48:1 53:12 55:15, 21 57:9,15 59:1, 6,7 60:3,17,20 61:16 62:6,8 63:1,8,15,16 64:3 65:7,10 66:6,13 67:1,5,15 68:14 81:6 112:4 131:7 133:11 134:4 135:6,10,14,17, 21 152:15,20 162:14 221:15,19 275:11 276:3

photographs 52:18 53:7 54:6 67:8 68:16 69:8, 11 70:20 71:7 83:6 96:19 135:18 202:1 213:9 214:1 217:13 224:17 225:21 286:5

photography 34:17

photos 67:12 70:7 99:19 112:1 184:16 188:3 202:20 216:14 256:7 282:20 288:10

phrase 143:5

physical 33:21 40:2 44:1 85:21 151:11 162:20 189:8,11 191:11 302:8

physically 124:8 298:2

pick 69:1 151:1 236:1

picture 58:14 67:3 110:4 111:4 112:20 113:11 123:12 127:14 130:6 131:20 132:20 133:4,9, 21 134:19 136:14 160:10,18 162:2 185:15 216:2,4 288:13 289:17,19

pictures 110:2, 17 121:9 125:2, 11 132:4 136:12, 14 139:17 140:13,16 141:5 160:12 165:10, 11,14 180:16 210:14 216:5 217:1 282:13

piece 8:9 65:20 189:15,18 191:9 192:14

Pike 86:3 87:6

pink 48:7

place 32:16 62:2 117:17 144:10 165:18,19 282:18

places 241:5

plain 21:3

plains 97:12

plan 16:4,21 19:10 27:7 28:8 31:9 32:1,2 34:1, 4,8 36:19 37:17 39:10 40:6,16 41:10 43:14,21 44:19 46:5 48:7 49:6 61:19 62:16, 18 66:8 75:5 77:15 78:5 79:19 80:2 81:14 82:12, 21 84:1,3 97:19 102:7 105:7,13 106:11,20 108:1, 17,20 109:16 116:8 124:8,12, 13 126:5 131:8, 10,11 136:19 143:18 144:7 145:4,15,17 147:4,5 149:4,8 157:19 158:1,5,6, 10,19 159:3,5,6, 12,13 162:19 163:5,11 167:4,5, 11 169:1,8,10 170:7 172:13 176:17 182:16 184:1 185:3 195:21 200:15 201:11,16 202:6, 17,18 203:2 205:19 207:3,7 208:18 209:7 217:10 220:14 223:17 224:10 225:21 228:17 229:16 230:8 256:2 257:5 260:5 264:11,12 278:20 284:14 285:6,7,10 286:14 287:20 288:10,11,14 291:5

planned 116:7,9

planner 240:19

planners 24:5

planning 14:13 23:8,18 236:15 240:1

plans 15:1,20 35:12 75:3 116:4 117:6 147:3 182:17 188:3 224:18 231:6 286:14 296:19 300:7

planted 52:5 83:20

planting 84:4 167:8 170:10

plat 75:9 143:14, 15 223:19

Plata 243:11

plates 266:17
plats 78:15,21
play 115:4 131:13 232:13
playing 50:1 125:9
plumbing 91:17
Pohler's 190:5
point 35:6 38:2 39:8 41:20 42:5 43:8 45:9 50:13, 15,17 83:20 89:15 98:9 103:11 108:19 113:14 120:16,21 142:21 147:11,20 149:1 164:14,16 178:9 183:1 195:13 198:7,8 206:21 207:13 208:4,11,12,18 220:17 221:3 247:11 248:19 249:3 253:16 262:17 263:2 265:7,15,21 266:1,2 273:16 279:8 284:15 285:2,12 287:1, 18 288:18 289:17 296:4 304:6 305:4
pointing 38:3,4, 10 190:5 233:12
points 198:9 276:13
pole 66:17,18
policy 268:4
pool 39:11,12 41:7 44:15,16 50:3,4 62:21 63:3,8,9,11,12, 15,17 132:14
poor 216:6 272:7 274:9
population 92:9
porch 58:19 61:1 63:19 84:17 214:19 229:1,2,5
portico 60:10
portion 41:13 42:10 44:20 45:19 48:12 55:13 58:13 59:17 180:16 264:12,14 276:14 286:10,18
portions 268:6
position 5:3 27:15 181:2,5
Possibly 106:18
potential 82:3 90:2 96:12 98:15, 19 115:20 260:20 261:19 285:8 286:6,12 293:17
potentially 62:2 284:15
practically 85:21
practice 195:13
prayer 195:4
prayers 196:11
precipitated 158:8,16
prefer 10:10
preliminarily 224:4
preliminary 9:15 71:20 116:4 169:15
premark 16:11
premarked 11:5, 16 52:18
preparation 31:9 68:19 107:3 126:2,13 182:6
prepare 16:5 22:8 33:21 108:19 149:9 163:7,10 202:16 207:2,7 228:17
prepared 12:4,5, 16 15:20 16:6 32:3 34:4 78:15, 20 80:11 84:1 97:20 106:5 137:18 143:10 157:12 167:5,11 169:14 200:19 202:18 219:15 274:18
preparing 14:21 231:6
present 6:3 51:1, 2,11 62:10 74:20 167:10 203:17 216:19 231:16
presented 109:4 169:20 172:14 174:3
presenting 137:12
preservation 119:21 120:2
preserve 148:12 235:4,19 236:7
preserved 225:5
president 10:8 239:2,8
president/ manager 240:3
pretty 160:13,20 267:1
prevent 235:9,12
previous 57:9 61:1 140:18
previously 35:2 48:13 59:9 101:14 162:11 181:2 188:18 194:19 294:9
priests 62:3
primarily 15:13 167:7 168:4 189:19 230:20
Prince 243:11
prior 4:13 22:4, 17 40:1 106:16 158:2,11 159:6 165:9 173:1 178:4
private 74:15 116:21 117:1 220:1
problem 7:19 8:2,14 105:4 157:10 188:12 228:6 244:2 298:15
problems 12:20 166:3,8 183:8 188:11
procedure 173:4 230:12
proceed 8:4 33:5
proceeded 182:21
proceeding 172:18 247:16
process 19:6 122:13 158:18 172:20 206:19 224:11 271:12
produce 11:2 31:11
produced 236:10
producer 182:16
product 158:13
profession 22:7
professional 13:19 15:3 22:6, 8,12 26:11 33:11 240:14,16,19,20 267:16 268:9
proffered 30:11 244:1
profile 264:12,14 265:4,9 286:15
prohibited 114:12
prohibition 113:19 114:17 299:17
project 14:20 21:2 26:6 27:15 28:8,9,19 29:5 31:12,16 33:17, 19,20 35:6 36:10, 12 103:18 115:6 119:8 240:6,7 281:3 304:17
projects 15:16 240:4,5
prominent 130:7
promised 13:2
proper 252:1 261:9 287:8
properties 15:18 50:21 51:15,16 52:4,8 73:11 78:2 87:8,12 95:1,5 104:11,16 189:1 190:1 191:6,12 193:6,7,8,12 206:13 211:17 212:2 220:5 228:3 234:20
property 11:18, 19 20:7 27:6 28:14 34:2,7 37:1,11,18 38:12, 13,14,15,17,19 39:4,6,13,18 41:5,12 43:4,20 44:3,20 45:5,11, 17,20 46:2,11,13, 15 47:9 48:1,2, 10,11 49:2,5,8 50:5,12,16,18,20 51:1,10 52:6,16 54:8 56:16 57:11,

12 61:10,17 63:19 64:21 65:8 68:15 69:4,7,17 70:13 71:9,11 72:2,3 73:2,9,17 74:10,17 75:12 76:11,15 77:8 78:2,6 79:4,8,13 81:1 83:13 85:9, 11,12,14 86:12 88:16,20 91:17 92:15 94:21 95:9 96:4,7,8 97:7,13, 17,19 98:16,18 99:9,10,19 101:13,17,21 102:5,21 103:9 104:18 110:6 112:18 116:15,17 117:11,21 118:6, 8 121:11 123:6 125:18 130:15,19 131:1,4 133:7 134:1 136:16,21 137:6 144:13 148:15 149:12, 13,14 151:14 165:20 171:19 172:1 173:7,8,9, 13,18 174:12,13 175:18 176:2,11 178:3 182:7,19 183:10 185:5,9, 18 186:8,10,14 187:7 188:9,17 189:5,11,13,16, 18 190:4,5,15,16, 19 191:10 192:15,21 201:5, 12 203:12,17 204:15 205:1 207:11 210:16 211:6,8,19,21 212:16 213:10 214:9,15,16 215:3 217:4,16, 17 218:12 220:17 222:17 224:4 225:5 227:18 230:21 233:5,13, 15,18 235:6,7 237:9 244:9,21 245:10 247:15,16 251:1,17 253:1 262:15,18 267:19 270:21 275:7 279:11 284:16 285:2 286:6 293:14 296:1,15 303:17

property's 95:17

proposal 46:19 88:6 89:8 90:2 92:7 93:15 95:8, 16 97:2 103:13 117:3 170:5 201:15 242:12,14 244:9 262:8 263:1

propose 235:20

proposed 42:12 43:18,20 44:4 47:10 57:18 58:9, 14 70:18 75:10, 12,18 79:16 80:12,14 82:11 83:17 84:13,16 88:15,17 94:14 98:17,19 100:1 101:15 104:8,9 116:18 120:4 123:11 134:7 136:3 138:13 146:3 147:12 149:10 157:8,17 176:11 178:12,14 201:11 204:3 208:5,8 219:10 220:19 223:20 224:13 229:13, 17,21 232:1 235:3 244:21 261:18 264:8 289:13,14 290:2, 5 292:3 293:19 294:8

proposing 146:14 147:18,19 208:17

proposition 279:21

protect 117:19 235:8

protected 119:11 120:3 225:15

protection 118:15

Protestant's 221:14

protestants 9:18 217:21 227:14

protestants' 108:14 109:1,16 162:3,4,5 164:1 168:20 169:5,6

provide 76:8 98:5 118:14 119:9 120:9 149:13 244:18

provided 34:9 35:3 43:14 81:2 150:14 152:12 159:10 296:8 298:3,4

providing 150:8 288:4

provisions 97:4

proximity 188:8

public 26:7 35:5 74:10,11 93:15, 19 94:4,5,8 210:8

pull-in 42:7 57:18

pulling 270:21

purchase 182:7

purchased 11:19 28:14

purchaser 174:14

purple 278:20

purpose 42:15 123:13 124:9 180:18 232:8 271:15

purposes 29:7, 19 30:3 46:20 58:2 105:19 128:2 163:17 168:2 169:3 172:5 177:1 191:7 217:8 254:13 275:15 283:12

pursue 27:10 181:4

put 4:20 124:12 125:1 146:17 147:1 157:21 158:17 180:14 218:17 239:14 263:19 274:19 302:8 303:4

putting 58:9 158:8

Q

quadrant 278:12

qualifications 23:5,17 24:20 26:9 27:2 28:20

qualified 24:20 30:1 32:19 76:18

quality 75:21

quantity 273:4

question 27:9 28:19 29:12 37:6, 10 47:4 53:13 76:21 78:13 89:20 115:15 117:3 119:7 122:14,18 128:18 129:7 145:14 146:8,12 147:13, 14,15 148:6 150:4 157:5 158:7,15 159:19 163:6 166:7,14 168:19 172:15,16 174:8,9 177:2,11, 13,14 178:10 181:13 184:2,15 190:12 192:7,13 193:10 194:3,21 195:6,7 196:7 197:3 213:7 216:21 217:2 218:6 219:8 221:20 222:1 229:9 230:14,15, 18 232:10 234:17 236:10,11 239:16 281:9 282:1 300:21 302:6 303:21

questioning 29:13 149:7 150:2 258:12

questions 11:17 29:14 76:20 100:14 101:8 105:1 118:18 119:11 120:19 124:21 132:2 136:11 147:10 155:9 163:21 165:5 176:6 177:8 187:9 197:21 198:6 204:1 213:2 216:13 217:3,15 218:3,9 219:7 220:12,13 221:12 237:17,19 242:17,19 243:17 291:8 298:17 304:21 305:2

quick 9:13 242:19

quickly 50:19 228:2

quiet 49:17

quote 66:2 199:12

R

Radebaugh 12:17

rain 138:2
rains 210:7
raised 33:1 220:13
raises 117:2
rate 266:21
Raven 261:2
RC 225:6
RC-2 38:14 90:5 95:10,13 96:6 151:17 170:20 171:3 227:10
re-ask 29:12
reached 278:1
read 30:1 32:17 174:9
ready 117:6
Real 9:13
realm 260:6
rear 60:13,14,21 61:10 102:20 262:21
reason 124:9 218:3 256:6 263:5 270:16 301:13
reasonable 295:8 299:12
reasons 217:14
recall 11:20 20:15 28:11 68:21 168:1
receive 28:21
received 24:8,20 53:15 253:8 264:18,19 265:2 304:6
recent 165:11 248:2
recently 246:3
reception-reaction 274:10
recess 100:6 101:6 165:1
recognize 178:6
recognized 19:19 175:13
recommend 246:19
recommendations 273:10
recommended 269:4,7,8,9,13 294:10 302:7
recommends 246:20 268:3
reconvening 300:14
record 4:21 6:6 13:17 29:19 31:18 34:14 40:13 46:21 71:18 98:6 108:16 130:3 138:19 168:3,9 169:3 228:17 238:10 263:10,11 275:2,3,21 284:8 298:19 299:17 300:20
recorded 12:1
recording 12:15
records 12:1
recreational 94:1
red 86:14 135:18, 21
Redeemer 49:8 52:13 67:16,20, 21 68:3,11,15
redirect 105:1 198:10 213:19,20 216:16
reduced 132:10
refer 14:4 53:13 222:5
reference 17:21 67:8
referencing 38:10 40:3
referred 49:7 105:19 137:5 185:8
referring 27:20 28:1 34:14 103:8 183:3 184:6 186:11 245:18 282:14
reflect 70:8 108:16 290:3
reflected 82:21 147:21
reflecting 87:9
reflective 214:8
regard 24:7 26:20 90:9 166:2 172:11 177:7,15, 21 181:16 194:10 195:9 224:16
register 237:4,7
registered 75:6 76:14 78:16 143:12 145:9
registration 24:5
registrations 240:15
regular 80:10 93:4,10 150:15 175:6 178:18 182:11 196:18 200:13 280:2
regularly 179:17 198:19
regulation 80:6
regulations 17:18,21 24:7,10 30:18 89:3 93:14 95:18 97:8 151:8
regulatory 15:2
relate 91:2 93:14 103:6 195:13
related 117:13 119:10 123:19 154:12 242:14
relates 17:13 173:21 192:8 195:16 205:14 219:9 242:12 256:15 262:14 277:3
relation 300:7
relative 23:5 24:12 25:15 26:9 27:12 188:11 189:4 193:15
relevance 173:20
relevant 29:10 30:3 175:21 189:8 194:13 196:4 200:21 250:8
relied 32:6
religion 195:14, 17
religions 93:2
religious 60:5 80:4,8 90:5 92:10 94:15 95:12 96:6, 15 104:9 118:4 121:20 127:16 128:1,2,6,7 129:1,2,5,20 143:11 151:10,12 152:6 154:11,13 155:5 173:10,13 178:19 179:11, 13,18 188:6 193:14 194:18 195:1,2,19 197:14 199:7,14 254:3
religious-use 150:17
relocate 144:8 287:1 291:10
relocated 291:3
relocating 285:1 287:3
relocation 43:9
remain 70:19 71:2 202:1 204:8 225:21 285:11
remainder 275:16
remained 72:14
remaining 234:9
remember 122:10
remembered 227:9
reminder 82:8
remove 160:8 201:16 278:5,6, 18
removed 44:10, 13,17 110:14 133:19 214:20 225:11 226:2 231:21 278:18 286:7
render 30:1 77:16 93:17
rendered 288:1
rendering 291:2
repair 21:9 174:20
repeat 174:8 239:16
repeats 165:5
rephrase 130:2

replaced 132:17 142:17 228:9
replacement 72:14
replacing 174:11
report 137:18
reporter 6:7 7:13 14:6 37:9 38:6 53:20
represent 10:9 64:20
representation 203:3 264:2,3
representative 7:13 75:20 126:7
representatives 126:16 198:15 202:13
represented 20:9 21:5,8 281:1
representing 10:3
represents 241:1
repurposed 91:14
repurposing 91:15
request 105:7 118:2 120:7 147:12 149:1
requested 11:1 13:2 103:13 251:18 252:3,6 255:9,15
require 149:4 159:4 210:6 219:13 226:10 236:2 281:8,10
required 42:21 80:18 85:8 91:16, 21 99:3 104:2 107:12 110:13 149:11,15 159:10 167:8 201:19 206:18,21 280:9 281:14 303:19
requirement 19:5 22:3 42:17 80:16 84:3 104:5 150:21 151:6 152:4 158:8,16 173:4,5 177:20 179:16 190:9 273:4
requirements 25:13 43:16 84:2, 5 85:2 99:6 116:6 149:17 150:16 151:13 152:10 158:21 167:6 170:21 171:5 172:12 175:9,10 177:16 179:12, 19,20 180:2 196:19 200:21 201:3 225:1 226:17 273:7,10
requires 43:2 80:5 188:3 226:3
requiring 228:5
rescheduled 36:14
research 193:4
reserve 78:19 143:13
reserved 9:6
residence 21:10 116:21 117:1 137:5
residences 51:9
resident 21:10
residential 52:10 58:2 99:10 103:19 191:16
resources 34:6 97:11
respect 108:11
response 31:1 32:4 177:5 213:6
responsibilities 25:14
responsibility 26:3 78:19
responsible 299:14
rest 19:21 121:8 165:4
restate 47:3
restaurant 147:1
restoration 228:6
restrict 118:4 148:7
restricted 148:11
restriction 149:21 230:17 231:9
result 284:19 285:4 304:1
resume 16:14 241:1 243:10 256:8
retained 9:21 27:19 244:7
retaining 304:20
reuse 90:21 98:18
reusing 91:4
reverse 246:9,10 247:19 289:2
review 169:15,17 188:2 244:16 255:10,13 260:8 268:3 273:20 291:13 295:2
reviewed 78:21 99:4 120:5 137:17 143:11 170:1 223:17 291:20
reviewing 84:2 230:12 302:5
revised 108:5
right-hand 67:1 111:5 134:4 136:19
rights 279:5
ripe 98:10
river 85:19 87:5
road 21:12 38:16, 21 39:1,2 43:10 44:18 45:2,3,12, 16 46:16 47:7 48:16,19 49:4 51:14,17,20 52:2 54:14 55:5,9 56:2,3,9,17,20 57:2,7 58:20 59:3 61:4,8 64:7,8,12 65:1 66:16 67:17 68:1,3,4,6,7 81:16 82:5,13 85:18,19 87:3,5,7 101:21 102:9 104:17 109:17 111:8,20 112:2, 12,14,17 116:1 121:13,16 122:19 133:10,16 134:2, 8,17 135:15 136:3,5,20 137:9 138:16 139:1,13 183:12,13,17 184:14 185:11, 12,14,17 186:7,8, 16 188:8 190:13, 14 191:12,21 204:16,20 205:3, 4,13,14,17,21 206:3,7,10,11,12, 14 207:17 208:5, 15 209:3,7,8,18, 21 210:3,5,6,11, 18 212:5,7 217:7 219:18,20 222:11,12 223:4, 7 231:3 232:8,21 233:15 234:1,3,8 245:4,10 246:4 247:11,14 248:3 249:4,12 250:11, 12 251:15,16 259:10 261:11, 14,15 262:10 264:3,15 265:5, 20 266:9,14,18 267:17 270:2,19 271:4,16,19 272:19 273:3 274:3 276:5,13 279:6 282:4 283:4,21 284:1 285:2 287:9,19 294:3 296:2 297:21 298:1,2 301:2 302:8,12, 14 303:1,2,4,10, 11,16 304:15,19
roads 87:16 89:9 210:5,6,8 245:10 258:18 279:20
roadside 183:6 184:17,19 185:7 205:2
roadway 258:21 265:3
Roman 179:15
roof 63:5 65:21 135:1 136:17
room 4:7 5:9,13 6:2 59:6,19 60:1, 4 125:17 128:3, 16,19,21 140:13, 17,19 146:17,20, 21 152:11 180:19 215:14,15 216:1 275:16 300:16, 17,18
rooms 140:9 141:4 161:4
rope 233:10
rotate 300:18
roughly 39:9 47:15 48:6

round 216:5
roundabout 111:9 112:8 155:18,20 246:3, 5 247:6 248:1,16 249:10 265:8,13 283:18 288:16 289:9 304:13
route 123:12,14 124:7 226:2,3
routine 176:3
RTA 103:20 104:3,5 121:18, 19 122:2,3,20 227:4,6
rubbish 214:20 215:10
ruble 218:17
ruled 175:12 216:10
ruling 178:4
rumble 302:11, 12 303:4
run 121:12 138:2 194:17 209:15
running 49:21 61:4 141:14 142:5 209:3,4,9, 20 303:2,10
runoff 138:3 183:4 206:14 207:1,5
runs 38:17 44:19 46:12 53:16 67:9 101:21 121:15 204:15 209:11, 14,17 221:4
rural 85:20 87:9, 10,15

S

safe 88:19 273:21 280:6 294:16 296:8,9, 10 298:3,5
safely 266:17 268:17 292:9
safer 298:5 302:3
safety 26:7 88:7 199:16 210:8 271:17 272:4 278:8 280:11
Salvageable 72:21
sanitarian 75:7 76:14 77:4,14 78:9,16 143:12 145:9 219:15 299:7
sat 197:10
satisfied 29:16 159:11
satisfies 83:4
satisfy 43:16 167:9
Saturday 255:3
save 105:1
saved 225:10
scattered 48:15 228:7 231:19
scenario 191:18 204:7
scenarios 292:3
scene 70:5
schedule 93:1 279:21 280:1,3,4
scheduled 5:6 8:16 143:17 198:19
schematic 275:10 291:2
scheme 188:6
SCHMID 237:19
Schmidt 6:5,6,7, 8 7:7,12 8:2,5,10, 19 9:11,16 10:13, 15,17,18 12:10 13:12 14:1 16:10, 12 17:11,17 18:2 28:15 29:1,9,16 30:21 31:2,21 33:1,4,6 35:7 40:11 41:4 47:5 52:17 53:6,11,17, 18 54:3 56:18 69:10,16,20 70:10 74:6,9 77:3,19 87:20 88:4 89:12,16,19, 21 90:11,20 97:18 98:14 100:4,13 101:7,9, 11 102:17 104:21 105:9,10,12,21 108:15 109:5,7 110:19 111:1,2 112:20 114:8 116:11 120:10 122:12 125:3,21 129:14 131:19 132:3,6,11 143:5 146:13,19 147:15 148:18 152:21 153:6,10,15 155:9,10 157:3 159:17 161:18 163:20 164:2,20 165:9 166:6,13, 18 167:17,18,20 168:7,15 170:15, 17 173:19 175:11 178:1 181:6,9 190:18 191:2 192:6 194:1,8 197:6 198:3,10, 11 204:5,6 209:2, 12,14 212:3,4,8, 10,12 213:3,8,14, 21 214:3,7,10,12, 13 216:7 217:14 218:8 221:18 222:1 223:12 230:13 231:4 232:3,9,15 233:6 234:12 235:9,12 236:21 237:18 238:1,4,8 239:3, 4,17 242:5,9,15 244:5 247:21 256:9,13 263:10, 14 265:1 266:11 267:12 269:7 274:17 275:3 276:1 282:2,12, 20 284:5,9,12 290:13,20 291:1 292:14 296:11 297:2,7,14,15 298:6,12,16 299:16 300:10 304:2
school 49:3,11, 21 93:20 220:1
schools 93:20
science 240:12
scope 30:10 88:16 213:2
screened 51:19 211:15
screening 84:6, 14 167:7
seal 31:17
sealed 32:3,5 36:18
sealing 31:21
seated 6:10
seating 59:12
seats 80:5 125:14 127:7 129:4 150:20 151:11 152:5,7 153:5,13,15,17 155:12 179:21 181:21 182:1 196:16,17
seconds 26:2
section 304:12
sections 279:6
seek 75:8
select 212:13 297:9
self-authenticating 86:6
send 4:17
senior 14:20 27:15 172:12
sense 7:1 85:13 119:9 164:12 224:20 226:4 232:19 275:14
separate 23:12 24:4 179:19 219:13 260:5
September 5:17 300:15
septic 74:18 75:11,17,21 76:1, 16 77:10 78:4,7, 17,19 79:6,10 142:15,19 143:13,19 144:9 145:1,3 219:10
sequences 264:17
series 52:18 53:7 214:1
serve 42:19 75:12 219:11 232:8,14
served 74:10,18 94:4
serves 35:5
service 93:3,4 151:18 154:11 196:10,19 252:6 261:5
services 198:20 199:13 200:7 240:2 251:5 261:10
set 5:16 59:8 125:13,16 129:4 162:21 189:5

268:7

setback 21:3

settle 4:14

severe 246:14 248:21 282:17

sewer 74:11,15 94:5,8 184:21

SHA 43:16 82:15, 16 83:8 226:3 246:19,20 255:7, 9 257:18 278:1, 17 290:16 294:10 297:21 302:4 303:12 304:11

shape 234:21

sharp 270:7,11 289:5

she'll 8:9

shed 39:12 63:8 132:14

sheet 182:17

shelter 62:20

shielded 84:20

shooting 284:2

shop 21:10

shopped 192:17, 20

short 103:20 225:21

shorter 199:4 207:16

shortly 36:6 56:19 121:2

shoulder 53:2

show 6:20 16:3,8 45:8 46:5 53:7 73:1 86:5,11 105:8 111:19 112:2 130:4,12 134:9 144:17,20 145:4,7 149:12 152:1 162:2 163:8 183:21 184:10,17 205:18 213:8,21 276:4,5 282:4 285:8 289:20

showed 11:21 160:10 285:6 286:5

showing 54:6 55:5 60:20 65:8, 14 67:4 86:17 105:6 113:2 116:4 131:7 144:21 149:9 175:1 203:2 264:8 275:5,10 276:13 286:9,11

shown 27:7 34:8 42:16 43:13 44:19 48:4,6 61:19 66:5 70:11, 19 71:6 79:18 80:1,2 82:12 96:19,20 106:8 107:2,8,9,11 109:11,17 110:13 112:3 116:8 117:18 118:10 125:15 127:8 131:10 133:9 140:13 143:13,20 144:14 145:16 150:21 159:12 163:3,4 180:15 190:3 201:11,16, 21 203:6,15,16 215:2 250:16 257:10,12 276:16 278:20 287:2 294:9 295:4 296:5 297:10,16

shows 48:1 54:7 56:14 58:15 59:8 60:7 63:11 65:10 88:1 111:4,15,16 112:10 127:14 221:14 246:12 265:14 278:21 284:14 288:14 289:3 290:15

shrub 135:18

side 6:16 38:15, 16 39:1,5 45:16 48:16,18 54:15, 19 55:14,16 56:1 57:2 60:14 63:7, 16 66:16 67:1,10 82:14 86:21 102:1 111:5 112:12,14,16 113:11 114:6,7, 10,13 117:21 133:14 134:5,19 182:20 185:5,11, 13 186:7,16 204:20 205:4,13 206:4,8,9,11,12 209:18 210:2 215:13 231:3 233:13,14 248:18 272:21 278:14,15 283:4,8 287:9,12, 13 296:1 301:20 303:15

sides 42:12 205:10,11 210:12 221:16 231:2 261:10

sight 262:14 264:1 265:17 266:9 267:4,18 268:11,19 269:20 270:3,13,17,20 271:1,7,8,15 272:4,6 273:6,9 274:4,7 275:5 276:16 277:19,21 278:8,19,21 280:14 286:11, 14,20 288:1,2 290:3,9,17,18 292:8 293:10 294:11 295:19,20 297:19,20 301:6, 9 304:1

sign 8:8 54:7,12, 21 69:21 70:1,4, 11 110:5,8,9,11, 13,14 184:8 246:12,14,16,18 282:5 289:3

signage 114:18

signalized 250:7,8

signals 250:21

signed 9:20 10:10 92:1 246:10

significance 199:7

significant 48:12 81:9 91:5 201:12 245:12 248:11 258:21 259:18 261:21 304:19,20

significantly 206:13 267:2 302:1

signifies 289:5

signs 247:20 249:6 282:8,9,13, 17 283:2 289:1 297:21 302:18

similar 60:7 66:12 79:4 90:18 107:7 178:13 215:9 221:1 229:3

similarly 188:16 189:13,15 190:20 191:6

simple 166:14 194:10 218:3

simply 11:10 78:6 149:18

single 15:16 227:1

single-family 20:10 48:17 56:7 259:6

sir 8:5 9:16 10:15 16:16 18:2 53:8 85:10 88:14 89:16 90:14 95:20 97:1 184:6 190:21 199:11 203:14 207:18 212:12 214:12 217:15 222:15 237:20 238:9,15 239:5 241:5 242:15 243:10,13 262:8

sit 14:2

site 16:3 37:2,17 39:2 42:2 48:17 50:2,8 68:18 73:12 77:15 78:1 80:21 82:3,19 83:1,2,18 84:7 95:2 96:14 97:11, 19 111:4,13 113:12 116:2,6,8 120:9 123:2 127:3 130:7,9,15 131:10 134:3 137:21 138:17 139:16 140:14 145:15 146:17, 20,21 149:3 155:1 156:12 157:9 158:9 160:14 161:13 162:8,12,19 163:11 165:8 166:10 167:2 170:20 172:13 178:14 182:16 183:17 184:1 185:19 186:4 187:3 188:2,7,13, 15,19,21 189:8, 17 190:2 191:11, 16,19 192:15,17, 20 202:14,18 203:1,3,5,13,14 224:3,18 234:19 235:16,17 236:6, 8 244:18 246:7,8 247:6 250:5 251:20 253:20 254:13 260:17 261:18 265:6,8, 21 268:15 273:17

277:11,12 278:12 283:14 284:14 286:21 288:17 290:10 292:1 293:11 301:20

sites 130:8 168:13 188:5

sits 85:9 220:16

sitting 123:7 175:14 266:6 296:18

situation 90:19 151:14 227:4 248:18,21 272:14 301:13

sizable 49:19

size 7:8 75:11 78:18 79:3,8 84:17 88:20 92:14 94:21 96:8 103:9 104:18 143:13 179:1 188:9 255:15 278:6

sized 76:8 77:9

sizes 15:18

sizing 75:17

slamming 271:13

slightly 61:7 265:15

slope 209:8 232:21

sloped 185:17 210:16

slopes 50:19 304:18

slots 302:13

slow 270:8 272:12 302:9

slowing 270:11 271:14 292:16

small 15:19 39:12 41:13 42:5,7,20 51:6 54:11 63:6 67:11 78:3 92:15,16 103:9 118:5,7 229:5

smaller 61:16 219:12 234:10 257:9,16 274:14

Smith 6:7

sodium 229:7

soil 75:16,21 79:9

solely 18:16

solution 228:1

someplace 193:1

sort 6:15 8:15 24:5 63:4 84:18 113:18 133:4 176:3 179:21 182:21 230:20 251:10 263:8 264:2 279:21 291:2

sound 23:5 32:11 187:12

sounds 188:15

source 35:8,13 200:20 202:6

south 39:1,2 48:11 85:19 102:20 111:13,19 112:12 113:9,17,19 114:2,5,6 131:5 189:2 246:7 247:5,7 249:2,3,12 250:13 265:19 266:8 267:4 272:19 273:17,19 275:6 276:17 282:5 287:5,13 288:5 295:18,19,20 304:13

southbound 247:14 267:8 274:5 283:16 288:15 292:6 301:1

southeast 39:14 61:17

southeastern 46:12,15

southerly 61:12 65:8 66:20 112:2 138:12

southern 39:17 45:19 46:12,15 73:16

southwest 233:18

space 58:15 80:5 132:18 134:14 152:4 236:1

spaces 42:7,12 80:3,12,17 81:14 150:8,10 152:2 155:12 181:17 261:19

sparingly 212:13

speak 51:16

Speaking 261:13

special 15:21 20:1 40:17 85:4 95:13 96:3 117:10,12,16 118:2,13,21 119:3,12,19 120:14,15 121:11,12 122:19 147:7,19 148:7,11 149:4 166:21 170:21 171:2,5,6,12 172:19 173:11,21 176:1 177:1 178:19 179:4,8 227:12 229:6,19

specializing 14:12

specific 17:21 23:4 31:10 38:9 89:2 227:11

specifically 24:6 182:19 239:19

specifics 107:15

speculation 128:9

speculative 120:11 146:20 147:3

speed 266:12,14,17,18,21 270:2 284:18 288:19,20 302:7 303:1

speeds 246:5,18 288:1 297:20 302:19 303:10

spell 13:17 238:12

spells 73:11

spend 26:1

spirit 95:17 96:1

split 54:17 56:13

splits 54:14

sports 145:16 186:15

spot 152:8

spots 51:18 236:1

spotted 286:17

spring 36:15,17 171:18

spur 42:5,7,20

square 139:18,19 180:9,11 181:3 238:17,19 255:12,19,20 256:15 257:7,8,15,21 258:7

St 261:8

stamp 12:2 31:18

stand 13:14 53:1 209:19 218:10 299:2

standard 49:16 192:12

standards 25:13 103:20

standing 11:12 56:15 60:21 66:12 111:12 152:11 300:18

standpoint 5:14 7:15 77:20 78:1 81:21 83:10 98:1 137:20 157:10 195:3 226:20 227:1 235:5 258:16 259:9 262:6

stands 34:16 181:13,14 226:21

star 86:14

start 33:7 38:1 40:1 53:9 54:3 79:15 105:6 214:14 245:14 254:10,11 298:20 299:9 302:20

started 9:10 28:10 118:20 280:21

starting 35:6 205:21 208:12 247:13

state 13:16 15:4 27:1 33:12 43:12 44:9 45:2,3 71:12,18 82:17 83:5 96:9 104:17 107:12,15 109:21 120:3 124:19 157:13 183:7 188:8 191:18 204:11 210:5 231:14 238:9 240:4 241:17 242:3 246:11 248:13 251:19,21 253:13 254:7

260:7,12 266:15 268:2 278:2,3 279:1,4,5,7,17,20 280:2,15 281:2,8, 10,13 284:20 291:6,12 295:2,6 296:6,12 297:3,8 299:21 300:1,11 301:14 302:8 303:15,20 304:7, 17

statement 130:10 147:16 161:11 182:9

states 72:6 240:17 241:18 259:5

stay 131:8

stays 177:13

steep 209:8 233:1

stepping-stone 303:6

sticker 40:14

stipulate 148:20 209:13

stone 268:7

stop 184:8 240:8 255:6,21 271:19 272:2,12 273:5, 13,18 293:18 298:13

stopping 270:17 271:3,7,13,15 272:3,6 273:9 274:4,7 288:2 292:16 297:20 301:6,9

storage 63:9,17

storm 185:3 206:16

stormwater 26:10,16 32:13 203:20,21 207:1 232:15

straight 66:17 133:11,20 155:7 270:9 289:3

stream 46:3,10, 18,19 47:8,11,14, 16 48:13,21 98:1, 8 117:20 137:14, 15

streamline 164:6

streams 34:8,19 71:3 97:12

street 6:21 55:19 113:3 123:8,15 191:17 271:21 293:14

streetlights 229:7

streets 89:9 268:4 272:21

stretch 247:3,5 261:15 274:3

stricken 77:18

strict 177:3

strike 181:12 204:5 212:3

striped 80:18

striping 66:15 184:20

strips 302:12

structure 50:15 63:3,4,7,8 72:14 73:18 74:1 91:4 92:16 122:1 180:5 216:6

structures 44:4, 7,8,13,15 60:4 71:12 74:4 88:16, 19 91:6 121:20

stuck 43:5

stuff 213:16 295:15

subdivisions 15:16,17

subject 77:5 86:11 90:14 98:5 103:18 120:6,7, 13 185:4,18 187:3 205:17 210:16 212:10 244:9 267:19

submission 175:9

submissions 299:21

submit 169:1

submitted 126:5 168:5 169:21 200:15 243:21 295:1

submitting 213:19

subsequently 8:16

substantial 83:13 156:6

substantially 257:16

subsurface 75:14

sudden 119:16

sufficient 79:17 100:16 262:1 294:16

suggest 149:17 230:9 269:1,2 303:8

suggested 20:21 304:9

suggesting 226:14,18

suggests 266:16

suitable 76:15 79:9 83:7 156:7 158:19 193:8

Suite 13:20 238:17,20

summarize 274:1

summer 36:15, 17 108:9 220:3

summertime 64:4

Sunday 93:3,9 151:18 195:1 198:20 255:3 260:12

Sunshine 250:11

superimposed 265:2 275:11 276:4

supervise 14:21

supervises 78:16

supervision 16:6

supply 10:16 79:7

support 49:19

Suppose 189:15 190:12 191:9

supposed 132:4

supposition 178:2

surface 97:3

surprising 79:7

surrounded 190:14,19 191:5 221:16

surrounding 17:14 50:17 63:12 79:5 97:13 189:1,20 191:12 227:14 245:3

surrounds 38:13

survey 211:3

surveying 14:13

surveyor 34:2

suspended 305:5

sustain 89:18 130:1

SUV 266:20

swastikas 160:8

swath 45:12 46:4

swimming 50:3, 4

switch 4:16

sworn 13:15 238:7

synagogue 193:17 194:17 195:15 196:15

system 35:4,14 75:18 76:1 77:10 78:17 79:10 93:20 94:8 144:9 202:10 203:6,8 219:11 251:15 259:10 262:10,11

systems 34:16 79:6 91:17 219:13 287:17

T

table 263:18

taking 105:3 125:10 140:12 165:19 181:5 266:21 302:20

talk 150:7 195:17 255:7 274:21 280:13

talked 6:18 48:14 173:9 211:5 224:17 228:19 236:13 245:6 266:18 276:3 287:10 291:13

talking 53:20 118:7 132:5 138:7 153:21 184:12 186:9 197:15 231:5 259:2 299:17

taller 222:4

Taxation 11:11

Taylor 13:20

team 14:21 32:3

tear 149:18

telephone 66:17, 18

telling 149:8 180:14 181:1 190:7 283:10

tells 288:20

temple 58:6,14 59:7,16,19 101:16 128:14 173:10 253:4,7, 21 254:1,15 255:18 261:1

temples 70:18

temporary 59:16 67:9 163:4

ten 100:21 101:1, 2,4 218:14,16 259:6 260:14

ten-lane 260:20

tend 92:7

tendencies 128:6

tendered 29:1 32:21 244:4

tennis 39:17 41:7 62:14 118:11 131:7,21 132:10 146:1 186:2,20

tent 162:8,10,17, 21 163:4

tentatively 75:10

tents 163:9

term 251:14

terms 5:20 6:12 7:15,21 18:21 23:3 25:6,14 26:6 30:16 35:13 41:11 82:4 85:2 86:7 87:9 90:21 102:3 103:4,6 130:7 139:18 166:21 175:8 176:3 177:6 191:11 193:14 197:12 200:7,21 202:6 203:17 206:19 207:10 209:9 211:7 224:18 227:14 228:13 229:18 232:11 234:18 235:16 236:13 249:9 250:7 252:14 258:17 261:18 262:7 276:13 280:13 281:15 286:11

test 75:16

testified 17:4 22:14 36:7 58:4 77:14 90:9 99:8, 13 101:14 122:4, 10 128:10,12 148:8 150:11 153:6,8,16 154:1 160:3 165:7 167:2 170:19 180:10 181:2 187:17 188:18 190:1,5 192:10 194:10,21 195:1, 2,17 197:8,11 212:1 217:11 219:17 236:16 241:6,13,16 284:13 285:5 294:15

testify 19:17 30:6 36:2 83:3 89:15 97:16,18 98:2 145:9,11 197:7 242:11

testifying 137:12 299:18

testimony 9:5 14:4 18:14 27:10 30:2,5,10 32:7,9, 18 33:2,3 44:6 47:20 62:1 81:20 90:8 92:21 95:9 98:6 128:13,18 129:12,19 130:6 132:14 141:20 166:15,19 177:21 181:16 184:12 193:3 197:18 198:14 199:11 219:9 228:20 232:7 244:18 245:15 249:14 250:3,4 259:15 299:19 300:8

testing 224:6

tests 75:14,19 77:5 143:17

Thankfully 161:2

thick 45:17

thing 26:4,5,6 84:18 112:10 196:21 216:13 228:16 261:6

things 30:13 33:18 35:2 84:6 147:10 202:20 251:9 291:16

thinking 100:15 296:16 304:12

Thirty-eight 150:9 168:14

thought 5:4,5 6:17 7:4 82:20 122:13 127:11 139:15 153:17 171:12 198:4 271:12

thousand 157:2, 8

throwing 232:17

tie 135:19

tied 196:5

ties 256:15

Tim 126:16 173:1

time 5:4 6:18 7:8 10:20 15:14 22:5, 7 28:13 36:13 46:9 49:16,21 50:7 51:1,3,11 52:15 59:13 62:10 69:4 72:17, 19 74:13,14,17, 20 76:2,5 81:1 91:11 93:12 96:21 98:21 99:4 108:7,19 114:14, 15 115:14,16,18, 19 116:9,12,19 119:10 120:17,18 125:10,21 126:10 131:14 132:1 141:13 144:15 145:13 146:3,5, 16 147:21 148:14,21 160:14 161:14,16 165:8, 9,13 166:4 172:3, 21 173:2 174:10 182:7 196:12,13 202:2 203:18 212:19 213:5,11 214:14,17,19 215:12 216:19 217:5,7 220:2 229:14 231:16 237:21 244:6 254:10 272:5,7,9, 14 274:10 275:15,18,19 298:13

times 37:13 114:16 120:18 154:3 165:8,19 178:21 213:4 224:3 253:5 254:11 261:9 268:10 272:16 291:17

Timothy 6:11

tires 272:8 274:10

title 238:21

today 4:6 5:20 6:4,9 7:2,4,17,21 8:3,4,21 9:7 10:2 11:3 22:11 41:11 69:2 70:6 110:16 124:4 159:14 167:10 275:16 277:10 285:12 290:3 296:18 297:1,19 300:20

today's 205:1 281:17

toilet 141:16 142:12

told 6:19 124:11, 14 127:4 131:9 153:18 154:6 179:7

top 28:12 86:18 138:6,9 170:9 185:3 225:7 232:4 264:12 275:12 276:14 286:10 288:13

topography 34:18 50:8,10 52:1 84:21

tops 64:2

torn 70:2

totaled 257:6

totally 72:21 222:7

tough 85:20

Towson 6:8 13:21 248:6

traffic 43:12,14 81:20 89:4,8,15 94:12 107:14,21 109:21 123:17

124:4,16 188:11 196:13 210:9 238:16 239:6,8, 11,18,21 240:1, 20 241:21 242:11,12,13 244:17 245:1,11 248:1,18 249:7,9, 18,20 251:9,12 258:11,21 259:11,19 260:5, 10,16 261:2 263:2,6 266:8 267:8,19 273:3 278:9 283:5,16 301:1 302:9 304:14

trailing 228:10

transcript 32:17 245:17

transferred 124:13

transition 103:19

translate 245:16

transportation 94:11 240:1,19 251:5 252:17

Trappe 19:16

trash 174:12

travel 134:4

traveled 246:21

traveling 248:16 269:15,18,19 270:18 271:12 273:12 274:2

travels 278:14

traverse 249:8 266:16 270:2

treated 74:21 75:1

treating 8:21

tree 34:20 59:1 119:14,16 227:1, 15 278:6

trees 45:11,17 48:13 51:21 52:1 63:21 64:16,18, 20 65:9 71:1,3 83:19 84:9 96:18 98:21 117:8 119:20 120:2,3, 11 133:9,13,19 134:15,18,21 135:21 149:18 167:3 170:4 202:19 209:7,19 212:14 221:16,17 222:2,3,7,21 223:1,3,6 224:16, 18 225:5,10,13, 20 226:1,21 227:18 228:7 231:7,12,19,21 232:7,13 233:4, 10 286:6

treetops 64:2

trip 252:17 254:1, 14 257:3 258:1 259:2,3,4

trips 251:21 252:8,10,15 253:5,6 254:10, 21 255:13,14,20 257:17,19 258:2, 3 259:1,4,6,8

true 192:19 203:16

trust 11:18 12:12, 16 71:15 73:3 237:1

truthful 181:11

turn 9:1 18:3 42:4 56:19 57:13,17 63:14,18 67:15 82:9 113:16 114:3,7,10 161:20 208:16 246:9,10,14 249:11 266:16 267:3 268:18 269:4,10,17 270:8,11,21 282:17 283:5,6,7, 10,16 285:14 287:4 289:3,5,6 291:21 292:9,10, 19,21 293:7 301:16

turnaround 42:6,15,21 43:7, 19 58:15 157:16 158:9,17 159:1,7, 15

turned 57:7,10 61:6 65:6,13 66:13 135:16

turning 252:5 267:19 268:12, 13,15 269:3 273:3 292:2 293:11 302:2

turns 223:10 247:6 248:14,18 249:1,6,8 270:2

two-and-a-half 140:3

two-car 60:9

two-lane 68:3,7

two-story 39:12 61:20 62:7 234:10

type 15:19 47:7 91:3 96:10 170:10 188:12 195:14 198:19 200:6 204:19 240:14 253:14 259:18

types 98:3 176:16 180:1 302:15

typical 93:3,8 253:9 254:17 272:17

typically 144:10 210:6 251:9 252:16 254:9 255:12 260:7 271:17 279:20 280:2 304:10

U

U-TURN 249:16 250:6

Uh-huh 55:2 66:10 85:17 103:3 134:16 170:12 220:18

ultimately 231:13 281:8,13

unable 79:8

uncomfortable 267:1

undergoing 44:2 174:11

underlying 284:14

understand 4:10 5:10 8:11 9:9 18:18 77:3 102:14 124:5 132:13 138:18 146:16 151:9 157:5 176:7,10 178:4 192:7 193:20 194:14 199:19 204:15 205:15 217:3 230:18 235:15 236:5 243:4 244:17 248:7 260:15 261:3 263:1 269:4 275:8 299:17

understanding 44:11,12 59:15 70:8 71:5 75:13 93:5 121:10 128:21 144:6 151:4 166:9 200:5 246:4 255:4 263:4

understands 121:6

understood 8:18 88:3 108:20 119:5 120:16 176:14 194:19

undue 92:8,17

unfair 150:1 194:3

ungraded 76:7

unimproved 160:12

uninhabitable 72:21

unique 151:14

United 72:6

University 240:13

unlike 93:2 198:18

unsafe 303:5

unsigned 10:10

uphill 210:19

uphold 26:4

upper 65:19

upstairs 161:4 180:20

upward 265:15

urban-rural 87:13 251:2

users 252:20

utilities 74:10 93:16

utilization 173:9

utilize 173:8,18 233:2

utilized 128:1

utilizes 88:15

utilizing 244:18 258:12

V

vacant 235:10

valley 61:3,8 130:9

valleys 96:19

vandalized 235:11

vapor 229:7

variance 120:8

variances 15:21 20:1 103:12,15

vegetation 48:13 63:21 65:10,15 83:18 84:7,20 277:9,11, 20 278:7,18 287:8 289:8,20

vegetative 97:3

vehicle 57:1,8 156:13 265:20 266:5 268:16 269:17 272:1 274:2 291:21 292:2,5,7,9,12, 18,20 293:2,3,5, 6,12,16,18,20,21 294:1

vehicles 43:3 80:21 123:5 155:15 156:8 162:8 251:15 262:7 269:14 270:11,18 271:19 292:7 294:2

verbalize 205:19

verified 143:12 203:9

verify 75:20 253:16

version 40:7

versus 7:20 109:16 193:19 195:14 199:6 228:7 235:10 246:15 257:8 271:7

vertical 264:15 265:18

vice 239:2,8 240:3

vicinity 47:11 48:9 52:5 57:18 65:6 66:3 79:5 81:5 87:18,19 99:1,14,17 102:9 133:1 183:5 206:6

view 55:6 60:1 61:7 76:13 84:6 103:11 211:14 271:7 288:14 291:5

viewing 127:4

viewpoint 77:12

violate 195:10 197:5

violation 175:15 176:12 177:9

Virginia 240:13, 18 241:20

virtually 35:6

virtue 30:18

vis-a-vis 276:14

visibility 51:13 95:4,7 211:11 216:12 222:8,10 232:16 304:1

visible 57:14 59:2,3 65:19 66:21 67:3,12 184:9,19 185:11 222:18 234:7

visit 49:15 140:15,16,18 165:12 203:12 214:19 215:10 224:3 253:10 277:11

visited 51:17 68:18 139:16 141:13 160:14 161:3 202:18 203:1 214:9,17 215:12 217:5 277:16

visits 115:8 182:5 188:2 234:5

Vista 49:3 67:17 68:1,3 72:7,9 73:12,15 91:9 219:19,20 246:4 247:14 248:3 283:21

vistas 71:1

visual 5:15

vitae 241:2

voice 14:5

voir 18:3 28:16 29:8

volleyball 115:5 125:10 131:12, 13,17,20 132:9 146:1,2 186:3,20

volume 159:8 254:17 259:19

W

walk 195:3 233:9

walked 141:7 151:20 203:12 234:4 286:18

walls 218:21 304:20

wanders 46:13

wanted 5:11 116:14 233:6 249:11 294:11

warn 303:4

warning 249:5 297:21

Washington 6:9

water 74:11,15 79:7,9 94:4,8 138:2 141:14 142:5,10 204:21 207:4 209:9,11, 14,20 210:7 232:9,14

ways 113:7

website 86:7

Wednesday 298:19 300:15

weeds 278:7

week 5:18 28:3 29:5 93:4 254:16 300:4

week-to-week 197:13

weekday 49:15 253:2,4 254:18 258:1,20

weekend 253:9 254:9 255:1 258:2

weekends 175:2 253:8

weekly 198:20 280:5

weeks 126:14

weigh 295:3

weight 33:2

welfare 26:7 88:8 199:17

west 62:15 64:21 65:7 66:14 85:18 102:1 112:16 130:16,17 185:11 186:7,14,15 189:1 205:11 210:15 221:5 231:2 233:13,14 240:13,18 247:15 278:14,15 283:4, 7 287:8 290:10 296:1 303:15

westerly 45:16 55:9 63:20 65:14 67:19 68:1 101:20 139:3

western 48:18 63:19

wet 272:7 274:10

wetland 137:14, 18

wetlands 26:21 27:5,12 31:13 32:14 97:12

whatnot 220:14

whichever 186:3

white 184:20

wide 45:18

widening 279:8 304:10

wind 250:13

windows 174:11 215:19,21 217:9

wing 58:10

winter 277:9 289:7 290:4,6

withdraw 89:19 191:2

witnesses 9:6 11:1 153:3 218:4 299:18

wondering 217:6

wood 133:3

wooded 45:21 46:6,9 48:12 52:9,10 83:12

wooden 67:11

woods 34:9 39:10 45:11,12

46:1,4 48:21 71:2 115:17,21 117:18 201:21 221:7 227:18,21 230:21 231:18

word 166:7,11 171:10 272:15

worded 150:16

words 38:8 76:19 154:10 173:12 186:9 193:2

work 15:9,11,13 16:14 22:3,6 31:6 88:17,18 115:5 159:9,18 160:15 161:10 164:18 172:5 174:12 175:2 180:7 199:14 207:8 238:15,16 257:19 290:16 291:16,19

worked 15:15 21:16 22:5 121:4

working 36:12 99:15 106:6

works 4:10 8:19

worn 274:10

worried 119:14, 15

worse 191:17 192:3,15,21 295:20

worship 60:1,4,5 80:4,7 90:5 91:14 92:10 94:15 95:12 96:6,15 104:10 127:16 128:1 129:1,3 154:15,16 155:6 179:11 180:7 188:7 196:10,20 200:13 215:14, 15,21

worshipping 154:17

worst 260:20

wrap 121:2

writing 4:15

written 155:5 177:5 228:21

wrong 20:15 69:15,16 228:21 237:11

wrote 218:20

Y

yard 63:10 65:13 83:21 132:18 227:2 228:7 231:19

yards 64:11 206:15

year 28:11 68:18 178:15,16 179:1 199:5,15 260:14

yearly 197:17

years 14:17 15:7, 12 21:17,21 22:9, 11,21 23:4 24:13, 15,17 25:1,10 116:16,20 218:15,16

yellow 257:12 292:2,14,15

yesterday 5:11

yet alone 77:16

yield 274:14

you-all 4:16 149:21

young 271:20

Z

zone 90:6 92:11 96:6 104:12 151:16,17 170:20 171:3 192:11 225:6

zoned 38:14 95:9 188:17 189:13 190:20 191:6 227:6

zoning 15:20,21 17:1,13,18,21 24:7,9,13,16 25:6,16 30:18 35:1 37:20 80:4, 13 87:10 93:14 95:17,18 103:12 150:12 151:8,20 152:4 153:19 172:12 173:3 192:12 241:11

IN THE MATTER OF:

NEPALI AMERICAN CULTURAL CENTER

12231 HARFORD ROAD

11TH ELECTION DISTRICT, 5TH COUNCILMANIC DISTRICT

18-122-X

* * * * * *

The within proceedings were taken on July 19, 2018, commencing at 10:00 a.m., before Jason S. Garber, Esquire, at the Baltimore County Council's Chambers, Historic Courthouse, 400 Washington Avenue, Second Floor, Towson, Maryland, before Monica A. Sienkiewicz, Notary Public.

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REPORTED BY:

MONICA A. SIENKIEWICZ

APPEARANCES:

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And

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On behalf of the Petitioner

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508 Fairmount Avenue
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On behalf of the Protestants

Also Present: Board Members: Maureen Murphy, Deborah C. Dopkin

P R O C E E D I N G S

WHEREUPON --

MR. GARBER: We are here today In The Matter of Nepali American Cultural Center, 12231 Harford Road, Case Number 18-122-X. Just a couple of announcements to begin today. Number one, if anybody needs an ADA compliant bathroom, it is located on the first floor. Number two, there are sign-in sheets outside. Please sign in, so we know that you were here today. Also, we have a court reporter here today. For anyone who is going to be testifying, please make sure to keep your voices up and also, we don't talk over one another to help her with her transcription of your testimony or questions, as applicable.

If you have cell phones, please turn them off. There is not going to be any noise tolerated over the course of this hearing. So no matter what someone may say on the stand, please remember this is a courtroom and we will conduct this hearing in that manner.

With that in mind, would counsel please introduce themselves.

MR. SCHMIDT: Good morning. For the record and here on behalf of the Petitioner, I am Lawrence E. Schmidt, with the Law Firm of Smith, Gildea and Schmidt, with offices in Towson at 600 Washington Avenue and serving with me -- I will allow him to introduce himself.

MR. KOTROCCO: Timothy Kotrocco and I am 305 Washington Avenue here in Towson, 21204.

MR. GARBER: Mr. Kotrocco, you are here today as counsel, correct?

MR. KOTROCCO: Yes.

MR. HOLZER: For the Protestants, J. Carroll Holzer, 508 Fairmount Avenue, Towson, Maryland 21286. I representing the Gunpowder Falls Watershed Preservation Association and 102 other individuals and I have the names and addresses here. I will give counsel a copy and I will give the Board three copies of that. I am not sure, because of this new arrangement, who I am supposed to hand the exhibits to.

MR. GARBER: Ms. Murphy is taking care of exhibits and Ms. Dopkin will take care of sign-in

sheets.

MR. SCHMIDT: For the record, would that be Protestant's Exhibit No. 1?

MR. HOLZER: Yes, it will be Protestant's Exhibit No. 1.

MR. GARBER: Okay, are there any other preliminary matters?

MR. HOLZER: Yes, there is. If I can have a second?

MR. GARBER: Sure.

MR. HOLZER: I have a copy of the Motion for Counsel. This is the original copy of the Motion and do we need two or three?

MR. GARBER: You need three, in total.

MR. HOLZER: I will mark that as Protestant's Exhibit No. 2, at this point.

MR. GARBER: So it is an exhibit?

MR. HOLZER: Yes.

MR. GARBER: Counsel, also remember you guys do not have a mic this time around and with the number of people here today, since your voices are being

directed towards us and away from the audience, please keep your voices up so people in the back can hear what you have to say, as well.

MR. HOLZER: Members of my family never say I am too quiet, so I think they will hear me all the way to the back.

This is a Preliminary Motion, Members of the Board for the Board to require applicants compliance with Baltimore County Zoning and State Environmental Laws to require the applicants to comply with its submitted site plan submitted below, to comply with conditions set for in the ALJ's grant of approval. If you take a look the cover part of the Motion has a number of attachments. I would like to have the opportunity to explain what these are and why this is relevant.

This presentation, this Motion, has nothing do to with religion. This presentation has to do with health safety and welfare issues that would affect both the community and anyone, anyone including the applicants, who attend the subject site. So that the

Board can understand, on July 28th, there is another event that is scheduled in addition to some that have occurred in the past, in which the applicant has made a lot of publicity about attracting folks to the site on that day.

In view of that, the subject of this Motion is basically to protect them, their visitors, and to protect the communities that are surrounding the site. Number one, you will see, I have done a synopsis, which I indicate on your outline, I indicate the improvements without building permits and over the past number of months, a number of improvements have been made or attempted to be made and there have been no permits issued. You will see the documentation under the appendix that I will get into when I look at each one.

MR. GARBER: Can I stop you real quick. If there was work done without permits, it is really not subject to special exception hearing for today --

MR. HOLZER: -- correct.

MR. GARBER: In relationship to the Special Exception Hearing, I understand.

MR. HOLZER: Code Enforcement has taken action and you will see that in one of your appendix, as well as the Department of the Environment, as well as the State Highway Administration.

The next area would be public safety and there are incidents in regard to road accidents and so forth, a serious accident. They have actually had a denial from the State Highway Administration, that unless the entrance to this property is protected and changed, it should not be used for anything that is going on out there. It has been used, not only for a prior gathering but also been used for volleyball and other outdoor type activities.

Events held without application and approval from the State Fire Marshal. I will go into that. The gathering permits, there have been none. The State roads, I have already indicated. There is no record of potable water on the site, no record of disposal of human waste and no approval of water quality and there are other technical issues I don't really need to get into.

If Your Honors take a look at Appendix 1, you will see that there have been no permits issued. I am not going to belabor Your Honors with going through this, you will have an opportunity, I believe, to go through it. Each one of these appendices has an attached document that established the truth and veracity of what it is saying. Under Appendix 3, no permits have been issued by the County for electric. Appendix 4, photograph of signage without a permit being issued. Appendix 5, one of the representatives of the applicant acknowledged that well, sewage and road access and signage needed to be done and then issue B, public safety. There are curves, a narrow road, difficult access. I can personally attest to that and the filing of a Police Report as Appendix 6.

There is also, if you care to look, also Appendix 7, there is a photograph of an accident, a very violent accident occurring right before the entrance to the subject property that you all can see.

As indicated, issue number C, the improvements without application or approval of the Fire Marshal.

This was a vacant property, an attorney who many of you may be familiar with used to own the property. It went up for sale. It had been vandalized before the applicants acquired it and so forth.

The Fire Marshal has indicated that no one on behalf of the applicant has been there in contact with them. Issue No. D, events held without required approvals, no gathering permit was sought or granted for over two hundred people there in the past. The State Highway Administration will not approve -- under Exhibit 10, will not approve the entrance as it is. And I think you can see in one of their attachments, they said why is this property even being used. That is under Appendix No. 11, has not approved the existing entrance and this site should not be operating at all, the State Highway said.

Appendix 12 is a warning order issued by Baltimore County. Then subsequently Mr. Jablon's office is well aware of the potential problems and the issues involved here. Appendix 21 is the indication that on July 28th, through August 3rd, there is a

fundraiser posted for the property and there has been no indication whether that has been called off or whether it is still going to take place. If it is, it is without any permits, we have been advised by Mr. Jablon's office.

Events that have been held there so far, being it a large gathering or simply athletic events, no records of proper handling of human waste or potable water, no approval of water quality and no record of any indoor plumbing that there is septic and/or well.

Also, as you know, this case comes to you from the Administrative Law Judge decision. I was not in that particular hearing, although, many of my clients did attend and there was a decision. The Administrative Law Judge attached certain conditions to the documentation of approval, and under Roman Numeral III, issue is they failed to meet any of the requirements in order to be able to continue to have not only these events but to have an understanding of this Board as to what you are approving and whether you are approving something appropriately or not. They

failed to apply for necessary permits and licenses and failed to install the sign and meet the environmental protection issues that the Department of the Environment, we met with them and they indicated they have done nothing in that regard. And you will see the other three issues, failed to obtain the State Highway Access Permit. They cannot even today, indicate to you that they can have proper access to the site because there are some concerns relative to what the State Highway wants them to do.

In conclusion, and I want to say this for all of the people because I am not treating any of the folks that are sitting on that side of the hearing room different than I am treating the ones directly behind me. It seems to me, for all of these reasons, health, safety and welfare reasons of not only the community but the folks that may well be on that side of the hearing room attend these events or attend this site, for their health, safety and welfare, we believe this Board should continue this case until such time as the County at least accepts they review what is going on in

this particular matter of these items I have set forth and approve -- and approve and/or issue permits. The reason that I am saying that is that I personally went out and I never got onto the property, I did not want to go onto the property, but I drove Harford Road up -- it has been a long time since I have been on that road, and frankly it scared me to death when I got to the curve right before the entrance to this property. Because of the way the fence was, I was able to thankfully back in and turn around. I could not see a thing.

I am really concerned about anybody who uses this site until the State and the applicant gets the opportunity to meet the County Regulations and Requirements. For you to have to sit here and listen to this hearing, which is going to go on for possibly six more days after today, it seems to me that that process could be speeded up. It seems to me that the Board would understand what they are approving, as opposed to just saying oh, it is okay, not just because it's a religious institution but for anybody, any

project, that would go in there.

So I understand we have other days and we have gone through a lot of trouble to schedule these other days. It has not been easy on any of the attorneys but it seems to me in fairness to the public, and when I say public, I mean both sides of this hearing room, that we have some of the answers.

Last of all, it should be more presentable in terms of the Board to you, so that you understand your heavy responsibility and what you are approving and what you are listening to and what you are analyzing.

MR. GARBER: The relief you are seeking is basically a postponement at the moment?

MR. HOLZER: As a long way of saying, yes. I tried, when I was trying to get ready for the hearing this morning over the last month or so, I tried to look at all of these different issues and see that it is really not fair to anybody, even the other side to be put in a situation where they don't know where the septic is, they don't know where the well is or if they can access the property. They don't know all of these

things and yet they are asking this Board to make a determination that it is okay for us to go in there. If it is okay for them to go into the site, then fine. We all know what our etiquette is here before the Board. Everybody gets the opportunity to say what they need to say and to prove what they need to prove. Then once they have done that, it is all in the hands of the Board.

Under these circumstances, when you review the attachments and review the documentation, I think this is premature. I'd love to try it, it being six days more of hearings plus today, but I just think it makes sense to everyone to have this explained better and have the County approve.

The department -- Mr. Jablon's office -- it is easier to say it that way -- has issued two warnings, if you want to call them not necessarily cease and desist, two warnings, don't do these things. We have to have various permits issued and they have been doing it anyway. What that has done has caused the community to get very upset, very upset, as to what is going on

in this situation. In fairness to the other side, if these questions are answered, then maybe there won't be the kind of negative reaction among the community that currently this kind of activity has produced.

I know that certain elected officials have reached out to try to see what could be done, resolve and maybe it could, but not under these circumstances. So I tried to figure out what kind of motion was I going to say. Put yourself in my place, we have this situation. Do you let it go on? Let this hearing go on? Take appeals and fight over whether they have a State Highway Permit or not. Do you do that or say wait a minute, for everybody's benefit and the Board's included, what can we do to clarify this case and that is why I phrased the Motion in this way.

I was not asking the Board to grant an injunction. I was not asking the Board to show a code violation, that is not the purpose of this. I want to make it clear that isn't really the purpose of it.

MR. GARBER: Let's hear from Mr. Schmidt.

MR. SCHMIDT: I will take a stab at this one,

Chairman Garber. I have the same question Mr. Garber, that you did, as I was listening to Mr. Holzer and that was, what is he actually asking this Board to do. As I understand it, he is asking for a continuance, which obviously, we would object to. I quite frankly believe, moving this hearing forward, and getting a resolution of whether the underlying use is permitted is the most appropriate way to move forward at this point in time.

Just in responding to his Motion, I guess first from sort of a legal argument, obviously the jurisdiction of this Board in this particular case is to hear the underlying --

MR. GARBER: You can sit down.

MR. SCHMIDT: -- I want to say, for the record, I apologize. I am not moving to Bermuda. On Tuesday, I broke my foot.

MR. GARBER: I just saw the cast. By all means, feel free to sit down.

MR. SCHMIDT: I don't have a pair of pants that work over this.

MR. HOLZER: I am going to object to that. I had to wear long pants this morning.

MR. GARBER: No one can be more sympathetic than me.

MR. SCHMIDT: Just returning to my comments before. Obviously, the Board, this is not a Zoning Violation Case. The Board is not part of the Code Enforcement. It is not an appeal from a Code Enforcement Decision. The Board does not have any authority to issue injunction or instructive ruling or anything like that. All these matters that Mr. Holzer are talking about to me are a matter of Code Enforcement, assuming they are a matter of Code Enforcement at all but that would be the body and the forum in which this matter should be heard.

Just to give the Board a little flavor of what is going on here --

MR. GARBER: I am trying to confine it to the Motion, it will use as a road map. This is helpful, your Motion, but I will ask the same of you. I am trying to figure out where we are. I asked as a

preliminary matter, this is identified as a preliminary Motion. I want to, as best as we can, keep within the confines of that to see if there is something that has to occur prior to the commencement of the hearing.

MR. SCHMIDT: That is what I intended, Mr. Garber. Again, the case before you is a Petition for Special Exception, where we are seeking to use this property as a church or a building for religious worship as identified as a Special Exception use in the RC2 zoning regulation. That is what we are asking you to do. The only facts I was going to explain is that Mr. Holzer indicated, this is an old property that has a building on it that is very old, has been rebuilt, prior to when my clients acquired it. It is an old property, a historic property, that they have identified and they want to relocate and convert the building that is there into a building for religious worship.

MR. GARBER: When you say historic landmark property --

MR. SCHMIDT: The underlying property has a

historic designation affixed to it, as well as an outbuilding has been designated as a historic building.

MR. GARBER: Okay. I wanted to clarify that point.

MS. DOPKIN: Who --

MR. SCHMIDT: Baltimore County. So my clients have acquired this property. They are not proposing any exterior improvement or enlargements. They are not knocking down buildings. They are going to convert the primary structure on the property to a temple, a building of worship for religious use. They are not using the building for that purpose at this time. They are not using the property at this time for that purpose.

As Mr. Holzer indicated, when they acquired the property, the property had been vacant for a number of years. There had been vandalism, we believe, both before and after their acquisition of the property. They have been clearing the property of trees and weeds and doing exterior maintenance and clearing and work on the building. That is what they have done on the site,

whether the Special Exception would be granted or it wouldn't, to provide power, plumbing, et cetera, to the building, would certainly be their right and they would obtain permits in order to do that.

I am not sure what this Motion is all about, other than sort of a backhanded way, to say that they don't want my clients to come on their own property for any purpose until these hearings are concluded and until a decision has been rendered by the Board.

My clients are not using the property for religious purposes, at this point in time. Even assuming, arguendo, that they were, that would not be a matter for this Board, it would be a matter for Code Enforcement if they did not have underlying approval, which then leads me to my next point, is in fact, Judge Beverungen, ALJ Beverungen granted a petition for Special Exception below, which until and unless this Board overturns is in place and there is a valid Special Exception that Judge Beverungen has granted.

What this is actually all about is that, quite candidly, the members of the congregation are doing a

lot of the work and care on this property to rehabilitate this property. Additionally, they are proposing to have a fundraising event at the property later this month. I would submit that if the Protestants and Mr. Holzer objects to that, they may well seek a remedy but not before this Board, I will submit. The Board does not have any authority, I do not believe, to issue any order prohibiting my clients from doing anything on the property or not anything.

I would point out, my clients went to John Beverungen and in fact asked him if it would be appropriate for them to have any type of events or gatherings on the property, pursuant to his order. I have a signed letter from him but I only have one copy. I would be happy to submit multiple copies to the Board.

MR. GARBER: That would seem appropriate to do.

MR. SCHMIDT: It is a Motions exhibit. It says that, I understand that the owners are proposing to host a gathering on the property on July 29th. I

also understand that Code Enforcement has been notified, et cetera, and Code Enforcement has suggested that such a gathering would violate the terms and conditions of my January 22nd, 2018 order, granting Special Exception relief. I respectfully disagree and will note that the conditions which are envisioned by Section 502.2, relate solely to the operation of the building for religious worship, which was the relief granted in the Special Exception case. The owners are free to gather on their property, so long as no religious activities occur in the building and all the other permit requirements are satisfied. If that is the case, there is no violation of my order. The order should be treated no differently than any other citizen that wishes to host a party or a picnic or a social event on their property, that is what John Beverungen said.

I offer that not to ask the Board to either ratify or object to that, because again, I don't think this is a matter that the Board respectfully has jurisdiction over it. It is a Code Enforcement matter,

to the point of this case, we are asking for Special Exception. You are going to hear testimony about the use of the property. You are going to hear testimony from expert witnesses. I don't need to get into my opening statements about some of the issues that Mr. Holzer has talked about in terms of traffic, well, septic and those issues. You will make a determination whether this property can be used as a church or building for religious worship and will not be detrimental to the health, safety, and general welfare of the locale. That is your task.

Again, I was trying to figure out what Mr. Holzer was asking for. I think he is asking for an injunction or some type of relief like that. He understands, obviously, you don't have the authority to issue that, so he is asking for a stay. I think that is inappropriate. I would think everyone in this room, both sides, would want this Special Exception adjudged, as to whether the underlying relief which we've requested should be granted. We can all move forward if it is granted. My client will go forward and make

the necessary improvements pursuant to County Law.

The other thing I will say is how many plans does this Board see? I would submit, most of the time, where proposals are speculative in nature. Every Development Plan, for example, most Special Exceptions that come before you, people are proposing to build buildings or things like that.

MR. GARBER: Like final landscaping plans and final lighting plans --

MR. SCHMIDT: Absolutely. There is going to be an additional process for this proposal to move forward. As I see it, the Board in the Special Exception case, like many of these cases, is in essence the first step and it is a step to establish what use may be allowed. Once the underlying use is determined and permitted, typically the applicant moves forward with what I call the development of the subdivision requirements, Storm Water Management and State Highway Access Permits required for the State Road, similar approvals and similar processes.

I am not telling any of the members anything

that you all have not seen or experienced in these types of cases. For all of those reasons, we would respectfully ask that we go forward today.

MR. GARBER: Mr. Holzer, do you have a brief response?

MR. HOLZER: Yes. I am not asking for this Board to issue an injunction. I am not asking for this Board to do anything other than to continue this case so that you understand and that the County Permits and Department understands what is going on here, which relates to whether this property can be used for religious purpose. If you look at your Appendix, 20 and 22, there have been prayer gatherings in the building. So that is what is being suggested is not true. There have been prayer gatherings in the building. So Mr. Beverungen's letter is inappropriate to the discussion we are having here.

MR. GARBER: I will say I don't think that the letter is appropriate for us to consider or comments from Code Enforcement as to what they think is happening or not happening or in violation or whatever.

It isn't appropriate for us to consider at this time. We'd require an evidentiary hearing for us to place stock in that and that obviously did not occur in either event. Where that leaves us with this, let me back up. Are you done responding to --

MR. HOLZER: Pretty much. I was basically saying we are asking for a continuance so that the Board can understand whether or not this property can be used for religious facility.

This is like the donkey being backwards. It is okay for you to say it is okay for them to use this property for religious purposes, but you don't know whether they can fix the access. You don't know whether they can get sewer, water, plumbing or whatever. You don't know. How can you intelligently decide, oh yeah, they can use it, when you don't know the basic building blocks to be able to do it. It would be different if there was a piece of property that is in Baltimore County, that is served by water and sewer, that zoning says it could be by Special Exception and it could be on a side road like the

Stevenson case --

MR. GARBER: That rings a bell.

MR. HOLZER: It does, unfortunately or fortunately. This is different. This property is different. It has long sat and it has been vandalized. They can't find the septic. They cannot find the water or where the well was. How can you intelligently determine -- and they cannot get in or out, according to the State Highway Administration. How can you intelligently say, if all of those things come to pass and get approved, we will do it. Isn't that really backwards? He says that is the way it is always done. Maybe the way it is always done is backwards, is improper. I have been doing this a long time -- I know that means stop.

MR. GARBER: You can sit, same courtesy I extended to Mr. Schmidt.

MR. HOLZER: I like to stand. I am an old prosecutor. That is what I am saying. I think this is a case that should be resolved in someway between -- Mr. Kotrocco has talked to me about that. You know, I

always want to try to settle cases, if they can be settled. This case cannot be settled when you got the State Highway saying you cannot get on the property and you should not be having people coming in on July 28th. So it is not in that posture now. Put it in the posture where the County Code people say it is okay. We are going to issue permits. We will do all that and then the Board, when you are deciding, can we approve this property, you will know whether the State Highway has an answer. You will know whether Mr. Jablon's office can respond and say yes, we can issue permits. Then you are making an intelligent decision. Now you are not -- excuse me -- you are --

MR. GARBER: Say informed --

MR. HOLZER: Informed is better. Thank you, Mr. Chairman. I will sit down. You understand what I am saying.

MR. GARBER: Number one, it seems to me some of these issues being raised are Code Enforcement issues and they are not in front of us today as Code Enforcement Violations. We don't have original

jurisdiction over those matters. It is not much that we, sitting here today, or in the scheduled six days to follow can do anything about, visited by the ALJ first and then properly appealed before we continue on those matters.

Second, it is common practice in courts all the time, what we do is we respond to what is being placed in front of us. What is being placed in front of us, and we don't have the full scope yet, whatever plans offered up by Petitioner. If they do not have the entrance, egress, ingress situation fully resolved, if they don't have some of the other matters fully resolved, we can still technically proceed as to whether or not the use would be, I guess in accordance with the Baltimore County Zoning Regulation and whether it matches the Special Exception factors in 502.1.

It seems to me that perhaps some of those matters can factor into whether or not they can prove their case. I am sure you will be addressing over the course of the hearing your frustration on those points. We don't know what is going to happen, how can we have

a hearing, is well understood and well-founded. It is a matter of frustration, sometimes for the Board as well in these situations because sometimes there are questions that come up and the hope is during the course of the hearing they can be resolved or answered by Petitioner or Protestant.

MR. HOLZER: Mr. Chairman, in response to that, because you and I have known each other a long time and you have been on the Board a long time, you normally know what that strategy says is the Board is going to approve this site subject to condition, conditions of highway approving --

MR. GARBER: That is what the ALJ founded and placed those conditions in this particular case.

MR. HOLZER: You see what happened. He placed a condition in regard to not using the building for religious institution and in fact it was. So conditions can be violated and that is what I am saying. What the strategy of the Board is in historical context is to say, okay, we are finished with it. Now it is up to the community or the citizens

to watchdog whether or not the conditions that we imposed. What I am saying in this kind of situation is that really does neither side a service. It means the community is constantly going to be watching these people and constantly picking up everything they do and making a complaint about it.

On the other hand, you have those people who believe they can function appropriately and do whatever they want to do and the citizens are opposed to it. That is not a good strategy to accommodate the public community as a whole. That is what I am saying here. I have been doing this since 1974. I see it happening and I see the ramifications of it. What I am trying to say is, there should not be animus between all of the people on that side and all the people on this side. That should not occur. They should be met and respected and they should be in a situation where they believe and they know they are doing something right, not in violation. I am telling you, there has already been a history here of noise and outdoor music. In Mr. Beverungen's condition, he said no outside music and

then the citizens complain of hearing outside music. Do you see what I am saying? I see nothing but confrontation between the parties when they should be working it out.

MR. GARBER: Even accepting all of that and being sympathetic to all of that, what the law gives us authority to do is rule on the Special Exception case.

MR. HOLZER: I already made the decision.

MR. GARBER: As to Code Enforcement or other violations, we cannot do anything about that sitting here today, which I understand is frustrating to people on both sides of the room here, but at the same time, there is not much we can do sitting here today and since we have all these people here today, it is best we just get started with the hearing. Some of these matters are going to come up during the course of the merits of the hearing. Ms. Dopkin, Ms. Murphy, anything you want to add?

MS. DOPKIN: Are we going to hold the Motion and rule on it later or now?

MR. GARBER: As to a Motion to postpone this

entirely, I have to rule on that now. I would deny a Motion to postpone this at this time.

MS. DOPKIN: I agree.

MS. MURPHY: I agree.

MR. GARBER: With that in mind, any other preliminary matters?

MR. HOLZER: I cannot think of anything right now.

MR. SCHMIDT: I wanted to correct myself. Ms. Dopkin, it is on the MHT List, not Baltimore County. I misspoke before. Given that the motion is denied, I assume, Mr. Garber, you want to hear from me in terms of an opening statement at this point?

MR. GARBER: The board would like to hear a road map of where we are going and what we are doing.

MR. SCHMIDT: A couple of things, and not necessarily preliminarily, so that the record reflects obviously because we are not in the Board's room, there was a stipulation filed for the record. I wanted to state that regarding the fact that we do have a court reporter here who is maintaining the record of this

case and we have agreed to provide the Board with a copy of the transcript from today's proceeding and we will get you that.

MR. GARBER: Each day's proceeding.

MR. SCHMIDT: Each day's proceeding and in so far as future days, we have a number of days assigned the next is September 6th. I think Mr. Holzer and Mr. Kotrocco and I will inform the Board and try to get a sense of the number of people who are going to be here. I would assume your preference would be to be in your Board Chambers and hearing room, if possible. We anticipated a large crowd, at least on the first day. We will work through Ms. Cannington on that in the future, just trying to make it convenient for everyone.

MR. GARBER: It is also largely a matter of what the County Council can accommodate more than anything related to that. If we are busy here, we cannot use it and if we are back there --

MR. SCHMIDT: I appreciate, for the record, Ms. Cannington doing all she has done to accommodate us. We anticipated a lot of people standing out in the

halls which is not a desirable situation. We will keep moving forward with that and obviously the attorneys can work together to do that.

In terms of my opening and I will give you a bit of a road map of where we are. I have behind me, and I can walk. I am not very quick but I --

MR. GARBER: Is there a way we can shift those so that it is near the Board and the witness and also the audience.

MR. SCHMIDT: I have smaller versions I can give to each Board Member, as well. I have one for Mr. Holzer, too.

MR. GARBER: I think it is better and this way the audience gets to see them. I mean again, this is going to be touch and go. We are trying to make sure you guys can see what is going on. We have to move the easels back when the witnesses are on the stand. For purpose of the opening, so you guys can see what is being referenced.

MS. DOPKIN: I suggest that you use the chairs to prop them up. It will make it easier.

MR. SCHMIDT: While those are being set up, I can approach the Board. I have a copy of the smaller version of two documents and both of these are what is on the Board. Mr. Holzer, I can mark these as an exhibit at the present and have them authenticated later.

MR. HOLZER: So it is easier for everybody, which one is this?

MR. SCHMIDT: I am going to mark and ask Ms. Murphy, Petitioner's Exhibit 1, the site plan. This is a plan that again is the same thing you are seeing on the board. That is right, Mr. Garber. The document is entitled, Plan to Accompany Petition for Special Exception and is prepared by Little & Associates and I will mark that as Petitioner's Exhibit 1. Petitioner's Exhibit 2 --

MR. GARBER: Do you have the file copy or the actual exhibit? Do you have an extra copy for Miss Murphy? Remember, four copies, the actual exhibit and one for each Board Member.

MR. SCHMIDT: I will give you a fourth copy as

Petitioner's Exhibit No. 2. This is an aerial photograph of the subject property. It is the same one that is on the easel over to my left. It's labeled just 12231 Harford Road. The subject property is outlined in sort of a pink highlighter around the perimeter of the property.

MR. KOTROCCO: This is a full size copy.

MR. SCHMIDT: I would mark the full size as 1. I think that makes sense. I am going to approach the drawings, if I can. It might make it a little bit easier.

MR. GARBER: Keep your voice up so the court reporter can hear you.

MR. SCHMIDT: I certainly will. I will try not to stand to block anyone's view. In terms of my opening statement, Mr. Garber and Members of the Panel, the subject property is located in the Glen Arm Community of Baltimore County, as Mr. Holzer indicated, Harford Road is the public road adjacent to the property. On the site plan you can see that Harford Road is labeled, a State road, Maryland Route 147 and

essentially borders the property on two sides.

The subject is an irregularly shaped property, about 31 acres in area altogether and it is zoned RC2, is the zoning classification that is affixed here.

It is an interesting property. We have heard a little bit about the historic. As Mr. Holzer indicated, it was previously owned by an attorney, Mr. DiCicco some know him in legal circles in Maryland. Historically, this has association with Napoleon, specifically Napoleon's nephew, as I understand it at one time owned the property. You will see a street immediately across the entrance called Bonaparte Avenue, that obviously comes from that name.

The property is improved with an existing principal structure, one time used as a dwelling. Mr. DiCicco was, I believe, the last resident there. We have a number of photographs of the property I will get through with one of the witnesses. It is a very attractive mansion type of structure originally used as a residential building for a number of years. The original structure, as I understand it, burned down and

the building there now is a replacement structure. It is not historically designated. The historic building which is designated is the barn to the very rear of the property, which is still there and I would say in somewhat fair condition.

In addition to the barn and the building, there are a number of other outbuildings, out structures that sort of surround the improved complex. Some sheds and existing pool which will eventually be removed, a two story building proposed to ultimately be converted to a caretaker's cottage and you will hear testimony about that, as well. There is also an existing sports court or tennis court or volleyball, all of these are labeled and we have photographs of.

Access to the property is from Harford Road. There is an existing drive that comes in off of Harford Road, that leads back to the interior of the property. Really the changes to the property from a physical standpoint and from a construction standpoint are generally limited, although there will not be a lot of interior changes to the building to accommodate the

temple, but generally an increase in parking shown on the site plan. You see the parking spaces provided here. There is a note on the plan that shows there are 38 parking spaces required under the County Zoning Requirements, specifically Section 409 of the regulations. There is a requirement of one space for every four seats in a religious building.

We believe that parking is sufficient and there will be testimony about the worship area of the temple, which will be, again, within the building. The relief that is requested here is a Special Exception under the RC2 zoning regulations and obviously, as we have already talked about in addressing the Motion, your task here is to determine whether the proposal would be detrimental to the health, safety, and general welfare of the locale. We believe it will not be detrimental and the request as Mr. Beverungen found shall be granted.

This is an interesting case from my perspective, and I think Mr. Kotrocco's, too. When I talked to him and him and I teamed up like we did for

many years across the street to work on this case together. To the extent that the Zoning Regulations, as you know, say that the Special Exception that is permitted in the RC2 zone, is it a church or building used for religious worship. I would say that as many people on this side of the room and those of us in the front of the room are familiar with what we think churches are. Whether you are a Christian or Jewish or some of the other more predominant, from a numbers standpoint religions, you are familiar with the way a Christian Church or a Jewish Synagogue may operate and how services are conducted with the traditions of that particular church.

This church and my client are people from Nepal, as the name of the Petitioner, the Nepali Community Cultural Center suggests this is an Eastern Religion. I would submit, the services are conducted and the religious worship is conducted in a matter that is unfamiliar, at least to me as a Christian and somewhat unfamiliar with some of the more eastern -- I did represent in Catonsville, the Hare Krishna Temple

located there. I had some familiarity. Again, it is a bit of a different world from what you might normally except or accept, I should say, in so far as a typical building.

You are going to hear testimony from a number of people and my first witness hopefully today is going to be a gentleman, who is a trustee of the Petitioner, who will explain to you the way the religious worship will be conducted here. It is interesting, and I think the main distinction that I noted that particularly impacts the land use issues in this case, is unlike the more typical Christian churches and Jewish synagogues, there is no single event that occurs here on a weekly basis. In other words, people don't go to church here on a Sunday morning as you might expect in a Christian church. Instead, it is spread out over the week. This is the way that the worship occurs. Because of that, from a land use and zoning standpoint, as opposed to looking at a significant volume of people coming in at any one time on a Sunday morning or Saturday or a Friday,

whatever it might be, it is more spread out. You will hear testimony about how the way that works.

We will have testimony about the operation. There are periodic festivals, which would generate a larger crowd, similar to the Christmas season and the Easter season and Passover and Rosh Hashanah those holidays we might be more familiar with and there are festivals. You will hear testimony about that. You will hear testimony from my client that we believe that the building can accommodate these uses and the site can accommodate these uses and the use will not be detrimental to the health, safety, and general welfare of the locale.

In addition to that testimony, we have a number of expert witnesses that I anticipate calling. Mr. John Motsco who prepared the plan will probably testify today, as well, as to the plan and property and give you a description on that. Mr. Holzer noted some of the other issues that were certainly identified before Mr. Beverungen below. I anticipate testimony on that, although probably not getting that today.

We've engaged the services of a traffic engineer, Traffic Group, Joseph Kolagero, and he has done a study and will testify about the traffic issues. We also have an expert witness who can testify about well and septic issues. This property is a RC2 property and not served by public water and sewer. There was, obviously, a well and septic system which was in place to serve the original house. You will hear the well and septic plans as they will relate to the proposed use, again not a new building.

In addition to that, I would say that my understanding is that regrettably, I would agree with Mr. Holzer, this proposal has caused a schism and differences of opinion in the neighborhood. There are a couple of citizens who I know are here who would like to testify in support of the proposal and there are many who are concerned and may be in opposition and obviously those people may testify, as well.

That is generally a road map of what the case is generally about. I will leave it to the witnesses to discuss these issues in more detail. I would say,

and I know Mr. Holzer and I have been on opposite sides of the table many times, and I think although we disagree with each other, we work with each other in terms of scheduling. If there is anybody who is a witness who cannot come back for another hearing date, I certainly have no objection to taking people out of order if the Board is comfortable with that. If someone is going to be away in September or have an issue like that. I may have one lady from the community who I am aware of who may want to testify this morning. I am going to check on that and see. Generally, that is what I will propose in terms of moving forward.

MR. GARBER: Thank you. Mr. Holzer.

MR. HOLZER: I am not going to give the Board a road map. I am going to reserve my opening statement until he has finished their case and then I will bore the Board with a rather long opening statement but I won't do it today.

MR. GARBER: With that in mind, now we will move these back. So let's move the easel back and call

the first witness.

MR. HOLZER: Mr. Chairman, Mr. Dewey Clark was the one at the hearing below. Could I ask permission to have him sit up here with me? He has done a lot of work with regard to the prior testimony.

MR. GARBER: I have no problem with that.

WHEREUPON --

KRIS GHIMIRE,

the witness, having been first duly sworn to tell the truth, the whole truth and nothing but the truth, was examined and testified as follows:

THE REPORTER: Spell your name and give your address, please.

A. Kris, K.R.I.S. Ghimire, G.H.I.M.I.R.E. my address is 5048 Springhouse Circle, one word, Rosedale, Maryland 21237.

MR. GARBER: Pronounce your last name.

A. Ghimire.

MR. SCHMIDT: Mr. Ghimire, if you can, keep your voice up.

EXAMINATION BY MR. SCHMIDT:

Q. Mr. Ghimire, I think you have identified your name. Did you give your business address?

A. It's 8030 Belair Road, Nottingham, Maryland 21236.

Q. Mr. Ghimire, I am going to ask you a couple of questions about your background, if I can first. Where were you born, sir?

A. I was born in Nepal and came to the United States in 1998.

Q. Have you been in the United States continuously since 1998?

A. Yes.

Q. Are you an American Citizen?

A. Yes, I am.

Q. Just in terms of this request, do you have a position, sir, with the Nepali American Cultural Center of Baltimore?

A. Yes. I am one of the founding members and a member of the Board of Trustees.

Q. What do you do for a living, sir?

A. I am a Real Estate Broker.

Q. So you are not a full-time employee of Nepali American Cultural Center of Baltimore?

A. No, I am not. This is voluntary work.

Q. Are there any full-time employees of that organization?

A. Not at this time.

Q. So it's a group of volunteers?

A. Yes, all volunteer, a hundred percent volunteers.

Q. And generally folks who are from Nepali or have Nepalese Heritage?

A. Nepalese Heritage and some who are affiliated with Hinduism and also, you know, want to know about Hinduism.

Q. Tell us, if you can, what is the Nepali American Cultural Center of Baltimore, what is its focus and function?

A. So the single mission of our center is to establish a Hindu Temple in Baltimore. For Nepalese, many people you see here today, this is our first temple.

MR. GARBER: I am sorry, it's your first temple?

A. First Nepali Temple in Baltimore County, yes. Just like Greek American who came to this great country for us, this is a dream and this is a place that my children and all of these people can call a place of worship, a temple.

Q. What is the religion that is associated with this temple, Mr. Ghimire?

A. So majority of Nepalese are Hindus but Hinduism and Buddhism is a very big part of Nepal. People participate in a Hindu Temple and pray and people in Hindu Temple go to Buddhist Temple and pray. It is a Hindu Temple with Buddha being one of the Gods.

Q. And now, how long has there been a Nepali American Cultural Center of Baltimore? When was that organization started?

A. About two years, the legal entity about two years but we have been talking about it for about three or four years.

Q. Now you indicated that the function of that

organization was to find a place for you all to worship, is that correct?

A. That is correct.

Q. Can you tell us a little bit about what search you undertook and how it is you came to find the subject property on Harford Road?

A. So we have been looking around for some time. We were looking for a big piece of property. This came on the listing, just a few days after the list -- it was listed on multiple site. We went in and checked it out, four or five members. We thought it was a perfect place for how we pray and how the temples are in Nepal. It is usually on the mountain, away from the residential area. I mean the hustle and bustle and in a place where you can meditate and pray. So we thought it was the perfect venue.

Q. How many people would you estimate are there in the congregation, if that is the right word of Nepalese descent or heritage in Baltimore County who would use this? What is the size of the group, generally?

A. So let me clarify a few things. It was mentioned thousands of people of Nepali heritage here which is true, that is an estimate, five to ten thousand people --

Q. In Maryland or --

A. In Maryland, in the Greater Baltimore area.

MR. GARBER: You said there are thousands that speak or of Nepali heritage in the Greater Baltimore Area?

A. Right. Not all go to temple, not all go to the same temple. The temple in Catonsville, there is one temple opening up in Baltimore City. There is -- before this temple, before those two temples, I mentioned people used to go to temple in Finksburg. It is a bigger Indian community, build Hindu temple. It is the same religion, we go to prayer and services in a similar way, yes.

Q. So you eventually found this property, correct?

A. That is correct.

Q. You actually -- the Nepali Cultural Center of

Baltimore owns the property?

A. Correct.

Q. You went to settlement and acquired it. Can you tell us, Mr. Motsco is going to testify but tell us a little bit about the property. Describe it to the Board.

A. So I am sure some of the neighbors went and saw the property when it was listed. A lot of our members did. It was in really, really bad shape. It probably was vacant for several years. The building has graffiti written all over the place, inside and outside. There were beer bottles and needles, you name it. You could find anything on the property. The trees were overgrown. It was, just you know, a piece of property that -- and kids from places come and party and doing whatever they were doing. We took it over and we cleaned it up. It looks beautiful now. We cut the grass. We still don't have the building ready for prayer, besides what I just heard from Mr. Holzer that everything that was said about the prayer was not true. The building is not ready. There is no running water.

MR. GARBER: I will jump in real quick. What Mr. Holzer said, that is not in evidence, but your testimony is the evidence being taken into the record. If you are going to say what he said is not correct, you need to say what is correct for purposes of the record.

A. I understand. Thank you.

Q. Explain that, if you can.

A. Yes. We call prayer -- in prayer voluntary gathering and to say a prayer before they start work or start clean up. I don't call that an official worship. So that is what is taking place. You maybe get in the car and say a prayer and drive a car. That is not your church or your temple or whatever faith you belong to. We have been doing -- a lot of volunteers and kids, my kids, their kids, go to the property and cut the grass. It is a thirty acre property and it takes a village to maintain that. Fortunately, we have the village supporting us for their first temple in Baltimore County.

Q. Mr. Ghimire, if you could, what I said and

what Mr. Holzer and as the Chairman just said is not evidence, even though I have given an opening statement, it is not evidence before the Board. With that in mind, tell us a little bit about the buildings that are on the property at the current time.

A. So, there's a building behind the main building, a caretaker house, that needs to be taken care of and renovations to use it. There's a barn all the way down on the other corner of the property that is in kind of bad shape, that has historical nature to it. There's a swimming pool that needs to be removed. It is not in a usable condition. There used to be tennis courts. We can change that to a multi-purpose court, so kids can play volleyball, basketball and tennis. So that is all maintained. The kids go there to maintain the property and they sometimes play volleyball and basketball.

Q. Any other buildings on the property?

A. Those are the only ones. There's a little bathhouse next to the pool and is also in bad shape and that will be removed, as well.

Q. Which building will be used as the temple?

A. The main building.

Q. Are you going to build any new buildings on the property?

A. No.

Q. In terms of the primary building, how are you going to convert that or how is that converted --

A. We are not going to do anything with the building. When we had multiple meetings with the neighbors, open houses, we made this very clear. We are not trying to hide anything or surprise the neighbors. We are going to keep the building the way it is right now and that serves what we are going to do. The way Hindu pray, if I may expand on that?

Q. Yes.

A. You have temples in Nepal, like in Kathmandu where thousands of people come and the temples are pagoda style and like two or three people can fit inside the temple. So you don't have to stay for an extended period of time to pray and have a preacher or a priest come and preside over the services. So people

come and meditate and pray and leave. That is the nature of how the services are done in the temple. So what we have right now is more than what -- the building is more than sufficient for what we are trying to achieve.

Q. Is there going to be any part of the building, Mr. Ghimire, that is going to be used for prayer, and if so, can you describe that?

A. So there's a main hall with high ceilings, as tall as this room here. So that room probably could hold like 80 to 100 people, that would be used for prayer.

Q. How about the rest of the building, how does that --

A. There are two big rooms on the same level, so we don't have exact plans but I think it is going to be a back office that the temple can use.

Q. Will there be a priest or a holy man of some type in the temple? How does that work?

A. The priest may live in the caretaker house, that has not been finalized yet. That is the only

person that might be living on the property, so that still needs to be -- once we have the building ready for services.

MR. GARBER: Just to interject, you referred to a priest, is that the proper title?

A. We call it guru.

MR. GARBER: How do you spell that?

A. G.U.R.U, the English word that came from --

MR. GARBER: Guru, thank you.

Q. You touched on this a little bit before and you heard my opening statement. So hopefully, we can explain to everyone, the Members of the Board and the other folks here. Is there a particular singular day of worship, for example, like in many of the Christian churches on a Sunday, is this how the Hindu, Buddhist religion works or is it different?

A. I am very familiar with how Catholics pray and go to church. My wife a devout Catholic from the Phillipines. I have three boys who go to Catholic School. The oldest one goes to John Carroll and the other two go to St. Joseph's. We go to church every

Sunday with my wife. She is very involved, voluntary donating time and doing all kinds of stuff.

Q. So you are familiar with the Catholic Church?

A. Absolutely. I can tell you what kind of nightmare we have on Belair Road on Sunday. I love St. Joseph and I love the church and school but you have people lining up all down Belair Road to Ridgely's Choice, coming in and going out.

Q. We are not here to litigate St. Joseph's --

A. Yes. What I am trying to say, that is not the problem you are going to have with the temple. It is not the temple that you have two hundred people come at the same time, with scheduled masses and you go and leave at a certain time. So Hindus don't come to services in that manner. So they come -- there is not set days, like Sundays is your church day, it is not like Saturday is a temple day. It is not set days. So people have their parents' death or an anniversary may be on Thursday or your birthday on Wednesday, if they want to have a religious function to celebrate those days, they come on those days. So it is not any set

days that they all come at the same time.

Q. So people come seven days a week?

A. Yes.

Q. And some people can come on a Wednesday to commemorate that is a special anniversary of a birth or a death or anniversary or something like that?

A. Yes. Rice feeding ceremonies are Nepal when kids turns six or seven months and they take a bite of rice.

Q. Rice feeding ceremony.

MR. GARBER: You mentioned the phrase, religious function could be on any day. What do you mean by religious function?

A. So let's take a rice feeding ceremony, for instance. So when a baby -- when child turns six or seven months and starts to eat solid food, we have a special ceremony for that, symbolically feeding the rice, a spoon of rice, rice pudding, to a child that can be presided over by the priest at the temple as a part of a religious ceremony. The reception can follow at a restaurant or places where you can have meat,

alcohol, whatever there can be as a typical party. At temple, you are not allowed to have alcohol or meat, so those are the strict codes that the temple follows.

Q. Let me understand that. So for example, if I was Nepalese and my child -- I had a child that was six or seven months who would start eating solid food, I could go to the temple on any day of the week --

A. Any day of the week.

Q. -- and there would be a ceremony and I don't know whether this is fair comparison but maybe similar to a baptism in the Christian church?

A. Correct, yes.

Q. Where the child would then take the first spoon of rice pudding or rice and there would be a priest there administering that, is that correct?

A. Yes. Let's say the baptism, it's a similar way we call Bratabanda --

Q. Spell that. The court reporter has to get these terms.

A. Bratabanda, B. R. A. T. A. B. A. N. D. A. So that is very similar to what I was saying baptism, so

that is when the priest will preside over the service and that is, you know, so Bratabanda is like a baptism, that is a religious ceremony. Again, it is unlike -- I don't know how many have to -- unlike the regular wedding, it takes three or four days to finish up. You have the religious ceremony and the reception and sometimes they have multiple receptions, all of those receptions will take place somewhere else.

Q. If I can go back to the six or seven month old child to finish my questioning of you about that. As I understand it then, the priest would administer some type of ceremony for this child, marking the occasion of the child eating solid food, is that right?

A. Correct.

Q. Then who would attend that? Would there be a multitude of people attending that or who would generally come to something like that?

A. The religious ceremony is obviously the youngest don't like to attend and you have to force them to go to church. They are like I don't want to go, I will just go to the reception. Always immediate

families and their immediate friends who go to temple for the service. We would like more people to come but in reality, that is not the case.

Q. How long would this ceremony generally take at the temple?

A. One to two hours for those special events.

Q. You indicated that you cannot have alcohol at the temple?

A. Not only inside the building but not at the premises.

Q. So you are not allowed to have alcohol on the premises. How about meat or other type of food?

A. No meat.

Q. You cannot have meat on the property?

A. Strictly vegetarian diet. At the time of the prayer, for the services, but at the reception you can. Again, the reception cannot be inside the building.

Q. So just following up on that, is this facility going to have any type of kitchen facility?

A. It is not needed.

Q. There will not be a kitchen?

A. No.

Q. So after the ceremony, if I wanted to have food or drink, I would have to have it somewhere offsite?

A. You can bring what we call a Prasad, P. R. A. S. A. D. So that is rice pudding, you have non-meat, vegetarian food, snacks and juice and milk, fruits. So those -- you can bring those to the temple and after the service is over you can offer those snacks, but not before or during.

Q. If I wanted to have a ceremony where I was inviting friends who may not be of that faith that wanted to have meat or alcohol, is it typical that that would be at a restaurant offsite?

A. That is why you would invite those friends to the reception, the reception that follows unless they wanted to come for the religious ceremony.

Q. So you've described sort of those types of events. If you can, tell us, how about sort of the regular event. For example, a Christian might go to church every Sunday or every other Sunday or once a

month, depending on your view, but members of the faith, how often would they go to the temple, not so much for a special event for a child or a wedding but just to practice their faith? How often does that occur?

A. The interesting thing about Hinduism is if you go to any of the members' house, they have a little temple within their house. So basically, it is not required. You don't have to go to temple to have a service or be part of a service of pray. So they usually go on a special occasion to temple and sometimes for no particular reason, too. They visit and pray and meditate and come back.

Q. One of your members told me and I would like you to explain this to the Board about how there is a deities associated with each day of the week. Did I understand that?

A. There are 33 million Gods in Hinduism, that is what deities -- the major ones we worship and pray. So at the temple we might have four or five deities that we will install when everything is ready to go. Right

now we don't have anything installed.

Q. You may have a statue of that deitie?

A. That is what I meant.

Q. If it was one of the members' choices that they may go a particular -- any day of the week to go worship or related to that particular deitie?

A. Yes, correct.

Q. How about festivals and special events, sort of in the Christian world, Christmas and Easter, Passover Rosh Hashanah and other Jewish holidays, major holidays like that, is there an analogy in the Hindu faith for festivals?

A. We have three to five, depending who you ask, major festivals that are religious. The line in Nepali between religion and tradition is intermingled. You can have Dashain, of one of the major festivals and you have Buddhists coming to that festival, so it is not strictly for Hindus but it is celebrated by both faiths. Dashain being one of the main festivals and Indian Festival of Lights and obviously the name Buddha comes from -- in our temple and Buddha was born in

Nepal so that was respect that we can give to the name. So we going to be celebrating the day Buddha was born, the birthday of Buddha, so say three to four major festivals.

Q. Are these on an annual basis, that there might be three or four festivals a year?

A. Yes. Annual basis and they fall on the lunar calendar. Lunar may fall in September 22nd this year and October 4th of the next following year.

Q. Tell us, in terms of -- because obviously the Board has to consider the impacts of the temple on the community, at these temples, if you can, do they take several days? How many people are coming? What is going on for the celebration of that particular festival?

A. So festivals, the sign two major days, the 8th day and the 10th day. Those are the days, lots of members attempt to go to temple and get blessing and be part of the service. Again, it is not like you have a Christmas mass, where you go at a certain time. Again, there is no set time, as far as like you come and go.

So that doesn't mean that people will come at 5:00 in the morning, like between 9:00 and 8:00 p.m. or whatever time they prefer, so during the daytime they will, at their convenience, they come and go.

MR. GARBER: You said festivals, two major festivals are the 8th and the 10th day.

A. Dashain --

Q. Spell that.

A. D.A.S.H.A.I.N.

Q. So is Dashain sort of the major festival?

A. Yes.

Q. How long does that one last?

A. It is 15 day festival.

Q. When is that during -- I know you said based on the lunar calendar. Is it in the summer or fall or spring?

A. The fall, September, October.

MR. GARBER: Correct me if I am saying it incorrectly, Dashain Festival --

A. That is perfect.

MR. GARBER: What is that celebrating?

A. It's a celebration of victory of God over evil. You can kind of relate to Christmas. It is celebrated -- it is one of the major festivals in Nepal and offices and schools close for 15 days. Some of my religious friends are experts. I may not have that grasp of their religion in me.

MR. GARBER: Okay. Are you going to have other witnesses testify as to --

MR. SCHMIDT: No. I am having him as the main spokesman. He can articulate it better than some of the other folks may. Hopefully, he is understandable. To return then, we can get into further details. Following up on the Chairman's question, so that is a 15 day festival during the fall?

A. Yes.

Q. You indicated the 8th and 10th days are sort of the days that may generate, at least as it relates to this property, more people coming here?

A. That is correct.

Q. How long -- what length of time would someone come here on the 8th or the 10th day? Would they be

there for five hours or thirty minutes or some other period?

A. Typically, about an hour and some may be in and out in 15 minutes. They come and bring the flowers and bring an offering, pray, meditate and go.

Q. Is that the same time frame for people who come on a routine, say weekly basis?

A. Yes.

Q. They would come for an hour or a half hour or so, say prayers, meditate, make an offering and leave?

A. Yeah. On a typical day, there are no major festivals and thinking max, ten to twenty people, not even all at the same time.

Q. Spread out over the day?

A. Yes.

Q. How about the festivals? How many would you anticipate would come to the festival -- first of all, this is a two-part question. First, how many people might come over the entire 15 days or on a daily basis might you have over that entire period?

A. I would say, not all people come all fifteen

days, it is not expected. It is two days that are important for people. At any given time we are talking about 150 to 200 people.

Q. At any one time during a festival?

A. Yes.

Q. How many people you would have there?

A. Yes.

Q. Okay?

MR. GARBER: Can I clarify on that? So no major festivals going on, you can expect ten to twenty people being present at anytime?

A. Sometime maybe not that, but any given time, 15 to 20 people.

MR. GARBER: During a major festival on major days, you can expect up to 150 to 200 people being present at any given time?

A. Correct, yes.

BY MR. SCHMIDT:

Q. So the most you would have there at any one particular snapshot in time, if you said 10:00 a.m. on a particular day would be the 150th or thereabout, as

you said?

A. Yes, in the middle of the day, like 1:00 or 2:00.

Q. Okay. Now, the temple is actually in the building, is that correct?

A. Yes, that is correct.

Q. Would there be any activity outside the building?

A. Usually on the festivals, the prayer takes place inside and the festivities can be outside, people gather around and talk and chat and those things, meet and greet.

Q. Again, you would not have -- the prohibition against alcohol and meat would apply to the entire property not just the building?

A. That is correct.

Q. If you had people outside greeting each other before they went in and prayed, you could not have alcohol or meat there?

A. That is true.

Q. Okay. Just a little bit further about the

property. There is an existing access to the property presently, an existing driveway leading to the old building, is that right?

A. That is right.

Q. That comes in off of what road?

A. Harford Road.

Q. And you have been to the property before?

A. Probably fifty times, maybe close to a hundred.

Q. Have you had any -- we are going to have an expert witness about this, but have you personally had an accident or issues getting in and out of the property?

A. We had no issues getting in and out.

MR. GARBER: You have?

A. We have had no issues getting in and out.

Q. No issues. Have any of your members been involved in any accidents that you are aware of, getting in and out?

A. Not that I know of.

Q. Okay. I am not sure -- I don't think I asked

you this, sir. Let me make sure. You are going to retain the barn, because that is a historic structure, is that correct?

A. Correct. We had an open house a couple of meetings with the neighbors, at one point the Greater Kingsville Association was part of the meeting. We invited and we opened up and said if you want to partner up and salvage this building and help us protect it and the County wants to help us and the State wants to help us. We are all for preserving the history of that barn. If that is important to the neighborhood then that is definitely important to us.

Q. And there's a caretaker building or a cottage, in addition to the primary structure on the property?

A. Yes.

Q. And I think you mentioned that it is possible that a priest or someone may live there to be on the site and take care of the property?

A. Yes.

Q. What are the hours, generally, that someone could come -- would be coming into worship, is it 24

hours or open during certain days and times?

A. I mean practically would be from 8:00 a.m. onward to like 8:00 or 9:00 p.m., practically.

Q. Seven days a week?

A. Yes.

Q. And how many people would you estimate come on a daily basis, is that the 20 or 30?

A. Twenty people.

Q. Does that change on the weekends? Do you have more people on the weekend or less or the same?

A. I would say probably the same, unless people have more time on the weekend and they want to drive by.

Q. I know that the focus here is the temple. Is there going to be any kind of daycare operation associated with this?

A. No day care.

Q. Is there going to be any kind of school, either a preschool or a religious school associated with this?

A. No school.

Q. How about any kind of camp or anything like that? Will there be any -- I know you have the festivals but any type of structured activity like that here?

A. We don't have camps.

Q. You don't have camps, okay. To be clear, sir, the property does not have public water and public sewer, is that right?

A. That is correct.

Q. You have engaged -- I know we will have other witnesses, but you have engaged other people to address the need to have water and sewage facilities in the building and on the property, correct?

A. That is correct.

Q. If you know, just a little bit about the general area, Mr. Ghimire, if you know, are there any other churches or sort of institutional facilities in the area, if you would like, you can refer to the aerial photograph to your right.

A. Yes. Actually, if I may point, right here is the Redeemer School, this one, Redeemer.

MR. GARBER: Where are you pointing?

A. So this is obviously our building.

MR. GARBER: Within the pink outlined area?

A. This is our building here.

MR. GARBER: You are on Petitioner's Exhibit 2.

MR. SCHMIDT: The aerial photograph.

A. This property right here --

MR. GARBER: The area clear to the right of the pink outlined area beyond the woods, that is what you are referring to right now.

A. Yes. So this right here is Redeemer School.

MR. SCHMIDT: Mr. Ghimire, just because our court reporter has to get all of this down and cannot record when you say here or I am pointing to, let me narrow it down.

A. Sure.

Q. The area that is outlined in pink is the subject property where you are proposing to use as a temple, correct?

A. Correct.

Q. Within sort of the center of that, you can see the building. This is an aerial photograph. The main building in the center of the property?

A. Yes, right here.

Q. So it is even clearer, to the rear of the property or the bottom of the page --

A. This is where the barn is.

Q. You can see the barn in an area that looks to be pretty wooded?

A. Correct.

Q. You indicated that Christian Redeemer facility is to the right of the page, is that right?

A. Yes. Basically, we can stand at our property here. We are sitting on top of the hill. You can see this facility here.

MS. DOPKIN: What road is that on?

A. This is Mt. Vista and Harford Road. We are on Harford Road.

MS. DOPKIN: Where is the Redeemer?

A. Mt. Vista, right here. This is Mt. Vista.

MR. GARBER: Can you draw an X as to where the

Redeemer facility is. I understand it may be large but so we have it marked and put your initials underneath the X, Petitioner's Exhibit 2.

BY MR. SCHMIDT:

Q. Mr. Ghimire, let me start with a couple of features on -- if you can stay up there for a second. Redeemer School, or the Redeemer facility, sort of towards the lower right-hand corner of the page, one can see a baseball or a softball field, the outline of a baseball diamond. Is that the Redeemer facility?

A. Yes. So my son -- we looked at this school as one of the possible high schools. I have been there and I know what it is. We almost sent our oldest one here but he wanted to go to a bigger campus so ended up going to John Carroll.

Q. Tell us and point out where it is, what is on the Redeemer Christian Facility property?

A. Right here.

Q. What is actually there? What happens there? Buildings, pools?

A. They have 220 students, according to their

website that go there everyday and plus their parents. All of the extra activities that happen in school as we know as a parent, like baseball, tennis, basketball, you name it. Not only parents drop and pick up but even after school, prior to school and all that traffic.

Q. This is a private Christian School?

A. Yes.

Q. So they have 220 students.

A. That is one, two, three, four houses between us. Our property and this is a school here.

Q. Is the school from what grades, if you know? Is it a high school or middle school?

A. It is for sure a high school. I don't know how low where they start. I was looking at high school. I think it starts grade one through twelve.

Q. In addition to the school and the related facilities, are there other activities that occur on that property, that you know of?

MR. GARBER: Speak one at a time, please. What is your question, Mr. Schmidt?

Q. My question is, in addition to the school, Mr. Ghimire, are there other activities that occur on that property, if you know?

A. As you can see, there is a big corn maze here, this whole -- this area.

Q. You are pointing to a sort of yellowish square and that is a corn maze. Is there a swimming pool on the property?

A. I believe there is, yes. That is -- you know -- I don't know if that is part of Beachmont Camp or part of the Redeemer School but there's a pool and a volleyball and tennis court.

Q. You indicated Beachmont, what are you referring to there?

A. I think they have Christian ministry and offer summer camps and you have a big banner on Mt. Vista and offer services and anyone from any neighborhood can go and be part of the summer camp.

MR. GARBER: Are you saying that is part of Redeemer?

A. I think they are two different entities. They

might be affiliated, related but I think they are two different entities. Beachmont is right behind, right adjacent to Redeemer Christian School. They are expanding here like sports facilities.

MR. GARBER: You keep using they. I am asking, are you talking about Redeemer or Beachmont or both?

A. Redeemer.

MR. GARBER: So they, being Redeemer, you think they are looking to expand to the east, closer to your property?

A. Yes, closer to our property.

MS. DOPKIN: Is there a church or any sort of worship?

A. Yes, it is a church, as well.

MS. DOPKIN: Can you indicate where that is?

A. The church is -- this is the church building right here.

MR. GARBER: Can you circle that, please, and put your initials by the circle.

A. And the schools are behind the church.

MS. DOPKIN: Is there only one church there, is it both Redeemer and Beachmont, only one church?

A. This facility, yes.

MR. SCHMIDT: I have premarked, if I can approach the Board. I will show the witness one and give you the fourth. Mr. Ghimire, I am going to show you a photograph that is a Google Map photograph that has some prelabeling in that. If you can tell the Board what is that showing, sir?

A. So you have Redeemer Classical Christian School and you have Beachmont Christian Camp and Beachmont Christian Ministries, also right next to it.

Q. And that is the accurate uses of those properties, to the best of your knowledge?

A. Best of what I know from the website.

Q. Is your property also shown on this Exhibit, Petitioner's No. 3?

A. Yes.

Q. That is to the left of the page, adjacent to Harford Road?

A. Yes.

Q. I would ask that you mark and accept Petitioner's Exhibit 3.

MR. HOLZER: No objection. We will come back to that later.

BY MR. SCHMIDT:

Q. In addition to Beachmont and the Redeemer Christian, are there any others, if you know, similar schools or churches in the immediate area that are shown on the aerial photograph, if you know?

A. Not immediately here. We know we have a pastor from a nearby church here, that may be testifying, United Methodist Church. I have been to a couple of the other Catholic churches around there, St. John's. So yes, we have a Pastor here also, would be testifying, also from a nearby church that shows on the map. He is from United Methodist Church. I personally been to a couple of the Catholic churches around there, as part of my son's basketball. I cannot really tell you how far they are in relation to our temple, but they are in Glen Arm, in that area.

Q. Mr. Ghimire, you understand you were at the

hearing before Judge Beverungen in this case, correct?

A. Yes.

Q. You have seen his decision, have you not, sir?

A. Yes, I have.

Q. You are aware that both under his decision and under the County Law, you will be required to have your septic and well appropriately approved by the County, access appropriately approved by the State Highway Administration because Harford Road is a State Road and other requirements of Baltimore County. You are aware of that, sir?

A. Yes, correct.

Q. Is the Petitioner, you and your organization, agreeable to that and understand that?

A. That is true.

MR. SCHMIDT: I have no other questions of Mr. Ghimire, at this time.

MS. DOPKIN: I have a couple of questions about your religious practice. It appears that you do not have a set mass as you have identified.

A. No set masses, yes.

MS. DOPKIN: And you have many festival days, do you also have fast days?

A. Fasting, yes. That depends on each family, we base it on the lunar calendar, certain days that fast and could go on for a few days. You don't have to go to temple for that purpose.

MS. DOPKIN: Do people typically go to temple on -- you said you don't have to, but do people typically go on these days that they observe fast, festivals and celebrations?

A. Typically, yes.

MS. DOPKIN: And I got the sense that most prayer is individual?

A. Most prayer is individual. You can say individual family. So if it is a rice feeding ceremony, you bring your family with you.

MS. DOPKIN: In those instances, what is the role of the religious leader?

A. He will, you know, preside over the ceremony and he will read the religious texts related to that particular ceremony he is presiding over. He will read

that over.

MS. DOPKIN: Religious texts are writings of the historic religious figures?

A. You can say Bible. In Hindu is like a Bible.

MS. DOPKIN: Is there generally ever music at any of the prayer events?

A. Just like in the churches, you have a choir. The priest, you know, would kind of -- some priests even read those lines in a kind of musical way.

MS. DOPKIN: A chant?

A. A chant, yes.

MS. DOPKIN: Are instruments used within the temple?

A. There may be one or two instruments used, yes.

MS. DOPKIN: What kind?

A. Harmonium, am I saying it correctly? Like a piano.

MS. DOPKIN: Thank you.

A. You are welcome.

MS. MURPHY: I have questions. Would your temple also be used for things like weddings? Could it

be rented out?

A. Not for the reception, for the religious part of the ceremony where the priest will reside over the services, yes.

Q. How about something similar to say in the Jewish, like a Bar Mitzvah, confirmation?

A. Yes. Bar Mitzvah, I have been to, so not the wild party but the religious part of it, you will have the religious part and the word I say Bratabanda, it is very similar to Bar Mitzvah. The religious part of the ceremony takes place at the temple and the wild party will be at the restaurants and other places.

MS. MURPHY: And the music that you were talking about in answer to the questions just asked, that is only on festival days, do I understand that correctly?

A. Yes.

MS. MURPHY: Okay, thank you.

MR. GARBER: Mr. Holzer, it is your turn.

MR. HOLZER: I am going to be quite awhile and it is 12:00 --

MR. GARBER: When you say quite awhile --

MR. HOLZER: At least an hour or an hour and a half.

MR. GARBER: Why don't we -- an hour and a half to navigate time for a lunch break?

MR. HOLZER: We will leave it up to the Board.

MR. GARBER: Okay, 45 minutes?

MR. HOLZER: Whatever the Board wants.

MR. GARBER: I am trying to figure out for everyone what they need. We will come back at 1:00.

MR. SCHMIDT: Off the record.

(A lunch break was held off the record, and the proceedings were resumed as follows:)

MR. GARBER: Just to remind everyone, if you have your cell phones, turn them off as sometimes they are turned on during the course of lunch. If Mr. Holzer is ready and Madam Court Reporter is ready, you may proceed.

MR. HOLZER: Thank you, very much.

EXAMINATION BY MR. HOLZER:

Q. Mr. Ghimire, you testified and I tried to take

some notes when you were going through your direct testimony, that you created the Cultural Center of Baltimore, the Association that you are now volunteering to, correct?

A. That is correct.

Q. And you said you created it approximately when?

A. The beginning of 2017. The legal entity that was registered.

Q. So last year, 2017?

A. Informally, probably in 2016.

Q. Was that done through a -- created an Article of Incorporation? Did you have to create that?

A. That is correct.

Q. Do you have a copy of that now, with you?

A. We -- Tim, do we have one?

Q. I would like to ask you if you could produce it for me, at this point?

A. I don't have it right now but we can produce one.

Q. Could you do that to my office before -- have

Mr. Schmidt or Mr. Kotrocco send it to my office before the next hearing date which is September 6th?

A. Yes.

Q. Okay. You are the Resident Agent for that corporation?

A. That is correct.

Q. And you say that this proposed site will be the first temple in Baltimore County?

A. That is correct.

Q. Well, you have been functioning as a temple at your business address at 8030 Belair Road, is that not correct?

A. No, that is not correct.

Q. So you were not having --

A. You mean for the temple?

Q. Yes.

A. Yes, get mails over there. I don't know if you call that functioning as a business.

Q. Would people come to your office for potential worship, such as they are proposing for the proposed site?

A. No.

Q. So you only used it as a mail drop?

A. People come to visit me there and meet me there.

Q. Do they pray? Do they pray or participate in religious ceremonies?

A. Sometimes when we have a meeting, there could be an occasion when we pray before we meet.

Q. Okay. Are you still holding those kinds of events at your office?

A. Occasionally, yes, when it is convenient we meet there sometime.

Q. When you answered the direct questions, you did not tell us what business you are in at that address. Could you tell us now?

A. I thought I answered that but I am a Real Estate Broker and I run my Real Estate Company out of 8030 Belair Road.

Q. You have a Real Estate License?

A. That is correct.

Q. How long have you been doing that?

A. On and off, mortgage, real estate, last ten or fifteen years, give or take.

Q. Thank you. I think what might make sense and I told Mr. Kotrocco that I was going to ask you to go to the Board, your Exhibit No. 2 --

A. That would be --

Q. Yes, that is there.

MR. GARBER: The one to the left, the big one, that is No. 1.

MR. SCHMIDT: The site plan.

Q. The site plan. Would the Board prefer I go over there and show him what I am talking about?

MR. GARBER: I don't know what is going to be next. So whatever you think is best and we will adapt.

MR. HOLZER: I will try it this way and then we can move.

Q. Mr. Ghimire, I want to ask you some questions about the things that are listed on the site plan that are -- have been part of your testimony. I will have to go over. I don't want him to get confused. I will stand back here. On your site plan, there is an

entranceway that I would assume that you are currently using to go in and out of the property, is that correct?

A. Correct, yes.

Q. Could you point out which one it is?

A. Right here.

Q. For the record, if you look at Petitioner's Exhibit No. 1, you will see what looks like a Y. It has a circle in the middle that allows you to go left or right, is that correct?

A. Yes, come in from here.

Q. Is it designated an entrance route and an exit route or they are available to use either way?

A. They are available to use either way.

MR. GARBER: You are talking about the existing driveway represented by a dotted line on the right side of the site plan?

MR. HOLZER: Correct.

MR. GARBER: Close to the intersection of Bonaparte Avenue --

MR. HOLZER: And Harford Road.

BY MR. HOLZER:

Q. There is another road designated alternative access drive, which is below the -- what I will call the Y access, is that going to be used, also?

A. Do you mean this road?

Q. Yes.

A. I guess our traffic expert is going to discuss that in detail.

Q. But you don't know the answer?

A. I don't know the answer to that.

Q. So you have not had any discussions with him with regard to whether that could be continued to be an access?

A. We had discussions but I'd rather defer that answer to the expert.

Q. I would like you to answer. If you know, you can answer. If you are saying I don't know --

A. I would say I don't know.

Q. Okay.

MR. GARBER: Just so we are clear, that is a solid line with the notation, alternate access drive

that appears on this -- if we know the direction on it --

MS. DOPKIN: Above your left hand.

MR. GARBER: To the east of the dotted line which is the existing drive.

BY MR. HOLZER:

Q. Was there any testimony below that the Administrative Law Judge, as to whether there would be a road that you would not use?

A. Not to my knowledge.

Q. Are there any other roads off of this property, off of this site?

A. Not off of this road but there is some kind of back road over here. I don't think it has been used in years and not in good condition.

Q. It is not something you intend to utilize?

A. We have no plan to use that road.

Q. Why do you keep looking over at the lawyers?

A. I am not looking at the lawyers.

Q. I was thinking you were trying to tell them. Something. Let's get down to some business here. As I

understand your site plan, the proposed parking and I think you said 38 parking spaces are new, they are not on the property now, right?

A. That is correct.

Q. And if you have one parking space for four seats, do we know how many seats there will be in what you have called the temple?

A. No seats.

Q. No seats?

A. Correct.

Q. No seats anywhere on any of the buildings?

A. There would be no seats on the regular prayer, the way we worship like I described this morning. On the special event, like weddings taking place, we may have temporary chair but we remove after.

Q. When you have those temporary chairs, will there be more than four times 38 people there?

A. No.

Q. If there is an event coming up on July 28th of this year that you have been advertising, since there is no parking space, where are the people going to

park?

MR. SCHMIDT: Objection. We are not here on an event occurring on July 28th. You have already ruled on Mr. Holzer's attempted effort to get an injunction or something out of this Board, as it relates to any events that occur on the property now. It is just not relevant.

MR. GARBER: I will give you some leeway. You may answer the question.

A. So we have a lot of grassy area here where we can park cars like around this grass area, like flat.

MR. GARBER: Just for the record, the area you are referring to is where the proposed parking will be and where the existing drive is, the grassy areas that surround those.

A. To the right of that and where this parking is.

Q. Okay, thank you. In the past when you have had events here, is that what the parking arrangements are that people just park on the grass?

A. That is correct, yes. When we have regular

events, you can see the long driveway loops around, so for 15 or 20 parkings we never had to park on the grass. You can park on the driveway.

Q. Did you ever have two hundred people there?

A. We had one festival last year and we had at one given time --

Q. Two hundred people?

A. We did not count the cars but close to two hundred.

Q. That is where you had to park the vehicles?

A. Here and here.

Q. On the road or on the grass. I would like to go over each facility that is shown on here. Let's take the easy ones first. The existing tennis court, I understand you -- I think you previously said something about volleyball, as well. Is that what -- this area marked as existing tennis court, is that what is going to be used for?

A. There was a tennis court to begin with, so we did not want to take it out. We are going to use what we have. If the kids go there, they can play

volleyball or tennis.

Q. They are doing it now, right?

A. When my sons go there, they play pickup basketball, yes.

Q. Is that going to be enlarged or stay the same?

A. No, it is not going to be enlarged.

Q. Are there going to be any other kinds of athletic fields on the property?

A. No.

Q. No baseball diamonds?

A. No baseball diamond. I'd like to put a golf course but I can't.

Q. If you really want to make friends with me you can put a lacrosse field in there and I would be real happy. Let's go to where the next one is, the existing pool. You said you are going to destroy that?

A. It is unusable now so for safety reasons, we will block it off and do something but it won't be used as a pool.

Q. You are not going to remove it?

A. We will do what is necessary to make it safe.

Q. I don't care whether it is safe or not. I want to know whether or not it is going to be there as a physical entity or whether it is going to be eliminated so that it may become grass or whatever?

A. I am not a contractor so I am not going to give you a technical answer.

Q. You are the person --

A. My kids are going to go there. I want to make it safe for my kids to go there and play.

Q. I understand that and I applaud you for that. My question, though, is not whether your kids are going to be safe or you are going to be safe. I am trying to figure out what physical structure will stay there or will not stay there?

A. The pool will not be there.

Q. Huh?

A. The pool will not be there, swimming pool.

Q. The pool won't be eliminated?

A. The pool will be removed.

Q. I got you. Now next to the pool is an existing shed. What is that of?

A. I think it was used as a bathhouse after the pool.

Q. That is what you referred to as the bathhouse next to the pool?

A. Yes.

Q. And that will stay or?

A. That won't stay.

Q. Will not?

A. Will not stay.

Q. Next to that is a very tiny existing root cellar. You may not know what a root cellar is but it's an existing building facility there. Do you recognize that?

A. Yes.

Q. What is it?

A. I mean it is not being used by anything right now.

Q. I am really worried about or not worried, but I am concerned about what you propose to do if this plan is approved. If your request for a Special Exception is approved for a religious facility. So

would that fit in the plans of the religious facility or the temple, as you call it?

A. The religious activity would be in this main building, so has nothing to do with the swimming pool and the bathhouse.

Q. So there is an existing two story dwelling, what is that now?

A. Caretaker house, not in a liveable condition right now.

Q. Was it literally a house, functioning house?

A. Yes, was not functioning when we bought it.

Q. I understand. Is that a one or two story?

A. Two story.

Q. Do you know how many rooms were in there?

A. I think it has two rooms upstairs and downstairs, I don't know. I want to call it a room. It is the drywall all taken off. It is empty space.

Q. You don't know what the dimensions of that are?

A. Not off the top of my hand -- my head.

Q. That is fine.

A. I did not know my house dimensions.

Q. I understand. I feel your pain. Now in regard to that, that is where you are proposing to have a resident reside there. Can you describe what that person is or what he would be doing?

A. You can say it is like a priest in charge of a regular church, presiding over services when he is not working.

Q. Is he going to be cutting the grass?

A. No.

Q. So he is going to be a religious person?

A. That is correct.

Q. And will he be there all the time?

A. Most likely.

Q. Okay. Where is he now?

A. We don't have working -- we have not started a temple formally, so we have not hired that person yet. We have to go through the interview process.

Q. Does that person -- you are very familiar with the Catholic Church and with the priest situation. Does this person have to go through official training

in regard to Hindu, Buddhist?

A. Yes.

Q. He does?

A. Yes.

Q. He would be certified by some school?

A. I don't know if there is a certification for it but he has to have a Bachelor Degree in religion, called Acharya.

MR. GARBER: Spell that, please.

A. A. C. H. A. R. Y. A, so that would be a minimum requirement to have someone with that designation or degree.

Q. Thank you. If I could, I will be right back. Don't run away.

MR. GARBER: How do you pronounce that?

A. Acharya.

Q. Now, if you would permit me, save me walking back and forth I will leave this here. I did have to get my notes. Now, I understand for purposes of acquiring this property, you obtained a loan, is that correct?

A. That is correct.

Q. And do you know the terms and conditions of that loan?

MR. SCHMIDT: Objection.

MR. HOLZER: No, this is relevant.

MR. SCHMIDT: Maybe you can enlighten us why, Mr. Holzer.

MR. GARBER: Okay.

Q. On page 4 does one of the prohibitions in your loan indicate that you may not have a person residing on the property?

A. I don't recall that.

Q. Well, if I were to tell you to pull out your loan document and go to page 4, it precludes residential use on this property. Now if that is correct, how does that affect your plans?

A. I don't know how that is residential when the priest is working for the temple.

Q. That is a different question. I am asking you, to your knowledge, in regard to your loan, page 4 indicates that you cannot have a residential use of the

property. Did you know that?

MR. SCHMIDT: Objection. I am going to renew my objection, Mr. Garber. They can refinance the loan and they can go to the bank and say it is not residential, it's accessory. I have not seen the document. I don't think this Board can enforce a private loan document.

MR. HOLZER: I am not asking you to enforce a private loan document. I am just asking the witness whether he even understand what he was doing when he bought this property and what limitations there are on the use. I am not asking for the Board to make any decision.

MR. GARBER: My thought here is, I will give you more leeway with this --

MR. HOLZER: I don't need anymore, as long as what he said stands, I don't need anymore.

MR. SCHMIDT: Mr. Holzer, do you have a copy of the loan document, if you are going to reference it or submit it as an exhibit?

MR. HOLZER: I will submit it.

FURTHER EXAMINATION BY MR. HOLZER:

Q. Now let's get to the original home, which is now being called the temple. Do you know the square footage of that building?

A. Roughly five thousand.

Q. Five thousand feet, okay. In terms of floors, how many floors are there?

A. Two floors with a basement.

Q. And when you have been testifying before, you have testified about two places. There were two areas that could be used as offices and there was one main hallway that you felt would be used as a temple, is that right?

A. That is correct.

Q. And will your plans that are drawn up in regard to the use of that area as a temple, will they reflect that limitation that the rest of the second floor will not be used in anyway as the temple?

A. Not as a place of worship but you can use as an office.

Q. The whole second floor could be office. The

other portions of the building, other than the hallway could be office?

A. The main level could be used for actual religious ceremony and services. The upstairs would be more like a back office.

MR. GARBER: Mr. Ghimire, if you'd like to sit down, you can.

MR. HOLZER: There is only one more place I need him to point out and that will be it.

A. I can stand.

Q. The only other building left to describe would be the existing barn and that is shown -- I think you have shown it before?

A. Yes, right here.

Q. You have offered that to someone, the community or whom in regard to preserving it or restoring it?

A. I see Robin over here and Doug Bear -- we have two meetings with Councilman, David Mark. I don't know if Jim Brochin was there, we had a couple of elected officials and Kingsville Association folks there. We

had two meetings and discussed that in detail. We even walked in to see the barn.

Q. Have there been -- in terms of your finalizing that, would you be in a position to tell the Board that they can put a condition on any approval if they approve your request, that that existing barn be either turned over to a trust or turned over to a community association. Have you had any of those discussions?

A. David Mark was suggesting, I think the Kingsville Association was also suggesting those ideas and they never materialized. We are open to discussions.

Q. So again, there is a lot to work out in terms of what conditions the Board might impose on the approval, depending on whether or not it is followed up by you and the community association, right?

A. That is correct.

Q. Suppose you don't turn it over, you don't turn the barn over to the Community Association or to Baltimore County or whatever the deal works out to be. What would you utilize that for?

A. We have no use for it right now.

Q. Right now, but I am talking about in the foreseeable future?

A. I don't foresee any plan in 20 years in anything that we are going to do. We don't have any plans for it.

Q. Okay. You can sit down.

A. Thank you.

Q. I have asked you to produce the Articles of Incorporation and you said you would through counsel.

A. Yes.

Q. I would also ask you to produce the loan document, since it is a public document anyway. We have that but I just don't have it here. Could you produce that for purposes of the Board to see?

A. If it is relevant. I will consult with my attorneys -- coming from finance and real estate background, I feel like how is it relevant? People can get a loan from anybody as long as --

Q. It is relevant because it says you cannot have a resident on there.

MR. GARBER: You are well aware we are not going to enter a discovery order or anything --

MR. HOLZER: I am asking him to provide it to us, if he refuses, he refuses.

MR. SCHMIDT: I have objected to this line of questioning. If it's a public document, I guess Mr. Holzer can get it as easily as I can from the Land Records, assuming it is a recorded mortgage in the Land Records. I will certainly ask to get it from the client and review it with the client and Mr. Kotrocco and if we believe it is appropriate, I will let you know and if not, I will tell you that, too. I don't think it has anything to do with this proceeding.

MR. HOLZER: It does have something to do with it if you have a residential building that they are proposing to use as a priest or temple or whatever they are proposing have live there. I won't press it anymore. As a matter of fact, I will gratuiously send them a copy of it.

MR. SCHMIDT: Great, thank you.

MR. GARBER: You are welcome.

BY MR. HOLZER:

Q. Now let'S see if I have some notes. Now your testimony was that as far as the main building, you are not going to change the exterior, is that correct, or you will?

A. No, we are not going to change the exterior.

Q. As far as your current plans, that doesn't mean in the future you couldn't decide to do something different, but you are not building any new temple, any new structure or any new buildings other than what we've described on Petitioner's Exhibit No. 1?

A. You are correct, no new buildings.

Q. In the future, would there be sufficient area for you to build a school or for you to build a dormitory for campers or things like that?

A. We have no plan to build a school.

Q. I did not ask you whether you had plans. I asked you whether or not there was sufficient area in your opinion to do that?

MR. SCHMIDT: I will object. Mr. Motsco, who drew the plan, is going to testify and maybe that is a

fair question to him in terms of what are the setbacks and floor area ratios that might guide whether you have sufficient room. To the extent this witness is able to answer that question from a nonengineering standpoint, it is 31 acres and the conclusion is that it is a pretty big property.

MR. HOLZER: That answers the question, instead of the witness.

MR. SCHMIDT: I think it does. I will stipulate that it is 31 acres.

BY MR. HOLZER:

Q. Now if for some reason things change and in fact a residence is permitted on that property, regardless of the loan documents or regardless of any County Zoning Laws, would it be in the site that you have proposed and designated in that building?

A. Yes.

Q. That building would not be enlarged?

A. No.

MR. GARBER: To be clear, when we are talking about that building, we are talking about the two-story

dwelling we have identified as the caretaker house?

A. Yes.

MR. GARBER: That may or may not have a caretaker?

MR. HOLZER: Right.

A. Yes.

Q. Now the area in the main hall where 80 to 100 people could assemble to provide religious service or religious activity, what distinguishes that? I am glad that you testified that you are familiar with the Catholic Church and your children go to Catholic School. In a Christian Church you have crosses and an altar and you have, depending on what it is, you may have a communion area to take communion. You have an organ or a piano. You have an area for the choir or the orchestra, whatever the case may be. What will be in this area if this is approved?

A. Let me expand on what I said earlier about how the setup is going to be. The official symbol is going to be in the hallways that is the statues of deities, like different Gods. You have a low platform and the

statue of God, like human size Gods will be placed like around the room. So the devotees, the people that come to temple, they will start from one statue all the way to the end to pray, offer and meditate and next statue and leave. That is how it is going to be -- that is how the hall is going to be differentiated from other rooms as a place of worship.

Q. So are you saying there would not be permanent pews like we have here in this courtroom?

A. No.

Q. No seats, no chairs?

A. We may have a few chairs lined up against the wall, like the chairs you see over there. Again, it is not required for what we intend to do.

Q. Okay. You said that there could be music and/or choir or some instruments. Would there be a place for them? In other words, in many church facilities, there can be a choir area for the people to sing and organ for the music. Would there be anything like that located here?

A. Not officially, no.

Q. Could I ask you just a personal question, is there any temple that I could go and visit to see what -- and I don't want to go see something that is very elaborate that is not what you are going to do. I would like to see something that is an example of what you are going to do. Is there any place I could go do that?

A. You could go to the one in Catonsville, Hare Krsna Temple, that would be a little more elaborate than us. The community that uses it is maybe twenty or fifty times bigger than the Nepal Community. They have been here long and have more people, so what you are going to see is bigger than what we intend to do.

Q. It would be sort of reflective?

A. You would see how the worship is done. When you walk in the main hall, you would not see any chairs and people, you know, meditate.

Q. And let me say this, I wouldn't want to offend anybody by going in and seeing that but is there something where a member of the public, who is not of your religion, could walk in and see it at anytime?

Are there specific times that you should go see it?

A. I don't know their hours of operation. I am pretty confident you can walk in anytime. It is an open door to the public.

MR. SCHMIDT: You have to remove your shoes, as I recall, correct?

A. Yes. Make sure you remove your shoes.

MR. HOLZER: Mr. Schmidt cannot go.

MR. SCHMIDT: Remove your boot.

Q. Thank you very much for that. I appreciate that.

A. You are welcome.

MR. GARBER: Sorry, I thought you were done there.

MR. HOLZER: I am done there. I am rolling onto something else.

Q. Now, I got mixed-up in trying to take notes of the festivals. As I understand it, there are three to five major festivals, Lights, Buddha's Birthday, 8th day, 10th day and Dashain Festival?

A. Dashain is the 10th day and they are the same.

Dashain literally means the 10th day.

Q. Gotcha. Those dates correspond to what months?

A. Even the month changes for Dashain, it could be September or October.

Q. What is about the Lights, Buddha's Birthday --

A. That follows 21 days after Dashain.

Q. Buddha's Birthday is 21 --

A. That is the Festival of Lights.

Q. And his birthday?

A. That is in April.

Q. Thank you.

A. You are welcome.

Q. Now, when I say we, I am not sure who I am referring to. I belong to an Episcopal Church and in the Episcopal Church that I belong to, we have a cemetery next to our church. Now is there any anticipation that a burial ground would be proposed for this site?

A. Good question. In Hinduism -- I meant to say that you asked a good question. We don't have -- we

don't have a burial ground, we cremate. So cremation happens where there is a facility, so Hindus cremate.

Q. So that would -- so that would spur me to ask if one of your religion passes away, would you have a religious service, what we would call a funeral, religious funeral? Would you have something like that where the family and friends get together?

A. Not at the temple. So easily, the body -- the cremation happens within 24 hours.

Q. So there is no religious --

A. I mean if you are trying to compare that to Christianity, a viewing that takes place, that does not happen.

Q. Okay, thanks. Can you explain the difference between major festivals and minor festivals?

A. That is another good question. It depends on who you ask. If you are Buddhist, the birthday of Buddha was on my top list. If I am Hindu, Dashain on my top list. The same with Christianity. I think my wife would be very big on Easter and anything that has a more religious meaning than -- maybe Christmas. So

it's -- Dashain is the biggest festival celebrated in Nepal but it is personal preference.

Q. That is what I gathered from prior testimony. That really was the bigger event, in terms of the collective folks getting together?

A. That is correct.

Q. And when you say a minor festival, a minor festival could be what? Is it me just having a birthday or me being --

A. Minor festival would be, a good example would be holi celebration. I don't know how many have seen, like the festival of colors, H. O. L. I.

MR. GARBER: S. O. L --

A. H. O. L. I.

MR. SCHMIDT: Like the word H. O. L. Y., spelled with an I instead of Y.

A. That is not really a religious festival, that is more like a tradition, cultural festival, more celebrated in India than Nepal. That may not take place at the temple because it is not the kind of religious festival. I would consider minor, not

directly related to temple or religious activities.

Q. Is the event that is coming up at the end of July, is that a religious festival or is it a fundraiser?

A. A fundraiser.

Q. So it has nothing to do with -- well, it does have something to do with religion but it means you are trying to get people to contribute to the proposal?

A. That is correct.

MR. GARBER: Can I jump in? You mentioned, and if I am not saying it correct, do correct me. Holi, you said it is not only religious but more like a cultural festival. Can you think of a minor festival that is a religious festival that would be celebrated at the proposed temple?

A. Bartanada, like --

MR. GARBER: Like you've already discussed?

A. Yes, would be minor and rice feeding ceremony would be another one.

MS. DOPKIN: Are there festivals to celebrate birthdays or deaths of the deities who were not major

deities?

A. Yes, the Hare Krsna Temple, gave names for groups of people who pray to a specific God, like Krsna being one of them and they sometimes pray to that particular God. If that is the birthday of Krsna, 8th day, and people who believe in that particular God, they would be more inclined to come to the temple on that day and other people might have worship -- if they worship additional or other Gods and some may worship all of them.

MR. GARBER: I am sorry?

A. Some may worship all the Gods.

MS. DOPKIN: I have another. Are these holidays based on your Bible or your writings, the teachings?

A. There is a calendar that -- we use that in India, Nepal and we go by the calendar dates and the calendar, yes.

MS. DOPKIN: Thank you.

BY MR. HOLZER:

Q. Did you already celebrate Holi, H.O.L.I, last

year at the temple on this site?

A. That was -- yes, not this year, last year.

Q. In 2017?

A. Yes.

Q. And how many people celebrated that, if you recall?

A. I don't have an exact count, close to two hundred, I think.

Q. Okay. I want to be careful how I say this. A lot of Christians and Jewish folks don't go to services every week, as I think Mr. Kotrocco may have said. When you said -- how often do the members of your group, how often would they be coming to the site to go to the temple?

A. Until I was involved with this temple, I was going to the temple once a year.

Q. So you are no different than the Catholic or Protestant or Jewish person?

A. I hope to go at least twice a month, once it is all done and ready.

Q. Now, you said members have a temple in their

home. Could you explain that? Is that a reason why you don't have to go every week on a Sunday or Saturday morning or Wednesday morning or whatever?

A. We have statues of Gods, just like you have a cross, in a bigger -- physically bigger statues at homes and in very sacred areas. You cannot really -- you have to take your shoes off and show respect. You go there to meditate and pray. Those areas and people who have houses with bigger, more rooms. They designate one particular room as a prayer room, with a statue and everything. People who don't have the luxury of doing that, may have a small area in the living room, somewhere where they have Statues of Gods.

Q. That raises a question, though, does that mean that this hall area would be described as the religious area, as opposed to the whole house? In other words -- in other words, you could have a church that has the religious area to it and then you could have part of the church, which has other activities, whether it be an office or whatever. Are you going to define the temple as the -- I will call it the main hallway that

you talked about?

MR. SCHMIDT: Objection to the extent, and maybe the witness can explain, Mr. Holzer, are you suggesting that they rent out offices to a law office or something?

MR. HOLZER: No. I was just asking him in a church, in a Christian Church, you could have the area of the altar and then you could have an area of offices that relate to --

MR. SCHMIDT: Like in my church, the minister has an office and the choir director has an office and there are other spaces, all related to the religious use.

MR. HOLZER: I understand. The actual temple, would that, in your religious perspective, would that be the hallway where all of these monuments will be and where the people will come and view, as sort of like the holy area?

A. That is correct, but let's say if you have two families that happen to have rice feeding ceremony at the same time, you have a worship place and they could

use another room in the main level. The whole building, I mean it would be considered a temple, a sacred place.

Q. Even the second floor?

A. The whole building, yes, but second floor -- another indication with the religion is you are not supposed to step over a God. You cannot really have a place of worship here and so for technical reasons, we will use the main level for a place of worship where people come and go, upstairs more like office use.

Q. Thank you. I hope I did not ask you this. I asked you about funerals, what about weddings? Do you have weddings? Now, not the party boozy type with food but the religious service, would you have weddings at the temple?

A. Yes.

Q. And who would preside over that?

A. The priest.

Q. If you have one, but you don't have one now, so how do you do it now? Who presides?

A. We have a priest here, not working for the

temple. We have three or four priests that travel to people's houses and do prayer. We could utilize them if needed in the future. If we start a temple in a few months, we'd start with a temporary priest and hire a permanent one.

Q. So what you are really saying is that the temple will be utilized for religious purposes only. If you want to have a wedding reception and if you want to have a rice feeding --

A. Rice feeding ceremony --

Q. If you want to have -- you may not want to have a funeral now, but if you want to have those parties, I will say parties with food and beverage and good fellowship, getting together, that would be someplace else other than this site?

A. Wedding, the reception would take place somewhere else, like at the restaurant and hotels, Martin's West, those places.

Q. Okay. Do you know how many folks you are expecting to be out there on July 28th?

A. I don't have the exact number.

Q. Did you advertise this in foreign countries, Nepal, for example?

A. If you put it on the internet, it reaches every corner. I don't know how to put a limitation on it.

Q. Do you expect people out of Baltimore County or the State of Maryland?

A. We have families all over the State. There might be a few families coming from Gaithersburg or Columbia.

Q. Have you advised them of the road situation so that there are no potential problems with the road?

MR. GARBER: Whose ever phone that is, please turn that off. Thank you.

Q. Have you advised any potential people who you have advertised this event to, about how to get there and how the road system is?

MR. SCHMIDT: Objection, as if we are going to back to this event on July 28th again.

MR. GARBER: Sustain the objection. I don't think we need to get into the specifics of July 28th.

I think I understand your ultimate point --

MR. HOLZER: I am very concerned that someone might get hurt out there from a traffic standpoint, as shown on one of the exhibits and that doesn't mean just the neighbors, that means the people that are coming.

BY MR. HOLZER:

Q. Let me ask you this, in regard to -- is there a lock on the gate right now?

A. There is.

Q. And I presume that was placed there to keep people from coming onto the property?

A. Yes, that is true.

Q. Once this facility, if it is approved as a religious institution, will there be a gate there and will it ever be locked?

A. No lock. If we have a caretaker, someone living in the property, I don't see a reason why we have to lock it. Now, there is no one there.

Q. What if you can't have -- on the for instance, if you cannot have a caretaker or you cannot find someone that lives there 24 hours a day, would you then

have it open from 8:00 a.m. in the morning to 10:00 at night or what?

A. Practically, I think 8:00 to 8:00 p.m. I have to look at the hours of operation.

Q. Now you are not going to have a gate on there, so anybody can go in?

A. Yes. Once it is operational, anyone can come, you can come.

Q. I might take you up on that. I did that with the Jewish Community Center, so I will gladly do it with you. I asked you about -- there is not going to be a school, but is there going to be organized sports there, such as soccer games and baseball games?

A. There is no place to play a soccer game there. It is flat but not flat enough, no soccer games.

Q. So basketball and tennis?

A. Basketball, there is one hoop, you can only play pickup basketball with the kids.

Q. And tennis?

A. I play tennis, personally. So the court, I go to play and I go to the public school, it has better

conditions, multiple courts. I don't go to the temple to play tennis.

Q. I like to play tennis, too. Maybe we should have a match.

MR. SCHMIDT: We will decide the case based on the match.

A. That would be easy for me.

MR. HOLZER: I will bet on him, too.

Q. Right now on the site, you don't have any water, right? No potable water, no well?

A. That is correct.

Q. And right now, there are no sewer facilities, no septic system?

A. That is correct.

Q. You don't have any way of anyone going on there and currently being able to either drink water or go to the bathroom?

A. That is correct.

Q. You said in response to one of the Board Members something about, there could be a choir there and a piano for music. Are those the only instruments?

A. That is a part of the religious ceremony. If you get a chance to go up to Hare Krsna Temple having a prayer, they have little piano and the priest can play while he is reading the text.

Q. Up there, would he -- will he be there all the time?

A. They have multiple priests. I am sure one would be there.

Q. Okay. Now, would any of your services -- let's assume for the moment that this is granted, you have the temple. Would any of the services that you would have or any of the outdoor events have speakers and loud speakers and microphones, et cetera, for amplification?

A. No, not like rock music concerts, but the priest could speak with the small microphone, something practical.

Q. You remember that the Administrative Law Judge, in his decision, prohibited or precluded as a condition, outside amplification, is that right?

A. For the music and concert type events, yes.

Q. Do you interpret there is a difference between amplification of music and amplification of someone talking?

A. Yes.

Q. So it's all right to have amplified speakers for a person speaking, but it is not all right to have amplification for music being played?

A. If you have a big concert and a mega star coming in and screaming on the microphone, that would be different from a priest presiding over services, that would be very different.

Q. I am just trying to find out what you understand is permitted and what is not permitted under the Administrative Law Judge's decision, in granting you the Special Exception. The last thing that you want or the community wants is to have people complaining about each other, that is why I am asking you the questions now, so we can understand specifically how you interpret the Administrative Law Judge's decision. That was the only reason I asked you.

MR. SCHMIDT: Objection to the extent that -- obviously, we are before the Board. You all may incorporate a similar condition, you may change it or you may do something different. So what the ALJ did, I think the witness said he believes they cannot have outdoor music. He thinks a priest talking into a microphone at a service is okay. It doesn't matter because this Board is going to do what this Board is going to do.

MR. HOLZER: I understood that completely, that is why I asked the question.

MR. GARBER: You want his understanding what has been allowed of the ALJ --

MR. SCHMIDT: I think he has answered that.

MR. GARBER: I think he has answered it, too. Move on from that.

MR. HOLZER: I am getting close, almost, close.

MR. GARBER: It's quite all right.

MR. HOLZER: Let me take a look at these.

MR. GARBER: While you are doing that, Madam

Court Reporter, are you doing okay?

THE REPORTER: Yes, thank you.

BY MR. HOLZER:

Q. Would you be planning to have, similar, quote, "fundraisers that you just testified to once the temple is functioning and open?"

A. If you cannot keep coming back here for appeal and we don't need the money for paying the attorneys, we probably don't have to do any fundraisers.

Q. Guess what?

A. What?

Q. I think you better have more fundraisers. These guys are really expensive. They all know it, too.

MR. SCHMIDT: You pay for quality, you get quality.

MR. HOLZER: Are we finished having jokes?

MR. SCHMIDT: I think so.

MR. GARBER: Open mic starts.

BY MR. HOLZER:

Q. This may sound like a strange question but

maybe it is not so strange. What is your plan as a property owner, if this request to have it as a Special Exception for a temple is denied?

A. We have no plans right now. We are hoping that it stays. So it is a dream of many people here from generation -- if I may expand on that for one second, if I could?

Q. Sure.

A. I, along with many people here, come from a country that was torn apart by Civil War in the '90s. The Maoist, the communist group, ransacked the religious institution. People did not have freedom to pray and worship the way they wanted to worship. These people, along with my family are here, believing this country would give us the opportunity to do what we intend to do. Thinking -- even having a slight thought of not having that opportunity, it is mind-boggling. I hope and I intend to fight to the last second to have that right, to have a place of worship for my community, for myself and people who have come from what they have seen back home. More than ten thousand

people lost their life. The insurgents lasted over ten years, many of these people come from that generation and me too, included in there.

Q. I can respond to that and simply say this is not a question of denying you the ability to have your freedom of religion and the freedom to worship wherever you'd like. The question becomes is it an appropriate location that you picked and does that negatively impact the community. This does not have nothing to do with you being denied any religious freedom whatsoever. I will be the first to stand up on your side and I did when I was in the Army.

We have a right to freedom of religion here and I respect what you just said.

A. This country was founded upon.

Q. Exactly right. Now let me say this, I am trying to save you some questions.

A. Great. I like -- I take you up on tennis.

MR. GARBER: Spell your first name.

A. K. R. I. S.

MR. GARBER: I saw your name spelled and that

was not made clear at the beginning.

MR. HOLZER: No further questions.

FURTHER EXAMINATION BY MR. SCHMIDT:

Q. Just a couple. I want to clear up the record. You indicated, sir, that the chairs that are in the room that is used for prayers, I think you referred to some chairs in this courtroom.

A. That is right.

Q. They are sort of freestanding chairs, not pews attached?

A. Foldable chairs.

Q. Okay. Also, when you had an event on the property around the time of the Holi Festival, was that a fundraising event?

A. Everything we have done up to this point is all about raising funds to build and buy the property and to maintain the property and the legal and processing costs. It has always been the goal of the fundraiser.

Q. That is the nature of the events you have had out there?

A. That is correct.

MR. SCHMIDT: No further questions.

MR. GARBER: Mr. Ghirmire, you may step down.

A. Thank you, sir.

MR. GARBER: Mr. Schmidt, it is 2:15, the thought is probably maybe aim towards 4:00. I don't know what that means in terms of your presentation for today?

MR. SCHMIDT: What I would suggest, I have mentioned this to Mr. Holzer at the lunch break. I was going to call Mr. Motsco, he is the civil engineer but he is not going to get done. To tell you the truth, I don't want to have a witness in mid testimony from now until September.

MR. GARBER: That is best for us, too.

MR. SCHMIDT: I have two witnesses, I am aware of, who are residents who I think wanted to testify they are supportive of the use or people in the area. I would propose calling them. There might be others, I am unaware of. I think they would be pretty short.

MR. GARBER: Okay.

MR. HOLZER: I asked my witnesses if anyone could not come back and they all can come back. I have no one.

MR. SCHMIDT: I will call Ida Twining.

(The witness was sworn in by the court reporter.)

THE REPORTER: Can you please state and spell your name and give your home address?

A. My name is Ida, I.D.A, Thompson, T. H. O. M. P. S. O. N, Twining, T. W. I. N. I. N. G. I live at 11511 Harford Road, Glen Arm, Maryland 20157.

MR. SCHMIDT: Ms. Twining, keep your voice up for the court reporter and we have a big room here.

A. Okay.

Q. You indicated you live on Harford Road, is that correct?

A. I do. I live about a mile and a half south of the property that was the Old Bonaparte property.

Q. Which is the subject property here today?

A. Uh-huh.

Q. How long have you lived at your current

address?

A. The Twining Family has lived on that land for over two hundred years. My husband and I live there. I am from North Carolina and I have lived there for 35 years.

Q. The Twining Family has owned that property?

A. Yes.

Q. What does the Twining family do there?

A. Over the years, they have done everything. They have raised row crops and cattle and a little bit of everything, through generations. Now we are down to -- the kids don't stay home and the old people are dying off. We are down to mostly we are all retired and we raise hay and do a lot of gardening.

Q. How big is your property?

A. All and all, it is five separate families. Personally, my husband and I have 25 acres. It is part of 110 acre piece that is ultimately part of -- how much --

Q. You cannot ask anyone else.

A. I have a cousin that knows all the numbers --

several hundred acres.

Q. In so far as, you are familiar with the proposal?

A. Absolutely, yes.

Q. You have been here today and listened to the testimony at this point?

A. Yes.

Q. Did you attend the hearing before Mr. Beverungen, as well?

A. No, I did not.

Q. We have been talking about fundraising. Have you been solicited, in terms of fundraising in connection with this case?

A. I have. I got a card asking for money to fight the facility.

Q. And who was that from?

A. It came from Mr. Holzer and the Gunpowder Falls Watershed Preservation Association.

Q. What is your position on the proposed Special Exception here?

A. We went up when they had an open house. We

went up and met everybody. We have seen this property over the years. It was abandoned --

Q. How long ago?

A. It seems like as long as I have lived there. I know people have come and gone. We had been up there probably several years ago. There was talk of the property being for sale. My husband is a builder. We drove up and it was completely grown up. So we did not go in the house. It was just very grown up and ramshackle looking. We did go up when the community had -- they had an open house. I cannot tell you exactly when it was. After we had gotten the first solicitation for money because this is the second one.

They had an open house and we went up to see what their plans were. At that time, the property was partially cleared. We are farmers, we know what happens to land when you don't maintain it. The house had graffiti all over the inside of it. It looked like it had been a phenomenal place at some point. Now it was just really -- it looked like it had been really abused. There were -- what struck me was, I did walk

down to the pool, the pool area. What really struck me was behind several bushes, where it was not real visible were mountains of plastic bags filled with beer cans and all sorts of trash where they had been cleaning the property.

We can see when we turn off Harford Road and start up Sharon Drive, we can see the house sitting up there on the hill. We are very happy that the family that owned the property was able to find someone to buy it. It is not an appropriate piece of land for farming. I don't believe the house and the land has ever been farmed. It is very sloping. I don't think you can buy it and pay a mortgage and farm it. It seems to me to be a piece of property that is uniquely suited to be the kind of community, slash, worship center that these folks are looking at. We are happy to welcome them to our community.

Q. In so far as the traffic, are you familiar where the entrance to the property is?

A. Oh yeah. I have lived on Harford Road as long as I have been there. I was on a farm across the road

that belonged to us for awhile and that was a nightmare driveway getting out onto Harford Road. That is very far south of the facility. I always felt -- there are curves, Hutschenreuter Road, there are dangerous -- Harford Road is not a very safe road, period. There is increased traffic because there are a lot more people living out there than just the farmers we have always had.

I have always seen the entranceway to this piece of property as very safe. I have often missed a turn somewhere or remembered something I needed to do and I would go up there and pull in because it is a wide V, pull in and turn around and back in and get myself set to see to pull back out. I always seen it as a fairly safe entrance on Harford Road. I have not -- I am not a traffic -- I don't want Mr. Holzer questioning me on my traffic engineering skills because I don't have any.

Q. You've heard some testimony -- you have been here this morning and heard testimony from the representative of the congregation and you heard him

talk about the Christian facility nearby, the Redeemer, are you familiar with that facility?

A. My children are 37 and 38. When they were young, they went to Beachmont Camp, that was our experience with that. They went to Beachmont Camp, which -- I knew there was a church and the summer camp. Somewhere in recent years and I have no idea when, the Redeemer apparently became a much larger place. There are soccer fields and sporting events that go on there. There is a private school there where I have actually been caught in the traffic. Where people -- apparently over two hundred kids and their families are serviced there a day. Nobody ever came to us. Nobody ever sent out a note saying please send money so we can hire lawyers to fight this facility. We wouldn't have because we consider the people at the Redeemer good neighbors. We don't have any objection. We feel within the bounds of the Zoning Laws, if people are meeting their obligations and they are doing what Baltimore County says they need to do, they have a right to do what they need to on their own land as long

as it is not going against the law. We would not have objected to that and we don't object to this.

The only reason I am speaking is because there are all of these people that give you the impression that everybody in Glen Arm and Long Green Valley is opposed to this. We have five families on our farm and we are not opposed to it. We welcome them. We welcome the diversity in our community. We welcome the new perspective in our community. We think they can be good neighbors and we'd love to see everyone embrace them as new neighbors and try to help them. If there are issues that people have, maybe we can all work together and make this work.

The people at Glenmont, whatever the summer camp was and the Redeemer School, they are good community members. Everyone seems to work together. It would be really nice if we can do the same thing with the Nepali American Cultural Center.

I personally have been studying other religions and other cultures my whole life. I drive to Northern Parkway to meditate and take classes in

Buddhism at a temple there. So for me, it is two miles away. It would make me happy to go up there and meditate occasionally.

Q. Did you bring the mailer that you received?

A. Yes, I did. This was the second. The first one I think we threw away.

Q. Since I am referring to that, I am going to ask if I can and I will get you a copy --

MR. HOLZER: No objection to that.

Q. I will mark this -- it's the only copy I have, since it has been referred to in the testimony, I would ask this to be marked as Petitioner's Exhibit No. 4. This, Ma'am, is the envelope that I got addressed to Roland Twining?

A. That is my husband.

Q. This is the second one of these solicitations that you received?

A. Yes, the second. The first one we got was about a meeting at the fire hall that was going to happen and my niece went and several people went. That specifically, I believe, made a suggestion of a hundred

dollar contribution. I threw that one away. I am not sure about that. This one just came, I guess a couple of weeks ago. So I hung onto it.

MR. SCHMIDT: Thank you, Ma'am. I don't have any further questions. We will offer that.

MR. HOLZER: I have no objection to that being offered because if I did have an objection, it would be something that citizens are not entitled to have their own opinion or are not entitled to ask to defend their own community and their own properties. I think that would be outrageous if a negative aspect is viewed to that letter. I want that on the record.

MR. GARBER: Ms. Twining, look at Exhibit 2, the color overhead map. Do you or can you pick out your property on that map?

A. I am not sure we are actually on here -- what is that? Does anyone know what this road is, right here?

MR. GARBER: I cannot see it --

A. It just says road. I am sure that is not -- we are -- when you leave the property and you go left,

you pass Hutschenreuter Road on the left, you go down through the Valley and we are the next street to the left, Sharon Drive. We are at the very end of Sharon Drive. Our address is 11511 Harford Road, we wrap around back to it. We enter Sharon Drive. We are off the picture, down there in the border.

MR. GARBER: So you think you are down the bottom, towards the left, following Harford Road. The very bottom of what is Petitioner's Exhibit 2?

MR. HOLZER: Objection. That is not what she said. She said she is off of that exhibit.

MR. GARBER: Did I say toward?

MR. HOLZER: You said off the bottom -- she is below the picture. Off the picture --

MR. MURPHY: I overrule your objection.

MR. GARBER: Just to clarify, you don't know where it is in relationship on that map, correct?

A. It is down there. It is not there --

MR. SCHMIDT: Just to help, it is about 7:00, if we looked at that as a clock face.

MR. HOLZER: She just said it is off of the

picture --

MR. SCHMIDT: In that direction --

MR. HOLZER: I don't care what direction it is, it is off of the picture.

MR. GARBER: I believe she already testified as to the mileage between her property --

MR. HOLZER: Mile and a half south.

MR. GARBER: I don't think we need to be worried about where it is. I was asking can she find it on that map and the answer I heard was she cannot.

A. It is not on there.

MR. HOLZER: Thank you.

MR. SCHMIDT: Is that it?

MR. HOLZER: Are you finished?

MR. SCHMIDT: I am done.

MR. HOLZER: No questions.

MR. GARBER: Thank you, Ms. Twining.

MR. SCHMIDT: I have someone else, Pastor Daniel Montague.

(The witness was sworn in by the court reporter.)

THE REPORTER: Please state and spell your name and state your address.

A. I am Daniel Montague, spelled D. A. N. I. E. L, Montague, M. O. N. T. A. G. U. E. I live at 12828 Fork Road, Fork, Maryland 21051.

MR. GARBER: 128 --

A. 28.

MR. GARBER: What is the name of the road?

A. Fork Road.

EXAMINATION BY MR. SCHMIDT:

Q. Pastor Montague, as I understand it, you are a Pastor with the United Methodist Church?

A. Yes, I am.

Q. In terms of geographically, which church or churches are you associated with?

A. I lead two churches, Fork United Methodist Church, which is next door to my home and the Waugh United Methodist Church which is on Long Green Pike.

Q. If you could tell the Board, how far away are those two churches from this property?

A. Between the two churches is where this

property lies and there is 4.3 miles between the two, I drive the distance, so approximately two miles away.

Q. How long have you been at your address in Fork?

A. A year and three weeks.

Q. Are you familiar with the subject property? Have you ever been to this property?

A. I have. I went to the open house and before this hearing I was asked to come and meet with the leadership and talk about if I would testify and so forth.

Q. And I am going to ask you simply, are you here in support of the proposal or opposed to the proposal?

A. I am in support of the proposal.

Q. Can you tell the Board why.

A. Well, it seems to me that our country is founded on religious freedom, escaping tyranny of government restricting religion and to me, there is no reason why this facility could not house a place of worship.

Q. Do you have any concerns regarding traffic or

the use of the property or environmentally or any other concerns you have had or brought to the attention of the property owners?

A. Like Ms. Twining said, I am not a traffic engineer but I do not have any particular concerns about that. I think that there are probably some adaptations that need to be made to the entranceway. I don't know what those would be.

Q. How big -- if you can tell us, for both of the church properties, how big are the church properties that you minister to?

A. Both have buildings on them with parking lots and cemeteries. So there are multiple acres but not nearly the size of this facility.

Q. Do either of them have schools or daycare operations?

A. We do not. Our churches generally sit empty during the week and only have people in them on Sundays. Sometimes meetings during the weekdays but for the most part it is empty.

Q. Do both of the churches have cemeteries?

A. They do.

MR. SCHMIDT: Thank you, sir. I don't have any other questions.

MR. HOLZER: No questions.

MS. DOPKIN: How large are the congregations in each of your churches? How many people attend services?

A. Fork United Methodist Church has an average of worship attendants of about 75. The Waugh United Methodist Church has an average of 24.

MS. DOPKIN: That is on Sunday morning?

A. It is.

MS. DOPKIN: Thank you.

MR. SCHMIDT: To follow-up.

Q. Do you have multiple services or single services?

A. One service at each church on each Sunday.

Q. And obviously, these are of the Christian denomination so they are what we might call a traditional worship schedule of services on a Sunday morning?

A. Yes. We have people that come every week and we have people who come once a month and once a year and some that call themselves United Methodists and have never been there and I never met them.

Q. You sound like my minister. So the record is clear, what time are the services on Sunday morning?

A. 9:30 and 11:00.

MR. SCHMIDT: Thank you, sir. I don't have any other questions.

MR. HOLZER: No questions.

MR. GARBER: Thank you, sir. You may step down.

MR. SCHMIDT: I do not believe we have anybody else. The other folks are representatives -- members of the congregation, it would be duplicative.

MR. GARBER: My intent is to keep going. I don't know where that leaves us. What other witnesses do you have that you can put on?

MR. SCHMIDT: I have Mr. Motsco here --

MR. GARBER: Can we discuss anybody else?

MR. SCHMIDT: I don't have anyone else from

the church. Maybe give me five minutes.

MR. GARBER: Let's take a recess, ten minutes and then figure out where you are.

MR. SCHMIDT: Obviously, too, I think Mr. Holzer said it wouldn't be necessary but if there is someone who cannot come back and they want to go out of order, I don't have a problem with that.

MR. GARBER: We already established that is not the case. Let's try to accommodate since we are here and have the time to get through as many as possible. Thank you.

(A brief recess was held off the record, and the proceedings were resumed as follows:)

MR. SCHMIDT: I will have one more witness, a gentleman asked for an opportunity to speak. He is a member of the Nepali Community Center.

MR. GARBER: How long do you think your expert witness will take on direct?

MR. SCHMIDT: Well, I would guess -- there are some exhibits I am looking through. There we have photographs and other exhibits, at least an hour or an

hour and a half.

MR. GARBER: That would be about an hour and a half.

MR. HOLZER: I would probably be at least an hour or hour and a half. Does it make sense to get done that witness today?

MR. SCHMIDT: I mean I have sat through enough of these over the years that it just takes a long time. I can sit here as long as the Board likes. Does the Board want to sit until 5:00 or 6:00?

MR. GARBER: They shut down at 4:3o. They can leave it open.

(A brief discussion was held off the record, and the proceedings were resumed as follows:)

MR. SCHMIDT: I would call Binod Upreti and I will spell that. The first name is B. I. N. O. D --

MR. UPRETI: The last name is U. P. R. E. T. I, like pretty with one T.

MR. SCMIDT: Like you are giving a woman a compliment, you pretty, except only one T.

(The witness was sworn in by the court

reporter.)

THE REPORTER: Please state your address.

A. 332 Stevenson Lane, Towson, Maryland 21204, which is not far away from here.

Q. Mr. Upreti, as I understand it, you are a member of the Nepali American Cultural Center of Baltimore, correct?

A. Yes.

Q. You are one of the trustees?

A. I am one of the life members.

Q. Life members --

A. Yes.

MR. GARBER: Did you say life member?

A. Member. There are two labels, if you donate more than five thousand, you become a trustee and one thousand is the member permanent life member.

Q. And sir, you are also from Nepal, is that correct?

A. Yes, indeed.

Q. How long have you been in the U.S.?

A. Yes, like Chris -- I have been here back in

'98.

Q. Are you an American Citizen?

A. No. Green card holder, permanent resident.

Q. Now as I understand it, Chris had mentioned that many of the people of the faith have an area of their home designated where they can meditate and pray, is that correct?

A. Yes.

Q. Do you exercise that?

A. Yes, pretty much, we have a house or an apartment and they have a clean, beautiful corner and have their temple. For me, I practice everyday and I do not eat without praying to God, that is what I do everyday.

Q. You also attend services at a temple outside of the home, is that correct?

A. Yes.

Q. Where is that typically?

A. Usually, I go to Westminster, Finksburg and sometimes I go to Satya Narayan Temple in Queens, New York.

Q. How often do you go to temple?

A. Whenever I have time available, even if I visit a different city, I see the temple and stop by and pray.

Q. So you are very faithful and attend services and attend temple pretty frequently?

A. Yes, that is what I have been doing, yes.

Q. At least once a week?

A. Oh yeah.

Q. Now you heard the testimony from Chris before about the nature of the way the operation is conducted, the way people come and meditate. Would you agree with his testimony in terms of how this proposed temple would operate?

A. A hundred percent, I agree.

Q. I think what you've asked me to testify about is the Hindu and Buddhist faith. Without leading the witness, you asked in the context since this was a contested hearing to testify about how your faith would work in terms of resolving or attempting to resolve any dispute, is that correct?

A. Yes.

Q. Can you explain that for the Board?

A. I want to clarify about the difference between Hinduism and Buddhism. As a Hindu we consider Buddha as one of our Gods. Every Hindu considers Buddhism is a part of the bigger umbrella. Some Buddhists, especially from Tibet, they think it is a different reason and that is how everyone perceives it differently. We are Hindu and Buddhist. As you know Buddhist is for peace. The reason I wanted to come and testify is that I really like to thank everyone, especially the future neighbors who have really concerns. They are not here to deny our rights to pray, they are talking about the way that -- some other neighbors who are here, they might be fearful or hate. What kind of neighborhood, the neighbors are coming, how they practice, whether they are friendly enough or not. I just want to point out, I want to tell you that Nepal is a small, tiny country between Hindu people and now is a republic. We had an insurgency ten years at that time didn't allow religion but people from Nepal

always live in harmony. Muslim, Buddhist, Hindu, Christians, we never have a history of violence because of the religion. Nepal people are peaceful and the Buddhist is about the peace. I want to remind that Nepal have a long history, they served in the British Army and never implicated about terrorism, never have a history as of today.

I want to tell everyone we are very peaceful and friendly and welcoming people. It is a new process. They have reservations and I understand that and respect that. In acquiring this property we have done a lot of mistakes but not intentionally. If it is there, we want to ask for forgiveness, forget and forgive and sit down with other side who has a concerns. Let's sit down and do this or do that. We are open, we want to fix the problem. Therefore, I feel difficult going through this, frustrating and sitting here. You never know where we end up. This is the best country.

When America was founded, all the founding fathers were a hundred percent Judea Christians. This

is a place that everyone can worship. America is the best country on the face of the earth and there are two hundred plus countries. We choose, not by accident but by choice, we are blessed. We want to obey the law and do anything. The community, anything that we need we would be part of the community and contribute anything we have. We will do our best, so please let's not drag on for a long time. Let's try to sit down. Whoever has done that and then let's fix the problem and go from there. That is the message of Buddha and the history of Nepali people and you know, like Kris, a lot of people, we are new to this. This is a new process. We've never done that before. There are a lot of things and we don't know the law of this country. We are excited, we want to have a temple and we ask people to donate to all of this. There are some people against it and some for it. Please, this is great. It is very simple to distinguish good and evil. If anything good to you, it is good to others, that is how we are. Why would we think we would cause a problem in a beautiful neighborhood for all of the time they have

been living there. We will address their concerns and work with them. If anybody has reservations or any member has done something wrong, I'd really like to personally ask to give us forgiveness. If we have done something to promote this problem, let's sit down and go from there. Do not drag this on and like I said, the history of Nepali people never has any problems. We exist with all religions and people in harmony.

MR. GARBER: You mentioned a book, what is the name of the book?

A. Gita.

MR. GARBER: Spell that for the court reporter.

A. G.I.T.A.

MR. GARBER: Any other questions?

MR. SCHMIDT: I don't have any other questions. Thank you, sir.

EXAMINATION BY MR. HOLZER OF MR. UPRETI:

Q. First of all, I would like to thank you for your testimony.

A. You are welcome.

Q. I think it was heartfelt and it summarized what your -- not only your religion but what your members of your association believe. I would like to say, ask you this question. Would you want your association that you are a member of to meet all zoning laws and comply with all of the laws of Baltimore County in obtaining this permission for the temple?

A. In order to establish the temple, we'd like to do, you know, anything possible from our side. This is something -- I don't want to get into technical things. We want to do the best according to law and able to have worship and be in a great neighborhood with other side. The direct answer, some of the things I am not an expert. I don't want to answer directly because I do not know all of the details.

Q. I am not asking you to know all the laws. I am asking you, would you like your association to comply with all the laws of Baltimore County dealing with zoning and zoning approval? It's that simple. You said you wanted to comply with all the laws. I am asking you, do you want the Board and your association

to comply with those laws?

A. Of course. If we do not comply, we cannot do anything, yes.

Q. Secondly, I appreciate what you just testified to, in that you recognized that this procedure is not opposed to your religious freedom but is concerned about the location of this property. Is that a fair statement of what you said?

A. In the morning and that is still in the back of my mind. I still believe, as a new neighbor, like judges and people are learning about our holy book Gita. A lot of neighbors, they might not know what is about to come, therefore, some people, they may not -- it's a tough topic. Religion, it's a very sensitive topic. Some people you saw the postcards, they are sending out the postcards. We need to raise funds to oppose this. Some people may be thinking the way you said and some people, that is a different group or gift. There are different people.

There is an example, someone thought that they killed a guy and ended up killing the Punjabi guy right

after 911. The Punjabi guy was working at the gas station, one of your men thought that was the same man and killed. So this is not what I am talking about, only one person here. Some people have legitimate fear and the right to understand. This is the country, the country is known for the religion and everyone can worship. The point is some people use that maybe the location is not right and traffic, protects against to oppose this temple, some people use that in their heart. Maybe they have something else. All I want is what you said and that what I like to believe. If someone -- some people have reservation, that is what I said.

Q. Let me ask you like that postcard came out to the lady and asked for help or money to support the proceedings before this Board, you are a trustee, is that correct?

A. I think my status is like -- there are two levels, trustee is the top tier and the second part.

Q. You said you contributed five thousand dollars?

A. No, one thousand, eleven hundred.
Q. Sorry?
A. Eleven hundred.
Q. So you are not a trustee?
A. Not yet.
Q. What are you then, just an associate member?
A. Yes. Like a central member, just right below the trustee. The trustee is the top of the tier and I am the second.
Q. Do you know how many members in your organization? How many signed up members are in your organization?
A. All of the details like I run the restaurant. I am not heavily involved like Kris. I go there --
Q. So the answer is no?
A. Exact number, I don't know.
Q. So you don't know how many members are in your association, how much money they have paid to be a member of your association, do you?
A. No. There are choices. You can donate but just to get that category one thousand or the five

thousand, the other thing is you volunteer or donate whatever you have.

Q. What was that money donated for?

A. For the temple.

Q. To acquire the temple?

A. To acquire the building and the temple and to pray.

Q. And to pay the two attorneys sitting here representing your association?

A. That was -- when we started to see this happening, we did not know that. Now things happen. Yes, we have to as a member, yes.

Q. You had to pay for legal representation to assist you in obtaining the desired effort that you'd like, right?

A. Yes, otherwise we have to pay.

Q. And these people on this side had to raise money to have their position respected and represented here. Do you see any difference between what they did to raise money and what you did to pay your two attorneys?

A. I respect that. I did not oppose. All I said, if you recall, all I said some of the people may, in the back of their mind, we are new neighbor and they are free to do that, whatever you'd like.

Q. Do you have any personal knowledge that any one of these people sitting in this room right now do not like your efforts or your religion or you as individuals?

A. I hope not, God help.

Q. Not one has said anything to you that they don't like you or don't like Nepali?

A. None of them. They never said that. If I said that I would be very wrong. They are our future neighbors. I like to earn their respect and work with them.

Q. Thank you. I appreciate what you said and I appreciate you keeping a clear mind that no one on this side of the audience hates your religion or hates your people and are doing it for any other reason that the proper zoning laws need to be applied, do you accept that?

A. Like I said, clearly no one has said to me. All I said, I can assume or guess. That is what I believe, what I hope to believe.

Q. You are assuming that there are people that don't like you or don't like your religion but you have no understanding that these people are not those people?

A. I don't want to blame anything.

MR. HOLZER: I have no further questions.

A. Sorry, Your Honor. I'd like to thank all the judges. You have been so patient letting everyone be here and fair. It is very nice of you and we are thankful.

MR. GARBER: Thank you.

MR. SCHMIDT: Nothing else, sir. You may step down. Mr. Garber, that would be the petitioner's case today. We will adjourn at this point.

MR. GARBER: We are at the point where we have to. With that in mind it seems to be the next go round on September 6th. We should be prepared to get through experts. I will be optimistic and say let's get

through all of the petitioner's experts and I know at least three.

MR. SCHMIDT: I anticipate, at this point, three.

MR. GARBER: Does anyone have a problem with 9:00 a.m?

MR. SCHMIDT: That is fine.

MR. HOLZER: No problem.

MR. GARBER: We will start at 9:00 and then this way move through all of the experts, as best as possible so that we can have this case advance more and maybe we won't need six or seven days.

MR. HOLZER: You may not. I am looking at the calendar now. It says it starts at 10:00 and we can amend to 9:00.

MR. GARBER: Yes. The notice would have to change.

MR. HOLZER: If they finish all of their case, I will be prepared to go on September 12th, the third day.

MR. GARBER: If we get through all experts on

the 6th, that is more than fine.

MR. HOLZER: I would be prepared to stay from 9:00 to 5:30 or 6:00.

MR. GARBER: Let's see what happens with school back in session and that may present other issues. I was hoping to get through more things today. It is what it is, so we will try to do it next time. With that in mind --

MR. HOLZER: I would say this and I don't know. You guys should think this through. Do we need this room for September 6th? Can we handle the more --

MR. KOTROCCO: We can talk about that.

MR. GARBER: You have to talk about that. There is no guarantee we can on September 6th. I don't know, one way or the other. Today was clear, so that leaves us for the future dates. We can go off the record.

(The proceedings were concluded at 4:43 p.m.)

CERTIFICATE OF NOTARY PUBLIC/REPORTER

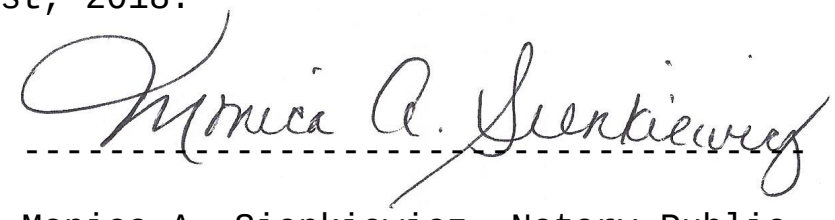
STATE OF MARYLAND

COUNTY OF BALTIMORE, to wit:

I, Monica A. Sienkiewicz, a Notary Public in and for the State of Maryland, County of Baltimore, do hereby certify that I am not an employee of counsel nor related to counsel or the parties in any way and have no interest in the outcome of this proceeding.

I further certify this transcript of testimony was prepared accurately by me to the best of my ability, knowledge and belief.

As witness my hand and Notarial Seal this 23rd day of August, 2018.



Monica A. Sienkiewicz, Notary Public

My Commission expires 10/09/19.

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1 5:3,5 9:1 37:10, 15 38:8 93:9 94:8 113:11
10 10:11
100 57:11 115:7
102 4:15
10:00 71:20 131:1 174:14
10th 67:17 68:6 69:16,21 118:20, 21 119:1
11 10:14
110 142:18
11511 141:11 151:4
11:00 157:7
12 10:17
12231 3:4 38:4
128 153:6
12828 153:4
12:00 88:21
12th 174:19
147 38:21
15 68:13 69:4,14 70:4,19 71:13 99:2
150 71:3,15
150th 71:21
18-122-X 3:5
1974 32:12
1998 48:9,11
1:00 72:2 89:10

2

2 5:16 37:16 38:1 77:6 79:3 93:5 150:13 151:9
20 26:12 71:13 75:7 99:2 111:4
200 71:3,15
20157 141:11
2016 90:11
2017 90:8,10 124:3
2018 23:4
21 10:20 119:7,8
21051 153:5
21204 4:8 160:3
21236 48:4
21237 47:16
21286 4:13
22 26:13
220 79:21 80:9
22nd 23:4 67:8
24 74:21 120:9 130:21 156:10
25 142:17
28 153:7
28th 7:1 10:21 29:4 97:19 98:3 128:20 129:19,21
29th 22:21
2:00 72:3
2:15 140:5

3

3 9:7 83:17 84:2
30 75:7
305 4:7
31 39:3 114:5,10
33 65:18
332 160:3
35 142:4
37 147:3
38 41:4 97:2,17 147:3
3rd 10:21

4

4 9:9 106:9,14,20 149:12
4.3 154:1
409 41:5
45 89:7
4:00 140:6
4:3o 159:11
4:43 175:18
4th 67:9

5

5 9:10
502.1 30:16
502.2 23:7
5048 47:15
508 4:13
5:00 68:1 159:10
5:30 175:3

6

6 9:15
600 4:4
6:00 159:10 175:3
6th 35:7 91:2 173:20 175:1,11, 14

7

7 9:17
75 156:9
7:00 151:19

8

80 57:11 115:7
8030 48:3 91:11 92:18
8:00 68:2 75:2,3 131:1,3
8th 67:16 68:6 69:16,21 118:19 123:5

9

90s 137:10
911 169:1
98 161:1
9:00 68:2 75:3 174:6,9,15 175:3
9:30 157:7

A

a.m 174:6
a.m. 71:20 75:2 131:1
abandoned 144:2
ability 138:5
Absolutely 25:10 59:4 143:4
abused 144:21
accept 43:3 84:1 172:20
accepting 33:5
accepts 12:21
access 9:12,14 12:7,8 14:21 25:19 27:13 40:15 73:1 85:8 95:3,4,13,21
accessory 107:5
accident 8:7 9:17,18 73:12 165:3
accidents 8:6 73:18
accommodate 32:10 35:16,20 40:21 44:10,11 158:9
Accompany 37:13
accordance 30:14
accurate 83:13
Acharya 105:8, 16
achieve 57:5
acknowledged 9:11
acquire 171:5,6
acquired 10:4 19:14 20:7,15 53:3
acquiring 105:20 164:11
acquisition 20:18
acre 54:17 142:18
acres 39:3 114:5, 10 142:17 143:1 155:13
action 8:1
activities 8:13 23:11 80:2,18 81:2 122:1

125:19
activity 16:4 72:7 76:3 103:3 115:9
actual 37:18,19 109:3 126:14
ADA 3:6
adapt 93:14
adaptations 155:7
add 33:18
addition 7:2 40:6 44:14 45:11 74:14 80:17 81:1 84:6
additional 25:11 123:9
Additionally 22:2
address 47:13, 15 48:2 76:11 91:11 92:15 141:8 142:1 151:4 153:2 154:3 160:2 166:1
addressed 149:13
addresses 4:16
addressing 30:19 41:13
adjacent 38:19 82:3 83:19
adjourn 173:17
adjudged 24:18
administer 62:11
administering 61:15
Administration 8:4,8 10:10 28:9 85:9
Administrative 11:12,15 96:8 133:18 134:14,19
advance 174:11
advertise 129:1
advertised 129:16
advertising 97:20
advised 11:4 129:11,15
aerial 38:1 76:19 77:7 78:2 84:9
affect 6:19 106:16
affiliated 49:12 82:1
affixed 20:1 39:4
Agent 91:4
agree 34:3,4 45:12 162:12,15
agreeable 85:14
agreed 35:1
aim 140:6
alcohol 61:1,2 63:7,11 64:13 72:14,19
ALJ 21:16 30:3 31:13 135:4,13
ALJ's 6:12
allowed 25:15 61:2 63:11 135:13
altar 115:13 126:8
alternate 95:21
alternative 95:2
altogether 39:3
amend 174:15
America 164:20 165:1
American 3:4 48:13,16 49:2,16 50:4,16 148:18 160:6 161:2
amplification 133:14,20 134:2, 7
amplified 134:5
analogy 66:11
analyzing 14:11
and/or 11:10 13:2 116:16
animus 32:14
anniversary 59:18 60:5,6
announcements 3:5
annual 67:5,7
answers 14:7 114:7
anticipate 44:15, 20 70:17 174:3
anticipated 35:12,21
anticipation 119:18
anymore 107:16, 17 112:18
anyone's 38:15
anytime 71:11 117:21 118:3
apartment 161:11
apologize 17:16
apparently 147:8,11
appeal 18:8 136:7
appealed 30:4
appeals 16:11
appears 85:19 96:1
appendices 9:5
appendix 7:15 8:2 9:1,7,9,10,15, 17 10:14,17,20 26:12
applaud 101:10
applicable 3:14
applicant 7:3 9:11 10:6 13:13 25:16
applicants 6:8, 10,21 10:4
application 8:14 9:21
applied 172:20
apply 12:1 72:14
approach 37:2 38:9 83:5
appropriately 11:21 32:8 85:7,8
approval 6:12 8:14,19 9:21 11:9,16 21:14 110:5,15 167:19
approvals 10:8 25:20
approve 10:10, 11 13:2 15:14 29:8 31:11 110:6
approved 10:14 28:11 85:7,8 102:20,21 115:17 130:13
approving 11:20,21 13:19 14:10 31:12
approximately 90:6 154:2
April 119:11
area 8:5 39:3 41:9 51:14 52:6,9 76:16,18 77:3,9, 10,18 78:8 81:5 84:8,20 98:10,11, 12 99:16 108:16 113:13,18 114:2 115:7,14,15,17 116:18 125:12, 15,16,18 126:7,8, 18 140:18 145:1 161:5
areas 98:14 108:10 125:6,8
arguendo 21:12
argument 17:11
Arm 38:17 84:20 141:11 148:5
Army 138:12 164:6
arrangement 4:19
arrangements 98:19
Article 90:12
Articles 111:9
articulate 69:10
aspect 150:11
assemble 115:8
assigned 35:6
assist 171:14
associate 170:6
Associates 37:14
association 4:15 39:9 74:6 90:3 109:21 110:8,10,16,19 143:18 167:3,5, 17,21 170:18,19 171:9
assume 34:12 35:10 94:1 133:10 173:2

assuming 18:13 21:12 112:8 173:4
athletic 11:7 100:8
attached 9:6 11:15 139:10
attachments 6:14 10:12 15:10
attempt 67:18
attempted 7:13 98:4
attempting 162:20
attend 6:21 11:14 12:18 62:15,19 143:8 156:6 161:15 162:5,6
attendants 156:9
attending 62:16
attention 155:2
attest 9:14
attorney 10:1 39:7
attorneys 14:4 36:2 111:17 136:8 171:8,21
attracting 7:4
attractive 39:19
audience 6:1 36:9,14 172:18
August 10:21
authenticated 37:5
authority 18:10 22:7 24:15 33:7
Avenue 4:5,8,13 39:13 94:20
average 156:8, 10
aware 10:19 46:10 73:18 85:5, 10 112:1 140:16
awhile 88:20 89:1 146:1

B

baby 60:15
Bachelor 105:7
back 6:2,6 13:10 27:5 35:18 36:17 40:17 46:5,21 57:17 62:9 65:13 84:3 89:10 93:21 96:14 105:13,18 109:5 129:19 136:7 137:21 141:2 146:13,14 151:5 158:6 160:21 168:9 172:3 175:5
background 48:6 111:18
backhanded 21:6
backwards 27:10 28:12,13
bad 53:9 55:10, 20
bags 145:3
Baltimore 6:9 10:18 20:6 27:19 30:15 34:10 38:18 48:17 49:2, 16,19 50:3,16 51:19 52:6,8,12 53:1 54:19 85:10 90:3 91:8 110:20 129:6 147:20 160:7 167:6,18
bank 107:4
banner 81:16
baptism 61:11, 16,21 62:2
Bar 88:6,7,10
barn 40:3,6 55:8 74:2,11 78:7,8 109:12 110:2,6, 19
Bartanada 122:16
base 86:4
baseball 79:9,10 80:3 100:10,11 131:13
based 68:14 123:14 132:5
basement 108:8
basic 27:17
basically 7:7 14:13 27:6 65:8 78:13
basis 43:14 67:5, 7 70:7,19 75:7
basketball 55:14,17 80:3 84:18 100:4 131:16,17,18
bathhouse 55:20 102:1,3 103:5
bathroom 3:7 132:17
Beachmont 81:10,13 82:2,6 83:2,11,12 84:6 147:4,5
Bear 109:18
beautiful 53:17 161:11 165:21
beer 53:12 145:3
begin 3:6 99:19
beginning 90:8 139:1
behalf 4:2 10:6
belabor 9:3
Belair 48:3 59:5, 7 91:11 92:18
believes 135:5
believing 137:14
bell 28:2
belong 54:14 119:15,16
belonged 146:1
benefit 16:13
Bermuda 17:16
bet 132:8
beverage 128:13
Beverungen 21:16,19 22:11 23:16 41:17 44:20 85:1 143:9
Beverungen's 26:16 32:21
Bible 87:4 123:14
big 50:11 51:8 57:15 81:4,16 93:8 114:6 120:20 134:8 141:13 142:15 155:9,10
bigger 52:15 79:14 117:11,13 121:4 125:5,9 163:6
biggest 121:1
Binod 159:15
birth 60:5
birthday 59:19 67:3 118:19 119:6,8,10 120:17 121:9 123:5
birthdays 122:21
bit 36:5 38:10 39:6 43:2 51:4 53:5 55:4 58:10 72:21 76:15 142:10
bite 60:8
blame 173:8
blessed 165:4
blessing 67:18
block 38:15 100:18
blocks 27:17
board 4:17 6:8 7:1 11:20 12:20 13:19 14:9 15:1, 5,8 16:16,17 17:3,12 18:6,7,9, 16 21:9,13,18 22:6,7,16 23:18, 20 25:3,12 26:7,8 27:8 29:8 31:2,9, 10,19 34:14 35:1, 8,11 36:8,11 37:2,4,12,20 46:7,15,18 48:19 53:6 55:3 58:12 65:15 67:11 83:5, 9 89:6,8 93:5,11 98:5 107:6,12 110:4,14 111:15 132:19 135:2,8 153:19 154:15 159:9,10 163:2 167:21 169:16
Board's 16:13 34:18
body 18:14 120:8
Bonaparte 39:12 94:20 141:18
book 166:9,10 168:11
boot 118:9
boozy 127:13
border 151:6

borders 39:1
bore 46:17
born 48:7,8 66:21 67:2
bottles 53:12
bottom 78:6 151:8,9,13
bought 103:11 107:11
bounds 147:18
boys 58:19
Bratabanda 61:17,20 62:2 88:9
break 89:5,12 140:10
bring 64:5,8 70:4,5 86:16 149:4
British 164:5
Brochin 109:20
broke 17:17
Broker 48:21 92:17
brought 155:2
Buddha 50:14 66:20,21 67:2,3 120:18 163:4 165:10
Buddha's 118:19 119:6,8
Buddhism 50:11 149:1 163:4,5
Buddhist 50:13 58:15 105:1 120:17 162:17 163:9,10 164:1,4
Buddhists 66:17 163:6
build 25:6 52:15 56:3 113:14,16 139:16
builder 144:7
building 7:11 19:8,13,17 20:2, 11,12,21 21:3 23:8,11 24:9 26:14,16 27:17 31:16 39:20 40:1, 2,6,10,21 41:7,10 42:4 43:4 44:10 45:10 53:10,18, 21 55:6,7 56:1,2, 6,9,12 57:4,6,13 58:2 63:9,17 72:5,8,15 73:3 74:8,13 76:13 77:2,4 78:2,3 82:17 102:12 103:4 108:4 109:1,11 112:15 113:3,9 114:16, 18,21 127:2,5 171:6
buildings 20:9 25:7 55:4,18 56:3 79:20 97:11 113:10,12 155:12
burial 119:18 120:1
burned 39:21
bushes 145:2
business 48:2 91:11,18 92:14 96:21
bustle 51:14
busy 35:17
buy 139:16 145:9,13

C

calendar 67:8 68:15 86:4 123:16,17,18 174:14
call 15:17 25:17 46:21 50:6 54:9, 11 58:6 61:17 64:5 91:18 95:3 103:2,16 120:5 125:21 140:11 141:4 156:19 157:3 159:15
called 11:2 39:12 97:7 105:8 108:3
calling 44:15 140:19
camp 76:1 81:10, 18 83:11 147:4,5, 6 148:15
campers 113:15
camps 76:5,6 81:16
campus 79:14
candidly 21:21
Cannington 35:13,20
cans 145:4
car 54:13
card 143:14 161:3
care 4:20,21 9:16 22:1 55:8 74:18 75:17 101:1 152:3
careful 124:9
caretaker 55:7 57:20 74:13 103:8 115:1,4 130:16,20
caretaker's 40:11
Carolina 142:4
Carroll 4:12 58:20 79:15
cars 98:11 99:8
case 3:5 11:11 12:20 16:14 17:12 18:7 19:6 23:9,13 24:1 25:13 26:8 28:1, 20 29:2 30:19 31:14 33:7 35:1 41:19 42:1 43:12 45:19 46:17 63:3 85:1 115:16 132:5 143:13 158:9 173:16 174:11,18
cases 25:13 26:2 29:1
cast 17:18
category 170:21
Catholic 58:18, 19 59:3 84:13,17 104:20 115:11 124:17
Catholics 58:17
Catonsville 42:21 52:11 117:8
cattle 142:10
caught 147:11
caused 15:20 45:13
cease 15:17
ceilings 57:9
celebrate 59:20 122:20 123:21
celebrated 66:18 69:3 121:1, 19 122:14 124:5
celebrating 67:2 68:21
celebration 67:14 69:1 121:11
celebrations 86:10
cell 3:15 89:15
cellar 102:11
cemeteries 155:13,21
cemetery 119:17
center 3:4 42:16 48:16 49:2,16,18 50:16 52:21 78:1, 3 90:2 131:10 145:16 148:18 158:16 160:6
central 170:7
ceremonies 60:7 92:6
ceremony 60:10, 14,17,20 61:9 62:3,6,12,18 63:4 64:2,11,17 86:16, 19,21 88:3,11 109:4 122:18 126:20 128:10 133:1
certification 105:6
certified 105:5
cetera 21:2 23:2 133:13
chair 97:15
Chairman 17:1 29:16 31:7 47:2 55:1
Chairman's 69:13
chairs 36:20 97:16 116:11,12, 13 117:16 139:5, 7,9,11
Chambers 35:11
chance 133:2
change 55:13 75:9 113:4,6 114:12 135:3 174:17
changed 8:9
chant 87:10,11

charge 104:6
chat 72:11
check 46:11
checked 51:10
child 60:15,18 61:5,13 62:10,12, 13 65:3
children 50:6 115:11 147:3
choice 59:8 165:4
choices 66:4 170:20
choir 87:7 115:15 116:16,18 126:11 132:20
choose 165:3
Chris 160:21 161:4 162:10
Christian 42:8, 11,19 43:12,16 58:14 61:11 64:20 66:9 78:11 79:17 80:7 81:15 82:3 83:10,11,12 84:7 115:12 126:7 147:1 156:18
Christianity 120:12,19
Christians 124:10 164:2,21
Christmas 44:5 66:9 67:20 69:2 120:21
church 19:8 24:8 42:4,11,13,14 43:15,16 54:14 58:18,21 59:3,6, 16 61:11 62:20 64:21 82:13,15, 17,21 83:1,2 84:11,12,15,16 104:7,20 115:11, 12 116:17 119:15,16,17 125:17,19 126:7, 10 147:6 153:12, 14,17,18 155:10 156:8,10,17 158:1
churches 42:8 43:13 58:15 76:17 84:8,13,17 87:7 153:15,16, 20,21 155:17,21 156:6
circle 47:15 82:19,20 94:9
circles 39:8
circumstances 15:9 16:7
citizen 23:14 48:13 161:2
citizens 31:21 32:9 33:1 45:15 150:8
city 52:12 162:3
civil 137:10 140:11
clarify 16:14 20:3 52:1 71:9 151:16 163:3
Clark 47:2
classes 148:21
Classical 83:10
classification 39:4
clean 54:11 161:11
cleaned 53:17
cleaning 145:5
clear 16:19 56:10 76:6 77:9 95:20 114:20 139:1,4 157:6 172:17 175:15
cleared 144:16
clearer 78:5
clearing 20:19, 20
client 24:21 42:14 44:9 112:10
clients 11:13 19:14 20:6 21:7, 10 22:8,10
clock 151:20
close 69:4 73:8 94:19 99:8 124:7 135:17,18
closer 82:10,12
code 8:1 16:17 18:7,8,12,13 21:13 23:1,2,21 26:20 29:6,19,20 33:9
codes 61:3
collective 121:5
color 150:14
colors 121:12
Columbia 129:10
comfortable 46:7
commemorate 60:5
commencement 19:4
comments 18:5 26:19
common 30:6
communion 115:14
communist 137:11
communities 7:8
community 6:20 12:16 15:20 16:3 31:21 32:4,11 38:18 42:16 46:10 52:15 67:12 109:16 110:7,16,19 117:10,11 131:10 134:16 137:20 138:9 144:10 145:15,17 148:8, 9,16 150:10 158:16 165:5,6
Company 92:17
compare 120:11
comparison 61:10
complain 33:1
complaining 134:17
complaint 32:6
completely 135:10 144:8
complex 40:8
compliance 6:8
compliant 3:7
compliment 159:20
comply 6:10,11 167:6,18,20 168:1,2
concerned 13:12 45:17 102:19 130:2 168:6
concerns 12:9 154:21 155:2,5 163:13 164:15 166:1
concert 133:21 134:8
concerts 133:15
concluded 21:8 175:18
conclusion 12:11 114:5
condition 31:11, 16 32:21 40:5 55:12 96:15 103:8 110:5 133:20 135:3
conditions 6:12 11:15 23:4,6 31:12,14,18 32:1 106:2 110:14 132:1
conduct 3:19
conducted 42:12,17,18 43:9 162:11
confident 118:3
confine 18:18
confines 19:3
confirmation 88:6
confrontation 33:3
confused 93:20
congregation 21:21 51:18 146:21 157:15
congregations 156:5
connection 143:13
considered 127:2
considers 163:5
constantly 32:4, 5
construction 40:19
consult 111:16
contact 10:6
contested 162:19

context 31:20 162:18
continuance 17:4 27:7
continue 11:18 12:20 26:8 30:4
continued 95:12
continuously 48:11
contractor 101:5
contribute 122:8 165:6
contributed 169:20
contribution 150:1
convenience 68:4
convenient 35:14 92:11
convert 19:16 20:9 56:7
converted 40:11 56:7
copies 4:17 22:15 37:19
copy 4:17 5:11, 12 22:14 35:2 37:2,17,18,21 38:7 90:15 107:18 112:19 149:8,10
corn 81:4,7
corner 55:9 79:8 129:4 161:11
corporation 91:5
correct 4:10 7:19 34:9 51:2,3 52:19,20 53:2 54:4,5 61:12,15 62:14 66:7 68:18 69:19 71:17 72:5, 6,16 74:3,4 76:9, 13,14 77:20,21 78:10 85:1,12 90:4,5,14 91:6,9, 12,13 92:20 94:3, 4,10,18 97:4,10 98:21 104:12 105:21 106:1,16 108:14 110:17 113:4,12 118:6 121:6 122:9,11 126:19 132:11, 14,18 140:1 141:16 151:17 160:7,18 161:7, 16 162:21 169:17
correctly 87:16 88:16
correspond 119:2
costs 139:18
cottage 40:11 74:13
Council 35:16
Councilman 109:19
counsel 3:20 4:10,17 5:12,19 111:10
count 99:8 124:7
countries 129:1 165:3
country 50:4 137:10,15 138:15 154:16 163:19 164:19 165:2,14 169:5,6
County 6:9 9:8 10:18 12:21 13:14 15:14 20:6 25:1 26:9 27:19 29:6 30:15 34:10 35:16 38:18 41:4 50:3 51:19 54:20 74:9 85:6,7,10 91:8 110:20 114:15 129:6 147:20 167:7,18
couple 3:5 34:16 45:15 48:5 74:4 79:5 84:13,17 85:18 109:20 139:4 150:2
court 3:10 34:20 38:12 40:13 55:14 61:18 77:14 81:12 89:17 99:14,17, 19 131:20 136:1 141:5,13 152:20 159:21 166:12
courtesy 28:16
courtroom 3:18 116:9 139:7
courts 30:6 55:13 132:1
cousin 142:21
cover 6:13
create 90:13
created 90:2,6, 12
cremate 120:1,2
cremation 120:1,9
crops 142:10
cross 125:5
crosses 115:12
crowd 35:12 44:5
cultural 3:4 42:16 48:16 49:2, 16 50:16 52:21 90:2 121:18 122:13 148:18 160:6
cultures 148:20
current 55:5 113:7 141:21
curve 13:8
curves 9:13 146:4
cut 53:17 54:16
cutting 104:9

D

D.A.S.H.A.I.N. 68:9
daily 70:19 75:7
dangerous 146:4
Daniel 152:19 153:3
Dashain 66:16, 19 68:7,10,19 118:20,21 119:1, 4,7 120:18 121:1
date 46:5 91:2
dates 119:2 123:17 175:16
David 109:19 110:9
day 7:5 35:12 58:13 59:16,17 60:12 61:7,8 65:16 66:5 67:2, 17 68:6,13 69:14, 21 70:11,14 71:21 72:2 75:17 118:20,21 119:1 123:6,8 130:21 147:13 174:20
day's 35:4,5
daycare 75:15 155:15
days 13:17 14:2, 4 15:11 30:2 35:6 51:9 59:16,17,21 60:1,2 62:5 67:13,16,17 69:4, 16,17 70:19 71:1, 15 75:1,4 86:1,2, 4,5,9 88:15 119:7 174:12
daytime 68:3
deal 110:20
dealing 167:18
death 13:7 59:18 60:6
deaths 122:21
decide 27:16 113:8 132:5
deciding 29:8
decision 11:12, 14 18:9 21:9 29:12 33:8 85:3,5 107:13 133:19 134:14,20
defend 150:9
defer 95:14
define 125:20
degree 105:7,12
deitie 66:2,6
deities 65:16,19, 20 115:20 122:21 123:1
denial 8:7
denied 34:11 137:3 138:10
denomination 156:19
deny 34:1 163:13
denying 138:5
department 8:3 12:3 15:15 26:10
depending 65:1 66:13 110:15 115:13
depends 86:3 120:16
descent 51:19
describe 53:5 57:8 104:4 109:11

description 44:18
designate 125:10
designated 20:2 40:2,3 94:12 95:2 114:16 161:6
designation 20:1 105:12
desirable 36:1
desired 171:14
desist 15:18
destroy 100:16
detail 45:21 95:8 110:1
details 69:12 167:15 170:13
determination 15:2 24:7
determine 28:8 41:14
determined 25:15
detrimental 24:10 41:15,17 44:12
development 25:5,17
devotees 116:2
devout 58:18
Dewey 47:2
diamond 79:10 100:11
diamonds 100:10
Dicicco 39:8,16
diet 63:15
difference 120:14 134:1 163:3 171:19
differences 45:14
differentiated 116:6
differently 23:14 163:9
difficult 9:14 164:17
dimensions 103:18 104:1
direct 90:1 92:13 158:18 167:13
directed 6:1
direction 96:1 152:2,3
directly 12:14 122:1 167:14
director 126:11
disagree 23:5 46:3
discovery 112:2
discuss 45:21 95:7 157:20
discussed 110:1 122:17
discussion 26:17 159:13
discussions 95:11,14 110:8, 12
disposal 8:18
dispute 162:21
distance 154:2
distinction 43:10
distinguish 165:18
distinguishes 115:9
diversity 148:8
document 9:6 37:12 106:14 107:6,7,9,19 111:13 112:6
documentation 7:14 11:16 15:10
documents 37:3 114:14
dollar 150:1
dollars 169:21
donate 160:14 165:16 170:20 171:1
donated 171:3
donating 59:2
donkey 27:10
door 118:4 153:17
Dopkin 4:21 20:5 33:17,19 34:3,10 36:20 78:16,19 82:13,16 83:1 85:18 86:1,7,12, 17 87:2,5,10,12, 15,18 96:3 122:20 123:13,19 156:5,11,13
dormitory 113:15
dotted 94:16 96:4
Doug 109:18
downstairs 103:16
drag 165:7 166:6
draw 78:21
drawings 38:10
drawn 108:15
dream 50:5 137:5
drew 113:21
drink 64:3 132:16
drive 40:16 54:13 75:12 95:3,21 96:5 98:14 145:7 148:20 151:3,4,5 154:2
driveway 73:2 94:16 99:1,3 146:2
drop 80:4 92:2
drove 13:5 144:8
drywall 103:17
duly 47:9
duplicative 157:15
dwelling 39:15 103:6 115:1
dying 142:13

E

earlier 115:18
earn 172:14
earth 165:2
easel 38:3 46:21
easels 36:17
easier 15:16 36:21 37:7 38:11
easily 112:7 120:8
east 82:10 96:4
Easter 44:6 66:9 120:20
eastern 42:16,20
easy 14:4 99:14 132:7
eat 60:16 161:13
eating 61:6 62:13
effort 98:4 171:14
efforts 172:7
egress 30:11
elaborate 117:4, 9
elected 16:5 109:20
electric 9:8
eleven 170:1,3
eliminated 101:4,18
embrace 148:10
employee 49:1
employees 49:4
empty 103:17 155:17,20
end 116:4 122:2 151:3 164:18
ended 79:14 168:21
enforce 107:6,8
Enforcement 8:1 18:8,9,13,14 21:14 23:1,2,21 26:20 29:19,21 33:9
engaged 45:1 76:10,11
engineer 45:2 140:11 155:5
engineering 146:17
English 58:8
enlarged 100:5,6 114:18
enlargements 20:8
enlighten 106:6
enter 112:2 151:5
entire 70:19,20 72:14

entities 81:21 82:2
entitled 37:13 150:8,9
entity 50:18 90:8 101:3
entrance 8:9 9:19 10:11,15 13:8 30:11 39:12 94:12 145:19 146:15
entranceway 94:1 146:9 155:7
envelope 149:13
Environment 8:3 12:4
environmental 6:9 12:2
environmentally 155:1
envisioned 23:6
Episcopal 119:15,16
escaping 154:17
essence 25:13
essentially 39:1
establish 25:14 49:19 167:8
established 9:6 158:8
estate 48:21 92:17,19 93:1 111:17
estimate 51:17 52:3 75:6
etiquette 15:4
event 7:2 22:3 23:16 27:4 43:14 64:20 65:3 97:14, 19 98:3 121:4 122:2 129:16,19 139:12,14
events 8:14 10:7 11:6,7,19 12:18 22:12 63:6 64:19 66:8 87:6 92:10 98:6,19 99:1 133:12,21 139:20 147:9
eventually 40:9 52:18
everybody's 16:13
everyday 80:1 161:12,14
evidence 54:2,3 55:2,3
evidentiary 27:2
evil 69:2 165:18
exact 57:16 124:7 128:21 170:16
EXAMINATION 47:21 89:20 108:1 139:3 153:10 166:18
examined 47:11
exception 7:18, 21 19:7,9 21:1, 17,19 23:5,9 24:2,18 25:13 27:21 30:16 33:7 37:14 41:11 42:3 102:21 134:15 137:3 143:20
Exceptions 25:5
excited 165:15
excuse 29:13
exercise 161:9
exhibit 5:3,5,16, 17 10:11 22:19 37:5,10,15,16,18, 19 38:1 77:5 79:3 83:16 84:2 93:5 94:8 107:20 113:11 149:12 150:13 151:9,11
exhibits 4:19,21 130:4 158:20,21
exist 166:8
existing 10:14 39:14 40:9,13,16 73:1,2 94:16 96:5 98:14 99:14,17 100:15 101:21 102:10,12 103:6 109:12 110:6
exit 94:12
expand 56:14 82:10 115:18 137:6
expanding 82:4
expect 43:16 71:10,15 129:6
expected 71:1
expecting 128:20
expensive 136:13
experience 147:5
experienced 26:1
expert 24:4 44:15 45:4 73:11 95:7,15 158:17 167:14
experts 69:5 173:21 174:1,10, 21
explain 6:15 19:11 43:8 54:8 58:12 65:15 120:14 125:1 126:3 163:2
explained 15:13
extended 28:17 56:20
extent 42:2 114:3 126:2 135:1
exterior 20:8,20 113:4,6
extra 37:18 80:2

F

face 151:20 165:2
facilities 76:12, 17 80:18 82:4 116:18 132:12
facility 27:9 63:18,19 78:11, 15 79:1,7,10,17 83:3 99:13 102:12,21 103:1 120:2 130:13 143:15 146:3 147:1,2,15 154:19 155:14
fact 21:15 22:11 31:17 34:20 112:18 114:13
factor 30:18
factors 30:16
facts 19:11
failed 11:17 12:1, 2,6
fair 14:18 40:5 61:10 114:1 168:7 173:12
fairly 146:15
Fairmount 4:13
fairness 14:5 16:1
faith 54:14 64:12 65:2,4 66:12 161:5 162:17,19
faithful 162:5
faiths 66:19
fall 67:7,8 68:15, 17 69:14
Falls 4:14 143:18
familiar 10:2 42:7,10 44:7 58:17 59:3 104:19 115:10 143:2 145:18 147:2 154:6
familiarity 43:1
families 63:1 126:20 129:8,9 142:16 147:12 148:6
family 6:4 86:3, 15,16 120:7 137:14 142:2,6,8 145:8
farm 145:13,21 148:6
farmed 145:12
farmers 144:16 146:7
farming 145:11
fast 86:2,5,9
Fasting 86:3
fathers 164:21
fear 169:4
fearful 163:15
features 79:6
feeding 60:7,10, 14,17 86:15 122:18 126:20 128:9,10
feel 17:19 104:2 111:18 147:17 164:17
feet 108:6
fellowship 128:14
felt 108:12 146:3
fence 13:9
festival 66:17,20

67:15 68:10,13, 19 69:14 70:17 71:4,14 86:1 88:15 99:5 118:20 119:9 121:1,7,8,10,12, 17,18,21 122:3, 13,14 139:13

festivals 44:4,8 66:8,12,14,16,19 67:4,6,16 68:5,6 69:3 70:12,16 71:10 72:9 76:3 86:10 118:18,19 120:15 122:20

festivities 72:10

field 79:9 100:14

fields 100:8 147:9

fifteen 70:21 93:2

fifty 73:8 117:11

fight 16:11 137:18 143:15 147:15

figure 16:8 18:21 24:12 89:9 101:13 158:3

figures 87:3

file 37:17

filed 34:19

filing 9:15

filled 145:3

final 25:8,9

finalized 57:21

finalizing 110:3

finance 111:17

find 28:6 51:1,5 53:13 130:20 134:12 145:9 152:9

fine 15:3 103:21 174:7 175:1

finish 62:5,10 174:18

finished 31:20 46:17 136:17 152:14

Finksburg 52:14 161:19

fire 8:15 9:21 10:5 149:19

Firm 4:3

fit 56:18 103:1

fix 27:13 164:16 165:9

flat 98:11 131:15

flavor 18:16

floor 3:7 108:18, 21 114:2 127:4,5

floors 108:6,7,8

flowers 70:4

focus 49:17 75:14

Foldable 139:11

folks 7:4 12:13, 17 49:10 58:13 69:11 109:21 121:5 124:10 128:19 145:16 157:14

follow 30:3 60:20

follow-up 156:14

food 60:16 61:6 62:13 63:12 64:3, 7 127:13 128:13

foot 17:17

footage 108:4

force 62:19

foreign 129:1

foresee 111:4

foreseeable 111:3

forget 164:13

forgive 164:14

forgiveness 164:13 166:4

Fork 153:5,9,16 154:4 156:8

formally 104:17

fortunately 28:4 54:18

forum 18:15

forward 17:6,8 24:20,21 25:12, 16 26:3 36:2 46:13

found 41:17 52:18

founded 31:13 138:15 154:17 164:20

founding 48:18 164:20

fourth 37:21 83:6

frame 70:6

frankly 13:7 17:5

free 17:19 23:10 172:4

freedom 137:12 138:6,10,13 154:17 168:6

freestanding 139:9

frequently 162:6

Friday 43:21

friendly 163:17 164:9

friends 63:1 64:12,15 69:5 100:13 120:7

front 29:20 30:8 42:7

fruits 64:7

frustrating 33:11 164:17

frustration 30:20 31:2

full 30:9 38:7,8

full-time 49:1,4

fully 30:11,12

function 32:8 49:17 50:21 59:20 60:12,13

functioning 91:10,18 103:10, 11 136:6

fundraiser 11:1 122:4,5 139:19

fundraisers 136:5,9,12

fundraising 22:3 139:14 143:11,12

funds 139:16 168:16

funeral 120:5,6 128:12

funerals 127:12

future 35:6,14 111:3 113:8,13 128:3 163:12 172:13 175:16

G

G.H.I.M.I.R.E. 47:14

G.I.T.A. 166:14

G.u.r.u 58:8

Gaithersburg 129:9

game 131:14

games 131:13,15

Garber 3:3 4:9, 20 5:6,10,14,17, 19 7:16,20 14:12 16:20 17:1,14,18 18:3,18 19:6,19 20:3 22:17 25:8 26:4,18 28:2,16 29:14,18 31:13 33:5,9,21 34:5, 12,14 35:4,15 36:7,13 37:12,17 38:12,16 46:14, 20 47:6,17 50:1 52:7 54:1 58:4,7, 9 60:11 68:5,18, 21 69:7 71:9,14 73:15 77:1,3,5,9 78:21 80:20 81:19 82:5,9,19 88:19 89:1,4,7,9, 14 93:8,13 94:15, 19 95:20 96:4 98:8,12 105:9,15 106:8 107:3,14 109:6 112:1,21 114:20 115:3 118:13 121:13 122:10,17 123:11 129:13,20 135:12,15,19,21 136:19 138:19,21 140:3,5,15,21 150:13,19 151:7, 12,16 152:5,8,17 153:6,8 157:11, 16,20 158:2,8,17 159:2,11 160:13 166:9,12,15 173:14,16,18 174:5,9,16,21 175:4,13

gardening 142:14

gas 169:1

gate 130:8,14 131:5

gather 23:10 72:11

gathered 121:3

gathering 8:12,

16 10:8 11:7 22:21 23:3 54:10

gatherings 22:13 26:13,15

gave 123:2

general 24:10 41:15 44:12 76:16

generally 40:20 41:1 45:19,20 46:12 49:10 51:21 62:17 63:4 74:20 87:5 155:17

generate 44:4 69:17

generation 137:6 138:2

generations 142:11

gentleman 43:7 158:15

geographically 153:14

get all 77:14

Ghimire 47:8,14, 18,19 48:1,5 50:9 54:21 57:7 76:16 77:13 79:5 81:2 83:6 84:21 85:17 89:21 93:17 109:6

Ghirmire 140:3

gift 168:19

Gildea 4:3

Gita 166:11 168:12

give 4:16,17 18:16 36:4,11 37:21 44:18 46:15 47:12 48:2 67:1 83:6 93:2 98:8 101:6 107:14 137:15 141:8 148:4 158:1 166:4

giving 159:19

glad 115:9

gladly 131:10

Glen 38:17 84:20 141:11 148:5

Glenmont 148:14

goal 139:18

God 69:1 116:1 123:3,5,6 127:7 161:13 172:9

Gods 50:14 65:18 115:21 116:1 123:9,12 125:4,13 163:5

golf 100:11

good 4:1 32:10 96:15 119:20,21 120:16 121:10 128:14 147:16 148:10,15 165:18,19

Google 83:7

Gotcha 119:2

government 154:18

grade 80:16

grades 80:12

graffiti 53:11 144:18

grant 6:12 16:16

granted 10:8 21:1,16,19 23:9 24:20,21 41:18 133:10

granting 23:4 134:14

grasp 69:6

grass 53:18 54:16 98:11,20 99:3,12 101:4 104:9

grassy 98:10,14

gratuiously 112:18

great 50:4 112:20 138:18 165:17 167:12

Greater 52:6,8 74:5

Greek 50:4

Green 148:5 153:18 161:3

greet 72:12

greeting 72:17

ground 119:18 120:1

group 45:2 49:7 51:20 124:13 137:11 168:18

groups 123:3

grown 144:8,9

guarantee 175:14

guess 17:10 30:14 95:7 112:6 136:10 150:2 158:19 173:2

guide 114:2

Gunpowder 4:14 143:17

guru 58:6,9

guy 168:21 169:1

guys 5:19 36:16, 18 136:13 175:10

H

H.o.l.i 123:21

half 70:9 89:3,5 141:17 152:7 159:1,3,5

hall 57:9 115:7 116:6 117:16 125:15 149:19

halls 36:1

hallway 108:12 109:1 125:21 126:16

hallways 115:20

hand 4:19 32:7 96:3 103:20

handle 175:11

handling 11:8

hands 15:7

happen 30:21 80:2 120:13 126:20 149:20 171:11

happened 31:15

happening 26:21 32:12 171:11

happy 22:15 100:15 145:8,16 149:2

Hare 42:21 117:8 123:2 133:2

Harford 3:4 13:5 38:4,19,20 40:15, 16 51:6 73:6 78:17,18 83:20 85:9 94:21 141:11,15 145:6, 20 146:2,5,15 151:4,8

Harmonium 87:16

harmony 164:1 166:8

Hashanah 44:6 66:10

hate 163:15

hates 172:18

hay 142:14

head 103:20

health 6:19 12:15,19 24:10 41:15 44:12

hear 6:2,5 16:20 17:13 24:2,3 34:12,14 38:13 40:11 43:5 44:2, 8,9 45:9

heard 18:15 39:5 53:19 58:11 146:19,20,21 152:10 162:10

hearing 3:17,19 7:18,21 11:13 12:13,18 13:16 14:6,15 16:10 17:6 19:4 27:2 30:20 31:1,5 33:1,15,17 35:11 46:5 47:3 85:1 91:2 143:8 154:9 162:19

hearings 15:12 21:8

heart 169:10

heartfelt 167:1

heavily 170:14

heavy 14:10

held 8:14 10:7 11:6 89:12 158:12 159:13

helpful 18:19

heritage 49:11, 12 51:19 52:2,8

hide 56:11

high 57:9 79:12 80:13,14,15

highlighter 38:5

highway 8:4,8 10:10,16 12:6,10

16:12 25:18 28:9 29:3,9 31:12 85:8

hill 78:14 145:8

Hindu 49:19 50:12,13,14 52:15 56:14 58:15 66:11 87:4 105:1 120:18 162:17 163:4,5,9, 19 164:1

Hinduism 49:13, 14 50:11 65:6,18 119:20 163:4

Hindus 50:10 59:14 66:18 120:2

hire 128:4 147:14

hired 104:17

historic 19:15,19 20:1,2 39:6 40:2 74:2 87:3

historical 31:20 55:10

historically 39:9 40:2

history 32:20 74:11 164:2,5,7 165:11 166:7

hold 33:19 57:11

holder 161:3

holding 92:9

holi 121:11 122:12 123:21 139:13

holidays 44:7 66:10,11 123:14

holy 57:18 126:18 168:11

Holzer 4:12,13 5:4,8,11,15,18 6:4 7:19 8:1 14:14 17:2 18:1, 11 19:12 20:15 22:5 24:6,13 26:4,6 27:6 28:3, 18 29:15 31:7,15 33:8 34:7 35:7 36:12 37:4,7 38:18 39:6 44:18 45:13 46:1,14,15 47:2 53:19 54:2 55:1 84:3 88:19, 20 89:2,6,8,17, 19,20 93:15 94:18,21 95:1 96:6 106:5,7 107:8,16,18,21 108:1 109:8 112:3,7,14 113:1 114:7,11 115:5 118:8,15 123:20 126:3,6,14 130:2, 6 132:8 135:10, 17,20 136:3,17, 20 139:2 140:10 141:1 143:17 146:16 149:9 150:6 151:10,13, 21 152:3,7,12,14, 16 156:4 157:10 158:5 159:4 166:18 173:9 174:8,13,18 175:2,9

Holzer's 98:4

home 108:2 125:1 137:21 141:8 142:12 153:17 161:6,16

homes 125:6

Honor 173:10

Honors 9:1,3

hoop 131:17

hope 31:4 124:19 127:11 137:18 172:9 173:3

hoping 137:4 175:6

host 22:21 23:15

hotels 128:17

hour 70:3,9 89:2, 4 158:21 159:1,2, 5

hours 63:6 70:1 74:20 75:1 118:2 120:9 130:21 131:4

house 45:8 55:7 57:20 65:7,8 74:4 103:8,10 104:1 115:1 125:16 143:21 144:9,11, 14,17 145:7,11 154:8,19 161:10

houses 56:10 80:10 125:9 128:2

human 8:19 11:8 116:1

hundred 10:9 49:8 59:12 73:9 99:4,7,9 124:8 142:3 143:1 147:12 149:21 162:15 164:21 165:3 170:1,3

hung 150:3

hurt 130:3

husband 142:3, 17 144:7 149:15

hustle 51:14

Hutschenreuter 146:4 151:1

I

I.d.a 141:9

Ida 141:4,9

idea 147:7

ideas 110:10

identified 19:1,9, 16 44:19 48:1 85:20 115:1

Ill 11:17

immediately 39:12 84:10

impact 138:9

impacts 43:11 67:11

implicated 164:6

important 71:2 74:11,12

impose 110:14

imposed 32:2

impression 148:4

improper 28:14

improved 39:14 40:8

improvement 20:8

improvements 7:10,12 9:20 25:1

inappropriate 24:17 26:16

incidents 8:6

inclined 123:7

included 16:14 138:3

including 6:20

incorporate 135:3

Incorporation 90:13 111:10

incorrectly 68:19

increase 41:1

increased 146:6

India 121:19 123:17

Indian 52:15 66:20

indication 10:20 11:2 127:6

individual 86:13, 14,15

individuals 4:15 172:8

indoor 11:10

inform 35:8

Informally 90:11

informed 29:14, 15

ingress 30:11

initials 79:2 82:20

injunction 16:17 18:10 24:14 26:7 98:5

inside 53:11 56:19 63:9,17 72:10 144:18

install 12:2 65:21

installed 66:1

instance 60:15 130:19

instances 86:17

institution 13:21 31:17 130:14 137:12

institutional 76:17

instructive 18:10

instruments 87:12,14 116:16 132:21

insurgency 163:20

insurgents 138:1

intelligent 29:12

intelligently 27:15 28:7,10
intend 96:16 116:14 117:13 137:16,18
intended 19:5
intent 157:16
intentionally 164:12
interesting 39:5 41:19 43:10 65:6
interior 40:17,21
interject 58:4
intermingled 66:15
internet 129:3
interpret 134:1, 19
intersection 94:19
interview 104:18
introduce 3:21 4:6
invite 64:15
invited 74:7
inviting 64:12
involved 10:20 59:1 73:18 124:15 170:14
irregularly 39:2
issue 9:13,20 10:7 11:17 13:2 18:10 22:8 24:16 26:7 29:7,11 46:9
issued 7:14 9:2, 8,10 10:17 15:16, 19
issues 6:19 8:20 10:20 12:3,6 14:17 24:5,7 29:19,20 43:11 44:19 45:3,5,21 73:12,14,16,17 148:12 175:6
items 13:1

J

Jablon's 10:18 11:5 15:15 29:10
January 23:4
Jewish 42:8,11 43:13 66:10 88:6 124:10,18 131:10
Jim 109:20
John 22:10 23:16 44:16 58:20 79:15
John's 84:14
jokes 136:17
Joseph 45:2 59:6
Joseph's 58:21 59:9
Judea 164:21
Judge 11:12,15 21:15,19 85:1 96:8 133:19
Judge's 134:14, 20
judges 168:11 173:11
juice 64:7
July 7:1 10:21 22:21 29:4 97:19 98:3 122:3 128:20 129:19,21
jump 54:1 122:10
jurisdiction 17:12 23:21 30:1

K

K.R.I.S. 47:14
Kathmandu 56:16
keeping 172:17
kids 53:15 54:15, 16 55:14,15 60:8 99:21 101:8,9,11 131:18 142:12 147:12
killed 168:21 169:3
killing 168:21
kind 16:3,4,8 32:2 55:10 59:4 69:2 75:15,18 76:1 87:8,9,15 96:13 121:20 145:15 163:16
kinds 59:2 92:9 100:7
Kingsville 74:6 109:21 110:10
kitchen 63:19,21
knew 147:6
knocking 20:9
knowledge 83:14 96:10 106:20 172:5
Kolagero 45:2
Kotrocco 4:7,9, 11 28:21 35:8 38:7 91:1 93:4 112:10 124:11 175:12
Kotrocco's 41:20
Kris 47:8,14 165:11 170:14
Krishna 42:21
Krsna 117:9 123:2,3,5 133:2

L

labeled 38:3,21 40:14
labels 160:14
lacrosse 100:14
lady 46:9 169:15
land 43:11,19 112:7,8 142:2 144:17 145:10,11 147:21
landmark 19:19
landscaping 25:8
Lane 160:3
large 11:7 35:12 79:1 156:5
largely 35:15
larger 44:5 147:8
lasted 138:1
law 4:3 11:12,15 25:1 33:6 85:6 96:8 126:4 133:18 134:14,19 148:1 165:4,14 167:11
Lawrence 4:2
laws 6:10 114:15 147:18 167:6,16, 18,20 168:1 172:20
lawyers 96:18,19 147:15
lead 153:16
leader 86:18
leadership 154:10
leading 73:2 162:17
leads 21:15 40:17
learning 168:11
leave 45:20 57:1 59:14 70:10 89:6 105:18 116:5 150:21 159:12
leaves 27:4 157:17 175:16
leeway 98:8 107:15
left 38:3 83:19 93:8 94:9 96:3 109:11 150:21 151:1,3,8
legal 17:11 39:8 50:18 90:8 139:17 171:13
legitimate 169:4
length 69:20
letter 22:14 26:16,19 150:12
letting 173:11
level 57:15 109:3 127:1,9
levels 169:19
License 92:19
licenses 12:1
lies 154:1
life 138:1 148:20 160:10,11,13,16
lighting 25:9
Lights 66:20 118:19 119:6,9
likes 159:9
limitation 108:17 129:4
limitations 107:11
limited 40:20

lined 116:12
lines 87:9
lining 59:7
list 34:10 51:9 120:18,19
listed 51:10 53:8 93:18
listen 13:15
listened 143:5
listening 14:11 17:2
listing 51:9
literally 103:10 119:1
litigate 59:9
live 57:20 74:17 112:17 141:10, 15,17 142:3 153:4 164:1
liveable 103:8
lived 141:21 142:2,4 144:4 145:20
lives 130:21
living 48:20 58:1 125:13 130:17 146:7 166:1
loan 105:20 106:3,10,14,20 107:3,7,9,19 111:12,19 114:14
locale 24:11 41:16 44:13
located 3:7 38:17 43:1 116:20
location 138:8 168:7 169:8
lock 130:8,16,18
locked 130:15
long 13:6 14:14 18:2 23:10 28:5, 14 31:8,9 46:18 50:15 63:4 68:12 69:20 92:21 99:1 107:16 111:19 117:12 141:21 144:3,4 145:20 147:21 148:5 153:18 154:3 158:17 159:8,9 160:20 164:5 165:8
looked 79:11 144:18,20 151:20
loops 99:1
lost 138:1
lot 7:4 14:3 22:1 35:21 40:20 47:4 53:8 54:15 98:10 110:13 124:10 142:14 146:6 164:12 165:11,13 168:12
lots 67:17 155:12
loud 133:13
love 15:11 59:5,6 148:10
low 80:15 115:21
lower 79:8
lunar 67:7,8 68:15 86:4
lunch 89:5,12,16 140:10
luxury 125:12

M

Madam 89:17 135:21
made 7:3,12,13 33:8 56:10 139:1 149:21 155:7
mail 92:2
mailer 149:4
mails 91:17
main 43:10 55:6 56:2 57:9 66:19 69:9 78:2 103:3 108:11 109:3 113:3 115:7 117:16 125:21 127:1,9
maintain 54:18 55:16 139:17 144:17
maintained 55:15
maintaining 34:21
maintenance 20:20
major 65:19 66:10,14,16 67:3, 16 68:5,10 69:3 70:11 71:10,14 118:19 120:15 122:21
majority 50:10
make 3:11 15:1 16:19 24:7,21 35:14 36:15,21 38:10 70:10 74:1 93:3 100:13,21 101:8 107:12 118:7 148:13 149:2 159:5
makes 15:12 38:9
making 29:12 32:6
man 57:18 169:2
Management 25:18
manner 3:19 59:15
mansion 39:19
Maoist 137:11
map 18:19 34:15 36:5 45:19 46:16 83:7 84:16 150:14,15 151:17 152:10
mark 5:15 37:4,9, 15 38:8 84:1 109:19 110:9 149:10
marked 79:2 99:17 149:12
marking 62:12
Marshal 8:15 9:21 10:5
Martin's 128:18
Maryland 4:13 38:21 39:8 47:16 48:3 52:5,6 129:7 141:11 153:5 160:3
mass 67:20 85:20
masses 59:13 85:21
match 132:4,6
matches 30:16
materialized 110:11
matter 3:3,17 13:1 18:12,13,15 19:1 21:13 23:20, 21 31:2 35:15 42:18 112:18 135:7
matters 5:7 18:11 30:1,5,12, 18 33:16 34:6
max 70:12
maze 81:4,7
meaning 120:21
means 17:19 28:15 32:3 119:1 122:7 130:5 140:7
meant 66:3 119:20
meat 60:21 61:2 63:12,13,14 64:13 72:14,19
meditate 51:15 57:1 65:13 70:5, 10 116:4 117:17 125:8 148:21 149:3 161:6 162:12
meet 11:17 12:2 13:14 72:11 92:3, 8,12 154:9
meet all 167:5
meeting 74:6 92:7 147:19 149:19
meetings 56:9 74:5 109:19 110:1 155:19
mega 134:8
member 36:11 37:20 48:19 117:20 158:16 160:6,13,14,16 166:3 167:5 170:6,7,19 171:12
members 6:4,7 21:21 25:21 38:16 48:18 51:11 53:9 58:12 65:1,14 67:18 73:17 124:12,21 132:20 148:16 157:14 160:10,11 167:3 170:10,11, 17
members' 65:7 66:4
men 169:2
mentioned 52:2, 14 60:11 74:16 122:10 140:10 161:4 166:9

merits 33:17
message 165:10
met 12:4 32:16 144:1 157:4
Methodist 84:12, 16 153:12,16,18 156:8,10
Methodists 157:3
MHT 34:10
mic 5:20 136:19
microphone 133:16 134:9 135:7
microphones 133:13
mid 140:13
middle 72:2 80:13 94:9
mile 141:17 152:7
mileage 152:6
miles 149:1 154:1,2
milk 64:7
million 65:18
mind 3:20 34:5 46:20 55:4 168:10 172:3,17 173:19 175:8
mind-boggling 137:17
minimum 105:11
minister 126:10 155:11 157:5
Ministries 83:12
ministry 81:15
minor 120:15 121:7,10,21 122:13,18
minute 16:13
minutes 70:1,4 89:7 158:1,2
missed 146:10
mission 49:18
misspoke 34:11
mistakes 164:12
Mitzvah 88:6,7, 10
mixed-up 118:17
moment 14:13 133:10
money 136:8 143:14 144:13 147:14 169:15 170:18 171:3,18, 20
Montague 152:19 153:3,4, 11
month 14:16 22:4 62:9 65:1 119:4 124:19 157:2
months 7:12 60:8,16 61:6 119:3 128:4
monuments 126:16
morning 4:1 14:16 18:2 43:16, 21 46:11 68:2 97:13 125:3 131:1 146:20 156:11,21 157:6 168:9
mortgage 93:1 112:8 145:13
motion 5:11,12 6:7,13,17 7:6 16:8,15 17:10 18:19,20 19:2 21:5 33:19,21 34:2,11 41:13
Motions 22:19
Motsco 44:16 53:4 113:20 140:11 157:19
mountain 51:13
mountains 145:3
move 17:8 24:20 25:11 36:16 46:21 93:16 135:16 174:10
moves 25:16
moving 17:6,16 36:2 46:13
Mt 78:17,20 81:16
multi-purpose 55:13
multiple 22:15 51:10 56:9 62:7 132:1 133:7 155:13 156:15
multitude 62:16
Murphy 4:20 33:17 34:4 37:10, 19 87:20 88:13, 18 151:15
music 32:20,21 33:1 87:5 88:13 116:15,19 132:21 133:15,21 134:2, 7 135:6
musical 87:9
Muslim 164:1

N

names 4:16 123:2
Napoleon 39:9
Napoleon's 39:10
Narayan 161:20
narrow 9:13 77:16
nature 25:4 55:10 57:2 139:20 162:11
navigate 89:5
nearby 84:11,15 147:1
necessarily 15:17 34:17
needed 9:12 63:20 128:3 146:11
needles 53:12
negative 16:3 150:11
negatively 138:8
neighbor 168:10 172:3
neighborhood 45:14 74:12 81:17 163:16 165:21 167:12
neighbors 53:7 56:10,12 74:5 130:5 147:17 148:10,11 163:12,15,16 168:12 172:14
Nepal 42:15 48:8 50:11 51:12 56:16 60:7 67:1 69:3 117:11 121:2,19 123:17 129:2 160:17 163:19,21 164:3, 5
Nepalese 49:11, 12,19 50:10 51:19 61:5
Nepali 3:4 42:15 48:16 49:1,10,15 50:3,15 52:2,8,21 66:14 148:18 158:16 160:6 165:11 166:7 172:11
nephew 39:10
nice 148:17 173:12
niece 149:20
night 131:2
nightmare 59:5 146:1
noise 3:16 32:20
non-meat 64:6
nonengineering 114:4
North 142:4
Northern 148:21
notation 95:21
note 23:6 41:3 147:14
noted 43:11 44:18
notes 90:1 105:19 113:2 118:17
notice 174:16
notified 23:2
Nottingham 48:3
number 3:5,6,8 5:20 6:14 7:9,11, 12 9:20 20:16 29:18 35:6,9 39:17,20 40:7 43:5 44:15 128:21 170:16
numbers 42:9 142:21
Numeral 11:16

O

obey 165:4

object 17:5 18:1 23:19 113:20 148:2
objected 112:5 148:2
objection 46:6 84:3 98:2 106:4 107:2,3 126:2 129:18,20 135:1 147:17 149:9 150:6,7 151:10, 15
objects 22:5
obligations 147:19
observe 86:9
obtain 12:6 21:4
obtained 105:20
obtaining 167:7 171:14
occasion 62:12 65:11 92:8
occasionally 92:11 149:3
occur 19:4 23:11 27:3 32:16 65:5 80:18 81:2 98:6
occurred 7:3
occurring 9:18 98:3
occurs 43:14,18
October 67:9 68:17 119:5
offend 117:18
offer 23:18 64:9 81:15,17 116:4 150:5
offered 30:10 109:15 150:7
offering 70:5,10
office 10:19 11:5 15:15 29:11 57:17 90:21 91:1, 19 92:10 108:20, 21 109:2,5 125:20 126:4,11 127:10
offices 4:4 69:4 108:11 126:4,8
official 54:11 104:21 115:19
officially 116:21
officials 16:5 109:21
offsite 64:4,14
oldest 58:20 79:13
onward 75:3
open 56:10 74:4 75:1 110:11 118:4 131:1 136:6,19 143:21 144:11,14 154:8 159:12 164:16
opened 74:7
opening 24:5 34:13 36:4,18 38:16 46:16,18 52:12 55:2 58:11
operate 42:11 162:14
operating 10:15
operation 23:7 44:3 75:15 118:2 131:4 162:11
operational 131:7
operations 155:16
opinion 45:14 113:19 150:9
opportunity 6:15 9:4 13:14 15:5 137:15,17 158:15
oppose 168:17 169:9 172:1
opposed 13:20 32:9 43:19 125:16 148:6,7 154:13 168:6
opposite 46:1
opposition 45:17
optimistic 173:21
orchestra 115:16
order 10:17 11:18 21:4 22:8, 13 23:4,13 46:7 112:2 158:7 167:8
organ 115:15 116:19
organization 49:5 50:17 51:1 85:13 170:11,12
organized 131:12
original 5:12 29:21 39:21 45:8 108:2
originally 39:19
outbuilding 20:2
outbuildings 40:7
outdoor 8:13 32:20 133:12 135:6
outline 7:10 79:9
outlined 38:5 77:3,10,18
outrageous 150:11
overgrown 53:14
overhead 150:14
overrule 151:15
overturns 21:18
owned 39:7,11 142:6 145:9
owner 137:2
owners 22:20 23:9 155:3
owns 53:1

P

p.m. 68:2 75:3 131:3 175:18
pagoda 56:18
paid 170:18
pain 104:2
pair 17:20
Panel 38:16
pants 17:20 18:2
parent 80:3
parents 80:1,4
parents' 59:18
park 98:1,11,20 99:2,3,10
parking 41:1,2,4, 8 97:1,2,5,21 98:13,16,19 155:12
parkings 99:2
Parkway 148:21
part 6:13 18:7 50:11 57:6 60:20 65:10 67:19 74:6 81:10,11,18,19 84:18 88:2,8,9,10 93:19 125:18 133:1 142:17,18 155:20 163:6 165:6 169:19
partially 144:16
participate 50:12 92:5
parties 33:3 128:13
partner 74:8
party 23:15 53:15 61:1 88:8,11 127:13
pass 28:10 151:1
passes 120:4
Passover 44:6 66:10
past 7:3,11 10:9 98:18
pastor 84:11,14 152:18 153:11,12
patient 173:11
pay 136:15 145:13 171:8,13, 16,20
paying 136:8
peace 163:10 164:4
peaceful 164:3,8
people 5:21 6:2 10:9 12:12 25:6 29:4,6 32:5,7,15 33:11,14 35:9,21 42:6,14 43:6,15, 20 45:18 46:6 49:20 50:6,12,13 51:17 52:2,4,14 56:17,18,21 57:11 59:7,12,18 60:2,4 62:16 63:2 67:13 68:1 69:18 70:6,12,18,21 71:2,3,6,11,13,15 72:10,17 75:6,8, 10,11 76:11 86:7, 8 91:19 92:3 97:17,21 98:20 99:4,7 111:18 115:8 116:2,18

117:12,17 122:8 123:3,6,8 124:5 125:8,11 126:17 127:10 129:6,15 130:5,11 134:16 137:5,9,12,14,20 138:1,2 140:18 142:12 144:5 146:6 147:11,16, 18 148:4,12,14 149:20 155:18 156:6 157:1,2 161:5 162:12 163:19,21 164:3, 9 165:11,12,15, 16 166:7,8 168:11,13,15,17, 18,19 169:4,7,9, 12 171:17 172:2, 6,19 173:4,6,7

people's 128:2

perceives 163:8

percent 49:8 162:15 164:21

perfect 51:11,16 68:20

perimeter 38:6

period 56:20 70:2,20 146:5

periodic 44:4

permanent 116:8 128:5 160:16 161:3

permission 47:3 167:7

permit 9:9 10:8 12:7 16:12 23:12 105:17

permits 7:11,13, 17 8:16 9:2,8 11:4 12:1 13:2 15:19 21:4 25:19 26:9 29:7,11

permitted 17:7 25:16 42:4 114:13 134:13

person 58:1 101:7 104:5,11, 17,19,21 106:10 124:18 134:6 169:4

personal 117:1 121:2 172:5

personally 9:14 13:3 73:11 84:16 131:20 142:17 148:19 166:4

perspective 41:20 126:15 148:9

petition 19:6 21:16 37:13

Petitioner 4:2 30:10 31:6 42:15 43:8 85:13

petitioner's 37:10,15 38:1 77:5 79:3 83:17 84:2 94:7 113:11 149:12 151:9 173:16 174:1

pews 116:9 139:9

phenomenal 144:19

Phillipines 58:19

phone 129:13

phones 3:15 89:15

photograph 9:9, 17 38:2 76:19 77:7 78:2 83:7 84:9

photographs 39:17 40:14 158:21

phrase 60:11

phrased 16:15

physical 40:18 101:3,13

physically 125:5

piano 87:17 115:15 132:21 133:3

pick 80:4 150:14

picked 138:8

picking 32:5

pickup 100:3 131:18

picnic 23:15

picture 151:6,14 152:1,4

piece 27:18 51:8 53:14 142:18 145:10,14 146:10

Pike 153:18

pink 38:5 77:3, 10,18

place 11:3 16:9 21:18 27:2 45:8 50:5,6 51:1,12,15 53:11 54:12 62:8 72:10 88:11 97:14 108:19 109:8 116:7,17 117:6 120:12 121:20 126:21 127:3,8,9 128:16 131:14 137:19 144:19 147:8 154:19 165:1

places 53:15 60:21 88:12 108:10 128:18

plan 6:11 25:5 37:10,11,13 38:20 41:2,3 44:16,17 93:10, 11,18,21 94:17 96:17 97:1 102:20 111:4 113:16,21 137:1

planning 136:4

plans 25:2,8,9 30:10 45:9 57:16 103:1 106:16 108:15 111:6 113:7,17 137:4 144:15

plastic 145:3

platform 115:21

play 55:14,16 99:21 100:3 101:9 131:14,18, 20,21 132:2,3 133:3

played 134:7

plumbing 11:10 21:2 27:14

point 5:16 17:9 20:4 21:11,15 22:10 24:1 34:13 74:5 76:20 79:16 90:18 94:5 109:9 130:1 139:15 143:6 144:19 163:18 169:7 173:17,18 174:3

pointing 77:1,15 81:6

points 30:20

Police 9:15

pool 40:9 55:11, 20 81:7,11 100:16,19 101:15,17,18,19, 20 102:2,4 103:4 145:1

pools 79:20

portions 109:1

position 48:16 110:4 143:19 171:18

possibly 13:16

postcard 169:14

postcards 168:15,16

posted 11:1

postpone 33:21 34:2

postponement 14:13

posture 29:5,6

potable 8:18 11:8 132:10

potential 10:19 91:19 129:12,15

power 21:2

practical 133:17

practically 75:2, 3 131:3

practice 30:6 65:4 85:19 161:12 163:17

Prasad 64:5

pray 50:12,13 51:12,15 56:14, 20 57:1 58:17 65:10,13,19 70:5 92:5,8 116:4 123:3,4 125:8 137:13 161:6 162:4 163:14 171:7

prayed 72:18

prayer 26:13,15 52:16 53:19,20 54:9,10,13 57:7, 12 63:16 72:9 86:13,14 87:6 97:12 125:10 128:2 133:3

prayers 70:10 139:6

praying 161:13

preacher 56:20

precluded 133:19

precludes 106:14

predominant 42:9
prefer 68:3 93:11
preference 35:10 121:2
prelabeling 83:8
preliminarily 34:17
preliminary 5:7 6:7 19:1 34:6
premarked 83:4
premature 15:11
premises 63:10, 12
prepared 37:14 44:16 173:20 174:19 175:2
preschool 75:19
present 37:5 71:11,16 175:5
presentable 14:8
presentation 6:17,18 140:7
presently 73:2
Preservation 4:15 143:18
preserving 74:10 109:16
preside 56:21 62:1 86:19 127:17
presided 60:19
presides 127:20
presiding 86:21 104:7 134:10
press 112:17
presume 130:10
pretty 27:6 78:9 114:6 118:3
140:20 159:18,20 161:10 162:6
previously 39:7 99:15
priest 56:21 57:18,20 58:5 60:19 61:15 62:1, 11 74:17 87:8 88:3 104:6,20 106:18 112:16 127:18,21 128:4 133:3,16 134:10 135:6
priests 87:8 128:1 133:7
primary 20:10 56:6 74:14
principal 39:15
prior 8:11 19:4, 14 47:5 80:5 121:3
private 80:7 107:7,9 147:10
problem 47:6 59:11 158:7 164:16 165:9,20 166:5 174:5,8
problems 10:19 129:12 166:7
procedure 168:5
proceed 30:13 89:18
proceeding 35:2,4,5 112:13
proceedings 89:13 158:13 159:14 169:16 175:18
process 13:18 25:11 104:18 164:10 165:12
processes 25:20
processing 139:18
produce 90:17, 19 111:9,12,15
produced 16:4
prohibited 133:19
prohibiting 22:8
prohibition 72:13
prohibitions 106:9
project 14:1
promote 166:5
pronounce 47:17 105:15
prop 36:21
proper 11:8 12:8 58:5 172:20
properly 30:4
properties 83:14 150:10 155:10
property 8:9 9:19 10:1,2,13 11:1 13:4,5,8 14:21 19:8,12,15, 20,21 20:7,10,13, 16,18,19 21:7,10 22:1,2,3,9,13,21 23:10,16 24:3,8 26:11 27:8,12,18 28:4 29:3,9 38:2, 4,6,17,20 39:1,2, 5,11,14,17 40:4, 15,17,18 44:17 45:5,6 51:6,8 52:18 53:1,5,8, 13,15 54:16,17 55:5,9,16,18 56:4 58:1 63:14 69:18 72:15 73:1,7,13 74:14,18 76:7,13 77:8,19 78:3,6,13 79:17 80:11,19 81:3,8 82:11,12 83:16 94:2 96:12 97:3 98:6 100:8 105:20 106:11,15 107:1,11 114:6, 13 130:11,17 137:2 139:13,16, 17 141:18,19 142:6,15 144:1,7, 15 145:5,9,14,19 146:10 150:15,21 152:6 153:20 154:1,6,7 155:1,3 164:11 168:7
proposal 25:11 41:14 45:13,16 122:8 143:3 154:13,14
proposals 25:4
propose 46:12 102:19 140:19
proposed 40:10 45:10 91:7,20 97:1 98:13 114:16 119:18 122:15 143:19 162:13
proposing 20:7 22:3,20 25:6 77:19 91:20 104:3 112:16,17
prosecutor 28:19
protect 7:7,8 74:9
protected 8:9
protection 12:3
protects 169:8
Protestant 31:6 124:18
Protestant's 5:3,4,15
Protestants 4:12 22:5
prove 15:6 30:18
provide 21:2 35:1 112:3 115:8
provided 41:2
public 8:5 9:13 14:5,6 32:10 38:19 45:6 76:7 111:13 112:6 117:20 118:4 131:21
publicity 7:4
pudding 60:18 61:14 64:6
pull 106:13 146:12,13,14
Punjabi 168:21 169:1
purpose 16:18, 19 20:12,14 21:8 26:12 36:18 86:6
purposes 21:11 27:12 54:5 105:19 111:15 128:7
pursuant 22:13 25:1
put 14:19 16:9 29:5 79:2 82:20 100:11,14 110:5 129:3,4 157:18

Q

quality 8:19 11:9 136:15,16
Queens 161:20
question 17:1 69:13 70:18 80:21 81:1 98:9 101:11 106:19 114:1,4,7 117:1 119:20,21 120:16 125:14 135:11 136:21 138:5,7 167:4
questioning 62:10 112:6 146:17
questions 3:14

16:2 31:4 48:6 85:16,18 87:20 88:14 92:13 93:17 134:18 138:17 139:2 140:2 150:5 152:16 156:3,4 157:9,10 166:15, 17 173:9

quick 7:16 36:6 54:1

quiet 6:5

quote 136:4

R

raise 142:14 168:16 171:17,20

raised 29:19 142:10

raises 125:14

raising 139:16

ramifications 32:13

ramshackle 144:10

ransacked 137:11

ratify 23:19

ratios 114:2

RC2 19:10 39:3 41:12 42:4 45:5

reached 16:6

reaches 129:3

reaction 16:3

read 86:20,21 87:9

reading 133:4

ready 14:15 53:18,21 58:2 65:21 89:17 124:20

real 7:16 48:21 54:1 92:16,17,19 93:1 100:14 111:17 145:2

reality 63:3

rear 40:3 78:5

reason 13:3 65:12 114:12 125:1 130:17 134:20 148:3 154:19 163:8,10 172:19

reasons 12:15, 16 26:2 100:17 127:8

rebuilt 19:13

recall 106:12 118:6 124:6 172:2

received 149:4, 17

recent 147:7

reception 60:20 62:6,21 63:16,17 64:16 88:2 128:8, 16

receptions 62:7, 8

recess 158:2,12

recognize 102:13

recognized 168:5

record 4:1 5:2 8:17,18 11:9 17:16 34:17,19, 21 35:19 54:3,6 77:15 89:11,12 94:7 98:12 139:4 150:12 157:5 158:12 159:13 175:17

recorded 112:8

records 11:8 112:8,9

Redeemer 76:21 77:12 78:11,19 79:1,7,10,17 81:11,20 82:3,6, 8,9 83:2,10 84:6 147:1,8,16 148:15

refer 76:18

reference 107:19

referenced 36:19

referred 58:4 102:3 139:6 149:11

referring 77:11 81:14 98:13 119:15 149:7

refinance 107:3

reflect 108:17

reflective 117:14

reflects 34:17

refuses 112:4

regard 8:6 12:5 31:16 47:5 95:12 104:3 105:1 106:20 108:16 109:16 130:7

registered 90:9

regrettably 45:12

regular 62:4 64:20 97:12 98:21 104:7

regulation 19:10 30:15

regulations 13:14 41:6,12 42:2

rehabilitate 22:2

relate 23:7 45:9 69:2 126:9

related 35:17 66:6 80:17 82:1 86:20 122:1 126:12

relates 26:11 69:17 98:6

relation 84:19

relationship 7:20 151:17

relative 12:9

relevant 6:16 98:7 106:5 111:16,18,20

relief 14:12 23:5, 8 24:14,19 41:11

religion 6:18 42:17 50:8 52:16 58:16 66:15 69:6 105:7 117:21 120:4 122:7 127:6 138:6,13 154:18 163:21 164:3 167:2 168:14 169:6 172:7,18 173:5

religions 42:10 148:20 166:8

religious 13:21 19:8,17 20:11 21:11 23:8,11 24:9 26:12 27:9, 12 31:17 41:7 42:5,18 43:9 59:20 60:12,13, 20 62:3,6,18 64:17 66:14 69:5 75:19 85:19 86:18,20 87:2,3 88:2,8,9,10 92:6 102:21 103:1,3 104:11 109:4 115:8,9 120:5,6, 10,21 121:17,21 122:1,3,12,14 125:15,18 126:12,15 127:14 128:7 130:14 133:1 137:12 138:10 154:17 168:6

relocate 19:16

remedy 22:6

remember 3:18 5:19 37:19 133:18

remembered 146:11

remind 89:14 164:4

remove 97:15 100:20 118:5,7,9

removed 40:10 55:11,21 101:19

rendered 21:9

renew 107:2

renovations 55:8

rent 126:4

rented 88:1

replacement 40:1

Report 9:15

reporter 3:10 34:21 38:13 47:12 61:18 77:14 89:17 136:1,2 141:6,7, 13 152:21 153:1 160:1,2 166:13

represent 42:21

representation 171:13

representative 146:21

representatives 9:10 157:14

represented 94:16 171:18

representing

4:14 171:9
republic 163:20
request 41:17 48:15 102:20 110:6 137:2
requested 24:20 41:11
require 6:8,10 27:2
required 10:7 25:19 41:4 65:9 85:6 116:14
requirement 41:6 105:11
requirements 11:18 13:15 23:12 25:18 41:5 85:10
reservation 169:12
reservations 164:10 166:2
reserve 46:16
reside 88:3 104:4
residence 114:13
resident 39:16 91:4 104:4 111:21 161:3
residential 39:20 51:14 106:15,17,21 107:5 112:15
residents 140:17
residing 106:10
resolution 17:7
resolve 16:6 162:20
resolved 28:20 30:11,13 31:5
resolving 162:20
respect 67:1 125:7 138:14 164:11 172:1,14
respected 32:17 171:18
respectfully 23:5,20 26:3
respond 29:11 30:7 138:4
responding 17:10 27:5
response 26:5 31:7 132:19
responsibility 14:10
rest 57:13 108:17
restaurant 60:21 64:14 128:17 170:13
restaurants 88:12
restoring 109:17
restricting 154:18
resumed 89:13 158:13 159:14
retain 74:2
retired 142:13
return 69:12
returning 18:5
review 12:21 15:9,10 112:10
rice 60:7,9,10,14, 18 61:14 64:6 86:15 122:18 126:20 128:9,10
Ridgely's 59:7
right-hand 79:8
rights 163:13
rings 28:2
road 3:4 8:6 9:12, 14 13:5,6 18:19 25:19 27:21 34:15 36:5 38:4, 19,21 40:15,17 45:19 46:16 48:3 51:6 59:5,7 73:5, 6 78:16,17,18 83:20 85:9 91:11 92:18 94:21 95:2, 5 96:9,13,14,17 99:12 129:11,12, 17 141:11,15 145:6,20,21 146:2,4,5,15 150:17,20 151:1, 4,8 153:5,8,9
roads 8:17 96:11
Robin 109:18
rock 133:15
Roland 149:14
role 86:18
rolling 118:15
Roman 11:16
room 12:13,18 14:6 24:17 33:12 34:18 35:11 42:6, 7 57:10 103:16 114:3 116:2 125:10,13 127:1 139:6 141:13 172:6 175:11
rooms 57:15 103:14,15 116:7 125:9
root 102:10,11
Rosedale 47:15
Rosh 44:6 66:10
Roughly 108:5
round 173:19
route 38:21 94:12,13
routine 70:7
row 142:10
rule 33:7,20 34:1
ruled 98:4
ruling 18:10
run 92:17 105:14 170:13
running 53:21

S

sacred 125:6 127:3
safe 100:21 101:1,9,12 146:5, 10,15
safety 6:19 8:5 9:13 12:16,19 24:10 41:15 44:12 100:17
sale 10:3 144:7
salvage 74:8
sat 28:5 159:7
satisfied 23:12
Saturday 43:21 59:17 125:2
Satya 161:20
save 105:17 138:17
scared 13:7
schedule 14:3 156:20
scheduled 7:2 30:2 59:13
scheduling 46:4
schism 45:13
Schmidt 4:1,3,4 5:2 16:20,21 17:15,20 18:5 19:5,21 20:6 22:19 25:10 28:17 34:9,16 35:5,19 36:10 37:1,9,21 38:8,14 47:19,21 69:9 71:18 77:7,13 79:4 80:21 83:4 84:5 85:16 89:11 91:1 93:10 98:2 106:4,6 107:2,18 112:5,20 113:20 114:9 118:5,8,9 121:15 126:2,10 129:18 132:5 135:1,14 136:15, 18 139:3 140:2,5, 9,16 141:4,12 150:4 151:19 152:2,13,15,18 153:10 156:2,14 157:8,13,19,21 158:4,14,19 159:7,15 166:16 173:15 174:3,7
school 58:20 59:6 75:18,19,21 76:21 77:12 79:7, 11 80:2,5,7,11, 12,13,14,16,17 81:1,11 82:3 83:11 105:5 113:14,16 115:12 131:12,21 147:10 148:15 175:5
schools 69:4 79:12 82:21 84:8 155:15
SCMIDT 159:19
scope 30:9
screaming 134:9
search 51:4
season 44:5,6
seats 41:7 97:6, 8,9,11,12 116:11
Section 23:7 41:5
seek 22:6

seeking 14:12 19:7
send 91:1 112:18 147:14
sending 168:16
sense 15:13 35:9 38:9 86:12 93:3 159:5
sensitive 168:14
separate 142:16
September 35:7 46:8 67:8 68:17 91:2 119:5 140:14 173:20 174:19 175:11,14
septic 11:10 14:20 24:7 28:6 45:5,7,9 85:7 132:13
serve 45:8
served 27:19 45:6 164:5
serves 56:13
service 32:3 62:1 63:2 64:9 65:10 67:19 115:8 120:5 127:14 135:7 156:17
serviced 147:12
services 42:12, 17 45:1 52:16 56:21 57:2 58:3 59:15 63:16 81:17 88:4 104:7 109:4 124:10 133:9,11 134:10 156:7,15,16,20 157:6 161:15 162:5
serving 4:5
session 175:5
set 6:12 13:1 37:1 59:16,17,21 67:21 85:20,21 146:14
setbacks 114:1
settle 29:1
settled 29:2
settlement 53:3
setup 115:19
sewage 9:11 76:12
sewer 27:14,20 45:6 76:8 132:12
shape 53:9 55:10,20
shaped 39:2
Sharon 145:7 151:3,5
shed 101:21
sheds 40:9
sheets 3:8 5:1
shift 36:7
shoes 118:5,7 125:7
short 140:20
show 16:17 83:5, 6 93:12 125:7
showing 83:9
shown 41:1 83:16 84:9 99:13 109:12,13 130:4
shows 41:3 84:15
shut 159:11
side 12:13,17 14:18 16:1 27:21 32:3,15 42:6 94:17 138:11 164:14 167:9,13 171:17 172:18
sides 14:6 24:18 33:12 39:1 46:1
sign 3:9 12:2 67:16
sign-in 3:8 4:21
signage 9:9,12
signed 22:14 170:11
significant 43:20
similar 25:19,20 44:5 52:17 61:10, 16,21 84:7 88:5, 10 135:3 136:4
simple 165:18 167:19
simply 11:7 138:4 154:12
sing 116:19
single 43:13 49:18 156:15
singular 58:13
sir 48:7,16,20 74:1 76:6 83:9 85:3,11 139:5 140:4 156:2 157:8,11 160:17 166:17 173:15
sit 13:15 17:14,19 28:16 29:16 47:4 109:6 111:7 155:17 159:9,10 164:14,15 165:8 166:5
site 6:11,21 7:4,8 8:18 10:15 12:8, 18 13:13 15:3 20:21 31:11 37:10 38:20 41:2 44:10 51:10 74:18 91:7,21 93:10,11,18,21 94:17 96:12 97:1 114:15 119:19 124:1,13 128:15 132:9
sitting 12:13 30:2 33:10,13 78:14 145:7 164:18 171:8 172:6
situation 14:19 16:1,10 30:11 32:2,17 36:1 104:20 129:11
situations 31:3
size 38:7,8 51:20 116:1 155:14
skills 146:17
slash 145:15
slight 137:16
sloping 145:12
small 125:12 133:16 163:19
smaller 36:10 37:2
Smith 4:3
snacks 64:7,9
snapshot 71:20
soccer 131:13, 14,15 147:9
social 23:15
softball 79:9
solely 23:7
solicitation 144:13
solicitations 149:16
solicited 143:12
solid 60:16 61:6 62:13 95:21
someplace 128:15
someway 28:20
son 79:11
son's 84:18
sons 100:3
sort 17:11 21:6 38:5 40:8 64:18, 19 66:8 68:10 69:16 76:17 78:1 79:7 81:6 82:13 117:14 126:17 139:9
sorts 145:4
sought 10:8
sound 136:21 157:5
south 141:17 146:3 152:7
space 41:6 97:5, 21 103:17
spaces 41:2,4 97:2 126:12
speak 52:8 80:20 133:16 158:15
speakers 133:12,13 134:5
speaking 134:6 148:3
special 7:18,20 19:7,9 21:1,17,19 23:5,9 24:1,18 25:5,12 27:20 30:16 33:7 37:13 41:11 42:3 60:5, 17 63:6 65:3,11 66:8 97:14 102:20 134:15 137:2 143:19
specific 118:1 123:3
specifically 39:10 41:5 134:19 149:21
specifics 129:21
speculative 25:4
speeded 13:18
spell 47:12 58:7 61:18 68:8 105:9

138:19 141:7 153:1 159:16 166:12

spelled 121:16 138:21 153:3

spokesman 69:10

spoon 60:18 61:14

sporting 147:9

sports 40:13 82:4 131:12

spread 43:17 44:1 70:14

spring 68:16

Springhouse 47:15

spur 120:3

square 81:6 108:3

St 58:21 59:5,9 84:13

stab 16:21

stand 3:18 28:18 36:17 38:15 78:13 93:21 109:10 138:11

standing 35:21

standpoint 40:19 42:10 43:19 114:4 130:3

stands 107:17

star 134:8

start 54:10,11 61:6 79:5 80:15 116:3 128:3,4 145:7 174:9

started 33:15 50:17 104:16 171:10

starts 60:16 80:16 136:19 174:14

state 6:9 8:4,8, 15,16 10:10,16 12:6,9 13:13 16:12 25:18,19 28:9 29:3,9 34:20 38:21 74:10 85:8, 9 129:7,8 141:7 153:1,2 160:2

statement 34:13 38:16 46:16,18 55:3 58:11 168:8

statements 24:5

States 48:9,10

station 169:2

statue 66:2 116:1,3,4 125:11

statues 115:20 125:4,5,13

status 169:18

stay 24:16 56:19 79:6 100:5 101:13,14 102:6, 7,9 142:12 175:2

stays 137:5

step 25:14 127:7 140:3 157:11 173:15

Stevenson 28:1 160:3

stipulate 114:10

stipulation 34:19

stock 27:3

stop 7:16 28:15 162:3

Storm 25:18

story 40:10 103:6,12,13

strange 136:21 137:1

strategy 31:10, 19 32:10

street 39:11 42:1 151:2

strict 61:3

strictly 63:15 66:18

struck 144:21 145:1

structure 20:10 39:15,19,21 40:1 74:2,14 101:13 113:10

structured 76:3

structures 40:8

students 79:21 80:9

study 45:3

studying 148:19

stuff 59:2

style 56:18

subdivision 25:17

subject 6:21 7:6, 18 9:19 31:11 38:2,4,17 39:2 51:6 77:19 141:19 154:6

submit 22:4,7,15 25:3 42:17 107:20,21

submitted 6:11

subsequently 10:18

sufficient 41:8 57:4 113:13,18 114:3

suggest 36:20 140:9

suggested 23:2 26:14

suggesting 110:9,10 126:4

suggestion 149:21

suggests 42:16

suited 145:15

summarized 167:1

summer 68:15 81:16,18 147:6 148:14

Sunday 43:15,21 58:15 59:1,5 64:21 125:2 156:11,17,20 157:6

Sundays 59:16 155:19

support 45:16 154:13,14 169:15

supporting 54:19

supportive 140:18

Suppose 110:18

supposed 4:19 127:7

surprise 56:11

surround 40:8 98:15

surrounding 7:8

Sustain 129:20

swimming 55:11 81:7 101:17 103:4

sworn 47:9 141:5 152:20 159:21

symbol 115:19

symbolically 60:17

sympathetic 18:3 33:6

Synagogue 42:11

synagogues 43:13

synopsis 7:9

system 45:7 129:17 132:13

T

table 46:2

takes 54:17 62:5 72:9 88:11 120:12 159:8

taking 4:20 46:6 54:12 97:14

talk 3:12 72:11 144:6 147:1 154:10 175:12,13

talked 24:6 28:21 41:13,21 126:1

talking 18:12 50:19 71:2 82:6 88:14 93:12 94:15 111:2 114:20,21 134:3 135:6 143:11 163:14 169:3

tall 57:10

task 24:11 41:14

teachings 123:15

teamed 41:21

technical 8:20 101:6 127:8 167:10

technically 30:13

telling 25:21 32:19

temple 20:10 41:1,10 42:21

49:19,21 50:2,3, 7,9,12,13,14 52:10,11,12,13, 14,15 54:14,19 56:1,19 57:2,17, 19 59:11,12,17 60:19 61:2,3,7 63:1,5,8 64:8 65:2,8,9,11,20 66:21 67:11,18 72:4 75:14 77:20 84:19 86:6,7 87:13,21 88:11 91:8,10,15 97:7 103:2 104:17 106:18 108:3,12, 16,18 112:16 113:9 116:3 117:2,9 120:8 121:20 122:1,15 123:2,7 124:1,14, 15,16,21 125:21 126:14 127:2,15 128:1,3,7 132:1 133:2,11 136:5 137:3 149:1 161:12,15,20 162:1,3,6,13 165:15 167:7,8 169:9 171:4,5,6

temples 51:12 52:13 56:16,17 67:12

temporary 97:15,16 128:4

ten 52:3 70:12 71:10 93:1 137:21 138:1 158:2 163:20

tennis 40:13 55:13,15 80:3 81:12 99:14,17, 19 100:1 131:16, 19,20 132:2,3 138:18

terms 14:9 23:3 24:6 34:12 36:4 38:15 46:4,12 48:15 56:6 61:19 67:10 106:2 108:6 110:3,13 114:1 121:4 140:7 143:12 153:14 162:13,20

terrorism 164:6

testified 47:11 89:21 108:10 115:10 136:5 152:5 168:4

testify 44:17 45:3,4,16,18 46:10 53:4 69:8 113:21 140:17 154:10 162:16,19 163:11

testifying 3:11 84:12,15 108:9

testimony 3:13 24:2,3 40:12 41:9 43:5 44:2,3,8,9, 14,20 47:5 54:3 90:2 93:19 96:7 113:3 121:3 140:13 143:6 146:19,20 149:11 162:10,13 166:20

text 133:4

texts 86:20 87:2

thankful 173:13

thankfully 13:10

thereabout 71:21

thing 13:11 25:2 37:11 65:6 134:15 148:17 171:1

things 15:1,18 25:7 28:10 34:16 52:1 72:11 87:21 93:18 113:15 114:12 165:14 167:10,13 171:11 175:6

thinking 70:12 96:20 137:16 168:17

thinks 135:6

thirty 54:17 70:1

Thompson 141:9

thought 51:11,15 92:16 107:14 118:13 137:16 140:6 168:20 169:2

thousand 52:4 108:5,6 137:21 160:15,16 169:20 170:1,21 171:1

thousands 52:2, 7 56:17

threw 149:6 150:1

Thursday 59:19

Tibet 163:7

tier 169:19 170:8

Tim 90:16

time 5:20 12:20 13:6 17:9 20:12, 13 21:11 25:3 27:1 28:14 30:7 31:9 33:12 34:2 39:11,15 43:21 49:6 51:7 55:5 56:20 59:2,13,14 60:1 63:15 67:20, 21 68:3 69:20 70:6,13 71:2,4, 12,16,20 75:12 80:20 85:17 89:5 99:6 104:13 126:21 133:6 139:13 144:15 157:6 158:10 159:8 162:2 163:21 165:8,21 175:7

times 46:2 73:8 75:1 97:17 117:11 118:1

Timothy 4:7

tiny 102:10 163:19

title 58:5

today 3:3,6,9,10 4:9 5:21 7:18 12:7 13:17 15:12 26:3 29:20 30:2 33:11,13,14 43:6 44:17,21 46:19 49:20 140:8 141:19 143:5 159:6 164:7 173:17 175:6,15

today's 35:2

told 65:14 93:4

tolerated 3:16

top 78:14 103:20 120:18,19 169:19 170:8

topic 168:14,15

torn 137:10

total 5:14

touch 36:15

touched 58:10

tough 168:14

Towson 4:4,8,13 160:3

tradition 66:15 121:18

traditional 156:20

traditions 42:12

traffic 24:6 45:1, 2,3 80:6 95:7 130:3 145:18 146:6,16,17 147:11 154:21 155:4 169:8

training 104:21

transcript 35:2

transcription 3:13

trash 145:4

travel 128:1

treated 23:14

treating 12:12,14

trees 20:19 53:14

trouble 14:3

true 26:15 52:3 53:20 72:20 85:15 130:12

trust 110:7

trustee 43:7 160:15 169:16,19 170:4,8

trustees 48:19 160:9

truth 9:6 47:10 140:12

Tuesday 17:17

turn 3:15 13:10 88:19 89:15 110:18 129:14 145:6 146:11,13

turned 89:16 110:7

turns 60:8,15

twelve 80:16

twenty 70:12 71:10 75:8 117:10

Twining 141:4, 10,12 142:2,6,8 149:14 150:13 152:17 155:4

two-part 70:18

two-story 114:21

type 8:13 22:12 24:14 39:19 57:19 62:12 63:12,19 76:3 127:13 133:21

types 26:2 64:18
typical 43:3,12 61:1 64:13 70:11
typically 25:16 70:3 86:7,9,11 161:18
tyranny 154:17

U

U.S. 160:20
Uh-huh 141:20
ultimate 130:1
ultimately 40:10 142:18
umbrella 163:6
unaware 140:20
underlying 17:7, 13 19:21 21:14 24:19 25:15
underneath 79:2
understand 7:1, 21 13:19 14:2,9 17:4 22:20 23:1 26:9 27:8 29:16 33:11 39:10,21 54:7 61:4 62:11 65:17 79:1 84:21 85:14 88:15 97:1 99:15 101:10 103:12 104:2 105:19 107:10 118:18 126:14 130:1 134:13,18 153:11 160:5 161:4 164:10 169:5
understandable 69:11
understanding 11:19 45:12 135:12 173:6
understands 24:15 26:10
understood 31:1 135:10
undertook 51:5
unfamiliar 42:19,20
uniquely 145:14
United 48:8,10 84:12,16 153:12, 16,18 156:8,9 157:3
unlike 43:12 62:3,4
unusable 100:17
Upreti 159:15,17 160:5 166:18
upset 15:21
upstairs 103:15 109:4 127:10
usable 55:12
utilize 96:16 110:21 128:2
utilized 128:7

V

vacant 10:1 20:16 53:10
valid 21:18
Valley 148:5 151:2
vandalism 20:17
vandalized 10:3 28:5
vegetarian 63:15 64:7
vehicles 99:10
venue 51:16
veracity 9:7
version 37:3
versions 36:10
victory 69:1
view 7:6 38:15 65:1 126:17
viewed 150:11
viewing 120:12
village 54:17,18
violate 23:3
violated 31:18
violation 16:18 18:7 23:13 26:21 32:19
violations 29:21 33:10
violence 164:2
violent 9:18
visible 145:3
visit 65:12 92:3 117:2 162:3
visited 30:3
visitors 7:7
Vista 78:17,20 81:16
voice 38:12 47:20 141:12
voices 3:12 5:21 6:2
volleyball 8:12 40:13 55:14,17 81:12 99:16 100:1
volume 43:20
voluntary 49:3 54:9 59:1
volunteer 49:8 171:1
volunteering 90:4
volunteers 49:7, 9 54:15

W

wait 16:13
walk 36:6 117:16, 21 118:3 144:21
walked 110:2
walking 105:17
wall 116:13
wanted 20:3 34:9,19 64:2,11, 13,17 79:14 137:13 140:17 163:10 167:20
War 137:10
warning 10:17
warnings 15:16, 18
Washington 4:4, 8
waste 8:19 11:8
watchdog 32:1
watching 32:4
water 8:18,19 11:9 25:18 27:14, 19 28:6 45:6 53:21 76:7,12 132:10,16
Watershed 4:14 143:18
Waugh 153:17 156:9
wear 18:2
website 80:1 83:15
wedding 62:5 65:3 128:8,16
weddings 87:21 97:14 127:12,13, 14
Wednesday 59:19 60:4 125:3
weeds 20:19
week 43:17 60:2 61:7,8 65:16 66:5 75:4 124:11 125:2 155:18 157:1 162:8
weekdays 155:19
weekend 75:10, 12
weekends 75:9
weekly 43:14 70:7
weeks 150:3 154:5
welcoming 164:9
welfare 6:19 12:16,19 24:10 41:16 44:12
well-founded 31:1
West 128:18
Westminster 161:19
whatsoever 138:10
wide 146:13
wife 58:18 59:1 120:20
wild 88:8,11
wishes 23:15
witnesses 24:4 36:17 39:18 44:15 45:20 69:8 76:11 140:16 141:1 157:17
woman 159:19
wooded 78:9
woods 77:10
word 47:15 51:18

58:8 88:9 121:15

words 43:15 116:17 125:16,17

work 7:17 17:21 20:20 22:1 35:13 36:3 42:1 46:3 47:5 49:3 54:10 57:19 110:13 148:12,13,16 162:20 166:2 172:14

working 33:4 104:8,16 106:18 127:21 169:1

works 44:2 58:16 110:20

world 43:2 66:9

worried 102:18 152:9

worship 19:9,18 20:11 23:8 24:9 41:9 42:5,18 43:9,18 50:7 51:2 54:11 58:14 65:19 66:6 74:21 82:14 91:20 97:13 108:19 116:7 117:15 123:8,9,10,12 126:21 127:8,9 137:13,19 138:6 145:15 154:20 156:9,20 165:1 167:12 169:7

wrap 151:4

writings 87:2 123:14

written 53:11

wrong 166:3 172:13

Y

year 67:6,8,9 90:10 97:20 99:5 124:1,2,16 154:5 157:2

years 20:17 39:20 42:1 50:18,19,20 53:10 93:2 96:15 111:4 138:2 142:3,5,9 144:2,6 147:7 159:8 163:20

yellowish 81:6

York 161:21

young 147:4

youngest 62:19

Z

zone 42:4

zoned 39:3

zoning 6:9 18:6 19:10 27:20 30:15 39:4 41:4,12 42:2 43:19 114:15 147:18 167:5,19 172:20